

Docket: 2018-4772(GST)G

BETWEEN:

BURRAQ EMPLOYMENT SERVICES LTD.,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

Appeal heard on January 15, 16, 17 and 18, 2024 and November 4, 5, 6 and 7, 2024 at Toronto, Ontario; and written submissions filed by the Respondent on November 14, 2024, and by the Appellant on November 15, 2024

Before: The Honourable Justice Dominique Lafleur

Appearances:

Counsel for the Appellant: Vern Krishna
David Piccolo

Counsel for the Respondent: Jack Warren
Dominik Longchamps
Priya Chopra

JUDGMENT

In accordance with the attached Reasons for Judgment, the appeals of the reassessments made under Part IX of the *Excise Tax Act* for the Appellant's reporting periods from April 1, 2014, to March 31, 2017, are dismissed, with costs to the Respondent.

The parties shall have 30 days from the date of this Judgment to agree on costs. If the parties do not come to an agreement on costs, they shall file written submissions, not exceeding 10 pages, on or before June 2, 2025. If the parties do not advise the Court that they have reached an agreement and no submissions are

received by this date, then one set of costs shall be awarded to the Respondent in accordance with Tariff B.

Signed this 2nd day of May 2025.

“Dominique Lafleur”

Lafleur J.

Citation: 2025 TCC 68
Date: 20250502
Docket: 2018-4772(GST)G

BETWEEN:

BURRAQ EMPLOYMENT SERVICES LTD.,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

REASONS FOR JUDGMENT

Lafleur J.

I. OVERVIEW

[1] The Minister of National Revenue (the “Minister”) reassessed Burraq Employment Services Ltd. (“Burraq” or the “Appellant”) under Part IX of the *Excise Tax Act* (RSC 1985, c. E-15) (the “ETA”) by notices of reassessment dated February 23, 2018, for the reporting periods from April 1, 2014, to March 31, 2017 (the “Relevant Periods”).

[2] The Minister denied input tax credits (“ITCs”) to Burraq totalling \$361,999.99 in respect of GST/HST relating to various invoices of Ask Employment Agency Inc. (“ASK”), Igor Employment Services Inc. (“IGOR”), Data Employment Services Inc. (“DATA”) and Sunrise Employment Inc. (“SUNRISE”) for labour services.

[3] According to the Minister, Burraq participated in a scheme with ASK, IGOR and DATA (together, the “Subcontractors”) to obtain fraudulent invoices from the Subcontractors for labour services, which amounted to a sham.

[4] More particularly:

- ASK invoiced Burraq for \$105,904 of labour services (plus HST of \$13,767) from June 19, 2014, to August 22, 2014 (Exhibit R-1, Respondent's Book of Documents, tab 4(D));
- IGOR invoiced Burraq for \$830,115 of labour services (plus HST of \$107,915) from August 29, 2014, to November 30, 2015 (Exhibit R-1, Respondent's Book of Documents, tab 5(D)); and
- DATA invoiced Burraq for \$1,834,301 of labour services (plus HST of \$238,459) from December 8, 2015, to March 27, 2017 (Exhibit R-1, Respondent's Book of Documents, tab 6(D)).

[5] With respect to SUNRISE, SUNRISE invoiced Burraq for \$14,294 (plus HST of \$1,858.22) for only one week (November 3 to 9, 2014) (Exhibit R-1, Respondent's Book of Documents, tab 7(A)). The Minister is of the view that the documentary requirements prescribed by the ETA under subsection 169(4) and by section 3 of the Input Tax Credit Information (GST/HST) Regulations (SOR/91-45) (the "Regulations") were not met.

[6] Furthermore, the Minister denied ITCs totalling \$3,509.22 in respect of GST/HST relating to the purchase of a Dodge Charger vehicle because it was not used in the course of Burraq's business.

[7] The Minister also denied ITCs totalling \$22,835.62 because they relate to GST/HST on expenses allegedly not incurred by Burraq as the expenses were not recorded in Burraq's ledger.

[8] Finally, the Minister assessed penalties under section 285 of the ETA totalling \$97,806.16, in respect of all ITCs denied.

[9] Burraq is taking the view that it is entitled to all ITCs claimed, and that no penalties should be assessed in that respect.

[10] At the hearing, Mr. Nousharwan Ahmed Sahi, a shareholder and a director of Burraq, was the sole witness for the Appellant.

[11] Testifying for the Respondent were two auditors from the Canada Revenue Agency (the "CRA"), namely Ms. Michele Sinnott and Ms. Victoria Norris. The

Respondent also called Ms. Ravinderpal Kaur Chatha and Ms. Sukhvir Kaur who, during the Relevant Periods, spent some time as Burraq's receptionists. Further, the Respondent called Ms. Gulshan Mustansir Billah, Mr. Sahi's mother-in-law and the founder of Burraq.

[12] In these reasons, all references to statutory provisions are references to the ETA, unless otherwise indicated, and all references to dollar amounts are references to amounts in Canadian dollars.

II. ISSUES

[13] The Appellant acknowledges in its written submissions that it does not seek to obtain ITCs in addition to ITCs claimed in respect of GST/HST relating to various invoices of the Subcontractors and to one invoice of SUNRISE for labour services, as well as ITCs claimed for the purchase of the Dodge Charger vehicle.

[14] Accordingly, the Court will not decide on whether Burraq is entitled to ITCs totalling \$22,835.62 in respect of GST/HST on expenses allegedly not incurred by Burraq as the expenses were not recorded in Burraq's ledger.

[15] Furthermore, at the hearing, the Appellant acknowledged that it no longer seeks any rebates for taxes allegedly paid in error. As a result, this issue will not be decided by the Court.

[16] In this appeal, the Court must then determine the following:

1. Whether Burraq is entitled to ITCs totalling \$360,141.77 in respect of GST/HST relating to various invoices of the Subcontractors for labour services?
2. Whether Burraq is entitled to ITCs totalling \$3,509.22 in respect of GST/HST paid on the purchase of a Dodge Charger vehicle?
3. Whether Burraq is entitled to ITCs totalling \$1,858.22 in respect of GST/HST relating to an invoice of SUNRISE for labour services?
4. Whether Burraq is liable to penalties under section 285 in respect of the denied ITCs?

III. POSITIONS OF THE PARTIES

A. The Appellant

[17] According to the Appellant, Burraq is entitled to claim ITCs totalling \$360,141.77 as documented in its GST/HST returns, because it acquired taxable supplies (i.e. the labour services) from the Subcontractors in the course of its commercial activities.

[18] According to the Appellant, Mr. Sahi's testimony was credible and reliable. Mr. Sahi testified that the Subcontractors supplied labour services to Burraq, which in turn made taxable supplies of labour to its own clients.

[19] According to Mr. Sahi, Burraq did not have enough employees to meet the needs of its clients. To adequately service its clients, Burraq had to obtain additional workers from the Subcontractors. Burraq provided to its clients both the temporary workers supplied by the Subcontractors as well as Burraq's own employees. These clients paid Burraq for services rendered by both the temporary workers supplied by the Subcontractors and Burraq's own employees.

[20] Further, the Subcontractors issued invoices to Burraq for supplies of temporary workers. These invoices were paid by Burraq by issuing cheques, certified cheques or bank drafts from its business bank accounts. These cheques were all cashed by the Subcontractors and cleared through the Canadian bank system.

[21] On the other hand, the CRA auditor, Ms. Sinnott, did not conduct a business analysis on the temporary employment agency's industry in which Burraq operates. According to the Appellant, that industry depends upon temporary workers, rather than permanent employees, to satisfy labour requests of their clients. These workers are usually low-level, unskilled and temporary labourers. Burraq's clients did not care who the workers were, or who supplied them, so long as they showed up when requested.

[22] According to the Appellant, the Respondent did not adduce sufficient evidence to show that the invoices of the Subcontractors were false. The Appellant argues that a "sham" requires an element of deceit, where the party alleging the sham must establish it on a balance of probabilities.

[23] According to the Appellant, the Respondent had the burden to establish, on a balance of probabilities, the allegations of sham and show a common intention to

deceive. The Appellant is of the view that this burden was not met because the Minister relied on a series of circular assertions in addition to irrelevant and unsupported factors. The Appellant argues that it need not prove a negative.

[24] Furthermore, according to the Appellant, the documentary requirements prescribed by the ETA under subsection 169(4) and section 3 of the Regulations were met for all supplies of labour services made to Burraq by the Subcontractors and by SUNRISE.

[25] According to the Appellant, ITCs relating to GST/HST paid on the purchase of the Dodge Charger vehicle should be allowed as all requirements of the ETA were met. Mr. Sahi testified that he used the vehicle for Burraq's business operations. Burraq's business required the use of a vehicle for transportation to and from their clients' places of business and various banks, and for other business activities.

[26] Finally, penalties assessed under section 285 should be cancelled, as no evidence was adduced showing that Mr. Sahi subjectively knew about the false statements being made on the GST/HST returns, or that he had been grossly negligent.

[27] Further, any doubt militates against applying the penalties, as the penalty must be assessed only where the evidence clearly justifies so doing (*Fourney v. The Queen*, 2011 TCC 520 ("*Fourney*"), at para. 80). Because the CRA auditor (Ms. Sinnott) only had minimal communication with Mr. Sahi over the course of the audit and because she did not question Mr. Sahi about his knowledge of the GST/HST requirements, the penalties should not be applied.

[28] Additionally, the Appellant submits that the penalties are not justified since the auditor acknowledged at the hearing that the books and records of Burraq were well maintained.

B. The Respondent

[29] According to the Respondent, Burraq participated in an accommodation invoicing scheme with the Subcontractors to obtain fraudulent invoices for labour services to claim ITCs totalling \$360,141.77 under the ETA.

[30] The Subcontractors' invoices are sham documentation because they were created to give the false appearance that supplies took place between Burraq and the Subcontractors. In reality, the Subcontractors did not provide any supply of labour

services to Burraq. The evidence showed that it was more likely than not that Mr. Sahi created the Subcontractors' invoices himself.

[31] Therefore, Burraq is not entitled to ITCs totalling \$360,141.77 in respect of GST/HST relating to various invoices of the Subcontractors for labour services.

[32] In the alternative, the Respondent argues that Burraq is not entitled to the ITCs claimed in respect of the Subcontractors' invoices because the documentary requirements prescribed by the ETA were not met and the Subcontractors were not the true suppliers of the labour services (subsection 169(4) and section 3 of the Regulations).

[33] Furthermore, according to the Respondent, Burraq is not entitled to ITCs totalling \$1,858.22 in respect of the invoice of SUNRISE. The Respondent submits that Burraq did not obtain sufficient documentation to support its claim (subsection 169(4) and section 3 of the Regulations). Most importantly, among other things, the evidence showed that the registration number indicated on the invoice does not match the registration number for SUNRISE under the ETA.

[34] The Respondent also asserts that Burraq is not entitled to ITCs totalling \$3,509.22 in respect of the GST/HST paid on the purchase of a Dodge Charger vehicle pursuant to subsection 170(1). Since it was the personal vehicle of Mr. Sahi and that no logbook was maintained by Mr. Sahi, and none was adduced in evidence, to apportion the business and personal uses of the vehicle, the requirements for a registrant to obtain ITCs are not met.

[35] Finally, according to the Respondent, Burraq is liable for penalties under section 285, because Mr. Sahi knowingly made or participated in the making of false statements on Burraq's GST/HST returns, and knowingly submitted false information to claim ITCs for labour services that were not supplied to Burraq.

IV. CONCLUSION

[36] For the following reasons, the appeals are dismissed, with costs to the Respondent.

[37] The parties shall have 30 days from the date of this Judgment to agree on costs. If the parties do not come to an agreement on costs, they shall file written submissions, not exceeding 10 pages, on or before June 2, 2025. If the parties do not advise the Court that they have reached an agreement and no submissions are

received by this date, then one set of costs shall be awarded to the Respondent in accordance with Tariff B.

V. AGREED FACTS AND TESTIMONIES

A. Statements of Agreed Facts

[38] The parties filed a partial agreed statement of facts at the hearing. Furthermore, the Appellant admitted to the correctness of various assumptions made by the Minister relating to Burraq, the Subcontractors, SUNRISE and the Subcontractors' invoices in making the reassessments under appeal.

[39] Evidence adduced at the hearing also showed, on a balance of probabilities, that the Minister correctly relied on the following assumptions in making the reassessments at issue in this appeal.

(1) *Burraq*

[40] Burraq was incorporated on October 18, 2013, under the laws of Ontario. Burraq was always a GST/HST registrant, including during the Relevant Periods.

[41] Burraq has many large clients in manufacturing, food preparation, packaging, logistics and warehousing.

[42] Burraq acted as an employment agency for the supply of unskilled temporary worker labour to its clients.

[43] Burraq's original owner and director was Ms. Gulshan Mustansir Billah, Mr. Sahi's mother-in-law.

[44] Mr. Sahi was trained in accounting at the London School of Business and Finance in England, through a program called the "Association of Chartered Accountants England".

[45] Mr. Sahi became a shareholder and director of Burraq, after his mother-in-law offered him to join Burraq in 2014.

(2) *The Subcontractors*

[46] ASK was incorporated on April 15, 2014, under the laws of Canada. ASK obtained a business number and a GST/HST account number on that same day. Ali Shujjat Khokhar was the owner and director of ASK.

[47] IGOR was incorporated on May 22, 2014, under the laws of Canada. IGOR obtained a business number and a GST/HST account number on that same day. Igor Gamburg was the owner and a director of IGOR.

[48] DATA was incorporated on October 5, 2015, under the laws of Canada. DATA obtained a business number and a GST/HST account number on that same day. Kevin Cryer is the owner and a director of DATA.

[49] All invoices made out by the Subcontractors to Burraq show a single labour rate ranging from \$14 to \$14.50 per hour and a description of services as “General Help”.

[50] The Subcontractors did not issue to Burraq timesheets containing workers’ names or individual workers’ hours.

[51] Burraq’s relationship with the Subcontractors lasted only for a short period of time as one Subcontractor would succeed one another.

[52] The Subcontractors never invoiced for overtime, yet Burraq frequently charged for overtime work to its clients. Further, the Subcontractors charged between \$14 to \$14.50 per hour to Burraq, yet Burraq charged its clients for less.

[53] Burraq made payments to the Subcontractors by certified cheques (Exhibit A-1, Appellant’s Book of Documents, tabs 19, 22 and 21).

(3) *SUNRISE invoice*

[54] The invoice from SUNRISE dated November 12, 2014, for labour services in the total amount of \$14,294 plus HST of \$1,858.22 for the period from November 3 to November 9, 2014 (the “SUNRISE invoice”) does not indicate the correct registration number for SUNRISE (Exhibit A-1, Appellant’s Book of Documents, tab 23 and Exhibit R-1, Respondent’s Book of Documents, tab 7(A)).

(4) *Dodge Charger vehicle*

[55] Mr. Sahi bought a Dodge Charger vehicle on May 30, 2015, for a total purchase price of \$30,503, including HST of \$3,509.22. Burraq claimed \$3,509.22 in ITCs in respect of the Dodge Charger vehicle.

B. Testimonies

(1) *Mr. Sahi*

(a) On Burraq:

[56] In April 2014, Mr. Sahi became a director and a 50% shareholder of Burraq, when his mother-in-law, Gulshan Mustansir Billah, offered him to join her in the business. Ms. Mustansir Billah left Burraq in March 2015 when her daughter Ayesha Sahi, Mr. Sahi's spouse, became a 50% shareholder of Burraq.

[57] From March 2015 up to 2017, Mr. Sahi and Ms. Sahi each owned 50% of the shares of Burraq and were both directors.

[58] Ms. Sahi left Burraq in 2018 and started her own employment agency. Since 2018, Mr. Sahi is Burraq's sole director and sole shareholder.

[59] Mr. Sahi started at Burraq in 2014 working in marketing and operations. Around mid-2014, Mr. Sahi became the Chief Executive Officer (CEO), being responsible for all management and all operations of Burraq.

[60] During the Relevant Periods, four individuals, namely Mr. Sahi, Ms. Sahi and two receptionists, namely Sukhvir Kaur and Ravinderpal Kaur Chatha, were involved in Burraq's business and responsible for various tasks.

[61] In addition to his function as CEO, Mr. Sahi was in charge of Burraq's accounting internally. He also hired an external accountant.

[62] Mr. Sahi would review and issue invoices, request cheques to the external accountant for the employees' pays and review all expenses.

[63] Mr. Sahi provided the external accountant with all bank statements and a list of business expenses (including Subcontractors' expenses) on an Excel spreadsheet. However, Mr. Sahi would not provide the external accountant with copies of both the Subcontractors' invoices and the clients' invoices. The external accountant used

the information Mr. Sahi provided to prepare all GST/HST returns as well as the ledgers on a cash basis.

[64] Mr. Sahi signed all GST/HST returns for Burraq.

[65] Ms. Sahi worked with her husband at Burraq and was responsible for answering phone calls, reviewing application forms, dealing with office furniture and other various tasks. Mr. Sahi testified that his wife performed recruitment-related work at Burraq. Ms. Sahi would help applicants fill out their application forms, in addition to other tasks. She was working from the office from 9 to 5, for 40 hours per week.

[66] Receptionists did various office tasks: they greeted the applicants, helped applicants fill out application forms, collected relevant information for completing the application process, namely making copies of résumés, application forms, forklift certificates when applicable and applicants' identification documents. They also answered phone calls.

[67] During the Relevant Periods, Burraq employed between 15 to 33 persons (Exhibit R-5, List of Burraq's employees per year).

[68] The most important clients of Burraq were Ram Plastics Inc. (the most important), TMS Fulfilment Inc., Golden Boy Foods, Top Notch Employment and Quality Natural Foods.

[69] According to Mr. Sahi, the clients were responsible for training any workers supplied, in addition to informing them of any necessary safety procedures. Burraq did not perform these tasks on behalf of their clients.

(b) On the Subcontractors and Burraq's dealings with its clients:

[70] Mr. Sahi testified that when a client requested workers, he would contact not only the persons listed on Exhibit R-5, but other individuals through Kijiji and Indeed. Mr. Sahi attempted to recruit workers by distributing flyers, installing approximately 200 road signs, offering referral bonuses in addition to applicants who

would come to Burraq's office seeking work. Burraq hired nearly everyone that applied, without conducting any background or credit checks.

[71] Burraq lacked the number of employees it needed to satisfy its clients' needs. To supplement the number of workers needed, Burraq had to refer to the Subcontractors to provide additional workers to meet the needs of Burraq's clients.

[72] Mr. Sahi testified that he decided to do business with the Subcontractors after they left marketing materials at Burraq's office. According to Mr. Sahi, he did not obtain other submissions from any other potential subcontractors as he was new to Canada and preoccupied starting this business.

[73] Mr. Sahi testified that he met with each Subcontractor and obtained from each of them copies of their certificates of incorporation, Workplace Safety and Insurance Board ("WSIB") certificates and GST/HST registration confirmation before hiring that Subcontractor.

[74] Mr. Sahi testified that Mr. Gamburg for IGOR and Mr. Cryer for DATA provided these documents personally to him. However, Mr. Sahi did not remember who provided the documents to him concerning ASK.

[75] According to Mr. Sahi, Burraq never used the services of two Subcontractors at a time because it was easier to manage.

[76] Burraq first started using subcontractors in June 2014, when it contracted the services of ASK. Then, in August 2014, Burraq's office had moved from Mississauga to Scarborough. Because ASK was not able to provide services in Scarborough, Mr. Sahi decided to terminate the relationship with ASK and started using the services of IGOR. In December 2015, because IGOR had issues with the delivery of services, as the workers were not showing up at Burraq's clients as requested, Mr. Sahi decided to terminate the relationship with IGOR and started using the services of DATA.

[77] Burraq entered into an agreement with IGOR (Exhibit A-1, Appellant's Book of Documents, tab 13) and with DATA (Exhibit A-1, Appellant's Book of Documents, tab 12) with respect to labour services. Mr. Sahi testified that both IGOR and DATA drafted their own agreement which Burraq executed. Mr. Sahi also testified that he provided to Mr. Cryer, the representative for DATA, a copy of the agreement Burraq had signed with IGOR. Mr. Sahi stated this was done so

DATA could use the same template when drafting its own agreement, which Burraq executed.

[78] Burraq's clients were unaware of Burraq's reliance on subcontractors, as it could be damaging for its reputation. Mr. Sahi would just advise the respective Subcontractor that its contract with Burraq was terminated.

[79] According to Mr. Sahi, Burraq is not related to any of the Subcontractors, as they are just parties doing business together.

[80] Mr. Sahi testified as to how he was running Burraq's business.

[81] According to Mr. Sahi, Burraq would receive orders from its clients by phone or emails requesting a certain number of temporary workers. Burraq would first try to fulfill its clients' requests with its own employees. However, if additional temporary workers were needed, then Mr. Sahi would inquire with the Subcontractors whether they can send additional workers. Mr. Sahi only inquired for additional workers from the Subcontractors by phone.

[82] Mr. Sahi testified that when Subcontractors sent workers to Burraq's clients, he would not know which workers were sent ahead of time. Further, he did not meet with the temporary workers supplied by the Subcontractors. The Subcontractors' workers would go directly to Burraq's clients' places of business and never to Burraq's.

(c) On the billing processes:

[83] Mr. Sahi explained the billing processes used by both Burraq and the Subcontractors. He testified that timesheets are at the heart of his business model.

[84] Once Mr. Sahi obtained timesheets from Burraq's clients, payroll was then processed based on information found on the timesheets. Mr. Sahi testified that he cannot bill Burraq's clients without having first received and reviewed these timesheets.

[85] After work was performed for Burraq's clients, and typically on a weekly basis, clients would send timesheets to Burraq, either by email, fax or hand delivery. These timesheets contained the names of all workers, and the days and hours worked by each of them. Mr. Sahi would then invoice Burraq's clients based on these

timesheets, for the work performed not only by Burraq's own employees but also by the workers provided by the Subcontractors to the respective client.

[86] At the hearing, invoices issued by Burraq to its clients were adduced in evidence (Exhibit A-1, Appellant's Book of Documents, tab 32). Each invoice includes details such as the invoice number, week number, week period, invoice date, Burraq's HST registration number and the names of workers/employees (sometimes only the first names of the individuals). Additionally, each invoice listed the number of hours worked, the hourly rate, the total amount for each employee, the HST and the total due.

[87] Similarly, Burraq would process payroll for its own employees based on the timesheets provided by its clients, but not for the Subcontractors' workers. Mr. Sahi testified that Burraq never paid the Subcontractors' workers, as it was the responsibility of the Subcontractors to do so.

[88] Mr. Sahi testified that he gave copies of these timesheets to the Subcontractors. After receiving the timesheets, the Subcontractors would then bill Burraq for the time their own workers worked at Burraq's clients (Exhibit A-1, Appellant's Book of Documents, tab 19 [ASK], tab 21 [DATA] and tab 22 [IGOR]).

[89] During the Relevant Periods, Mr. Sahi testified that the same representative from each Subcontractor visited Burraq's office weekly to meet with him personally and deliver their invoices. Specifically, Mr. Gamburg from IGOR and Mr. Cryer from DATA were the regular respective representative of IGOR and DATA. However, Mr. Sahi could not recall the name of the individual who delivered invoices on behalf of DATA to Burraq's office, though it was always the same person.

[90] During the same meeting and upon receiving the invoices, Mr. Sahi would issue a cheque – either a certified cheque or bank draft – signed by him and drawn from Burraq's business bank account to pay the Subcontractors' invoices. Mr. Sahi further testified that he never paid any Subcontractor's invoice in cash and that he always reconciled the Subcontractors' invoices with the hours indicated on the timesheets received from Burraq's clients.

[91] At the hearing, the Appellant adduced in evidence the Subcontractors' invoices, along with the cheques issued by Burraq in payment of those invoices (Exhibit A-1, Appellant's Book of Documents, tab 19 [ASK invoices and cheques], tab 22 [IGOR invoices and cheques] and tab 21 [DATA invoices and cheques]).

[92] Each Subcontractor's invoice includes the respective GST/HST registration number, the total amount due, the payment terms, the invoice date, and a very brief description of the work performed and billed.

[93] However, the Respondent did not admit the truth of the contents of all the above-mentioned documents.

[94] Mr. Sahi would obtain copies of all bank statements from Burraq's bank showing cleared cheques and provide these copies to the external accountant who would then prepare Burraq's GST/HST returns.

(d) On SUNRISE:

[95] The Appellant adduced in evidence the SUNRISE invoice, along with the cheque issued by Burraq in payment (Exhibit A-1, Appellant's Book of Documents, tab 23). However, the Respondent did not admit the truth of the contents of these documents.

(e) On the Dodge Charger vehicle:

[96] Mr. Sahi testified that he purchased a Dodge Charger in 2015, which he used for Burraq's business as well as for commuting between his home to Burraq's office, a drive of approximately 70 kilometers. He also used the vehicle for personal purposes on weekends.

[97] Mr. Sahi acknowledged that he did not maintain a logbook to apportion the personal and business uses of the vehicle.

[98] Prior to the purchase of the Dodge Charger vehicle, Mr. Sahi used a Honda Civic, which, after the purchase of the Dodge Charger vehicle, was used by his spouse.

(2) *Victoria Norris*

[99] Ms. Norris joined the CRA in 2006 as an income tax auditor. In 2009, she transitioned to the HST audit team, and in 2016, she became a member of the CRA Aggressive GST Planning Team. Since 2022, she has served as a quality assurance

advisor with the CRA for HST audits. She did not audit Burraq, but she audited the Subcontractors.

[100] During a prior audit of another employment agency known as Labour Links Employment Agency (or 2189189 Ontario Inc.) (“Labour Links”), Ms. Norris discovered that that agency had claimed ITCs relating to GST/HST paid on invoices from the Subcontractors.

[101] Furthermore, other auditors from the CRA Aggressive GST Planning Team found in their respective audit that registrants other than Burraq had claimed ITCs related to GST/HST paid on invoices from the Subcontractors.

[102] Ms. Norris testified that the Subcontractors never provided any documents to her during the audit. Despite multiple attempts to reach them through various means (phone, letters, etc.), she was unable to reach any of the Subcontractors. Ms. Norris also found that the Subcontractors allegedly supplied labour services to many other employment agencies who then claimed ITCs.

[103] Various documents were adduced in evidence regarding ASK, including the ASK audit report, the T2020 memo for file, an ASK HST collectible analysis, ASK invoices addressed to Burraq, ASK invoices addressed to employment agencies other than Burraq and cheques issued by Burraq to ASK (Exhibit R-1, Respondent’s Book of Documents, tabs 4(A), (B), (C), (D), (E) and (F)).

[104] Various documents were adduced in evidence regarding IGOR, including the IGOR audit report, the T2020 memo for file, an IGOR HST collectible analysis, IGOR invoices addressed to Burraq, IGOR invoices addressed to employment agencies other than Burraq and cheques issued by Burraq to IGOR (Exhibit R-1, Respondent’s Book of Documents, tabs 5(A), (B), (C), (D), (E) and (F)).

[105] Various documents were adduced in evidence regarding DATA, including the DATA audit report, the T2020 memo for file, a DATA HST collectible analysis, DATA invoices addressed to Burraq, DATA invoices addressed to employment agencies other than Burraq and cheques issued by Burraq to DATA (Exhibit R-1, Respondent’s Book of Documents, tabs 6(A), (B), (C), (D), (E) and (F)).

[106] Ms. Norris reviewed various invoices of the Subcontractors which were addressed either to Burraq or to other entities. She noted multiple discrepancies on the invoices, including varying postal codes, inconsistent addressing, the occasional omission of phone numbers and/or fax numbers, work description varies from one

invoice to the other, different invoice templates used, inconsistent invoice numbering and sequencing, and changes in the listed address, which sometimes shifted between locations.

[107] According to Ms. Norris, her examination showed that more than one person was involved in composing the invoices of the Subcontractors. However, Ms. Norris noted that all invoices from the Subcontractors addressed to Burraq appeared identical as the same template was used for ASK, IGOR and DATA invoices issued to Burraq.

[108] Furthermore, the Subcontractors never filed a T2 corporate tax return. Neither IGOR nor DATA filed T4 slips, but ASK issued four T4 slips for 2014 and sixteen T4 slips for 2016. ASK filed one GST/HST return showing no sales, no HST collectible, and ITCs of \$193; IGOR filed three GST/HST returns in 2014 showing no sales and DATA filed a GST/HST return in 2016 with no sales, no HST collectible and no ITC.

[109] Site visits were conducted at the addresses indicated on the Subcontractors' invoices. The address was a residential apartment building (ASK), a single-family house or high rise (IGOR), or an address could not be located (DATA).

[110] Based on Ms. Norris' review of the invoices, the fact that the Subcontractors were not reachable, and various facts outlined above, Ms. Norris concluded that the Subcontractors were not able to provide the labour services of workers to any registrant, including Burraq.

[111] Ultimately, Ms. Norris concluded that the Subcontractors had no commercial activities, that they issued accommodation invoices allowing registrants to claim ITCs they were not entitled to, that all Subcontractors' invoices were false and sham documents, and that the Subcontractors were not the true suppliers of the supplies of temporary labour as the Subcontractors were not able to provide the labour services of the workers to any registrant.

[112] Based on these findings, Ms. Norris prepared a position paper on the Subcontractors (Exhibit R-24, Position Paper by Ms. Norris).

(3) *Michele Sinnott*

[113] Ms. Sinnott is a GST/HST auditor with the CRA and has a Chartered Professional Accountant (CPA) designation. Ms. Sinnott started working at the CRA late in 2012.

[114] Ms. Sinnott began a full scope audit of Burraq during the summer of 2017 for the periods from January 1, 2014, to March 31, 2017.

[115] Ms. Sinnott produced at the hearing her GST/HST audit report, her penalty recommendation report (section 285), her position paper as well as various working papers (Exhibit R-1, Respondent's Book of Documents, tabs 1(A), (B), (C), (H) and (O)).

[116] Ms. Sinnott prepared a position paper because she concluded that all documentation obtained from Burraq during the audit was false, that the Subcontractors had no commercial activities, that the Subcontractors did not provide any services to Burraq and that the Subcontractors' invoices were false and sham documents.

[117] Ms. Sinnott met with Mr. Sahi at Burraq's office, alongside Burraq's accountant, Mr. Sharma. Burraq provided all documents she requested, including the Subcontractors' invoices. However, Mr. Sahi did not provide to Ms. Sinnott any additional documentation to sustain the claimed ITCs, such as the timesheets from the Subcontractors or any other purchase documents. Ms. Sinnott concluded that timesheets from the Subcontractors did not exist because the Subcontractors did not have any commercial activity.

[118] As a result of her audit, Ms. Sinnott concluded that Burraq's books and records were in good order, therefore she did not adjust the sales and HST collectible as reported by Burraq. However, Ms. Sinnott disallowed all ITCs claimed by Burraq in respect of the Subcontractors' invoices.

[119] During her audit, Ms. Sinnott found that most of the workers sent by Burraq to its clients were workers from the Subcontractors, as Burraq had only a few employees during the Relevant Periods: 14 employees in 2014, 33 employees in 2015, 32 employees in 2016 and 16 employees in 2017.

[120] Ms. Sinnott's audit also revealed that Burraq paid the Subcontractors' invoices by certified cheques or bank drafts. All cheques written by Burraq to IGOR

and DATA were cashed at cash houses (Exhibit R-1, Respondent's Book of Documents, tab 1(H) – Bank Deposit Analysis). However, Ms. Sinnott was not able to audit the 2014 year where ASK was used as a Subcontractor because she could not see the backs of the cheques.

[121] According to Ms. Sinnott, Burraq was itself exchanging cheques issued to the Subcontractors at cash houses; Burraq then paid some of the workers from the Subcontractors or possibly some of its own employees in cash. Ms. Sinnott testified that the money did not return to Burraq's bank accounts, nor did it return to Mr. Sahi's or Ms. Sahi's accounts or to any other agency listed in Exhibit R-23, but she had not been able to trace the cash.

[122] Ms. Sinnott was unsuccessful in reaching any of the Subcontractors, which she referred to as "missing traders", which indicators will be reviewed below. According to Ms. Sinnott, it is evident that the Subcontractors were created for issuing accommodation invoices.

[123] To support her conclusion, Ms. Sinnott considered the fact that legitimate businesses do not use cash houses to cash their cheques but instead will deposit their cheques into regular business bank accounts.

[124] Further, Ms. Sinnott considered that Burraq's large clients (manufacturing, food preparation, packaging, logistics, warehousing...) have a need for temporary and unskilled labour, and workers recruited by Burraq would likely be willing to accept cash payments.

[125] Additionally, Ms. Sinnott's audit showed numerous instances where Burraq charged its clients an hourly rate lower than what Burraq was paying the Subcontractors for the same workers. This discrepancy indicates that Burraq was effectively losing money when using services of the Subcontractors.

[126] The Subcontractors' invoices always referred to "General Labour" or "General Help". Ms. Sinnott found this unusual, as Burraq invoiced its clients using different descriptions for the labour services provided.

[127] Ms. Sinnott also audited other employment agencies owned by various members of Ms. Mustansir Billah's family, namely 24/7 Employment Agency Inc. ("24/7 Employment"), Labour Links, Shahbaz Employment Agency (or 1595726 Ontario Inc.) ("Shahbaz") and Gondal Employment Agency Inc. ("Gondal"). At the hearing, Ms. Sinnott produced a chart illustrating the relationship between these

employment agencies, Burraq and Ms. Mustansir Billah and her family (Exhibit R-23).

[128] Finally, regarding the invoice from SUNRISE, Ms. Sinnott testified that she disallowed ITCs claimed by Burraq due to insufficient documentation. Furthermore, the number indicated on the invoice was not a HST registration number but a corporate number which did not belong to SUNRISE (Exhibit R-1, Respondent's Book of Documents, tab 7(A)).

(4) *Ravinderpal Kaur Chatha*

[129] Ms. Kaur Chatha worked as a receptionist at Burraq for a few months in 2016.

[130] Ms. Kaur Chatha's duties included answering phone calls, welcoming applicants, and making copies of their identification documents.

[131] Ms. Kaur Chatha was also responsible for updating a list of applicants in an Excel spreadsheet, which contained more than a hundred names. Ms. Kaur Chatha testified that if someone was no longer available to work, his or her name would be removed from the list.

[132] Ms. Kaur Chatha did not recall whether anyone came to the office to meet with Mr. Sahi. However, she confirmed that Mr. Sahi came to the office every day, and that his wife occasionally came as well. According to Ms. Kaur Chatha, applicants would come to the office to submit their applications, and workers would come to pick up their wages.

[133] Ms. Kaur Chatha also testified that she does not know anyone named Igor Gamburg or anyone named Kevin Cryer.

(5) *Sukhvir Kaur*

[134] Ms. Kaur worked at Burraq's offices located on Steeles Avenue for a year and a half, from the end of 2015 to 2016.

[135] Ms. Kaur's duties included answering phone calls, welcoming applicants, and processing applications by scanning the identification documents and the application forms. Additionally, she would make sure that the applicant's name, address, phone number and status were indicated when accepting applications.

[136] Ms. Kaur kept all applicant information in an Excel spreadsheet which she took charge of updating. She testified that the list contained over one hundred names. Ms. Kaur claimed that the list existed when she started working at Burraq. Ms. Kaur added names daily to this list, then, at the end of the day, she would send the updated list to Mr. Sahi. Ms. Kaur never deleted any names from the list.

[137] The workers listed on the Excel spreadsheet would typically call the office to receive work assignments.

[138] In Burraq's office, Ms. Kaur testified that there was a waiting room near her desk, which was used only on payday when workers came to collect their wages. Ms. Kaur testified that no one else came to the office (except for Mr. Sahi, his wife and a housekeeper).

[139] Ms. Kaur also stated that she did not know anyone by the name of Igor Gamburg or Kevin Cryer.

(6) *Gulshan Mustansir Billah*

[140] Ms. Mustansir Billah testified that she helped establish Burraq and invested funds in its capital, because she wanted to be involved in something. She also added that she did not remember who gave her a position at Burraq. While involved with Burraq, Ms. Mustansir Billah testified that she did not perform any tasks for Burraq and that nobody worked there at that time. Ms. Mustansir Billah stated that she decided to leave Burraq because she was unfamiliar with the business and did not understand how it operated.

[141] Furthermore, Ms. Mustansir Billah testified that prior to Burraq, she never worked in any employment agency and had never been a director of any employment agency.

[142] Ms. Mustansir Billah recalled that someone referred her a contract for Burraq, which marked the beginning of Burraq's business activities, but she did not remember the name of that person.

[143] Ms. Mustansir Billah testified that she did not remember anything that happened during the Relevant Periods. She was unsure whether Burraq retained any employees she would have encountered while she was associated with Burraq. She was also uncertain whether Mr. Sahi or her daughter Ayesha started Burraq's

business. Further, Ms. Mustansir Billah testified that she does not know where Mr. Sahi works or what he does for a living.

VI. ANALYSIS

A. The Law and applicable principles for obtaining ITCs under the ETA

[144] For a registrant to be entitled to ITCs under the ETA, the following requirements must be met:

- the registrant must acquire a property or a service;
- tax must have become payable or must have been paid in respect of the supply;
- supply must have been acquired in the course of commercial activities of the registrant; and
- sufficient prescribed information together with supporting documentation must be obtained before filing the GST/HST return with the CRA.

[145] The relevant parts of subsections 169(1) and 169(4) read as follows:

169 (1) Subject to this Part, where a person acquires [...] a service [...] and, during a reporting period of the person during which the person is a registrant, tax in respect of the supply [...] becomes payable by the person [...], the amount determined by the following formula is an input tax credit of the person in respect of the [...] service for the period:

$$A \times B$$

where

A is the tax in respect of the supply [...] that becomes payable by the person during the reporting period [...]; and

169 (1) Sous réserve des autres dispositions de la présente partie, un crédit de taxe sur les intrants d'une personne, pour sa période de déclaration au cours de laquelle elle est un inscrit, relativement à [...] un service qu'elle acquiert, [...] correspond au résultat du calcul suivant si, au cours de cette période, la taxe relative à la fourniture [...] devient payable par la personne [...] :

$$A \times B$$

où :

A représente la taxe relative à la fourniture [...] qui, au cours de la

B is

...

(c) in any other case, the extent (expressed as a percentage) to which the person acquired the [...] service [...], for [...] use or supply in the course of commercial activities of the person.

...

169(4) A registrant may not claim an input tax credit for a reporting period unless, before filing the return in which the credit is claimed,

(a) the registrant has obtained sufficient evidence in such form containing such information as will enable the amount of the input tax credit to be determined, including any such information as may be prescribed; and

(b) where the credit is in respect of property or a service supplied to the registrant in circumstances in which the registrant is required to report the tax payable in respect of the supply in a return filed with the Minister under this Part, the registrant has so reported the tax in a return filed under this Part.

période de déclaration, devient payable par la personne [...];

B :

...

c) dans les autres cas, le pourcentage qui représente la mesure dans laquelle la personne a acquis [...] le service [...] pour [...] utilisation ou fourniture dans le cadre de ses activités commerciales.

...

169 (4) L'inscrit peut demander un crédit de taxe sur les intrants pour une période de déclaration si, avant de produire la déclaration à cette fin :

a) il obtient les renseignements suffisants pour établir le montant du crédit, y compris les renseignements visés par règlement;

b) dans le cas où le crédit se rapporte à un bien ou un service qui lui est fourni dans des circonstances où il est tenu d'indiquer la taxe payable relativement à la fourniture dans une déclaration présentée au ministre aux termes de la présente partie, il indique la taxe dans une déclaration produite aux termes de la présente partie.

[146] Section 3 of the Regulations provides for the prescribed information as referred to in subsection 169(4) (see Schedule A attached to these Reasons for Judgment).

B. ITCs totalling \$360,141.77 in respect of the Subcontractors' invoices for labour services

[147] For the following reasons, I find that the Respondent's position shall stand. The evidence adduced at the hearing showed, on a balance of probabilities, that Burraq did not acquire any labour services from the Subcontractors during the Relevant Periods and that Burraq was involved in an accommodation invoicing scheme with the Subcontractors. Further, I find that the Subcontractors' invoices are false and sham documents, and that the Subcontractors had no commercial activities.

[148] Accordingly, Burraq is not entitled to ITCs totalling \$360,141.77 in respect of GST/HST relating to the Subcontractors' invoices for labour services.

(1) Meaning of sham, general principles for burden in tax appeals and application to the case at bar

(a) Meaning of sham:

[149] Regarding the concept of sham, caselaw has established that it suffices that "... parties to a transaction present it as being different from what they know it to be" for a sham to exist (*Antle v. Canada*, 2010 FCA 280, para. 20).

[150] The Federal Court of Appeal had previously stated in *2529-1915 Québec Inc. v. Canada*, 2008 FCA 398 that:

[59] It follows from the above definitions that the existence of a sham under Canadian law requires an element of deceit which generally manifests itself by a misrepresentation by the parties of the actual transaction taking place between them. When confronted with this situation, courts will consider the real transaction and disregard the one that was represented as being the real one.

[151] Justice Owen, as he then was, made a comprehensive review of the concept of sham in *Cameco Corporation v. The Queen*, 2018 TCC 195 ("*Cameco*") (affirmed in *Canada v. Cameco Corporation*, 2020 FCA 112), which I relied upon in these appeals:

[582] The origin of the modern concept of sham can be traced to the decision in *Snook v. London & West Riding Investments, Ltd.*, [1967] 1 All E.R. 518 (“*Snook*”), in which Diplock L.J. states:

As regards the contention of the plaintiff that the transactions between himself, Auto-Finance, Ltd. and the defendants were a “sham”, it is, I think, necessary to consider what, if any, legal concept is involved in the use of this popular and pejorative word. I apprehend that, if it has any meaning in law, **it means acts done or documents executed by the parties to the “sham” which are intended by them to give to third parties or to the court the appearance of creating between the parties legal rights and obligations different from the actual legal rights and obligations (if any) which the parties intend to create.** One thing I think, however, is clear in legal principle, morality and the authorities . . . that for acts or documents to be a “sham”, with whatever legal consequences follow from this, **all the parties thereto must have a common intention** that the acts or documents are not to create the legal rights and obligations which they give the appearance of creating. No unexpressed intentions of a “shammer” affect the rights of a party whom he deceived. . . . [742]

[Emphasis added.]

[583] The Supreme Court of Canada adopted this description of sham in *M.N.R. v. Cameron*, [1974] S.C.R. 1062 at page 1068 (“*Cameron*”). Ten years later, in *Stubart Investments Ltd. v. The Queen*, [1984] 1 S.C.R. 536 (“*Stubart*”), Estey J. stated:

. . . A sham transaction: This expression comes to us from decisions in the United Kingdom, and it has been generally taken to mean (but not without ambiguity) **a transaction conducted with an element of deceit** so as to create an illusion calculated to lead the tax collector away from the taxpayer or the true nature of the transaction; or, simple deception whereby the taxpayer creates a facade of reality quite different from the disguised reality. . . . [743]

[Emphasis added.]

[584] In concurring reasons, Wilson J. states:

As I understand it, a sham transaction as applied in Canadian tax cases is one **that does not have the legal consequences that it purports on its face to have.** . . . [744]

[Emphasis added.]

[585] In *Continental Bank Leasing Corp. v. Canada*, [1998] 2 S.C.R. 298 (“*Continental Bank*”), the Supreme Court of Canada interpreted Estey J.’s comments in *Stubart* to mean that the “sham doctrine will not be applied unless there is an element of deceit in the way a transaction was either constructed or conducted.”[745]

[586] The Court in *Continental Bank* held that the determination of whether a sham exists precedes and is distinct from the correct legal characterization of a transaction. If the transaction is a sham, the true nature of the transaction must be determined from extrinsic evidence (i.e., evidence other than the document(s) papering the transaction). If the transaction is not a sham, the correct legal characterization of the transaction can be determined with reference to the document(s) papering the transaction.[746]

...

[592] It can be seen from the foregoing authorities that a transaction is a sham when the parties to the transaction present the legal rights and obligations of the parties to the transaction in a manner that does not reflect the legal rights and obligations, if any, that the parties intend to create. To be a sham, the factual presentation of the legal rights and obligations of the parties to the sham must be different from what the parties know those legal rights and obligations, if any, to be. The deceit is the factual representation of the existence of legal rights when the parties know those legal rights either do not exist or are different from the representation thereof.

[152] Recent decisions of this Court applied the same definition of sham: *Paletta v. The Queen*, 2019 TCC 205 (“*Paletta*”); *Paletta Estate v. The Queen*, 2021 TCC 11 (appeal allowed at *Canada v. Paletta Estate*, 2022 FCA 86); and *Chad v. The King*, 2024 TCC 142.

[153] More recently, in *Magren Holdings Ltd. v. Canada*, 2024 FCA 202, the Federal Court of Appeal reiterated the principles applicable to determine whether a sham exists under Canadian tax law:

[156] As the Tax Court there described, a sham exists when acts are done or documents are executed with the intention of giving the appearance of creating legal rights and obligations that differ from the actual legal rights and obligations that the participants intend to create. A sham involves an element of deceit in that the participants know that their actual legal rights and obligations differ from those presented to others. The necessary “element of deceit...generally manifests itself by a misrepresentation by the parties of the actual transaction taking place between

them”: 2529-1915 *Québec Inc. v. Canada*, 2008 FCA 398, [2009] 3 C.T.C. 77 at para. 59 [Faraggi].

[157] As this Court has explained, the concepts of sham and abuse are not the same: *Faraggi* at paras. 54-55. The Tax Court recognized this, stating that neither a tax motivation nor taking steps to implement a “tax plan” by itself constitutes a sham, citing *Cameco Corporation v. The Queen*, 2018 TCC 195, [2019] 1 C.T.C. 2001 (aff’d 2020 FCA 112, [2020] 4 F.C.R. 104, leave to appeal to SCC refused, 39368 (18 February 2021) at paragraph 605: reasons at para. 220.

[154] In tax matters, the party which is deceived by the sham is the CRA (*Paletta*, at para. 125).

(b) General principles for burden in tax appeals:

[155] Pursuant to subsection 299(3), an assessment under the ETA is deemed to be valid and binding.

[156] As explained by Justice L’Heureux-Dubé in *Hickman Motors Ltd. v. Canada*, [1997] 2 SCR 336 at paras. 92–95, the initial onus on the taxpayer consists in demolishing the assumptions relied upon by the Minister to make the assessment by putting forward *prima facie* evidence showing the inaccuracy of said assumptions. If the taxpayer puts forward such *prima facie* evidence, then the burden of proof shifts to the Minister, who must prove the assumptions relied upon. The same principles apply for the purposes of the ETA.

[157] A *prima facie* case is one “supported by evidence which raises such a degree of probability in its favour that it must be accepted if believed by the Court unless it is rebutted or the contrary is proved. It may be contrasted with conclusive evidence which excludes the possibility of the truth of any other conclusion than the one established by that evidence” (*Stewart v. Canada (Minister of National Revenue)*, [2000] T.C.J. No. 53 (QL) at para. 23, cited with approval in *Amiante Spec Inc. v. Canada*, 2009 FCA 139 at para. 23).

[158] In *House v. Canada*, 2011 FCA 234, the Federal Court of Appeal reiterated those principles:

[30] In determining the issue before us, it is important to keep in mind the Supreme Court of Canada’s decision in *Hickman Motors Ltd. v. Canada*, [1997] 2 S.C.R. 336 (*Hickman*), where Madam Justice L’Heureux-Dubé enunciated, at

paragraphs 92 to 95 of her Reasons, the principles which govern the burden of proof in taxation cases:

1. The burden of proof in taxation cases is that of the balance of probabilities.
2. With regard to the assumptions on which the Minister relies for his assessment, the taxpayer has the initial onus to “demolish” the assumptions.
3. The taxpayer will have met his initial onus when he or she makes a *prima facie* case.
4. Once the taxpayer has established a *prima facie* case, the burden then shifts to the Minister, who must rebut the taxpayer’s *prima facie* case by proving, on a balance of probabilities, his assumptions (in this case, that Hunt River held at the end of taxation year 2002 a long-term investment of \$305,000, which it transferred to the appellant in 2003).
5. If the Minister fails to adduce satisfactory evidence, the taxpayer will succeed.

[159] In *Eisbrenner v. Canada*, 2020 FCA 93 (leave to appeal to the Supreme Court of Canada dismissed, 2021 SCCB No. 39303), Justice Webb suggested that the burden in tax appeals should be applied as follows:

[24] ... In *Sarmadi*, I reviewed the various cases that have discussed the onus of proof issue. I also reviewed the context of an appeal to the Tax Court. I concluded that:

[61] In my view, a taxpayer should have the burden to prove, on a balance of probabilities, any facts that are alleged by that taxpayer in their notice of appeal and that are denied by the Crown. In most cases this should end the discussion of the onus of proof since the assumptions of fact made by the Minister in reassessing the taxpayer would generally be inconsistent with the facts pled by the taxpayer with respect to the material facts on which the reassessment was issued.

[62] If there are facts that were assumed by the Minister in reassessing a taxpayer and that are not inconsistent with the facts as pled by that taxpayer, it would also seem logical to require the taxpayer to prove, on a balance of probabilities, that these facts assumed by the Minister (and which are in dispute and are not exclusively or peculiarly within the Minister’s knowledge) are not correct. Requiring a taxpayer to disprove the facts assumed by the Minister in reassessing that taxpayer simply puts the onus on the person who knows (or ought to know) the facts. It also puts the onus on the person who indirectly asserted certain facts in filing their tax return that

would be inconsistent with the facts assumed by the Minister in reassessing such taxpayer.

[63] Once all of the evidence is presented, the Tax Court judge should then (and only then) determine whether the taxpayer has satisfied this burden. If the taxpayer has, on the balance of probabilities, disproven the particular facts assumed by the Minister, based on all of the evidence, there is no burden to shift to the Minister to disprove what the Tax Court judge has determined that the taxpayer has proven. Either the taxpayer has disproven the assumed facts or he, she or it has not.

[25] In paragraph 36 of *Sarmadi*, I had also noted that if the Minister alleges a fact that is not part of the facts that were assumed by the Minister in assessing a taxpayer or in confirming an assessment, then the Minister will have the onus of proof with respect to such facts (*Her Majesty the Queen v. Loewen*, 2004 FCA 146 at para. 11, 2004 D.T.C. 6321).

[160] More recently, in *European Staffing Inc. v. Canada (National Revenue)*, 2020 FCA 219, the Federal Court of Appeal affirmed that the onus is on the taxpayer to establish, on a balance of probabilities, the facts that demolish the Minister's assumptions of facts. The Court further emphasized that merely providing some evidence is insufficient; the evidence must be credible and sufficiently convincing, on a balance of probabilities (at paras. 14 to 16).

(c) Application of burden to the case at bar:

[161] In the case at bar, the Appellant argued that the burden rests on the Respondent to establish its allegations of sham and demonstrate a common intention to deceive.

[162] The Appellant further contended that it is not for the Appellant to prove a negative citing the decision of the Court in *AgraCity Ltd. et al. v. The Queen*, 2020 TCC 91, where the Court stated:

[20] Sham is a serious allegation requiring convincing evidence to conclude that a Canadian taxpayer was deceitful on a balance of probabilities. Often this may involve circumstantial evidence. This can be expected to require more than [sic] the Respondent's suspicions.

[163] According to the Appellant, the Respondent failed to present any convincing evidence of deceit and instead relied on a series of circular assertions, unsupported by relevant facts.

[164] Specifically, according to the Appellant, the Respondent's circular reasoning is as follows: the Subcontractors did not exist because they did not have the capacity to make the taxable supplies; the Subcontractors did not have the capacity because they had no commercial activities; the Subcontractors had no commercial activities because their invoices were false and fraudulent; the invoices were false because the Subcontractors did not have the capacity to service Burraq's clients; and the Subcontractors had no commercial activities because they had no capacity to provide the workers, evidenced by the absence of T4 slips or a minimal number of them (see Exhibit R-1, Respondent's Book of Documents, tab 1(C), Burraq position paper, pp. 27-28).

[165] I do not agree with the Appellant's position.

[166] Regardless of whether the tax authorities argue sham, the burden of proof remains consistent with any other tax appeal. The Appellant is still required to establish, on a balance of probabilities, that the Minister's assumptions of facts are incorrect. The arguments regarding the existence of a sham do not alter the fundamental principles of burden of proof in tax matters.

[167] As indicated by Justice Owen, as he then was, in *Cameco (supra)*:

[600] ... In my view, the burden of proof where the Minister alleges sham in support of an assessment of tax is no different than in any other tax case. The Minister may rely on assumptions of fact in support of an assessment based on sham provided (1) the assumptions are made at the time of the assessment or confirmation of the assessment, and (2) the Minister accurately pleads these assumptions in the Minister's Reply. Assuming these requirements are met then the principles regarding burden of proof stated in *House v. The Queen*, 2011 FCA 234 apply.

[168] Furthermore, as explained by Justice Hogan, as he then was, in *Paletta*:

[126] In considering sham, the Court must examine the objective reality surrounding the arrangements to discern whether the transaction documents truly reflect the parties' intent. Direct evidence of sham is rare where a case proceeds to court; in the absence of an admission, the court is left to weigh circumstantial evidence.

[Emphasis added.]

[169] I will not elaborate further on the burden of proof in tax appeals, as I find that, based on the evidence adduced by Mr. Sahi, which I determine was neither credible

nor reliable for the reasons below, the Appellant failed to meet the threshold of *prima facie* standard required to show that the Minister's assumptions of facts in making the reassessments were incorrect, let alone the standard of the balance of probabilities.

(2) Factual assumptions relied upon by the Minister to make the reassessments

[170] The Minister relied on the following relevant assumptions of facts regarding the alleged accommodation invoicing scheme with the Subcontractors in making the reassessments, which, for the reasons below, the Appellant did not show were incorrect:

- During the Relevant Periods, Burraq and the Subcontractors were involved in an accommodation invoicing scheme;
- Burraq claimed ITCs on accommodation invoices for which no services were rendered by the Subcontractors;
- Burraq was one of many other employment agencies that have engaged the Subcontractors in this scheme;
- The Subcontractors did not have any commercial activity;
- The Subcontractors did not have the capacity to supply temporary general labour to Burraq;
- None of the workers identified on Burraq's timesheets reported a T4 from the Subcontractors;
- The Subcontractors did not provide any timesheets to Burraq in support of their invoices to Burraq;
- The workers on Burraq's timesheets (some of whom were identified by one name only) remained the same even though the Subcontractors changed;
- The Subcontractors all registered for GST/HST and for WSIB in order to give the appearance that they had commercial activities;

- The Subcontractors did not operate at the location indicated on their invoices; and
- The Subcontractors could not be located.

[171] The Minister also relied on the following assumptions of facts in respect of the Subcontractors' invoices and the payments made by Burraq in making the reassessments which, for the reasons below, the Appellant did not show were incorrect:

- The Subcontractors' invoices are false;
- The Subcontractors' invoices are invoices of convenience or accommodation solely for the purposes of claiming ITCs;
- Burraq composed the Subcontractors' invoices;
- The Subcontractors' invoices appeared to be made by the same person;
- The Subcontractors' invoices were for "General Help", yet Burraq supplied different types of workers to its clients;
- The Subcontractors named on the Subcontractors' invoices were not the true suppliers of the services Burraq allegedly acquired;
- Burraq recruited and supplied its own workers and composed the invoices for the Subcontractors in order to claim the ITCs;
- The Subcontractors did not deposit payments from Burraq into a business bank account;
- Payments from Burraq were negotiated at cheque cashing/payday loan facilities such as the Cash Company; and
- Workers were then paid in cash when the certified cheques were negotiated at cash houses.

[172] As noted above, the Appellant failed to meet the threshold of *prima facie* standard required to show that the Minister's assumptions of facts in making the reassessments were incorrect, let alone the standard of the balance of probabilities.

(3) *The Subcontractors' invoices are sham documents*

[173] After carefully considering the evidence adduced at the hearing, I find that Burraq did not acquire any labour services from the Subcontractors, that the Subcontractors had no commercial activities and provided no labour services to Burraq, and that the Subcontractors' invoices were sham documents created to give the false appearance that supplies took place between the Appellant and the Subcontractors during the Relevant Periods. I find that the Subcontractors' invoices were a façade that created the false appearance that the Subcontractors supplied labour services to Burraq but no such transactions took place between the parties.

[174] The evidence showed that Burraq participated in a fraudulent invoicing accommodation scheme with the Subcontractors to allow Burraq to claim ITCs to which it was not entitled under the ETA.

[175] As I will elaborate below, I find Mr. Sahi's testimony to be not credible and not reliable due to numerous contradictions, inconsistencies, lapses of memory, and implausibility. Mr. Sahi was the sole witness for the Appellant and as such, all the Appellant's evidence rests on the credibility and reliability of his testimony, which I find was greatly lacking.

[176] In addition, the lack of corroboration by witnesses who could have been called by the Appellant, namely the Subcontractors and Ms. Sahi, and who were not called to testify, is fatal to the Appellant's position that it had acquired supplies of labour services from the Subcontractors, given that Mr. Sahi's testimony was greatly lacking in credibility and reliability. As discussed below, I draw an adverse inference from the absence of corroboration of evidence. Hence, the Appellant's position cannot stand.

(a) Credibility of Mr. Sahi's testimony:

(i) *Applicable Principles*

[177] When assessing the credibility of a witness, I can consider inconsistencies, the attitude and demeanour of the witness, motives the witness may have to fabricate evidence, and the "overall sense of the evidence". As stated by Justice Valerie Miller in *Nichols v. The Queen*, 2009 TCC 334 (at para. 23):

[23] In assessing credibility I can consider inconsistencies or weaknesses in the evidence of witnesses, including internal inconsistencies (that is, whether the

testimony changed while on the stand or from that given at discovery), prior inconsistent statements, and external inconsistencies (that is, whether the evidence of the witness is inconsistent with independent evidence which has been accepted by me). Second, I can assess the attitude and demeanour of the witness. Third, I can assess whether the witness has a motive to fabricate evidence or to mislead the court. Finally, I can consider the overall sense of the evidence. That is, when common sense is applied to the testimony, does it suggest that the evidence is impossible or highly improbable.

[178] I have considered these principles in assessing the evidence adduced at the hearing of this appeal.

(ii) *Credibility Findings*

[179] For the following reasons, considering the inconsistencies, contradictions, lapses of memories on important facts and the implausibility of his statements, I conclude that Mr. Sahi's testimony was neither credible nor reliable. Further, Mr. Sahi failed to establish, on a balance of probabilities, that Burraq acquired labour services from the Subcontractors.

[180] Moreover, an adverse inference can be drawn from a party's failure to call a witness, especially if the witness's evidence would have been central to establishing an important fact (*Imperial Pacific Greenhouses Ltd. v. The Queen*, 2011 FCA 79, at para. 14).

[181] In the case at bar, I draw an adverse inference from the Appellant's failure to call Ms. Sahi to testify, as her testimony was central to establish that Burraq acquired labour services from the Subcontractors.

[182] First, I infer that Ms. Sahi's testimony would not support the Appellant's position that Burraq acquired labour services from the Subcontractors during the Relevant Periods. In reaching that conclusion, I consider the evidence adduced at the hearing by Mr. Sahi himself that Ms. Sahi was a shareholder and a director of Burraq during most of the Relevant Periods, that she was involved in Burraq's business for 40 hours per week working from 9 to 5, and that she was overseeing the application process for applicants at Burraq.

[183] I also draw an adverse inference from the Appellant's failure to call any representative of the Subcontractors to testify, as their testimonies was central to establish that the Subcontractors supplied labour services to Burraq during the

Relevant Periods. I find that their testimonies would not have supported the Appellant's position that Burraq had acquired such labour services.

[184] As discussed below, I find Mr. Sahi's testimony to be fraught with inconsistencies, contradictions and implausible statements. Additionally, Mr. Sahi exhibited significant lapses of memory on important matters that he should have clearly recalled, making it highly improbable that Burraq acquired labour services from the Subcontractors. Mr. Sahi also changed his testimony on numerous facts when confronted with discrepancies in his earlier discovery responses.

[185] Furthermore, Mr. Sahi failed to provide any explanation regarding the uses of the cash houses to cash the cheques issued by Burraq to the Subcontractors, which raise additional concerns about the legitimacy of the transactions.

[186] Additionally, I find that Mr. Sahi should have verified whether newly incorporated Subcontractors had the capacity to provide a large number of workers in a short period of time, which he did not, especially considering that Burraq made enormous efforts to recruit employees, without much success.

1. Subcontractors' invoices

[187] Given Mr. Sahi's contradictions in his testimony at the hearing and at discovery, and given the evidence adduced at the hearing, I find that, on a balance of probabilities, Burraq was the author of the Subcontractors' invoices.

[188] This finding is supported by the fact that the Subcontractors' invoices were distinct from the invoices Burraq issued to its clients. The Subcontractors' invoices lacked crucial details such as timesheets or descriptions of work performed, which were consistently included in Burraq's invoices to its clients. Additionally, the Subcontractors' invoices all followed the same template, suggesting they were not created by the Subcontractors themselves.

[189] In contrast, Burraq's invoices to its clients were more detailed, with specific work hours, tasks, and worker identifications. The lack of such information on the Subcontractors' invoices, along with the consistent formatting across various Subcontractors, strongly supports the conclusion that these invoices were not legitimate but were part of a fabricated scheme.

[190] Further, as conceded by the Appellant, and noted by Ms. Sinnott, the Subcontractors' invoices followed a continuous and consistent numbering system:

- Invoices from ASK are numbered 1376 to 1384 and dated between June 2014 and August 2014 (Exhibit A-1, Appellant's Book of Documents, tab 19 and Exhibit R-1, Respondent's Book of Documents, tab 4(D));
- Invoices from IGOR are numbered 1385 to 1448 and dated between August 2014 and November 2015 (one missing invoice no. 1396) (Exhibit A-1, Appellant's Book of Documents, tab 22 and Exhibit R-1, Respondent's Book of Documents, tab 5(D)); and
- Invoices from DATA are numbered 1449 to 1726 and dated between December 2015 and March 2017 (Exhibit A-1, Appellant's Book of Documents, tab 21 and Exhibit R-1, Respondent's Book of Documents, tab 6(D)). The evidence showed that invoices numbered 1511 to 1709 do not exist, as the period covered by invoice no. 1510 is January 23, 2017 to January 29, 2017, and the period covered by invoice no. 1710 is January 30, 2017 to February 5, 2017.

[191] Specifically, the evidence shows that:

- The last invoice from ASK is no. 1384 for the period from August 11 to August 17, 2014 (Exhibit R-1, Respondent's Book of Documents, tab 4(D), p. 1644);
- The first invoice from IGOR is no. 1385 for the period from August 18 to August 24, 2014 (Exhibit R-1, Respondent's Book of Documents, tab 5(D), p. 1703);
- The last invoice from IGOR is no. 1448 for the period from November 16 to November 19, 2015 (Exhibit R-1, Respondent's Book of Documents, tab 5(D), p. 1766); and
- The first invoice from DATA is no. 1449 for the period from November 20 to November 29, 2015 (Exhibit R-1, Respondent's Book of Documents, tab 6(D), p. 1893).

[192] Mr. Sahi testified at the hearing that he understood invoice numbering was for the benefit of the issuer and that he had asked each Subcontractor to continue using consecutive numbering for invoices issued to Burraq, to help him manage the invoice records.

[193] However, twice during examination for discovery, Mr. Sahi stated that he did not realise the invoices had sequential numbering when Burraq switched from one Subcontractor to another. According to Mr. Sahi's testimony at discovery, he only became aware of the sequential numbering of the invoices when the auditor so informed him (Exhibit R-3, Transcripts for examination for discovery, January 20, 2023, questions 1352 to 1358 and questions 1464 to 1469 and Exhibit R-4, Transcripts for examination for discovery, May 12, 2022, questions 485-487).

[194] Additionally, the evidence adduced by Mr. Sahi at the hearing contradicts the invoice numbering system used by ASK, IGOR and DATA for invoices issued to other registrants, as indicated by Ms. Norris (Exhibit R-1, Respondent's Book of Documents, tabs 4(E), 5(E) and 6(E)).

[195] As Ms. Norris testified, during her audits of various registrants who claimed ITCs for GST/HST on invoices for labour services from the Subcontractors, she reviewed various invoices of the Subcontractors addressed to Burraq and to other entities. Ms. Norris found that the invoices addressed to Burraq all used the same template and wording (Exhibit R-1, Respondent's Book of Documents, tabs 4(D) and (E), tabs 5(D) and (E), tabs 6(D) and (E)), while the invoices addressed to other registrants all used different templates. This led Ms. Norris to conclude that more than one person was composing the invoices of the Subcontractors, to which I agree.

[196] Ms. Sinnott also testified that the fact that invoices from the same Subcontractor obtained during the audit of other registrants varied significantly in format suggests that registrants allegedly using the Subcontractors' services were likely composing the invoices themselves.

[197] In contrast, Mr. Sahi's testimony at discovery was that, although he received these invoices weekly, he did not realise that the various invoices looked exactly the same (Exhibit R-3, Transcripts for examination for discovery, January 20, 2023, questions 1359 to 1362). However, at the hearing, Mr. Sahi testified that he noticed the Subcontractors' invoices looked the same because he had provided IGOR and DATA with copies of a prior invoice from ASK to ensure that all relevant information would appear on their respective invoices.

2. The Subcontractors

[198] Given the implausibility and lack of credibility of Mr. Sahi's testimony regarding Burraq's dealings with the Subcontractors, I find that the Subcontractors did not supply any labour services to Burraq during the Relevant Periods, nor did they carry on any commercial activities.

[199] Mr. Sahi testified that he became aware of the Subcontractors through marketing flyers received at Burraq's office. However, none of the marketing materials from any Subcontractors was adduced in evidence at trial.

[200] Additionally, Mr. Sahi testified that he did not conduct any further searches of subcontractors. However, I find that it is implausible that Burraq would engage the services of any Subcontractor, previously unknown to Burraq, without conducting appropriate due diligence, especially considering that Subcontractors' expenses represented Burraq's largest operational costs (Exhibit A-1, Appellant's Book of Documents, tab 28, pp. 126-129). The lack of supporting evidence, such as marketing materials, and the failure to search for other potential subcontractors, further undermine Mr. Sahi's credibility.

[201] Further, while Mr. Sahi testified that he made efforts to fulfill clients' needs with Burraq's own employees and aimed to reduce reliance on subcontractors over time, payments to the Subcontractors increased over the years (under the heading "cost of goods sold") in contrast to the payroll expenses (employees' salaries) which only slightly grew. The cost of goods sold amounted to \$390,622 in 2014, \$606,381 in 2015, \$1,373,523 in 2016 and \$2,145,866 in 2017. Payroll expenses amounted to \$88,870 in 2014, \$218,627 in 2015, \$317,383 in 2016 and \$380,014 in 2017 (see Exhibit A-1, Appellant's Book of Documents, tab 28, pp. 126-129).

[202] At the hearing, Mr. Sahi testified that he could not recall having obtained the certificates of incorporation of the Subcontractors. However, during discovery, he testified that as part of his due diligence, he ensured that the Subcontractors were incorporated and not part of a "scam", by obtaining copies of their certificates of incorporation (Exhibit R-3, Transcripts for examination for discovery, January 20, 2023, questions 1754-1757 for IGOR).

[203] When confronted with the inconsistency in his answers, Mr. Sahi acknowledged that his earlier statements from discovery were correct. This admission indicates that Mr. Sahi knew that the Subcontractors were newly

incorporated at the time of their hiring, having obtained their certificates of incorporation as part of his “due diligence”.

[204] Mr. Sahi further testified that he needed services of the Subcontractors because it was challenging to meet the need of Burraq’s clients otherwise. However, no evidence was provided to demonstrate the Subcontractors’ actual capacity to fulfill Burraq’s requests. In fact, the evidence showed that Mr. Sahi never made any inquiries regarding the Subcontractors’ ability to meet Burraq’s needs before hiring them. Moreover, the evidence showed that the Subcontractors were incorporated only a few weeks before they began providing labour services to Burraq, which make it highly improbable for them to be able to meet Burraq’s needs, given the extensive efforts of Burraq into recruitment, which yield very limited success.

[205] Burraq had clearly expended significant effort into recruiting. Mr. Sahi testified that Burraq used online marketing, placed approximately 200 road signs, offered referral bonuses and welcomed applicants in person at Burraq’s office. Burraq hired almost everyone who applied, without proceeding to any background or credit checks.

[206] Ms. Sahi’s role was to assist with the applications process, to answer the phone and to ensure the office operated properly. Ms. Sahi would work full-time, from 9 to 5, 40 hours per week, throughout the year. However, despite all these efforts, the evidence showed that Burraq only employed 14 persons in 2014, 24 new persons in 2015, 17 new persons in 2016 and 14 new persons in 2017.

[207] I find that it is very likely that Burraq underrepresented to the Court the number of its employees. To arrive at this finding, I considered the testimony of both receptionists, who indicated to the Court that they were responsible for the daily updating of an Excel spreadsheet, containing over one hundred names. Despite the large number of applicants listed, the hiring records presented by Mr. Sahi indicated only a small fraction of those applicants were formally hired.

[208] Moreover, this evidence further suggests that Burraq had far more applicants and potential hires than the limited number of employees disclosed in Court. The discrepancy between the daily updates and the number of employees Burraq claimed to have hired supports the conclusion that Burraq underrepresented the true scale of its workforce.

[209] Further, for the following reasons, I find it implausible that the Subcontractors could have provided Burraq with a significant number of workers in such a short period of time.

[210] Although ASK was incorporated on April 15, 2014, it provided Burraq with 1675 hours of labour services (representing 30 workers, working 7 days in a row and 8 hours per day) in the first week ASK was hired by Burraq (week of June 9, 2014).

[211] Ms. Norris' audit showed that fourteen registrants claimed ITCs relating to invoices from ASK. Considering all invoices from ASK, for periods ending from June 30, 2014 to December 31, 2015, the total sales by ASK amounted to \$15,056,967.61, and HST collectibles amounted to \$1,951,799.76 (Exhibit R-1, Respondent's Book of Documents, tab 4(C)). ASK was assessed accordingly, with penalties.

[212] Burraq would have received \$105,904 worth of labour services from ASK (less than 1% of their sales). However, the evidence showed that Mr. Sahi did not verify whether ASK had the capacity to fulfill Burraq's needs.

[213] IGOR was incorporated on May 22, 2014, and received less than a week's notice before providing labour services to Burraq during the week of August 18, 2014. In the second week, IGOR was able to provide 1359 hours of labour services, although IGOR was in existence for less than 3 months.

[214] Ms. Norris' audit showed that ten registrants claimed ITCs relating to invoices from IGOR. Considering all invoices from IGOR, for periods ending from September 30, 2014 to December 31, 2015, the total sales by IGOR amounted to \$15,516,981.83, and HST collectible amounted to \$2,017,157.42 (Exhibit R-1, Respondent's Book of Documents, tab 5(C)). IGOR was assessed accordingly, with penalties.

[215] Burraq would have acquired \$830,115 worth of labour services from IGOR, representing approximately 5% of IGOR's alleged sales. However, Mr. Sahi did not verify IGOR's capacity to render the services and furthermore, Mr. Sahi fired ASK before hiring IGOR.

[216] DATA was incorporated on October 5, 2015, and received two weeks' notice before providing labour services to Burraq during the week of November 20, 2015. In the first week of their business relationship, DATA provided 1000 hours of work.

[217] Ms. Norris' audit showed that thirteen registrants claimed ITCs from invoices from DATA. Considering all invoices from DATA, for periods ending from December 31, 2015 to June 30, 2017, the total sales by DATA amounted to \$46,570,680.18, and HST collectible amounted to \$6,052,180.23 (Exhibit R-1, Respondent's Book of Documents, tab 6(C)). DATA was assessed accordingly, with penalties.

[218] Burraq would have acquired \$1,834,301 worth of labour services from DATA, representing approximatively 4% of DATA's alleged sales. By the time DATA was replaced, it was providing to Burraq up to 4,744 hours of work every week (representing at least 84 workers full time, working 7 days in a row, 8 hours per day). However, Mr. Sahi did not verify DATA's capacity to render the services.

[219] Mr. Sahi testified at the hearing that he did not remember whether any of the Subcontractors had websites. However, during examination for discovery, Mr. Sahi stated that he reviewed DATA's website before hiring them (Exhibit R-11, Transcripts for examination for discovery, August 22, 2019, questions 317-323).

[220] Although the Amended Notice of Appeal asserted that the Subcontractors had formal offices and staff, had entered into leases for their office premises, had corporate websites and had bank account numbers, Mr. Sahi admitted that he never went to any of the Subcontractors' offices or met with any of their staff, except with the person with whom he had direct contact. He also acknowledged that he was unaware whether they had leases for their office premises, nor whether they had any bank accounts, and additionally, Mr. Sahi had never seen the Subcontractors' websites (paras. 40(a), (b), (g) and (h) of the Amended Notice of Appeal).

[221] Furthermore, Mr. Sahi testified that he did not know how the Subcontractors recruited workers or how they paid their employees (contrary to facts alleged in paras. 41 and 47 of the Amended Notice of Appeal).

[222] Moreover, Mr. Sahi testified that he had never met with any of the Subcontractors' workers.

[223] Burraq conducted business with only one Subcontractor at a time. According to Mr. Sahi, this was his preference. Mr. Sahi testified that he terminated ASK because they were not able to provide services in Scarborough where Burraq had moved. However, this is not relevant since no evidence was adduced at the hearing to establish that Burraq's clients had moved.

[224] Even if I were to accept Mr. Sahi's testimony, which I do not, he failed to explain why he could not retain ASK for work outside of Scarborough, while engaging another subcontractor for other work locations.

[225] Mr. Sahi also provided no justification for his insistence on working with only one Subcontractor at a time, and why he could not use more than one Subcontractor at a time.

[226] Further, Mr. Sahi testified that he terminated IGOR because the workers failed to show up at Burraq's clients' work locations. However, as stated by Ms. Sinnott, when ASK was replaced by IGOR in August 2014, the same workers listed on invoices issued by Burraq to its clients were found on the next invoice issued by Burraq to the same client (Exhibits R-13 and R-14, Employees Transition Charts). It was evident that workers migrated from ASK to IGOR, and subsequently from IGOR to DATA. Given this pattern, it is unlikely that simply switching from IGOR to DATA would have resolved the absenteeism issue.

[227] Mr. Sahi acknowledged that the workers were transitioning from one Subcontractor to another but claimed that he did know how this was happening. He stated that since the Subcontractors were separate and distinct companies, he expected each one to have its own ways of doing things. Given the evidence adduced at the hearing, I do not find this testimony credible.

[228] Ms. Sinnott produced a chart as Exhibit R-23 showing that Ms. Mustansir Billah was a former director/shareholder of some employment agencies (Burraq, Eagle Staffing Solutions Inc. and Shahbaz) and currently a director/shareholder of another employment agency (Gondal).

[229] Although Mr. Sahi testified that he never recommended the services of any of the Subcontractors to others, evidence indicated that some employment agencies owned by family members also used the services of the Subcontractors (Exhibit R-23, Chart of employment agencies; R-20, Notice of Appeal to this Court by Gondal, at para. 12, and R-21, Notice of Appeal to this Court by Shahbaz, at para. 16).

[230] The chart under Exhibit R-23 also showed that Ms. Mustansir Billah's husband (in Shahbaz, Labour Links and 24/7 Employment), Ms. Billah's son (in 786 Employment Inc.), both of her daughters (Ayesha in ATA Employment and Faria in Eagle Staffing Solutions Inc.) and her sons-in-law (Qaiser in Fax Staffing Inc. and

Mr. Sahi in Burraq) are involved in employment agencies as directors and shareholders.

[231] Furthermore, according to Ms. Sinnott, many of these employment agencies have been audited by the CRA which disallowed ITCs claimed by them in similar circumstances related to invoices from the Subcontractors for labour services.

[232] Further, both Shahbaz and Gondal filed appeal to this Court of the Minister's refusal to allow ITCs on labour services provided by various subcontractors, including ASK, IGOR, DATA and SUNRISE (Exhibits R-20, Notice of Appeal to this Court by Gondal and R-21, Notice of Appeal to this Court by Shahbaz).

[233] When transitioning from one Subcontractor to another, Mr. Sahi testified that he would not advise Burraq's clients, claiming it would hurt Burraq's reputation. He also did not advise the Subcontractors' workers of the change. Mr. Sahi testified that he did not provide IGOR with any reference from ASK workers, and he would not give DATA any reference from IGOR workers. Mr. Sahi also stated that Burraq's clients were responsible for training the workers.

[234] However, if that were the case, replacing a Subcontractor should have resulted in an entirely new set of workers. Therefore, I find it implausible that Mr. Sahi did not inform Burraq's clients of these changes, as they would have needed to train new workers in workplace procedures, safety protocols, and other essential practices.

[235] Further, as shown in exhibits R-13 and R-14 (Employees Transition Charts), workers were repeatedly transitioning from one Subcontractor to another yet continuing to work for Burraq's clients. I find Mr. Sahi's testimony to be implausible.

[236] As the Respondent argued, Mr. Sahi's testimony raises many questions: why would a worker switch to a different Subcontractor if he or she was still working for the same client? Why would a worker want to move to another Subcontractor if he or she wants to work for the same client? Why didn't these workers become employees of Burraq? Burraq should have welcomed these workers as employees, since Burraq was allegedly using labour services from the Subcontractors because it was not able to find enough employees to meet its clients' needs. If Burraq truly relied on Subcontractors because it could not find enough employees to meet client demand, it would have made sense for Burraq to hire these workers directly. I agree with the Respondent. I find that Mr. Sahi's testimony is not credible.

[237] Each contract between Burraq and the Subcontractors IGOR and DATA is identical, containing the same typos and errors (Exhibit A-1, Appellant's Book of Documents, tabs 12 and 13). Notably, DATA's name is misspelled, and the errors are so obvious that it is unlikely they were independently made by both Subcontractors. For example, a section in both agreements uses the following terms "... sheikh ever term come first".

[238] Despite this, Mr. Sahi testified that these were the Subcontractors' contracts and not his. Mr. Sahi claimed that the Subcontractors brought the contracts to him for signing, and he did not request any changes.

[239] Further, these contracts bear "striking resemblance" to Burraq's own contract as well as the SUNRISE contract (see Exhibit A-1, Appellant's Book of Documents, tabs 13 and 14 and Exhibits R-15, R-16 and R-17).

[240] Mr. Sahi was not able to submit a copy of the contract with ASK, although he testified that Burraq had such a contract. Mr. Sahi could not recall the name of his contact at ASK, even though he had dealt with ASK just three years before the audit took place.

[241] Given the above facts, I find Mr. Sahi's testimony implausible and not credible.

3. Burraq's employees

[242] According to Mr. Sahi, as mentioned above, relying on Subcontractors for workers was more costly than hiring employees directly and reduced profit margin. As a result, he claimed to have made continuous efforts to hire more employees over the years. Burraq allegedly invested significant effort in recruitment, set minimal qualification requirements, and offered referral bonuses. Additionally, Burraq did not conduct background or credit checks.

[243] Despite these efforts, Burraq only employed between 15 to 32 persons per year (Exhibit R-5, List of Employees).

[244] Given the extensive recruitment efforts deployed by Burraq to hire employees, and the poor results in hiring employees, and the consistently low number of hires, I find Mr. Sahi's testimony not credible.

[245] Consequently, and for the following reasons, I conclude that it is more likely than not that Burraq must have had significantly more employees during the Relevant Periods than Mr. Sahi acknowledged and that the so-called workers of the Subcontractors were in fact employees of Burraq, and not of the Subcontractors, and were paid directly by Burraq, and not by the Subcontractors.

[246] Firstly, Mr. Sahi testified that he had shredded all records of application and identification documentation from applicants, preventing him from producing any documents at the hearing. However, since Ms. Sinnott's audit began in the summer of 2017, Mr. Sahi must have had all these records at that time. Despite requests from the Respondent, none were adduced in evidence.

[247] Further, both receptionists testified that they had to update an Excel spreadsheet daily, listing over a hundred names of persons available for work, and sent it to Mr. Sahi at the end of each workday. Mr. Sahi would use that list of names to contact applicants to send to work at Burraq's clients. However, Burraq never provided a copy of that list to the auditor, and none were adduced in evidence.

[248] Finally, Mr. Sahi testified that he knew who Burraq's employees were. However, he was unable to distinguish on certain invoices issued to Burraq's clients which individuals were Burraq's employees and which were workers allegedly supplied by the Subcontractors (Exhibit R-1, Respondent's Book of Documents, tab 2, Burraq's invoices to its clients).

[249] Mr. Sahi testified that the number of employees of Burraq for the Relevant Periods was found under Exhibit A-1, Appellant's Book of Documents, at tab 30. He determined this number using Burraq's general ledger (Exhibit A-1, Appellant's Book of Documents, tab 27), identifying employees as those who had received a paycheck from Burraq. According to Mr. Sahi, if an individual name did not appear in the general ledger, they were not an employee of Burraq but a worker supplied by a Subcontractor.

[250] However, on an invoice issued by Burraq to Golden Boy Foods dated May 14, 2014, covering the week of May 5 to May 11, 2014, two persons are listed: Sarabjit Singh and Vanraj Patel (Exhibit A-1, Appellant's Book of Documents, tab 32, p. 1038). Because their names did not appear on Burraq's general ledger, Mr. Sahi testified that they are not employees of Burraq, and they must have been workers from a Subcontractor. Yet, the evidence showed that the first invoice of ASK, Burraq's first Subcontractor, is dated June 19, 2014, covering the period from June 9 to June 15, 2014, after the period covered by the invoice addressed to Golden

Boy Foods dated May 14, 2014. This means that Mr. Singh and Mr. Patel could not have been supplied by ASK to work at Golden Boy Foods, as Burraq's relationship with ASK had not yet begun.

[251] Mr. Sahi testified that he did know how these two individuals, who were not recorded as Burraq's employees, but instead were employees of ASK, could have been supplied to Burraq's client prior to Burraq's relationship with ASK even started.

[252] Furthermore, Mr. Singh and Mr. Patel continued to appear on Burraq's invoices until December 2015 for Mr. Patel and May 2015 for Mr. Singh (Exhibit A-1, Appellant's Book of Documents, tab 32, p. 1132 and 1258). However, neither individual appeared on Burraq's payroll records.

[253] If Mr. Sahi's testimony were to be accepted, which I do not, it would mean that these two individuals were supplied first by ASK, and later by IGOR – two different Subcontractors – to Burraq's clients.

[254] Given these inconsistencies, I can only infer that Mr. Singh and Mr. Patel were, in fact, employees of Burraq paid in cash by Burraq for work performed for Burraq's clients.

4. How business was conducted by Burraq

[255] Despite communicating with Burraq's clients through emails, text messages and phone calls, Mr. Sahi testified that all communications with the Subcontractors were exclusively by phone calls. He claimed that phone calls were faster and that he never communicated with them via emails or text messages. However, Mr. Sahi failed to adduce phone records to substantiate his claim.

[256] Further, the evidence showed that Burraq was dealing with its clients, not only by phone, but by emails, and other manners.

[257] Additionally, Mr. Sahi testified that Mr. Gamburg from IGOR and Mr. Cryer from DATA personally came to Burraq's office every week to submit invoices and collect payment. However, Mr. Sahi could not recall whom he was dealing with at ASK, despite claiming the same individual would come to Burraq's office every week to pick up cheques in payment.

[258] Moreover, according to Mr. Sahi, the Subcontractors received the timesheets prepared by Burraq's clients in person at Burraq's office. The Subcontractors then used these timesheets to prepare their invoices.

[259] First, I do not find it plausible that Mr. Gamburg and Mr. Cryer, being the Subcontractors' sole directors, would come in person every week to pick up their cheques, given the magnitude of their sales. As evidenced by Ms. Norris' testimony, the total sales by IGOR amounted to \$15,516,981 and the total sales by DATA amounted to \$46,570,680.

[260] In addition, Mr. Sahi testified that no one from Burraq, other than himself, ever communicated with the Subcontractors. Yet, Mr. Sahi testified that sometimes, he left the timesheets with the receptionist or to Ms. Sahi for the Subcontractors to collect.

[261] However, both receptionists – who worked full time – testified that they never saw any of the representatives of the Subcontractors at Burraq's office. Both receptionists further testified that they did not know anyone by the name of Mr. Gamburg or Mr. Cryer. Further, both receptionists testified that the only persons coming at Burraq's office were Mr. and Ms. Sahi, various applicants, and Burraq's employees to pick-up their paycheques. As noted above, the testimony of each receptionist was credible.

[262] Further, the evidence showed that Burraq made most payments to the Subcontractors by certified cheques and bank drafts. Mr. Sahi did not explain to the Court how this process functioned. For example, cheque no. 5 issued by Burraq to ASK is a certified cheque (Exhibit A-1, Appellant's Book of Documents, tab 19). If the Subcontractor personally delivered the invoice and Burraq issued payment immediately, how was Burraq able to provide a certified cheque? Mr. Sahi also did not clarify whether the Subcontractors waited at Burraq's office while the cheques were certified or whether they accompanied Mr. Sahi at the bank to have the cheques certified.

[263] In relation to the timesheets used to generate the Subcontractors' invoices to Burraq, Mr. Sahi testified that the Subcontractors never confirmed to him the names of the various workers which would be sent to Burraq's clients. Mr. Sahi also testified that he did not care which workers the Subcontractors sent to work at Burraq's clients.

[264] When confronted with an email sent by Mr. Sahi to one of Burraq's clients which contained the name of the Subcontractor's workers, Mr. Sahi testified that if one of Burraq's clients asked for a worker's name, he would provide them, after having obtained those names from the Subcontractors on the phone only (Exhibit R-6, Email from Top Notch Employment and reply by Mr. Sahi).

[265] I find Mr. Sahi's testimony to be implausible.

[266] Additionally, Mr. Sahi's testimony was implausible in respect of the following.

[267] Mr. Sahi testified that upon receiving an invoice from a Subcontractor, he would verify the accuracy of the invoice by subtracting the hours worked by Burraq's own employees from the total hours recorded on the timesheets provided by Burraq's clients. However, as demonstrated by the Respondent, there were multiple instances where the Subcontractors invoiced Burraq for more hours than Burraq itself billed to its clients (see Appendix A of the Respondent's Written Submissions filed on November 14, 2024).

[268] Mr. Sahi also changed his testimony regarding how often he verified the accuracy of the Subcontractors' invoices. During discovery, Mr. Sahi stated that he conducted this verification approximately once a month (Exhibit R-2, Transcripts for examination for Discovery, November 30, 2022, questions 714-725). However, at the hearing, Mr. Sahi testified that he verified the accuracy of the Subcontractors' invoices weekly. When confronted with his earlier answer at discovery, Mr. Sahi admitted that he verified the accuracy of the Subcontractors' invoices only once a month.

[269] Mr. Sahi also provided inconsistent testimony about the rates Burraq charged its clients for different types of workers. Mr. Sahi explained that Burraq sometimes charged higher rates for more experienced workers or for workers who performed better, as requested by its clients. During discovery, Mr. Sahi testified that when Burraq charged higher rates for certain workers, those workers were paid more and Burraq did not retain any benefit from the higher rate (Exhibit R-2, Transcript for examination for Discovery, November 30, 2022, questions 273-275).

[270] However, at the hearing, Mr. Sahi testified that Burraq would not pay the workers at a higher rate, even when higher rates were charged by Burraq to its clients. After being confronted with his discovery testimony, Mr. Sahi then claimed

that sometimes Burraq retained the additional profit and sometimes it passed the higher rates on the workers.

[271] Further, at the hearing, Mr. Sahi testified that if a client requested to pay a worker more, Burraq would ask the Subcontractor to increase that worker pay accordingly. However, earlier in his testimony, Mr. Sahi stated that he did not know how much the Subcontractors' workers were paid, that he did not have control over their remuneration and that he never asked the Subcontractors to pay a worker more. Mr. Sahi justified his position because that is the Subcontractor's business and not his. Additionally, the evidence showed that Burraq was charged a single hourly rate by the Subcontractors, with no variation based on worker experience or skill level.

[272] Ms. Sinnott conducted a sample analysis of various pay periods over the Relevant Periods, comparing the total hours Burraq invoiced its clients with the total hours the Subcontractors invoiced to Burraq. Ms. Sinnott concluded from this analysis, that for certain periods, Burraq was paying more to obtain workers from the Subcontractors than what it charged to its clients (Exhibit R-22, Sample Analysis of Pay Periods). Furthermore, in Appendix A to the written submissions filed with the Court on November 14, 2024, the Respondent demonstrated, on a sample basis, that for certain periods, the Subcontractors invoiced Burraq for hundreds more hours than Burraq charged its clients over the same period.

[273] Mr. Sahi testified that while Burraq had some clients that could be qualified as "loss leaders", this was not a common practice for Burraq. In these "loss leaders" cases, Burraq charged its client less for a worker than it paid the Subcontractor supplying that worker, in the hope to obtain referrals. Although such a practice would be financially unsustainable, the evidence showed that Burraq engaged in this practice over extended periods. No credible explanation was provided as to why Burraq consistently accepted significant financial losses across both small and large clients.

[274] RAM Plastics Inc. and TMS Fulfilment Inc. were recognized by Mr. Sahi as loss leaders. TMS Fulfilment Inc. one of Burraq's largest clients during the Relevant Periods, referred DMRG, Jordan and Albany to Burraq. Similarly, Ram Plastics Inc., another major client during the Relevant Periods, referred FLS Transport and Kii Natural.

[275] Mr. Sahi further acknowledged that Burraq lost money with DMRG and Kii Natural. Moreover, Mr. Sahi acknowledged that Burraq never made a profit with Kii Natural, as DATA charged \$14.50 per hour for each worker. DMRG and Kii Natural

were Burraq's two largest referral accounts, generating only \$20,842 in revenue. Despite these losses, Mr. Sahi claimed that he was maintaining these accounts to build long-term business relationships.

[276] Furthermore, Burraq incurred losses with RAM Plastics Inc., as it was charging its client between \$12.42 and \$12.76 per hour for each worker, while DATA charged Burraq \$14.50 per hour for each worker.

[277] A similar pattern emerged with IGOR. Mr. Sahi admitted that Burraq was losing money with TMS Fulfilment Inc., as it was charging its client between \$13.00 and \$13.50 per hour for each worker while IGOR charged Burraq \$14.00 per hour for each worker.

[278] This loss-leader trend extended to Quality Natural Foods as well. Burraq incurred losses with Quality Natural Foods (also one of Burraq's largest client) in 2014, before breaking even in 2015 and 2016. For example, invoice no. 14064 from Burraq to Quality Natural Foods showed a rate of \$13.20 per hour, while IGOR charged Burraq \$14.00 per hour, resulting in an \$0.80 per hour loss (Exhibit A-1, Appellant's Book of Documents, tab 32, p. 1090). Similarly, invoice no. 15306 listed a rate of \$14.00 per hour and \$21.00 for overtime, matching IGOR's charge, meaning Burraq made no profit on those transactions (Exhibit A-1, Appellant's Book of Documents, tab 32, p. 1328). Mr. Sahi acknowledged these losses but provided no reasonable justification for continuing to operate under such terms.

[279] Furthermore, the evidence showed that Burraq's invoices to its clients regularly include overtime charges for workers, whereas the Subcontractors' invoices never reflected any overtime for any worker.

[280] Additionally, some invoices appear to have been faxed before the services were rendered (see Exhibit A-1, Appellant's Book of Documents, tab 22, pp. 326, 238, 330, 332, 366, invoices no. 1412, 1413, 1414, 1415, 1431 and subsequent invoices). Mr. Sahi was unable to explain these discrepancies.

[281] Furthermore, Mr. Sahi provided no explanation as to why cheques issued to the Subcontractors were cashed at cash houses.

5. Mr. Sahi's debut at Burraq and his dealings with the external accountant

[282] Mr. Sahi testified that he became involved in Burraq's business in April or May 2014, because his mother-in-law was struggling to find work and asked him to run the business.

[283] Considering that Mr. Sahi stated that Burraq had no clients at that time, it is implausible that by June 2014, Burraq would have received enough clients' requests to require a subcontractor. Yet, ASK allegedly provided 1675 hours of labour to Burraq's clients during that period, in addition to work performed by Burraq's own employees (Exhibit A-1, Appellant's Book of Documents, tab 19, first page).

[284] However, Mr. Sahi did not provide an explanation for this rapid expansion in Burraq's business, despite it being a critical development that should have been addressed at the hearing.

[285] Mr. Sahi also gave contradictory testimony regarding the transfer of shares in Burraq. He initially testified that his mother-in-law gave him half of Burraq's shares, and that she did not sell them. However, at discovery, Mr. Sahi stated that she had sold him half of the shares (Exhibit R-2, Transcript for Examination for Discovery, November 30, 2022, questions 50-52).

[286] Regarding Mr. Sahi's initial involvement with Burraq, he testified that in April or May 2014, Burraq had no clients. Mr. Sahi claimed that he was responsible for both marketing to attract clients and handling operations.

[287] However, during discovery, Mr. Sahi stated that in April or May 2014, he was only involved in marketing because Burraq had no client at that time (Exhibit R-2, Transcripts of Examination for Discovery, November 30, 2022, questions 53-55). Additionally, during discovery, Mr. Sahi stated that he only became involved in operations after his mother-in-law left Burraq around mid-2015 (Exhibit R-2, Transcripts Examination for Discovery, November 30, 2022, questions 85-86).

[288] When confronted with these inconsistencies at the hearing, Mr. Sahi stated that he misunderstood the questions at discovery. He then testified that he got involved in operations before his mother-in-law left Burraq, in addition to handling marketing. More specifically, Mr. Sahi testified that he took on operational responsibilities after Burraq relocated to Scarborough on June 11, 2014.

[289] However, the first invoice by ASK covers the period from June 9, 2014, to June 15, 2014. If Mr. Sahi was not involved in operations before Burraq moved to Scarborough on June 11, 2014, then Ms. Mustansir Billah would have been responsible for hiring ASK, but the evidence showed that only Mr. Sahi conducted business with the Subcontractors. Further, it was clear from Ms. Mustansir Billah's testimony that she never conducted any business for Burraq and was never involved with any dealings with ASK.

[290] At the hearing, Mr. Sahi testified that Burraq did not use any subcontractor when he started working at Burraq in May or April 2014. He also testified at the hearing that he was the first person to contact ASK, and was solely responsible for dealing with ASK. He later testified that ASK may have been already used as a Subcontractor when he joined Burraq, but then claimed he did not remember.

[291] Mr. Sahi did not provide any explanation to the Court regarding the foregoing inconsistencies.

[292] Mr. Sahi testified that he did not provide Burraq's external accountant with copies of the Subcontractors' invoices. Instead, he stated that he only submitted every receipt for gas or staplers and copies of bank statements, and a spreadsheet with the names of employees and hours worked, for preparing the GST/HST returns, income tax returns, and paycheques.

[293] However, at discovery, Mr. Sahi testified that he had also given a copy of the timesheets to the external accountant (Exhibit R-2, Transcripts for examination for discovery, November 30, 2022, question 1122).

[294] Mr. Sahi's credibility is undermined by these foregoing inconsistencies.

6. Mr. Sahi's attitude in respect of the audit and at trial

[295] Although Mr. Sahi was informed of the audit of Burraq on July 25, 2017, he did not take steps to ensure all relevant documentation were preserved for examination by the auditor.

[296] Burraq undertook to provide all invoices issued to its clients. However, Burraq provided an incomplete set of invoices, preventing the Respondent from comparing the number of hours invoiced to a client with the number of hours invoiced to Burraq by a Subcontractor for the same period. Additionally, the general ledger did not assist in making this determination.

[297] Burraq also undertook to provide all timesheets received from its clients but submitted only an incomplete set of timesheets.

[298] Furthermore, Burraq provided no timesheets that the Subcontractors would have given to Burraq.

(b) Analysis:

[299] In contrast to the evidence adduced by the Appellant, the Respondent adduced credible and reliable evidence to support its position that the Subcontractors' invoices were indeed sham documents, that Burraq did not acquire any labour services from the Subcontractors, that Burraq was involved in an accommodation invoicing scheme with the Subcontractors and that the Subcontractors had no commercial activities.

[300] Given the lack of credibility and reliability of Mr. Sahi's testimony, as well as the negative inferences drawn from the absence of key witnesses who could have corroborated Mr. Sahi's statements, I find it appropriate to accept Ms. Norris' and Ms. Sinnott's audit conclusions. I find that the testimonies of Ms. Norris and Ms. Sinnott to be both credible and reliable. Each conducted a thorough audit – Ms. Norris focusing on the Subcontractors and Ms. Sinnott on Burraq.

[301] Both auditors provided sufficient evidence showing that Burraq did not acquire any labour services from the Subcontractors, that Burraq was involved in an accommodation invoicing scheme and that the Subcontractors had no commercial activities, particularly when considering the lack of credibility and reliability of Mr. Sahi's testimony.

[302] The audit performed by Ms. Norris showed that although the Subcontractors made multi-millions' worth of sales, the Subcontractors' GST/HST returns showed no sales during the Relevant Periods. Additionally, none of the Subcontractors filed T2 corporate tax returns, and only ASK filed a limited number of T4 slips.

[303] As previously noted, Ms. Norris's review of various invoices of the Subcontractors addressed to Burraq and to other entities revealed numerous discrepancies and significant variations in format. Based on this fact, Ms. Norris concluded that more than one person was responsible for preparing the Subcontractors' invoices. Ms. Sinnott reached the same conclusion.

[304] Ms. Norris concluded that the Subcontractors lacked capacity to provide labour services to any registrant, including Burraq. She further determined that the Subcontractors had no commercial activities, issued accommodation invoices, and that their invoices were false and sham documents. As a result, Ms. Norris found that the Subcontractors were not the true providers of the supply of labour services to any registrant, including Burraq.

[305] Ms. Sinnott concluded that the Subcontractors were “missing traders”, based on common indicators found in the circumstances of this case. Given the evidence adduced at trial, I make the same findings. These include noncompliance with corporate tax and GST/HST obligations, the absence of T4 slips for employees, and the lack of capacity to provide the alleged supplies. Additionally, none of the Subcontractors could be contacted by phone or mail, and site visits indicated that they did not operate from the address listed on their invoices. Payments to the Subcontractors were made using certified cheques or bank drafts, none of which were deposited in a business bank account, but instead were negotiated at cash houses. Furthermore, the Subcontractors succeeded one another in rapid succession, with each business relationship lasting only a short time – likely until WSIB revoked their clearance certificates.

[306] As previously noted above, Ms. Sinnott also testified that in numerous instances, Burraq charged its clients an hourly rate per hour that was lower than what Burraq was paying the Subcontractors for the same work, resulting in Burraq operating at a loss.

[307] Furthermore, Ms. Sinnott found that numerous workers were migrating from one Subcontractor to the other.

[308] Ms. Sinnott concluded that the Subcontractors had been created for the purpose of issuing accommodation invoices.

[309] I find that the Subcontractors’ invoices are sham documents because, as the Respondent argued, the element of deceit required to establish a sham under tax laws is evident from the following:

- both of Burraq receptionists testified that they maintained daily an Excel spreadsheet containing a list of over a hundred names of workers whom Mr. Sahi would call for work. Mr. Sahi provided no explanation for this

practice. I find the testimony of both receptionists to be credible and reliable;

- Burraq claimed it relied on the Subcontractors to provide temporary workers due to the sporadic and unpredictable nature of client demands. However, the evidence showed that some workers were placed at clients' locations for long-term assignments. This contradicts Burraq's justification for using the Subcontractors, suggesting that it had a steady, ongoing need for these workers. Rather than relying on Subcontractors for unpredictable labour needs, Burraq used them to falsely represent its employment structure, supporting the conclusion that the invoicing arrangement was a sham;
- as noted by Ms. Sinnott, Burraq issued cheques to the Subcontractors, all of which were cashed at cash houses. This practice is indicative of a false invoicing scheme, as legitimate businesses typically deposit their cheques into regular business bank accounts rather than cash houses;
- the evidence also showed, as acknowledged by Mr. Sahi, that the Subcontractors' invoices were all numbered sequentially; and
- all invoices addressed by the Subcontractors to Burraq used the same template, whereas invoices issued by the same Subcontractor to other registrants varied in format.

[310] Having concluded that the Subcontractors' invoices are sham documents, the Court must then assess the true nature or the reality of the transactions.

[311] As argued by the Respondent, I find that the evidence showed, on a balance of probabilities, that the nature and the reality of the transactions was that Burraq itself hired all the workers, who were then sent to provide labour services to Burraq's clients. Both receptionists testified that they updated daily a list of over one hundred workers, which list was sent to Mr. Sahi at the end of each workday. As noted above, Mr. Sahi gave no explanation to the Court relative to that list.

[312] Furthermore, after the cheques issued by Burraq to the Subcontractors were cashed at various cash houses, it is reasonable to infer that Mr. Sahi (or Burraq) would then pay the workers in cash, leaving no trace of payments.

[313] According to the Appellant, despite the Minister's assumptions that the Subcontractors did not have any commercial activity and did not have the capacity to supply labour services to Burraq, the Minister nonetheless assessed each Subcontractor for significant amounts of unreported sales and HST collectible. The Appellant argues that these assessments demonstrate that the Subcontractors had the capacity to provide services and were engaged in commercial activities.

[314] Furthermore, the Appellant contends that Burraq is not responsible for the Subcontractors' tax obligations.

[315] I do not agree with these arguments raised by the Appellant.

[316] Ms. Norris was unable to reach any of the Subcontractors. She examined various invoices of the Subcontractors addressed to ten to fourteen registrants, including Burraq, all of whom claimed ITCs on alleged labour services provided by the Subcontractors. Invoices of each Subcontractors were of various format depending on the registrants to which invoices were addressed to.

[317] Ms. Sinnott concluded that the Subcontractors were "missing traders" based on multiple indicators consistent with that qualification. The auditors had sufficient evidence to conclude that the Subcontractors lacked the capacity to supply labour services and were not engaged in any commercial activities.

[318] According to the Appellant, the Respondent did not establish that the Subcontractors' invoices were false because, *inter alia*:

- The auditors did not speak to any of Burraq's clients;
- The auditors did not speak to any of the Subcontractors;
- The auditors did not speak to any of the Subcontractors' workers;
- The Subcontractors sent their workers to Burraq's clients;
- The clients paid Burraq for the work performed by the workers sent to them to do the work; and
- The auditors did not provide any evidence that Burraq paid the Subcontractors' workers "under the table".

[319] Again, I do not agree with the Appellant.

[320] As mentioned previously, when sham is alleged, a Court must assess circumstantial evidence, as direct evidence of sham is rarely available.

[321] I reviewed in detail the evidence provided by Mr. Sahi at the hearing, as well as the evidence adduced by other witnesses. Mr. Sahi failed to provide any credible and reliable evidence demonstrating that Burraq acquired any labour services from the Subcontractors.

[322] The fact that the auditors did not speak to the Subcontractors, Burraq's clients or to any workers does not affect my finding. While workers were sent to Burraq's clients to carry the work, this does not establish that they were sent by the Subcontractors. On the contrary, as previously noted, the evidence supports the finding that Burraq itself supplied all the workers to its clients.

[323] Further, although the evidence revealed that Burraq's clients paid Burraq for the work performed, this does not indicate that the Subcontractors were providing the workers. In addition, there is ample evidence to conclude that some workers were paid in cash by Burraq.

[324] For all the foregoing reasons, I find that Burraq did not acquire any labour services from the Subcontractors, that the Subcontractors' invoices were false and sham documents, that Burraq was involved in an accommodation invoicing scheme with the Subcontractors, and that the Subcontractors had no commercial activities. Accordingly, Burraq is not entitled to ITCs totalling \$360,141.77 in respect of GST/HST relating to the Subcontractors' invoices for labour services

[325] Given my findings regarding sham, it is unnecessary to determine whether Burraq had met the prescribed documentation requirements under the ETA to obtain ITCs in respect of the Subcontractors' invoices.

C. ITCs totalling \$1,858.22 in respect of the SUNRISE invoice

[326] Under the ETA, ITCs may only be granted to a registrant if information required by the ETA and as prescribed by the Regulations is obtained prior to the filing of the return in which the ITC is claimed.

[327] The Regulations provide that, among other thing, the name of the supplier or intermediary must be indicated in the supporting documentation, as well as the

registration number assigned to that person under section 241 (when the amount of the supply is \$100 or more).

[328] The case law of this Court and of the Federal Court of Appeal consistently holds that the provisions of the ETA and its Regulations are mandatory with respect to claims for ITCs (*Kosma-Kare Canada Inc. v. Canada*, 2014 FCA 225, at para. 7; *Systematix Technology Consultants Inc. v. Canada*, 2007 FCA 226, at para. 4; *Les Ventes et Façonnage de Papier Reiss Inc. v. The Queen*, 2016 TCC 289, at paras. 187 and following). The case law is also well settled: a registrant's good faith in claiming ITCs is irrelevant.

[329] Therefore, I am of the view that the mandatory nature of the provisions of the ETA and the Regulations, from which flows a duty of verification on the part of the person claiming an ITC, is determinative in this case, regardless of the Appellant's good faith.

[330] Ms. Sinnott testified that she disallowed ITCs claimed by Burraq totalling \$1,858.22 in respect of the SUNRISE invoice due to insufficient documentation. She explained that the number indicated on the invoice is not an GST/HST registration number assigned under section 241 but a corporate number that does not belong to SUNRISE (Exhibit R-1, Respondent's Book of Documents, tab 7(A)).

[331] On the other hand, Mr. Sahi did not adduce in evidence any other supporting documentation to support Burraq's claim for ITCs, other than the SUNRISE invoice.

[332] Given that the evidence showed that the number on the invoice is not the GST/HST registration number of SUNRISE nor is it a registration number assigned to any person under section 241, that the invoice adduced in evidence at the hearing contains no reference to any GST/HST registration number for SUNRISE, and that the Appellant failed to provide any additional documentation supporting its claim, I find this to be sufficient grounds to deny the ITCs totalling \$1,858.22 claimed by Burraq in respect of the SUNRISE invoice.

D. ITCs totalling \$3,509.22 in respect of the Dodge Charger vehicle

[333] Burraq claimed ITCs totalling \$3,509.22 in respect of GST/HST paid by Mr. Sahi on the purchase of a Dodge Charger vehicle, on May 30, 2015.

[334] The Appellant argued that the ITCs should be allowed because the vehicle was used by Mr. Sahi in the course of Burraq's business operations. Specifically, the

Appellant contended that Mr. Sahi used the vehicle for business-related purposes, including traveling to and from clients' locations, visiting various banks, and conducting other business activities.

[335] However, the Respondent argued that no ITCs should be allowed because the vehicle was Mr. Sahi's personal vehicle and because no log apportioning the use for personal and business purposes was adduced in evidence at the hearing. The Respondent referred to various rules found in subsection 170(1) for reasons to deny the ITCs.

[336] Additionally, according to the Respondent's written submissions filed on November 14, 2024, the evidence demonstrated that the vehicle was the personal vehicle of Mr. Sahi. Since Mr. Sahi failed to maintain a log apportioning the business and the personal uses of the vehicle, it is impossible to determine the "extent (expressed as a percentage) to which the person acquired or imported the property..., for consumption, use or supply in the course of commercial activities of the person" as necessary to calculate the appropriate amount of ITCs (subparagraph 169(1)B(c)).

[337] For the reasons below, I am not satisfied, on a balance of probabilities, that the Dodge Charger vehicle was used by Mr. Sahi in any manner for commercial activities.

[338] Firstly, Mr. Sahi testified that he did not transport any employees or workers to clients' places of business. On the other hand, he testified that he used the vehicle for traveling from home to Burraq's place of business, a distance of 70 kilometers.

[339] Case law has determined that generally, expenses incurred while traveling from one's home to one's place of business or employment are personal expenses, and are not deductible because they are not incurred in the course of employment duties (see *Mason v. The Queen*, 2022 TCC 65, at paras. 7 to 12 for a review of the rules applicable to employees, as well as *Hogg v. Canada*, 2002 FCA 177, at para. 9; *Smith v. Canada*, 2019 FCA 173, at para. 41 and *Daniels v. Canada (Attorney General)*, 2004 FCA 125, at para. 7). Only in exceptional circumstances would a Court find that the traveling from home to one's place of business (or employment) would not be considered a personal expense (*Campbell v. The Queen*, 2003 TCC 160 and *Toutov v. The Queen*, 2006 TCC 187).

[340] In the case at bar, no evidence was adduced at the hearing to demonstrate that the traveling by Mr. Sahi from his home to Burraq's place of business would fall

within any exceptional circumstances, that would justify considering it as related to Burraq's commercial activities.

[341] Further, Mr. Sahi acknowledged that he did not maintain a logbook to apportion business and personal use of the vehicle.

[342] Given the lack of any evidence to apportion the personal and business uses of the vehicle and considering that I am not satisfied that Mr. Sahi used the car for any business-related matter, no ITCs is allowed in respect of the GST/HST paid for the purchase of the Dodge Charger vehicle.

E. Penalties under section 285

(1) *The Law and applicable principles*

[343] Section 285 provides that “[e]very person who knowingly, or under circumstances amounting to gross negligence, makes or participates in, assents to or acquiesces in the making of a false statement or omission in a return ... made in respect of a reporting period...” is liable to a penalty.

[344] The burden of establishing the facts justifying the assessment of the penalty is on the Minister (subsection 285.1(16)).

[345] Penalties should only be imposed where the evidence clearly supports their application. If any doubt remains as to whether the penalties should be applied, the taxpayer must receive the benefit of the doubt (see *Farm Business Consultants Inc. v. The Queen*, 95 D.T.C. 200, at para. 27, upheld by the Federal Court of Appeal in 96 D.T.C. 6085; *Fourney, supra*, at para. 27).

[346] According to the very wording of section 285, two elements are required for a penalty to apply: (1) a mental element (“knowingly, or under circumstances amounting to gross negligence”) and (2) a material element (“makes . . . a false statement or omission”).

[347] Regarding the material element, the case law holds that an incorrect statement in an income tax return amounts to a misrepresentation (*Nesbitt v. The Queen*, 96 D.T.C. 6045, [1996] F.C.J. No. 19 (F.C.T.D.) (QL), para. 22; *D’Andrea v. The Queen*, 2011 TCC 298, at para. 35; *Vine Estate v. Canada*, 2015 FCA 125 (paras. 33-35). The same principles apply with respect to consumption taxes.

[348] In *Wynter v. Canada*, 2017 FCA 195 (“*Wynter*”), a unanimous decision of the Federal Court of Appeal, Justice Rennie addressed the tests related to the words “knowingly” and “gross negligence” in subsection 163(2) of the *Income Tax Act*, a similarly worded provision:

[11] When Parliament uses alternative terms, it is assumed that it intended them to have different meanings. Put otherwise, Parliament does not repeat itself: see Ruth Sullivan, *Statutory Interpretation*, 3rd ed. (Toronto: Irwin Law Inc., 2016) at 43. Section 163 allows the imposition of penalties where the taxpayer has knowledge *or* in circumstances amounting to gross negligence. The section is not conjunctive, and presumptively, these two terms differ in their meaning and content.

[12] The distinction between gross negligence – determined by an objective assessment of the comportment of the taxpayer – and wilful blindness – determined by reference to the taxpayer’s subjective state of mind – has a long history. Admittedly, it is, on occasion, a fine distinction and one that is not always clearly drawn. Nonetheless, Parliament is taken to have been cognizant of the distinction.

[Emphasis in the original.]

[349] Gross negligence arises where the taxpayer’s conduct is found to fall markedly below what would be expected of a reasonable taxpayer (*Wynter*, *supra*, at para. 18). In addition, as indicated by the Supreme Court of Canada in *Guindon v. Canada*, 2015 SCC 41 (at para. 61), the penalties “are meant to capture serious conduct, not ordinary negligence or simple mistakes on the part of a tax preparer or planner.”

[350] The concept of “gross negligence” was defined as follows in *Venne v. The Queen*, [1984] F.C.J. No. 314 (QL), 84 D.T.C. 6247 (F.C.T.D.):

“Gross negligence” must be taken to involve greater neglect than simply a failure to use reasonable care. It must involve a high degree of negligence tantamount to intentional acting, an indifference as to whether the law is complied with or not.

[351] The test for “gross negligence” is an objective one (*Wynter*, *supra*, at para. 21). Gross negligence is assessed based on the expected conduct of a reasonable person in the same circumstances.

(2) *Analysis*

[352] For the following reasons, I find that Mr. Sahi, acting on behalf of Burraq, knowingly made false statements in the GST/HST returns for the Relevant Periods

leading to penalties assessed on ITCs claimed in respect of labour services from the Subcontractors. Alternatively, at the very least, I find that Mr. Sahi showed willful blindness in making the GST/HST returns.

[353] Additionally, for the following reasons, I find that Mr. Sahi was grossly negligent in making the GST/HST returns in relation to penalties assessed on ITCs claimed in respect of the purchase of the Dodge Charger vehicle and the SUNRISE invoice for labour services, and ITCs claimed in respect of expenses not recorded in Burraq's general ledger.

[354] Here, I find it is not appropriate to give the benefit of the doubt to Mr. Sahi, as a significant portion of his testimony lacked credibility and reliability, as detailed above in my reasons.

[355] Accordingly, the penalties must be upheld.

[356] Firstly, for the following reasons, I find that the material element is satisfied in the present appeals.

[357] Having concluded that Burraq was not entitled to any ITCs regarding the GST/HST in relation to the Subcontractors' invoices, the Dodge Charger vehicle and the SUNRISE invoice and given the Appellant conceded that it was not entitled to ITCs for expenses not recorded in its general ledger, I find that Mr. Sahi, acting for Burraq, made false statements on the GST/HST returns in all these instances.

[358] Regarding the mental element, two possible scenarios must be examined for penalties to be upheld by the Court: did Mr. Sahi knowingly make a false statement, or did Mr. Sahi make a false statement under circumstances amounting to gross negligence?

[359] According to the Appellant, the GST/HST returns were automatically generated by QuickBooks, the accounting software used by Burraq and Mr. Sahi. The GST/HST returns contained only four lines of information: total amount of HST collected, total amount of ITCs deducted, adjustments and final HST payable.

[360] Because the software calculates these figures electronically, the Appellant argued that the signature by Mr. Sahi on the form "cannot reflect detailed knowledge of individual entries of the HST and ITCs that go into the computation" (Written Submission of the Appellant filed on November 15, 2024, at p. 14).

[361] Additionally, the Appellant noted that Ms. Sinnott, the CRA auditor, met with Mr. Sahi for only 30 to 60 minutes during the audit and therefore could not determine whether Mr. Sahi was familiar with his tax obligations.

[362] Further, the Appellant argued that the Respondent failed to adduce evidence demonstrating that Mr. Sahi was grossly negligent. On the contrary, Ms. Sinnott testified that Burraq maintained adequate books and records, filed its GST/HST returns on time, and paid its dues on a timely manner.

[363] I do not agree with the Appellant.

[364] Regarding the penalties assessed with respect to ITCs claimed for the Subcontractors' invoices for labour services, I found that Mr. Sahi's testimony was not credible regarding the acquisition of any labour services from the Subcontractors. I have also concluded that the Subcontractors' invoices were sham documents, and that Burraq, through Mr. Sahi's actions, participated in a false invoicing accommodation scheme. Given these findings and the lack of credibility and reliability of Mr. Sahi's testimony, the only reasonable conclusion is that Mr. Sahi knowingly claimed false ITCs when making the GST/HST returns. Mr. Sahi knew the presentation made to the tax authorities, namely the purported acquisition by Burraq of labour services from the Subcontractors as reflected on the Subcontractors' invoices, was false.

[365] Ms. Sinnott correctly concluded that Mr. Sahi had knowledge of the false or accommodation invoices, as evidenced by the hiring of consecutive Subcontractors who were unreachable (Exhibit R-1, Respondent's Book of Documents, tab 1(D), Penalty Recommendation Report). Additionally, Ms. Sinnott believed that Mr. Sahi appeared knowledgeable about business matters in general, including GST/HST matters.

[366] I can also uphold the penalties assessed on ITCs in respect of the Subcontractors' invoices because I find that Mr. Sahi was willfully blind in all of his dealings with the Subcontractors.

[367] As previously noted, Mr. Sahi's testimony regarding his business dealings with the Subcontractors was not credible and not reliable, given the multiple contradictions, inconsistencies, lapses of memory and implausibility. Further, Mr. Sahi's explanation of how he became aware of the Subcontractors lacks credibility. Mr. Sahi should have known that the Subcontractors were not capable of supplying any labour services.

[368] Furthermore, I considered the following factors for concluding that Mr. Sahi was willfully blind in his dealings with the Subcontractors: Mr. Sahi is a Certified Account Technician, having studied at the London School of Business and Finance in the United Kingdom before coming to Canada; only Mr. Sahi oversaw the financial records of Burraq; Mr. Sahi only provided bank statements and an Excel spreadsheet detailing Burraq's expenses to the external accountant to prepare the GST/HST returns; Mr. Sahi was in charge of receiving clients' invoices, giving instructions to the accountant to pay Burraq's employees and paying the Subcontractors; Mr. Sahi approved and signed the GST/HST returns; Mr. Sahi acknowledged that a business expense is an expense paid for the business; and Mr. Sahi testified that he only reviewed the GST/HST returns by verifying that the numbers were reasonable. The fact that GST/HST returns are or could be automatically created by an accounting software and contain only four lines is not relevant in my examination of the mental element for the penalties to apply.

[369] With respect to the penalties assessed on ITCs claimed in respect of the Dodge Charger vehicle, the SUNRISE invoice, and on ITCs claimed on expenses not recorded in Burraq's general ledger, I find that Mr. Sahi was grossly negligent in making these claims.

[370] To determine whether Mr. Sahi was grossly negligent, Mr. Sahi's expected conduct must be measured against that of a reasonable taxpayer with a similar business experience – namely a person starting a business and holding a degree in accounting. In the case at bar, I find that Mr. Sahi's actions constituted a marked and substantial departure from the expected conduct of a reasonable businessperson in similar circumstances.

[371] The duty of verification arising from the mandatory nature of the provisions of the ETA and the Regulations required Mr. Sahi to conduct more thorough inquiries than those he made with respect to these ITCs.

[372] I do not accept that these claims resulted from simple mistakes or ordinary negligence. The evidence showed that Mr. Sahi was not concerned whether the ITCs claimed were accurate. As Mr. Sahi was the owner and operator of Burraq, he should have known the extent of the expenses incurred by Burraq and the corresponding available ITCs. Mr. Sahi was responsible for overseeing all operations, making

deposits, maintaining the books and records, and preparing the spreadsheets sent to the external accountant.

Signed this 2nd day of May 2025.

“Dominique Lafleur”

Lafleur J.

SCHEDULE A

Input Tax Credit Information (GST/HST) Regulations (SOR/91-45)

3 For the purposes of paragraph 169(4)(a) of the Act, the following information is prescribed information:

(a) where the total amount paid or payable shown on the supporting documentation in respect of the supply or, if the supporting documentation is in respect of more than one supply, the supplies, is less than \$100,

(i) the name of the supplier or the intermediary in respect of the supply, or the name under which the supplier or the intermediary does business,

(ii) where an invoice is issued in respect of the supply or the supplies, the date of the invoice,

(iii) where an invoice is not issued in respect of the supply or the supplies, the date on which there is tax paid or payable in respect thereof, and

(iv) the total amount paid or payable for all of the supplies;

(b) where the total amount paid or payable shown on the supporting documentation in respect of the supply or, if the supporting documentation is in respect of more than one supply, the

3 Les renseignements visés à l'alinéa 169(4)a) de la Loi, sont les suivants :

a) lorsque le montant total payé ou payable, selon la pièce justificative, à l'égard d'une ou de plusieurs fournitures est de moins de 100 \$:

(i) le nom ou le nom commercial du fournisseur ou de l'intermédiaire,

(ii) si une facture a été remise pour la ou les fournitures, la date de cette facture,

(iii) si aucune facture n'a été remise pour la ou les fournitures, la date à laquelle il y a un montant de taxe payée ou payable sur celles-ci,

(iv) le montant total payé ou payable pour la ou les fournitures;

b) lorsque le montant total payé ou payable, selon la pièce justificative, à l'égard d'une ou de plusieurs fournitures est de 100 \$ ou plus et de moins de 500 \$:

(i) le nom ou le nom commercial du fournisseur ou de l'intermédiaire et le numéro d'inscription attribué, conformément à l'article 241

supplies, is \$100 or more and less than \$500,

(i) the name of the supplier or the intermediary in respect of the supply, or the name under which the supplier or the intermediary does business, and the registration number assigned under section 241 of the Act to the supplier or the intermediary, as the case may be,

(ii) the information set out in subparagraphs (a)(ii) to (iv),

(iii) where the amount paid or payable for the supply or the supplies does not include the amount of tax paid or payable in respect thereof,

(A) the amount of tax paid or payable in respect of each supply or in respect of all of the supplies, or

(B) where provincial sales tax is payable in respect of each taxable supply that is not a zero-rated supply and is not payable in respect of any exempt supply or zero-rated supply,

(I) the total of the tax paid or payable under Division II of Part IX of the Act and the provincial sales tax paid or payable in respect of each taxable supply, and a statement to the effect that the total in respect of each taxable supply

de la Loi, au fournisseur ou à l'intermédiaire, selon le cas,

(ii) les renseignements visés aux sous-alinéas a)(ii) à (iv),

(iii) dans le cas où la taxe payée ou payable n'est pas comprise dans le montant payé ou payable pour la ou les fournitures :

(A) ou bien, la taxe payée ou payable pour toutes les fournitures ou pour chacune d'elles,

(B) ou bien, si une taxe de vente provinciale est payable pour chaque fourniture taxable qui n'est pas une fourniture détaxée, mais ne l'est pas pour une fourniture exonérée ou une fourniture détaxée :

(I) soit le total de la taxe payée ou payable selon la section II de la partie IX de la Loi et de la taxe de vente provinciale payée ou payable pour chaque fourniture taxable, ainsi qu'une déclaration portant que le total pour chaque fourniture taxable comprend la taxe payée ou payable selon cette section,

(II) soit le total de la taxe payée ou payable selon la section II de la partie IX de la Loi et de la taxe de vente provinciale

includes the tax paid or payable under that Division, or

(II) the total of the tax paid or payable under Division II of Part IX of the Act and the provincial sales tax paid or payable in respect of all taxable supplies, and a statement to the effect that the total includes the tax paid or payable under that Division,

(iv) where the amount paid or payable for the supply or the supplies includes the amount of tax paid or payable in respect thereof and one or more supplies are taxable supplies that are not zero-rated supplies,

(A) a statement to the effect that tax is included in the amount paid or payable for each taxable supply,

(B) the total (referred to in this paragraph as the “total tax rate”) of the rates at which tax was paid or payable in respect of each of the taxable supplies that is not a zero-rated supply, and

(C) the amount paid or payable for each such supply or the total amount paid or payable for all such supplies to which the same total tax rate applies, and

(v) where the status of two or more supplies is different, an

payée ou payable pour toutes les fournitures taxables, ainsi qu’une déclaration portant que ce total comprend la taxe payée ou payable selon cette section,

(iv) dans le cas où la taxe payée ou payable est comprise dans le montant payé ou payable pour la ou les fournitures et que l’une ou plusieurs de celles-ci sont des fournitures taxables qui ne sont pas des fournitures détaxées :

(A) une déclaration portant que la taxe est comprise dans le montant payé ou payable pour chaque fourniture taxable,

(B) le total (appelé « taux de taxe total » au présent alinéa) des taux auxquels la taxe a été payée ou était payable relativement à chacune des fournitures taxables qui n’est pas une fourniture détaxée,

(C) le montant payé ou payable pour chacune de ces fournitures ou le montant total payé ou payable pour l’ensemble de ces fournitures auxquelles s’applique le même taux de taxe total,

(v) dans le cas où deux fournitures ou plus appartiennent à différentes catégories, une mention de la catégorie de chaque fourniture

indication of the status of each taxable supply that is not a zero-rated supply; and

(c) where the total amount paid or payable shown on the supporting documentation in respect of the supply or, if the supporting documentation is in respect of more than one supply, the supplies, is \$500 or more,

(i) the information set out in paragraphs (a) and (b),

(ii) the recipient's name, the name under which the recipient does business or the name of the recipient's duly authorized agent or representative,

(iii) the terms of payment, and

(iv) a description of each supply sufficient to identify it.

taxable qui n'est pas une fourniture détaxée;

c) lorsque le montant total payé ou payable, selon la pièce justificative, à l'égard d'une ou de plusieurs fournitures est de 500 \$ ou plus :

(i) les renseignements visés aux alinéas a) et b),

(ii) soit le nom de l'acquéreur ou son nom commercial, soit le nom de son mandataire ou de son représentant autorisé,

(iii) les modalités de paiement,

(iv) une description suffisante pour identifier chaque fourniture.

CITATION: 2025 TCC 68

COURT FILE NO.: 2018-4772(GST)G

STYLE OF CAUSE: BURRAQ EMPLOYMENT SERVICES LTD. v. HIS MAJESTY THE KING

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: January 15, 16, 17 and 18, 2024 and November 4, 5, 6 and 7, 2024; written submissions filed on November 14 and 15, 2024

REASONS FOR JUDGMENT BY: The Honourable Justice Dominique Lafleur

DATE OF JUDGMENT: May 2, 2025

APPEARANCES:

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