

Federal Court



Cour fédérale

Date: 20250605

Docket: T-1311-24

Citation: 2025 FC 1018

Toronto, Ontario, June 5, 2025

PRESENT: Madam Justice Go

BETWEEN:

SOEB DESAI

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Soeb Desai [Applicant] has a tax debt arising from reassessments related to the 2005 and 2006 taxation years [Reassessments]. The Applicant had made charitable gifts in 2005 and 2006 through participation in the Global Learning Gifting Initiative, a donation program that was subsequently determined by the Tax Court of Canada to be a sham.

[2] The Applicant applied to the Minister of National Revenue [Minister] for relief from the tax debt by way of an application dated February 25, 2022 [First Request]. By a letter dated February 13, 2023, the Minister issued a decision refusing the Applicant's First Request for relief under s.220(3.1) of the *Income Tax Act*, RSC 1985, c.1. The Applicant sought a second review by way of an application dated March 13, 2023 [Second Request]. An officer of the Canada Revenue Agency [CRA] who was assigned to conduct the second review [Officer] issued a decision on November 10, 2023 denying the Applicant's Second Request [Decision].

[3] The Applicant, who is self-represented, seeks a judicial review of the Decision. I dismiss the application as I find the Applicant fails to raise any reviewable error with respect to the Decision.

II. Analysis

[4] The only substantive issue before me is whether the Decision was reasonable, as per the reasonableness standard of review set out under *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov]. The Applicant bears the burden of establishing that the Decision is unreasonable.

[5] The Respondent raises a preliminary issue asking the Court not to consider the new evidence that the Applicant filed with his application record. The Applicant submitted several documents to the Court including a) a letter that the Applicant sent to CRA dated December 6, 2023; b) a letter dated September 1, 2023 from a friend who lent the Applicant money to pay off the tax debt; c) a letter from the Applicant dated May 13, 2024; and, d) a document explaining

the Applicant's expenses and income dated August 11, 2024. None of these documents were before the Officer who made the Decision.

[6] As a general rule, this Court, on judicial review, can only consider the evidence that was before the decision-maker: *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at para 19. There are some exceptions to this general rule. In this case, the Applicant makes no submission on how these exceptions may apply to his situation. I therefore decline to consider the new evidence.

[7] In light of the evidence that was before the Officer, I find the Decision reasonable. Below are my reasons.

[8] While the Applicant makes some general allegations of financial hardship as part of his application for judicial review, I note that the Applicant made similar submission as part of his First Request. An officer assigned to conduct the first review considered the Applicant's submission as well as his family income before concluding that the Applicant has sufficient assets and borrowing room to deal with the amount owing without causing financial hardship. This conclusion was well supported by the information before the CRA.

[9] In his Second Request, the only ground that the Applicant raised was that his religion does not allow him to receive or pay interest. The Officer considered this submission and noted that there is no exemption from paying tax and interest owing due to religious belief.

[10] The Respondent submits, and I agree, that the Officer considered the central issue the Applicant raised. I would also add that the Officer's reasoning was consistent with the legislative regime governing the Minister's discretion to grant relief.

[11] On judicial review, the Applicant does not challenge the reasonableness of the Officer's consideration of this central issue.

[12] Instead, before this Court, the Applicant submits that he is a law-abiding citizen and he became a victim of fraud due to his poor English. The Applicant also pleads that he had to borrow money to pay off the CRA interests and penalties. He asked the CRA to waive interests and penalties and to give him refund so he could pay back to the person he borrowed money from. At the hearing, the Applicant raised a new argument stating that the Decision was unreasonable because the interests accrued were attributed to the delay of the CRA in rendering the Reassessments.

[13] While somewhat sympathetic to the Applicant, I find his arguments non-persuasive.

[14] I note that the CRA never charged the Applicant any penalty as a result of the Reassessments. Further, the Minister had previously agreed to waive some of the interests accrued due to delays caused by the CRA during the course of dealing with the Applicant's objection, as well as due to the COVID-19 pandemic.

[15] As the Respondent points out, the Applicant cannot raise new issue that he did not raise with the Officer. In his requests for relief, the Applicant never pointed to the delay by the CRA as the ground for seeking relief. Moreover, while the CRA did not address the issue of delay when considering the Applicant's request for relief, the CRA did, on its own initiative, discount the interest payment prior to receiving the Applicant's requests.

[16] Although the Applicant may have unknowingly entered into a sham donation scheme, the fact remains that the charitable donations he claimed were disallowed by the Tax Court of Canada, which led to tax owing to the CRA, plus applicable interests.

[17] The Applicant cites *Slau Ltd. v. Canada (Revenue Agency)*, 2008 FC 1142 [*Slau*] in support of his position. I note however, that this decision was reversed by the Federal Court of Appeal [FCA] in *Slau Ltd. v. Canada (Revenue Agency)*, 2009 FCA 270. In any event, the facts in *Slau* are quite distinguishable from those at hand.

[18] In conclusion, the Applicant does not point to any reviewable errors arising from the Decision. I therefore have no basis to set aside the Decision.

[19] The Respondent seeks costs, citing *Drew v Canada (Attorney General)*, 2022 FCA 218 [*Drew*] where the FCA found at para 19 that the general rule to award costs to the successful party applies when the Crown is the winning party, citing *Stubicar v The Queen*, 2020 FCA 66).

[20] The respondent in *Drew* asked for \$1,500 and the FCA in its discretion issued an award of \$750. Here, the Respondent asks for costs based on the Tariff. Taking into account all the circumstances of the case, I find a nominal amount of costs of \$250 is appropriate.

III. Conclusion

[21] The application for judicial review is dismissed. The Applicant shall pay costs of \$250.00 to the Respondent.

JUDGMENT in T-1311-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. The Applicant shall pay the Respondent costs in the lump sum amount of \$250,
inclusive of taxes and disbursements, with thirty days of the date of this decision.

"Avvy Yao-Yao Go"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1311-24

STYLE OF CAUSE: SOEB DESAI v THE ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JUNE 4, 2025

JUDGMENT AND REASONS: GO J.

DATED: JUNE 5, 2025

APPEARANCES:

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FOR THE APPLICANT
(ON THEIR OWN BEHALF)

Jesse Epp-Fransen

FOR THE RESPONDENT

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FOR THE RESPONDENT