

BETWEEN:

SIMON RIBBANS PHOTOGRAPHY INC.,

Applicant,

and

HIS MAJESTY THE KING,

Respondent.

Application heard on December 12, 2024, at Ottawa, Ontario

Before: The Honourable Justice Sylvain Ouimet

Appearances:

Agent for the Applicant: Simon Ribbans

Counsel for the Respondent: Sarah Bruce
Ian Moffatt

ORDER

In accordance with the attached reasons;

The Applicant’s application for an extension of time within which to file a notice of objection is denied, without costs.

Signed at Ottawa, Canada, this 14th day of October 2025.

“Sylvain Ouimet”

Ouimet J.

BETWEEN:

SIMON RIBBANS PHOTOGRAPHY INC.,

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HIS MAJESTY THE KING,

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REASONS FOR ORDER

Ouimet J.

I. INTRODUCTION

[1] This is an application made to this Court by Simon Ribbans Photography Inc. (the “Applicant”). With this application, the Applicant asks this Court to be granted an extension of time to file a notice of objection (“Notice of Objection”) to notices of assessment (“Notices of Assessment”) issued by the Minister in respect of its taxation years ending September 30, 2020, and September 30, 2021.

[2] In this case, the Applicant served the Notice of Objection on January 18, 2024. The notice was treated by the Minister as an application for an extension of time because the Applicant had not applied for an extension to the Minister and had served the notice more than 90 days after the day the Notices of Assessment were sent.

[3] On March 20, 2024, the Minister informed the Applicant that the Notice of Objection could not be accepted because it had not been filed within 90 days of the mailing date of the Notices of Assessment. The Minister also explained that an extension of time to file the notice could not be granted since the Applicant had not applied for an extension of time within 1 year of the expiration of the time limit for

serving a notice of objection. According to the Minister, the deadline to apply for an extension was December 12, 2023.¹

[4] Pursuant to subsection 166.2(5) of the ITA, this Court can grant an extension only if the taxpayer applies to the Minister for an extension of time within 1 year and 90 days of the day a notice of assessment was sent to the taxpayer.

[5] The Minister's position is that this Court cannot grant the application because the Applicant served the Notice of Objection after 1 year and 90 days of the day the Notices of Assessment were sent to the Applicant.

[6] The Applicant's position is that it never received the Notices of Assessment at the mailing address on file at the Canada Revenue Agency ("CRA") and that therefore, it is not out of time to be granted an extension of time to serve the Notice of Objection to the Minister.

II. ISSUE

[7] In this case, the issue is the following:

Should the Applicant be granted an extension of time to file a notice of objection?

[8] To answer this question, the Court must determine if the Notices of Assessment were sent, and more specifically, mailed to the Applicant on September 13, 2022.

¹ CRA, the Applicant, (20 March 2024) via letter [communicated to the Applicant].

III. RELEVANT LEGISLATIVE PROVISIONS

[9] The relevant sections of the *Income Tax Act*² read as follows:

Objections to assessment

165 (1) A taxpayer who objects to an assessment under this Part may serve on the Minister a notice of objection, in writing, setting out the reasons for the objection and all relevant facts,

(a) if the assessment is in respect of the taxpayer for a taxation year and the taxpayer is an individual (other than a trust) or a graduated rate estate for the year, on or before the later of

(i) the day that is one year after the taxpayer's filing-due date for the year, and

(ii) the day that is 90 days after the day of sending of the notice of assessment; and

(b) in any other case, on or before the day that is 90 days after the day of sending of the notice of assessment.

...

Extension of time by Minister

166.1 (1) Where no notice of objection to an assessment has been served under section 165, nor any request under subsection 245(6) made, within the time limited by those provisions for doing so, the taxpayer may apply to the Minister to extend the time for serving the notice of objection or making the request.

...

When order to be made

166.1 (7) No application shall be granted under this section unless

² RSC 1985, c 1 (5th Supp) [ITA].

(a) the application is made within one year after the expiration of the time otherwise limited by this Act for serving a notice of objection or making a request, as the case may be; and

(b) the taxpayer demonstrates that

(i) within the time otherwise limited by this Act for serving such a notice or making such a request, as the case may be, the taxpayer

(A) was unable to act or to instruct another to act in the taxpayer's name, or

(B) had a *bona fide* intention to object to the assessment or make the request,

(ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and

(iii) the application was made as soon as circumstances permitted.

Extension of time by Tax Court

166.2 (1) A taxpayer who has made an application under subsection 166.1 may apply to the Tax Court of Canada to have the application granted after either

(a) the Minister has refused the application, or

(b) 90 days have elapsed after service of the application under subsection 166.1(1) and the Minister has not notified the taxpayer of the Minister's decision,

but no application under this section may be made after the expiration of 90 days after the day on which notification of the decision was mailed to the taxpayer.

...

When application to be granted

166.2(5) No application shall be granted under this section unless

(a) the application was made under subsection 166.1(1) within one year after the expiration of the time otherwise limited by this Act for serving a notice of objection or making a request, as the case may be; and

(b) the taxpayer demonstrates that

(i) within the time otherwise limited by this Act for serving such a notice or making such a request, as the case may be, the taxpayer

(A) was unable to act or to instruct another to act in the taxpayer's name, or

(B) had a *bona fide* intention to object to the assessment or make the request,

(ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and

(iii) the application was made under subsection 166.1(1) as soon as circumstances permitted.

...

Proof of no appeal

244(10) An affidavit of an officer of the Canada Revenue Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has charge of the appropriate records and has knowledge of the practice of the Agency and that an examination of those records shows that a notice of assessment for a particular taxation year or a notice of determination was mailed or otherwise communicated to a taxpayer on a particular day under this Act and that, after careful examination and search of those records, the officer has been unable to find that a notice of objection or of appeal from the assessment or determination or a request under subsection 245(6), as the case may be, was received within the time allowed, shall, in the absence of proof to the contrary, be received as evidence of the statements contained in it.

...

Mailing or sending date

244(14) For the purposes of this Act, where any notice or notification described in subsection 149.1(6.3), 152(3.1), 165(3) or 166.1(5) or any notice of assessment or determination is mailed, or sent electronically, it shall be presumed to be mailed or sent, as the case may be, on the date of that notice or notification.

...

Date when assessment made

244(15) If any notice of assessment or determination has been sent by the Minister as required by this Act, the assessment or determination is deemed to have been made on the day of sending of the notice of the assessment or determination.

...

Receipt of things mailed

248(7) For the purposes of this Act,

(a) anything (other than a remittance or payment described in paragraph 248(7)(b)) sent by first class mail or its equivalent shall be deemed to have been received by the person to whom it was sent on the day it was mailed; and

(b) the remittance or payment of an amount

(i) deducted or withheld, or

(ii) payable by a corporation,

as required by this Act or a regulation shall be deemed to have been made on the day on which it is received by the Receiver General.

...

IV. THE FACTS

[10] On September 13, 2022, the Minister issued the Notices of Assessment.³

[11] On January 18, 2024, the Applicant served to the Minister the Notice of Objection to the Notices of Assessment.⁴

[12] On March 20, 2024, the Minister informed the Applicant that the Notice of Objection could not be accepted because it had not been filed within 90 days of the mailing date of the Notices of Assessment. The Minister also explained that an extension of time to file the Notice of Objection could not be granted since the Applicant had not applied for an extension of time within 1 year of the expiration of

³ (Affidavit, Chrisha Joseph, at para 5) [*Joseph Affidavit*].

⁴ *Ibid* at para 16.

the time limit for serving the Notice of Objection. According to the Minister, the deadline to apply for an extension was December 12, 2023.

[13] On March 26, 2024, pursuant to subsection 166.2(1) of the ITA, the Applicant applied to this Court for an extension of time to file a notice of objection.

[14] The Applicant's position is that it did not receive the Notices of Assessment and consequently could not object to them. The Applicant submitted that it became aware of the existence of the Notices of Assessment when it received a notice of collection in the fall of 2023.⁵ The Applicant then proceeded to file the Notice of Objection soon after.

V. DISCUSSION

A. The Law

1. Prescribed Time Limit to Serve a Notice of Objection to the Minister for a Taxpayer That Is Not an Individual

[15] Pursuant to section 165 of the ITA, a taxpayer that wants to object to an assessment must do so by serving on the Minister a notice of objection, in writing, setting out the reasons for the objection and all relevant facts. Pursuant to paragraph 165(1)(b) of the ITA, if the assessment is in respect of a taxpayer that is not an individual, a notice of objection must be served on or before the day that is 90 days after the day a notice of assessment was sent.

2. Prescribed Time Limit to Apply to the Minister for an Extension of Time to Serve a Notice of Objection for a Taxpayer That Is Not an Individual

[16] As stated above, pursuant to section 165, a taxpayer that is not an individual must serve a notice of objection to an assessment within 90 days of a notice of assessment being sent. Pursuant to section 166.1 of the ITA, if the taxpayer does not object within 90 days of a Notice of Assessment being sent, the taxpayer can apply to the Minister for an extension of time to file a notice of objection.

⁵ Transcript of Proceedings, at paras 7–8.

[17] Pursuant to subsection 166.1(7) of the ITA, the Minister can grant an application for an extension of time only if the application is made within 1 year after the expiration of the time otherwise limited by the ITA for sending a notice of objection.

[18] Consequently, pursuant to section 165 and subsection 166.1(7), the Minister can grant an application for an extension of time only if the taxpayer applied within 1 year and 90 days of the day a notice of assessment was sent.

3. Prescribed Time Limit to Apply to the Tax Court for an Extension of Time to Serve a Notice of Objection for a Taxpayer That Is Not an Individual

[19] If the Minister does not grant an application for an extension of time, pursuant to section 166.2 of the ITA, a taxpayer can apply to the Tax Court for an extension of time.

[20] However, pursuant to subsection 166.2(5) of the ITA, no application shall be granted by this Court unless certain conditions are met. Subsection 166.2(5) reads as follows:

166.2(5) No application shall be granted under this section unless

(a) the application was made under subsection 166.1(1) within one year after the expiration of the time otherwise limited by this Act for serving a notice of objection or making a request, as the case may be; and

(b) the taxpayer demonstrates that

(i) within the time otherwise limited by this Act for serving such a notice or making such a request, as the case may be, the taxpayer

(A) was unable to act or to instruct another to act in the taxpayer's name, or

(B) had a *bona fide* intention to object to the assessment or make the request,

(ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and

(iii) the application was made under subsection 166.1(1) as soon as circumstances permitted.

[21] To determine whether it is possible for this Court to grant an extension of time, the Court must first determine whether the taxpayer applied to the Minister for an extension of time within 1 year and 90 days of the day the Minister sent the Notices of Assessment. Under subsection 166.2(5), this is the first condition that must be met. To determine whether the first condition is met, the Court must find out the exact date on which the Minister sent the Notices of Assessment to the taxpayer.

4. When Does the 1-Year and 90-Day Period to Serve a Notice of Objection to the Minister Start?

[22] Pursuant to section 165 and subsection 166.1(7), the Minister can grant an application for an extension of time only if the taxpayer applied within 1 year and 90 days of the day a notice of assessment was sent.

[23] In *Canada v Schafer*,⁶ the Federal Court of Appeal explained that the word “sent”, used in subsection 301(1.1) of the *Excise Tax Act*,⁷ meant “mailed”.⁸ *Schafer* was later applied in the context of section 165 of the ITA in *McClelland v. R.*⁹

[24] In *Mid-Plains Contractors Ltd. v Canada*,¹⁰ this Court endorsed the following definition of “mailed”:

Black’s Law Dictionary, 5th Edition, defines “mailed” as, inter alia:

A letter, package, or other mailable matter is “mailed” when it is properly addressed, stamped with the proper postage, and deposited in a proper place for receipt of mail.

[25] Consequently, a notice of assessment is “mailed” if it is properly addressed, stamped with the proper postage, and deposited in a proper place for receipt of mail.

⁶ *Schafer v R*, 2000 CanLII 16118 (FCA) [*Schafer*].

⁷ RSC 1985, c E-15 [*ETA*].

⁸ *Schafer*, *supra* note 6 at paras 8–12.

⁹ *McClelland v R*, 2004 FCA 315 at para 4.

¹⁰ *Mid-Plains Contractors v R*, 1993 TCJ No 131 at para 29.

The 1-year and 90-day period to serve a notice of objection to the Minister starts on that date.

a) How Can the Minister Prove that a Notice of Assessment Was Mailed to a Taxpayer on a Specific Date?

(1) Presumption of Subsection 244(14) of the ITA

[26] Subsection 244(14) of the ITA creates a presumption that a notice of assessment was mailed or sent on the date appearing on that notice.¹¹ Subsection 244(14) reads as follows:

244(14) For the purposes of this Act, where any notice or notification described in subsection 149.1(6.3), 152(3.1), 165(3) or 166.1(5) or any notice of assessment or determination is mailed, or sent electronically, it shall be presumed to be mailed or sent, as the case may be, on the date of that notice or notification.

[27] To benefit from the presumption, the Minister must introduce evidence to prove, on a balance of probabilities, that a notice of assessment was mailed to the address that the CRA had on file for the taxpayer.¹² If the Minister can prove that a notice of assessment was mailed to the address on file, then the presumption under subsection 244(14) applies, and the taxpayer bears the burden of proving that the notice was not mailed on that date.¹³

(2) Presumption of Subsection 244(10) of the ITA

[28] Subsection 244(10) of the ITA establishes how the Minister can prove that a notice of assessment was mailed or otherwise communicated to the taxpayer. Subsection 244(10) reads as follows:

244(10) An affidavit of an officer of the Canada Revenue Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has charge of the appropriate records and has knowledge of the practice of the Agency and that an examination of those records shows that a notice of assessment for a particular taxation year or a notice of determination was mailed or otherwise communicated to a taxpayer on a particular day under this Act and that,

¹¹ *Mpamugo v R*, 2016 TCC 215, aff'd 2017 FCA 136 [*Mpamugo*].

¹² *Ibid.*

¹³ *Ibid.*

after careful examination and search of those records, the officer has been unable to find that a notice of objection or of appeal from the assessment or determination or a request under subsection 245(6), as the case may be, was received within the time allowed, shall, in the absence of proof to the contrary, be received as evidence of the statements contained in it.

[Emphasis added.]

[29] In *Mpamugo*,¹⁴ this Court stated that subsection 244(10) of the ITA makes it easy for the Minister to prove mailing of a notice of assessment. Pursuant to this provision, if the Minister files an affidavit of a CRA officer who states that the officer has charge of the appropriate records and has knowledge of the practices of the CRA, that the officer has examined those records, and that the records show that a notice of assessment was mailed, those statements shall be evidence, absent proof to the contrary, that the notice was mailed.¹⁵

[30] For an affidavit to comply with subsection 244(10) of the ITA, it must set out that the CRA officer has charge of all the appropriate records and has examined all of them.

[31] As stated in *Sodecia Canada Investments Inc. v. R.*¹⁶, there is no requirement under subsection 244(10) for the CRA officer to have personal knowledge of the preparation and mailing of a particular notice of assessment. The subsection only requires that a CRA officer attest that they have charge of the appropriate records, knowledge of CRA's practices and procedures and that a search of the records shows that a notice of assessment was mailed. It is sufficient that the officer, or officers, collectively, have knowledge of CRA practices and procedures in respect of the preparation, transmission between offices and ultimate mailing of a notice of assessment.

(3) Conclusion

[32] Pursuant to what has been said above, to prove that a notice of assessment was mailed, the affidavit(s) of CRA officer(s) must meet these two criteria:

¹⁴ *Ibid* at para 12.

¹⁵ *Ibid*.

¹⁶ *Sodecia Canada Investments Inc v R*, 2024 FCA 216 at paras 10, 11 [*Sodecia*].

- 1 - In the affidavit(s), it must be stated that the CRA officer has charge of the appropriate records, knowledge of CRA's practices and procedures in respect of the preparation, transmission between offices and ultimate mailing of a notice of assessment, and that a search of the records shows that a notice of assessment was mailed.
- 2 - The affidavit(s) must be sufficiently detailed and comprehensible to convince the Court that a notice of assessment was mailed, meaning that the envelope containing the notice was properly addressed, stamped with the proper postage and received by Canada Post.

[33] To meet these criteria, it is often necessary for the Minister to file multiple affidavits.

b) When Is a Notice of Assessment Deemed to Have Been Received by a Taxpayer - Subsection 248(7) of the ITA

[34] For the purposes of ITA and pursuant to subsection 248(7), anything (other than a remittance or payment described in paragraph 248(7)(b)) sent by first class mail or its equivalent shall be deemed to have been received by the person to whom it was sent on the day it was mailed. Subsection 248(7) reads as follows:

248(7) For the purposes of this Act,

(a) anything (other than a remittance or payment described in paragraph 248(7)(b)) sent by first class mail or its equivalent shall be deemed to have been received by the person to whom it was sent on the day it was mailed; and

(b) the remittance or payment of an amount

(i) deducted or withheld, or

(ii) payable by a corporation,

as required by this Act or a regulation shall be deemed to have been made on the day on which it is received by the Receiver General.

[35] Consequently, when the Minister has proven, on the balance of probabilities, that a notice of assessment was mailed to a taxpayer, it is deemed to have been received by the taxpayer on the day it was mailed.

5. The Analytical Framework

[36] In *Mpamugo*¹⁷, this Court used an analytical framework that can be used in situations where the taxpayer has alleged that a notice of assessment was never mailed. The framework has been used by this Court on numerous occasions.¹⁸ It includes four steps. The first three are conditions that must be met for the Court to grant the application. The last step is not a condition but rather an explanation of the consequence for the taxpayer when the three conditions are not met. The framework takes into consideration the application of the relevant provisions of the ITA mentioned above and it facilitates their application. The four steps are as follows:

Step 1: The taxpayer must assert that the Notice of Assessment was not mailed. A taxpayer normally does so in one of two ways. The taxpayer may assert that he or she did not receive the Notice of Assessment and thus believes that it was not mailed. Alternatively, the taxpayer may assert that the Notice was mailed to the wrong address through no fault of the taxpayer and was thus, in effect, not mailed.

Step 2: If the taxpayer asserts that the Notice of Assessment was not mailed, the Minister must introduce sufficient evidence to prove, on a balance of probabilities, that the Notice of Assessment was indeed mailed or, if the taxpayer has asserted that it was mailed to the wrong address, that it was mailed to the address that the CRA properly had on file.

Step 3: If the Minister is able to prove that the Notice of Assessment was indeed mailed, then the mailing is presumed to have occurred on the date set out on the Notice (subsection 244(14)). This is a rebuttable presumption. The taxpayer may introduce evidence to prove that it was actually mailed on a different date. The deadline for filing a Notice of Objection is calculated from the mailing date established by this step (subsection 165(1)). The “normal reassessment period” for a tax year also commences from the mailing date established by this step (subsection 152(3.1)).

Step 4: Once the mailing date is established (either through the presumption or through proof of a different date), the assessment is deemed to have been made on that date (subsection 244(15)) and the Notice of Assessment is deemed to have been received on that date (subsection 248(7)). These deeming provisions are not rebuttable. The date on which an assessment is made is used to determine whether

¹⁷*Mpamugo*, *supra* note 11 at para 6.

¹⁸ *Sodecia*, *supra* note 16 at para 57; *Laing v R*, 2023 TCC 50 at para 38; *Pour Afkari v R*, 2019 TCC 173 at para 21; *Boroumend v R*, 2016 TCC 256 at para 3.

a reassessment was made outside of the “normal reassessment period” of a tax year (subsection 152(4)). Step 4 is not strictly relevant for the purposes of determining the deadline for filing a Notice of Objection. That determination is made in Step 3. Step 4 simply makes it clear that the fact that a taxpayer did not actually receive the Notice of Assessment is irrelevant.

B. Application of the Law to the Facts of This Case

1. Whether the Notices of Assessment Were Mailed to the Applicant

a) The Analytical Framework

(1) Step 1: The Taxpayer Must Assert That the Notice of Assessment Was Not Mailed.

[37] Simon Ribbans (Mr. Ribbans), on behalf of the Applicant, testified that it never received the Notices of Assessment at the mailing address on file at the CRA.

(2) Step 2: The Minister Must Introduce Sufficient Evidence to Prove That the Notice of Assessment Was Mailed to the Taxpayer.

(a) The Applicant’s Address on File at the CRA

[38] The address of the Applicant on file with the CRA was not at issue in this case.

(b) Proof of the Mailing of the Notices of Assessment

[39] Pursuant to subsection 244(10), an affidavit of a CRA officer is evidence that a notice of assessment was mailed. His Majesty the King (“HMTK”) filed two affidavits. The first affidavit is from Chrisha Joseph (“Ms. Joseph”), a CRA Litigation Officer in Toronto, Ontario. The second affidavit is from Wade Smith (“Mr. Smith”), a Manager for the Print to Mail Division located in the Prince Edward Island Taxation Centre of the CRA.

[40] Whether the CRA's officer had charge of the appropriate records and had knowledge of the practice of the CRA is not at issue in this case. Therefore, the Court

will only determine whether the affidavits contain sufficient evidence to prove, on a balance of probabilities, that the Notices of Assessment were mailed.

(i) Chrisha Joseph’s Affidavit

(a) Content of the Affidavit

[41] In her affidavit, Ms. Joseph stated that she has charge of the appropriate records and knowledge of the practice of the CRA, and that the CRA maintains taxpayer information and records in a computerized database. In her affidavit, Ms. Joseph also stated the following:

- i. In the course of her employment, she has access to the Agency’s [the “CRA”] computerized database.¹⁹
- ii. Ms. Joseph has carefully examined the Agency’s records relating to the application of the Applicant, and as such, has knowledge of the matters deposited to in her affidavit.²⁰
- iii. It is the Agency’s practice to retrieve information regarding the printing and mailing of a Notice of (Re)Assessment by selecting Communication Item History – from the system titled Business Client Communications System (“BCCS”).²¹
- iv. Ms. Joseph has examined the records and based on her examination, she can state that the Minister assessed the Applicant for the taxation year-ending September 30, 2020 (the “2020 taxation year”) and September 30, 2021 (the “2021 taxation year”) and issued Notices of Corporation income tax assessment dated September 13, 2022 (the “Assessments”). The records showing that the Assessments were made are attached to the affidavit as Exhibit A.²²

¹⁹ *Joseph Affidavit, supra* note 3 at para 2.

²⁰ *Ibid* at para 3.

²¹ *Ibid* at para 4.

²² *Ibid* at para 5.

- v. Ms. Joseph reviewed the Communication Item Key Details with respect to the Assessments. The Assessments were released in BCCS Cycle #000011113, whose Cycle Run date is September 9, 2022, with the notices dated September 13, 2022. A redacted copy of the Communication Item History is attached to the affidavit as Exhibit B.²³
- vi. The Minister maintains a database in which letters and other correspondence to taxpayers are stored, known as Electronic Communications History (the “ECH”).²⁴
- vii. An examination of the Applicant’s ECH demonstrates that the Minister, by way of notice of collection dated January 18, 2023, informed the Applicant of the amount owing to the Minister.²⁵
- viii. The Assessments dated September 13, 2022, and the notice of collection dated January 18, 2023, were addressed and sent to 320 DE LA MELODIE STREET, ORLEANS, ON, K1W 0H9.²⁶
- ix. It is the Agency’s practice to store taxpayer information in an electronic mainframe. The report shows that the mailing address referred to above was the Applicant’s mailing address of record between October 23, 2017, and March 26, 2024.²⁷
- x. The Minister keeps a database known as Case Management System – Case Appeals (the “CSAPP”) in which the objection of a taxpayer is recorded.²⁸

(b) The Court’s Conclusion

²³ *Ibid* at para 6.

²⁴ *Ibid* at para 7.

²⁵ *Ibid* at para 8.

²⁶ *Ibid* at para 9.

²⁷ *Ibid* at para 10.

²⁸ *Ibid* at para 11.

[42] The Court understands that it is standard procedure in 2025 for the CRA to retrieve information regarding the printing and mailing of a notice of re(assessment) using its computer system, and more precisely, using a system named BCCS.

[43] Ms. Joseph explained that she had care of the records relating to the “application”, which included “Communication Key Details” for the Applicant’s assessments. Based on these records, she identified the BCCS cycle that included the Notices of Assessment as Cycle #000011113. She explained that “BCCS” refers to the Business Client Communications System.

[44] Based on this affidavit, the Court concludes:

- 1- The CRA assessed the Applicant for the 2020 and 2021 taxation years (subparagraph 41 iv. of these reasons).
- 2- The Notices of Assessment were released in Cycle #000011113, which had a Cycle Run date of September 9, 2022 (subparagraph 41 v. of these reasons).
- 3- If mailed, the Notices of Assessment were mailed to the address of the Applicant on file with the CRA, and were therefore properly addressed (subparagraph 41 viii. of these reasons).

(ii) Mr. Smith’s Affidavit

(a) Content of the Affidavit

[45] In his affidavit, Mr. Smith explained that he had charge of the mailing records. His affidavit explained how the CRA prints and prepares assessments for shipment. He explained that the standard procedure is for Canada Post to collect these shipments. He also stated that he has charge of the appropriate records and has knowledge of the CRA’s practices in respect of the mailing procedures described in the affidavit. Mr. Smith’s affidavit does not include any exhibits. In his affidavit, Mr. Smith states the following:

- i. The Agency follows a set of procedures for communicating with taxpayers in writing. One of these procedures involves the use of “Print to Mail” sites

which are located in Summerside, Prince Edward Island and Winnipeg, Manitoba.²⁹

- ii. Income tax Notices of Assessments or Reassessments for corporations are processed electronically in the CRA’s computer system and the information is released electronically to the Print to Mail Section of the Digital Design and Production Directorate in the Business Client Communication System (“BCCS”), for printing of the Notices of Assessment and that date of the notice is post-dated to the date of mailing.³⁰
- iii. The following is a description of the procedures followed by the Print to Mail Section of the Digital Design and Production Directorate for printing and mailing a notice of assessment or reassessment (referred to in the affidavit as “Assessment Notice”) to a taxpayer:
 - a. The print files for various programs are released by the various program areas of the CRA and are downloaded electronically to a Print to Mail site. Once the file is downloaded, the Print to Mail site is responsible for printing, inserting and shipping the mail to Canada Post plants for introduction into the mail stream.³¹
 - b. Once the information for the print file is received, control reports provided by Information Technology Branch are printed and a job ticket is printed using the IQ system in the Print to Mail sites. These documents are created to monitor and balance the documents to be printed (referred to in the affidavit as “jobs”), and serve as a check and balance to processing in order to minimize errors. The IQ system is the computer tracking system used to track the job throughout its process in Print to Mail Division from the time it is released to a Print to Mail site to the time it is shipped to Canada Post for mailing.³²
 - c. In the case of an(a) (Re)Assessment Notice, the print file is printed by an operator on high-speed Xerox printers. A “trailer page” is produced

²⁹ (Affidavit, Wade Smith at para 3).

³⁰ *Ibid* at para 4.

³¹ *Ibid* at para 5(a).

³² *Ibid* at para 5(b).

at the end of the printing function to identify the number of notices printed. This is balanced against the job ticket to ensure that the original numbers of notices requested for printing have in fact been printed.³³

- d. It is the practice of the CRA to automatically address an Assessment Notice to the address on record in the CRA's electronic database.³⁴
- e. Once printed, the Assessment Notices are delivered to the inserting area for insertion into individual envelopes. This process is usually completed one to four days prior to the date of mailing.³⁵
- f. The insertion method used depends on the size of a particular job:
 - i. Hand inserting - for small jobs with less than 100 notices to be inserted;³⁶ and
 - ii. Automated inserting - A high-speed Bell & Howell Forerunner Inserter mechanically performs folding, inputting additional forms and/or pamphlets and inserting into an envelope.³⁷
- g. The envelope contains a clear area cut-out, whereby the address printed directly on the Assessment Notice is visible for mailing purposes. The taxpayer's address is not printed directly on an envelope.³⁸
- h. Once insertion is complete, both methods have a cross-checking process to ensure that no mistakes have been made:
 - i. for the hand-insertion method, a physical count is conducted and checked against the trailer page and the job ticket;³⁹ and

³³ *Ibid* at para 5(c).

³⁴ *Ibid* at para 5(d).

³⁵ *Ibid* at para 5(e).

³⁶ *Ibid* at para 5(f)(i).

³⁷ *Ibid* at para 5(f)(ii).

³⁸ *Ibid* at para 5(g).

³⁹ *Ibid* at para 5(h)(i).

- ii. for the automated-insertion method, a Forerunner report is checked against the job ticket.⁴⁰
- i. If a job does not balance when comparing the various documents involved (i.e. reports, job tickets, trailer pages), the job that did not balance is destroyed, and the job is reprinted and reinserted to ensure a balanced job.⁴¹
- j. All envelopes are placed in labelled Canada Post “letterflattainers” and then stored in labelled “monotainers” which provide the date of pick-up by Canada Post for mailing. The date for pick-up by Canada Post corresponds to the date on the Assessment Notices.⁴²
- k. A “letterflatainer” is a container supplied by Canada Post that is used primarily to transport Standard / Short and Long (S/L) mail. A “monotainer” is a large, collapsible steel-frame container, supplied by Canada Post, that is used to transport mail between postal facilities and large-volume mailers.⁴³
- l. A final balance is performed using the control reports provided by the Information Technology Branch and the job tickets utilized in the printing and inserting process.⁴⁴
- m. Once all information is verified, the Canada Post Statement of Mailing documentation is completed, and a paper copy is attached to the shipments of all jobs being picked up on that particular date.⁴⁵
- n. The shipment then leaves on a Canada Post contracted transport (tractor trailer).⁴⁶

⁴⁰ *Ibid* at para 5(h)(ii).

⁴¹ *Ibid* at para 5(i).

⁴² *Ibid* at para 5(j).

⁴³ *Ibid* at para 5(k).

⁴⁴ *Ibid* at para 5(l).

⁴⁵ *Ibid* at para 5(m).

⁴⁶ *Ibid* at para 5(n).

- iv. An Electronic Daily Mailing Report, kept by the Agency, shows the mailing jobs that were received, printed, and/or mailed for a particular day.⁴⁷
- v. The Canada Post Statement of Mailing referred to in paragraph 5m) of the affidavit is kept electronically by the Agency. It provides information about the jobs, including the number of pieces of mail and the weight, being shipped on a particular day.⁴⁸
- vi. Wade Smith reviewed the relevant Electronic Daily Mailing Report and the relevant Canada Post Statement of Mailing and verily believed that the procedures referred to in paragraph 5 of the affidavit were properly completed for the BCCS Cycle #000011113 referred to in paragraph 7. He stated that he verily believed that the Applicant's Notices of Assessment dated September 13, 2022, were printed and they were mailed on time.⁴⁹

[46] In his affidavit, Mr. Smith also stated the following:

- i. He had been informed by Chrisha Joseph, Litigation Officer, Toronto Appeals Division of the CRA, and does verily believe that:
 - a. Income tax notices of assessments or reassessments for corporations are processed electronically in the CRA computer system and the information is released electronically to the Print to Mail Section of the Digital Design and Production Directorate in the Business Client Communication System ("BCCS") for printing of the Notices of Assessment and that the date of the notice is post-dated to the date of mailing.⁵⁰
 - b. The Applicant's Notices of Assessment for the taxation year ending September 30, 2020, and the taxation year ending September 30, 2021,

⁴⁷ *Ibid* at para 8.

⁴⁸ *Ibid* at para 9.

⁴⁹ *Ibid* at para 10. Paragraph 5 of the affidavit is subparagraphs 45(iii). of this Court's decision. Paragraph 7 of his affidavit is paragraph 64(i). of this Court's decision.

⁵⁰ *Ibid* at para 7(a)

were released in BCCS Daily Cycle #000011113, which ran on September 9, 2022, with notices dated September 13, 2022.⁵¹

(b) The Court's Conclusion

[47] Based on this affidavit, the Court concludes:

- 1- The Notices of Assessment were put into an envelope by the CRA (subparagraph 45 vi. and paragraph 46 of these reasons).
- 2- The envelope containing the Notices of Assessment was stamped with the proper postage (subparagraphs 45 iv., v., and vi. and paragraph 46 of these reasons).
- 3- The envelope containing the Notices of Assessment was received by Canada Post (subparagraphs 45 iv., v., and vi. and paragraph 46 of these reasons).

(3) Step 3: Did the Taxpayer Introduce Evidence to Prove that the Notice of Assessment Was Not Mailed on September 13, 2022.

[48] The Applicant did not introduce evidence to prove that the Notices of Assessment were not mailed on September 13, 2022.

2. Conclusion

[49] The Court has concluded, based on the affidavits of Ms. Joseph and Mr. Smith, that on a balance of probabilities, the Notices of Assessment were properly addressed, stamped with the proper postage, and deposited in a proper place for receipt of mail. Consequently, in application of subsections 244(10) and (14) of the ITA, the Court concludes that the notices were mailed to the Applicant on September 13, 2022.

VI. CONCLUSION

⁵¹ *Ibid* at para 7(b).

[50] The Court has concluded, on a balance of probabilities, that the Notices of Assessment were mailed to the Applicant on September 13, 2022.

[51] Because the Court has concluded that the Notices of Assessment were mailed to the Applicant on September 13, 2022, the deadline to apply for an extension of time to the Minister was December 12, 2023. The Applicant applied for an extension on January 18, 2024. Therefore, the application was not made within 1 year and 90 days of the day the Notices of Assessment were mailed. Pursuant to subsection 166.2(5) of the ITA, this Court cannot grant an extension of time to file a notice of objection unless the taxpayer has applied to the Minister for an extension of time within 1 year and 90 days of the day a notice of assessment is mailed. Accordingly, the Court cannot grant the application.

[52] The application is denied, without costs.

Signed at Ottawa, Canada, this 14th day of October 2025.

“Sylvain Ouimet”

Ouimet J.

CITATION: 2025 TCC 146
COURT FILE NO.: 2024-842(IT)APP
STYLE OF CAUSE: SIMON RIBBANS PHOTOGRAPHY
INC. v. HIS MAJESTY THE KING
PLACE OF HEARING: Ottawa, Ontario
DATE OF HEARING: December 12, 2024
REASONS FOR ORDER BY: The Honourable Justice Sylvain Ouimet
DATE OF ORDER: October 14, 2025

APPEARANCES:

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Counsel for the Respondent: Sarah Bruce
Ian Moffatt

COUNSEL OF RECORD:

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