



Ottawa, Wednesday, November 2, 1994

**Appeal No. AP-94-017**

IN THE MATTER OF an appeal heard on September 21, 1994, 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 February 11, 1994, with respect to a notice of objection served under section 81.17 of the *Excise Tax Act*.

**BETWEEN**

**DIRECT APPLIANCE SALES LTD.**

**Appellant**

**AND**

**THE MINISTER OF NATIONAL REVENUE**

**Respondent**

**DECISION OF THE TRIBUNAL**

The appeal is dismissed.

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

Desmond Hallissey  
Desmond Hallissey  
Member

Lyle M. Russell  
Lyle M. Russell  
Member

Michel P. Granger

Michel P. Granger  
Secretary

**UNOFFICIAL SUMMARY**

**Appeal No. AP-94-017**

**DIRECT APPLIANCE SALES LTD.**

**Appellant**

**and**

**THE MINISTER OF NATIONAL REVENUE**

**Respondent**

*The issue in this appeal is whether the appellant is entitled to a federal sales tax inventory rebate notwithstanding that its rebate application was filed outside the time limit prescribed under subsection 120(8) of the Excise Tax Act.*

**HELD:** *The appeal is dismissed. The Tribunal has no authority to make decisions based on equitable considerations.*

*Place of Hearing: Ottawa, Ontario*  
*Date of Hearing: September 21, 1994*  
*Date of Decision: November 2, 1994*

*Tribunal Members: Robert C. Coates, Q.C., Presiding Member*  
*Desmond Hallissey, Member*  
*Lyle M. Russell, Member*

*Counsel for the Tribunal: Robert Desjardins*

*Clerk of the Tribunal: Anne Jamieson*

*Appearances: Leon Bleiwas, for the appellant*  
*Larissa Easson, for the respondent*

Appeal No. AP-94-017

**DIRECT APPLIANCE SALES LTD.**

**Appellant**

and

**THE MINISTER OF NATIONAL REVENUE**

**Respondent**

TRIBUNAL: ROBERT C. COATES, Q.C., Presiding Member  
DESMOND HALLISSEY, Member  
LYLE M. RUSSELL, Member

**REASONS FOR DECISION**

This is an appeal under section 81.19 of the *Excise Tax Act*<sup>1</sup> (the Act) of a determination of the Minister of National Revenue that rejected the appellant's application for a federal sales tax (FST) inventory rebate on the basis that the application was filed outside the statutory time limit.

The issue in this appeal is whether the appellant is entitled to an FST inventory rebate notwithstanding that its rebate application was filed outside the time limit prescribed under subsection 120(8) of the Act.

The appellant does not dispute the fact that its rebate application was filed outside the prescribed time limit. However, the appellant is asking the Tribunal to grant its appeal based on considerations of equity and fairness to the taxpayer. At the outset of the hearing, the Tribunal indicated to the representative of the appellant that the Tribunal must apply the law as it stands and that it cannot dispense equity. Indeed, in response to the Tribunal, after reiterating that the appellant was seeking equitable relief, the representative indicated that he was aware that the Tribunal is not the right forum for such relief.

As stated by the Tribunal on numerous occasions, the Tribunal has no authority to vary a time limit clearly prescribed under the Act or to make decisions based on equitable considerations. In light of the foregoing, the Tribunal is of the view that the appeal must be dismissed.

Accordingly, the appeal is dismissed.

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

Desmond Hallissey  
Desmond Hallissey  
Member

Lyle M. Russell

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

Lyle M. Russell  
Member