Tax Court of Canada — Cour canadienne de l'impôt

2012-399(IT)G

BETWEEN:

ATCON CONSTRUCTION INC.,
BY ITS COURT-APPOINTED RECEIVER
ERNST & YOUNG INC.,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Counsel for the Appellant: Salvatore Mirandola

Counsel for the Respondent: Cecil S. Woon

JUDGMENT

Upon reading the Consent to Judgment filed on October 24, 2014:

The appeal from the assessments made under the *Income Tax Act* for the 2005, 2007, 2008 and 2009 taxation years is allowed, without costs, and the assessments are referred back to the Minister of National Revenue for reconsideration and reassessment in accordance with the terms of the attached Consent to Judgment.

Signed at Ottawa, Canada, this 14th day of November 2014.

"Johanne D'Auray"

D'Auray J.

FN# 30416006P

2012-399(IT)G

TAX COURT OF CANADA

BETWEEN:

ATCON CONSTRUCTION INC., BY ITS COURT-APPOINTED RECEIVER ERNST & YOUNG INC.

Appellant

- and -

HER MAJESTY THE QUEEN

Respondent

CONSENT TO JUDGMENT

The Appellant and the Respondent consent to judgment allowing the appeal with respect to the 2005, 2007, 2008 and 2009 taxation years, and referring the matter back to the Minister of National Revenue for reconsideration and reassessment on the basis that:

a) The Appellant is not liable for the statutory payroll deductions at issue in this appeal for the period from September 2008 to July 2009 inclusive;

b) The Appellant is not liable for the related failure to remit penalties for the period from September 2008 to July 2009 inclusive; and

c) Each party shall bear its own costs.

The Appellant is entitled to no further relief.

GM
Initials
Counsel for the Appellant

CAN
Initials
Counsel for the Respondent

DATED at Toronto, in the Province of Ontario, on the 22nd day of ~~September~~ October, 2014.

Salvatore Mirandola
Borden Ladner Gervais LLP
Scotia Plaza, 40 King Street West
Toronto, ON M5H 3Y4

Telephone: (416) 367-6097
Facsimile: (416) 361-7349

Counsel for the Appellant

DATED at Halifax, in the Province of Nova Scotia, on this 23rd day of ~~September~~ October, CSW 2014.

William F. Pentney
Deputy Attorney General of Canada
Solicitor for the Respondent

Per: Cecil S. Woon
Tax Law Services Section
Department of Justice Canada
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Counsel for the Respondent

TO: The Registrar
Tax Court of Canada
200 Kent Street, 3rd Floor
Ottawa ON K1A 0M1

Tax Court of Canada | Cour canadienne de l'impôt

2012-401(CPP)

BETWEEN:

ATCON CONSTRUCTION INC.,
BY ITS COURT-APPOINTED RECEIVER
ERNST & YOUNG INC.,

Appellant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent.

Counsel for the Appellant: Salvatore Mirandola

Counsel for the Respondent: Cecil S. Woon

JUDGMENT

UPON reading the Consent to Judgment filed on October 24, 2014:

The appeal made pursuant to subsection 28(1) of the *Canada Pension Plan* is allowed and the decision of the Minister of National Revenue is varied on the basis that:

a) the Appellant is not liable for the statutory payroll deductions at issue in this appeal for the period from September 2008 to July 2009 inclusive;

b) the Appellant is not liable for the related failure to remit penalties for the period from September 2008 to July 2009 inclusive; and

c) each party shall bear its own costs.

The appellant is entitled to no further relief.

Signed at Ottawa, Canada, this 14th day of November 2014.

"Johanne D'Auray"

D'Auray J.

2012-401(CPP)

TAX COURT OF CANADA

BETWEEN:

ATCON CONSTRUCTION INC., BY ITS COURT-APPOINTED RECEIVER
ERNST & YOUNG INC.

Appellant

- and -

MINISTER OF NATIONAL REVENUE

Respondent

CONSENT TO JUDGMENT

The Appellant and the Respondent consent to judgment allowing the appeal with respect to the 2007, 2008 and 2009 taxation years, and referring the matter back to the Minister of National Revenue for reconsideration and reassessment on the basis that:

a) the Appellant is not liable for the statutory payroll deductions at issue in this appeal for the period from September 2008 to July 2009 inclusive;

b) The Appellant is not liable for the related failure to remit penalties for the period from September 2008 to July 2009 inclusive; and

c) Each party shall bear its own costs.

The Appellant is entitled to no further relief.

GM
Initials
Counsel for the Appellant

CSW
Initials
Counsel for the Respondent

DATED at Toronto, in the Province of Ontario, on the 22nd day of ~~September~~ October, 2014.

Salvatore Mirandola
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Counsel for the Respondent

TO: The Registrar
Tax Court of Canada
200 Kent Street, 3rd Floor
Ottawa ON K1A 0M1

2012-400(EI)

BETWEEN:

ATCON CONSTRUCTION INC.,
BY ITS COURT-APPOINTED RECEIVER
ERNST & YOUNG INC.,

Appellant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent.

Counsel for the Appellant: Salvatore Mirandola

Counsel for the Respondent: Cecil S. Woon

JUDGMENT

UPON reading the Consent to Judgment filed on October 24, 2014:

The appeal made pursuant to subsection 103(1) of the *Employment Insurance Act* is allowed and the decision of the Minister of National Revenue is varied on the basis that:

a) the Appellant is not liable for the statutory payroll deductions at issue in this appeal for the period from September 2008 to July 2009 inclusive;

b) the Appellant is not liable for the related failure to remit penalties for the period from September 2008 to July 2009 inclusive; and

c) each party shall bear its own costs.

The appellant is entitled to no further relief.

Signed at Ottawa, Canada, this 14th day of November 2014.

"Johanne D'Auray"

D'Auray J.

2012-400(EI)

TAX COURT OF CANADA

BETWEEN:

ATCON CONSTRUCTION INC., BY ITS COURT-APPOINTED RECEIVER ERNST & YOUNG INC.

Appellant

- and -

MINISTER OF NATIONAL REVENUE

Respondent

CONSENT TO JUDGMENT

The Appellant and the Respondent consent to judgment allowing the appeal with respect to the 2007, 2008 and 2009 taxation years, and referring the matter back to the Minister of National Revenue for reconsideration and reassessment on the basis that:

a) the Appellant is not liable for the statutory payroll deductions at issue in this appeal for the period from September 2008 to July 2009 inclusive;

b) The Appellant is not liable for the related failure to remit penalties for the period from September 2008 to July 2009 inclusive; and

c) Each party shall bear its own costs.

The Appellant is entitled to no further relief.

Initials
Counsel for the Appellant

CSW
Initials
Counsel for the Respondent