



Ottawa, Thursday, November 15, 1990

Appeal No. 3037

IN THE MATTER OF an appeal heard on October 29, 1990,
under section 81.19 of the *Excise Tax Act*, R.S.C., 1985,
c. E-15;

AND IN THE MATTER OF a decision of the Minister of
National Revenue dated January 28, 1988, to which a notice of
objection was served under section 81.15 of the *Excise Tax
Act*.

BETWEEN

WELBY'S FINE FURNITURE LTD.

Appellant

AND

THE MINISTER OF NATIONAL REVENUE

Respondent

DECISION OF THE TRIBUNAL

The appeal is allowed in part. The Tribunal varies the assessment in Notice of Assessment No. WIN 1500 dated March 27, 1987, and declares that the appellant is liable to pay to the Minister of National Revenue the sum of \$12,000, inclusive of sales taxes, penalty and accrued interest, in full settlement of the appellant's tax liability.

Arthur B. Trudeau

Arthur B. Trudeau
Presiding Member

Michèle Blouin

Michèle Blouin
Member

Sidney A. Fraleigh

Sidney A. Fraleigh
Member

Robert J. Martin

Robert J. Martin
Secretary

UNOFFICIAL SUMMARY

Appeal No. 3037

WELBY'S FINE FURNITURE LTD.

Appellant

and

THE MINISTER OF NATIONAL REVENUE

Respondent

Excise Tax Act - Sales tax - Assessment of sales tax - Agreement of the parties.

This case involves an appeal from an assessment of sales tax. Prior to the hearing, the amount in issue was \$10,821.15, plus accruing interest. The appellant claimed that it had already paid this amount and, thus, was not liable for the amount assessed or the accruing interest. However, at the hearing, both the appellant and the respondent agreed that, as of that date, the appellant was liable to pay \$12,000, inclusive of tax, penalty and interest. Although this amount was less than the amount originally claimed by the respondent to be payable, both parties agreed that this amount represented full settlement of the appellant's sales tax liability.

Held: *The appeal is allowed in part. The appellant is liable to pay to the respondent \$12,000, inclusive of tax, penalty and interest, in full settlement of the appellant's tax liability.*

Place of Hearing: Winnipeg, Manitoba

Date of Hearing: October 29, 1990

Date of Decision: November 15, 1990

Tribunal Members: Arthur B. Trudeau, Presiding Member

Michèle Blouin, Member

Sidney A. Fraleigh, Member

Clerk of the Tribunal: Nicole Pelletier

Appearances: A. Goddard, for the appellant

G. Lester, for the respondent

Statute Cited: *Excise Tax Act, R.S.C., 1985, c. E-15.*

Appeal No. 3037

WELBY'S FINE FURNITURE LTD.

Appellant

and

THE MINISTER OF NATIONAL REVENUE

Respondent

TRIBUNAL: ARTHUR B. TRUDEAU, Presiding Member
MICHÈLE BLOUIN, Member
SIDNEY A. FRALEIGH, Member

REASONS FOR DECISION

This case involves an appeal from an assessment of sales tax. The appeal was from a decision of the Minister of National Revenue (the Minister) issued in Notice of Decision No. 70026AE regarding a notice of objection filed by the appellant in relation to Notice of Assessment No. WIN 1500 issued on March 27, 1987. The appellant based its appeal on the claim that it had already paid the amount assessed and, thus, was not liable to pay anything further. Prior to the hearing, the amount in issue was \$10,821.15, plus accruing interest.

However, at the hearing, both the appellant and the respondent agreed that, as of that date, the appellant was liable to pay \$12,000, inclusive of tax, penalty and interest. Although this amount was less than the amount originally claimed by the Minister to be payable pursuant to the *Excise Tax Act*,¹ the Minister was willing to accept this lesser amount in full settlement of the appellant's sales tax liability.

In the Tribunal's view, if the Minister agrees to accept a lesser amount in full satisfaction of the appellant's sales tax liability, it is not for the Tribunal to prevent the Minister from accepting this lesser amount.

After having examined the documents placed before the Tribunal in this appeal, the Tribunal concludes that the appeal should be allowed in part and that the appellant is liable to pay to the respondent \$12,000, inclusive of tax, penalty and interest, in full settlement of the appellant's tax liability.

Arthur B. Trudeau

Arthur B. Trudeau
Presiding Member

Michèle Blouin

Michèle Blouin
Member

Sidney A. Fraleigh

Sidney A. Fraleigh
Member

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