

Docket: 2013-1758(GST)I

BETWEEN:

BARBARA GEORGE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on January 6, 2014, at Toronto, Ontario.

Before: The Honourable Justice Lucie Lamarre

Appearances:

Agent for the Appellant: Reuben L. Morgan
Counsel for the Respondent: Sandra K.S. Tsui

JUDGMENT

The appeal from the assessment dated June 27, 2012, issued for the period from January 1, 2011 to December 31, 2011, is allowed only to the extent of allowing the ITC amount of \$12,655.50 conceded by the respondent at the beginning of the hearing.

Signed at Ottawa, Canada, this 16th day of January 2014.

“Lucie Lamarre”

Lamarre J.

Citation: 2014 TCC 19
Date: 20140116
Docket: 2013-1758(GST)I

BETWEEN:

BARBARA GEORGE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Lamarre J.

[1] In her GST/HST return for the period from January 1, 2011 to December 31, 2011 (Exhibit R-3), the appellant claimed under the *Excise Tax Act (ETA)* input tax credits (ITCs) of \$22,000. She had operated a buffet restaurant for one year.

[2] During the audit and at the objection level, neither she nor her representative provided a list of incurred expenses in order to substantiate the ITCs claimed. Ms. Lucy Bell, the auditor for the Canada Revenue Agency (CRA), and Ms. Brie Gill, the appeals officer for the CRA, both testified that they had spoken to the appellant and her accountant, Mr. Reuben Morgan, more than once, and had given them plenty of time to comply with the request to provide supporting documentation for their claims.

[3] They did in fact receive invoices showing the rent payments made in 2011 (Exhibit R-2) and one invoice for the purchase of a POS system (a terminal and other equipment) in December 2010 (Exhibit R-4).

[4] These invoices were not accepted at the appeals level for the purposes of allowing ITCs for the year 2011 because, with regard to the rent, the invoices were not accompanied by any lease, and with respect to the POS system, the purchase was made in a year prior to the year at issue and it could not be verified whether ITCs had already been claimed for that expense.

[5] Just before trial, the appellant sent to counsel for the respondent a copy of the lease (being part of Exhibit R-1), and the respondent conceded an amount of \$12,655.50 as ITCs for GST/HST paid on the rent. There remains an amount of \$9,344.50 that is still at issue.

[6] The appellant did not present additional evidence to convince the Court that ITCs had not already been claimed in a prior year with respect to the purchase of the POS system. However, she now claims that she made cash disbursements of \$107,622 for renovations for her business in 2011, on which she says she paid \$12,381 in GST/HST. In support of this new claim, she filed an invoice from Nu-Port Homes Inc. (Exhibit A-1), billing her \$40,241 for materials and \$55,000 for labour. There is no GST/HST registration number on that invoice. Ms. Bell conducted a search on the CRA web site and found a GST/HST registration number for Nu-Port Homes Inc. that had not been active since at least the end of 2007. The appellant's agent, Mr. Morgan, attempted to file an Ontario government document regarding that corporation for 2009. I did not accept it because no one from Nu-Port Homes Inc. was present to testify concerning that document and it was not relevant to the period at issue.

[7] Further, the appellant explained during her testimony that she had offered to send the auditor and the appeals officer vouchers for various other expenses. Apparently, this offer was disregarded by both CRA officers. In court, both officers said that they first required an organized list of the expenses before they could analyze the invoices. A request for such a list was made several times to the appellant and her accountant. It is my understanding that the latter was not able to prepare the list of expenses because the appellant did not provide him with the vouchers. The appellant did not have the vouchers with her in court either.

Analysis

[8] In court, the appellant relied on Exhibit A-1 to claim the disallowed balance of the ITCs. I cannot accept the invoice filed as Exhibit A-1 as supporting the

appellant's right to claim ITCs on renovation expenses paid in cash to a supplier that is not validly registered for GST/HST purposes.

[9] Under subsection 169(4) of the ETA, a registrant may claim ITCs only if he or she provides the information required in section 3 of the *Input Tax Credit Information (GST/HST) Regulations (Regulations)*. The GST/HST registration number is one item of prescribed information. That number is not shown on the invoice provided by the appellant, and she did no verification to determine whether the supplier was validly registered. The information required by the regulations is mandatory (*Davis v. Canada*, [2004] T.C.J. No. 505(QL), [2004] G.S.T.C. 134, 2004 TCC 662) and the requirement must be strictly enforced (*Systematix Technology Consultants Inc. v. Canada*, [2007] F.C.J. No. 836 (QL), [2007] G.S.T.C. 74, 2007 FCA 226).

[10] In the circumstances, the appellant has not demonstrated that she is entitled to the amount of \$9,344.50 remaining out of the total ITCs claimed in her GST/HST return for the year 2011.

[11] The appeal from the assessment dated June 27, 2012, issued for the period from January 1, 2011 to December 31, 2011, is allowed only to the extent of allowing the ITC amount of \$12,655.50 conceded by the respondent at the beginning of the hearing.

Signed at Ottawa, Canada, this 16th day of January 2014.

“Lucie Lamarre”

Lamarre J.

CITATION: 2014 TCC 19

COURT FILE NO.: 2013-1758(GST)I

STYLE OF CAUSE: BARBARA GEORGE v. HER MAJESTY
THE QUEEN

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: January 6, 2014

REASONS FOR JUDGMENT BY: The Honourable Justice Lucie Lamarre

DATE OF JUDGMENT: January 16, 2014

APPEARANCES:

Agent for the Appellant: Reuben L. Morgan
Counsel for the Respondent: Sandra K.S. Tsui

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

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