Tax Court of Canada

Cour canadienne de l'impôt

91-352(IT)G
91-353(IT)G

BETWEEN:

JOSHUA GRUNBAUM,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence with the appeals of **113972 Canada Inc.** (91-373(IT)G) on January 11 and 12, 1993 and on June 22, 1993 at Montréal, Quebec, by

the Honourable Judge A. Garon

Appearances

Counsel for the Appellant:
Murray Sklar

Counsel for the Respondent:
Henri Bédirian

JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1986 and 1987 taxation years are allowed, with costs, and the assessments are referred back to the Minister of National Revenue for reconsideration and reassessment in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada,
this 24th day of March 1994.

91-352(IT)G
91-353(IT)G

ENTRE :

JOSHUA GRUNBAUM,

appelant,

et

SA MAJESTÉ LA REINE,

intimée.

Appels entendus sur preuve commune avec les appels de **113972 Canada Inc.** (91-373(IT)G) les 11 et 12 janvier 1993 et le 22 juin 1993 à Montréal (Québec) par

l'Honorable juge A. Garon

Comparutions

Avocat de l'appelant :
M[e] Murray Sklar

Avocat de l'intimée :
M[e] Henri Bédirian

JUGEMENT

Les appels des cotisations établies en vertu de la *Loi de l'impôt sur le revenu* à l'égard des années d'imposition 1986 et 1987 sont admis, avec dépens, et les cotisations sont déférées au ministre du Revenu national pour nouvel examen et nouvelles cotisations selon les motifs de jugement ci-joints.

Signé à Ottawa, Canada,
ce 24[e] jour de mars 1994.

A. Garon

J.T.C.C. - J.C.C.I.

91-352(IT)G
91-353(IT)G

BETWEEN:

JOSHUA GRUNBAUM,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

AND

91-373(IT)G

113972 CANADA INC.,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

GARON, J.T.C.C.

These are appeals by the Appellant Grunbaum from the income tax reassessments made by the Minister of National Revenue for the 1986 and 1987 taxation years. By his reassessments, the Minister of National Revenue added to the income of the Appellant Grunbaum the amounts of $16,203.00 and $27,281.00 for the 1986 and 1987 taxation years respectively on the basis that a benefit was conferred by the Appellant

113972 Canada Inc., (the "Appellant Company"), on the Appellant Grunbaum in the amounts hereinbefore mentioned for these taxation years since these amounts represented, in the opinion of the Minister of National Revenue, personal expenses incurred by the Appellant Grunbaum that were paid by the Appellant Company. In addition, the Minister of National Revenue imposed by these reassessments on the Appellant Grunbaum penalties under paragraph 163(2) of the *Income Tax Act* (the "*Act*") in the amounts of $740.08 and $1,886.06 for the 1986 and 1987 taxation years on the basis that the Appellant Grunbaum omitted, knowingly or under circumstances amounting to gross negligence, to report in his income the amounts added by the subject reassessments.

In the case of the Appellant Company, the appeals relate to the assessments for its 1986 and 1987 taxation years. The taxation years of the Appellant Company during each of the years in issue coincided with the calendar year. By his reassessments, the Minister of National Revenue disallowed, *inter alia*, expenses relating to travel and promotion expenses amounting to $10,298.00 and $22,846.00 for its 1986 and 1987 taxation years respectively on the ground that these expenses had not been incurred for the purpose of gaining and producing income from a business within the meaning of paragraph 18(1)(*a*) of the *Act*. Penalties were also levied on the Appellant Company by these reassessments for the years in issue under paragraph 163(2) of the *Act*, as mentioned in paragraph 6 of the Reply to Notice of Appeal "...for having knowingly or under circumstances amounting to gross negligence reduced its income of (sic) an amount of $10,298.00 and $21,268.00 for the taxation years 1986 and 1987 respectively, by making false statements or omissions in respect of said taxation years".

At this point, it should be noted that, at the commencement of the hearing of these appeals, amendments were made to the Amended Notice of Appeal of the Appellant Grunbaum in the file number 91-353(IT)G with respect to items of expenditure c) and e). The precise nature of these amendments will be described later when referring to the Appellant Grunbaum's allegations concerning these particular expenses. Later on in the course of the hearing, an amendment was made to the conclusions of the Notice of Appeal in the case of the Appellant Company -- file number 91-373(IT)G -- praying "that the

penalties imposed against the Appellant for the 1986 and 1987 taxation years be cancelled". Also, paragraph 9 of the Reply to the Notice of Appeal in the file of the Appellant Company was amended to conform with the wording of paragraph 6 of the Reply to the Notice of Appeal. As a preliminary matter, it was also mentioned on behalf of the Respondent that the penalty reassessed by the Minister of National Revenue on the Appellant Company for its 1987 taxation year should not have been $2,591.78 but should have been reduced to $2,364.09.

Since the expenses that are in issue in these appeals fall into various classes, it would appear appropriate to consider the nature of each class of expenditures and the detailed submissions made in their pleadings by both Appellants in relation thereto.

In his Amended Notice of Appeal for the 1987 taxation year, the Appellant Grunbaum makes reference to five classes of expenses and argues that they should not be taxed in his hands but should be deducted by the Appellant Company from its income.

The first item, referred to as item "a", in the subject Amended Notice of Appeal, deals with travelling expenses in the amount of $5,057.00. It is asserted by the Appellant Grunbaum in connection with these expenses that they "should not be taxable in his hands as these expenses were incurred by 113972 Canada Inc. to earn income since contact and meetings have been held in Israel with client and prospects for the growth of business". In connection with this matter, the Amended Notice of Appeal also contains the statement that "a meeting was also held with a Consultant who provided advice on management".

The second item, described as item "b", relates to expenses for a wedding reception in the amount of $11,478.00. In his Amended Notice of Appeal, the Appellant "submits that this expense should not be taxable in his hands as the purpose of the reception was primarily in order to entertain clients, suppliers and other business associates of 113972 Canada Inc. for purposes of assisting it in its business operations". He added that "the purpose of the expense was for earning revenue".

The third class of expenditures, item "c",as alleged in the Amended Notice of Appeal, "...represents the cost of the purchase of a bookcase which is presently placed in the office of the taxpayer at the business premises at 113972 Canada Inc." In connection with this matter, counsel for the Appellant advised the Court in the course of the examination in chief of Mrs. Angela Mamone that the reference to the bookcase in the Amended Notice of Appeal for 1987 is incorrect and that the words "wedding expenses" should be substituted for "office expenses". Counsel for the Appellant Grunbaum added that the total amount of $12,477.49 in relation to wedding expenses[1] should not have been added to the Appellant Grunbaum's income for the 1987 taxation year. The deduction of the aforementioned amount of $12,477.49 is claimed by the Appellant Company as deduction from income in its Notice of Appeal for its 1986 and 1987 taxation years.

The fourth item, item "d", refers to the purchase of fur coats totalling $1,400.00 which are alleged to have been "... given to customers of 113972 Canada Inc. by 113972 Canada Inc." It is further alleged that "the purpose of the gift was for generation of further revenue and the amount of the corporate gift should not have been taxed in the hands of the taxpayer".

Finally, the fifth item, item "e", has to do with a purchase at Green's Modern Draperies for an amount of $1,468.00. Counsel for the Appellants advised the Court at the outset of the hearing that this item was no longer contested[2].

The Appellant Grunbaum in his Notice of Appeal for the 1986 taxation year, raised only one issue relating to the travelling expenses in the amount of $16,203.00. With respect to these expenses which involve trips to Israel and to other places, the representations made were identical to those put forward in relation to item "a" in the Appellant Grunbaum's Amended Notice of Appeal for the 1987 taxation year.

---

[1] See transcript of the hearing held on January 11, 1993 at page 101 line 18 to page 102 line 3.

[2] See transcript of the hearing held on January 11, 1993 at page 7 line 3 to line 11.

In the Notice of Appeal of the Appellant Company for its 1986 and 1987 taxation years, the same items of expenses mentioned in the Amended Notice of Appeal of the Appellant Grunbaum for the 1987 taxation year and in his Notice of Appeal for the 1986 taxation year are dealt with subject to one exception. The exception is that there is no reference in the Appellant Company's Notice of Appeal to item "c" (purchase of a bookcase), which was, as indicated earlier, mentioned in error, in the Appellant Grunbaum's Notice of Appeal for 1987. It is submitted in this Notice of Appeal of the Appellant Company that the subject expenses were incurred by it to earn income for the reasons set forth in connection with such items. Explanations given in respect of each such item of expenditures are in general similar to the observations made in the Amended Notice of Appeal of the Appellant Grunbaum for the 1987 taxation year except with respect to the expenditures relative to the wedding reception where the following is alleged:

> This reception has been made to entertain and meet business associates. Over 300 people were invited. In the social and community context in which this reception was held, it was clear that its purpose was a business gathering and not a purely personal one. The expense was incurred purely for a business reason and the list of invited guests include mostly, individuals who would only have been included for business reasons. The company benefitted in a business way from the holding of the reception and the making of the payments.

Also, pursuant to an amendment sought by counsel for the Appellants at the commencement of the trial and approved by the Court, the amounts of $16,203.00and $5,057.00 should be substituted in the Notice of Appeal of the Appellant Company for the amounts of $5,904.87 and $10,189.30claimed by it as deductions from income for its 1986 and 1987 taxation years in respect of the amounts of travelling expenses[3].

In addition, two other items of expenditure are mentioned at page 2 of the Notice of Appeal of the Appellant Company for its 1986 and 1987 taxation years.

One item is simply described as follows: Continental Bank of Canada -- 1986 -- $1,469.00.

---

[3] See page 6 of the transcript of the hearing of January 11, 1993, line 7 to line 23.

The second item has to do with certain expenses made by Mrs. Angela Mamone in the amount of $4,910.00. The allegation made in the Notice of Appeal in connection with these expenses reads as follows:

> These purchases were made for the benefit of the Company and should not be refused. Purchases included items such as :
>
> - Answering Machine.
> - Gifts for clients.
> - First Aid Kit.
> - Tools, such as screwdrivers, etc.
> - Office Equipment.
>
> These purchases were made by Mrs. Mamone on behalf of the Company.

Before summarizing the evidence bearing directly on the five classes of expenditures that are in issue, it is apposite to mention, for a better understanding of the detailed evidence relating to the various types of expenses, that the Appellant Company, of which the total number of employees may have reached 60 during the period in issue, was carrying on business under the trade name Unique Lampshades Accessories. The categories of expenses in dispute are the following:

1. Purchases made in 1987 by Mrs. Mamone in the amount of $4,910.00.
2. Fur coats totalling $1,400.00.
3. Continental Bank of Canada -- 1986 -- $1,469.00.
4. Travelling expenses amounting to $16,203.00 for 1986 and $5,057.00 for 1987 in respect of trips to Israel and other places, disallowed by the Minister of National Revenue in computing the Appellant Company's income.
5. Amounts of $16,203.00 and $5,057.00 representing travelling expenses added by the Minister of National Revenue to the Appellant Grunbaum's income for the years 1986 and 1987.
6. Wedding reception in the amount of $12,477.49.

I find it convenient to start with the evidence adduced by Mrs. Angela Mamone who has been vice-president of the Appellant Company for eight or nine years, having been in the employ of the Appellant Company for about 13 years. She stated that as she was vice-president during the two years in issue, she was familiar with the

day-to-day operations of the Appellant Company. It should be underlined that Mrs. Mamone had no direct supervision over the accounting department but as vice-president she was as much involved in the general management of the business of the Appellant Company as the Appellant Grunbaum himself. She had signing authority for the Appellant Company in respect of the issue of cheques. When testifying about the details of these expenditures, she relied in part on notes she prepared around March 1992, by resorting to the Appellant Company's correspondence files.

With respect to the item relating to certain expenses totalling $4,910.00 that Mrs. Mamone made in her name, she stated that these expenses were incurred for the benefit of the Appellant Company and that they were paid by using the Visa and the American Express cards of the Appellant Company. The Visa and American Express statements indicating, *inter alia*, the names of the suppliers and a number of cheques were tendered in evidence. Mrs. Mamone testified that she only used these credit cards issued in the name of the Appellant Company for the business purposes of the Appellant Company. For her personal purchases, she used her own credit cards. In some cases, the purchases related to gifts made to employees of the Appellant Company. However, the invoices were missing. She explained that at the time she was not keeping the invoices as she thought that credit card statements and related cheques were sufficient. However, this practise was changed later. There was no proper system in place to track the expenses. She readily admitted in cross-examination that the first cheque, part of exhibit A-1, in the amount of $1,416.94 was a combined business and pleasure trip to Wildwood, U.S.A. A detailed list of such items was filed as exhibit A-1 and matching cheques and Visa and American Express credit card statements were filed as exhibit A-2.

With respect to the item in the amount of $1,400.00 covering the purchase of three fur capelets, in December 1987, Mrs. Mamone testified that these capelets were given to sales agents of the Appellant Company. The names of these persons were mentioned by her and the single invoice respecting these capelets was filed as exhibit A-3. She disclosed that she was involved in wrapping these capelets and made the actual

Christmas cards that went with them but took no part in purchasing, shipping or mailing these capelets. One sales agent, Mr. Harry Morris, confirmed in a handwritten note dated December 12, 1992, that he had received a fur capelet.

Mrs. Mamone also provided explanations regarding the item in the amount of $1,469.41 involving a Continental Bank of Canada cheque dated July 10, 1986. She stated that the purpose of the cheque was to get cash in U.S. currency for the drivers of the Appellant Company who went to the United States in the course of the Appellant Company's business. It must be borne in mind that the Appellant Company exported to the United States a large percentage of lampshade accessories which it manufactured. The cheque in the amount of $1,469.41 signed by Mrs. Mamone for Unique Lampshade was filed as exhibit A-4.

The next item dealt with by Mrs. Mamone involved travelling expenses where the deductions claimed by the Appellant Company, as mentioned earlier, amounted to $16,203.00 for the 1986 taxation year and $5,057.00 for the 1987 taxation year. The break-down of some of these expenses for the 1986 taxation year is given in exhibit A-5, a document prepared by the Respondent.

One of the items on the exhibit A-5 list relates to an amount of $4,600.00 involving cheque number 2609, which was made payable to Mazel Travel Agency. In connection with this cheque, Mrs. Mamone explained that Mr. Brown of Mazel Travel Agency "had some U.S. dollars that we could purchase for a lesser rate than the bank rate". She went on saying that :

> ... This is what we did, we purchased U.S. dollars and deposited a certain amount back into the bank and a certain portion we kept for the same purpose, travelling expenses, drivers' travelling expenses, we kept some cash U.S. dollars, we have the balance that was redeposited into the U.S. account.[4]

---

[4] Transcript of the hearing held on January 11, 1993, page 81 line 21 to page 82 line 2.

It would appear that the total cheque covering the aforementioned transaction was in the amount of $6,560.00 and that the Respondent refused the deduction of a portion of that amount, namely $4,060.00. The difference, being in the amount of $2,500.00, was allowed by the Respondent and deposited into a U.S. account of the Appellant Company to cover travelling expenses of the drivers going to the United States.

Another expenditure listed on exhibit A-5 refers to a cheque no. 2111 and to two invoices totalling $1,282.00,one invoice being in the amount of $1,148.00 and the other in the amount of $134.00. The expenditure in the amount of $134.00 has to do with a trip to Toronto made by Mrs. Mamone for the purpose of her attending a furniture and lighting show. Her attendance enabled her to exhibit the new samples of the Appellant Company. With respect to the cheque in the amount of $1,148.00,Mrs. Mamone simply mentioned that it refers to a trip from Montréal to Tel-Aviv by the Appellant Grunbaum. She could not provide more details.

Mrs. Mamone also gave explanations about two items amounting to $353.00 and $1,314.00for a total of $1,667.00involving voucher no. 2488. The cheque in the amount of $353.00 represents expenses in connection with a trip to Philadelphia and the second cheque relates to the expenses incurred on a trip to New York. The other amount represents the expenditures involved during a trip to Israel.

Mrs. Mamone also testified in relation to a cheque no. 2083 in the amount of $1,284.00 and an invoice no. 4792 that these vouchers refer to two business trips to Toronto and Dallas made by the Appellant Grunbaum and Mrs. Mamone to attend the annual lighting shows in these places. Another cheque, no. 2391, in the amount of $180.88, also mentioned in exhibit A-5, covers a business trip to Toronto made by the Appellant Grunbaum.

With respect to the travelling expenses for 1987 and the corresponding four cheques totalling $5057.00 listed on exhibit A-6, Mrs. Mamone provided explanations regarding two of the four cheques. The cheque in the amount of $1,725.00 and the corresponding invoice no. 6186 represent expenses connected with a trip to Milan, Italy, made by the Appellant Grunbaum regarding the possible acquisition of a "lamination range

machine". This machine was subsequently acquired by the Appellant Company. The second cheque no. 1892 in the amount of $1,170.00 relates to expenses incurred in the course of a business trip to New York made by the Appellant Grunbaum, the latter's wife, (who incidentally is an employee of the Appellant Company) and Mrs. Mamone to attend a lamp and shade show.

Finally, Mrs. Mamone adduced evidence concerning the wedding reception on the occasion of the marriage in 1987 of Sarah Grunbaum, the Appellant Grunbaum's daughter. These expenses detailed in exhibit A-7 represent the portion of the wedding expenses that were deducted by the Appellant Company in computing its income for its 1987 taxation year. This portion of the expenses makes up a total of $12,477.49. Counsel for the Respondent agreed that all these expenses appearing on exhibit A-7 were incurred in connection with the wedding reception of the Appellant Grunbaum's daughter and that they were paid by the Appellant Company but he disputed the Appellant's Company's entitlement to a deduction from its income.

Mrs. Mamone commented on her participation as vice-president of the Appellant Company in the arrangements for the wedding reception in these terms:

> A. Okay, I could say I was completely involved in the preparations.
>
> ...
>
> A. I was sort of completely involved in helping him to prepare menus and so forth, because we actually sort of combined it as a sales promotion with sort of building a personal or business touch with our clients and suppliers which we... I took the part in preparing the invitations for the business part.
>
> Okay. I suggested to Joshua[5] that this would be a nice time for a get-together, getting everyone together: suppliers, customers and also our employees, which they felt was a great honour to be there and that was my involvement in it. And I was actually taking care of the picking up of the people at the airport.
>
> Me MURRAY SKLAR:[6] Q. Which people?

---

[5] Referring to the Appellant Grunbaum.

[6] Me Sklar was counsel for both Appellants.

A. Okay, well, our guests, which would be our customers and suppliers that had actually responded that they would be at the wedding. I was in charge of having, okay, we had a little minivan that was rented so as a busing service.

Q. Rented by whom?

A. By Unique.

Q. Yes, and what was the purpose of the rental of that bus?

A. For the reception, picking up people at the airport that were coming in.

Q. Out of town guests?

A. Out of town guests, suppliers or customers, whichever were arriving, we would give them that courtesy of being picked up and bringing them to their hotel. I was involved in the sort of entertaining, because of my, like I said, his religious restrictions, whereas I made sure the guests felt comfortable because of the different atmosphere at their weddings, where it's segregated, where men are at one side and women are on one side, and I did the entertaining for all the guests that were from out of town.

Later on Mrs. Mamone referred to the wedding reception and to the benefits flowing therefrom and added the following:

A. It created such a good bonding with the employees themselves that were invited, okay, they felt very honoured and I think it boosts morale that they felt that they were invited to be part of this wedding. They got personal invitations, we had customers and suppliers that come in from out of town where we made business contacts, that sort of, at the same time, we built up sort of a personal business relationship at the same time. You know, we had propositions already because of this and ...

Q. What kind of propositions?

A. Okay, as I said, we had a customer in North Kansas City, Missouri, they had then a proposition from a supplier out in England for these night glow whiteshades and there was a big program going on whereas they were going to give it to our competitor, but because we got this extra pole of entertaining their purchaser, which came from out of town, okay.

She continued on the same subject:

THE WITNESS: A. And actually, this program now, through this benefit of building this personal relationship or personal business relationship, we got the boost and we got the program, which should amount to over a hundred thousand dollars ($100,000) extra a year on the program.

Me MURRAY SKLAR: Q. What kind of program is this?

A. It's Glow-in-the-dark lampshades.

Q. Glow-in-the-dark lampshades.

A. Yes.

Q. And what is the function of Unique Lampshades with respect to this company?

A. We are going to be the distributor, we've been awarded to get the sole distributor for the U.S.

Q. And do you feel that the attendance at the wedding had something to do with this?

A. I believe so because it built such a relationship and she called me ...

Q. Can you identify who this person is?

A. Bridget Downs from Hamilton Lamp.

Q. Who was invited?

A. to the wedding she actually had an all expense paid trip from Unique to guarantee that she would be able to come, entertaining for the weekend and we built a relationship from that.

A three-page list of wedding guests was tendered in evidence. The personal invitations were prepared by the Appellant Grunbaum while the business ones were made by Mrs. Mamone. The total number of guests was 394 consisting of 184 business guests and 210 personal guests.

In preparing the business guests portion of the list, Mrs. Mamone described the process she went through in this way :

Q. Okay, yes. The invitations that were sent out were sent out in whose name, the written invitations themselves, do you recall; was it in the name of Unique Lampshades or was it in the name of Mr. Joshua Grunbaum personally?

A. Okay, the wedding card itself was personally Joshua Grunbaum.

Q. Yes?

A. But on the envelope interior and on the exterior, Unique Lampshades.

Q. How did you put Unique Lampshades ... (interrupted)

A. With our rubber stamp.

Q. Where?

A. Okay, that's what I said, we had an interior envelope that went with the invitation, then you had the exterior where we actually wrote the addresses, that's where we put Unique Lampshades with a rubber stamp.

HIS HONOUR: Q. You're talking about the exterior envelope?

A. You have two envelopes, Your Honour.

Q. Yes?

A. You have one interior that goes with the invitation, then one exterior where you write the actual address and mailing.

Q. Of the company?

A. of the company, yes.

M[e] MURRAY SKLAR: Q. So the mailing was therefore done through the company?

A. Through the company, I personally was in charge, Joshua had actually no part in it or no say in who I was sending, he actually gave me over the invitations and I took care of making the list of whom was to be invited to the wedding.

Q. You're talking about the business portion?

A. The business portion, I mean as I said, the personal was his own, I took care of the business portion.

HIS HONOUR: Q. Did he put a ceiling on the number of business associates who could be invited?

A. An amount, if he gave me a limit?

Q. Yes.

A. No, he didn't give me any limits.

M[e] MURRAY SKLAR: Okay.

Later on, Mrs. Mamone provided additional explanations regarding the preparations made for the business guests:

Q. And you told the Court, I just want to repeat that, your participation in the preparation of this business invitations did not end at just this ...the determining of who is going to be on the list, not the mailing out of this list but the actual bringing in of the people from the airport and making sure that they're properly attended to.

A. The accommodations, like I said, making them welcome, the control of picking them up at the airport, bring them to their accommodations and so forth.

Q. Did they know, from your knowledge and experience with them, picking them up, did they know therefore that although the invitation may have been written in the name personally of Mr. Grunbaum, that is was really the company that was inviting them?

A. Like I say, all correspondence was done through the company.

Q. What kind of correspondence?

> A. Okay, sort of like I said, the mailing or telephoning or who went to pick them up, it was all employees of Unique, Unique itself, we, as a body, took care of all the arrangements from the business part.
>
> Q. Employees ...
>
> A. Employees with I, myself, were involved in this.
>
> Q. How many other employees would you say were involved?
>
> A. Okay, we were about, I'd say about four other and with myself, five.
>
> Q. So altogether, five employees of Unique being involved in the business end...
>
> A. The business part.
>
> Q. ...the business guests and was that involvement part time, full time, how many days would it have lasted?
>
> A. No, they had a part time, like I said, the temporary part, we would use one as a chauffeur, he would drive the little minivan and bus ...

Mr. Frank Del Pinto, the President of Lamprolight Inc., a lampshade manufacturer and a customer of Unique Lampshades, testified that he had no personal relationship with the Appellant Grunbaum's daughter yet he was invited to the wedding reception. According to Mrs. Mamone, it is clear that the business guests knew that the invitation was business related and several customers were offended because they were not invited.

In the above summary of Mrs. Mamone's evidence, I have not dealt with those parts of her testimony that related to the Appellant Grunbaum's trips to Israel (except on a couple of occasions where passing references were made) as she had little knowledge, of her own admission, of the Appellant Grunbaum's activities in Israel.

I will now give an account of the evidence given by the Appellant Grunbaum.

Mr. Grunbaum was, during the two years in issue, the President of the Appellant Company. He explained that he was born in Hungary and came to Canada in 1968. With respect to his first involvement in the business world, the Appellant said that he "started up in a drapery company with a partner and we split up. He bought out this company and I got the money". The Appellant further explained that the company "was a very small company" in 1969. He also mentioned that:

> ...slowly we went from step to step and created new kinds of products, new kind of clientele, till we built it competing in the United States, we can call this today the second biggest company in this kind of products in the world.
>
> Q. So you're selling or exporting a lot to the United States?
>
> A. Seventy-five percent (75%) is to the United States.

He added "we keep expanding today, we're buying up new company, we're buying partnership in other companies". The Appellant Company has sales offices outside Canada; they are located in New York, Hong Kong and Australia.

The Appellant Grunbaum recognized that the person in charge of the bookkeeping in 1986 and 1987 did not do an adequate job and is no longer with the Appellant Company.

The Appellant testified that he is a member of the Belzer Hassidic community. I gather from the evidence that the Hassidic movement is a Jewish sect of strict and austere observance. Being a member of the Belzer Hassidic community, he explained the difficulties he had entertaining in these terms:

> A. That's what I call what I mentioned the miracle part of that, because in the modern business world today, you must have all of these accessories to make the clients happy and get close to you, because the competition is offering today things that we have to give that. Like go out for weekends, take the wife out, very serious promotions that from one side, I am very much restricted on that.
>
> I cannot go out to a restaurant, dinners, because we are restricted kosher food and to go out to footballs, go out to hockey games or go out to baseball, we are not in this kind of ...I understand it, but we cannot get out with these people because it's against our bringing up in this, it would be very difficult for me, for my family to accept if they find that I do.

Later on, the Appellant Grunbaum commented on "the traditional Belzer view of marriages" and in particular "the size of the wedding" in these terms:

> A. Well, okay, that's basically, we are in the tradition in our community, we don't like to make big weddings in general, because, first of all, as you know, that orthodox people, we are not taking all this kind of prevention for children. Naturally, we start from five to twelve, for any children and giving...and our rabbis give us our limitation, how big you can make your weddings. In a way, you can call only family.
>
> Q. Yes?

> A. But when you come as a business, how do you call it?
>
> Q. Promotion?
>
> A. Promotion, they're naturally giving you all the permissions that you need to do this.
>
> Q. Did you actually ask the rabbi for permission?
>
> A. Definitely so, because it would be very ...it would be a very bad feeling form him or for me, that if I would go
>
> ahead with things like this, against the traditions of the community, and do things, like this, without asking permission on it.
>
> Q. Okay.
>
> A. But usually, they know that it's no question if you come... a business person comes with this kind of ... it's authorized, I mean it's no question.

In his evidence, the Appellant Grunbaum confirmed what was said by Mrs. Mamone about the list of both the personal and business guests and the role played by Mrs. Mamone in the preparation of the business list. The Appellant Grunbaum pointed out that a list of guests was offered to the appropriate Revenue Canada auditor. Speaking about her reaction to being supplied with such a list, the Appellant Grunbaum said this :

> A. I offered her this, we offered her the list. "I have a list I can give you." She didn't care because I didn't know the.. I find it, it's like hitting s stone wall when I talk about a wedding. I don't know really why, if that is ...down, it's no wedding, and it's no promotion wedding, I mean, is it written in stone, I have this feeling, because even when we got already the offer from the gentleman about this settlement, they didn't want to touch the wedding.
>
> Again, what is wrong with a wedding to make a promotion from a wedding, I don't know, if it's a promotion. If it's not a promotion, it's ...everything is wrong. If it's not, it's not. I don't know why they didn't event want to listen, why they didn't event sit down to talk, the list was ready, and I offered it for the Appeal Division, I got nowhere, ... a verdict, I'm sorry, we cannot talk about it. I mean...

The Appellant Grunbaum explained in detail the type of problems he encountered with the Customs Division of Revenue Canada concerning the tariff classification of a new product imported from the U.S. This matter was one of the subject matters that he went to discuss in Israel with Rabbi Rokach, the Chief Rabbi of the world Belzer community. According to the Appellant Grunbaum, people from all over the world, including very important and successful businessmen, go to see the Chief Rabbi to get his advice. Chief Rokach is not only a religious leader but a business leader although he never

carried on a business on his own and does not possess university degrees in the business area. One of the precise questions that was discussed when the Appellant's wife and daughter (incidentally the daughter is not an employee of the Appellant Company) went to see Chief Rabbi Rokach was whether the Appellant Company should continue to negotiate with the Government of Canada concerning the custom problem with a view to getting a settlement and whether the Appellant Company should continue to retain the services of the same lawyer in respect of the handling of this custom problem.

With respect to the three gifts of fur capelets, the Appellant Grunbaum stated in unequivocal terms that the capelets were sent to the three sales agents mentioned by Mrs. Mamone.

The Appellant Grunbaum corroborated in substance the portion of the evidence of Mrs. Mamone reported earlier that deals with most of the trips made by the Appellant Grunbaum and Mrs. Mamone to Toronto, Milan, Italy and various places in the United States. In addition, the Appellant Grunbaum provided explanations concerning a) one business trip made to Philadelphia in 1986 where the amount expended was $466.00 and b) the travelling expense of a sales agent in the amount of $300.00 in respect of a trip to Montréal made in 1987.

With respect to the trips to Israel in 1986 and 1987, the Appellant Grunbaum testified that he made many trips there to consult with the Chief Rabbi Rokach about matters relating to the Appellant Company's business. On one occasion, the Appellant Grunbaum's wife and daughter went to Israel at his request for purposes of the Appellant Company's business. Although the evidence is not entirely clear, it would appear that the total number of such trips during the two years in issue was in the order of eight or nine and the total expenses incurred in connection with these trips are in the vicinity of $12,000.00. The precise purpose mentioned in respect of one trip by the Appellant Grunbaum was to get the advice of Chief Rabbi Rokach on a) whether it was worthwhile continuing the discussions with the Government of Canada on the custom problem and b) whether the Appellant Company should keep on retaining the services of a particular lawyer. No other specific reasons for which these trips were undertaken were provided by the

Appellant Grunbaum. It should also be noted that at least on a few trips, the Appellant Grunbaum stayed one or two weeks in Israel. No detailed information was given as to why he was required to sojourn in Israel for so many days.

Two chartered accountants were called upon to testify at the hearing of these appeals. The accountant and auditor of the Appellant Company since 1985 recognized that several mistakes were made in the preparation of the financial statements of the Appellant Company because of the lack of experience of the bookkeeper and the administrative difficulties caused by the expansion of the Appellant Company. The auditor also testified that the total wedding cost amounted to $30,000.00and that the amount sought to be deducted in connection with the business guests in relation to the overall cost of the wedding appeared to him to be reasonable.

On behalf of the Respondent, the sole witness produced was the auditor of Revenue Canada who carried out the audit of the files of both Appellants from July 1988 until June 1989. The officer in question has been an auditor for Revenue Canada for about 10 years. She has a diploma in business administration and accounting. She stated that when she performed the audit, she found that the accounting books and records of the Appellant Company were not in very good order. She stated that although she had a certain amount of cooperation from the Appellant Grunbaum and his representatives, she nonetheless encountered difficulties in obtaining vouchers and detailed information about many types of expenses. She noted that the Appellant Grunbaum made several claims in respect of personal expenses on behalf of the Appellant Company which are no longer in issue in the present appeals. Furthermore, she said that he was not forthright with the explanations he provided. For example, the Appellant Grunbaum claimed on November 23, 1988, that furniture was bought from Lida Furniture to furnish the apartment of a consultant hired by the Appellant Company to install a machine while the goods in question, of which the total cost was $14,333.00,were in fact delivered to the Appellant Grunbaum's daughter's residence, as evidenced by an invoice dated May 21, 1987.

With respect to trips to Israel, the auditor mentioned that the explanations changed with time with respect to the purpose of these trips. He stated, according to her, that the trips to Israel were undertaken with a view to having contacts and meetings with Israel, to procure clients and prospects for his company and to meet with a consultant regarding business matters. A similar statement appears in the Notices of Appeal of both Appellants. Her audit disclosed that the Appellant Grunbaum had not made any payment to a consultant.

According to the auditor, when she discussed with the Appellant Grunbaum the matter of the reception he stated that it was strictly a business reception for the clients of the Appellant Company. He maintained that it was a reception strictly for business purposes. He only admitted in March 1989 that the reception was in the context of a wedding.

When asked to explain why she recommended the imposition of penalties on both Appellants, the auditor said that the Appellant Grunbaum had the overall control of the activities of the Appellant Company. He provided some information requested by Revenue Canada which was inconsistent with some of the facts disclosed during the audit. She added that the amounts of income were material, involving in the case of the Appellant Grunbaum $42,000.00 and $26,000.00 in the case of the Appellant Company.

SUBMISSIONS ON BEHALF OF BOTH APPELLANTS

In his oral argument, counsel for the Appellants focused his observations on the deductibility of expenses incurred by the Appellant Company relating to the Appellant Grunbaum's trips to Israel and to the part of the wedding reception that related to the business guests.

With respect to the trips to Israel, counsel for the Appellants stressed with much force the point that it is customary for members of the Belzer Hassidic community, of whom the Appellant Grunbaum is a member, to consult with the Chief Rabbi of the

world Belzer community, about important business decisions. The Chief Rabbi is not only a spiritual leader but a business leader as well. He urged that the Appellant Grunbaum's trips to Israel were motivated mainly by business considerations.

With respect to the expenses relating to the wedding reception, counsel for the Appellants indicated that there are very few opportunities for the Appellant Grunbaum to incur promotion expenses because of his religious beliefs and the wedding reception given by him for a member of his immediate family is one such occasion. He implied that it is legitimate for the Appellant Company to incur such expenses.

RESPONDENT'S SUBMISSIONS

Counsel for the Respondent argued with respect to trips to Israel that the Appellant Grunbaum undertook these trips because of his personal beliefs and that these trips were not in connection with the business of the Appellant Company. The evidence, in his view, does not establish that these trips were made to further the financial interests of the Appellant Company.

Counsel for the Respondent also urged the Court to find that no part of the wedding expenses is deductible on the ground that these expenses are of a personal nature. He also stressed that the invitations to this reception were not sent by the Appellant Company to customers, suppliers and business contacts, but rather by the Appellant Grunbaum in his personal capacity. Counsel for the Respondent added with reference to these wedding expenses that in any event the evidence is not clear as to the portion of these expenses that relates exclusively to the business contacts in contradistinction to those expenses which have to do with the purely personal aspect of the reception.

In the course of analyzing the evidence adduced on behalf of the Appellants, including the evidence relating to the trips to Israel and the wedding reception, counsel for the Respondent strongly attacked the credibility of the Appellant Grunbaum. He suggested that I should discard the latter's evidence.

In the Reply to the Notice of Appeal, the Respondent submitted that the Appellant Company, in defraying the expenses of the Appellant Grunbaum, conferred a benefit or advantage on him within the meaning of paragraph 15(1)(*c*) of the *Act* since all these expenses were of a personal nature.

ANALYSIS

I have examined carefully the evidence given by Mrs. Mamone in relation to the various types of expenditures that are in issue in these appeals. I have found Mrs. Mamone to be a credible witness.

With respect to the purchases in the amount of $4,910.00 made in Mrs. Mamone's name in 1987, I find that the evidence is sufficiently detailed and I accept that these purchases were made in the course of Mrs. Mamone fulfilling her duties for the Appellant Company.

With respect to the item in the amount of $1,400.00 covering the purchase of three fur capelets, the evidence establishes that these capelets were given to sales agents that were identified by Mrs. Mamone. Mrs. Mamone was involved in this process. The invoice was put in evidence. Also, the Court has the unequivocal statement of the Appellant Grunbaum that these gifts were shipped to the individuals in question. One of the three recipients confirmed that he had received a fur capelet albeit this was done approximately five years after the event. No evidence was adduced to rebut the allegations made in this respect by the Appellant Grunbaum and Mrs. Mamone. I have concluded that these gifts, under the circumstances, were a legitimate business expense for the Appellant Company.

I also find that the explanations given by Mrs. Mamone regarding the item in the amount of $1,469.00 involving a Continental Bank of Canada cheque (cheque no. 2385) are credible in the attendant circumstances. This item represents a proper deduction for the Appellant Company.

I will now deal with the travelling expenses.

I am satisfied that on a balance of probability the travel expenses hereinafter mentioned were incurred for the purposes stated by Mrs. Mamone and, in some cases, by the Appellant Grunbaum:

1. Expenses in the amount of $4,060.80 covered by cheque no. 2609 payable to Mazel Travel Agency.
2. Expenses in the amount of $134.00 covered by cheque no. 2111 in the foregoing amount in connection with a trip to Toronto.
3. Expenses in the amount of $353.00 covered by cheque no. 2488 relating to a trip by Mrs. Mamone to Philadelphia.
4. Expenses in the amount of $180.88 (cheque no. 2391) regarding a trip in 1986 to Toronto.
5. Expenses amounting to $1,284.00 (and the related cheque no. 2083) representing business trips to Toronto and Dallas lighting shows made by the Appellant Grunbaum and Mrs. Mamone.
6. Expenses in the amount of $466.00 in connection with a trip in 1986 to Philadelphia.
7. Expenses relating to a trip made in 1987 to Milan, Italy, involving an amount of $1,725.00, regarding the possible purchase of a machine of a special type.
8. Expenses related to trips to the U.S. (cheque no. 1892) in 1987 in the amount of $1,170.18.
9. The travelling expenses in the amount of $300.00 of a sales agent in the course of a trip to Montréal made in 1987.

The expenses referred to in the first six numbered items totalling $6,478.68 represent expenses incurred in 1986, while the last three items in the total amount of $3,195.18 involve the 1987 taxation year.

Apart from the trips made by the Appellant Grunbaum, his wife and his daughter to Israel, which I will be discussing later, there were certain other items of travelling expenses, where the evidence adduced was unsatisfactory and the Appellant Company is therefore not entitled to deduct same.

With respect to that portion of the travelling expenses that has to do with trips to Israel, I have found the evidence of the Appellant Grunbaum generally unsatisfactory. Moreover, I have serious doubts about the truthfulness of the Appellant's testimony in respect of this particular subject matter. There is a substantial lack of details about the precise question or questions that he wanted to discuss with the Chief Rabbi of the Belzer Hassidic community except in connection with one of these trips. The duration of these trips was not specified and the justification for the length of the trips which, in some cases, lasted one or two weeks, was not established. No clear reasons were given by the Appellant Grunbaum why he could not get the advice requested from a local leader of the Montréal Hassidic community. While it is not a matter for the Court to second-guess the type of person a business man should consult, the Court is entitled however to be supplied with sufficiently detailed explanations regarding the requirement or the advisability of incurring or making unusual or exceptional expenses. Having regard to the evidence presented, I am not satisfied that the main purpose of these trips related to business considerations or motives. Furthermore, I find that a very large portion of these expenses, if not the totality, was clearly of a personal nature. Also, looking at the matter of whether the Minister of National Revenue was justified in imposing penalties in relation to these travelling expenses involving trips of the Appellant Grunbaum and others to Israel and bearing in mind the point that the burden of proof in respect of penalties is on the Minister of National Revenue, I have come to the conclusion that the assessments of penalties were properly levied on the Appellants. While in respect of a small portion of these travelling expenses it may well be that the conduct of the Appellant Grunbaum and the Appellant Company may not amount to gross negligence in the carrying out of their duty or obligation under the *Income Tax Act* because of the Appellant Grunbaum's religious beliefs and views about the advisability of consulting the Chief Rabbi of the world Belzer community in respect of business questions, I find it impossible, on account of the state of the evidence, to make a division between these expenses which would justify the assessment of penalties, for instance, the expenses which are clearly of a personal nature, and the other expenses for which there

could be some justification. Therefore, I conclude that the Minister of National Revenue has discharged the burden of proof resting on him in respect of the imposition of penalties in respect of the travelling expenses relating to trips to Israel.

It remains for me to consider the matter of the wedding expenses.

The evidence, in a nutshell, establishes that the invitations of the business guests to the wedding reception on the occasion of the marriage of Miss Sarah Grunbaum, the Appellant Grunbaum's daughter, were sent through the Appellant Company. The trade name of the said Company was rubber stamped on both the interior and the exterior envelopes accompanying the invitations which were in the name of the Appellant Grunbaum. The handling of the correspondence with the business guests in relation to the wedding reception was done exclusively by the Appellant Company. Four employees of the Appellant Company, apart from Mrs. Mamone, were involved in the special arrangements worked out for the business guests. Among the preparations undertaken, arrangements were made to pick up the business guests at the airport. A minivan was rented to shuttle them to their hotel and the reception hall. Not only did Mrs. Mamone, in her capacity of vice-president of the Appellant Company, supervise all the arrangements relating to the attendance of the business guests at this reception but she was as well the instigator behind all these arrangements.

It is true, as stressed by counsel for the Respondent, that the event which triggered this reception is of a personal nature. However, a proper analysis of the situation shows that with respect to the invitations to the wedding reception two main decisions were made. One decision concerns the invitations to family and friends. This decision is unquestionably of a personal nature and the expenses made as a result of this decision are likewise of a personal nature and obviously not deductible. The other main decision relates to the act of inviting business guests to the wedding reception. This second decision is clearly, in my view, a business decision. This decision was made by the Appellant Grunbaum and Mrs. Mamone on behalf of the Appellant Company. The Appellant Grunbaum could have decided that the wedding reception in honour of his daughter would be exclusively a family gathering and a private and personal affair. For reasons that concern

the Appellant Grunbaum and the Appellant Company, they took advantage of a personal event to make it in a large part a business promotion or a commercial endeavour. In this connection, I believe in particular the testimony of Mrs. Angela Mamone when she in substance expressed the view that the invitations of the business guests to the wedding and the holding of the related reception procured in all likelihood tangible benefits to the Appellant Company's business. In fact, as a direct result of these promotional activities made through the vehicle of the wedding reception, the Appellant Company was awarded in respect of its products a sole distributorship for the United States because of a contact made at the wedding reception with one Bridget Downs from Hamilton Lamp. This distributorship was expected to generate over $100,000.00 a year in additional revenues.

Therefore, I find that the expenses made or incurred in 1987 in connection with the invitations sent to the business guests and their attendance at this wedding were made or incurred by the Appellant Company for the purpose of gaining or producing income from its business.

In order to support his proposition that these expenses were of a personal nature, counsel for the Respondent made reference in the first place to a decision of the Tax Appeal Board in the case of *Roebuck* v. *M.N.R.*[7] In that decision, the question in issue was whether the cost of the Bath Mitzvah incurred by a taxpayer, a lawyer in partnership with his brother, was deductible. This function was arranged by the two lawyers in an attempt to bring back certain business for the firm, which, they believed, was being diverted because of inadequate social contacts with their clients. It should be noted that the Tax Appeal Board dealt in this case with paragraph 12(1)(*a*) of the *Income Tax Act* which is identical for all intents and purposes to paragraph 18(1)(*a*) of the present legislation. The Chairman of the Tax Appeal Board, Mr. Cecil L. Snyder, held that the expenses of the Bath Mitzvah were not deductible. His reasoning appears in the following passage of his decision at page 77 :

> ... The judgments of the courts of Canada may be summed up as holding that entertainment expenses made or incurred for the purpose of earning income from a business may be

[7] 61 DTC 72.

> deducted in computing business income subject to the exception that expenses allocable to personal pleasure or the convenience of the taxpayer may not be deducted.

I believe it is useful for a better understanding of this key statement to refer to a previous passage of the above decision where the Chairman commented on a judgment of the English Court of Appeal in *Bentleys, Stokes & Lowless v. Beeson*[8]. This English decision was based on a section of the *British Act*, as mentioned by the Chairman, which was not the same as the relevant section of the federal *Income Tax Act*. Incidentally, this section of the British statute is similar to paragraph 6(1)(*a*) of the *Income War Tax Act*. The provision of the British legislation then spoke of money "wholly and exclusively laid out or expended for the purpose of the profession". The Chairman then drew the following conclusion from the judgment of the English Court of Appeal:

> From what is set out in this judgment it may be deduced that an expense incurred for entertainment purposes may also be incurred for the personal pleasure or convenience of the taxpayer and the opinion of Lord Justice Romer is consistent with the proposition that entertainment expenses should be allowed to the extent only that they are incurred for the purpose of business promotion.

With respect, this decision of the Tax Appeal Board seemed to overlook the point that the criterion for an outlay or an expense to be outside the parameters of the prohibition laid down in paragraph 18(1)(*a*) of the *Act* relates to the purpose for which the outlay or expense was made or incurred. The decision of the English Court of Appeal in the case of *Bentleys, Stokes & Lowless v. Beeson* had to apply a stricter provision of the *British Act* than the present paragraph 18(1)(*a*) of our legislation. In the latter case, Lord Justice Romer described the issue to be decided in these terms:

> The question in all such cases is : Was the entertaining ... solely for the purposes of business, that is, solely with the object of promoting the business or its profit earning capacity?

---

[8] (1952) 33 T.C. 491.

The Respondent also placed considerable reliance on a decision of Judge Rip of this Court in the case of *Fingold* v. *M.N.R.*[9] In the *Fingold* case, Judge Rip decided that the payment by the two Appellants of expenses associated with the wedding of one Appellant's step-daughter and the Bar Mitzvah of the same Appellant's son were not deductible. Generally speaking, the facts in the latter case are not on all fours with those of the present case. In this respect, the following passages of Judge Rip's judgment are of particular interest in that they underline the key factual elements that do not exist in the present case as well as the reasoning behind his conclusion respecting the non-deductibility of the expenses relating to the Bar Mitzvah and the wedding reception. These passages read as follows:

> In my view when a taxpayer carrying on a business incurs expenses to promote the business -- and counsel for appellant's argument was that these expenses were incurred by Fobasco to promote its business -- the target of the expense, that is, the person who the taxpayer desires to think kindly of it, must be aware that the taxpayer, and no one else, has actually disbursed the funds for that purpose. Otherwise the whole exercise is in vain.
>
> There was no evidence that any of the business guests were aware that they were the guests not of David and his wife but of Fobasco. Weiss described himself as a 'business associate' of the Fingolds. No person invited as a business guest, other than Weiss and Rowley, who were not wholly disinterested witnesses, was called to testify that he or she knew that he or she was a guest of Fobasco. There is no evidence that the invitations sent to the business guests were any different from those sent to personal guests. I assume that Mr. and Mrs. David Fingold invited the guests to the Bar Mitzvah and wedding and that there was no mention of Fobasco as host on the invitations or, for that matter, at the actual Bar Mitzvah and wedding receptions. The business guests had no idea they were invited to these affairs as guests of Fobasco. When guests are invited to a Fobasco Christmas party they know Fobasco is the "host". I have no doubt the business guests knew they were invited because they had business dealings with the Fingolds but this is not sufficient for Fobasco to claim the guests as its own.

In the present case, the invitations to the business guests were sent through the Appellant Company and these guests were well aware that they were the guests of the Appellant Company.

---

[9] 92 DTC 2011.

Although the question in issue is not the same, I have read with interest the observations of President Jackett of the Exchequer Court of Canada, as he then was, in the case of *Olympia Floor & Wall Tile (Quebec) Ltd.* v. *M.N.R.*[10] In this case, the Appellant Company made substantial donations to Jewish charitable organizations and deducted the total as an expense incurred to earn income. The company maintained that the expense was incurred to develop goodwill and to enhance the company's prestige in the Jewish community. Furthermore, the company hoped to obtain contracts from the officers of the charitable organizations involved.

Jackett P., analyzed the deductibility of the donations under paragraph 12(1)(*a*) [now 18(1)(*a*)] as follows at pages 6086 and 6087:

> I am of the opinion that the amounts in question (after eliminating those that were not over $100), if one puts aside the fact that they were gifts to charitable organizations, fall clearly within the authority of *Riedle Brewery Limited v. M.N.R.*, (1939) S.C.R. 253 [1 D.T.C.499-29],where amounts were held to be deductible when they were spent by breweries in following a practice of "treating" potential customers because it was found that, if the practice was followed consistently, their sales would either be maintained or increased "whereas when the practice was discontinued, their sales would materially decrease". (...)

In the present case, the question to be resolved with respect to the entitlement or otherwise of the Appellant Company to the deduction of the portion of the expenses of the wedding reception relating to the business guests is whether or not these expenses were incurred for the purpose of earning or producing income from the Appellant Company's business. In my view, the weight of the evidence clearly suggests that the purpose for which these expenses were made or incurred was of a business nature. The Appellant Company expected to gain income from this public affairs operation. No motives or considerations of a personal nature ascribable to the Appellant Grunbaum have been established that relate to the portion of the expenses of the wedding reception that were made or incurred in relation to the business guests.

There was some dispute about the quantum of the expenses relating to the business guests but I am satisfied that the expenses in question are reasonable.

---

[10] 70 DTC 6085.

On this branch of the case, I would therefore conclude that the wedding expenses incurred with respect to the business guests are deductible in computing the Appellant Company's income for its 1987 taxation year.

FOR THESE REASONS:

The appeals of the Appellant Grunbaum are allowed, with costs, and the assessments in respect of the 1986 and 1987 taxation years are referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the following amounts should not be included in the Appellant Grunbaum's income in respect of the appropriate taxation year mentioned below:

a) The amounts representing the travelling expenses listed at page 22 of these Reasons for Judgment to the extent that the amounts were added to the Appellant Grunbaum's income, in some cases, for the 1986 taxation year and, in other cases, for the 1987 taxation year.

b) The amount of $12,477.79 representing the expenses of the wedding reception made or incurred during the 1987 taxation year.

c) The amount of $1,400.00 representing the cost of fur coats acquired in 1987.

d) The penalty portion of each assessment that relates to any of the matters mentioned in a), b) and c) is reduced accordingly.

In all other respects, including the treatment given to expenses involving trips to Israel, the subject assessments are confirmed.

The appeals of the Appellant Company are allowed, with costs, and the assessments in respect of its 1986 and 1987 taxation years are referred back to the Minister of National Revenue for reconsideration and reassessments on the basis that the amounts indicated below are deductible in computing the Appellant Company's income for the appropriate taxation year hereinafter mentioned:

a) The expenses listed at page 22 of these Reasons for Judgment, in respect of the year mentioned in relation to each expense.

b) The amount of $12,477.79 representing the expenses of the wedding reception made or incurred in 1987.

c) The amount of $1,400.00 representing the cost of fur coats acquired in 1987.

d) The expenses made in 1986 in the amount of $1,469.00 involving a cheque drawn on the Continental Bank of Canada.

e) The expenses in the amount of $4,910.00 representing purchases made by Mrs. Mamone in 1987.

f) The penalty portion of each assessment to the extent that it was imposed in relation to any of the subject matters mentioned above is reduced accordingly.

In all other respects, including the treatment given to the expenses involving trips to Israel, the subject assessments are confirmed.

A. Garon

J.T.C.C.

Ottawa, Canada,
this 24th day of March 1994.

Tax Court of Canada

Cour canadienne de l'impôt

NOMS DES AVOCATSINSCRITS AU DOSSIER/

NAMES OF COUNSEL AND SOLICITORS OF RECORD

N° DU DOSSIER DE LA COUR/ COURT FILE NO.:	91-352(IT)G and 91-353(IT)G
INTITULÉ DE LA CAUSE/ STYLE OF CAUSE:	Joshua Grunbaum and the Minister of National Revenue
LIEU DE L'AUDIENCE/ PLACE OF HEARING:	Montréal, Quebec
DATE DE L'AUDIENCE/ DATE OF HEARING:	January 11 and 12, 1993 June 22, 1993
MOTIFS DE JUGEMENT PAR/ REASONS FOR JUDGMENT BY:	the Honourable Judge A. Garon

COMPARUTIONS/
APPEARANCES:

Pour l'appelant(e)/ For the Appellant:	Murray Sklar
Pour l'intimé(e)/ For the Respondent:	Henri Bédirian

AVOCATS INSCRITS AU DOSSIER/
SOLICITORS OF RECORD:

Pour l'appelant(e)/ For the Appellant:	Murray Sklar Montréal, Quebec.
Pour l'intimé(e)/ For the Respondent:	John C. Tait, Q.C. Deputy Attorney General of Canada