

Docket: 2002-4071(GST)I

BETWEEN:

J. PAT TRANN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

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Appeal heard on April 8, 2003 at Vancouver, British Columbia

Before: The Honourable Judge L.M. Little

Appearances:

For the Appellant:

The Appellant himself

Counsel for the Respondent:

Jasmine Sidhu

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**JUDGMENT**

The appeal from the assessment made under the *Excise Tax Act*, notice of which is dated July 25, 2002 and bears number 76923, is dismissed, without costs, in accordance with the attached Reasons for Judgment.

Signed at Vancouver, British Columbia, this 25th day of April 2003.

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J.T.C.C.

Citation: 2003TCC271  
Date: 20030425  
Docket: 2002-4071(GST)I

BETWEEN:

J. PAT TRANN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

### **REASONS FOR JUDGMENT**

#### **Little, J.**

##### A. FACTS

[1] Conag Alignment Products Ltd. (the "Company") was incorporated under the laws of the Province of British Columbia on the 23rd day of January 1984.

[2] The shares of the Company were owned as follows:

The Appellant	—	60%
The Appellant's Wife	—	20%
The Appellant's Brother	—	20%

[3] The Appellant was the sole director of the Company.

[4] The Company was a registrant under Part IX of the *Excise Tax Act* (the "Act") effective January 01, 1991. The Company was required to file Goods and Services Tax ("GST") returns on a quarterly basis.

[5] Various assessment notices were issued by the Canada Customs and Revenue Agency ("CCRA") to the Company in connection with GST.

[6] On the 10th day of August 1998 the Company was placed into receivership and Campbell Saunders Ltd. was appointed the Receiver.

[7] On the 7th day of April 1999 the Company filed an assignment in bankruptcy under the *Bankruptcy and Insolvency Act*. Campbell Saunders Ltd. was appointed the Trustee in Bankruptcy ("Trustee").

[8] On the 27th day of April 1999 the Minister of National Revenue (the "Minister") filed a Proof of Claim with the Trustee in the amount of \$32,336.17 in respect of tax, penalty and interest owing under the *Act*.

[9] On the 12th day of September 2000 the Minister filed an Amended Proof of Claim with the Trustee in the amount of \$30,336.55 in respect of tax, interest and penalty owing under the *Act*.

[10] By Notice of Decision and Notice of Assessment – Third Party numbered 76923 and dated the 25th day of July 2002, the Minister assessed the Appellant for the amount of \$28,747.79 representing net tax, interest and penalties in respect of the Company's failure to remit the GST that had been assessed.

B. ISSUE:

[11] The issue is whether the Minister was correct when she assessed the Appellant under subsection 323(1) of the *Act* in respect of the Company's failure to remit net tax as required by subsection 228(2) of the *Act*.

C. ANALYSIS

[12] Subsection 323(1) reads as follows:

323. (1) **Liability of directors** — Where a corporation fails to remit an amount of net tax as required under subsection 228(2) or (2.3), the directors of the corporation at the time the corporation was required to remit the amount are jointly and severally liable, together with the corporation, to pay that amount and any interest thereon or penalties relating thereto.

[13] As noted above, the Appellant was the sole director of the Company. In my opinion the Appellant is caught by the specific wording contained in subsection 323(1) of the *Act*. The Appellant is therefore personally liable to pay the amount of \$28,747.79.

[14] The appeal is dismissed, without costs.

Signed at Vancouver, British Columbia, this 25th day of April 2003.

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J.T.C.C.

CITATION: 2003TCC271  
COURT FILE NO.: 2002-4071(GST)I  
STYLE OF CAUSE: J. Pat Trann and  
Her Majesty the Queen  
PLACE OF HEARING: Vancouver, British Columbia  
DATE OF HEARING: April 8, 2003  
REASONS FOR JUDGMENT BY: The Honourable Judge L.M. Little  
DATE OF JUDGMENT: April 25, 2003

APPEARANCES:

For the Appellant: The Appellant himself

Counsel for the Respondent: Jasmine Sidhu

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: Morris Rosenberg  
Deputy Attorney General of Canada  
Ottawa, Canada