

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20161116**

**Docket: A-550-15**

**Citation: 2016 FCA 286**

**CORAM: PELLETIER J.A.  
WEBB J.A.  
NEAR J.A.**

**BETWEEN:**

**THE MINISTER OF NATIONAL REVENUE**

**Appellant**

**and**

**CGI HOLDING LLC**

**Respondent**

Heard at Toronto, Ontario, on September 12, 2016.

Judgment delivered at Ottawa, Ontario, on November 16, 2016.

**REASONS FOR JUDGMENT BY:**

**WEBB J.A.**

**CONCURRED IN BY:**

**PELLETIER J.A.  
NEAR J.A.**

**Federal Court of Appeal**



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**BETWEEN:**

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**CGI HOLDING LLC**

**Respondent**

**REASONS FOR JUDGMENT**

**WEBB J.A.**

[1] This is an appeal from an Order of the Federal Court dated December 11, 2015 (2015 FC 1378) which granted CGI Holding LLC (CGI) leave to file a reply affidavit in relation to its application for judicial review of a decision by the Minister of National Revenue (Minister) denying CGI's application for a refund of \$28,463,184 in withholding taxes.

[2] During the course of the hearing of this appeal, counsel for CGI, in responding to the arguments raised by counsel for the Minister, informed the Court that the judicial review application had already been heard by the Federal Court. For some unexplained reason, counsel for the Minister had not informed the Court that the application for judicial review had been heard approximately three months before this appeal was heard.

[3] Since the application for judicial review had already been heard (with the reply affidavit) this raised the issue of whether this appeal was moot. Having heard from the parties on this issue, judgment was reserved.

[4] Subsequent to the hearing of this appeal, the Federal Court released its decision on the judicial review application on September 27, 2016 (2016 FC 1086). The Federal Court dismissed CGI's application for judicial review. From the reasons it is evident that the Minister objected to several paragraphs in the reply affidavit at the hearing of the application for judicial review. Paragraphs 2, 3, 4 and 5 of the 11 paragraph reply affidavit were disregarded by the Federal Court Judge hearing the application for judicial review.

[5] By letter dated October 27, 2016 the parties informed this Court that CGI would not be appealing the Judgment dated September 27, 2016 that dismissed CGI's application for judicial review. As a result there is no longer any live controversy between the parties in relation to this matter.

[6] I would therefore dismiss the appeal with costs.

“Wyman W. Webb”

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J.A.

“I agree

J.D. Denis Pelletier J.A.”

“I agree

D.G. Near J.A.”

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**APPEAL FROM AN ORDER OF THE FEDERAL COURT DATED  
DECEMBER 11, 2015, DOCKET NO. T-393-15 (2015 FC 1378)**

**STYLE OF CAUSE:** THE MINISTER OF NATIONAL  
REVENUE v. CGI HOLDING LLC

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** SEPTEMBER 12, 2016

**REASONS FOR JUDGMENT BY:** WEBB J.A.

**CONCURRED IN BY:** PELLETIER J.A.  
NEAR J.A.

**DATED:** NOVEMBER 16, 2016

**APPEARANCES:**

Elizabeth Chasson FOR THE APPELLANT  
Samantha L. Hurst  
Geoff R. Hall FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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Toronto, Ontario