



Ottawa, Monday, October 28, 1991

**Appeal Nos. AP-90-167 and AP-90-168**

IN THE MATTER OF an appeal heard on  
September 19, 1991, 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 December 21, 1990, with respect to  
a notice of objection filed under section 81.15 of the  
*Excise Tax Act*.

**BETWEEN**

**PANINI CANADA LTD.**

**Appellant**

**AND**

**THE MINISTER OF NATIONAL REVENUE**

**Respondent**

**DECISION OF THE TRIBUNAL**

The appeal is dismissed. The Tribunal finds that placing stickers in printed books does not constitute manufacturing or production. Accordingly, the stickers do not constitute articles or materials for use in the manufacture or production of printed books.

Charles A. Gracey

Charles A. Gracey  
Presiding Member

W. Roy Hines

W. Roy Hines  
Member

Michèle Blouin

Michèle Blouin  
Member

Robert J. Martin

Robert J. Martin  
Secretary

**UNOFFICIAL SUMMARY**

**Appeal Nos. AP-90-167 and AP-90-168**

**PANINI CANADA LTD.**

**Appellant**

**and**

**THE MINISTER OF NATIONAL REVENUE**

**Respondent**

*The appellant, Panini Canada Ltd., imports books and resells them. The books are exempted from sales tax, being " ... printed books that contain no advertising and are solely for educational, technical, cultural or literary purposes.... " The appellant also imports stickers that it claims are specifically made for these books.*

*The books come in different series and will accommodate between 180 and 360 stickers. Six stickers are sealed in a package and sold separately. The stickers are typically bought by, or for, youthful consumers for the purpose of filling allotted spaces in the books. They serve to illustrate the story or theme of the book.*

*The issue is whether the stickers in question are exempt from tax pursuant to section 51 and paragraph 3(1)(a), Part III, Schedule III to the Excise Tax Act as articles and materials for use in the manufacture or production of printed books that contain no advertising and are solely for educational, technical, cultural or literary purposes.*

**HELD:** *The appeal is dismissed. The Tribunal finds that placing stickers in printed books does not constitute manufacturing or production. Accordingly, the stickers do not constitute articles or materials for use in the manufacture or production of printed books.*

*Place of Hearing: Ottawa, Ontario*  
*Date of Hearing: September 19, 1991*

*Date of Decision: October 28, 1991*

*Tribunal Members: Charles A. Gracey, Presiding Member*  
*W. Roy Hines, Member*  
*Michèle Blouin, Member*

*Counsel for the Tribunal: David M. Attwater*

*Clerk of the Tribunal: Janet Rumball*

*Appearances: M. Kaylor, for the appellant*  
*R. Millar, for the respondent*

**Appeal Nos. AP-90-167 and AP-90-168**

**PANINI CANADA LTD.**

**Appellant**

**and**

**THE MINISTER OF NATIONAL REVENUE**

**Respondent**

TRIBUNAL: CHARLES A. GRACEY, Presiding Member  
W. ROY HINES, Member  
MICHÈLE BLOUIN, Member

**REASONS FOR DECISION**

The appellant imports books and resells them. The books are exempt from sales tax, being " ... printed books that contain no advertising and are solely for educational, technical, cultural or literary purposes.... " The appellant also imports stickers that it claims are specifically made for these books.

The books come in different series and will accommodate between 180 and 360 stickers. The stickers are sealed in individual packages that bear the name of the series to which they belong. Each of the individually wrapped packages contains six stickers and is sold separately. The stickers are typically bought by, or for, youthful consumers for the purpose of filling allotted spaces in the books. They serve to illustrate the story or theme of the book.

The issue is whether the stickers in question are exempt from tax pursuant to section 51 and paragraph 3(1)(a), Part III, Schedule III to the *Excise Tax Act*<sup>1</sup> (the Act) as articles and materials for use in the manufacture or production of printed books that contain no advertising and are solely for educational, technical, cultural or literary purposes.

The appeal is denied for several reasons.

It is apparent that the intent of the appellant is to market the books and related stickers separately. However, there is no inherent necessity to market these separately except as a strategy to generate sales and profit. Practically speaking, a manufacturer could produce a book containing the stickers that would be tax exempt. However, such a practice would frustrate the marketing strategy of the appellant.

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

It is acknowledged that, for the appropriate age group, the exercise of correctly placing the stickers in their allotted spaces is, or may be, educational. Yet, to argue that this activity represents manufacturing or production is certainly a perversion of Parliament's intent. Indeed, it stretches the imagination to argue that a consumer is engaged in the manufacture or production of printed books when it uses the books for exactly what they were designed for, namely, to serve as albums for the stickers.

Further logical obstacles exist. Normally, if there is continued production or manufacturing, the required components are available in the right proportion or quantity for completion of the process. Consider a stove as an example. It would frustrate the production process if one received seven heater elements, when four were needed, and no oven. Yet, that is exactly what happens in the present case. In one of the exhibits before the Tribunal members, the booklet Animals of the World contains 180 blank spaces and no stickers. The consumer must purchase stickers in packets of six. The packets themselves specify the book for which they were produced, but give no information on the stickers contained. This will frustrate the orderly completion of the book as the consumer must procure several packets, with inevitable duplications, before the book is complete.

However, a consumer may write to the appellant and order a maximum of 25 stickers, but there is a handling charge on each such order. Though the appellant fills much larger orders when asked, the books advise that there is a limit. This is a further arbitrary impediment to the book's completion.

Finally, the manufacturer invites children to trade stickers with their friends. Helpful as this suggestion may be, it is intended to create interest and excitement while furthering sales, and not to expedite the completion of the book.

Mention should be made of the relative cost of the book and stickers. Three books were presented as exhibits, which range in price from \$0.50 to \$0.79 each. The number of stickers required for each book range from 180 to 360. These retail at \$0.60 per packet. Thus, at a minimum, a complete set of 180 stickers would cost \$18.00. Clearly, the marketing strategy of the appellant is obvious.

The Tribunal considered with great care the cases cited by counsel for the appellant. Particular attention was given to the *Morris Academy*<sup>2</sup> and *Gruen Watch*<sup>3</sup> cases relating to what constitutes manufacturing and production. In the Tribunal's view, the present case is distinguishable from these cases in the sense that the imported books and packets of stickers cannot be considered as raw materials or inputs to the process of completing the manufacture or production of the goods. At best, they might be characterized as goods which children use in the learning activity of pasting pictures in blank spaces. This, in the Tribunal's view, falls far short of the concept of manufacture or production envisaged in the Act.

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2. *Morris Academy v. The Deputy Minister of National Revenue for Customs and Excise*, (1984) 9 T.B.R. 377.

3. *Gruen Watch Company of Canada Limited et al. v. Attorney-General of Canada*, [1950] C.T.C 440 (Ontario Supreme Court, High Court of Justice).

Inasmuch as the appellant bases its case on the claim that its marketing strategy is merely a means of continuing the production process and as the Tribunal rejects this argument, the appeal must fail.

Charles A. Gracey  
Charles A. Gracey  
Presiding Member

W. Roy Hines  
W. Roy Hines  
Member

Michèle Blouin  
Michèle Blouin  
Member