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FORM 337.1

FEDERAL COURT OF APPEAL

OM GUPTA (APPELLANT)

AND

HIS MAJESTY THE KING (RESPONDENT)

THIS APPEAL HAS BEEN COMMENCED AGAINST YOU. THE RELIEF CLAIMED BY THE APPELLANT APPEARS BELOW.

THE PLACE OF HEARING WILL BE AS DIRECTED BY THE JUSTICE ADMINISTRATOR. UNLESS THE COURT DIRECTS OTHERWISE, THE APPELLANT REQUESTS THE HEARING BE HELD VIRTUALLY BECAUSE THE APPELLANT IS HANDICAPPED.

IF YOU WISH TO OPPOSE THIS APPEAL OR RECEIVE NOTICE OF ANY STEP IN THE APPEAL, OR BE SERVED ANY DOCUMENTS IN THE APPEAL, YOU MUST PREPARE A NOTICE OF APPEARANCE IN FORM 341-A PRESCRIBED BY THE FEDERAL COURT RULES ON THE APPELLANT WITHIN 10 DAYS OF SERVED WITH THIS NOTICE OF APPEAL.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION OF THIS APPEAL, YOU MUST SERVE AND FILE A NOTICE OF CROSS-APPEAL IN FORM 341-B AS INSTEAD OF SERVING AND FILING A NOTICE OF APPEAL.

COPIES OF THE FEDERAL COURT RULES OR OTHER NECESSARY INFORMATION MAY BE OBTAINED BY REQUESTING THE ADMINISTRATOR OF THE COURT AT OTTAWA TELEPHONE 613-996-6795 OR ANY LOCAL OFFICE.

IF YOU FAIL TO OPPOSE THIS MOTION JUDGEMENT MAY BE RENDERED IN YOUR ABSENCE WITHOUT FURTHER NOTICE TO YOU.

07 JULY 2023

ISSUED BY
THE REGISTRAR
FEDERAL COURT OF APPEAL
30 MCGILL
MONTREAL, QC H2Y 3Z7.

TO
AGENT FOR THE RESPONDENT
CANADA REVENUE AGENCY
LITIGATION OFFICE
305 RENE-LEVEQUE BLVD W
MONTREAL, QC H2Z 1A5

THE APPEAL

1) THE APPELLANT APPEALS THE JUDGEMENT OF THE TAX COURT OF CANADA DATED JUNE 08 2023 NO. 2022-888(IT)I.

2) THE APPELLANT ASKS THE COURT TO

TO SET ASIDE THE JUDGEMENT OF THE TAX COURT OF CANADA AND TO RESTORE THE CARRY FORWARD LOSS TO BE APPLIED TO 2020 TAX RETURN TO 13415.

THIS IS IN ACCORDANCE WITH THE TAX ASSESSMENT OF 2017 AND 2018. THESE TAX ASSESSMENT ASSESS THE C/F LOSS TO BE 50219 I HAD USED UP 36804 IN 2019 LEAVING A BALANCE OF 13415 TO BE APPLIED TO 2020.

HOWEVER, IN 2020 REVENUE CANADA HAD REDUCED THIS LOSS TO 6268 AND THIS WAS CONFIRMED BY THE CHIEF APPEALS AND NOW BY THE TAX COURT OF CANADA. THE ARGUMENT OF REV. CAN. IS THAT I WAS ASSIGNED INTO BANKRUPTCY ON JULY 26 1993 FROM WHICH I WAS RELEASED AUG 15 1994 AND A PART OF C/F LOSS OCCURRED IN 1993, THE YEAR OF MY BANKRUPTCY.

3) THE GROUNDS OF APPEAL ARE AS FOLLOWS:

I HAD ARGUED BEFORE THE TAX COURT OF CANADA SECTION 152(1.3) OF THE INCOME TAX ACT (THE ACT) WHICH MAKES THE DETERMINATION "BINDING " ON BOTH THE MINISTER AND THE TAXPAYER.

THE HONORABLE JUDGE OF THE TAX COURT OF CANADA HAS ERRED IN HIS DECISION THAT THERE WAS NEVER A NOTICE OF DETERMINATION AND THEREFORE, THE MINISTER WAS NOT BARRED FROM TAKING INTO ACCOUNT THE CONSEQUENCES OF THE BANKRUPTCY IN ASSESSING THE APPELLANT'S 2020 TAXATION YEAR.

THE HONORABLE JUDGE GOES TO GREAT LENGTH IN DISTINGUISHING BETWEEN NOTICE OF ASSESSMENT WHICH I HAVE RECEIVED AND IN FACT IT IS THE SAME AS THE NOTICE OF DETERMINATION. OTHERWISE THE MINISTER WOULD HAVE BEEN IN DEFAULT OF SECTION 152(1) WHICH SAYS THE MINISTER SHALL, WITH DUE DISPATCH, EXAMINE A TAXPAYER'S RETURN ---AND DETERMINE ----BECAUSE THE NOTICE OF DETERMINATION I HAVE NOT RECEIVED BY ME UNTIL TODAY IN OVER 50 YEARS OF CANADIAN TAX FILING. IT IS NOT FOR TAXPAYER TO REQUEST A DETERMINATION BUT FOR THE MINISTER TO ISSUE A NOTICE OF DETERMINATION OR ASSESSMENT. THE OBLIGATION OF THE TAXPAYER IS TO FILE THE TAXES IN TIME AND TO PAY THE AMOUNTS WHICH ARE DUE. ITEM [20] OF THE JUDGEMENT IS NOT RELEVANT HERE BECAUSE IT REFERS SPECIFICALLY TO THE SITUATION WHERE THE " TAXPAYER HAS NOT REPORTED" ---. THE MINISTER HAS FULFILLED ITS OBLIGATION BY ISSUING THE VARIOUS NOTICES OF ASSESSMENT IN TIME EXCEPT THAT THE 2019 ASSESSMENT WHICH REDUCES THE AMOUNT OF C/F LOSS FROM 13415 TO 6268. IT IS WRONG ON TWO ACCOUNTS:

- a) IT IS CONTRARY TO SECTION 152(1.3) WHICH MAKES THE ASSESSMENT OF 2017 BINDING ON BOTH THE MINISTER AND THE TAXPAYER.
- b) IT IS CONTRARY TO SECTION 152(1) BECAUSE IT RAISES THE ISSUE MY

BANKRUPTCY MORE THAN A QUARTER CENTURY AFTER MY RELEASE FROM BANKRUPTCY IN AUG 1994, HARDLY A SITUATION OF "DUE DISPATCH".AS THE HONORANLE JUDGE NOTES, ITEM [15] OF THE JUDGEMENT, IN THIS CASE THE DELAY IS "SOME 25 YEARS".

- 4) THE APPELLANT REQUESTS THE TAX COURT OF CANADA TO FORWARD ALL THE MATRIAL WHICH THEY HAVE AND WHICH MAY BE REQUIRED BY THE FEDERAL COURT OF CANADA

07 JULY 2023

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