

Ottawa, Friday, December 19, 1997

Appeal Nos. AP-94-023, AP-94-024 and AP-94-025

IN THE MATTER OF appeals heard on September 18, 1997,
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 January 14, 1994, with respect to notices of
objection served under section 81.17 of the *Excise Tax Act*.

BETWEEN

**ARCTIC COLLEGE AND GOVERNMENT
OF THE NORTHWEST TERRITORIES**

Appellants

AND

THE MINISTER OF NATIONAL REVENUE

Respondent

DECISION OF THE TRIBUNAL

The appeals are dismissed.

Arthur B. Trudeau
Arthur B. Trudeau
Presiding Member

Raynald Guay
Raynald Guay
Member

Anita Szlajak
Anita Szlajak
Member

Michel P. Granger
Michel P. Granger
Secretary

UNOFFICIAL SUMMARY

Appeal Nos. AP-94-023, AP-94-024 and AP-94-025

**ARCTIC COLLEGE AND GOVERNMENT
OF THE NORTHWEST TERRITORIES**

Appellants

and

THE MINISTER OF NATIONAL REVENUE

Respondent

These are appeals under section 81.19 of the *Excise Tax Act* from decisions of the Minister of National Revenue that rejected, in part, applications for refunds of federal sales tax filed by the appellants.

HELD: The appeals are dismissed. The appeals were scheduled for a hearing on September 18, 1997. Neither the appellants nor their representative appeared, despite the fact that the Tribunal made repeated efforts to reach them over the past two years. There is no evidence to show that the respondent's decisions were incorrect.

Place of Telephone

Conference Hearing: Ottawa, Ontario
Date of Hearing: September 18, 1997
Date of Decision: December 19, 1997

Tribunal Members: Arthur B. Trudeau, Presiding Member
Raynald Guay, Member
Anita Szlazak, Member

Counsel for the Tribunal: Gerry Stobo

Clerk of the Tribunal: Anne Jamieson

Appearance: Jan Brongers, for the respondent

Appeal Nos. AP-94-023, AP-94-024 and AP-94-025

**ARCTIC COLLEGE AND GOVERNMENT
OF THE NORTHWEST TERRITORIES**

Appellants

and

THE MINISTER OF NATIONAL REVENUE

Respondent

TRIBUNAL: ARTHUR B. TRUDEAU, Presiding Member
RAYNALD GUAY, Member
ANITA SZLAZAK, Member

REASONS FOR DECISION

These are appeals under section 81.19 of the *Excise Tax Act* (the Act)¹ from decisions of the Minister of National Revenue that rejected, in part, applications for refunds of federal sales tax (FST) filed by the appellants. Due to the manner in which the Tribunal disposed of these appeals, some background information is necessary.

The appeals were filed on April 20, 1994, and the appellants' briefs were due on June 20, 1994. On June 13, 1994, the Tribunal wrote to Mr. V.E. Intenberg, the appellants' representative, regarding the filing of the briefs. On August 10, 1994, the Registrar's office contacted Mr. Intenberg to inquire as to the filing of the appellants' briefs. Mr. Intenberg advised that the briefs would be filed by the end of August 1994. On September 13, 1994, the Registrar's office again contacted Mr. Intenberg to inquire as to the filing of the briefs. Mr. Intenberg advised that the briefs would be filed by the end of September 1994. On December 16, 1994, the appellants' briefs had yet to be filed. The Registrar's office placed another call to Mr. Intenberg, but received no reply. On August 16, 1995, the Tribunal sent a letter to Mr. Intenberg advising that the briefs were due immediately and that, if it was his intention not to file the briefs, a notice of discontinuance should be filed. On June 13, 1996, the Tribunal sent a letter to Mr. Intenberg advising that the appeals would be scheduled and that, if the respondent wished to file a brief, that it could do so no later than August 30, 1996. The respondent did file a brief on August 30, 1996. On June 26, 1997, the Tribunal wrote to Mr. Intenberg to set a date for a telephone conference, which was scheduled for August 7, 1997. On August 6, 1997, the Registrar's office placed a call to Mr. Intenberg to ensure his availability for the telephone conference. His secretary advised that Mr. Intenberg had received the Tribunal's letter, but that he was away for the week and would not be participating in the telephone conference.

On August 7, 1997, the telephone conference took place and, because of Mr. Intenberg's absence, the only matter agreed to was to schedule another telephone conference to deal with the appeals. On August 11, 1997, Mr. Intenberg was asked to advise the Tribunal, by August 13, 1997, if it was his intention to participate in the hearing of these appeals. No response was received. On August 15, 1997, the Tribunal wrote to counsel for the respondent advising that the appeals would be heard on September 18, 1997, by way of a telephone conference. Mr. Intenberg was sent a copy of the letter and was asked to advise the Tribunal, no later than September 16, 1997, if it was his intention to participate in the hearing of the appeals. No response

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

was received. On September 18, 1997, the hearing was held by way of telephone conference. Only counsel for the respondent appeared.

The Tribunal has made every possible effort to bring these appeals to a conclusion. The appellants' representative has been completely unresponsive and uncooperative in having these appeals concluded. He had the opportunity of discontinuing the appeals if the appellants had no interest in pursuing them, which would have resulted in minimal costs to them and others concerned. The Tribunal has considered the appeals on their merits. It is the appellants' responsibility to bring evidence to the Tribunal to show that the respondent's decisions were incorrect. No such evidence was submitted.

Consequently, the appeals are dismissed.

Arthur B. Trudeau

Arthur B. Trudeau
Presiding Member

Raynald Guay

Raynald Guay
Member

Anita Szlajak

Anita Szlajak
Member