

Ottawa, Monday, January 10, 1994

Appeal No. AP-92-094

IN THE MATTER OF an appeal heard on June 9, 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 June 2, 1992, with respect to a notice of objection served under section 81.17 of the *Excise Tax Act*.

BETWEEN

MANTIA HOLDINGS INC.

Appellant

AND

THE MINISTER OF NATIONAL REVENUE

Respondent

DECISION OF THE TRIBUNAL

The appeal is dismissed.

Lise Bergeron
Lise Bergeron
Presiding Member

Kathleen E. Macmillan
Kathleen E. Macmillan
Member

Michèle Blouin
Michèle Blouin
Member

Michel P. Granger
Michel P. Granger
Secretary

UNOFFICIAL SUMMARY

Appeal No. AP-92-094

MANTIA HOLDINGS INC.

Appellant

and

THE MINISTER OF NATIONAL REVENUE

Respondent

The issues in this appeal are whether the appellant has established that the goods in issue (i) were held by it in inventory on January 1, 1991, (ii) should be valued as claimed by the appellant and (iii) qualified for a federal sales tax inventory rebate equal to 8.1 percent of their value.

HELD: *The appeal is dismissed. Mere allegations by the appellant do not suffice to discharge it from the burden of proving that it is entitled, under section 120 of the Excise Tax Act, to a federal sales tax inventory rebate.*

*Place of Hearing: Ottawa, Ontario
Date of Hearing: June 9, 1993
Date of Decision: January 10, 1994*

*Tribunal Members: Lise Bergeron, Presiding Member
Kathleen E. Macmillan, Member
Michèle Blouin, Member*

Counsel for the Tribunal: Robert Desjardins

Clerk of the Tribunal: Janet Rumball

Appearance: Frederick B. Woyiwada, for the respondent

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MANTIA HOLDINGS INC.

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Respondent

TRIBUNAL: LISE BERGERON, Presiding Member
KATHLEEN E. MACMILLAN, Member
MICHÈLE BLOUIN, Member

REASONS FOR DECISION

This is an appeal under section 81.19 of the *Excise Tax Act*¹ (the Act) of a decision of the Minister of National Revenue dated June 2, 1992. This decision confirmed a determination disallowing the appellant's application for a federal sales tax (FST) inventory rebate of \$17,912.34 made under section 120² of the Act.

The issues in this appeal are whether the appellant has established that the goods in issue (i) were held by it in inventory on January 1, 1991, (ii) should be valued as claimed by the appellant and (iii) qualified for an FST inventory rebate equal to 8.1 percent of their value.

The appellant has the burden of proving that it is entitled, under section 120 of the Act, to the sought FST inventory rebate. Mere allegations by the appellant do not suffice to discharge it of such burden. Having carefully reviewed the appellant's brief (nothing in the documentary evidence on file could allow the Tribunal to find in favour of the appellant) and duly considered that the appellant did not provide any additional evidence, as it chose not to appear at the hearing, the Tribunal decided during that hearing to allow the motion by counsel for the respondent to dismiss the appeal.

In light of the foregoing, the appeal is dismissed.

Lise Bergeron
Lise Bergeron
Presiding Member

Kathleen E. Macmillan
Kathleen E. Macmillan
Member

Michèle Blouin
Michèle Blouin
Member

1. R.S.C. 1985, c. E-15.
2. S.C. 1990, c. 45, s. 12.