

Federal Court of Appeal



Cour d'appel fédérale

Date: 20130117

Docket: A-338-11

Citation: 2013 FCA 14

**CORAM: NADON J.A.
GAUTHIER J.A.
TRUDEL J.A.**

BETWEEN:

PAVAGE ST-EUSTACHE LTÉE

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Hearing held at Montreal, Quebec, on November 6, 2012.

Judgment delivered at Montreal, Quebec, on November 6, 2012.

AMENDED REASONS FOR JUDGMENT:

NADON J.A.

CONCURRED IN BY:

GAUTHIER J.A.
TRUDEL J.A.

Federal Court of Appeal



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AMENDED REASONS FOR JUDGMENT

NADON J.A.

[1] This is an appeal from a decision of the Federal Court (2011 FC 1014), dated August 21, 2011, dismissing the application for judicial review filed by the appellant with regard to a decision of the Canada Revenue Agency (“the Agency”). More specifically, the Agency denied the request for interest relief filed by the appellant under subsection 220(3.1) of the *Income Tax Act*.

[2] The reasons for the Agency's decision appear in a letter dated February 2, 2010, sent to the appellant's solicitors by Francine Laporte, Team Leader, Revenue Collections, Montreal Tax Services Office, Canada Revenue Agency.

[3] First of all, according to Ms. Laporte, the request for interest relief was made out of time. Second, on the basis of paragraph 18 of an agreement entered into by the parties on November 25, 2002 ("the agreement"), Ms. Laporte said she was of the opinion that the appellant had waived its right of appeal and its right to request taxpayer fairness relief.

[4] We are all of the opinion that we should intervene in the present case. As regards being out of time, the parties agree—and the Federal Court, moreover, came to the same conclusion—that because of our decision in *Bozzer v. Canada (Department of Revenue)*, dated June 2, 2011, 2011 FCA 186, the appellant's request for interest relief was not made out of time. As regards paragraph 18 of the agreement, Ms. Laporte could not, in our view, have reached the conclusion that she did without considering the whole agreement and, more specifically, paragraphs 8 and 23 of the agreement.

[5] For these reasons, the appeal will be allowed, the judgment of the Federal Court will be set aside, the application for judicial review will be allowed, and the matter will be referred back to the Agency for reconsideration of the request for interest relief in light of the entire file and the agreement.

“M. Nadon”

J.A.

“I concur.

Johanne Gauthier J.A.”

“I concur.

Johanne Trudel, J.A.”

Certified true translation
Erich Klein

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-338-11

STYLE OF CAUSE: PAVAGE ST-EUSTACHE LTÉE v.
A.G.C.

PLACE OF HEARING: Montreal, Quebec

DATE OF HEARING: November 6, 2012

AMENDED REASONS FOR JUDGMENT: NADON J.A.

CONCURRED IN BY: GAUTHIER J.A.
TRUDEL J.A.

DATED: January 17, 2013

APPEARANCES:

Mark Paci
Lise Gagnon

FOR THE APPELLANT

Louis Sébastien
Valérie Messore

FOR THE RESPONDENT

SOLICITORS OF RECORD:

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FOR THE APPELLANT

William F. Pentney
Deputy Minister of Justice and Deputy Attorney General
of Canada

FOR THE RESPONDENT