



Ottawa, Wednesday, February 24, 1993

Appeal No. AP-91-094

IN THE MATTER OF an appeal heard on January 19, 1993,
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 May 16, 1991, relating to a notice
of objection served under section 81.15 of the
Excise Tax Act.

BETWEEN

595637 ONTARIO LTD.

Appellant

AND

THE MINISTER OF NATIONAL REVENUE

Respondent

DECISION OF THE TRIBUNAL

The appeal is dismissed.

W. Roy Hines
W. Roy Hines
Presiding Member

Michèle Blouin
Michèle Blouin
Member

Robert C. Coates, Q.C.
Robert C. Coates, Q.C.
Member

Michel Granger
Michel Granger
Secretary

UNOFFICIAL SUMMARY

Appeal No. AP-91-094

595637 ONTARIO LTD.

Appellant

and

THE MINISTER OF NATIONAL REVENUE

Respondent

The issue in this appeal is to determine whether the appellant is liable for federal sales tax and excise tax on sales and inventory plus applicable interests and penalty, as set out in the respondent's assessment dated February 1, 1989.

HELD: *The appeal is dismissed.*

Place of Hearing: Ottawa, Ontario
Date of Hearing: January 19, 1993
Date of Decision: February 24, 1993

Tribunal Members: W. Roy Hines, Presiding Member
Michèle Blouin, Member
Robert C. Coates, Q.C., Member

Counsel for the Tribunal: Clifford Sosnow

Clerk of the Tribunal: Dyna Côté

Appearance: John B. Edmond, for the respondent

Appeal No. AP-91-094

595637 ONTARIO LTD.

Appellant

and

THE MINISTER OF NATIONAL REVENUE

Respondent

TRIBUNAL: W. ROY HINES, Presiding Member
MICHÈLE BLOUIN, Member
ROBERT C. COATES, Q.C., Member

REASONS FOR DECISION

The appellant was the holder of Manufacturer's Sales Tax Licence S2959088 and Excise Tax Licence E2959088 as a wholesaler of gasoline and diesel fuel. On February 1, 1989, the respondent issued Notice of Assessment No. OTT 3109 in the amount of \$373,549.81, comprising sales and excise taxes, interests and penalty respecting sales of gasoline and diesel fuel by the applicant during the period from July 1, 1986, to February 28, 1987.

On March 2, 1989, the appellant served a notice of objection on the respondent with respect to the said assessment. On May 16, 1991, the respondent issued Notice of Decision No. 81505AE, disallowing the appellant's objection and confirming the assessment. By letter dated June 20, 1991, 595637 Ontario Ltd. appealed the assessment to the Tribunal.

The appellant did not appear at the hearing. The respondent did not call any witnesses, but filed some documents at the hearing for the Tribunal's consideration. The Tribunal has examined these documents as well as the documents previously placed on file by both parties. The Tribunal, rendering its decision on the basis of these documents, concludes that, given the appellant's failure to discharge its evidentiary burden to show that the respondent erred in his assessment, the appeal should be dismissed. Accordingly, the appeal is dismissed.

W. Roy Hines
W. Roy Hines
Presiding Member

Michèle Blouin
Michèle Blouin
Member

Robert C. Coates, Q.C.
Robert C. Coates, Q.C.
Member