NOVA SCOTIA COURT OF APPEAL

Citation: *Nova Scotia (Assessment) v. Hinspergers Poly Industries Ltd.*,2004 NSCA 12

Date: 20040129
Docket: CA 205375
Registry: Halifax

Between:

The Director of Assessment holding office as such pursuant to the provisions of the *Assessment Act*, R.S.N.S. 1989, c. 23

Appellant

v.

Hinspergers Poly Industries Limited, a body corporation, with head office at Mississauga, Ontario and the Town of Truro

Respondents

Judges:	Glube, C.J.N.S.; Bateman and Cromwell, JJ.A.
Appeal Heard:	January 29, 2004, in Halifax, Nova Scotia
Written Judgment:	January 29, 2004
Held:	Appeal dismissed per oral reasons for judgment of Cromwell, J.A.; Glube, C.J.N.S. and Bateman, J.A. concurring.
Counsel:	Valerie Paul, for the appellant Andrew Fraser and Ben Durnford, for the respondent Hinspergers Poly Industries Limited No one appearing for other respondents

Reasons for judgment:

[1] The respondent was late appealing the 2000 assessment on its Truro factory. It requested an extension of time from the Regional Assessment Appeal Court ("R.A.A.C.") but the extension was refused. It appealed that decision to the Utility and Review Board ("URB") which allowed the appeal, granted the extension and referred the appeal back to the R.A.A.C. to hear the assessment appeal. The appellant now appeals the URB's order to this Court under s. 30 of the **Utility and Review Board Act**, S.N.S. 1992, c. 11, as amended. The appeal here is confined to questions of law or jurisdiction.

[2] It is common ground that the URB had the jurisdiction to consider the evidence and decide the extension issue *de novo*. The Board concluded that a major corporate restructuring of the respondent had inundated its staff and prevented it for a sufficient cause from appealing the assessment on time. The Board referred to the situation in which the respondent found itself at the relevant time as being engaged in a " degree and intensity of activity ... [which was] ...remarkable and unprecedented [and which] imposed severe strains on an administrative and management structure which had minimal staff ...". The Board stressed its conclusion that the circumstances were "extenuating" and "unique" and that the word "prevented" in s. 84(1) implies a high threshold for extensions.

[3] The appellant argues that the URB erred in finding that the respondent was "prevented" from filing its notice on time within the meaning of s. 84(1) of the **Assessment Act**, R.S.N.S. 1989, c. 23, as amended. However, in our view the Board did not commit any reviewable error of law or jurisdiction in its application of s. 84(1) to the facts of this case. The appeal is accordingly dismissed.

[4] We think this is a case for costs and we order the appellant to pay the respondent its costs of the appeal fixed at $750.00 inclusive of disbursements.

Cromwell, J.A.

Concurred in:

Glube, C.J.N.S.

Bateman, J.A.