



Ottawa, Wednesday, April 7, 1993

Appeal Nos. AP-90-175 and AP-90-177

IN THE MATTER OF an appeal heard on February 3, 1993,  
under section 81.19 of the *Excise Tax Act*, R.S.C. 1985,  
c. E-15;

AND IN THE MATTER OF decisions of the Minister of  
National Revenue dated October 29, 1990, with respect to  
notices of objection served under section 81.17 of the  
*Excise Tax Act*.

**BETWEEN**

**I.D. FOODS CORPORATION**

**Appellant**

**AND**

**THE MINISTER OF NATIONAL REVENUE**

**Respondent**

**DECISION OF THE TRIBUNAL**

The appeals are allowed.

W. Roy Hines  
W. Roy Hines  
Presiding Member

Michèle Blouin  
Michèle Blouin  
Member

Lise Bergeron  
Lise Bergeron  
Member

Michel P. Granger  
Michel P. Granger  
Secretary

*UNOFFICIAL SUMMARY*

**Appeal Nos. AP-90-175 and AP-90-177**

**I.D. FOODS CORPORATION**

**Appellant**

**and**

**THE MINISTER OF NATIONAL REVENUE**

**Respondent**

*These are two appeals under section 81.19 of the Excise Tax Act from determinations of the Minister of National Revenue dated November 13, 1987, and December 8, 1989. The issue in these appeals is whether "Zumnsa" brand sangria non-alcoholic wine is exempt under section 1 of Part V of Schedule III to the Excise Tax Act from the imposition of federal sales tax under paragraph 50(1.1)(a) of the Excise Tax Act.*

**HELD:** *The appeals are allowed.*

*Place of Hearing: Ottawa, Ontario*  
*Date of Hearing: February 3, 1993*  
*Date of Decision: April 7, 1993*

*Tribunal Members: W. Roy Hines, Presiding Member*  
*Michèle Blouin, Member*  
*Lise Bergeron, Member*

*Counsel for the Tribunal: Shelley Rowe*

*Clerk of the Tribunal: Janet Rumball*

**Appeal Nos. AP-90-175 and AP-90-177**

**I.D. FOODS CORPORATION**

**Appellant**

**and**

**THE MINISTER OF NATIONAL REVENUE**

**Respondent**

TRIBUNAL: W. ROY HINES, Presiding Member  
MICHÈLE BLOUIN, Member  
LISE BERGERON, Member

**REASONS FOR DECISION**

These are two appeals under section 81.19 of the *Excise Tax Act*<sup>1</sup> (the Act) from determinations of the Minister of National Revenue (the Minister). The issue in these appeals is whether "Zumnsa" brand sangria non-alcoholic wine is exempt under section 1 of Part V of Schedule III to the Act from the imposition of federal sales tax (FST) under paragraph 50(1.1)(a) of the Act.

The appellant imported "Zumnsa" brand sangria non-alcoholic wine produced by Zumos de Navarra S.A., Tafalla (Navarra), Spain, and thereafter, in September 1987, applied for a refund in the amount of \$6,210.12 representing FST incorrectly imposed under paragraph 50(1.1)(a) of the Act on goods exempt under section 1 of Part V of Schedule III to the Act. The appellant filed a subsequent refund claim in October 1989 in the amount of \$2,470.48 based on the reasons in the first application for refund. By notices of determination dated November 13, 1987, and December 8, 1989, the respective applications for refund were disallowed. The appellant objected to these notices on January 28, 1988, and March 7, 1990. In notices of decision both dated October 29, 1990, the Minister disallowed the objections and confirmed the determinations.

The Tribunal notes that the parties filed an agreed statement of facts on January 20, 1993, and asked the Tribunal to proceed on the basis of written documentation before it in accordance with rule 25 of the *Canadian International Trade Tribunal Rules*.<sup>2</sup> A review of the agreed statement of facts reveals that the respondent acknowledges that de-alcoholized wine is exempt under section 1 of Part V of Schedule III to the Act from the imposition of FST under paragraph 50(1.1)(a) of the Act as established with respect to a similar product in the Tribunal's decision in *I-D Foods Corporation v. The Minister of National Revenue*.<sup>3</sup> Further, the respondent adopts the findings in an independent laboratory report that the "Zumnsa" brand sangria non-alcoholic wine is not carbonated. For the above reasons, the respondent agrees that the "Zumnsa" brand sangria non-alcoholic wine is exempt under section 1 of Part V of Schedule III to the Act from the imposition of FST under paragraph 50(1.1)(a) of the Act.

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

2. SOR/91-499, August 14, 1991, Canada Gazette Part II, Vol. 125, No. 18 at 2912.

3. Appeal Nos. AP-90-176 and AP-90-178, March 10, 1992.

After having considered the agreed statement of facts, the Tribunal agrees with the view taken by both the appellant and the respondent, and allows the appeals.

W. Roy Hines  
W. Roy Hines  
Presiding Member

Michèle Blouin  
Michèle Blouin  
Member

Lise Bergeron  
Lise Bergeron  
Member