



Case in Brief: *Iris Technologies Inc. v. Canada (Attorney General)*

Judgment of June 28, 2024 | On appeal from the Federal Court of Appeal

Neutral citation: 2024 SCC 24

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***The Supreme Court confirms that a taxpayer should not challenge tax assessments by applying to the Federal Court for declarations.***

In this appeal, the Supreme Court dealt with a question of jurisdiction. It determined whether a taxpayer's challenge to the validity of tax assessments was a matter within the exclusive jurisdiction of the Tax Court of Canada or whether it could be brought in the Federal Court.

Iris Technologies Inc. filed Goods and Services Tax (GST) returns claiming tax refunds under the *Excise Tax Act* ("ETA"). The Minister of National Revenue (the Minister) began an audit of the relevant reporting periods and refused to pay the refunds while the audit was ongoing. The Minister then issued an assessment denying the tax refund, and assessed penalties to be paid by Iris.

Iris asked the Federal Court to review the Minister's assessment. This kind of request is referred to as an application for judicial review. Iris also asked the Federal Court to declare (a) that the Minister failed to afford Iris procedural fairness in the audit and an opportunity to respond to the proposed adjustments; (b) that the assessments were made without evidentiary foundation and contrary to the findings of fact made by the Minister; and (c) that the assessments were made for the improper purpose of seeking to deprive the Federal Court of jurisdiction in a related application.

The Attorney General of Canada brought a motion to strike Iris' application for judicial review. The Case Management Judge dismissed the Attorney General's motion. The Attorney General appealed that decision to the Federal Court.

The Federal Court dismissed the Attorney General's appeal, but the Federal Court of Appeal allowed its subsequent appeal and struck out Iris' application for judicial review on the basis that it was, in essence, a collateral challenge to the validity of the assessments, a matter within the exclusive jurisdiction of the Tax Court. Iris appealed to the Supreme Court of Canada.

The Supreme Court dismissed the appeal.

**The matter should be brought in the Tax Court of Canada.**

Writing for the majority, Justice Kasirer held that notwithstanding the issuance of a tax assessment, the Federal Court has exclusive jurisdiction to conduct judicial review over discretionary decisions delegated to the Minister by Parliament, including those that directly affect liability. However, the Minister's assessment of net tax pursuant to the *ETA* is not the exercise of a discretionary power; it is a non-discretionary determination where the outcome, the assessment, is dictated by statute. Jurisdiction over the correctness of the assessment falls to the Tax Court under section 302 of the *ETA*.

In the instant case, two of the claims raised by Iris in its application for judicial review— those alleging procedural unfairness and a lack of an evidentiary foundation — are properly within the exclusive jurisdiction of the Tax Court as they are best characterized as attacks on the correctness of the assessment. Iris' third claim, that the Minister acted with an improper purpose, could, in some circumstances, be the basis for an application for judicial review, but should be struck because Iris did not allege facts in its application that, if taken to be true, would give any support to this claim.

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**Breakdown of the decision:** *Majority:* Justice [Kasirer](#) dismissed the appeal (Justices [Martin](#), [Jamal](#) and [O'Bonsawin](#) agreed) | *Concurring:* Justice [Côté](#) agreed to dismiss the appeal for different reasons (Justices [Karakatsanis](#) and [Rowe](#) agreed).

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