

96-433(6ST)6

CLASS "B"
T-_____
TAX COURT OF CANADA
IN RE: GOODS AND SERVICES TAX

TAX COURT OF CANADA COUR CANADIENNE DE L'IMPÔT	
F I L E D.	FEB 6 1996
MICHAEL TURCOTTE REGISTRY OFFICER AGENT DU GREFFE VANCOUVER	

BETWEEN:

BOMBAY JEWELLERS LTD.

APPELLANT

AND:

HER MAJESTY THE QUEEN

RESPONDENT

NOTICE OF APPEAL

NOTICE OF APPEAL to the Tax Court of Canada is hereby given to Notice of Goods and Services Tax Assessment No. 11BU0200374 dated April 20, 1993.

STATEMENT OF FACTS

1. The Appellant carries on a jewellery business in Vancouver, British Columbia.
2. The Appellant acquired one kilogram of gold bars from Vancouver Coin and Stamp (1992) Limited ("Vancouver Coin").
3. Vancouver Coin obtained the one kilogram gold bars sold to the Appellant from Johnson Matthey, a major supplier of gold bars in Canada.
4. The gold bars supplied by Johnson Matthey to Vancouver Coin and by Vancouver Coin to the Appellant were refined to a purity level of at least 99.5%.
5. The Appellant melted down some of the gold bars in order to manufacture jewellery for sales to customers.

6. Goods and Services Tax ("GST") was charged with respect to the jewellery sales.
7. The Appellant also cut the gold bars into 1 and 2 ounce wafers for sale to his various customers by weight.
8. The Appellant also melted down the 1 kilogram gold bars into ingots of various weights for sale to his customers.
9. The Appellant did not collect and remit GST on the sale of the ingots and wafers to its customers on the basis that they constituted the supply of a "precious metal" which is an exempt supply under Section 1 of Part VII of Schedule V to the *Excise Tax Act* (the "Act").
10. By Notice of Assessment dated April 20, 1993, the Minister of National Revenue (the "Minister") assessed the Appellant to tax on the basis that wafers and ingots sold by it to its customers did not constitute the sale of a "precious metal" since they were not of international standard and weight, marked with the required fineness, and stamped by an accredited assayer.
11. The Appellant objected to the aforesaid Assessment within the time prescribed by the Act.
12. The Minister confirmed the Assessment by Notice of Decision dated January 24, 1996.

ISSUE

13. The issue on this Appeal is whether the wafers and ingots sold by the Appellant to its customers constituted a "precious metal", and as such, constitutes an exempt supply under Section 1 of Part VII of Schedule V of the Act.

REASONS

14. The Appellant submits that the wafers and ingots sold by it to its customers constitute the supply of a "precious metal" under Section 1 of Part VII of Schedule V of the Act and as such the Appellant is not required to collect and remit GST in respect of the sales of same.

RELIEF SOUGHT

15. The Appellant requested that the Assessment of April 20, 1993 be set aside and requests costs in this action.

ADDRESS FOR SERVICE

The address of service of the Appellant for all documents pertaining to the Appeal is as follows:

Koffman Birnie & Kalef
Business Lawyers
19th Floor
885 West Georgia Street
Vancouver, B.C.
V6C 3H4


Attention: Werner H.G. Heinrich
Telephone: (604) 891-3688
Fax: (604) 891-3788

The mailing address of the Appellant is as follows:

Bombay Jewellers Ltd.
6566 Main Street
Vancouver, B.C.
V5X 3G9

Attention: Salok S. Bhatti

Dated at the City of Vancouver, in the Province of British
Columbia, this 5th day of February, 1996.



Counsel for the Appellant

TO: Her Majesty in Right of Canada,
Attention of the Deputy Attorney
General of Canada

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NOTICE OF APPEAL

Werner H.G. Heinrich
Koffman Birnie & Kalef
19th Floor
885 West Georgia Street
Vancouver, B.C.
V6C 3H4

File 41099-1

BY HAND PAR PORTEUR
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FEB 6 1996
TAX COURT OF CANADA COUR CANADIENNE DE L'IMPÔT VANCOUVER, CANADA

SERVICE OF A TRUE COPY HEREOF
SIGNIFICATION DE COPIE CONFORME-
MENT

Admitted this 23 day
Acceptée le Feb jour
of 19
de

Cloutier
for
pour John C. Tall, C.C.
Deputy Attorney General of Canada
Sous-procureur général du Canada

APPEALS INFORMATION SHEET FEUILLE D'INFORMATION

Procedure / Procédure			Class : Catégorie :	File no : No. de dossier :
INF/ IT	INF/GST	APP/OBJ/IT		
GEN/ IT	GEN/GST	APP/APPEAL/IT		
UI	CPP	APP/OBJ/GST		
OTHER:		APP/APPEAL/GST		

Taxation district : 27
 District d'impôt :

Hearing district :
 District de l'audience :

Date filed : 6/02/96
 Date de dépôt :

Date received : 6/02/96
 Date de réception :

Postmark date : 9
 Date du cachet postal :

Location :

Rec'd by fax :
 Reçu par "fax" :

Date original rec'd :
 Date de réception de l'original :

Rep. Ident. : IT 1(S) 2(C) 3(CA) 4(AG)
 Ident. du représentant : UI 1(S) 2(C) 4(AG)

Appellant last name :
 Nom de l'appellant : BOMBAY JEWELLERS LTD.

First name :
 Prénom de l'appelant :

FOR I.T. ONLY / POUR IMPÔT SEULEMENT

Years / Années : _____

Assessment No / No de cotisation : 11800200374

FOR UI ONLY / POUR A.-C. SEULEMENT

RE : _____

Date of the Minister's decision/
Date de la décision attaquée : 24/01/96

Particularities / Autres : _____

AMS SCREEN G.C. /
Écran du SGA - G.C. : ✓

Registry Officer /
Agent de greffe: M. TURCOTTE Date: 7/02/96

AMS SCREEN 7
Écran du SGA - No 7 : _____

Appeals Clerk /
Préposé au traitement des appels: nd Date: 19/2/96