

Docket: 2007-3849(GST)G

BETWEEN:

ADRIENNE ARNOLD AND JOHN R. ARNOLD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on January 20 and 21, 2010,
at Vancouver, British Columbia.

Before: The Honourable Gerald J. Rip, Chief Justice

Appearances:

For the Appellant: John R. Arnold
Counsel for the Respondent: David Everett

JUDGMENT

The appeal from the assessment of goods and services tax made under the *Excise Tax Act*, notice of which bears number 11BU0402461 and is dated September 25, 2006 is dismissed. The respondent will be allowed costs if demanded.

Signed at Ottawa, Canada, this 20th day of May 2010.

"Gerald J. Rip"

Rip C.J.

Citation: 2010 TCC 278
Date: 20100520
Docket: 2007-3849(GST)G

BETWEEN:

ADRIENNE ARNOLD AND JOHN R. ARNOLD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Rip, C.J.

[1] Adrienne Arnold and her husband John R. Arnold have appealed an assessment for Goods and Services Tax ("GST") under Part IX of the *Excise Tax Act* ("*Act*") for the reporting periods ending December 31 in each of 2000, 2001, 2002, 2003 and 2004 on the basis that they operate a children's day care facility. Therefore the services they provide are exempt supplies under section 1 of Part IV of Schedule V of the *Act* during the said periods. The respondent's position is that the Arnolds operated a recreation facility and the services in issue are taxable supplies.

[2] Subsection 165(1) of the *Act* imposes on every recipient of a taxable supply made in Canada a tax at the rate of five percent on the value of the consideration of the supply. Subsection 123(1) of the *Act* defines words and terms used in the *Act*: "taxable supply"¹ means "a supply that is made in the course of commercial activity"; a "commercial activity" means "a business carried on by a person ... except to the extent to which the business involves the making of exempt supplies by the person"; and an "exempt supply" means "a supply included in Schedule V of the *Act*". No tax

¹ A supply listed in Schedule V of the *Act* is an "exempt supply" for purposes of the *Act* and therefore the supplier of the exempt supply does not collect GST on the provision of the supply: subsection 123(1). The person who makes a taxable supply is to collect the tax payable by the recipient of the supply and remit the tax to the Government: subsection 221(1).

is imposed on the recipient of an exempt supply. Part IV of Schedule V of the *Act* lists child care and personal care services as exempt supplies. Section 1 of the Part IV of the *Act* describes a supply of child care service:

CHILD AND PERSONAL CARE SERVICES

1. A supply of child care services, the primary purpose of which is to provide care and supervision to children 14 years of age or under for periods normally less than 24 hours per day, but not including a supply of a service of supervising an unaccompanied child made by a person in connection with a taxable supply by that person of a passenger transportation service.

SERVICES DE GARDE D'ENFANTS ET DE SOINS PERSONNELS

1. La fourniture de services de garde d'enfants qui consistent principalement à assurer la garde et la surveillance d'enfants de quatorze ans ou moins pendant des périodes d'une durée normale de moins de vingt-quatre heures par jour. Est exclue la fourniture d'un service qui consiste à surveiller un enfant non accompagné, effectuée par une personne à l'occasion de la fourniture taxable par celle-ci d'un service de transport de passagers.

[3] Mr. and Mrs. Arnold declare that they are supplying child care services as defined in section 1 of Part IV and therefore since this is an exempt supply, they were not required to collect GST.

[4] A second issue, added in the Amended Notice of Appeal, is that if the supplies are taxable supplies, whether the Arnolds are entitled to any input tax credits in accordance with section 169 of the *Act*.

[5] At all relevant times, Mr. and Mrs. Arnold carried on business in partnership with the name and style of Club Adagio. Mr. Arnold has a 90 percent interest in the partnership; Mrs. Arnold has a 10 percent interest.

[6] Mrs. Arnold's interest in rhythmic gymnastics was the motivation for the creation of Club Adagio. She has been interested and active in rhythmic gymnastics since the mid-1980s, if not earlier. Mrs. Arnold has been board member of many rhythmic gymnastics sports organizations, national and international, including B.C. Rhythmic Gymnastics Federation of which she was its president and vice-president. Other positions held by Mrs. Arnold include Board Member of the Canadian Rhythmic Sportive Gymnastic Federation, the Commonwealth Games Association of Canada, and the Board of Directors of the Canadian Olympic Committee. She led the Canadian delegation at several world championships in rhythmic gymnastics. She is also an international level judge of rhythmic gymnastics.

[7] The history of the Arnold's involvement in the activities carried on by Club Adagio started in 1990 when the Arnolds and two other parents hired a coach to instruct their daughters in rhythmic gymnastics. A competitive program was developed and later other children joined the group. By 1995 the club was offering competitive and recreational activities to about 75 girls from ages seven to 20 years of age. Mrs. Arnold gave up her job to volunteer as sole administrator of the club. In 1995 she met with parents of the children and requested some compensation for her efforts.

[8] Mrs. Arnold recalled that during the summer of 1995 the Arnolds went on vacation and when they returned home they learned that the two parents who originally formed the club with Mrs. Arnold in 1990 convinced the other parents to leave the club and form their own club. Mrs. Arnold found herself in a situation where her daughters had no program and no coach and she had no job.

[9] As a result of their club losing its participants, the Arnolds, Mrs. Arnold stated, "reformed" the club and rebuilt the program. Their idea, according to Mrs. Arnold, was to have an after school child care program with a sports component. The club would emphasize after school care at first, but later would promote recreation and competitive programs. In February 1996, the club had 25 gymnasts and two high calibre coaches.

[10] Mrs. Arnold described the after school care program. Children would be dropped off at the facility between 3:00 p.m. and 3:30 p.m. and be picked up starting at 6:00 p.m. The club closed at 7:00 p.m. but if a parent had not arrived by 7:00 p.m. to pick up the child, someone would remain with the child until the parent arrived. There would be someone from Club Adagio to meet the children on arrival at the Club. The children were supervised and were given a snack. The children could sit and socialize, catch up on homework, participate in activities or, if not well, relax. Academics came first, Mrs. Arnold insisted; it was "not central" to participate in an activity. Activities included games, yoga and conditioning, which included at least 30 minutes of rhythmic gymnastics. The program was "free form"; the Arnolds wanted to provide a good service for good consideration. The Arnolds also had a summer program for children.

[11] At trial, Mrs. Arnold testified that the after school care program was operated primarily out of the Vancouver Hellenic Centre and, when the Hellenic Centre was not available, at the Shaughnessy Heights Church in Vancouver. The Amended Notice of Appeal does not refer to any after school care program operating at the Hellenic Centre or anywhere else. However, paragraphs 3 and 4 of the Amended

Notice of Appeal declare that the "primary purpose of Club Adagio, at all material times, was to provide care and supervision to girls from four to 13 years of age" and a part of the care and supervision may involve gymnastics and recreational activities.

[12] Originally, Mrs. Arnold recalled, the after school care program was the larger of the two components, after school care and competitive, "but later [it] got top heavy on the competitive side". If there were no after school program, Mrs. Arnold admitted, the club "would have few kids in [the] recreational [program]". Mrs. Arnold said there was "great turnover" in the after school program "but some could become recreational children and competitors". She estimated that one girl in 20, "if that high", could become a competitor. By 2001 the Arnold's goal of having a strong competitive program was achieved and they decided to spin off the "top layer" of the competitive program to a club called "The International Rhythmic Gymnastics Academy of Vancouver" ("International"), operated by their daughter, Megan, and the head coach. The International would teach only "competitive girls", that is girls who would compete nationally and internationally and, said Mrs. Arnold, was completely separate from Club Adagio.

[13] Mrs. Arnold testified that she tried to "low key" the ambition level of the children since only a few children could potentially compete internationally or even provincially. She described rhythmic gymnastics as a very elite sport; national athletes train 40 hours a week. She said she had "issues" with competitiveness. Her philosophy was to train and be serious but not at all costs. However, Mrs. Arnold volunteered that she is "passionate" about rhythmic gymnastics, "trying to get Canadians on the world stage".

[14] In the meantime, Mrs. Arnold recalled, Club Adagio continued with a "small" competitive program of about 15 provincial competitors and later on others participated in satellite facilities in Maple Ridge, North Vancouver and other locations in the Vancouver area.

[15] Mrs. Arnold explained that the programs offered at the satellite centres were in partnership with local people. Club Adagio would receive 60 percent of the income earned by the satellite, from which Club Adagio would pay the coaches and purchase equipment.

[16] Leanne Karpus was originally hired as coach by Club Adagio and later formed a satellite club in Maple Ridge. The participants in the Maple Ridge Club are not at high levels. At Maple Ridge rhythmic gymnastics are taught at a basic level with no

intention, Ms. Karpus stated, to go beyond a basic recreational level. Ms. Karpus described the program at Maple Ridge as "safe and secure ... a fun activity".

[17] By 2008, a year not in issue, the competitive side of Club Adagio had grown to the extent that the Arnolds and their daughter, Megan, merged their two clubs. The merged organisation registered under the GST legislation and collected GST. Mrs. Arnold declared that "each time [it was] strictly sports, we knew we had to charge GST".

[18] The coaches in the after school program were young women, usually university students, who had been in the rhythmic gymnastics program earlier and who, in Mrs. Arnold's words, "understood" children and kept them in "a safe and happy environment". These people were not specially trained for child care work and were not certified by the Province of British Columbia with respect to child care services.

[19] Megan Arnold worked for Club Adagio at the Hellenic Centre and as an advisor at the Shaughnessy Church; she also worked in her own club once it was organized. She stated that the after school care program was to expose children to rhythmic gymnastics. However, the after school care program was basically "fun and games" with lots of supervision and concern for health of the children. Ms. Arnold declared that the parents of the children attending the after school care program wanted their children in a program where the children were active, not sitting around doing nothing. The children were attending for their enjoyment; in the meantime she was looking for potential talent.

[20] In the after school program, Ms. Arnold recalled, the children would want to talk about school and home life. Activities included ball games, ribbon games, musical hoops and rope games. Ms. Arnold usually had eight to 14 children, between eight years and 13 years old under her supervision, Monday to Friday afternoons during the school year. Not all children attended each day; attendance of individual children could vary as the parents required. The younger children would require bathroom breaks. From time to time the supervisor would have been taught how to administer medication to children. Ms. Arnold described the after school care program as "really glorified baby sitting with rhythmic gymnastics".

[21] Today the partnership operates under the name Adagio Rhythmic Academy ("Academy"). The Academy's website contains a history of the club from 1990 to the

present time². On the website, the history of the club is divided into four periods, The Early Years: 1990-1993, The Middle Years: 1993-1996, Recent History: 1996-2000 and The Update: 2000-present. The site describes the history of Club Adagio as a club devoted to rhythmic gymnastics. There is no reference to the after school care program. The website clarifies that once Club Adagio spun off its elite program to the International Academy in 2001,

Club Adagio would remain as a large Provincial Stream Competitive and Recreational Program and we would add a new Club Adagio Maple Ridge Program as well. Club Adagio, as envisioned, would provide a talent identification system and support system for the new International Academy and both clubs would work together sharing expertise, facilities and hosting events.

[22] Mrs. Arnold stated that this history of Club Adagio was written in 2006 to emphasize the competitive program.

[23] Mrs. Arnold referred to the various coaches who worked at Club Adagio, in particular after the split in the Club and its reorganization. The first coach, Blagovesta Borisova Ignatova, later joined Megan Arnold in forming International. Mrs. Arnold stated Ms. Ignatova coached the younger children and competitive gymnasts and also took part in the after school program. Some coaches worked only with beginners at the main site and in satellite locations such as Maple Ridge and North Vancouver. The only staff identified on Club Adagio's web page are rhythmic gymnastic instructors who apparently had no background in child care.

[24] Again, in what appears to be an advertisement or flyer, Club Adagio advertises rhythmic gymnastics programs for 2005, a period after any period in appeal. The advertisement does not refer to any day care. Mrs. Arnold said one would not advertise after school care programs in an advertisement for a competitive program. She stated that by 2005 the after school program was "diminishing in importance" and the club was emphasizing competitive and recreational rhythmic gymnastics. Mrs. Arnold declared that the club was built on the after school program which brought young girls to the club to join the recreational and competitive programs.

[25] All registration records for the after school care program for the periods in appeal were destroyed after the end of each year's program. Mrs. Arnold stated that she had no records or material advertising the after school program; she said she never thought she would be assessed. Mrs. Arnold could not inform me with any

² The print out of the history from Club Adagio's website was submitted in evidence and is dated January 11, 2007.

certainty what proportion of participants received only care and supervision and what proportion received training in gymnastics.

[26] John Arnold is a psychologist who carries on a consulting business and, since 1977, a private care practice. Although his partnership interest in Club Adagio was 90 percent, this "did not reflect [his] participation in the business". He declared that he "knew nothing" about the business.

[27] Nevertheless Dr. Arnold testified that the club's after school program was an emotional, long term relationship in which the club aimed to take care of a child's needs. He stated that the club had to dismiss people who were not sensitive to the needs of the children. The club followed the Health Guide published by the Government of British Columbia which looked for the various characteristics, including a well organized daily program offering appropriate activities to match the developmental levels of the children. According to the Health Guide, the facility should have sufficient space for the children for quiet activities as well as group activities and outside play areas, appropriate age trips and supplies and equipment and other material that are safe for children.

[28] It was Dr. Arnold who represented the club at interviews with Julie Cheng, a business auditor at the time with the Canada Revenue Agency ("CRA") and who audited Dr. Arnold's sole proprietorship and the partnership with Mrs. Arnold. Ms. Cheng's notes of their initial meeting on July 14, 2005 state that 70 percent of business activities are focused on competitive gymnastics and 30 percent of the business is focused on recreational gymnastics. Dr. Arnold stated at trial that the numbers ought to be reversed. Dr. Arnold did not offer what number of participants or portion of participants attended the facility at the Hellenic Centre for care and supervision only.

[29] Dr. Arnold testified that because he received advice from his accountant, a Certified Management Accountant, that his consulting business was subject to GST he made inquiries in 1990 whether Club Adagio was liable to collect GST. The accountant advised that Club Adagio was GST exempt since the program was primarily supervision and the children were under 14 years of age. After the audit for the periods in issue, Dr. Arnold sought the advice of a Chartered Accountant to prepare a Notice of Objection.

[30] Dr. Arnold informed me that paragraph 9 of the Amended Notice of Appeal, which follows, is an error:

The appellant's employees do not have any education in instructing nor are they experts in rhythmic gymnastics or any other athletic activity. Their primary responsibility is to care for, supervise and protect the children.

[31] Earlier in the Amended Notice of Appeal the appellant alleged that the primary purpose of Club Adagio, at all material times, was to provide care and supervision to girls four to 13 years of age.

[32] It was Dr. Arnold who was responsible for keeping the books and records of Club Adagio. These records for 2000 to 2004 were kept at the Arnold's residence and he testified that he believed that he gave the records to Ms. Cheng. However, these records did not include any leases for the premises used by Club Adagio, agreements with the parents nor records of the number of children registered for any period. Dr. Arnold confirmed that Mrs. Arnold destroyed all the registration records.

[33] Dr. Arnold said that the CRA has an estimate of the number of children attending Club Adagio. Mrs. Arnold, he asserted, "never broke down the number of kids between competition and recreation". No discussions took place between him and Ms. Cheng concerning the program at the Hellenic Centre. In a letter of June 20, 2006 to Ms. Cheng, a Mr. Ralph Mueller C.M.A., referred to Club Adagio providing "programs only after school and during summer months for children ages five and six up to the age of 13, and only in conjunction with community centres and St. Georges School". (In his letter Mr. Mueller refers to "Adagio Training Camps"; I assume that this is Club Adagio.)

[34] Dr. Arnold was not aware if Club Adagio operated at a number of different facilities over the course of the week or at one particular facility for five days a week. He was not disturbed that parents may have had to bring their children to a different facility at different days during a week.

[35] Respondent's counsel asked Dr. Arnold what due diligence he undertook to operate a child care facility. He could not recall but he was "always aware" there was no need for a provincial licence to operate a child care facility.

[36] When respondent's counsel referred him to the *Community Care Facility Act*³ ("*B.C. Act*") and *Child Care Licensing Regulation*⁴ ("*Regulation*") for British Columbia Dr. Arnold declared that he "never heard of this". He denied he ever

³ 1996 R.S.B.C. c. 60.

⁴ B.C. Reg. 319/89 O.C. 1476/89.

verified this because he and Mrs. Arnold's intention was to set up a gymnastics program and not an after school care program.

[37] A "community care facility", in the *B.C. Act* means any facility that provides care, supervision, social or educational training, with or without charge, to three or more persons not related to the operator of the facility. Section 3 of the *B.C. Act* states that:

3 A person must not

(a) operate, advertise or otherwise hold himself or herself out as operating, a community care facility,

...

unless the person holds a valid and subsisting licence or interim permit issued under this Act that authorizes the person to provide those services offered at the facility.

[38] Sections 61 to 65 of the *Regulation* set out the rules to operate out of school care for children who attend school and who are under 13 years of age. The regulation describes the facility requirements, the maximum number of hours of care, the group size and the staff to children ratio.

[39] Earlier provisions of the *Regulation* describe staff qualifications, certificate application, records and consents among other things.

[40] Julie Cheng audited the Arnolds for purposes of the *Income Tax Act* ("*ITA*") and GST and met with Dr. Arnold to discuss her review of the files. Included in their discussions were the nature of Club Adagio's business, expenses incurred, number of employees and related matters. Since the Arnolds did not prepare GST returns, a second interview took place on December 21, 2005. According to Ms. Cheng's notes Mr. Arnold stated, among other things, "that the partnership is an establishment that provides girls with classes pertaining to rhythmic gymnastics on a recreational and competitive level". She concluded that the partnership should be registered for GST and that she would register the partnership on Mr. Arnold's behalf.

[41] In cross-examination of Ms. Cheng, Mr. Arnold questioned why she did not place much significance in the hours of daily operation by Club Adagio, that is, from 4:00 p.m. to 7:00 p.m. He also questioned her conclusion in her report of a meeting of September 5, 2006 that the children's care program was incidental to its primary function, to provide recreational and competitive programs for girls.

[42] The term "child care services" is not defined in the *Act*. However, several examples of child care services are described in the opening words of the definition of the term "child care expense" in subsection 63(3) of the *ITA*:

"child care expense" means an expense incurred in a taxation year for the purpose of providing in Canada, for an eligible child of a taxpayer, child care services including baby sitting services, day nursery services or services provided at a boarding school or camp . . .

« frais de garde d'enfants » Frais engagés au cours d'une année d'imposition dans le but de faire assurer au Canada la garde de tout enfant admissible du contribuable, en le confiant à des services de garde d'enfants, y compris des services de gardienne d'enfants ou de garderie ou des services assurés dans un pensionnat ou dans une colonie de vacances, [...]

[43] However, paragraphs 63(3)(a) and (d) list conditions under which the services are to be provided:

(a) to enable the taxpayer, or the supporting person of the child for the year, who resided with the child at the time the expense was incurred,

a) d'une part, pour permettre au contribuable, ou à la personne assumant les frais d'entretien de l'enfant pour l'année, qui résidait avec l'enfant au moment où les frais ont été engagés d'exercer l'une des activités suivantes :

- (i) to perform the duties of an office or employment, [or]
- (ii) to carry on a business either alone or as a partner actively engaged in the business,
- ...

- (i) remplir les fonctions d'une charge ou d'un emploi,
- (ii) exploiter une entreprise, soit seul, soit comme associé participant activement à l'exploitation de l'entreprise,
- ...

except that ...

toutefois ...

(d) for greater certainty, any expenses described in subsection 118.2(2) and any other expenses that are paid for medical or hospital care, clothing, transportation or education or for board and lodging, except as otherwise expressly provided in this definition,

d) pour plus de précision, les frais médicaux visés au paragraphe 118.2(2) et les autres frais payés au titre des soins médicaux ou hospitaliers, de l'habillement, du transport, de l'éducation et de la pension et du logement, sauf dispositions contraires à la présente définition.

are not child care expenses;

[44] In short, paragraph 63(3)(a) of the *ITA* states that the child care expense must be incurred so as to allow the parent to perform the duties of an office or employment or carry on a business. This is the focus on at least two of the reported cases that consider subsection 63(3)⁵. Other cases consider whether the expense was incurred for child care or recreational activity⁶. These are appeals from income tax assessments.

[45] There is a high degree of symmetry between the definition of "child care expense" in subsection 63(3) of the *ITA* and the definition of "child care services" in section 1 of Part IV of Schedule V of the *Act*. Subsection 63(1) of the *ITA* permits a parent to deduct, in computing income for the year, an amount incurred as a child care expense; paragraph 63(3)(a) defines a child care expense for purposes of that statute, in short, to mean an expense incurred for the purpose of providing child care services. Thus, on the facts alleged by the Arnolds, the expense incurred by a parent is for child care services supplied by the Arnolds. If what is supplied by the Arnolds are truly child care services, the expenses incurred by the parent are deductible in computing income for purpose of the *ITA* and the services are an exempt supply and free of GST. The provisions of both subsection 63(3) of the *ITA* and section 1 of Part IV of Schedule V of the *Act* reflect Parliament's intent that the parent's cost of child care not be burdened by taxes.

[46] In the appeal at bar there are at least two problems facing the appellants: firstly, no parent testified and therefore I do not have any evidence that any parent's purpose in placing a child in Club Adagio was primarily for the provision of child care services, and secondly, the Arnolds have no records of the number of children to whom services were supplied in any year, the ages of the children and the amounts paid for the services, among other things.

[47] It is quite obvious that when a parent places a child with someone who provides child care services, the parent does not expect the child to be simply watched over or warehoused in a room doing nothing while in child care. A good child care provider will make sure that the child will be involved in activity, whether educational or recreational or both. Some overlap may exist between child care services (which are an "exempt supply") and training and recreational services (which are not exempt supplies). When there is an overlap, one must determine

⁵ *Jones v. Canada*, 2006 TCC 501; *Bailey v. Canada*, 2005 TCC 305.

⁶ For example, *Levine v. Canada*, [1995] T.C.J. No. 1487, *Bell v. Canada*, [2000] T.C.J. No. 844, *Malecek v. Canada*, 2007 DTC 833.

which service is essential to the supply and which service is incidental to the supply, or, in plain words, what is the supplier really offering?

[48] The evidence before me is that the purpose of creating Club Adagio and its impetus over the years lies with Mrs. Arnold and her passion for rhythmic gymnastics. Club Adagio was created to develop high level athletes and this was the focus of its activities. This is clear from Club Adagio's promotion material as well as Mrs. Arnold's testimony. Anything else was incidental. However, one must take account of activities offered to the children and their ages, which were disparate. The attention span, discipline and ability of a 13 year old girl are quite different from that of a four year old. Unless the four year old is the female rhythmic gymnast equivalent of a Sidney Crosby or Wayne Gretzky, her parents have put her in Club Adagio for care and protection and perhaps, fun and not to learn any skill or discipline. Megan Arnold's description that the after school program was "really glorified babysitting with rhythmic gymnastics" rings true with four year olds, at least. On the other hand, I question whether a 13 year old girl would want to be described being in a "glorified babysitting" activity or want to participate in such an activity, and I doubt that the intent of the Arnolds was to offer child care to the older girls.

[49] At some point between ages four and 13, the child matures and she gains the ability and interest to participate in certain activities; her attention span has increased, and her body can tolerate certain exercise she could not tolerate or even attempt at an earlier age. The Arnolds would then no longer be providing that child with child care but would be providing recreational activity to the child, at whatever level. The child care, to the extent it may then exist, is incidental to the rhythmic gymnastics program supplied by the appellants and the supply provided is no longer an "exempt supply". The expenses incurred by the child's parents were not incurred for the purpose of engaging people to watch over the children and to protect them, as considered by Archambault J. in *Levine v. Canada*,⁷ for example, but were incurred for the purpose of enabling the child to learn a skill.

[50] Again, unfortunately, no evidence was led to even suggest what the capabilities of various age groups were or to describe the activities supplied by the Arnolds to individual age groups. Also, the appellants have no records as to the number of children, and their ages, who attended Club Adagio's after school program during the periods in issue⁸.

⁷ [1995] T.C.J. No. 1487, paras 13 and 14.

⁸ After preparing these reasons and because the appellant was not represented by counsel I arranged a telephone conference with the parties to inform them of my findings in

[51] With regard to the second issue, that of input tax credits, again there is no evidence to support any such claim. There is no evidence of rental charges for the facilities used by Club Adagio or for costs of equipment and if GST was charged.

[52] Therefore, because of a lack of evidence to support the appellant's claims and on the facts before me, I am compelled to dismiss the appeal. The respondent will be allowed costs if demanded.

Signed at Ottawa, Canada, this 20th day of May 2010.

"Gerald J. Rip"

Rip C.J.

paragraphs 48 and 49 of these reasons and that they may wish to discuss settlement of this appeal. The parties have advised me that they could not settle.

CITATION: 2010 TCC 278

COURT FILE NO.: 2007-3849(GST)G

STYLE OF CAUSE: ADRIENNE ARNOLD AND
JOHN R. ARNOLD v.
HER MAJESTY THE QUEEN

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: January 20 and 21, 2010

REASONS FOR JUDGMENT BY: The Honourable Gerald J. Rip, Chief Justice

DATE OF JUDGMENT: May 20, 2010

APPEARANCES:

For the Appellant:	John R. Arnold (an Appellant)
Counsel for the Respondent:	David Everett

COUNSEL OF RECORD:

For the Appellant:

Name:	
Firm:	

For the Respondent:

Myles J. Kirvan Deputy Attorney General of Canada Ottawa, Canada
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