

Docket: 2012-1679(IT)APP

BETWEEN:

WEI MING YEE,

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Application heard on common evidence with the applications of Lily Tcheng, 2012-1677(IT)APP, and of Lily Tcheng, liquidator of the Tsou Kang Tcheng succession, 2012-1680(IT)APP, on July 18, 2012, at Montréal, Quebec.

Before: The Honourable Justice Lucie Lamarre

Appearances:

Agent for the applicant:

Li Han Tcheng

Counsel for the respondent:

Anne Poirier

Amélia Fink

ORDER

Whereas the application for an order extending the time in which appeals from assessments made under the *Income Tax Act* (ITA) for the 2000, 2001, 2002 and 2003 taxation years may be filed;

And upon the submissions of the parties;

The application for an extension of time in which to file notices of appeal from assessments under the ITA for the 2000, 2001, 2002 and 2003 taxation years is dismissed.

Signed at Ottawa, Canada, this 26th day of July 2012.

"Lucie Lamarre"

Lamarre J.

Translation certified true
on this 6th day of September 2012
Margarita Gorbounova, Translator

Docket: 2012-1680(IT)APP

BETWEEN:

LILY TCHENG, LIQUIDATOR OF
THE TSOU KANG TCHENG SUCCESSION

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Application heard on common evidence with the applications of
Lily Tcheng, 2012-1677(IT)APP and of Wei Ming Yee,
2012-1679(IT)APP on July 18, 2012, at Montréal, Quebec.

Before: The Honourable Justice Lucie Lamarre

Appearances:

Agent for the applicant:

Li Han Tcheng

Counsel for the respondent:

Anne Poirier

Amélia Fink

ORDER

Whereas the application for an order extending the time in which appeals from assessments made under the *Income Tax Act* (ITA) for the 2000, 2001, 2002 and 2003 taxation years may be filed;

And upon the submissions of the parties;

The application for an extension of time in which to file notices of appeal from assessments under the ITA for the 2000, 2001, 2002 and 2003 taxation years is dismissed.

Signed at Ottawa, Canada, this 26th day of July 2012.

"Lucie Lamarre"

Lamarre J.

Translation certified true
on this 6th day of September 2012
Margarita Gorbounova, Translator

Citation: 2012 TCC 275
Date: 20120726
Docket: 2012-1679(IT)APP

BETWEEN:

WEI MING YEE,

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

Docket: 2012-1680(IT)APP

BETWEEN:

LILY TCHENG, LIQUIDATOR OF
THE TSOU KANG TCHENG SUCCESSION

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

REASONS FOR ORDER

Lamarre, J.

[1] On April 24, 2012, the applicants filed an application for an extension of time to file notices of appeal from the most recent assessments made by the Minister of National Revenue (**Minister**) for 2000, 2001, 2002 and 2003.

[2] The most recent assessments for those years are dated May 19, 2011. They are the result of this Court's judgment, rendered by Justice Archambault, dated January 26, 2011. The applicants did not appeal that decision.

[3] Through their agent, Li Han Tcheng, the applicants, also applied for relief to the Canada Revenue Agency (**CRA**) under subsection 152(4.2) of the *Income Tax Act* (**ITA**), requesting to be reassessed after the normal assessment period for the 2000 to 2008 taxation years. I understand Li Han Tcheng's explanations that he is dissatisfied with the CRA's decision regarding these applications.

[4] Our Court does not have jurisdiction to review the CRA's decisions with respect to these applications because, for the purposes of subsection 169(1) of the ITA, our Court can hear only appeals from assessments for which taxpayers must first file a notice of objection under section 165 of the ITA. Under subsection 165(1.2) of the ITA, no objection may be made by a taxpayer to an assessment made under subsection 152(4.2) of the ITA. (See *Groulx v. The Queen*, 2008 CCI 445 (CanLII).)

[5] The same reasoning applies to any application for relief made to the CRA in order that it waive penalties and interest, in accordance with the fairness provisions in subsection 220(3.1) of the ITA. (See *Palin v. The Queen*, 2007 CCI 255 (CanLII).)

[6] Accordingly, the applicants cannot appeal to our Court from any assessment resulting from a decision rendered following an application for relief to the CRA. The applicants may challenge such a decision of the CRA with an application for judicial review to the Federal Court of Canada. (See *Palin, supra.*)

[7] In addition, I cannot allow the application for an extension of time to appeal from the assessments dated May 19, 2011, in accordance with the judgment of Justice Archambault. That decision was not appealed, and this constitutes *res judicata*. The appeal from these assessments is not based on reasonable grounds.

[8] The applications for an extension of time are dismissed.

Signed at Ottawa, Canada, this 26th day of July 2012.

"Lucie Lamarre"

Lamarre J.

Translation certified true
on this 6th day of September 2012
Margarita Gorbounova, Translator

CITATION: 2012 TCC 275

COURT FILE NO.: 2012-1679(IT)APP
2012-1680(IT)APP

STYLE OF CAUSE: WEI MING YEE v. THE QUEEN
LILY TCHENG, LIQUIDATOR OF THE
TSOU KANG TCHENG SUCCESSION v.
THE QUEEN

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: July 18, 2012

REASONS FOR ORDER BY: The Honourable Justice Lucie Lamarre

DATE OF HEARING: July 26, 2012

APPEARANCES:

Agent for the applicant: Li Han Tcheng
Counsel for the respondent: Anne Poirier
Amélia Fink

COUNSEL OF RECORD:

For the applicant:

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Firm:

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