

Date: 20080917

**Docket: A-434-06
A-432-06
A-433-06**

Citation: 2008 FCA 273

**CORAM: DÉCARY J.A.
BLAIS J.A.
RYER J.A.**

BETWEEN: A-434-06
KIM H. KNITTLE **Appellant**
and
HER MAJESTY THE QUEEN **Respondent**

BETWEEN: A-432-06
ANTHONY KNITTLE **Appellant**
and
HER MAJESTY THE QUEEN **Respondent**

BETWEEN: A-433-06
KIM H. KNITTLE, O/A DATA SECURED **Appellant**
and
HER MAJESTY THE QUEEN **Respondent**

Heard at Vancouver, British Columbia, on September 17, 2008.

Judgment delivered from the Bench at Vancouver, British Columbia, on September 17, 2008.

REASONS FOR JUDGMENT OF THE COURT BY: RYER J.A.

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A-434-06

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Vancouver, British Columbia, on September 17, 2008)

RYER J.A.

[1] Three appeals (A-432-06, A-433-06 and A-434-06) were taken from the decision of McArthur J. of the Tax Court of Canada (2006 TCC 393) in which he upheld reassessments of income tax, pursuant to the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) (the ITA), against Mrs. Kim Knittle for her 2000 taxation year and her husband Mr. Anthony Knittle for his 1999 and 2000 taxation years and a reassessment of goods and services tax, pursuant to the *Excise Tax Act*, R.S.C. 1985, c. E-15 (the ETA), against Mrs. Knittle operating as Data Secured, for her 1999 and 2000 taxation years. These appeals were heard together, pursuant to an order of Létourneau J.A. dated November 17, 2006.

[2] The income tax reassessments were based upon the Minister's assertion that Mr. and Mrs. Knittle had under-reported their income and had claimed as business expenses a number of non-allowable amounts. These matters in turn formed the basis of the GST reassessment, in which the Minister asserted that there had been an under-reporting of GST collectible and an excessive claim for input tax credits.

[3] The Tax Court Judge dismissed all of the appeals against the reassessments. In doing so, he agreed with the assumptions made by the Minister in the replies to the Notices of Appeal against the reassessments because he found no contrary evidence. As a result, he dismissed all of the appeals against the reassessments.

[4] To succeed in this appeal, the appellants must establish that the Tax Court Judge made an incorrect interpretation of an applicable law or a palpable or overriding error with respect to a factual finding.

[5] Despite the arguments of counsel for the appellants, we have not been persuaded that the Tax Court Judge erred in law or with respect to any factual finding. Accordingly, his decision must stand and the appeals will be dismissed, with one set of costs.

"C. Michael Ryer"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-434-06
A-432-06
A-433-06

STYLE OF CAUSE: Kim Knittle v. HMQ
Anthony Knittle v. HMQ
Kim H. Knittle, O/A DATA
SECURED v. HMQ

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: September 17, 2008

REASONS FOR JUDGMENT OF THE COURT BY: DÉCARY J.A.
BLAIS J.A.
RYER J.A.

DELIVERED FROM THE BENCH BY: RYER J.A.

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