Federal Court Cour fédérale

Date: 20260331

Docket: T-3709-25

Citation: 2026 FC 420

Toronto, Ontario, March 31, 2026

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

CHRIS HUGHES

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] Mr. Chris Hughes brings this motion under Rule 51 of the *Federal Courts Rules*, SOR/98-106, to appeal an order of Madam Associate Judge Catherine A. Coughlan.

[2] On January 8, 2026, A.J. Coughlan granted the Attorney General’s motion to strike Mr. Hughes’ Notice of Application, in which he sought an order quashing his nil assessment for the 2019 tax year by the Canada Revenue Agency [CRA].

[3] Having considered the parties’ written materials and having heard their oral submissions by videoconference on March 10, 2026, I am satisfied that this appeal ought to be dismissed.

II. BACKGROUND

A. *Facts*

[4] The underlying proceeding is an Application by Mr. Hughes seeking to quash a nil assessment by the CRA for his 2019 tax year. As part of the Application, Mr. Hughes also specifically sought an order for the CRA to include the lost wages and interest payments he was awarded by the Canadian Human Rights Tribunal [CHRT] as against Transport Canada as taxable income, in accordance with the terms of the CHRT order and the associated spreadsheet from the Department of Justice that listed the statutory deductions made from the award.

[5] Mr. Hughes received the award ordered by the CHRT in February 2019, along with a spreadsheet that listed statutory deductions, including union dues, income tax, pension contributions, and employment insurance contributions.

[6] In September 2024, the Applicant requested that the Minister of National Revenue reassess his 2019 tax year to include the payment of the CHRT Award as taxable income. Initially, the Minister issued a reassessment in August 2025 finding that the amounts were

taxable income, and the Applicant received an ensuing tax bill for $308,000. On September 18, 2025, by letter from Assistant Commissioner Marc Lemieux, the Minister replaced the August 2025 reassessment with a nil assessment, determining that no taxes were payable for 2019. This is the decision that Mr. Hughes sought to have reviewed by this Court.

B. *Procedural History*

[7] The Respondent brought a motion to strike Mr. Hughes' Notice of Application. At root, the Respondent argued that the Applicant was seeking to challenge an assessment of tax by the Minister of National Revenue, which may not proceed as a judicial review at the Federal Court by virtue of section 18.5 of the *Federal Courts Act*. Rather, challenges to the correctness and validity of an assessment fall within the exclusive jurisdiction of the Tax Court of Canada pursuant to section 12 of the *Tax Court of Canada Act*.

[8] A.J. Coughlan granted the Respondent's motion to strike for the following overarching reasons: 1) Mr. Hughes' Notice of Application was a challenge to the correctness of the Minister's non-discretionary decision to reassess and issue a nil assessment for the Applicant's 2019 tax year and the Federal Court has no jurisdiction to quash such a decision, 2) the fact that the Tax Court will not generally hear appeals of nil assessments does not create a right to have such assessments reviewed by the Federal Court; and 3) Mr. Hughes's contention that the tribunal order ought to be given primacy over the Minister's assessment did not raise a cognizable administrative law claim.

III. ISSUES

[9] The Applicant challenges A.J. Coughlan's ruling on the motion to strike, arguing that she erred in finding that the Federal Court lacked jurisdiction to hear his application. Mr. Hughes also argues that Judge Coughlan's decision was "contemptuous" because it ignored a Federal Court order (referring to the CHRT order), and that she improperly ignored binding jurisprudence, including *Hughes v Transport Canada* 2019 FC 1026 and *Milgram Foundation v Canada (Attorney General)*, 2024 FC 1405 [*Milgram*].

IV. STANDARD OF REVIEW

[10] The standard of review for a discretionary decision by an Associate Judge is correctness for questions of law and mixed law and fact, and palpable and overriding error for factual findings: *Canada (Attorney General) v Iris Technologies Inc.*, 2021 FCA 244 at para 33; *Hospira Healthcare Corporation v Kennedy Institute of Rheumatology*, 2016 FCA 215.

V. ANALYSIS

[11] At the outset, the Respondent initially argued that this matter should be summarily dismissed because the Applicant did not file his Rule 51 motion within the applicable timelines. However, a review of the record reveals that Mr. Hughes did, in fact, attempt to file his appeal within the timelines, but that it was not initially accepted for filing because of certain minor procedural irregularities. I ordered that the motion record be accepted for filing and, in the circumstances, I do not believe that Mr. Hughes requires an extension of time.

[12] Moving on to the substance of this matter, I find no reviewable errors in Associate Judge Coughlan's finding that the Federal Court has no jurisdiction to hear this matter.

[13] The relevant facts in this case are undisputed: further to the CHRT award, and this Court's decision, the Minister of Transportation made payments to Mr. Hughes, at least a portion of which were treated as being taxable, and deducted taxes accordingly. Later, however, the CRA determined that these payments were not taxable and, as such, issued a nil assessment. The central question on this appeal is whether the Federal Court has jurisdiction to hear Mr. Hughes arguments as to the propriety of the CRA decision.

[14] At the outset, I find there is no merit to the Applicant's assertion that A.J. Coughlan's decision was "contemptuous of the Tribunal Award that states the amounts are taxable." With respect, Mr. Hughes has completely misunderstood the nature of the proceeding that was before A.J. Coughlan. The issue was not whether the CHRT tribunal award was taxable or not taxable, but whether the Federal Court has jurisdiction to hear the application that Mr. Hughes brought before it. A.J. Coughlan considered this question in detail and concluded that the Federal Court does not have jurisdiction over the subject matter raised in the judicial review.

[15] Mr. Hughes has expressed disagreement with this conclusion, which he is entitled to do on this appeal, but the matter raises no concerns related to contempt of proceedings. While Mr. Hughes may be of the view that the decision of the CRA ignored the CHRT order, this is a separate issue from the question of whether this Court has jurisdiction over the subject matter in question. Alleging that a member of this court has acted in contempt is a very serious allegation,

one that, in this case, questions the integrity of the presiding Associate Judge. There is simply no basis to this bald allegation; it is nothing more than scurrilous and I reject it out of hand.

[16] Moving on to the substance of the matter, I begin by noting that the Tax Court of Canada has the exclusive jurisdiction to vary or vacate incorrect income tax assessments. However, the Federal Court has exclusive jurisdiction to review discretionary decisions made by the Minister of National Revenue pursuant to the *Income Tax Act* [ITA] or other acts of Parliament: *Dow Chemical Canada ULC v Canada*, 2024 SCC 23 at para 3.

[17] A nil assessment is not a discretionary decision – it reflects a calculation by the CRA leading to the conclusion that the taxpayer owes no taxes and is owed no refunds in a given tax year. Thus, it is plainly outside the Federal Court's jurisdiction.

[18] Mr. Hughes has submitted that the Associate Judge erred in failing to consider the *Milgram* case which, he asserts, establishes that the Federal Court has the jurisdiction to hear appeals of nil assessments. However, even a cursory review of this decision reveals that this is not the case. Rather, *Milgram* simply reaffirmed, in an entirely different factual context, the Federal Court's jurisdiction to review *discretionary* decisions made by the Minister of National Revenue.

[19] As noted above, the context here relates to the CRA's non-discretionary assessment of the income taxes owing by the Applicant. It is for this reason that Associate Judge Coughlan held that the "essential nature of the application remains a challenge to the correctness of the Minister's non-discretionary decisions to reassess." The result, then, is that the *Milgram*

decision, even if it had been before Judge Coughlan, is of no assistance to Mr. Hughes in this appeal.

[20] I also agree with the Respondent that, aside from the Applicant's inapt reference to *Milgram*, he does not explicitly dispute Associate Judge Coughlan's characterization of this matter as being essentially a challenge to the Minister's non-discretionary assessment decision. As such, the Applicant has failed to identify any palpable or overriding error in the decision under appeal. I would also note for the record that the *Milgram* decision has been appealed to the Federal Court of Appeal and, as of this moment, a decision on the appeal is pending.

[21] Mr. Hughes appears to rest much of his argument on the assertion that the Tax Court of Canada would not have jurisdiction over this matter, because it relates to a nil assessment. As such, Mr. Hughes argues that the Federal Court *must* have jurisdiction because, in his words, "every right must have a remedy."

[22] I acknowledge that there is jurisprudence from the Tax Court of Canada indicating that, *generally*, it may decline to hear appeals of nil assessments. This is because appeals from assessments typically aim to resolve disputes over tax amounts owing, which is impossible when that amount is a nullity: *Canada v Interior Savings Credit Union*, 2007 FCA 151 at para 17, citing *Okalta Oils Limited v Minister of National Revenue*, 1955 CanLII 70 (SCC) [*Okalta Oils*].

[23] However, I agree with A.J. Coughlan and the Respondent that the Tax Court's potential lack of jurisdiction to hear appeals of nil assessments does not necessarily redirect such

jurisdiction to the Federal Court. This issue was considered directly in *Verdicchio v Canada*, 2010 FC 117, where this Court stated as follows (at para 30):

> The fundamental issue here is if the lack of jurisdiction of the Tax Court of Canada over nil assessments confers a jurisdiction to the Federal Court to adjudicate nil assessments in lieu thereof through a statement of claim or otherwise. I find that it does not.

[24] Beyond Mr. Hughes' bare assertion that there must be a way for his rights to be vindicated, he has provided little authority to establish that the CRA's assessment implicates this Court's jurisdiction. On my own review of the decision under appeal, I can discern no error in the Associate Judge's jurisdictional conclusions. On the particular facts of this case, I also do not necessarily accept that the Tax Court of Canada would summarily dismiss Mr. Hughes' appeal on jurisdictional grounds. While it is true that there is typically nothing to appeal from a nil assessment (*Okalta Oils* at page 826), this is not always the case.

[25] For example, in *Canada v 984274 Alberta Inc*, 2020 FCA 125 [*Alberta Inc*], the Federal Court of Appeal found that where tax had been paid in a given year, and the taxpayer was subsequently issued a nil assessment for that year, the taxpayer may be in an overpayment scenario pursuant to subsection 164(7) of the ITA. In this situation, while the nil assessment itself is a legal nullity, it has a legal effect on the taxpayer's tax liability and their tax payable, which makes it reviewable based on this effect: *Alberta Inc* at paras 59-60.

[26] This is, in essence, what happened in the case at bar when the Minister of Transportation deducted taxes and the CRA subsequently issued a nil assessment. Assessing overpayments and any resulting refunds is within the jurisdiction of the Tax Court (see, for instance: *Grenon v*

Canada (National Revenue), 2017 FCA 167, *Perfect Fry Company Ltd v The Queen*, 2007 TCC 133 (CanLII), and *Lord Rothermere Donation v the Queen*, 2009 TCC 70 (CanLII)).

[27] It is also possible, although less clear based on the record before me, that Mr. Hughes may be able to appeal to the Tax Court if the computations from the tax year with a nil assessment impact his assessment for another taxation year: see, *Baluyot v The Queen*, 2007 TCC 682 at para 31, citing *Liampat Holdings Ltd v Canada*, [1995] FCJ No 1621, citing *Allcann Wood Suppliers Inc v Canada*, 1994 CanLII 19339 (TCC).

[28] At the hearing, the Respondent also alluded to the statutory exemptions to the bar on appeals from nil assessments found in ITA subsections 152 1(b), 1.01, 1.1, and 1.2. Based on my own review of these provisions, it is not immediately apparent that they apply to Mr. Hughes' case.

[29] None of the above should be taken as conclusory with respect to Mr. Hughes' ability to pursue this matter at the Tax Court of Canada. My point in the above observations is that, to the extent that it is relevant, Mr. Hughes has failed to establish that the Federal Court is his only avenue for recourse in respect of the CRA's assessment.

[30] I will also note, echoing A.J. Coughlan's concerns, that there were serious deficiencies in the record before the Court in both the original Notice of Application and the Applicant's submissions on the motion to strike in this matter.

[31] In particular, there were important documents referenced in the Applicant's materials that were not included in the record. Mr. Hughes also argued on this appeal of the motion to strike that A.J. Coughlan failed to consider binding caselaw, including caselaw that was not properly before her on the motion. Should Mr. Hughes pursue this matter at the Tax Court, he is reminded that parties are obligated to make their own case, including providing the necessary supporting material and caselaw, when appearing before the courts.

VI. CONCLUSION

[32] For the above reasons, this appeal will be dismissed.

[33] The Respondent requests costs for this appeal, fixed at $1,260 payable forthwith. In the circumstances, I see no reason for departing from the general rule that the successful party in a proceeding should be entitled to its costs.

JUDGMENT in T-3709-25

THIS COURT'S JUDGMENT is that:

1. The motion to appeal the decision of A.J. Coughlan, dated January 8, 2026, is dismissed.

2. Costs are awarded to the Respondent, in the amount of $1,260 payable forthwith.

"Angus G. Grant"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-3709-25
STYLE OF CAUSE:	CHRIS HUGHES v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	HELD BY WAY OF VIDEOCONFERENCE
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APPEARANCES:

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Rory Smith	FOR THE RESPONDENT

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