

Judgments of the Tax Court of Canada

Bouchard v. The King

Database – Court(s) : Judgments of the Tax Court of Canada

Date : 2026-03-12

Neutral reference : 2026 CCI 48

Case number : 2025-621(GST)I

Judges and Taxing Officers : Dominique Lafleur

Topics : Part IX of the Excise Tax (GST) Act

Case : **2025-621(GST)I**

BETWEEN :

ANGÉLIQUE BOUCHARD,

appellant,

And

HIS MAJESTY THE KING,

respondent.

Request submitted by way of written observations , in Ottawa, Ontario

In front :The Honourable Judge Dominique Lafleur

Appearances :

For the appellant:

The appellant did not appear.

Respondent's lawyer:

Ms. Camille
Bugel

JUDGEMENT

HAVING REGARD TO the respondent's notice of application (the "application") filed with the Court on June 13, 2025, seeking a judgment of the Court quashing, with costs, this appeal on the grounds that the appellant has withdrawn its previous appeal concerning the same assessment, the notice of which is dated June 9, 2014 (file 2016-18(GST)I), or alternatively, seeking an order permitting the respondent to file the response to the notice of appeal within 60 days from the date of the order;

HAVING REGARD TO the documents filed in the case;

GIVEN that the request must be decided on the record without the parties appearing;

AND HAVING REGARD TO the written observations of the respondent;

THE COURT ORDERS THE FOLLOWING:

For the reasons attached:

1. The request is granted and the appeal is cancelled;
2. All at no cost.

Signed this ^{Day} 12 of March 2026.

“Dominique Lafleur”

Judge Lafleur

Reference :2026 CCI 48

Date :20260312

File: 2025-621(GST)I

BETWEEN :

ANGÉLIQUE BOUCHARD,

appellant,

And

HIS MAJESTY THE KING,

respondent.

REASONS FOR THE JUDGMENT

Judge Lafleur

I. The request

[1] The Respondent filed a motion, notice of which was filed with the Court on June 13, 2025 (the “Movement”), seeking a judgment quashing, with costs, the present appeal brought by the Appellant under the *Excise Tax Act* (RSC (1985), c E-15; the “Act”) on the grounds that the Appellant discontinued its previous appeal in respect of the same assessment, notice of which is dated June 9, 2014 (File 2016-18(GST)I), or alternatively, seeking an order permitting the Respondent to file the response to the notice of appeal within 60 days from the date of the order.

[2] The appeal filed by the appellant was the subject of a management conference held on November 4, 2025 in the absence of the appellant, although the latter was duly notified of the holding of this conference.

[3] According to the Court order dated November 5, 2025, the appellant had until January 12, 2026 to serve the respondent and file written observations with the Court regarding the application, this deadline being peremptory.

[4] Given the appellant's failure to file written observations within the prescribed time limit, the Court considered the application on the basis of the respondent's written representations in the record, without an appearance by the parties.

[5] In these reasons, any legislative provision referred to is a provision of the Act, unless otherwise stated.

II. Facts and History

[6] On June 9, 2014, the Quebec Revenue Agency (the “Agency”), on behalf of the Minister of National Revenue, assessed the Appellant under Part IX of the Act, respecting the goods and services tax, and sent a notice of assessment bearing the same date (the “Assessment”).

[7] The Assessment indicated a balance due of \$15,773.97, consisting of a net tax calculation adjustment of \$11,643.37, interest of \$2,263.18, penalties of \$1.50 and a prior balance of \$1,865.92.

[8] The contribution covered the following 18 reporting periods: from 1 February 2010 to 28 February 2010, 1 March 2010 to 31 March 2010, 1 May 2010 to 31 May 2010, 1 June 2010 to 30 June 2010, 1 August 2010 to 31 August 2010, 1 October 2010 to 31 October 2010, 1 November 2010 to 30 November 2010, 1 December 2010 to 31 December 2010, 1 January 2011, 1 February 2011 to 28 February 2011, 1 March 2011 to March 31, 2011, April 1, 2011 to April 30, 2011, May 1, 2011 to May 31, 2011, 1 June 2011 to June 30, 2011, July 1, 2011 to July 31, 2011,

August 1, 2011 to August 31, 2011, September 1, 2011 to September 30, 2011, and October 1 to October 31, 2011 (the "Reporting Periods").

[9] On September 14, 2015, the appellant filed an appeal to the Court against the Assessment, after having opposed the Assessment. The Court file numbered 2016-18(GST)I.

[10] On July 4, 2019, the appellant filed a notice of discontinuance with the Court in case number 2016-18(GST)I. The respondent consented to the filing of the notice of discontinuance, free of charge. The Registry of the Court processed the discontinuance in accordance with subsection 16.2(2) of the *Tax Court of Canada Act* (R.S.C. 1985, c. T-2) (the "TCC Act") and the case was subsequently closed.

[11] On May 4, 2020, at the appellant's request, the Agency sent the appellant a statement of account showing the amounts due arising from the Contribution.

[12] On March 12, 2025, the appellant filed a notice of appeal with this Court under the informal procedure concerning an assessment made under Part IX of the Act, the notice of which was allegedly issued on December 20, 2024, for the year 2020. The Court opened a file bearing the number 2025-621(GST)I . The application was filed in that file.

[13] The affidavit dated 6 March 2026 filed in support of the application states that:

(i) The Agency did not issue an assessment to the appellant under the Act after issuing the Assessment; and

(ii) On May 4, 2020, the Agency only provided the appellant with a statement of account in response to her request, showing the amounts due arising from the 2010 Contribution for the reporting periods between January 1, 2010 and October 31, 2011.

III. Positions of the parties

A. According to the respondent:

[14] According to the respondent, since the appellant withdrew the appeal of the Assessment by filing a notice of discontinuance on July 4, 2019 in Court file number 2016-18(GST)I, subsection 16.2(2) of the ICC Act must be applied.

[15] Article 16.2 of the ICC Act reads as follows:

16.2(1) A party that has commenced proceedings before the Court may at any time withdraw them by written notice.

(2) Discontinuance is equivalent to dismissal of the proceedings in question as of the date on which the Court receives notice of discontinuance.

[My emphasis.]

[16] Thus, by application of subsection 16.2(2) of the ICC Act, the appellant's appeal against the Assessment having already been dismissed, the appellant cannot appeal again to the Court against the same Assessment, given that a statement of account is not an assessment.

[17] According to the respondent, there is therefore res judicata concerning the Contribution, and the appeal must therefore be cancelled.

B. According to the appellant:

[18] The appellant did not file written submissions as required under the Court order dated November 5, 2025.

IV. Analysis

[19] For the following reasons, the request is granted, and the appeal is cancelled.

[20] Evidence has shown that the Agency did not reassess after June 9, 2014 under the Act concerning the same Reporting Periods.

[21] The evidence also demonstrated that no assessment was issued by the Agency on May 4, 2020, since only a statement of account showing the amounts owed by the appellant under the Act was sent by the Agency to the appellant on that date. A statement of account does not constitute a reassessment because the statement of account does not result from a new review by the Minister of the return filed by the appellant and the determination of the corresponding tax amount.

[22] As described by the Quebec Court of Appeal in *Quebec (Deputy Minister of Revenue) v. De Stefano* , 1993, CanLII 3934 (QC CA), assessment is "the examination of the taxpayer's tax return and the determination of the corresponding tax, interest and penalties, as well as the amount of certain refunds" (p. 9).

[23] In *The Queen v. Interior Savings Credit Union* , 2007 CAF 151, the Federal Court of Appeal sets out what constitutes an assessment under the *Income Tax Act* (R.S.C. 1985, c. 1 (5th Supp.)), the same principle applying in this case:

[15] With all due respect, I consider that the Tax Court judge erred in dismissing the Crown's application for a ruling on the matter. Pursuant to the powers conferred on him by subsection 152(1) of the Act, the Minister "fixes the tax for the year, and any interest and penalties payable." The taxpayer's right to object to an assessment (subsection 165(1)) and to appeal to the Tax Court of Canada (subsection 169(1)) can only be exercised "for the purpose of canceling or altering the

assessment." It follows that, unless the taxpayer is contesting the tax, interest, and penalties fixed for the year, there is no appeal and, in fact, no remedy available to the Tax Court (*Chagnon v. Norman* , (1989) 16 SCR 661, at page 662).

[24] The evidence indicated that the review of the appellant's statements would have been made on or before June 9, 2014, which is the date of the Assessment.

[25] The Assessment that gave rise to the statement of account sent on May 4, 2020 cannot be appealed again, since the appellant withdrew the Assessment's appeal on July 4, 2019. Indeed, under subsection 16.2(2) of the ICC Act, withdrawal is equivalent to dismissal of the appeal.

[26] In *Canada (Attorney General) v. Scarola* , 2003 FCA 157 [*Scarola*], the Federal Court of Appeal determined that the dismissal provided for in subsection 16.2(2) of the TCC Act was final and equivalent to a judgment dismissing an appeal brought by a taxpayer:

[21] Pursuant to subsection 16.2, a discontinuance constitutes a dismissal. The appeal that is dismissed is an appeal on which a decision has been made, and the appeal on which a decision has been made no longer exists : see *Lehner v. MRN* , 97 DTC 5270, at page 5271, Pratte J. (CAF). Subsection 16.2(2) makes the filing of a notice of discontinuance a dismissal by interpretation analogous to an actual dismissal. In other words, the discontinuance, as a result of this provision, acquires all the attributes of a dismissal. It has the same effect as a judgment by which the Court dismisses the appeal, although the effect is achieved by the mere application of the legal fiction. In either case, the Court's powers are exhausted: the adjudicator is divested of jurisdiction. A rejection, deemed or actual, is a final decision that ends the case , except in certain circumstances such as fraud or a power provided by law authorizing the decision-maker to retain or regain the lost power.

[My emphasis.]

[27] In *Scarola* , the Federal Court of Appeal also concluded that the rule in section 172 of the *Rules of the Tax Court of Canada (General Procedure)* (the "Rules") allowing the Court to set aside or vary judgments when the stated conditions are met is also applicable to final judgments arising from subsection 16.2(2) of the ICC Act (*Scarola* , at para. 26).

[28] Article 172 of the Rules reads as follows:

172(1) The judgment which:

(a) contains an error resulting from a slip of the tongue or an omission;

(b) must be amended in relation to a question on which the Court has not ruled,

may be modified by the Court, either upon request or on its own initiative.

(2) A party may request, by way of application in the proceedings, as the case may be:

a) the annulment or modification of a judgment due to fraud or facts that occurred or were discovered after it was rendered;

b) a stay of execution of a judgment;

c) a remedy different from that which has already been granted.

[29] In the present case, the Court cannot conclude that there has been fraud or that there have been facts which occurred or were discovered after the final judgment resulting from the filing of the notice of discontinuance by the appellant on 4 July 2019.

[30] Thus, the filing of the notice of discontinuance by the appellant on July 4, 2019, resulted in the Court being divested of jurisdiction over the Assessment appeal. The appellant therefore cannot file a second appeal against the Assessment, since that appeal has already been dismissed.

[31] For these reasons, the request is granted, without costs, and the appeal is cancelled.

Signed this 12th day of March 2026.

“Dominique Lafleur”

Judge Lafleur

REFERENCE :	2026 CCI 48
Court File Number:	2025-621(GST)I
TITLE OF THE CASE:	ANGÉLIQUE BOUCHARD v. HIS MAJESTY THE KING
DATE OF FILING OF THE APPLICATION:	June 13, 2025
REASONS FOR THE JUDGMENT BY:	The Honourable Judge Dominique Lafleur
DATE OF JUDGMENT:	March 12, 2026
COMPARISONS:	
For the appellant:	No court appearance
Respondent's lawyer:	Camille Ms. Bugel

LAWYER REGISTERED IN THE FILE:

For the appellant:

Name : N / A

Office:

N / A

For the respondent:

Marie-Josée Hogue
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