

Ottawa, Monday, August 11, 1997

Appeal No. AP-92-085

IN THE MATTER OF an appeal heard on June 16, 1997, 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 8, 1992, with respect to a notice of objection served under section 81.15 of the *Excise Tax Act*.

BETWEEN

J.B. FURNITURE MANUFACTURING LTD.

Appellant

AND

THE MINISTER OF NATIONAL REVENUE

Respondent

DECISION OF THE TRIBUNAL

The appeal is dismissed.

Arthur B. Trudeau

Arthur B. Trudeau
Presiding Member

Robert C. Coates, Q.C.

Robert C. Coates, Q.C.
Member

Charles A. Gracey

Charles A. Gracey
Member

Michel P. Granger

Michel P. Granger
Secretary

UNOFFICIAL SUMMARY

Appeal No. AP-92-085

J.B. FURNITURE MANUFACTURING LTD.

Appellant

and

THE MINISTER OF NATIONAL REVENUE

Respondent

The respondent decided that goods made by the appellant and transferred to related companies were not “sold” within the meaning of the *Excise Tax Act*. As such, federal sales tax, under subsection 50(1) of the *Excise Tax Act*, was payable on the sale price at which the related companies subsequently sold the goods rather than on the transfer price between the appellant and these companies. The appellant filed an unsubstantial brief and was not represented at the hearing.

HELD: The appeal is dismissed. Mere unsubstantiated allegations are not sufficient to displace the facts on which an assessment is based.

Places of Videoconference

Hearing: Hull, Quebec, and Calgary, Alberta
Date of Hearing: June 16, 1997
Date of Decision: August 11, 1997

Tribunal Members: Arthur B. Trudeau, Presiding Member
Robert C. Coates, Q.C., Member
Charles A. Gracey, Member

Counsel for the Tribunal: David M. Attwater

Clerks of the Tribunal: Margaret Fisher and Anne Jamieson

Appearance: Frederick B. Woyiwada

Appeal No. AP-92-085

J.B. FURNITURE MANUFACTURING LTD.

Appellant

and

THE MINISTER OF NATIONAL REVENUE

Respondent

TRIBUNAL: ARTHUR B. TRUDEAU, Presiding Member
ROBERT C. COATES, Q.C., Member
CHARLES A. GRACEY, 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. The respondent decided that goods made by the appellant and transferred to related companies were not “sold” within the meaning of the Act. As such, federal sales tax, under subsection 50(1) of the Act, was payable on the sale price at which the related companies subsequently sold the goods rather than on the transfer price between the appellant and these companies. This appeal is similar to one involving the same parties, wherein the Tribunal found that a sale did not occur between the appellant and one of the related companies.² The appellant filed an unsubstantial brief and was not represented at the hearing.

Having considered the file, including the submissions on behalf of the respondent, the Tribunal dismisses the appeal. Mere unsubstantiated allegations are not sufficient to displace the facts on which an assessment is based.³

Arthur B. Trudeau
Arthur B. Trudeau
Presiding Member

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

Charles A. Gracey
Charles A. Gracey
Member

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1. R.S.C. 1985, c. E-15.
 2. *J.B. Furniture Manufacturing Ltd. v. The Minister of National Revenue*, Appeal No. AP-89-260, March 16, 1992.
 3. See, for example, *A.S. 4 Steel Industries Ltd. v. The Minister of National Revenue*, Canadian International Trade Tribunal, Appeal No. AP-89-132, June 11, 1992.