



0955716

REGISTERED MAIL

Your file Votre référence

Our file Notre référence

Babbar Khalsa Society
c/o Andrew S. Berna
700-275 Lansdowne Street
Kamloops, B.C.
V2C 6H6

Attention: Mr. Avtar Singh Narwal
President

March 6, 1996

Dear Mr. Narwal:

Re: Babbar Khalsa Society

This letter is further to the letter from Mr. Andrew S. Berna dated February 28, 1996, in which he indicated that you will not be making any further submissions in response to our letter of February 9, 1996 and three previous letters in which you were invited to submit representations to us as to why the Minister of National Revenue should not revoke the registration of the Babbar Khalsa Society (the "Society") in accordance with subsection 168(1) of the *Income Tax Act* (the "Act").

Therefore, I wish to advise that pursuant to the authority granted to the Minister in subsection 168(1) of the Act and delegated to me in subsection 900(8) of the Regulations to the Act, I propose to revoke the registration of the Babbar Khalsa Society. By virtue of subsection 168(2) of the Act, the revocation will be effective on the date of publication in the Canada Gazette of the following notice:

Notice is hereby given, pursuant to paragraph 168(1)(b) of the Income Tax Act, that I propose to revoke the registration of the organization listed below and that the revocation of registration is effective on the date of publication of this notice.

0955716-39 Babbar Khalsa Society
Kamloops, British Columbia

Canada

Should you wish to appeal this notice of intention to revoke the charity registration in accordance with subsections 172(3) and 180(1) of the Act, you are advised to file a Notice of Appeal with the Federal Court of Appeal within 30 days from the mailing of this letter. The address of the Federal Court of Appeal is:

Supreme Court Building
Wellington Street
Ottawa, Ontario
K1A 0H9

As of the date of revocation of the registration of the organization, which is the date upon which the above-noted notice is published in the Canada Gazette, the organization will no longer be exempt from Part I Tax as a registered charity and will no longer be permitted to issue official donation receipts.

Additionally, the organization may be subject to tax exigible pursuant to Part V, section 188 of the Act. For your reference, I have attached a copy of the relevant provisions of the Income Tax Act concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation.

I wish to advise you that pursuant to subsection 150(1) of the Act a return of income for each taxation year in the case of a corporation (other than a corporation that was a registered charity throughout the year) shall without notice or demand therefor, be filed with the Minister in prescribed form containing prescribed information. Also we draw your attention to paragraph 149(1)(l) of the Act which states the definition of a non-profit organization and subsection 149(12) which states the filing requirements of a non-profit organization.

Yours truly,



R.A. Davis, CGA
Director
Charities Division

Attachments



Revenue
Canada

Revenu
Canada

Your file *Votre référence*

Our file *Notre référence*

PRIORITY POST

Mair Jensen Blair
Barristers & Solicitors
700-275 Lansdowne Street
Kamloops, B.C.
V2C 6H6

Attention: Mr. Andrew S. Berna

February 9, 1996

Re: The Babbar Khalsa Society

Thank you for your letter dated January 11, 1996, sent in reply to ours dated December 21, 1995.

Your letter questions the Department's reasons for auditing the Society. It also suggests that a decision to revoke the Society's registration has already been taken, despite the fact that the Department has written on three previous occasions to give your client the opportunity to provide satisfactory reasons why the Minister's authority to revoke registration for the reasons set out in those letters should not be exercised. Please accept my assurance that a final decision in this matter will not be taken until considering your reply, by March 1, 1996, to this letter. If we do not receive a reply by March 1, our decision will be based on the facts outlined below as well as the representations you have made to date.

As you are aware, questions concerning the Society's eligibility for registration and its connection to Babbar Khalsa International were raised in the House of Commons last spring. Copies of the Hansard record of questions put to the Honourable David Anderson, then Minister of National Revenue, by Val Meredith, the Member of Parliament for Surrey - White Rock - South Langley, on May 4 and June 5, 1995 are enclosed for your client's reference. As Mr. Anderson indicated in his reply to these questions, the Department has a responsibility to investigate when it receives information which suggests that an organization registered as a charity may be operating for purposes that are not charitable.

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Canada

Given the objects for which your client was established when it first applied to the Department for registration, the question of whether the purposes for which the Babbar Khalsa Society is operated in Canada are in any way connected to the objectives and activities of Babbar Khalsa International has a reasonable basis and deserves thorough examination.

According to the documentation filed by your office when the Babbar Khalsa Society made application for registration in April, 1990, it was founded in 1984 by Talvinder Singh Parmar, Ajaib Singh Bagri, Surjan Singh Gill, Avtar Singh Narwal, Gurmit Singh Gill, and Satnam Singh Khun Khun. Its purposes included the following objectives:

- (c) To act and struggle for establishment of a Sikh homeland
- (d) To assert the individual and collective sovereignty of Sikhs as a people
- (e) To maintain the society as a religious, political and charitable society
- (f) To promote and maintain the character of Sikhism in its dual aspects of "Miri" and "Piri", that is both temporal and spiritual aspects, and including the "Dharam" (religion) and "Syast" (politics)

You were informed at that time that the Society could not qualify for charitable registration because these objectives were political and not exclusively charitable in nature.

In order to obtain registration for the Society, you supplied a certified true copy of a special resolution passed by the Society on May 30, 1992 amending its objectives to remove any reference to political aims and activities. Of the six directors at that time, four were original incorporating directors in 1984. Two of those four (Gurmit Singh Gill and Avtar Singh Narwal) remain on the present board of five directors.

Following an audit of the books and records of the Society conducted last July, we wrote to you on September 21, 1995. We raised a number of concerns indicated by the audit, including the fact that the books and records of the Society did not contain sufficient information to enable us to establish, as a matter of fact, what activities have been carried on by the Society during the time that it has enjoyed registration as a charity. We also noted that the majority of the financial transactions reflected in the books of the Society for its 1994 and 1995 fiscal years related to the costs of a float for the Baisakhi Day parade held annually in Vancouver.

As you know, a charitable organization's registration may be revoked if, in any year, it fails to expend, on charitable activities carried on by it or by way of gifts to qualified donees, an amount that is equal to 80% of the amounts for which it has issued official donation receipts in the immediately preceding taxation year. Unless the Society's float expenses can be

attributed to charitable activities, the Society faces a shortfall in meeting its 1994 disbursement quota. Consequently, we asked that you provide an explanation as to how these float expenditures related to the objects of the Society.

Your letter dated October 25, 1995 advised that these monies were spent "...for the representation of the Society to celebrate the Sikh Nation Birthday...", and that you are "...told that celebrating the Sikh Nation Birthday is interchangeable with celebrating the birthday of the Sikh religion." As indicated by our letter dated November 3, 1995, this response did not satisfy our concern that the Society has continued to pursue the political aim of establishing a separate Sikh nation despite the changes made to its governing documents, and that its participation in the annual Baisakhi Day parade in Vancouver was an activity directed at promoting that goal.

Your reply dated November 24, 1995 reported your client's assertion that this parade is "...totally religious in content..." and "...is in no way political...". When we then sought to verify your client's representations, we were informed by the R.C.M.P. that they had photographed the 1993 and 1994 Baisakhi parades, and that their photographic evidence confirmed that several groups known to be dedicated to the cause of an independent Khalistani state participated in this parade. In addition to Babbar Khalsa International, these included the Liberation Tigers of Khalistan, the Khalistan Commando Force, and the International Sikh Youth Federation. We wrote to advise you of this information as soon as it became known to us, and before we were actually in possession of these photographs. We received copies of these photographs on January 19, 1996, accompanied by an explanatory statement from the R.C.M.P.. Copies of these documents are now enclosed for your client's reference.

From these photographs, it would appear to us that in the April, 1993 parade there was a float bearing the banner of Babbar Khalsa International alone, one float bearing the banner of the International Sikh Youth Federation, and at least one other bearing banners for the Khalistan Commando Force and the Liberation Tigers of Khalistan. None of these organizations are registered as charities. In the April, 1994 parade, it again appears that one float displayed the name "Babbar Khalsa International" alone, and another carried the name of the International Sikh Youth Federation and other organizations, along with several other banners conveying such messages as "Khalistan - The Only Solution for Sikhs", "Our Aim Khalistan", and "PantheK Committee: Stand for Khalistan".

This evidence indicates to us that, contrary to the information given in your letters of September 21 and November 24, 1995, the Baisakhi Day parade has been used by various groups as a venue for advocating the political cause of an independent Khalistan. In this regard, we also enclose for your reference copies of numerous media reports pertaining to Babbar Khalsa International, the International Sikh Youth Federation, the Khalistan Commando Force, and the Panthic (or PantheK) Committee. They report that all

of these organizations have been active in a militant campaign for an independent Khalistan nation and that Babbar Khalsa International has a long history of bombings and political assassinations in this cause. They also report that the Indian government undertook a vigorous campaign against Sikh separatism during 1992, and that one of the Babbar Khalsa Society's founding directors, Talvinder Singh Parmar, was killed in a confrontation with Indian police in October, 1992.

Your letter dated January 11, 1996 now acknowledges that the Baisakhi Day Parades have indeed provided a forum for public expression of the political aim of an independent Sikh homeland originally contained in your client's constituting documents, but points out that the Canadian Babbar Khalsa Society "...is totally separate from Babbar Khalsa International." Our concern that the Canadian Babbar Khalsa Society and Babbar Khalsa International appear to be allied in the same political objective is not overcome by the fact that they may not be one and the same legal entity.

Your letter also acknowledges that your client shared in the costs of a parade float with Babbar Khalsa International, the International Sikh Youth Federation, the World Sikh Organization and other organizations, but asks that we accept the proposition that the Babbar Khalsa Society in no way shares or participates or sympathises with the political aims or objectives espoused by any of these groups. It does not seem reasonable to us to suggest that when an organization shares in the cost of a parade float that publicly represents a particular organization or communicates a particular political message, its financial participation does not represent a deeper commitment to shared purposes and objectives.

The R.C.M.P. statement regarding the 1993 and 1994 Baisakhi Day photographs attests that the only float in either year's parade associated with the name Babbar Khalsa was the float bearing the name "Babbar Khalsa International". The photographs show, as well, that the Babbar Khalsa International float in each year's parade featured the picture of Talvinder Singh Parmar. Based on this information and our audit evidence with respect to the float expenses paid for by the Society, it appears to us that the 1994 parade float constructed using the funds of the Babbar Khalsa Society operated from Kamloops, B.C. was the float bearing the banner "Babbar Khalsa International".

In any event, we must advise that the information provided by the Society thus far has not established to our satisfaction that its parade float expenses were expenditures made for a charitable purpose.

Our letter dated November 3, 1995 also referred to the fact that further analysis of our audit evidence had brought to light official donation receipts used to claim charitable tax credits but not accounted for in the books and records of the Society or reported on the Society's Public Information Return (form T3010).

Your letters of November 24, 1995 and January 11, 1996 appear to suggest that Mr. Gurmit Singh Gill and other directors were aware that the former director who signed these receipts, Mr. Kulwarn Singh Parmar, had maintained possession of a receipt book, but that this had been done without the consent of the other directors. Significantly, however, this information was not disclosed to the Department at the time of our audit.

Moreover, Mr. Parmar issued these receipts while acting as a director of the Society and, after October 17, 1993, while President of the Society. If the other directors in office at the time were not aware of Mr. Parmar's actions, this points to the absence of adequate controls over the use of official receipts, for which the Board as a whole bears responsibility. If, on the other hand, the other directors were aware that Mr. Parmar had unauthorized use of a receipt book, they had a clear responsibility to notify the Department without delay.

In this regard, and with regard generally to the issue of control of the Society, your November 24, 1995 letter states that you are told by the present directors that since they have "taken over the operation of the society", they have tried their best to keep proper records. You state, as well, that "...this is their first experience with a charitable organization...". We have attached a list of the names which appear in our records as the directors of the Society at the time of its incorporation and at various points since that time. As previously mentioned, we note that two of the five present directors were among the six original incorporators of the Society: all of the present directors have served previous terms as directors of the Society. We also note that two of the other four directors who served during Kulwarn Singh Parmar's term on the board as President remain on the present Board. Three of the present Board of five directors were also directors during the period before October 17, 1993 when Mr. Parmar issued donation receipts not reflected in the Society's books and records while serving as a director of the Society. The fact that Mr. Parmar is not a director of the Society at the present time therefore does not seem to us to be sufficient reason to accept either that control of the Society's operations has changed significantly or that the Society should not now be held accountable for whatever past circumstances led to this contravention of the Act.

We are troubled by what we see as a pattern of omissions and inaccuracies in the Society's dealings with the Department. As our letter of November 3, 1995 indicated, no mention was made of an additional receipt book when our auditor examined the Society's books and records and interviewed Mr. Gurmit Singh Gill in this regard. Its existence and the fact that receipts had been issued from it was admitted by the Society only after it became apparent that we had uncovered this evidence. Similarly, your client's original statements to the Department that the Baisakhi Day parade "...is totally religious in content" and "is in no way political" has been contradicted by photographic evidence. Again, however, the Society's acknowledgment that there was a political aspect to the parade did not come until the existence of this evidence became apparent.

We note, as well, that the Public Information Returns filed by the Society for its 1993 and 1994 years claim that the Society "...promotes, teaches and maintains the character of

Sikhism in its dual aspects through circulation of publications and periodicals...". However, when asked to supply the Department with copies of these materials, the Society's directors now maintain that it has not produced or distributed any such publications.

Your January 11 letter characterizes the various concerns we have outlined in our previous letters as being, at most, technical violations, and repeats your client's offer to repay any monies the Department considers to have been inappropriately spent or received. We would not characterize these matters as mere technicalities or view them as being capable of remedy in the manner suggested. The Income Tax Act requires a charitable organization to employ its resources in furtherance of charitable purposes, to meet its disbursement quota, to control the use of official donation receipts, to maintain in its books and records duplicate copies of all receipts issued to permit donation claims against federal income taxes, to submit accurate and complete information returns, and to maintain sufficient books and records to enable the Department to determine whether it has acted in accordance with the conditions for its registration. We consider all of these requirements to be serious obligations, especially when the cumulative effect of their not being met is considered.

Finally, I note your comments concerning other registered charities active in the support of an independent Khalistan and your concern that "...this extremely small society is being so vigorously pursued whereas other much larger societies are not". Due to the confidentiality provisions of the Income Tax Act, I am not able to discuss the affairs of any other registered charity. I can assure you, however, that the Department's interest in determining whether a registered charity is operating for charitable purposes and is otherwise observing the requirements for registration under the Income Tax Act is not dictated by its size. All registered charities, whether large or small, are equally subject to compliance with the legal requirements for their continued registration as charities.

Taken together, all the matters addressed above and in our three previous letters in this regard suggest to us that the Society's registration should be revoked. The purpose of this letter is to give the Society the opportunity to produce evidence to show that any of the above information is incorrect, or to otherwise substantiate its claim to have pursued charitable objects and activities exclusively since the effective date of its registration. We would ask that any submission in this regard be made by March 1, 1996.

Yours sincerely,



Richard Labelle
Assistant Director
Audit Division

- attachments:
- 1) Excerpts from Hansard, May 4 and June 5, 1995
 - 2) Photographs from 1993 and 1994 Vancouver Baisakhi Day Parade and accompanying statement from the R.C.M.P.
 - 3) Media reports
 - 4) Schedule of Babbar Khalsa Society Directors