

Federal Court of Appeal



Cour d'appel fédérale

Date: 20200415

Docket: A-118-19

Citation: 2020 FCA 73

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

BETWEEN:

STEVE PIMENTAL DUQUE

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Toronto, Ontario, on February 3, 2020.

Judgment delivered at Ottawa, Ontario, on April 15, 2020.

REASONS FOR JUDGMENT BY:

WEBB J.A.

CONCURRED IN BY:

**NEAR J.A.
MACTAVISH J.A.**

Federal Court of Appeal



Cour d'appel fédérale

Date: 20200415

Docket: A-118-19

Citation: 2020 FCA 73

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

BETWEEN:

STEVE PIMENTAL DUQUE

Appellant

and

HER MAJESTY THE QUEEN

Respondent

REASONS FOR JUDGMENT

WEBB J.A.

[1] This is an appeal from the oral judgment rendered by the Tax Court of Canada on February 8, 2019 and signed on February 12, 2019 (Docket No. 2016-3009(GST)G). The Tax Court dismissed Steve Duque's appeal from the assessment issued under section 323 of the *Excise Tax Act*, R.S.C. 1985, c. E-15 (the ETA) against him as a director of 1210166 Ontario Inc. (the Corporation) for its unremitted net tax, interest and penalties.

[2] For the reasons that follow, I would allow this appeal in part.

I. Background

[3] The parties filed a partial agreed statement of facts with the Tax Court. For the purposes of this appeal, it is only necessary to highlight some of the facts.

[4] Steve Duque incorporated the Corporation on November 26, 1996. He was the only director of the Corporation throughout the relevant reporting periods. The Corporation provided carpentry services operating as DCC Carpentry. There is a reference in the agreed statement of facts to another corporation which was also operating under the name DCC Carpentry. However, it is the net tax liability of the Corporation that is relevant in this appeal.

[5] The two reporting periods that are relevant in this appeal are the reporting periods ending on November 30, 2006 and on February 28, 2007. The Corporation ceased to carry on business sometime before February 28, 2007.

[6] The Minister of National Revenue (Minister) determined that the Corporation had, for the purposes of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), unreported income in the amount of \$1,039,748 for its taxation year ending on November 30, 2006 and in the amount of \$209,244 for its taxation year ending on November 30, 2007.

[7] There is no dispute that the unreported income, for the purposes of the *Income Tax Act*, was determined by:

- (a) starting with the total amount as disclosed in the Corporation's Income by Customer Detail report for December 2005 to November 2006 (the 2006 Report) (\$2,981,669) and the Corporation's Income by Customer Detail report for December 2006 to November 2007 (the 2007 Report) (\$338,235);
- (b) adding to this total, the amounts as determined as a result of the third-party sales information received from Silverwood Condominiums (\$56,896 for 2006) and Pegah Construction Ltd. (\$27,888 for 2006 and \$26,732 for 2007); and
- (c) then deducting the income as reported in the Corporation's T2 income tax return (\$2,026,705 for 2006 and \$155,723 for 2007).

[8] The Corporation was reassessed for this unreported income. These reassessments under the *Income Tax Act* are not the reassessments that are under appeal in this case. However, the income of the Corporation as determined for the purposes of the *Income Tax Act* did lead to the assessments of net tax under the ETA issued against the Corporation and then Mr. Duque.

[9] To determine how the increase in the income of the Corporation would affect the net tax liability of the Corporation under the ETA, the Minister assumed that the income of the Corporation, as finally determined following the income tax audit, arose as a result of the Corporation making taxable supplies of the same amount and that it reflected the amount of taxable supplies (net of GST) made by the Corporation. The Corporation does not dispute that it earned its income by making taxable supplies and, therefore, does not dispute that the income of

the Corporation would also represent the amount of taxable supplies made by the Corporation, net of GST. Although the parties and the Tax Court referred to the “unreported sales” of the Corporation, since GST is imposed as a result of a person making taxable supplies, in these reasons the references will be to the unreported taxable supplies of the Corporation.

[10] The Minister compared the total income of the Corporation for its year ending November 30, 2006 (\$3,066,453) to the total taxable supplies for its first three reporting periods of its 2006 taxation year (ending February 28, 2006, May 31, 2006 and August 31, 2006) (\$2,134,083) (Appeal Book page 636). The Minister made this comparison because the Corporation had previously been subject to an audit under the ETA for these three reporting periods. It was assumed that the taxable supplies for these reporting periods were accurately reflected in the audited amounts. The difference between the total income for the taxation year and the taxable supplies for the first nine months of that taxation year is \$932,370.

[11] The Minister then determined that the taxable supplies in the final reporting period in 2006 (the reporting period ending on November 30, 2006) would have to be \$932,370 in order for the total taxable supplies for all four reporting periods ending in 2006 to correspond to the total income for the same period of time. Since the Corporation had reported taxable supplies of \$602,012 for this reporting period, there was a discrepancy of \$330,358 in unreported taxable supplies (for the purposes of the ETA) that was added to the taxable supplies for the reporting period ending on November 30, 2006. This increased the net tax payable for this reporting period by \$19,823.

[12] The Corporation, despite having reported income in its T2 income tax return for its taxation year ending November 30, 2007, did not report any taxable supplies for the reporting period ending February 28, 2007. For income tax purposes, the unreported income was determined as the total income (as found following the income tax audit) of \$364,967 minus the income as reported by the Corporation of \$155,723, or \$209,244. For the purposes of the ETA, the unreported taxable supplies were determined as the total amount of the income as found following the audit (\$364,967), since the Corporation had not reported any taxable supplies for the reporting period ending February 28, 2007.

[13] On April 4, 2012, the Corporation was assessed under the ETA for the reporting periods ending on November 30, 2006 and February 28, 2007. The Corporation did not file a notice of objection to this assessment. On December 18, 2014, Mr. Duque was assessed, under section 323 of the ETA, for the unremitted net tax, interest and penalties of the Corporation in the amount of \$82,937.80. It is this assessment of Mr. Duque that is the subject of this appeal.

II. Decision of the Tax Court

[14] At the Tax Court hearing, Mr. Duque raised a number of issues, including whether the GST amounts for 2006 were allocated to the appropriate reporting period, whether there was double counting by including both the full amount of certain invoices (even though such amounts would be subject to a holdback) and also including the holdback amounts as additional taxable supplies, and whether he satisfied the due diligence defence. The Tax Court Judge dismissed his appeal in relation to the first two issues, essentially on the basis that the Corporation did not keep

proper books and records. The Tax Court Judge also found that Mr. Duque did not satisfy the requirements of the due diligence defence.

III. Issues and Standard of Review

[15] In this appeal, Mr. Duque is only raising two issues. Both issues are related to the determination of the net tax payable by the Corporation for its two reporting periods ending on November 30, 2006 and February 28, 2007 that resulted in the assessment issued against him under section 323 of the ETA. The first issue is whether the unreported taxable supplies were allocated to the appropriate reporting period. The second issue is whether there has been a double counting of amounts arising as a result of the treatment of the holdback amounts for certain projects in the 2006 Report and the 2007 Report upon which the assessments under the ETA were based. Both of these issues relate to questions of fact and, therefore, the standard of review is palpable and overriding error (*Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235).

IV. Analysis

A. *Right to Challenge Underlying Assessment*

[16] Section 323 of the ETA provides that a director of a corporation is liable for any net tax that such corporation has failed to remit under subsection 228(2) of the ETA. Subsection 228(2) of the ETA provides for the remittance of net tax, if the net tax is a positive amount. The net tax is generally the difference between the tax collectible / collected and the input tax credits of that person (subsection 225(1) of the ETA).

[17] In this appeal, Mr. Duque is indirectly challenging the assessment of net tax payable under the ETA that was issued against the Corporation. Since the Corporation did not object to the assessment that was issued against it, that assessment is not the assessment that is under appeal.

[18] In *Gaucher v. The Queen*, 2000 D.T.C. 6678, [2000] F.C.J. No. 1869 (QL), this Court held that a taxpayer who is assessed under section 160 of the *Income Tax Act* for the tax debt of another person, can challenge the assessment that was issued against that other person.

[19] In *Scavuzzo v. Canada*, 2005 TCC 772, [2005] T.C.J. No. 620 (QL), Bowman, ACJ (as he then was), in paragraph 10, extended this principle to assessments of director's liability under section 227.1 of the *Income Tax Act* and section 323 of the ETA. In *Abrametz v. The Queen*, 2009 FCA 70, [2009] G.S.T.C. 43, this Court did not specifically address the issue of whether a director, who is assessed for unremitted net tax of a corporation, could challenge the assessment of that corporation. However, this Court implicitly applied this principle by allowing an appeal of a director arising from an assessment issued against him under section 323 of the ETA for the unremitted net tax of a corporation on the basis that the underlying assessment of the corporation was flawed.

[20] In my view, it should be explicitly stated that a director, who has been assessed personally for unremitted net tax of a corporation, should be able to challenge the underlying assessment of net tax payable by that corporation. A director should not be held personally liable

for more unremitted net tax, penalties and interest than what should properly have been assessed against that corporation.

B. *Allocation of All Unreported Taxable Supplies for 2006 to One Reporting Period*

[21] The first issue in this appeal relates to the allocation of all of the unreported taxable supplies for the taxation year ending November 30, 2006, as determined for the purposes of the ETA, to the reporting period ending on November 30, 2006.

[22] In dismissing Mr. Duque's argument that the unreported taxable supplies for the 2006 taxation year should not have been allocated to the final reporting period in 2006, the Tax Court Judge noted at page 19 of the transcript of the oral reasons:

As the sales from the first three quarterly periods in the 2006 fiscal year was already audited, it was reasonable, in my view, for the respondent to allocate unreported income into the First Period. Furthermore, the respondent chose this period because it was more advantageous for the Corporation for unreported income to be reported in the First Period, as it would result in lower GST, interest, and penalty amounts for it.

[23] In her oral reasons, the Tax Court Judge had defined the First Period as the one ending on November 30, 2006.

[24] Mr. Duque's argument is essentially that, based on the 2006 Report, the taxable supplies for the reporting period ending November 30, 2006 were only \$670,790, and not \$932,370.

Mr. Duque is therefore challenging the allocation of all of the unreported taxable supplies to this

one reporting period. This is a question of fact and the standard of review is palpable and overriding error.

[25] The Supreme Court of Canada adopted the following descriptions of a palpable and overriding error in *Benhaim v. St-Germain*, 2016 SCC 48, [2016] 2 S.C.R. 352:

38 It is equally useful to recall what is meant by "palpable and overriding error". Stratas J.A. described the deferential standard as follows in *South Yukon Forest Corp. v. R.*, 2012 FCA 165, 4 B.L.R. (5th) 31, at para. 46:

Palpable and overriding error is a highly deferential standard of review "Palpable" means an error that is obvious. "Overriding" means an error that goes to the very core of the outcome of the case. When arguing palpable and overriding error, it is not enough to pull at leaves and branches and leave the tree standing. The entire tree must fall.

39 Or, as Morissette J.A. put it in *J.G. v. Nadeau*, 2016 QCCA 167, at para. 77 (CanLII), [TRANSLATION] "a palpable and overriding error is in the nature not of a needle in a haystack, but of a beam in the eye. And it is impossible to confuse these last two notions."

[26] Mr. Duque has failed to establish that the Tax Court Judge made a palpable and overriding error in dismissing his appeal in relation to this issue. The Tax Court Judge noted that "[t]he appellant testified that some invoices were backdated". Mr. Duque has not challenged this finding. This raises the question of the reliability of the dates for the invoices as set out in the 2006 Report.

[27] During Mr. Duque's testimony at the Tax Court hearing, he also acknowledged that he was unable to recognize many of the accounts or projects that were listed in the 2006 Report.

This would also raise doubts about the accuracy of his allegations of when the work was done on the various projects.

[28] The total unreported taxable supplies for the year ending November 30, 2006, were \$330,358. In adding these to the taxable supplies for the reporting period ending November 30, 2006, the total taxable supplies for this reporting period were increased to \$932,370. The total taxable supplies for the immediately preceding reporting period (ending on August 31, 2006) were \$913,501. The difference between these two amounts is only \$18,869 ($\$932,370 - \$913,501$). Since the taxable supplies for the reporting period ending on November 30, 2006, after allocating the additional \$330,358 of taxable supplies to this period, are only 2% more than the taxable supplies for the period ending August 31, 2006, there is no obvious error in the Minister's allocation of these unreported taxable supplies.

[29] As a result, Mr. Duque has not provided any basis on which it could be found that a palpable and overriding error was made in confirming the inclusion in the reporting period ending November 30, 2006, all of the unreported taxable supplies for the 2006 taxation year. Therefore, I would dismiss his appeal in relation to this issue.

C. *Holdback Amounts*

[30] The second issue raised by Mr. Duque in this appeal is with respect to the question of whether holdback amounts were included twice. In my view, the Tax Court Judge did make a palpable and overriding error in relation to this issue.

[31] The Tax Court Judge summarily dismissed Mr. Duque's argument in one paragraph, at page 19 of the transcript of the oral reasons:

Despite the appellant's assertions relating to double counting if the holdbacks were not removed, he did not bring sufficient evidence to explain the holdback amounts nor provide contracts or detailed invoices to clearly show that a holdback amount was to be subsequently invoiced after a sales amount has already been fully invoiced. The appellant's assertion that the holdbacks amounts were double counted was not, in my view, supported by the evidence.

[32] However, in this case, it must be remembered that the amounts from the 2006 Report and the 2007 Report, together with the amounts for Silverwood Condominiums and Pegah Construction, formed the basis for the determination of the additional net tax of the Corporation. The relevant question is not whether "a holdback amount was to be subsequently invoiced after a sales amount has already been fully invoiced", but whether the 2007 Report included amounts that were already included in either the 2006 Report or the 2007 Report.

[33] As acknowledged by the auditor for the Canada Revenue Agency during cross-examination at the Tax Court hearing, if the holdback amounts were included twice, this would be inappropriate. An assessment of net tax should not be made for more than the actual net tax liability.

[34] The 2006 Report and the 2007 Report are organized by customer/project and, within each group, the individual invoices are listed in numerical order. While the 2006 Report is 29 pages long, the 2007 Report is only two pages long.

[35] There are two invoices in the 2007 Report that are relevant to this issue related to the holdbacks. The first invoice is the one numbered 953 which is under the heading “Amacon Eden Park – H118”. There are a number of line items under invoice 953. The first line item for this invoice states, “Please release 10% hold back of...”. Following this notation is a list of 12 different invoices with an amount following each one. The first ten invoice numbers correspond to invoices listed in the 2006 Report. The last two invoice numbers correspond to invoices listed elsewhere in the 2007 Report and are addressed in paragraph 37.

[36] The following table lists the first ten of these referenced invoices (which correspond to invoices listed in the 2006 Report), the amounts that were included in the 2006 Report for the invoice number identified, and the amount included in the 2007 Report under invoice 953 for the particular 2006 invoice:

Invoice Numbers	Included in 2006 Report	Included in 2007 Report
764	\$24,375.00	\$2,437.50
785	\$108,875.00	\$10,887.50
799	\$58,500.00	\$5,850.00
820	\$56,875.00	\$5,687.50
848	\$102,375.00	\$10,237.50
863	\$121,875.00	\$12,187.50
882	\$50,375.00	\$5,037.50
911	\$81,575.00	\$8,157.50
925	\$22,750.00	\$2,275.00
940	\$8,125.00	\$812.50
Total:	\$635,700.00	\$63,570.00

[37] The 2007 Report also includes references to the two invoices numbered 946 and 952 under invoice 953. Invoices 946 and 952 are included in the 2007 Report, not the 2006 Report.

Invoice 946 is for \$3,900 and the amount identified under invoice 953 for the holdback amount is \$390. Invoice 952 is for \$10,400 and the amount identified under invoice 953 for the holdback amount is \$1,040.

[38] For each of the invoices listed under invoice 953 in the 2007 Report, there is an amount included in either the 2006 Report or the 2007 Report. When the amounts included in the 2006 Report or the 2007 Report for each referenced invoice are compared with the amount included under invoice numbered 953 for that referenced invoice, the amount included in the 2007 Report under invoice 953 is exactly 10% of the amount of the invoice to which it relates. If the previous invoice had reflected the holdback amount that was to be retained by the customer, the holdback amounts identified in the 2007 Report would not be as stated in the above table. For example, for the invoice numbered 764, if \$24,375 represented the amount after deducting the holdback of 10%, this would mean that the gross contract price would have been \$27,083.33 and the holdback would have been \$2,708.33.

[39] The second relevant invoice for this issue is invoice numbered 955 for Rockport Group – Scarlett Heights – H115. The first line entry for this invoice reads, “Please release 10% hold back of...”. Following this entry is a list of ten different invoices. The first eight invoice numbers correspond to invoices listed in the 2006 Report. The last two invoice numbers correspond to invoices listed elsewhere in the 2007 Report and are addressed in paragraph 41.

[40] The following table lists the first eight of these referenced invoices (which correspond to invoices listed in the 2006 Report), the amounts that were included in the 2006 Report for the

invoice number identified, and the amount included in the 2007 Report under invoice 955 for the particular 2006 invoice:

Invoice Numbers	Included in 2006 Report	Included in 2007 Report
786	\$13,300.00	\$1,330
800	\$13,300.00	\$1,330
847	\$39,613.95	\$3,961.40
868	\$111,905.80	\$11,190.58
885	\$105,255.80	\$10,525.58
910	\$111,905.80	\$11,190.58
926	\$55,952.90	\$5,595.29
939	\$32,963.95	\$3,296.40
Total:	\$484,198.20	\$48,419.83

[41] The 2007 Report also includes references to the two invoices numbered 944 and 954 under invoice 955. Invoices 944 and 954 are included in the 2007 Report, not the 2006 Report. Invoice 944 is for \$55,952.90 and the amount identified under invoice 955 for the holdback amount is \$5,595.29. Invoice 954 is for \$52,627.90 and the amount identified under invoice 955 for the holdback amount is \$5,262.79.

[42] In my view, this is the “beam in the eye” to which the Supreme Court of Canada was referring in relation to a palpable and overriding error. The 2007 Report clearly refers to the holdback amount of 10% and lists invoices that are included in either the 2006 Report or the 2007 Report. Each amount included under invoice 953 and 955 that is linked to another invoice is exactly 10% of that other invoice.

[43] Under the *Construction Act*, R.S.O. 1990, c. C.30, each payer is obligated to retain a holdback of 10% of the price of goods and services on which a lien could arise:

22 (1) Each payer upon a contract or subcontract under which a lien may arise shall retain a holdback equal to 10 per cent of the price of the services or materials as they are actually supplied under the contract or subcontract until all liens that may be claimed against the holdback have expired or been satisfied, discharged or otherwise provided for under this Act.

22 (1) Chaque responsable du paiement doit dans le cas d'un contrat ou d'un contrat de sous-traitance qui donne lieu à un privilège, faire une retenue égale à 10 pour cent du prix des services ou des matériaux au fur et à mesure qu'ils sont effectivement fournis en vertu du contrat ou du contrat de sous-traitance jusqu'à ce que tous les privilèges qui peuvent être exercés contre cette retenue se soient éteints ou aient été acquittés, ou jusqu'à ce que mainlevée en ait été donnée ou qu'il y ait été pourvu autrement aux termes de la présente loi.

[44] The Corporation was carrying on the business of providing carpentry services.

The services that are the subject of this appeal were provided on only two projects. It is more likely than not that the contract for that work was one under which a lien may arise and, therefore, the holdback provisions of the *Construction Act* would be applicable. Since the holdback amount applies to the price of the services or materials (generally the contract price – subs. 1(1) of the *Construction Act*), the payer would be obligated to withhold 10% of the amount invoiced. Therefore, when the first invoice was sent, the Corporation would only have received 90% of that invoiced amount. By including both the full amount of the first invoice and also the 10% holdback amount listed under invoices 953 and 955, the holdback amount is included twice.

[45] As a result, in my view, the Tax Court Judge committed a palpable and overriding error in not finding that, by using the totals from the 2006 Report and the 2007 Report as the basis for the assessment of the Corporation for additional net tax, the Minister was double counting in relation to the holdback amounts.

[46] The next question is whether the adjustment should be made to total taxable supplies as determined for the 2006 Report or the total taxable supplies as determined for the 2007 Report. In paragraph 31 of his memorandum, Mr. Duque stated:

If the Holdback Invoices are not removed from 2007 Sales, it would result in double taxation on those sales.

[47] Therefore, Mr. Duque suggests that the appropriate adjustment is to be made to the total taxable supplies as determined for the reporting period ending on February 28, 2007.

[48] Subsection 168(7) of the ETA addresses the issue of when the GST is payable on an amount that is withheld as a result of an act of a legislature:

168 (7) Notwithstanding subsections (1), (2), (3), (5) and (6), where the recipient of a taxable supply retains, pursuant to

(a) an Act of Parliament or of the legislature of a province, or

(b) an agreement in writing for the construction, renovation or alteration of, or repair to, any real

168 (7) Par dérogation aux paragraphes (1), (2), (3), (5) et (6), la taxe prévue à la présente section, calculée sur la valeur d'une partie de la contrepartie d'une fourniture taxable que l'acquéreur retient, conformément à une loi fédérale ou provinciale ou à une convention écrite portant sur la construction, la rénovation, la transformation ou la réparation d'un immeuble ou d'un bateau ou autre

property or any ship or other marine vessel,

a part of the consideration for the supply pending full and satisfactory performance of the supply, or any part thereof, tax under this Division, calculated on the value of that part of the consideration, is payable on the earlier of the day that part is paid and the day it becomes payable.

bâtiment de mer, en attendant que tout ou partie de la fourniture soit effectuée de façon complète et satisfaisante, est payable au premier en date du jour où la partie de la contrepartie est payée et du jour où elle devient payable.

[49] Subsection 168(7) of the ETA provides that, when an amount is withheld pursuant to the act of a legislature of a province pending full and satisfactory performance of the supply, GST on the holdback amount is payable on the earlier of the day that the holdback amount is paid or the day that the holdback amount is payable. In this particular case, neither party referred to this subsection of the ETA. Nor did either party provide any submissions on when the holdback amount would be payable. It is not possible, in this case, to determine when the lien arising under the *Construction Act* may have been discharged or when it would have expired and, therefore, when the holdback would have been payable.

[50] Mr. Duque has not provided sufficient evidence to determine whether it would be appropriate to make an adjustment to the total taxable supplies determined using the 2006 Report. As well, he has requested that any adjustments be made to the taxable supplies based on the 2007 Report. Therefore, in my view, having failed to establish that the holdback amounts would not be payable until the period covered by the 2007 Report, the appropriate adjustments to be made in this case would be to reduce the taxable supplies during the period covered by the 2007 Report by the amount of the holdback amounts, which is the relief that Mr. Duque has

requested. The adjustment to these taxable supplies will affect the GST collectible and the penalties and interest related thereto.

[51] As a result, in determining Mr. Duque's liability for the unremitted net tax, interest and penalties of the Corporation, the net tax of the Corporation for its reporting period ending February 28, 2007 would be computed based on the following amount of unreported taxable supplies:

Unreported taxable supplies as determined by the Minister for the reporting period ending February 28, 2007:	\$364,967
Holdback amounts for invoices 764, 785, 799, 820, 848, 863, 882, 911, 925, and 940	(\$63,570)
Holdback amounts for invoices 946 and 952	(\$1,430)
Holdback amounts for invoices 786, 800, 847, 868, 885, 910, 926, and 939	(\$48,420)
Holdback amounts for invoices 944 and 954	(\$10,858)
Revised unreported taxable supplies:	\$240,689

[52] I would, therefore, allow the appeal, in part, set aside the judgment of the Tax Court and, issuing the judgment that the Tax Court should have rendered, I would allow Mr. Duque's appeal, in part, from the assessment issued under section 323 of the ETA. I would refer the matter back to the Minister for reconsideration and reassessment on the basis that, in determining Mr. Duque's liability under section 323 of the ETA, the net tax of the Corporation for the reporting period ending on February 28, 2007 is to be determined based on unreported taxable supplies of the Corporation of \$240,689. The interest and penalties for which Mr. Duque is liable under section 323 of the ETA would also be determined based on the revised net tax of the Corporation for this reporting period.

[53] Following the hearing, the parties submitted a letter indicating that they had agreed that, if Mr. Duque was partially successful in this appeal, each party would bear their own costs in the Tax Court and in this Court. I would, therefore, not award costs in this Court or in the Tax Court.

"Wyman W. Webb"

J.A.

"I agree

D. G. Near J.A."

"I agree

Anne L. Mactavish J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

**APPEAL FROM A JUDGMENT OF THE TAX COURT OF CANADA
DATED FEBRUARY 12, 2019, DOCKET NO. 2016-3009(GST)G)**

DOCKET: A-118-19

STYLE OF CAUSE: STEVE PIMENTAL DUQUE v.
HER MAJESTY THE QUEEN

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: FEBRUARY 3, 2020

REASONS FOR JUDGMENT BY: WEBB J.A.

CONCURRED IN BY: NEAR J.A.
MACTAVISH J.A.

DATED: APRIL 15, 2020

APPEARANCES:

Charles Haworth FOR THE APPELLANT

Cédric Renaud-Lafrance FOR THE RESPONDENT

SOLICITORS OF RECORD:

Radnoff Law Offices FOR THE APPELLANT
Toronto, Ontario

Nathalie G. Drouin FOR THE RESPONDENT
Deputy Attorney General of Canada