

**Date: 20101001**

**Docket: A-294-10**

**Citation: 2010 FCA 252**

**CORAM: NOËL J.A.  
EVANS J.A.  
MAINVILLE J.A.**

**BETWEEN:**

**CHRIST APOSTOLIC CHURCH INTERNATIONAL - CANADA**

**Appellant**

**and**

**CANADA REVENUE AGENCY - CHARITIES DIRECTORATE**

**Respondent**

Dealt with in writing without appearance of parties.

Judgment delivered at Ottawa, Ontario, on October 1, 2010.

**REASONS FOR JUDGMENT BY:**

**MAINVILLE J.A.**

**CONCURRED IN BY:**

**NOËL J.A.  
EVANS J.A.**

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**BETWEEN:**

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**Appellant**

**and**

**CANADA REVENUE AGENCY - CHARITIES DIRECTORATE**

**Respondent**

**REASONS FOR JUDGMENT**

**MAINVILLE J.A**

[1] This concerns a motion by the respondent seeking an order quashing this appeal. The respondent contends that the appeal to this Court is made under paragraph 172(3)(a.1) of the *Income Tax Act*, R.S.C. 1985, c.2 (5<sup>th</sup> Supp.), as amended, and that the conditions for such an appeal to be initiated have yet to be fulfilled.

[2] On July 16, 2010 the appellant was notified through registered mail that the Minister of National Revenue proposed to revoke its registration within 30 days pursuant to paragraphs 168(1)(b), 168(1)(d) and 168(1)(e) of the *Income Tax Act*. The notice of the Minister's proposal

further indicated that if the appellant wished to object to the intention to revoke its registration, it could provide within 90 days a written notice of objection pursuant to subsection 168(4) of the *Income Tax Act*.

[3] In an affidavit dated August 27, 2010, Martine Mandeville, a program/project manager in the Charities Redress Section of the Appeals Branch of the Canada Revenue Agency, confirms that as of the date of her affidavit, a notice of objection had not been filed by the appellant in respect of the proposed revocation of its registration.

[4] The appellant rather filed a notice of appeal in this Court on August 17, 2010 challenging the revocation of its registration on the grounds that the appellant organization is new and that the loss of its registration will impede its ability to assist single mothers, young offenders and newcomers to Canada.

[5] The effect of subsection 168(4) of the *Income Tax Act* is to extend the objection review process of section 165 of that Act to charity registration revocations. It is only after such a review has been initiated that an appeal concerning the revocation of the registration may be brought before the Federal Court of Appeal in the circumstances set out in paragraph 172(3)(a.1) of the *Income Tax Act*.

[6] Thus, the *Income Tax Act* provides that an appeal to this Court regarding the revocation of the registration of a charity is subject to (a) the appellant first serving on the Minister of National

Revenue a prior notice of objection pursuant to subsection 168(4) of the *Income Tax Act* and (b) the Minister either confirming the revocation of the registration of a charity or not confirming or vacating such revocation within 90 days of the notice of objection.

[7] It should however be noted that a charitable organization may apply to this Court or a judge of this Court pursuant to paragraph 168(2) of the *Income Tax Act* in order to seek an extension of time before a notice is published in the *Canada Gazette* to give effect to the revocation of a registration.

[8] In the circumstances at hand and with the facts as stated in the uncontested motion, it must be concluded that this appeal is premature.

[9] The 90 day timeline for the appellant to serve a notice of objection pursuant to subsection 168(4) of the *Income Tax Act* has not yet expired. Consequently, I would dismiss this appeal without prejudice to the rights of the appellant, notably its right to submit a notice of objection pursuant to subsection 168(4) of the *Income Tax Act* and to eventually bring forth, if it deems it appropriate, a new appeal in this Court compliant with paragraph 172(3)(a.1) of that Act.

[10] There shall be no order as to costs.

"Robert M. Mainville"

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J.A.

"I agree  
Marc Noël J.A."

"I agree  
John M. Evans J.A."

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-294-10

**STYLE OF CAUSE:** Christ Apostolic Church International  
– Canada v. Canada Revenue Agency  
– Charities Directorate

**MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES**

**REASONS FOR JUDGMENT BY:** Mainville J.A.

**CONCURRED IN BY:** Noël J.A.  
Evans J.A.

**DATED:** October 1, 2010

**WRITTEN REPRESENTATIONS BY:**

Carol Calabrese

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Myles J. Kirvan  
Deputy Attorney General of Canada

FOR THE RESPONDENT