

2008-3277(GST)G

TAX COURT OF CANADA

BETWEEN:

SHEFFIELD INTERNATIONAL CORPORATION

Appellant

and

HER MAJESTY THE QUEEN

Respondent

DEMAND FOR PARTICULARS

1. WHEREAS:
 - (a) In the Appellant's Notice of Appeal, paragraphs 12 to 37, there is a detailed explanation of how the sections of the *Excise Tax Act (ETA)* establish that Sheffield International Corporation (Sheffield) and Peter Eickmeier were engaged in commercial activities, that Peter Eickmeier made taxable supplies to Sheffield, and that Sheffield was entitled to GST refunds.
 - (b) In the Respondent's Reply, there are at least 42 allegations of fraud, lack of *bona fides*, purported activity, schemes, falseness, deceptiveness, non-existence, giving of appearance, not doing, absence of commercial activity, no GST becoming payable, ineligibility, as well as numerous statutory provisions relied on, but no particulars whatever of how these statutory provisions rebut the statutory proof of commercial activity and entitlement to GST refunds provided in the Appellant's Notice of Appeal.

- (c) Three of the “Issues To Be Decided” in the Respondent’s Reply are
- 11(a) whether Sheffield was engaged in commercial activities during the period at issue;
 - 11(b) whether GST became payable or was paid by Sheffield during the period at issue;
 - 11(c) if GST became payable or was paid by Sheffield, was it in respect of property or services acquired or imported for the consumption, use or supply in the course of Sheffield’s commercial activities;

and two of the “Grounds Relied On” to resolve these issues are

13. Sheffield did not engage in any *bona fide* transactions or engage in any commercial activity, within the meaning of subsection 123(1) of the *ETA*, during the period under appeal. The only activities Sheffield engaged in were schemes designed to defraud Canada by claiming fraudulent net tax refunds.

14. Sheffield never paid GST and no GST became payable by Sheffield during the period in issue; all of the transactions it purported to engage in were shams designed to give the appearance that it was entitled to claim ITCs for which it was not eligible. As such, pursuant to subsection 169(1) of the *ETA*, it could not claim any ITCs for that period.

2. The Appellant hereby demands the following particulars of the Reply:
- (a) The Respondent’s general allegation of fraud contained in the said two “Grounds Relied On” by the Respondent.
 - (b) How the “Statutory Provisions” relied on by the Respondent rebut the proof of commercial activity and entitlement to GST refunds provided in the Appellant’s Notice of Appeal.
3. These particulars are needed for the purpose of pleading and to prevent surprise, because the “Grounds Relied On” are so bald and vague that it is

impossible to determine from them what the “Grounds Relied On” really are. The Appellant cannot plead intelligently without knowing specifically what are the grounds for the Respondent’s defence. In addition, without knowing what is the Respondent’s defence, the Appellant may be taken by surprise at the trial because the Respondent’s defence may not otherwise be revealed until its closing argument.

Dated: January 25, 2010.

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