

March 28, 2024

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(Registry Officer)

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APPEAL

THE APPELLANT APPEALS to the Federal Court of Appeal from the judgment of the Honourable Justice Bruce J. Russell of the Tax Court of Canada (the “**Tax Court judge**”) dated February 29, 2024 (Court File No. 2017-922(IT)G).

THE APPELLANT ASKS that:

1. The appeal be allowed with costs in this Court and in the Tax Court of Canada;
2. The judgment of the Tax Court of Canada be set aside and an order be granted vacating the assessments made under the *Income Tax Act* (Canada) (the “**ITA**”) in respect of the Appellant’s taxation years ended November 30, 2010 and November 30, 2011; and
3. Such further and other relief as counsel may request and which this Court deems appropriate.

THE GROUNDS OF APPEAL are as follows:

1. The Tax Court judge erred in law in concluding that there was a misuse or abuse of the capital loss provisions of the ITA;
2. The Tax Court judge erred in law in concluding that there was a misuse or abuse of paragraph 88(1)(d) of the ITA;
3. The Tax Court judge erred in law in failing to consider or give effect to the rules governing resource property under the ITA;
4. The Tax Court judge erred in law in concluding that there was a “paper” or “artificial” loss;
5. The Tax Court judge erred in law in failing to consider the capital loss provisions, paragraph 88(1)(d), and the rules governing resource property as a coherent scheme;

6. The Tax Court judge erred in law in failing to consider the transactions as a whole; and
7. The Tax Court judge erred in law by relying on the Supreme Court of Canada's decision in *Deans Knight Income Corp. v. Canada*, 2023 SCC 16 without giving the parties an opportunity to make submissions about the case.

THE APPELLANT RELIES on:

1. The pleadings and proceedings below;
2. The *Federal Courts Act*, R.S.C. 1985, c. F-7, as amended;
3. The *Federal Courts Rules*, SOR/98-106, as amended;
4. The ITA; and
5. Such further and other grounds as the appellant may advise and this Court may permit.

March 28th, 2024



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Court File No.

FEDERAL COURT OF APPEAL

BETWEEN:

DEML INVESTMENTS LIMITED

Appellant

- and -

HIS MAJESTY THE KING

Respondent

NOTICE OF APPEAL

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