Docket: 2023-1152(GST)G

IN THE MATTER of an application by the Minister of National Revenue under section 311 of the *Excise Tax Act*, for the determination of a question.

BETWEEN:

THE MINISTER OF NATIONAL REVENUE,

Applicant,

and

THE PERSONS NAMED IN SCHEDULES A AND B OF THIS ORDER

Respondent;

Docket: 2021-3115(GST)G

AND BETWEEN:

GOLD LINE TELEMANAGEMENT INC.,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

Motion heard on May 16, 2024 at Toronto, Ontario

Before: The Honourable Mr. Justice Randall S. Bocock

Appearances:

Counsel for the Applicant:	Darren Prevost Natasha Tso Christopher Ware

Counsel for the Respondent:	As described in Schedule A attached to this Order

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ORDER RE: MOTION TO STRIKE AFFIDAVITS

WHEREAS the Minister of National Revenue (the "Minister") filed an application under section 311 of the *Excise Tax Act* (the "*Act*") (the "s.311 Application") for a determination of the proposed questions described in the application (the "Questions");

AND WHEREAS Gold Line Telemanagement Inc. ("Gold Line") has filed and served certain affidavits on or before April 9, 2024 ("Gold Line's Affidavits");

AND WHEREAS the Minister brings this motion dated April 26, 2024 to strike three of Gold Line's Affidavits (the "Minister's Motion to Strike");

AND WHEREAS the Court conducted an application management conference on May 16, 2024 and, *inter alia*, heard the Minister's and Gold Line's submissions concerning the Minister's Motion to Strike;

AND WHEREAS the Court has published its Reasons for Order on this date;

NOW THEREFORE AFTER DELIBERATION THIS COURT ORDERS THAT:

1. The following paragraphs of the affidavit of Timo Vainionpaa dated April 9, 2024 are struck as inadmissible for the purposes of Parts I and II of the Application:

    a) paragraphs 26 – 30 inclusive;

    b) paragraphs 32 – 40 inclusive;

    c) paragraphs 156; and,

    d) paragraphs 159 – 313 inclusive.

2. The affidavits of Joel Bowers and Alexei Tretiakov respectively dated April 9, 2024 and February 29, 2024 are admissible for the purposes of Parts I and II of the s.311 Application;

3. Procedural Order #7 of even date shall govern the balance of certain proceedings concerning the s.311 Application;

4. Given the mixed result, there shall be no costs.

Signed at Toronto, Ontario this 12th day of September, 2024.

"R.S. Bocock"

Bocock J.

Citation: 2024 TCC 119
Date: 20240912
Docket: 2023-1152(GST)G

BETWEEN:

THE MINISTER OF NATIONAL REVENUE,

Applicant,

and

THE PERSONS NAMED IN SCHEDULES A AND B OF ORDER OF EVEN DATE,

Respondents;

Docket: 2021-3115(GST)G

AND BETWEEN:

GOLD LINE TELEMANAGEMENT INC.,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

REASONS FOR ORDER

Bocock J.

I. Introduction

The questions at the root of the matter

[1] The Minister of National Revenue ("the Minister") filed, on February 24, 2023 and amended on April 19, 2024, an application pursuant to section 311 of the *Excise Tax Act*[1] with the Court (the "Application") to have the

[1] RSC 1985, c E-15 [the "**Act**"].

Court answer the following common questions concerning the appellant, Gold Line Telemanagement Inc. ("Gold Line"), and other taxpayers:

i. to what extent, if any, were any Voice Over Internet Protocol (VoIP) minutes supplied within the purported series of transactions;

ii. if this Court determines that VoIP minutes were supplied, were any VoIP minutes supplied in the course of a "commercial activity";

iii. to what extent were the purported supply relationships involving Gold Line, its purported direct suppliers, and/or the Upstream Suppliers (collectively, the named entities) shams intended to deceive the Minister;

iv. if this Court determines that no VoIP minutes were supplied, are any of the Parties to this Application entitled to a rebate for tax paid in error; and,

v. to what extent did any or all of the Parties to this Application knowingly or under circumstances amounting to gross negligence participate in the shams, such that they are liable to the penalty in section 285 of the Act? [2]

(Collectively, the "Questions")

Three Parts: To answer, if so, how and, ultimately, what?

[2] To properly and efficiently dispose of the Application, the Court has sequenced any hearing of the complete Application which concerns 16 taxpayers, seven of whom have related appeals before the Court, into the following three parts:

I. the initial determinations of whether the Questions are properly put before the Court and, then, ought the Court exercise its discretion to consider the Questions ("Part I");

II. if the Court should exercise its discretion under Part I to consider the Questions, then what is the appropriate process and procedure to consider and answer the Questions ("Part II"); and,

[2] Application at para 36.

III. the substantive answering of the Questions among the parties ("Part III").

[3] Gold Line filed seven affidavits in opposition to the s.311 Application. On April 24, 2024, the Minister filed a motion record to strike three of the affidavits (the "Minister's Motion") for the purposes of adjudicating Parts I and II of the Application, namely the affidavits of Timo Vainionpaa ("Vainionpaa Affidavit"), Joel Bowers ("Bowers Affidavit"), and Alexei Tretiakov ("Tretiakov Affidavit") (collectively the "Impugned Affidavits"). On May 16, 2024, the Court heard submissions from both Gold Line and the Minister regarding the Minister's Motion. At the hearing, the parties agreed that the only expert evidence tendered was that of Exhibit "A" to the Vainionpaa Affidavit, being the expert report. No other party or named taxpayer to the Application provided submissions to the Court on this matter.

II. Position of the Parties

Minister's Submissions

[4] The Minister challenges the Impugned Affidavits because they target the Questions on their merits, and are therefore irrelevant to Parts I and II of the Application. Specifically, the Minister argues the Vainionpaa Affidavit disrupts the normal sequencing for expert evidence, that expert evidence should be inadmissible at this stage as the Court is not yet hearing the merits of the matter. Therefore, the Vainionpaa Affidavit fails the *White Burgess*[3] test, which should be undertaken at a hearing of merits, not as a preliminary review.

Gold Line's Submissions

[5] Gold Line's position is that Vainionpaa's expert evidence is particularly relevant because whether or not the Court can determine the Questions for all parties in one proceeding requires an understanding of how the wholesale VoIP sector operates, the type of data recorded in call details records, and how to interpret the sample call detail records raised in the Minister's position paper. Additionally, Gold

[3] *White Burgess Langille Inman v Abbott and Haliburton Co*, 2015 SCC 23 at para 23 [*White Burgess*]; *R v Abbey*, 2009 ONCA 624 at para 82 [*Abbey*].

Line further argues that the Vainionpaa Affidavit shows the Questions do not arise from the same transactions;

i. the Questions are not common to the parties;

ii. the Application will proceed inefficiently in the absence of expert evidence;

iii. that Vainionpaa is an appropriate expert; and,

iv. that nothing precludes the Court from considering his evidence at this stage.

III. Relevant Law to this Motion

Section 311 of the Act

[6] Subsection 311(1) of the Act provides that the Minister may apply to the Court for a determination of a question that, in the Minister's opinion, is a question arising out of one and the same transaction or occurrence or series of transactions or occurrences that is common to assessments or proposed assessments in respect of two or more persons.

[7] Subsection 311(3) of the *Act* specifically provides:

> Where the Tax Court is satisfied that a determination of a question set out in an application made under this section will affect assessments or proposed assessments in respect of two or more persons who have been served with a copy of the application and who are named in an order of the Tax Court under this subsection, it may
>
> > (a) if none of the persons so named has appealed from such an assessment, proceed to determine the question in such manner as it considers appropriate; or
> >
> > (b) if one or more of the persons so named has or have appealed, make such order joining a party or parties to that or those appeals as it considers appropriate and proceed to determine the question.

[8] Section 311 of the Act is substantially similar to section 174 of the *Income Tax Act*.[4] In *Canada v. ACI Properties Ltd*., the Federal Court of Appeal ("FCA") held that the legislative objectives of section 174 of the *ITA* are to encourage the efficient use of the Court's resources, avoid the risk of inconsistent Court decisions and of separate proceedings, ensure that the Court hears relevant evidence, and ensure the collection of taxes that are properly due.[5]

[9] In *Canada (National Revenue) v. Boguski*, the FCA held section 174 of the *ITA* does not require the Court to make any type of order, but rather allows the Court to make an order if the statutory conditions are met, and deserves application of ultimately subject the Court's discretion to hear the questions.[6] Concerning the final point, even where a common question exists, the Court may refuse to exercise its discretion to make an order if it considers such a decision to be inefficient and procedurally unfair to do so.[7] Further, the Court, as a court of first instance, has a privileged position to appreciate the dynamics of the particular litigation at hand.[8] In this position, the Court may make or refuse to make an order when controlling its own practice and procedure.[9] By contextual analogy, the same conclusions pertaining to section 174 of the *ITA* outlined above also apply to section 311 of the *Act*.

Striking an Affidavit – The Test

[10] Precedential framework exists for the determination of appropriate circumstances to strike an affidavit. These are:

i. The paramount purpose of an affidavit is to adduce facts relevant to the dispute without gloss or explanation.

ii. The Court may strike affidavits, or portions of them, where:

    i. they are abusive or clearly irrelevant;

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[4] RSC 1985, c 1 (5th Supp) ["**ITA**"]
[5] 2014 FCA 45 at para 17 [*ACI Properties*].
[6] 2021 FCA 118 at para 5 [*Boguski*].
[7] *Ibid* at paras 6 and 8.
[8] *Ibid* at para 9.
[9] *Ibid* at para 8.

ii. where they contain opinion, argument or legal conclusions; or

iii. where the Court is convinced that admissibility would be better resolved at an early stage so as to allow the hearing to proceed in a timely and orderly fashion.[10]

[11] The discretion to strike an affidavit, or part of it, should be exercised sparingly and only in exceptional circumstances.[11] The rationale for setting this high bar is to avoid an inadvertent pre-emptive decision on the merits at an interlocutory stage.[12] Examples of when it is appropriate to strike an affidavit include where a party would be materially prejudiced by not striking it, where not striking an affidavit would impair the orderly hearing of the application, where it is in the interest of justice to do so, or where the issue of admissibility is clear-cut.[13]

Admissibility of Expert Reports (as affidavits)

[12] Determining the admissibility of expert evidence is itself a two-stage process:

1. *Threshold admissibility*: The proposed expert evidence must be logically relevant, necessary to assist the trier of fact, there must not be any other applicable exclusionary rules, and the expert must be properly qualified.[14] The evidence is assessed on a yes/no basis at the threshold stage.[15] The evidence will be relevant if it makes the existence or non-existence of a fact in issue more or less likely than without the evidence, judged as a matter of human experience and logic.[16] The evidence will

[10] *Lukács v. Canada (Transportation Agency)*, 2019 FC 1256 at para 22; *Canada (Board of Internal Economy) v. Canada (Attorney General)*, 2017 FCA 43 at para 16 [*CBIE*]; *Canada (Attorney General) v. Quadrini*, 2010 FCA 47 at para 18; *McConnell v. Canadian Human Rights Commission*, 2004 FC 817, affirmed 2005 FCA 389; *CBS Canada Holdings Co. v. The Queen*, 2016 TCC 85 at para 19.
[11] *CBIE, supra* note 10 at para 29.
[12] *Milgram Foundation v Canada (Attorney General)*, 2023 FC 1499 at para 5.
[13] *Ibid* at para 4.
[14] *White Burgess supra*, at para 23 [*White Burgess*]; *R v Abbey*, 2009 ONCA 624 at para 82 [*Abbey*].
[15] *Bell Telephone Company of Canada v The King*, 2023 TCC 24 at Appendix A, para 6 [*Bell*].
[16] *Yao v The Queen*, 2022 TCC 23 at para 17 [*Yao*].

be reasonably necessary if it is likely outside the ordinary experience and knowledge of the trier of fact.[17]

2. *Gatekeeper function:* The Court must be satisfied the probative value of admitting the evidence outweighs the potential prejudice, time cost, and risk of confusion of its admission, bearing in mind parties have the right to put forward the most complete evidentiary record consistent with the rules of evidence.[18]

[13] The general ground to strike a factual affidavit because it contains opinion is not applicable to expert opinion evidence. Expert opinion evidence is admissible where it is necessary to provide the trier of fact with the technical or scientific basis upon which to properly assess the evidence presented[19]; if on the proven facts a judge can form his or her own conclusions without help, then the opinion of an expert is unnecessary.[20] If it is not readily apparent that the expert evidence is inadmissible, it may be preferable to determine admissibility when the merits are at issue.[21]

Before the Court are the following issues:

[14] Should the Court strike all or part of the Vainionpaa Affidavit containing the expert report?

[15] Should the Court strike all of part of either the Bowers or Tretiakov Affidavits?

IV. Analysis

Should the Court strike* Vainionpaa*'s affidavit?:

[17] *Bell, supra* note BEX at Appendix A, para 12; *R. v. Mohan*, 1994 CanLII 80 (SCC), [1994] 2 S.C.R. 9 at 23 [*Mohan*].
[18] *Yao, supra* note 16 at para 16; *Bell, supra* note 17 at Appendix A, paras 7-8.
[19] *CBIE, supra* note 10 at para 17.
[20] *Ibid* at para 18;.*Mohan, supra* note 17.
[21] *International Air Transport Association v Canada* (Transportation Agency), 2020 FCA 172 at para 30.

The order of operations concerning the striking of an affidavit containing expert evidence at this preliminary stage

[16] The Minister's Motion is an attempt to pre-emptively determine the admissibility of proposed expert evidence at a stage of the Application that is, in and of itself, preliminary. The Court must first determine whether the Minister's Motion meets the high bar for striking all or part of the Vainionpaa Affidavit. The only final decision with respect to the Vainionpaa evidence that the Court can make on the Minister's Motion is one of inadmissibility. If the Court does not strike the Vainionpaa Affidavit as inadmissible in its entirety, its admissibility may still be challenged by the Minister at a *voir dire* in accordance with the *White Burgess* framework. In other words, the Court need not, by implication, find, if the Minister's Motion is denied, that the Vainionpaa evidence is necessarily admissible for Parts I and II of the Application.

[17] While this effectively gives the Minister "another kick at the can" regarding admissibility, the Court can address any unmerited, repetitive challenges in light of the following decision with costs.

The Court is not precluded from considering Vainionpaa's evidence at this preliminary stage

[18] Nothing in the *Tax Court of Canada Rules (General Procedure)* (the "Rules") precludes the consideration of expert evidence at Parts I and II of the Application. By excluding the expert report in its entirety presently, the Court risks depriving itself of:

i. the complete evidentiary record that should be considered, and/or the necessary technical or scientific basis to come to a conclusion;

ii. or both, in the adjudication of Parts I and II of the Application.

[19] However, the jurisprudence, and not the Rules, drives the analysis of whether or not to grant the Minister's Motion. Therefore, the measure of whether the Minister's Motion meets the bar for striking affidavits and expert evidence is jurisprudentially rooted.

Do certain parts of Vainionpaa's proposed expert opinion contain legal arguments and conclusions concerning Parts I and II of the Application

[20] Vainionpaa's stated purpose for preparing the Report is twofold. First, it seeks "to provide an expert opinion on how the wholesale Voice over Internet Protocol ('VoIP') industry works and, second, assesses the Canada Revenue Agency's analysis of Gold Line's call detail records ('CDRs')."[22] *Prima facie* the first purpose is not offensive to the Court's role, the second, however, is a direct challenge to conclusions of the Minister's agents lying at the heart of the Questions to be determined by the Court.

[21] The first broad objective of the evidence is to explain that the VoIP industry consists, at least in part, of the buying and selling of termination minutes, which provide access to a specified communications network for a measured period of time.[23] The CDRs are records of VoIP termination connected through Gold Line's PortaOne Switch.[24] The second broad objective of Vainionpaa's evidence is to detail how, in his opinion, the CRA misinterpreted the records stored in Gold Line's PortaOne switch to conclude that there were no real calls within the alleged scheme. Where expert opinion is so replete with legal opinion pertaining to the substantive issues that will ultimately arise in Part III, the Court should strike it because it crosses the boundary beyond the adjudication of Parts I and II of the Application.[25]

[22] At Parts I and II of the Application, the Court is not concerned with finding whether CRA correctly interpreted the CDRs or not. The adjudication of Parts I and II of the Application is concerned with:

i. whether the Court can logically answer the Questions on a common basis as informed and framed by the *ETA*;

ii. if the Court can logically answer the Questions, whether the Questions will commonly affect the assessments and proposed assessments of the parties the Minister seeks to bind; and,

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[22] Vainionpaa affidavit at para 1.
[23] Amended NoA at paras 19-21; FAAR at paras 32-33.
[24] Amended NoA at paras 48-51; FAAR at paras 101-107; Answer at para 43.
[25] *CBIE*, *supra* note 10 at para 30.

iii. whether the Court should exercise its discretion to answer the Questions and bind the parties, taking into account considerations of efficiency and procedural fairness.

[23] Numerically, paragraphs 26, 27, 29, 30, 32-40, 156, and 159-313 of the Report directly or indirectly confront and challenge the CRA's analysis of Gold Line's CDRs. Arguably, even at a Part III determination of the Questions on the merits, these conclusions arguably usurp the trier's role and possibly distract the Court from its core task.[26] Quite apart from that future issue, these expert opinions are not necessary for the Court to have to determine the concerns of Parts I and II outlined above. Accordingly, the Court strikes these paragraphs for the purposes of Part I and Part II of the s.311 Application.

Does the balance of the Vainionpaa Affidavit's proposed expert opinion contains technical or scientific knowledge that may be necessary to adjudicate Parts I and II of the Application?

[24] In order for the Court to admit an expert report, it must be necessary, not merely helpful, for the trier of fact to form a conclusion.[27] However, to dispose of the Minister's Motion, the Court does not need to determine if Mr. Vainionpaa's evidence is admissible, but only if it is pre-emptively inadmissible or not.

[25] Paragraphs 1-25, 28, 31, and 41-155 (the "balance of the Vainionpaa Affidavit") purport to explain:

i. how the VoIP industry works;

ii. how the wholesale VoIP market is unique; and,

iii. how CDRs track the supply of VoIP termination minutes.

This information may be relevant to the adjudication of components of Parts I and II as outlined above. Unlike certain sections of the Vainionpaa Affidavit, these

[26] *Ibid* at paras 18 and 32.
[27] *Bell, supra* note 17 at Appendix A, paras 11-14.

paragraphs are not clearly abusive, irrelevant, argumentative, or conclusory such that they merit pre-emptive striking.

[26] It is not readily apparent that these paragraphs comprising the balance of the Vainionpaa Affidavit are inadmissible. Striking at this stage risks leaving the Court with a depleted evidentiary record for the adjudication of components of Parts I and II of the Application, particularly as it pertains to the technical operations of the alleged carousel scheme.

Stage 1 – Threshold Admissibility

[27] In order for the balance of the Vainionpaa's Affidavit's evidence to meet the test for threshold admissibility:

i. it must be logically relevant;

ii. necessary to assist the trier of fact;

iii. there must not be any other applicable exclusionary rules; and,

iv. Vainionpaa must be properly qualified as an expert.

[28] The contentious grounds for threshold admissibility at Parts I and II are twofold: necessity and proper qualifications. The case for necessity is whether the Court finds Mr. Vainionpaa's remaining technical and scientific evidence is necessary, not merely helpful, to form a conclusion on components of Parts I and II of the Application, the threshold requirement is met.

[29] The Minister raised two arguments regarding Mr. Vainionpaa's qualifications as an expert. First, the Minister argues numerous parts of the Report contain "expertise" that is no different or better than that of the trier of fact. Rather, Mr. Vainionpaa's opinions are based on his personal experience and general knowledge.[28] Second, the Minister argues Mr. Vainionpaa is biased against CRA and not impartial as an expert should be.[29]

[28] Minister's Submissions at para 60.
[29] *Ibid* at paras 61-64.

[30] In order for an expert to have sufficient expertise, he or she must have "acquired special or peculiar knowledge through study or experience in respect of the matters on which he or she undertakes to testify."[30] If this modest status is achieved, deficiencies in expertise can affect the weight of the expert evidence rather than its admissibility.[31] Mr. Vainionpaa has extensive industry experience such that he has clearly acquired special knowledge of the VoIP industry through experience. His expertise appears to meet the threshold requirement set out in *White Burgess*, at least at this stage.

[31] In order for an expert to be sufficiently impartial, the proposed expert will be disqualified only in the rare circumstance where he or she is incapable of giving an impartial opinion in the specific circumstances of the case.[32] If the expert is able and willing to carry out their primary duty to the court to be fair, objective, and non-partisan, the expert will meet the threshold admissibility requirement.[33] In arriving at a conclusion, the court will consider the particular circumstances, the nature of the proposed evidence, and the nature and extent of any connection between the expert and the litigation or a party.[34] Further, the concept of apparent bias is not relevant to the question of whether or not an expert witness will be unable or unwilling to fulfill its primary duty to the court.[35] The Court agrees with Gold Line's submissions that it is not clear that Mr. Vainionpaa is incapable of proving an impartial opinion, particularly when the conclusions unnecessary for Part I and II are severed.[36] Generally, Mr. Vainionpaa meets the threshold requirement in this regard, as well.

[32] Therefore, Mr. Vainionpaa's evidence meets the requirements of threshold admissibility.

Stage 2 – Gatekeeper function

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[30] *Mohan, supra* note 17 at 25.
[31] *E. G. v. Minister of Human Resources and Skills Development*, 2014 SSTAD 25 at para 35.
[32] *Winkler v Hendley*, 2021 FC 498 at para 37.
[33] *Ibid*.
[34] *Ibid* at para 38.
[35] *White Burgess, supra* note 14 at para 50.
[36] Gold Line's Submissions at para 85.

[33] The Minister argues the potential probative value to gain from Vainionpaa's evidence is outweighed by the prejudice its admission would cause, focusing on the extensive court resources that would be required on a *voir dire*.[37]

[34] If the threshold requirements of necessity and expertise are met, the probative value of Vainionpaa's evidence are self-evident for the reasons explained above. A *voir dire* constitutes a standard procedural, gatekeeping step – its cost alone is not evidence of significant prejudice in light of the potential probativity of the evidence. If Mr. Vainionpaa can address the Court's concerns and no other major prejudicial concerns arise because of cross-examinations, the Court should have a complete evidentiary record, including portions of the Vainionpaa Affidavit, for the adjudication of Parts I and II of the Application.

Should the Court strike any part or all of either of the Bowers or Tretiakov affidavits?

[35] At the outset, Gold Line clarified in both its written and oral submissions the Bowers affidavit is not tendered as expert evidence.[38]

[36] The Minister argued, both in her written and oral submissions, that the Court should strike both the Bowers and Tretiakov affidavits because they are the foundation for the Vainionpaa evidence, but are irrelevant for the same reasons.[39] The Minister further argues in her oral submissions that if the Vainionpaa affidavit is struck completely, these two other affidavits should also be struck.

[37] Together and independently, the Bowers and Tretiakov Affidavits are evidence of the roles of the PortaOne switch and Gold Line's CDRs, respectively, as well as how the raw data are processed. Gold Line also correctly argues it is appropriate for the Court to allow the Kroll report's presentation of the raw data (included in the Tretiakov Affidavit), as the only alternative is to have the CDRs themselves before the Court.[40] The Court agrees that, at this stage at least, that is warranted.

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[37] Minister's Submissions at para 60.
[38] Gold Line's Submissions at paras 89-90.
[39] Minister's Submissions at paras 65 and 67.
[40] *Merchant v The Queen*, 1998 CanLII 322 at para 7.

[38] At a minimum, the processing of the data may inform the Court's assessment of efficiency and procedural fairness at the adjudication of components of Parts I and II of the Application. Therefore, neither affidavit surmounts the high bar for striking an affidavit due to irrelevance.

[39] Further, the Court treats the Bowers and Tretiakov Affidavits, which are factual affidavits, differently than the expert Vainionpaa Affidavit. It is logical that the factual affidavits serve as the foundation for the expert opinion. It would also be logical to strike an expert opinion based on irrelevant factual evidence. However, it is not logical to strike factual evidence simply because the expert evidence may be irrelevant. The factual evidence is foundational *per se* in this matter; it may stand independent regardless of how Gold Line chooses to use it as a basis for its arguments.

V. Conclusion

[40] For the reasons stated, the Court grants the Minister's Motion in part on the following basis:

i. the following paragraphs of the Vainionpaa affidavit for the purposes of adjudicating Parts I and II of the Application:

    a) paragraphs 26 – 30 inclusive;

    b) paragraphs 32 – 40 inclusive;

    c) paragraphs 156; and,

    d) paragraphs 159 – 313 inclusive.

ii. the Bowers Affidavit and Tretiakov Affidavit shall remain as admissible evidence;

iii. the Minister leave may file rebuttal affidavits to the remaining paragraphs of the Vainionpaa Affidavit and the entire Bowers and Tretiakov Affidavits;

iv. given the mixed result, there shall be no order as to costs.

Signed at Toronto, Ontario, this 12th day of September, 2024.

"R.S. Bocock"

Bocock J.

CITATION:	2024 TCC 119
COURT FILE NO.:	2023-1152(GST)G
STYLE OF CAUSE:	THE MINISTER OF NATIONAL REVENUE AND THE PERSONS NAMED IN SCHEDULES A AND B OF THIS ORDER AND BETWEEN GOLD LINE TELEMANAGEMENT INC. AND HIS MAJESTY THE KING
PLACE OF HEARING:	Toronto, Ontario
DATE OF HEARING:	May 16, 2024
REASONS FOR ORDER BY:	The Honourable Mr. Justice Randall S. Bocock
DATE OF ORDER:	September 12, 2024

APPEARANCES:

Counsel for the Applicant:	Darren Prevost Natasha Tso Christopher Ware
Counsel for the Respondent:	As described in Schedule A attached to this Order

COUNSEL OF RECORD:

For the Applicant:

Name:	Darren Prevost Natasha Tso Christopher Ware
For the Respondent:	Shalene Curtis-Micallef Deputy Attorney General of Canada Ottawa, Canada

Schedule A

List of Respondent taxpayers with named counsel in MNR s. 311 *ETA* Application: 2023-1152(GST)G and those taxpayers who have since provided notice of a legal representation:

Party	**Counsel**
Gold Line Telemanagement Inc.	KPMG Law LLP Kristen Duerhammer Justin Kutyan Gordon Bourgard 4600 - 333 Bay Street Toronto, Ontario M5H 2S5
Voice Tel Canada Inc.	Barrett Tax law Jack Wang 44 - 665 Millway Avenue Vaughan, Ontario L4K 3T8
Tel-Pal Comm Inc.	Siegal Tax Law Professional Corporation Brandon Siegal First Canadian Place 5700 - 100 King Street West Toronto, ON M5X 1C7
Newave Consulting Ltd.	Ummat Tax Law PC Amit Ummat 302 - 5500 North Service Road Burlington, Ontario L7L 6W6
NGTFZE Telecom Inc.	Tax Chambers LLP David Piccolo 300 - 155 University Avenue Toronto, Ontario M5H 3B7

Silktel Inc.	BRS Tax Lawyers LLP John Buote 103 - 2150 Islington Avenue Toronto, Ontario M9P 3V4
Xirix Network Corporations	Thorsteinssons LLP Marie-Eve Heming Rebecca Loo Bay Wellington Tower 181 Bay Street, 33rd Floor Toronto, Ontario M5J 2T3
Joven Tel Inc.	Bordon Ladner Gervais Bobby Solhi 22 Adelaide Street West Toronto, Ontario M5H 4E3
Echelon Global Inc.	Taxpayer Law Professional Corporation Igor Kastelyanets 1400 - 18 King Street East Toronto, Ontario M5C 1C4

Schedule B

List of persons listed in the MNR s. 311 *ETA* Application: 2023-1152(GST)G with no named counsel and who may effectively be served in accordance with the provisions of this and other applicable Orders of this Court:

Party	**Address**
Carrierzone Limited	404 - 25 Trailwood Drive Mississauga, Ontario L4Z 3K9
Envision Connect Limited	64 Cabaletta Crescent Woodbridge, Ontario L4L 6K8
APTX Communications Inc.	5983 Brookhaven Way Mississauga, Ontario L5V 2T9
Telstats Networks Limited	2932 Cape Hill Crescent Mississauga, Ontario L4Z 1V9 and 3868 Arvona Place Mississauga, Ontario L5M 6L4
2352211 Ontario Inc., c.o.b. Telo Networks	13 – 480 Beresford Path Oshawa, Ontario L1H 0B2
Envision Trading Inc.	236 Pritchard Road Hamilton, Ontario L8W 3P7 Attention: Mehran Sabouhi
Callup Telcom Inc.	237 Rodney Street Waterloo, Ontario N2J 1G7 Attention: Omid Gotnaraghi
NGTFZE Telecom Inc.	735 Glencairn Avenue North York, Ontario M6B 1Z9