

Federal Court



Cour fédérale

Date: 20260205

Docket: T-1356-25

Citation: 2026 FC 160

Calgary, Alberta, February 5, 2026

PRESENT: The Honourable Justice Battista

BETWEEN:

FARAAZ KHAN

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mr. Faraaz Khan seeks judicial review of the Canada Revenue Agency's (CRA) decision to deny him relief from the taxes and penalties imposed for his overcontributions to his Tax-Free Savings Accounts (TFSA). Mr. Khan argues that the CRA decision unreasonably failed to address his arguments justifying relief, most importantly the fact that it was impossible for him to correct his overcontributions.

[2] As discussed below, the reasons for failing to correct an overcontribution are not relevant considerations for granting tax relief under the legislation. Therefore, the decision is not unreasonable for any deficiencies in addressing Mr. Khan's inability to correct his overcontribution. For this reason, the application for judicial review is dismissed.

II. Background

[3] Mr. Khan opened multiple TFSAs in 2021. On May 30, 2022, the CRA sent him a notice advising him that he had overcontributed to his TFSAs in 2021. The notice advised him that he could correct the overcontribution by withdrawing the overcontributed amount immediately, and that if it was not corrected, he would be liable for additional taxation. Mr. Khan did not receive this notice because he had not updated his mailing address with the CRA.

[4] Mr. Khan overcontributed to his TFSAs in 2022 and 2023 by approximately \$142,000 and \$162,000 respectively. As a result of these overcontributions he was subject to additional taxes and penalties of approximately \$10,000 for the 2022 tax year and approximately \$25,000 for the 2023 tax year.

[5] In a letter dated September 20, 2023, Mr. Khan requested discretionary relief from the tax penalties for his TFSA overcontributions. The CRA declined the request on September 3, 2024.

[6] Mr. Khan then made a second request for relief. He provided several explanations to justify his request, including his late awareness of the overcontributions, his lack of knowledge of the consequences of his overcontributions, his financial hardship, and his inability to remove excess

funds from his TFSAs because investment losses depleted the accounts. He also expressed remorse and highlighted his good faith efforts to comply with CRA requirements.

[7] On June 13, 2025, the CRA again declined to provide relief. The decision indicated that Mr. Khan did not make a reasonable error because it was his responsibility to maintain records, review his statements, and request information if he needed it. The decision also noted that no correction was made to Mr. Khan's overcontributions.

[8] Mr. Khan challenges the CRA decision on the basis that it is unreasonable for failing to address his primary basis for requesting relief, specifically, that it was impossible for him to correct the overcontributions by withdrawing funds that were no longer in his accounts.

III. Issue and Standard of Review

[9] The reasonableness of the CRA decision is reviewed pursuant to the principles governing reasonableness review described by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], affirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21. A reasonable decision is consistent with the factual and legal constraints that arise from the decision-making context (*Vavilov*, at para 99).

IV. Analysis

A. *Preliminary issue: materials not before the decision maker will not be considered*

[10] The Respondent requests that Exhibits B, C, D, F, G, I, J and K as well as two documents in Exhibit A attached to the Applicant's affidavit should not be considered because they were not before the decision maker (*Gittens v Canada (Attorney General)*, 2019 FCA 256 at para 14).

[11] Mr. Khan admits that these documents were not before the decision maker but submits that they are admissible in this judicial review application because they assist the Court by providing general background which is helpful to understand the issues (*Tsleil-Waututh Nation v Canada (Attorney General)*, 2017 FCA 128 at para 98).

[12] The materials do not assist in determining the reasonableness of the decision, and the Respondent's request to disregard these materials is granted.

B. *The decision is reasonable*

[13] The correction of an overcontribution is a precondition to accessing tax relief under the *Income Tax Act*, RSC 1985, c 1 (5th Supp) [ITA], and the reasons for failing to make a correction are not relevant to the determination of whether a correction has been made. As such, any shortcomings of the CRA's explanation related to the impossibility of Mr. Khan making a correction for his TFSA overcontributions, or any of his other explanations, does not undermine the reasonableness of the decision.

[14] Subsection 207.06(1) of the *ITA* allows the Minister to waive or cancel all or part of the tax liability resulting from a person's overcontribution to their TFSA. There are two preconditions to accessing this tax relief: first, the individual must establish that the overcontribution was made based on a "reasonable error"; and second, the individual must correct the overcontribution "without delay" (*ITA*, s 207.06(1)(a) and (b)); *Malcolm v Canada (Attorney General)*, 2023 FC 393 at para 19).

[15] The first precondition of "reasonable error" allows for a scope of interpretation by a decision maker. A variety of circumstances and explanations may be advanced to establish a reasonable basis for an error.

[16] The second precondition requires that a correction for the overcontribution is made, and only allows a scope of interpretation in determining whether the correction was made "without delay."

[17] Mr. Khan's primary concern is related to the second precondition. He admitted that no correction for his overcontribution was made. He asked the CRA to relieve him from the requirement of making a correction to the overcontribution and to grant him tax relief for several reasons, mainly because it was impossible for him to make a correction given the absence of funds in his TFSA account, which was depleted due to market losses.

[18] The legislation does not allow the CRA to make an exception to the requirement that a correction to an overcontribution be made before exercising their discretion to provide tax relief

under subsection 207.06(1) of the *ITA*. Mr. Khan was asking the CRA to do something that it did not have the legislative authority to do.

[19] It is true that the reasons do not explicitly address the irrelevance of an “impossibility” of correcting an overcontribution in relation to the test for tax relief. However, the decision does describe the general requirement that a correction to an overcontribution must be made prior to the granting of tax relief. It also acknowledges Mr. Khan’s argument that it was impossible for him to correct the overcontribution.

[20] Decision makers do not need to “respond to every argument or line of possible analysis” (*Vavilov*, at para 128). This is particularly true when a submission is not connected to a statutory test.

[21] Ultimately, all of Mr. Khan’s explanations were not connected to the statutory requirements. His explanations regarding the promptness of his actions, his financial hardship, the “impossibility” of making a correction, and his good intentions were not relevant to the requirement under subsection 207.06(1)(b) of the *ITA* that a correction to his overcontributions was made. His inability to meet this requirement was fatal to his request, and while the CRA decision was not as clear on this point as it could have been, it is possible to discern the decision’s reasoning (*Vavilov*, at para 102).

V. Conclusion

[22] The scope of a decision maker's discretion is defined by the legislation conferring that discretion, and the *ITA* requires that a correction be made to an overcontribution prior to an exercise of discretion to grant tax relief. Mr. Khan did not make a correction to his overcontribution, and therefore tax relief was unavailable to him. The CRA's decision denying his request for relief was reasonable, and the application for judicial review is dismissed.

JUDGMENT in T-1356-25

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no order regarding costs.

"Michael Battista"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1356-25

STYLE OF CAUSE: FARAAZ KHAN v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: CALGARY, ALBERTA

DATE OF HEARING: FEBRUARY 4, 2026

JUDGMENT AND REASONS: BATTISTA J.

DATED: FEBRUARY 5, 2026

APPEARANCES:

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FOR THE APPLICANT
(ON HIS OWN BEHALF)

Alicia Tam

FOR THE RESPONDENT

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FOR THE RESPONDENT