



Ottawa, Thursday, October 21, 1993

Appeal Nos. 2780, 2808 and 2915

IN THE MATTER OF three appeals heard on April 19, 1993,
under section 81.19 of the *Excise Tax Act*, R.S.C. 1985,
c. E-15;

AND IN THE MATTER OF three decisions of the Minister of
National Revenue, two dated December 15, 1986, and one
dated October 16, 1987, with respect to three notices of
objection served under section 81.15 of the *Excise Tax Act*.

BETWEEN

BROWN STEEL LIMITED

Appellant

AND

THE MINISTER OF NATIONAL REVENUE

Respondent

DECISION OF THE TRIBUNAL

The appeals are dismissed.

Lise Bergeron
Lise Bergeron
Presiding Member

W. Roy Hines
W. Roy Hines
Member

Charles A. Gracey
Charles A. Gracey
Member

Michel P. Granger
Michel P. Granger
Secretary

UNOFFICIAL SUMMARY

Appeal Nos. 2780, 2808 and 2915

BROWN STEEL LIMITED

Appellant

and

THE MINISTER OF NATIONAL REVENUE

Respondent

This represents the decision on three appeals heard together under section 81.19 of the Excise Tax Act of three assessments of the Minister of National Revenue. The issue in these appeals is whether the appellant was properly assessed for outstanding taxes.

HELD: *The appeals are dismissed. After reviewing the files and considering the submissions of counsel for the respondent, the Tribunal dismisses the appeals. In an appeal from an assessment, the onus is on the appellant to disprove the factual assumptions on which the assessment is based. The appellant has failed to do that in these appeals.*

Place of Hearing: Ottawa, Ontario
Date of Hearing: April 19, 1993
Date of Decision: October 21, 1993

Tribunal Members: Lise Bergeron, Presiding Member
W. Roy Hines, Member
Charles A. Gracey, Member

Counsel for the Tribunal: David M. Attwater

Clerk of the Tribunal: Janet Rumball

Appearance: Ian McCowan, for the respondent

Appeal Nos. 2780, 2808 and 2915

BROWN STEEL LIMITED

Appellant

and

THE MINISTER OF NATIONAL REVENUE

Respondent

TRIBUNAL: LISE BERGERON, Presiding Member
W. ROY HINES, Member
CHARLES A. GRACEY, Member

REASONS FOR DECISION

This represents the decision on three appeals heard together under section 81.19 of the *Excise Tax Act*¹ (the Act) of three assessments of the Minister of National Revenue. The issue in these appeals is whether the appellant was properly assessed for outstanding taxes.

The first two assessments were dated May 16, 1986. The first covered the period from January 1, 1983, to July 31, 1984. Including outstanding taxes, interest and penalty, the assessment was for \$803.58. The second assessment covered the period from July 31, 1984, to January 31, 1986. Including outstanding taxes, interest and penalty, the assessment was for \$1,160.58. The third assessment, dated May 15, 1987, covered the period from February 1, 1986, to January 31, 1987. Including outstanding taxes, interest and penalty, the assessment was for \$2,340.84.

The outstanding taxes accrued for several reasons, including the omission of taxes on sales which were taxable as a result of paragraph (f) of the extended definition of "manufacturer or producer" found under subsection 2(1) of the Act, the remission of taxes on the basis of the cost of goods rather than on their sale price and clerical errors.

The appellant did not submit a brief, nor was it represented at the hearing. Counsel for the respondent argued that the appeals should be dismissed since the appellant did not disprove the facts on which the assessments were based.

After reviewing the files and considering the submissions of counsel for the respondent, the Tribunal dismisses the appeals. In an appeal from an assessment, the onus is on the appellant to disprove the factual assumptions on which the assessment is based. The appellant has failed to do that in these appeals.

1. R.S.C. 1985, c. E-15.

Accordingly, the appeals are dismissed.

Lise Bergeron
Lise Bergeron
Presiding Member

W. Roy Hines
W. Roy Hines
Member

Charles A. Gracey
Charles A. Gracey
Member