Federal Court Cour fédérale

Date: 20240906

Docket: T-1549-23

Citation: 2024 FC 1399

Ottawa, Ontario, September 6, 2024

PRESENT: The Honourable Mr. Justice Favel

BETWEEN:

QING FANG

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Qing Fang [Applicant] seeks judicial review of a July 11, 2022 decision by a delegate of the Canada Revenue Agency [CRA] denying the Applicant's request to waive the tax on the excess contributions to her Tax Free Savings Account [TFSA].

[2] The Applicant had previously appealed this matter to the Tax Court of Canada [TCC] but the TCC concluded that it did not have jurisdiction.

[3] On July 11, 2023, the Applicant then filed a motion at this Court for an extension of time to file the application for judicial review with the Respondent's consent, which was granted on July 21, 2023.

[4] The application for judicial review is dismissed.

II. Background

[5] In the 2019 taxation year, the Applicant's contribution room in her TFSA was $34,619.57. On January 27, 2019, the Applicant made a $34,600 contribution.

[6] In the 2020 taxation year, the Applicant's contribution room in her TFSA was $6,019.57. On January 25, 2020, the Applicant contributed $40,619.57 to her TFSA. On April 10, 2020, the Applicant made a further contribution of $6,019.57. By year-end, the Applicant exceeded the contribution room by $40,619.57.

[7] On July 20, 2021, the CRA issued a TFSA notice of assessment for the 2020 tax year [2020 NOA] informing the Applicant that she was required to pay $7,307.97.

[8] On March 2, 2022, the Applicant submitted a request to waive the tax and tax interest [First Request], claiming she learned about the excess contribution and tax on February 26, 2022

when she logged into her CRA online account to file her taxes. On February 26, 2022, the Applicant withdrew $33,000 from her TFSA.

[9] In the First Request, the Applicant explained that on January 25, 2020, she contributed $40,619.57, mistakenly believing she had not used her contribution room from 2019 and 2020. A representative from her bank did not explain that she would exceed her contribution room. On April 10, 2020, the Applicant contributed $6,019.57 after forgetting her contribution in January 2020. The Applicant explained that she was experiencing difficult personal circumstances in 2019 and 2020 due to her father's death in 2019, taking care of her aging mother, increased work responsibilities, and the pandemic [Personal Circumstances]. Accordingly, the Applicant requested a waiver due to the following factors: the over-contribution was an honest mistake; she did not receive any notification about the over-contribution from the CRA alerting her to take immediate action; she did not see the 2020 NOA earlier; and she withdrew the over-contribution immediately after seeing the 2020 NOA.

[10] On April 27, 2022, a CRA assessment processing officer [First Reviewer] denied the Applicant's First Request. The First Reviewer noted that to grant requests, the tax must have arisen from a reasonable error and the individual must have acted right away to remove the excess contributions from the TFSA. The First Decision was denied as the removal of the excess TFSA contributions did not occur.

[11] On May 3, 2022, the CRA issued a TFSA notice of assessment for the 2021 tax year informing the Applicant that she was required to pay $9,718.31. The Applicant withdrew $15,000 from her TFSA on May 30, 2022.

III. Decision

[12] On May 27, 2022, the Applicant submitted a second request to waive the tax and interest [Second Request]. The Applicant explained that the over-contribution was not intentional, she withdrew the over-contribution on the same day she became aware of it. She would have investigated her TFSA account immediately had she became aware of the 2020 NOA earlier. In the Second Request, the Applicant also attached the First Request and its supporting documents.

[13] On July 11, 2022, a senior officer from the CRA [Second Reviewer] issued a denial letter [Second Decision], which is the decision under review. The Second Reviewer summarized the Applicant's explanation for the over-contribution, then noted that their records show that "the removal of excess TFSA contribution(s) did not occur within a reasonable time frame." The Second Decision stated that it is the Applicant's responsibility to initiate the voluntary removal of TFSA over-contributions without delay and that once notified of the implications of excess contributions, it is the Applicant's responsibility to familiarize herself with all the rules regarding the TFSA and ensure that over-contributions do not occur. Furthermore, all CRA mail available in My Account will be presumed to have been received on the date that the email notification is sent and that it is the Applicant's responsibility to ensure that the email address provided to CRA is correct at all times. Although the TFSA excess contributions were unintentional, the CRA does not consider the Applicant's circumstances to be a reasonable error, since individuals are

responsible for understanding their TFSA and their limits, reviewing their notice of assessment or reassessment to verify the information, and asking for information from the CRA when needed.

[14] The Applicant provided an affidavit for this judicial review explaining her Personal Circumstances. The Applicant states that in her January 2020 interactions with her bank, the bank representative refused to provide tax advice by informing her of her unused contribution room. In April 2020, the Applicant had contributed as she though that she had not used her contribution room of $6,019.

[15] The Applicant further stated that she chose not to elaborate on the conversation with her bank representative in her First Request, as she did not want to place blame on him and thought it would be easily resolved. In the Second Request, the Applicant only wrote a brief letter, as she assumed another officer would make a different decision upon reviewing the file. The Applicant also described her usual tax status as being in a refund position, so her inattention to CRA mails is not the same as those who always have to pay taxes. There were no other emails from the CRA after the 2020 NOA.

IV. Preliminary Issue

[16] The Respondent seeks an order correcting the style of cause to the Attorney General of Canada, pursuant to Rule 303(2) of the *Federal Courts Rules*, SOR/98-106 [*Federal Courts Rules*]. The request is granted (*Singh v Canada (Attorney General)*, 2022 FC 346 at para 5; *Sangha v Canada (Attorney General)*, 2020 FC 712 at para 3 [*Sangha*]).

V. Issues and Standard of Review

[17] After considering the parties' submissions, this matter raises the following issues:

1. Was the Second Decision reasonable?
2. Was the Second Decision procedurally fair?

[18] The parties agree that the standard of review for the merits of the Second Decision is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]; *Perinpanayagam v TSFA Processing Unit*, 2020 FC 1111 [*Perinpanayagam*] at para 25). I agree. This matter does not engage one of the exceptions set out by the Supreme Court of Canada in *Vavilov*. Therefore, the presumption of reasonableness is not rebutted (*Vavilov* at paras 16-17).

[19] A reasonableness review is a robust form of review that requires the Court to consider both the administrator's decision-making process and the outcome of the decision (*Vavilov* at paras 83, 87; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 58 [*Mason*]). A reviewing court must take a "reasons first" approach to assess whether the decision bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justifiable in relation to the relevant factual and legal constraints (*Vavilov* at paras 15, 99; *Mason* at paras 59-61). The onus is on the Applicant to demonstrate the unreasonableness of the decision (*Vavilov* at para 100).

[20] The Applicant submits that the standard of review for procedural fairness is correctness (*Gekas v Canada (Attorney General)*, 2019 FC 1031 at paras 14-15 [*Gekas*]). I agree that

procedural fairness issues are reviewed on a standard akin to correctness (*Canadian Pacific Railway v Canada (Attorney General)*, 2018 FCA 69 at para 54 [*CP Railway*]). The Court will therefore determine whether the process followed was fair having regard to all the circumstances (*CP Railway* at para 54; *Vavilov* at para 77; *Baker v Canada (Minister of Citizenship and Immigration*), 1999 CanLII 699 (SCC) at paras 21-28).

VI. Relevant Provisions

[21] The *Income Tax Act*, RSC 1985, c 1 (5th Supp) [*ITA*] provides that tax is payable on excess contributions to a TFSA:

> **Tax payable on excess TFSA amount**
>
> 207.02 If, at any time in a calendar month, an individual has an excess TFSA amount, the individual shall, in respect of that month, pay a tax under this Part equal to 1% of the highest such amount in that month.

[22] The *ITA* also allows for the Minister to waive or cancel the tax payable for excess contributions:

> **Waiver of tax payable**
>
> 207.06 (1) If an individual would otherwise be liable to pay a tax under this Part because of section 207.02 or 207.03, the Minister may waive or cancel all or part of the liability if
>
> (a) the individual establishes to the satisfaction of the Minister that the liability arose as a consequence of a reasonable error; and
>
> (b) one or more distributions are made without delay under a TFSA of which the individual is the holder, the total amount of which is not less than the total of
>
> (i) the amount in respect of which the individual would otherwise be liable to pay the tax, and

(ii) income (including a capital gain) that is reasonably attributable, directly or indirectly, to the amount described in subparagraph (i).

VII. Analysis

A. *Was the Second Decision reasonable?*

(1) Applicant's Position

(a) *Decision of the First Reviewer*

[23] At the time of the decision of the First Reviewer, the Applicant's withdrawal of $33,000 on February 26, 2022 was not appearing in CRA's system. However, the Applicant's First Request stated that she removed the excess contribution on February 26, 2022. It was unreasonable for the First Reviewer to rely on this information to state that the Applicant had not withdrawn the excess contribution. This situation is unlike the circumstance in *Posmyk v Canada (Attorney General),* 2021 FC 393 [*Posmyk*] where a CRA official unknowingly relied on an error in the CRA computer base, but even there, the Court found it was unreasonable for the respondent to rely on the error (at paras 19-21).

[24] The Applicant was negatively impacted, as she lost the opportunity to influence the Second Decision because of the mistake by the First Reviewer.

(b) *Second Decision*

[25] The Second Reviewer did not conduct an independent review but made a decision to maintain the First Decision then tried to find justification supporting that decision. Most of the

justification in the Second Decision concerned a reasonable timeframe rather than a reasonable error. The Second Reviewer adhered to the rule in the CRA's manual concerning a reasonable timeframe but deviated on reasonable error. There was no basis of support in the CRA manual to support the outcome of the Second Decision.

[26] The Second Reviewer also made several errors. First, the Second Reviewer paraphrased one of her points wrong as the Applicant had written "[f]irst the over-contribution was not intentional" but the Second Reviewer wrote "[i]n your letter, you stated that the first over-contribution was not intentional." This change alters the meaning of the sentence and implies that the second over-contribution in April 2020 was intentional. Second, the Second Reviewer wrote, "[y]ou stated that you withdrew the over-contribution in the same day you became aware of of [sic] the over-contribution as mentioned in your letter dated March 2nd." This sentence contains a grammatical mistake and signals carelessness. Third, the Second Reviewer wrote "[t]he initial assessment is correct …" but the Applicant submits that the First Decision was based on a wrong fact and the Second Decision was silent on this point. Even if an outcome is justifiable, a decision is not reasonable if the reasoning is flawed (*Howard v Canada (Attorney General)*, 2022 FC 1673 at para 21, citing *Vavilov* at para 86 [*Howard*]).

[27] Furthermore, the Second Reviewer did not provide adequate reasons. The only reasons in the Certified Tribunal Record [CTR] are the decision of the First Reviewer and the Second Decision, and the Second Reviewer did not explain why they made a decision contradictory to their CRA's manual. The CRA's manual considers a reasonable error to be "an unintentional

error or series of actions for a first-time over-contributor." Here, the Applicant was a first-time over-contributor and the Second Reviewer acknowledged her error as unintentional.

[28] The Second Reviewer also did not address the Applicant's central concerns, such as her Personal Circumstances, which renders a decision unreasonable (*Howard* at paras 33-34, *Ifi v Canada (Attorney General)*, 2020 FC 1150 at para 25; *Sangha* at paras 27-28).

[29] The Second Reviewer did not consider all relevant facts contextually and holistically. First, in determining that the Applicant did not withdraw the excess contribution in a reasonable timeframe, the Second Reviewer did not consider the context that the Applicant was in a position to receive a tax refund for 19 out of 22 years since the year 2000 and the three remaining years were a result of her husband's tax return. It is reasonable that the Applicant's attention to CRA mail would not be the same as those who always have to pay taxes.

[30] Second, the Second Reviewer did not give the Applicant any credit for taking immediate corrective action once becoming aware of the excess contribution when logging into her CRA online account to file taxes the following year. This matter is distinguishable from *Badesha v Canada (Attorney General)*, 2021 FC 215 [*Badesha*] and *Perinpanayagam* where the applicants had a motivation not to withdraw and had seen the notices of assessment. Instead, this matter is more similar to *Jiang v Canada (Attorney General)*, 2019 FC 629 and *Weldegebriel v Canada (Attorney General)*, 2019 FC 1565 [*Weldegebriel*] where the applicants took immediate action upon becoming aware of the notices of assessment. However, a distinguishing factor in the

Applicant's favour is that the applicants in these cases were issued multiple notices of assessments whereas the Applicant here only received one similar to *Howard* and *Gekas*.

[31] Third, the Second Reviewer did not consider the CRA's own processing delays in sending communications about the accrued interest amount. The Applicant made the first excess contribution on January 25, 2020 but she only received the first notification of the excess contribution through the 2020 NOA, which included one line about it. Had the CRA notified the Applicant earlier, she could have removed the excess contribution sooner and the penalty would not have accrued from January 2020 to February 2022.

[32] Fourth, the Second Reviewer fettered their discretion in applying the 30-day rule. The CRA's manual is a discretionary matter so an official is obligated to determine the most appropriate decision. The Applicant has a stronger basis to waive the penalty compared to other cases, aside from *Howard*, as the Applicant and the applicant in *Howard* both involved a single first-time incident and the applicants took immediate corrective action when becoming aware. It is against the spirit of the relief provisions in the *ITA* not to waive the penalty for the Applicant considering the Applicant immediately corrected the over-contribution.

(2) Respondent's Position

[33] The Second Reviewer's interpretation of subsection 207.06(1) was reasonable.

(a) *Reasonable Error*

[34] The Second Reviewer provided responsive reasons on the first element of the test by summarizing the Applicant's position and explaining why the position was not accepted by focusing on the Applicant's responsibility in a self-assessing taxation system, which is consistent with the jurisprudence of this Court (*Yew v Canada (Revenue Agency)*, 2022 FC 904 at paras 49-51 [*Yew*].

[35] Furthermore, the Second Reviewer's determination on the reasonableness of the error was consistent with the CRA's internal policies as it states that a reasonable error *may* include an unintentional error but not that an intentional error must be a reasonable one. As the Court stated in *Yew*, "[a]s a matter of law, innocent or honest errors are not determinative—they do not necessarily lead to a finding of a 'reasonable error' under paragraph 207.06(1)(a)" (at para 54). The Applicant submits now that the crux of her submissions was memory loss and emotional distress when she made the excess contributions. However, these submissions were not before the Second Reviewer.

[36] The Second Reviewer was not required to respond to every submission, particularly given the tangential nature of this argument (*Vavilov* at para 128). It was reasonable for the Second Reviewer not to address the Applicant's arguments that were raised in detail for the first time on judicial review concerning her filing history, the CRA's processing delays, or her Personal Circumstances. Nevertheless, the Second Reviewer did accept the Applicant's central argument that the excess contributions were not intentional but still exercised their discretion to conclude that, while it was unintentional, it was unreasonable.

[37] A reasonableness review is not a “line-by-line treasure hunt for error” (*Vavilov* at para 102). The fact that there were typographical errors also does not render the Second Decision unreasonable.

(b) *Without Delay*

[38] The Second Reviewer reasonably found that the excess contributions were not withdrawn “without delay” as required by paragraph 207.06(1)(b) of the *ITA*. The Second Reviewer did not identify a specific time by which the Applicant had to withdraw the excess contributions, but did identify that the time to withdraw excess contributions began as of the date of notification. It is well established that the CRA is obligated only to provide that the notice was sent and not that it was received, and that the Minister has applied her discretion to interpret “without delay” as within 30 days of notification (*Badesha* at para 18). The Applicant withdrew the excess contributions 221 days after the 2020 Notice of Assessment was sent.

[39] There is also no indication that the Second Reviewer fettered their discretion. Instead, the Second Reviewer reasoned that the time to withdraw the excess contributions began as of the date of notification. In response to the Applicant’s central argument that she did not see the CRA’s email, the Second Reviewer emphasized that “[a]ll CRA mail … will be presumed to have been received on the date that the email notification is sent…” and “[y]ou accept this risk and acknowledge that CRA will not be liable if you are unable to access or receive the email notifications, not for any delay or inability to deliver notifications.” This is not an unreasonable assessment.

[40] With respect to the Applicant's submissions on the decision of the First Reviewer being based on incorrect facts, the Respondent concedes that the First Decision misapprehended whether the excess contributions had been withdrawn at all. However, this error was rectified in the Second Decision as the Second Reviewer stated, "the removal of excess TFSA contribution(s) did not occur within a reasonable time frame" [emphasis added]. Any factual errors in the First Decision are not relevant on judicial review because they have been superseded by the Second Decision (*Toastmaster Inc v Canada (National Revenue)*, 2011 FC 1309, aff'd 2012 FCA 317 at para 35). To the extent that the First Decision affected the Applicant's arguments in the Second Request, the Respondent submits that this is an issue of procedural fairness rather than substantive review.

(3) Conclusion

[41] The Second Decision was reasonable. While the Applicant made submissions about the First Decision, it is not the role of this Court to review the First Decision. Rule 302 of the *Federal Courts Rules* limits judicial review to one order unless an applicant challenges continuing acts or a course of conduct (*David Suzuki Foundation v Canada (Health)*, 2018 FC 380 at para 164). The Applicant has not shown that there is a continuing course of conduct and the disputed error in the First Decision was not repeated in the Second Decision.

[42] That said, the First Decision's impact on the Second Decision may, be addressed more appropriately under the issue of procedural fairness.

[43] First, the Applicant's submissions on typographical or grammatical errors in the Second Decision have no merit. A reviewing court must not conduct a "line-by-line treasure hunt for error" in its reasonableness review (*Vavilov* at para 102). These minor errors do not affect the justifiability, transparency, or intelligibility of the Second Decision.

[44] Second, I find that the Second Reviewer's reasons are responsive to the Applicant's submissions, indicated by the Second Reviewer's summary. The Applicant submits that the Second Reviewer did not address the Applicant's central submissions that she did not remember that she contributed to her TFSA in January 2019 due to her Personal Circumstances and the bank representative did not advise her about her contribution limit. Neither of these submissions were included in the Second Request.

[45] I acknowledge that these submissions were included in the First Request, which the Applicant appended to the Second Request. However, decision-makers are presumed to have considered all evidence presented to them unless the contrary is shown (*Perinpanayagam* at para 35). I am unpersuaded by the Applicant's submission, as a decision-maker is also not required to respond to every argument or make explicit findings on each constituent element leading to its final conclusion (*Vavilov* at para 128). The Second Reviewer nevertheless accepted the Applicant's central point from these submissions that the errors were unintentional.

[46] The Second Reviewer also provided adequate reasons. The Second Reviewer did not render a decision lacking specificity to the Applicant's situation, as the Second Reviewer summarized the Applicant's submissions and considered the relevant factual matrix in

determining whether the Applicant qualified for relief under section 207.06 of the *ITA*. The Second Reviewer reasonably applied the elements and the Applicant has not shown that the analysis contradicts the CRA's manual as alleged. First, the Second Reviewer's findings that the withdrawal did not occur "without delay" has a reasonable basis in the CRA's manual, which refers to "without delay" being within 30 days of being notified. There is no indication in the record that the Second Reviewer fettered their discretion.

[47] Second, the Second Reviewer's findings that there was not a reasonable error also has a reasonable basis in the CRA manual. The CRA manual only states that a "[r]easonable error may include the following" [emphasis added] with the first example being "[a]n unintentional error or series of actions for a first time over-contributor." It does not state that an unintentional error is a reasonable error, so the Second Reviewer was not required to find that there was a reasonable error in this matter. Furthermore, the CRA manual also states that a reasonable error does not include getting poor advice from a financial institution or misreading notices from the CRA. There is also an expectation that individuals will immediately correct and manage their TFSA accounts within their contribution room limit after being informed by a notice of assessment.

[48] Lastly, the Applicant submits that the Second Reviewer did not take into consideration the following facts contextually and holistically: the Applicant's tax filing history as primarily being in a refund position each year; the Applicant took corrective action immediately after checking her 2020 NOA; and the CRA's delay in notifying the Applicant. Respectfully, the role of the Applicant's tax filing history and any delay in notifying the Applicant were not issues raised in either the Second Request or the First Request and consequently were not before the

Second Reviewer as factors in determining whether the Applicant met the requirements for relief. The Applicant's actions in taking corrective actions were before the Second Reviewer as the Applicant emphasized it in the Second Request, as well as the First Request. However, the Second Reviewer considered when the Applicant withdrew the excess contribution in determining whether the Applicant withdrew it without delay. It is not the role of the reviewing court to reweigh evidence (*Vavilov* at para 125).

B. *Was the Second Decision procedurally fair?*

(1) Applicant's Position

[49] First, the CRA treated the Applicant unfairly and prejudiced her by not sending an education letter as a first-time over-contributor (*Howard*; *Perinpanayagam; Posmyk; Sangha; Weldegebriel; Yew*). The CRA's manual has a note stating, "the first contact by CRA can be an educational letter of a proposed return or an assessment if no proposed return was sent." An education letter would have been more alerting and effective than a notice of assessment.

[50] The Second Reviewer also did not treat the Applicant fairly by inconsistently applying the CRA's internal procedures to manipulate the outcome. The Applicant was not treated fairly by the CRA when the Second Reviewer inconsistently applied their internal procedures to suit the Second Reviewer's desire or pre-judgment.

(2) Respondent's Position

[51] The Applicant's submissions are essentially that (1) the Applicant could have written a completely different second letter and she lost the opportunity to influence the second decision because of the mistake by the first officer; and (2) the Applicant did not receive an education letter which is sent to first-time over-contributors. Neither of these arguments establish a breach of procedural fairness.

[52] First, the duty of procedural fairness is not "procedural perfection" but a balance between the need for fairness, efficiency, and predictability of outcome (*Knight v Indian Head School Division*, 1990 CanLII 138 (SCC)). The fact that the Applicant, in hindsight, may have preferred to have taken a different approach with the Second Request does not establish a breach of procedural fairness. The Applicant was notified of the opportunity to seek a second review if she disagreed with the First Decision and did so but failed to notify the Second Reviewer of any errors in the First Decision but rather only raises it now on judicial review. The Applicant also appended the First Request and associated transaction records for the TFSA to the Second Request, and the Second Reviewer is presumed to have considered all evidence before them (*Perinpanayagam* at para 35).

[53] The Applicant has also not demonstrated a reasonable apprehension of bias beyond conjecture and a bald assertion. The Second Decision explicitly stated that a "separate CRA official, not involved with the initial decision" made the decision. The threshold for finding of a reasonable apprehension of bias is high and such allegation against a public servant is one that should not be made in the absence of significant evidence (*Shaw Estate v Canada (Attorney General)*, 2021 FC 576 at paras 48-53 [*Shaw Estate*]).

[54] Second, the only decision under review is the Minister's discretionary decision to deny relief and not the imposition of tax, which arises as a matter of law pursuant to the *ITA*. The Applicant has already raised these arguments in an appeal before the Tax Court of Canada, which was ultimately quashed for a lack of jurisdiction. Even if this Court had jurisdiction to consider the imposition of tax in the first place, which the Respondent denies, the Applicant had no legitimate expectations that she would receive an education letter as she learned about education letters after the Second Decision (*Therrien v The Queen*, 2005 CanLII 92642 (TCC)).

(3) Conclusion

[55] The Second Decision was procedurally fair.

[56] The Applicant's procedural fairness rights were not breached by the CRA notifying the Applicant about the excess contribution through notices of assessment and not an education letter. This may have been a breach if the Applicant had legitimate expectations that the CRA would follow the procedure of notifying her about the excess contribution through an education letter (*Baker* at para 26). However, the Applicant learned about education letters through her preparation for the hearing at the TCC and not through any communication by the CRA creating a legitimate expectation for an education letter. In her submissions, the Applicant also challenges the CRA's procedure to initiate first contact by either an education letter of a proposed return or an assessment due to arguments about the lack of efficacy of notifying by an assessment. However, the effectiveness of the CRA's policy is not an appropriate issue for the Court to assess during a judicial review.

[57] The Applicant further submits that the decision of the First Reviewer is relevant as it negatively impacted how she approached the Second Request and the Second Reviewer did not conduct an independent review. I agree with the Respondent that the Applicant's submissions alleging an apprehension of bias are speculative. As this Court has held, "an allegation of bias against a public servant is a serious matter and should not be made in the absence of significant evidence" (*Shaw Estate* at para 53). As found above, the Second Reviewer rendered a transparent, intelligible, and justified decision based on the relief requirements in the *ITA* and the CRA's manual. There is nothing in the record to suggest that the Second Reviewer was biased or that the Second Reviewer pre-determined the outcome.

[58] As for the decision of the First Reviewer negatively impacting the Applicant as it affected how she made her submissions for the Second Request, this does not establish a breach of procedural fairness. The Applicant still had the opportunity to make submissions and be heard before the Second Decision was made. There was no limitation placed on the Applicant by the CRA in terms of what she could submit in the Second Request, even if in retrospect the Applicant may have preferred to approach the Second Request differently.

VIII. Conclusions

[59] For the reasons above, this application for judicial review is dismissed. The Second Decision was reasonable and procedurally fair.

JUDGMENT in T-1549-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no order for costs.
3. The style of cause is amended to reflect the Attorney General of Canada as the Respondent.

"Paul Favel"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1549-23
STYLE OF CAUSE:	QING FANG v MINISTER OF NATIONAL REVENUE
PLACE OF HEARING:	VANCOUVER, BRITISH COLUMBIA
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DATED:	SEPTEMBER 6, 2024

APPEARANCES:

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CRYSTAL CHOI	FOR THE RESPONDENT

SOLICITORS OF RECORD:

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DEPARTMENT OF JUSTICE VANCOUVER, BC	FOR THE RESPONDENT