

Federal Court



Cour fédérale

Date: 20220725

Docket: T-1414-22

Citation: 2022 FC 1108

Ottawa, Ontario, July 25, 2022

PRESENT: The Honourable Madam Justice Strickland

BETWEEN:

THE MINISTER OF NATIONAL REVENUE

Applicant

and

MINGFEI ZHAO

Respondent

ORDER AND REASONS

[1] This is an *ex parte* application, brought pursuant to Rule 316.1 of the *Federal Court Rules*, SOR/98-106, by the Minister of National Revenue [Minister], seeking an order pursuant to s 225.2(2) of the *Income Tax Act*, R.S.C. 1985, c.1 (5th Supp.), as amended [ITA], authorizing the Minister to take forthwith any of the collections actions described in s 225.1(1)(b) to (f) of the ITA [Jeopardy Order] with respect to amounts of income tax assessed against the Respondent, Mingfei Zhao [Respondent or Mr. Zhao]. The application was heard via Zoom on July 19, 2022.

[2] [3] The application is granted for the reasons set out below.

Background

The Nature of the Tax Debt

[3] In support of their application, the Minister filed the affidavit of Dale Gonwick, Resource Office/Complex Case Officer, with the Collections Division of the Fraser Valley and Interior Tax Services Office of the Canada Revenue Agency [CRA]. The background facts outlined below are drawn from the Gonwick Affidavit.

[4] On October 12, 2018, as part of a net worth audit, CRA reassessed Mr. Zhao's personal income at \$677,281.18 on the basis that he failed to report foreign income for the 2014 and 2015 taxation years. The audit file for Mr. Zhao was screened as a part of CRA's "Top residential 2014 Vendor Purchaser" project. As of June 20, 2022, Mr. Zhao owes the Minister a total of \$770,710.19 in unpaid income taxes, inclusive of interest and penalties.

[5] CRA issued a proposal letter to Mr. Zhao on May 23, 2018, explaining the tax adjustments resulting from the net worth audit and a final audit.

[6] On January 16, 2019, Mr. Zhao's representative, Mark Meredith of KPMG LLP, [Representative] filed two Notices of Objection for the 2014 and 2015 tax years on behalf of Mr. Zhao. On May 8, 2019, the CRA Appeals Division sent a letter to Mr. Zhao confirming the

receipt of the Notices of Objection. The Notices of Objection filed by Mr. Zhao were still in process as of the date of execution of the Gonwick Affidavit (June 29, 2022).

The Taxpayer

[7] Mr. Zhao is a 64-year-old businessman, who was born in China. He immigrated to Canada on September 23, 2014.

[8] Mr. Zhao left Canada in April of 2022. It is not known to CRA whether he has any family remaining in Canada. His most recent T1 return identifies him as divorced. Inquires made by CRA to Mr. Zhao's accountant, Mike Angel [Accountant], confirmed that Mr. Zhao and his family have been out of the country for a significant time. The Accountant could provide no proof that Mr. Zhao was returning to Canada.

Potential Jeopardy Concerns

[9] The Gonwick Affidavit states that the affiant is concerned that the tax debt collection would be jeopardized for delay because:

- The nature of the reassessment arose out of a failure of Mr. Zhao to report worldwide income and it indicated a range of income quite out of scale with the incomes disclosed on Mr. Zhao's annual returns.
- Mr. Zhao's lifestyle does not match his reported oncome. Mr. Zhao reported his income for the 2014 taxation year as \$9,424.00 and for the 2015 taxation year as \$38,161.00. His net income was increased by \$1.28 million over the two years based on the Audit Report.

The Audit Report notes that his declared income was “... not sufficient to support the purchase of real estate, the payments of mortgage/taxes payable and the personal expenditures for the years 2014 & 2015”.

- Mr. Zhao currently has no known active businesses.
- CRA issued Requirements for Information [RFI] on March 29, 2022 to the last four known banks used by Mr. Zhao. CRA conducted a review of the RFI results on May 9, 2022 which showed no significant cash or assets to cover the appealed arrears. Mr. Zhao’s debt (now at \$770,710.19), in relation to his reported income and expenses, indicates a significant discrepancy.
- Based on CRA’s inquiries, the indications are that the only exigible asset held by Mr. Zhao is in jeopardy. On November 29, 2018, CRA Collections conducted a Land Title search which indicated two properties owned by Mr. Zhao: 3689 Selkirk Street, Vancouver BC, V6H 2Y9 [Selkirk Property] and 3689 Granville St, Vancouver, BC V6H 3K5 [Granville Property].
 - As to the Selkirk Property, Mr. Zhao purchased this for \$11,010,000.00 on March 31, 2014. On March 13, 2017, CRA conducted a Google search that indicates that the property was listed on the Multiple Listing Service for \$19,980,000 as of March 10, 2022. On March 29, 2022, CRA confirmed with the realtor of the Selkirk Property that it remains for sale and there were no current offers to purchase. The British Columbia Assessment authority valued the Selkirk Property at \$19,236,000 in 2022.

- It appears from CRA's inquiries that in 2014 Mr. Zhao took out two mortgages with the Royal Bank of Canada on the Selkirk Property, with a combined opening balance of \$3,194,392.56 and that since purchasing the properties he made regular monthly mortgage payments of \$8,669.20.25. However, the most recent current credit bureau report does not list a mortgage on the Selkirk Property. CRA estimates if the Selkirk property is sold, then Mr. Zhao's equity in the sale proceeds will be between \$16.3 and \$19.2 million dollars. The Gonwick Affidavit states that if the Selkirk Property is sold and the funds are released to Mr. Zhao, CRA will not have an opportunity to collect the tax debt owed.

- Further, that CRA conducted the following searches:
 - a) Motor Vehicle search on June 3, 2022 to determine if there are vehicles registered to Mr. Zhao which showed that only a 2013 Range Rover was listed;
 - b) a credit bureau search on July 22, 2020 showed that that Mr. Zhao no longer had Canadian cell phone account registered to his name and also that the two mortgage debts were no longer listed;
 - c) Land Titles Search on June 10, 2022 for Mr. Zhao which indicated that he remains the sole owner of the Selkirk Property;
 - d) a search of the BC Personal Property registry on July 8, 2020 which returned no results for Mr. Zhao; and

- e) a recent Equifax Consumer Report as of March 16, 2022 for Mr. Zhao revealed that he does not seem to have any other exigible assets and Mr. Zhao has no mortgages.
- Based on its inquiries, other than Selkirk Property and the 2013 Range Rover, CRA is not aware of any other assets held by Mr. Zhao or any source of income that might be attached by the Minister with respect to his tax debt.
- The Gonwick Affidavit also speaks to “offshore jurisdiction”. More specifically, that Mr. Zhao left Canada in or around April of 2022; it is not known if he has any family remaining in Canada; his most recent Visa statements reviewed showed payments for purchases in Kiev, Warsaw, and Amsterdam; and, on March 17, 2022, CRA uncovered a Globe and Mail article published on February 21, 2020 in which it stated that Mr. Zhao no longer lived in Vancouver and that he had started a new family in Europe. The purpose of the article was to showcase the taxpayer’s newly listed Selkirk Property.
- Discussions with Mr. Zhao’s Accountant have raised the jeopardy issues and, on April 26 2022, the Accountant advised CRA that Mr. Zhao would not provide security for the tax debt.
- As to other concerns, the Gonwick Affidavit states that because Mr. Zhao has filed Notices of Objection, unless the Jeopardy Order is granted, the Minister will be unable to pursue collection action with respect to the tax debt until the objections are decided or longer if the debt is appealed.

- Mr. Zhao has not made any voluntary payments towards the tax debt.
- The Gondale Affidavit also identifies exculpatory matters being that:

Mr. Zhao has no previous collections history; he has never stated that he has any intention to pay the tax debt; he has retained the Representative who has followed the proper procedure of filing Notices of Objection under s 165 of the ITA and filing an Appeal under s 169(1) of the ITA.

- As to the intended collection action, the Gonwick Affidavit states that should the Court grant the Jeopardy Order, the CRA intends to secure the income tax liability from the proceeds of the sale of the Selkirk Property before the amount is released to Mr. Zhao or the funds are further encumbered by Mr. Zhao.

[10] I note here in passing that, at the hearing of this motion, counsel for the Minister advised that Mr. Mike Angel, of KPMG LLP, who advises Mr. Zhao, had been informed of this *ex parte* application and stated that no one would be appearing on Mr. Zhao's behalf.

Issue

[11] The only issue arising from this application is whether the Court should grant the order sought by the Minister. More specifically, whether the Minister has demonstrated that there are reasonable grounds to believe that the collection of all or any part of Mr. Zhao's income tax liability would be jeopardized by a delay in the collection of that amount.

Analysis

Legislation and Legal Principles

[12] Subsection 225.1 of the ITA provides, with certain exceptions, that if a taxpayer is liable for the payment of an amount assessed under the ITA, the Minister shall not take any of the collection actions listed in s 225.1(1)(a) to (g) before the day that is 90 days after the mailing of the notice of assessment (s. 225.1(1.1)(c)). If the taxpayer files a notice of objection or an appeal of the assessment, then the Minister may not take any of those collection actions until the objection, or the appeal, has been finally determined (s 225.1(3), s 225.1(4)).

[13] However, s 225.2(2) provides that, notwithstanding subsection 225.1, where on an *ex parte* application by the Minister, a judge is satisfied that there are reasonable grounds to believe that the collection of all or any part of an amount assessed in respect of a taxpayer would be jeopardized by a delay in the collection of that amount, the judge shall, on such terms as the judge considers reasonable in the circumstances, authorize the Minister to take forthwith any of the collection actions described in s 225.1(1)(a) to (g) with respect to the amount. That is, issue a jeopardy order.

[14] In the event that such an order is authorized, the taxpayer may apply to the court for a review of the order (ITA section 225.2(8) to (13)).

[15] Jurisprudence provided by the Minister establishes that in making the application for an authorization to take collection action (i.e. seeking a jeopardy order), the Minister must show

that there are reasonable grounds to believe it is more likely than not that collection would be jeopardized by delay. Put otherwise, “the Court issues an authorization on the basis of evidence demonstrating a bona fide belief based on credible evidence in a serious possibility that the granting of a delay to the taxpayer would jeopardise the collection of the debt, which is a lesser burden of proof than the balance of probabilities” (*Re Cormier-Imbeault*, [2009] FC 499 at para 6 [*Re Cormier-Imbeault*]; see also *Canada (Minister of National Revenue) v Robarts*, 2010 FC 875 at para 64 [*Robarts*]). Further, the issue is not whether the collection *per se* is in jeopardy but rather whether the actual jeopardy arises from the likely delay in the collection resulting from the appeal process (*Danielson v Canada (Deputy Attorney General)*, [1986] 2 CTC 380 at paras 6-8, 10 [*Danielson*]; *Minister of National Revenue v 514659 B.C. Ltd*, 2003 FCT 148 at para 6; *Canada (Deputy Minister of National Revenue - MNR) v Quesnel*, [2001] 2 CTC 75, 2001 DTC 5602 (BCSC), at para 22 [*Quesnel*]).

[16] Given the *ex parte* nature of an application for a jeopardy order, the Minister has an obligation to make full and frank disclosure and to exercise the utmost good faith in respect of both the relevant facts and the requirements of the applicable jurisprudence (*Robarts*, at paras 33-35; see also *Her Majesty the Queen v Marco Proulx*, 2011 FC 1231 [*Proulx*] at para 19).

[17] In *Quesnel*, at paragraph 27, the Supreme Court of British Columbia provided a summary of the relevant legal principles applicable to jeopardy orders, as follows:

- (a) the facts must provide reasonable grounds for believing the taxpayer will waste, liquidate or otherwise transfer property so as to make it unavailable to the Minister: *Canada v. Golbeck* (1990), 90 DTC 6575 (F.C.A.);
- (b) it must be more likely than not that collection will be jeopardized by delay: *Danielson v. Minister of National*

Revenue (1986), 86 DTC 6495 (F.C.T.D.); *Satellite Earth Station, supra*;

- (c) mere suspicion or concern is not sufficient to establish reasonable grounds: *Danielson, supra, Satellite Earth Station, supra*;
- (d) where a taxpayer has never taken any steps to hinder collection proceedings, it suggests that collection will not be jeopardized: *Danielson, supra*;
- (e) where a taxpayer has sold real estate that is the only asset to satisfy the cash debt and the cash received on the sale is still available to satisfy the debt, the sale itself does not constitute grounds for a jeopardy order: *Canada (Minister of National Revenue) v. Landru*, [1993] 1 C.T.C. 93 (Sask. Q.B.);
- (f) unorthodox behaviour which raises a reasonable apprehension that it would be difficult to trace funds or recover them for the tax debt may provide reasonable grounds: *Laframboise, supra; Rouleau, supra*.

[18] As to the factors that can justify the issuance of a jeopardy order, in *Re Cormier-Imbeault* this Court held that:

[7] In this regard, the case law has determined that the presence of one or more of the following factors can justify the issuance of an authorization under subsection 225.2(2) of the ITA:

- a) there are reasonable grounds to believe that the taxpayer has acted fraudulently;
- b) the taxpayer has proceeded to liquidate or transfer his or her assets;
- c) the taxpayer is evading his or her tax liabilities;
- d) the taxpayer has assets that could potentially lessen in value over time, deteriorate or perish;
- e) the amount of the debt in relation to income and expenses.

[19] A lack of assets or the fact that the taxpayer's assets are entirely liquid in nature and so can be easily wasted, liquidated or transferred is not, in and of itself, a sufficient justification for the granting of a jeopardy order. However, it is not wrong to consider the extent of a taxpayer's assets, compare them to the amount of tax assessed and have regard to the disposition being made of the assets by the taxpayer (*Danielson* at para. 9; *Robarts* at para. 72 and 73; *Minister of National Revenue v. Ament*, 97 D.T.C 5033, at para. 23). The amount of the debt in relation to income and expenses may also be considered as a factor to be considered with respect to the issuance of a jeopardy order (*Re Cormier-Imbeault* at para 7).

[20] If there is cogent evidence on the part of the Minister as to dissipation of the taxpayer's assets or the movement of assets out of the jurisdiction beyond the reach of the Minister and other potential creditors, this could be very persuasive and compelling evidence in an application for a jeopardy order (*Danielson* at para 8).

[21] The test required to be met for a jeopardy order does not only encompass situations of fraud or the imminent transfer of funds or assets out of the country. The test can also be met "when the Minister has reasonable grounds to believe the taxpayer would waste, liquidate or otherwise transfer her assets so not to be available to the Minister" (*Canada (Minister of National Revenue) v Reddy*, 2008 FC 208, at para 29).

Application of the law and principles

[22] Applying these principles to the matter before me, I am satisfied that the Minister has discharged the burden of demonstrating reasonable grounds to believe that collection would be jeopardized by the delay.

[23] Based on the evidence in the Gonwick Affidavit, I accept that the Minister has established that Mr. Zhao is in the process of liquidating his only significant exigible asset in Canada, the Selkirk Property. Further, that Mr. Zhao's assets do not reflect a taxpayer with income on the level he has declared from 2014 through 2015. Mr. Zhao reported income of \$9,424.00 for 2014, and \$38,161.00 for 2015. Mr. Zhao purchased the Selkirk Property for \$11,010,000.00 on March 31, 2014 and his reported income was not sufficient to support the purchase of real estate, meet his mortgage payments, property taxes and other related expenses.

[24] The tax debt of \$770,710.19 in relation to Mr. Zhao's reported income is disproportionate. As stated in *Re Cormier-Imbeault*, one of the factors that can justify the issuance of a jeopardy is the amount of the debt in relation to income and expenses. This is such a circumstance.

[25] Further, as the Selkirk Property is Mr. Zhao's only significant exigible asset in Canada, there are no additional collections avenues open to the Minister (*Canada (Minister of National Revenue) v Park*, 2011 FC 264 at para 75 [*Park*]).

[26] I also note that compelling evidence as to the dissipation of a taxpayer's assets or the movement of assets out of the jurisdiction beyond the reach of the Minister can be persuasive when determining whether to issue a jeopardy order (*Park* at para 76; *Danielson* at para 8).

[27] The Gonwick Affidavit states that Mr. Zhao has no known active business in Canada. The Minister submits that Mr. Zhao has bank accounts in China and in other countries abroad where he likely holds a significant amount of investments. This appears to be based in part at least on the Gonwick Affidavit which indicates that the Audit Report shows that Mr. Zhao held shares in a Chinese company which he sold in 2013 for 57 million Chinese Yuan (approximately \$11 Canadian), as well as his purchases of the Granville Property and the Selkirk Property. The Minister submits that although the sale of the Selkirk Property by itself may not constitute grounds for a jeopardy order, once the proceeds of sale are released out of trust from the office of the conveyancing lawyer, Mr. Zhao could easily move the funds abroad. The Minister submits that this can be grounds for a jeopardy order.

[28] Mr. Zhao is no longer in Canada and his Representative was not able to offer any assurance that he intends to return to Canada. Mr. Zhao has no source of income here. He has previously disposed of the Granville Property and, as his Canadian bank accounts do not hold sufficient funds to pay the tax debt, it is reasonable to believe that the proceeds of that sale of that property were likely transferred out of Canada or are otherwise unavailable. It is also reasonable to believe, as the Minister submits, that Mr. Zhao has bank accounts and assets held outside of Canada which enable him to sustain himself, including paying his Visa bill for international travel expenses. Therefore, that he would be able to dispose the sale proceeds of the

Selkirk Property abroad and outside Canada's jurisdiction, should he be inclined to do so. The Minister does not have to prove fraud, deceit or bad motive (*Proulx* at para 44; see also *Canada (Minster of National Revenue) v Reddy*, 2008 FC 208 at para 29; *Park* at para 88).

[29] In these circumstances, I am satisfied that the Minister has established there are reasonable grounds for believing that Mr. Zhao will transfer the proceeds of the sale of the Selkirk Property so as to make it unavailable to the Minister (*Quesnel* at para 27).

[30] The Minister also submits that the nature of Mr. Zhao's reassessments was for unreported worldwide income and he was assessed for gross negligence penalties for the 2014-2015 taxation years. The reassessment also indicated a range of income significantly out of scale with the reported income. The Minister submits that this may give rise to a reasonable apprehension that Mr. Zhao had not been conducting his affairs in an "orthodox fashion" as stated in *Rouleau*.

[31] I note in *Rouleux* the applicant was found to have significant sums of cash in his apartment, in a safety deposit box and \$96,000 in cash in a cold storage depot locker. Referencing *Laframboise v The Queen*, [1986] 2 C.T.C. 274 (FCTD), at page 278 [*Laframboise*], the Court in *Rouleux* held that the nature of the reassessments against the applicant indicated a range of income to the applicant quite out of scale with the incomes disclosed by the applicant in his annual returns to the Minister. It held that the way in which he held assets disclosed a conducting of affairs that could be called unorthodox and also disclosed practices that would have made it very simple for the applicant to spirit away substantial assets if he had been so

inclined so that there conceivable could have been difficulty in retracing the assets and in recovering them (para 9).

[32] In *Laframboise* the Court found that the nature of the assessment itself raised a reasonable apprehension that the taxpayer had not been conducting his affairs in what might be called an orthodox fashion. Further, that there was a reasonable apprehension that in placing surplus funds for investment purposes through the hands of a third party instead of directly, there would be difficulty in retracing those funds or n recovering them (at para 8).

[33] While Mr. Zhao's conduct of his affairs does not include the keeping of cash in a cold storage unit or fit within the type of examples set out in *Robarts* at para 61, the nature of the reassessment, as described in the Gonwick Affidavit, arises out of a failure of Mr. Zhao to report worldwide income and a range of income quite out of scale with the incomes disclosed on Mr. Zhao's annual returns. Accordingly, the nature of the assessment raises a reasonable apprehension that Mr. Zhao had not been conducting his affairs in "an orthodox fashion" and that it would be difficult to trace or recover the funds for the tax debt.

[34] Based on all of the above and considering it in whole, I find the Minister has demonstrated that there are reasonable grounds to believe that the collection of the amount assessed for tax by the Minister would be jeopardized by a delay in the collection of that amount.

ORDER IN T-1414-22

THIS COURT ORDERS that

1. Pursuant to subsection 225.2(2) of the *Income Tax Act*, the Minister is hereby authorized to take forthwith the actions described in paragraphs 225.1(1)(b) to (f) of the *Income Tax Act* with respect to the amounts assessed in respect of the Respondent [Jeopardy Order];
2. That the Minister is authorized to effect service of the Jeopardy Order, within 10 days of the date hereof, on the Respondent pursuant to Rule 128 of the *Federal Courts Rules* and subsections 225.2(5) and (6) of the *Income Tax Act* by personally serving the Respondent, if possible, and by leaving a copy of the jeopardy order with Mr. Mike Angel and/or another an adult person at KPMG LLP located at 777 Dunsmuir Street, Vancouver, BC, V7Y 1K3 and by leaving a copy with an adult person at the Office of the Respondent's Realtor, Yvonne Lu at Royal Pacific Realty Corp. located at #100 - 1200 West 73rd Avenue, Vancouver, British Columbia V6P6G5; and
3. That together with the Jeopardy Order, the Minister shall serve on the Respondent a copy of a Notice to the Respondent in the form attached as Annex A to this Order.

"Cecily Y. Strickland"

Judge

ANNEX A

NOTICE TO THE RESPONDENT

TAKE NOTICE that an *ex parte* application, filed under Court File No. T-1414-22, for a Jeopardy Order was commenced against you pursuant to subsection 225.2 of the *Income Tax Act*. The Jeopardy Order authorizes the Minister of National Revenue to take forthwith some or all of the actions described in paragraphs 225.1(1)(b) through (f) of the *Income Tax Act* with respect to your assessed tax debt. Some of the relevant provisions of subsections 252.1 and 252.2 of the *Income Tax Act* are attached hereto.

AND TAKE NOTICE that pursuant to subsection 225.2(8) of the *Income Tax Act* you may, upon six (6) clear days' notice to the Deputy Attorney General of Canada, apply to a Judge of the Federal Court to review the Court Order.

AND TAKE NOTICE that pursuant to subsection 225.2(9) of the *Income Tax Act* your application must be brought within 30 days from the date that the Court Order was deemed to be served on you, or within such further time as a Judge may allow, provided that you can satisfy the Judge that your application was made as soon as practicable.

Copies of the *Federal Courts Rules*, information concerning the local office of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office including the Vancouver office (telephone 604-666-3232).

Income Tax Act (RSC 1985, c. 1 (5th Supp.))

225.1 (1) If a taxpayer is liable for the payment of an amount assessed under this Act, other than an amount assessed under subsection 152(4.2), 169(3) or 220(3.1), the Minister shall not, until after the collection-commencement day in respect of the amount, do any of the following for the purpose of collecting the amount:

- (a) commence legal proceedings in a court,
- (b) certify the amount under section 223,
- (c) require a person to make a payment under subsection 224(1),
- (d) require an institution or a person to make a payment under subsection 224(1.1),
- (e) [Repealed, 2006, c. 4, s. 166]
- (f) require a person to turn over moneys under subsection 224.3(1), or
- (g) give a notice, issue a certificate or make a direction under subsection 225(1).

(1.1) The collection-commencement day in respect of an amount is

- (a) in the case of an amount assessed under subsection 188(1.1) in respect of a notice of intention to revoke given under subsection 168(1) or any of subsections 149.1(2) to (4.1), one year after the day on which the notice was mailed;
- (b) in the case of an amount assessed under section 188.1, one year after the day on which the notice of assessment was sent; and
- (c) in any other case, 90 days after the day on which the notice of assessment was sent.

...

225.2 (1) In this section, judge means a judge or a local judge of a superior court of a province or a judge of the Federal Court.

(2) Notwithstanding section 225.1, where, on ex parte application by the Minister, a judge is satisfied that there are reasonable grounds to believe that the collection of all or any part of an amount assessed in respect of a taxpayer would be jeopardized by a delay in the collection of that amount, the judge shall, on such terms as the judge considers reasonable in the circumstances, authorize the Minister to take forthwith any of the actions described in paragraphs 225.1(1)(a) to 225.1(1)(g) with respect to the amount.

(3) An authorization under subsection 225.2(2) in respect of an amount assessed in respect of a taxpayer may be granted by a judge notwithstanding that a notice of assessment in respect of that amount has not been sent to the taxpayer at or before the time the application is made where the judge is satisfied that the receipt of the notice of assessment by the taxpayer would likely further jeopardize the collection of the amount, and for the purposes of sections 222, 223, 224, 224.1, 224.3 and 225, the amount in respect of which an authorization is so granted shall be deemed to be an amount payable under this Act.

(4) Statements contained in an affidavit filed in the context of an application under this section may be based on belief with the grounds therefor.

(5) An authorization granted under this section in respect of a taxpayer shall be served by the Minister on the taxpayer within 72 hours after it is granted, except where the judge orders the authorization to be served at some other time specified in the authorization, and, where a notice of assessment has not been sent to the taxpayer at or before the time of the application, the notice of assessment shall be served together with the authorization.

(6) For the purposes of subsection 225.2(5), service on a taxpayer shall be effected by

(a) personal service on the taxpayer; or

(b) service in accordance with directions, if any, of a judge.

(7) Where service on a taxpayer cannot reasonably otherwise be effected as and when required under this section, the Minister may, as soon as practicable, apply to a judge for further direction.

(8) Where a judge of a court has granted an authorization under this section in respect of a taxpayer, the taxpayer may, on 6 clear days notice to the Deputy Attorney General of Canada, apply to a judge of the court to review the authorization.

(9) An application under subsection 225.2(8) shall be made

(a) within 30 days from the day on which the authorization was served on the taxpayer in accordance with this section; or

(b) within such further time as a judge may allow, on being satisfied that the application was made as soon as practicable.

(10) An application under subsection 225.2(8) may, on the application of the taxpayer, be heard in camera, if the taxpayer establishes to the satisfaction of the judge that the circumstances of the case justify in camera proceedings.

(11) On an application under subsection 225.2(8), the judge shall determine the question summarily and may confirm, set aside or vary the authorization and make such other order as the judge considers appropriate.

(12) Where any question arises as to the course to be followed in connection with anything done or being done under this section and there is no direction in this section with respect thereto, a judge may give such direction with regard thereto as, in the opinion of the judge, is appropriate.

(13) No appeal lies from an order of a judge made pursuant to subsection 225.2(11).

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1414-22

STYLE OF CAUSE: THE MINISTER OF NATIONAL REVENUE v
MINGFEI ZHAO

PLACE OF HEARING: BY VIDEOCONFERENCE USING ZOOM

DATE OF HEARING: JULY 19, 2022

ORDER AND REASONS: STRICKLAND J.

DATED: JULY 25, 2022

APPEARANCES:

Jessica Ko

FOR THE APPLICANT

SOLICITORS OF RECORD:

Department of Justice Canada

FOR THE APPLICANT