

Federal Court of Appeal



Cour d'appel fédérale

Date: 20141217

Docket: A-134-14

Citation: 2014 FCA 296

**CORAM: PELLETIER J.A.
GAUTHIER J.A.
SCOTT J.A.**

BETWEEN:

HER MAJESTY THE QUEEN

Appellant

and

SALAISSON LÉVESQUE INC.

Respondent

Heard at Montréal, Quebec, on December 3 and 4, 2014.

Judgment delivered at Ottawa, Ontario, on December 17, 2014.

**REASONS FOR JUDGMENT BY:
CONCURRED IN BY:**

**GAUTHIER J.A.
PELLETIER J.A.
SCOTT J.A.**

Federal Court of Appeal



Cour d'appel fédérale

Date: 20141217

Docket: A-134-14

Citation: 2014 FCA 296

CORAM: PELLETIER J.A.
GAUTHIER J.A.
SCOTT J.A.

BETWEEN:

HER MAJESTY THE QUEEN

Appellant

and

SALAISSON LÉVESQUE INC.

Respondent

REASONS FOR JUDGMENT

GAUTHIER J.A.

[1] This is an appeal from the decision of Tardif J. of the Tax Court of Canada allowing the appeal of the respondent (Salaison) and vacating the notice of assessment made under Part IX of the *Excise Tax Act*, R.S.C. 1985, c. E-15 (the Act), for the period from August 7, 2006, to August 29, 2009.

[2] This assessment included, among other things, an amount of \$12,443.35 constituting the input tax credits (ITCs) claimed by Salaison but disallowed by Quebec's Minister of Revenue on the ground that they were based on invoices of convenience (see A.R., Volume 3, page 538) and a penalty of \$3,110.84 imposed under section 285 of the Act. At the hearing, the appellant stated that it was no longer challenging the judge's decision to set aside the penalty.

[3] The assessment also included \$2,348.29 for disallowed ITCs for a motor vehicle and \$855.09 with regard to the GST payable on an automobile benefit. Salaison did not challenge these two items before the judge. On this point, the parties agree that this Court must correct the error in the terms of the judgment.

[4] In its cross-appeal, Salaison is challenging the amount of the costs the judge ordered it to pay.

I. ITCs

[5] At issue in the main appeal is essentially the judge's conclusion that Salaison established *prima facie* that the Minister's assumptions underlying the assessment were incorrect (paragraph 53 of the judge's reasons reported under neutral citation 2014 TCC 36). Moreover, as the appellant is not disputing that the services were indeed performed for Salaison or that Salaison paid the amount of the invoices issued for supplies taxable under the Act, a key issue is whether the judge could conclude that the services were performed by the agencies whose name appears on the invoices, as required by the Act and the *Input Tax Credit Information (GST/HST) Regulations*, SOR/91-45 (the Regulations). The relevant provisions are reproduced in Annex 1.

[6] As indicated by the judge, Salaison is a family business created in 1967 that specializes in the production of ham of various types and forms. Its annual sales are between \$15 and \$18 million, and the business employs about 75 people full-time. Since the products that Salaison processes and sells are perishable, delivery deadlines are very short, and during major holiday periods (roughly four times a year), Salaison has to significantly increase its workforce. During the assessment period, after unsuccessful efforts to recruit this workforce itself, the appellant retained the services of four employment agencies, Placement Tout Azimut (PTA), Agence Alina, Agence de Production Plus Inc. and Entreprise A. Bustos. However, the ITCs claimed were not for the services invoiced by PTA, because when Salaison verified whether this agency had a tax number, it was not satisfied that the PTA agency was an agent of the Minister who could collect tax on the Minister's behalf (section 221 of the Act). It therefore did not pay any taxes on the supplies obtained from PTA or claim any ITCs related to these supplies.

[7] The hourly wage paid to the agencies was approximately the same as the salary Salaison paid its own employees (paragraph 28 of the reasons), and, occasionally, Salaison recruited some workers from the agencies who subsequently became permanent employees (paragraph 30 of the reasons). This allowed it to provide information from these employees.

[8] Prior to retaining the services of the employment agencies in question, Salaison verified whether they had a GST registration number under the Regulations (paragraph 23 of the reasons). That being said, the impugned assessment is not based on any failure with respect to the registration numbers used on the invoices produced by Salaison in support of its ITC claim. This was therefore not at issue before the judge.

[9] In the light of the findings made during the summary audits performed by the Minister's auditors, the judge concluded that the agencies in question were unreliable and dishonest businesses in that they had set up a tax scam in order to enrich themselves by paying their employees little and keeping the taxes collected from their clients for themselves (paragraphs 29, 32, 49 and 60 of the reasons).

[10] That being said, the judge also concluded that the business relationships between Salaison and these agencies were normal and entirely consistent with standard practices and that the evidence did not show anything that could raise questions about Salaison's good faith or even any negligence (paragraphs 41 and 67 of the reasons). He also concluded that the Minister's argument that the agencies were not carrying out a commercial activity was without merit (paragraphs 46 to 47 of the reasons).

[11] The appellant submits that these conclusions with respect to the agencies' tax offences and Salaison's good faith were neither relevant nor necessary since the Minister's position was simply that the invoices were false as the agencies were not carrying out a commercial activity and did not have the resources to supply these services.

[12] In my opinion, the judge could not ignore the following, among other things, in the Minister's reply to the notice of appeal.

[TRANSLATION]

22. In assessing the appellant, the Minister relied, among other things, on the following findings and facts.

...

- (d) The amount of \$12,443.34 was assessed for the disallowed ITCs relating to the invoices of convenience;
 - (f) The appellant is challenging only the portion relating to the invoices of convenience;
 - (g) The respondent disallowed the ITCs claimed because she believed that the subcontractors in question provided invoices of convenience and that the work was not performed or was not performed by those subcontractors;
...
24. The appellant undoubtedly did not act in good faith and was part of a scheme of false invoices, among other things, but, without limiting the generality of the foregoing, the appellant voluntarily sent the respondent's representative false information;

The purpose of the assumption in paragraph 24, above, was specifically to support the imposition of a penalty under section 285 of the Act. It was therefore the appellant who put in issue Salaison's good faith and the fact that the invoices supplied were invoices of convenience. She cannot therefore complain that the judge drew the necessary inferences on these issues.

[13] For an invoice to be one of accommodation or convenience, the party receiving the invoice must be involved in some kind of scheme as the invoice issuer presumably made this invoice to comply with the demands or expectations of the receiving party (for a typical example, see *Pro-Poseurs Inc. v. Canada*, 2012 FCA 200).

[14] Before this Court, the appellant distinguished between a [TRANSLATION] "false invoice" and an [TRANSLATION] "invoice of accommodation or of convenience". In my opinion, the phrase "false invoice" can indeed cover several types of situation, including invoices of accommodation or of convenience. The phrase is broader in scope as it can encompass situations where the invoice recipient is not party to a scheme, but the invoice is incorrect to the issuer's

knowledge, for various reasons: for example, the name of the supplier appearing on the invoice does not match the supplier to which the registration number was attributed or the company issuing the invoice does not actually exist. There is no need to say more about this matter here as truth is often stranger than fiction, and I could not provide a complete list of all possible scenarios.

[15] However, I understand from the appellant's argument that, before this Court, she is no longer alleging that the invoices were indeed invoices of accommodation or of convenience, as defined above.

[16] I will not address the judge's many observations on Revenue Quebec's conduct. I agree with the appellant, however, that there was no need to make assumptions regarding the appellant's intention as the appellant's intention was irrelevant to the dispute before the judge.

[17] In *obiter*, the judge also made a number of comments on issues apparently raised by the appellant in its arguments or in the auditors' reports (for example, the fact that Salaison could have checked with the CSST whether the agencies were complying with the requirements). These fairly general observations seem to have created confusion about what there was to determine in the present matter and especially about what is relevant to satisfy the strict requirements of the Act and the Regulations in the sense enunciated by this Court in *Systematic Technology Consultants Inc. v. Canada*, 2007 FCA 226. The Regulations are clear, and the only actual issue before the judge in the present matter was to determine whether Salaison had

produced invoices describing the name of the service supplier of the intermediary as required by the Regulations. That is a question of fact.

[18] Moreover, even if the judge's reasons could have been more structured or clearer on the essential issues before the judge, this does not by itself justify undue interference on the part of this Court with respect to his assessment of the evidence or the questions of fact or questions of mixed fact and law.

[19] The appellant lists six errors in its memorandum. In its oral submissions before us, she insisted on two issues that cover all the errors described in its memorandum.

[20] First, the appellant alleges that the judge shifted the burden of proof by requiring, among other things, that the Minister demonstrate that the agencies had not supplied the services and that the invoices were invoices of convenience. According to the appellant, this is an error of law to be reviewed against the standard of correctness.

[21] It is within this framework, to support his position on the shift of the burden of proof, that the judge wrongly, so the appellant claims, refused to draw a negative inference against Salaison because it did not call the agencies' representatives to testify.

[22] Let me begin by saying that, in his reasons, the judge noted at paragraph 3 that "[t]o begin with, the [appellant's] position is nebulous". He continues by stating that the appellant, on the one hand, submitted that the invoices were false, but, on the other hand, acknowledged that

the work matching the description on those same invoices had indeed been performed. The judge then compares that position to the position described in the reply to the notice of appeal, which, as I have already noted, indicates that the invoices were invoices of convenience issued for work that was not performed or that was not performed by certain subcontractors.

[23] Nonetheless, the judge also states clearly in paragraph 8 of his reasons that “[d]espite certain inconsistencies, the burden is on the appellant to show that the invoices related to the ITCs claimed meet the mandatory requirements prescribed by the [Regulations] and, specifically, that there were, in fact, bona fide commercial transactions between it and the Agencies”. It is on this basis that the judge then examines the evidence.

[24] The appellant puts much emphasis on paragraph 53 of the reasons, where the judge writes that the appellant’s “flagrant lack of consistency means that the appellant has succeeded in establishing prima facie that the [appellant’s] assumptions underlying the assessment were false”.

[25] Contrary to the appellant, who sees this as confirmation of the burden of proof shifting, I see this as confirmation that the judge understood correctly that Salaison had to demolish the assumptions made by the Minister by making a *prima facie* case but no more (*Hickman Motors Ltd. v. Canada*, [1997] 2 S.C.R. 336 [*Hickman*] at paragraph 92). The judge also seems to wish to reemphasize, as he did at the outset and elsewhere in his reasons (see, for example, paragraph 34), that the very nature of the Minister’s assumptions in this case made it easier for Salaison in this respect.

[26] There is no doubt that once the Minister's presumptions and assumptions were demolished, the appellant had to prove on a balance of probabilities the merit of her position that the names of the suppliers or the intermediaries on the invoices were not correct for Salaison's appeal to be dismissed (*Hickman*, paragraph 94). The judge rightly states at paragraph 54 that the appellant's evidence was insufficient: it "does not pass the preponderance test".

[27] The appellant has not satisfied me that she was imposed the initial burden by the judge, especially as even when the judge discusses the issue of the negative inference the appellant asked him to draw, he reiterates at paragraph 81 of his reasons that "[i]ndeed, the onus of proof was on [Salaison] . . .".

[28] I will discuss the propriety of drawing such an inference in addressing now the second major issue before us, namely whether the judge committed one or more palpable and overriding errors in his assessment of the evidence and of the questions of fact and whether he could conclude as he did that Salaison had met its burden of demolishing the Minister's assumptions.

[29] The trier of fact has discretion as to whether or not to draw a negative inference from the absence of certain witnesses, in this case, the agencies' representatives. He or she can always consider the background and all of the evidence submitted to determine whether there is reason to exercise this discretion or not.

[30] In the matter at bar, Revenue Quebec's auditors had an opportunity to interview the agencies' directors (see, among others things, paragraph 31, pages 8 to 11 of the reasons). The

appellant's representatives subsequently confirmed that, for various reasons, it was difficult, if not impossible, to contact these people. I also note that, contrary to the situation in the cases that the appellant cites (*Amiante Spec Inc. v. The Queen*, 2008 TCC 89, aff'd by this Court 2009 FCA 139; *Les Constructions Rossi & Fils 2000 Inc. v. The Queen*, 2009 TCC 76, aff'd by this Court 2009 FCA 349; *Les Pro-Poseurs Inc. v. The Queen*, 2011 TCC 113, aff'd by this Court 2012 FCA 200), the judge did find Salaison's witnesses credible.

[31] I cannot therefore conclude that, as suggested by the appellant, the judge erred in refusing to draw a negative inference in this case.

[32] The appellant also submits that, in the absence of the agencies' representatives, the judge had no evidence before him suggesting that the agencies carried out commercial activities and that they had indeed performed the services described in the invoices submitted by Salaison.

[33] The appellant adds that the judge erred in considering evidence that was extraneous to the assessment, such as its intention, that he was mistaken about certain facts (for example, the issuing of assessments for the agencies' unreported income, for unreported source deductions and the acceptance of Salaison's business expenses — see, however, A.R., Volume 7, page 1233, lines 16 to 19, and Volume 8, page 1492, lines 21 to 26, and page 1493, lines 1 to 5). He also, according to the appellant, ignored that the Regulations contain a definition of "intermediary", even though that definition is very similar to the definition provided by the judge in Note 7 of his reasons.

[34] Salaison did not dispute that the reasons contained some errors; it limited itself to stating, correctly, in my opinion, that these errors were not overriding because ample evidence allowed the judge to conclude that Salaison had discharged its burden of demolishing the Minister's assumptions by presenting *prima facie* evidence and that the appellant had failed to establish on a balance of probabilities that these services had not been provided by the suppliers whose names appeared on the invoices. I agree.

[35] As stated by my colleague Stratas J. in *Canada v. South Yukon Forest Corporation*, 2012 FCA 165, at paragraph 46,

[w]hen arguing palpable and overriding error, it is not enough to pull at leaves and branches and leave the tree standing. The entire tree must fall.

[36] It is inaccurate to say that there was no evidence before the judge regarding each of the agencies' commercial activities and that the agencies had indeed supplied the services provided to Salaison. That is especially obvious when one considers that much of the information obtained by the auditors supported and corroborated the testimonial and documentary evidence produced by Salaison. For example, the agencies were duly incorporated, and Salaison's contact persons appeared in the Register as either shareholders or officers. They had a place of business (except for PTA as of 2008). The agencies' representatives could be contacted periodically by telephone, email or facsimile, and they replied to Salaison's requests by sending the number of people required for the time required. Most of the cheques drawn in favour of the agencies transited through normal channels (bank accounts), and the persons listed as agency employees in Salaison's documents confirmed that they had been hired and paid by these agencies. In at least

one case, a former employee found an old pay slip from the agency for which he had worked, and the hours recorded in Salaison's documents matches the hours indicated on the pay slip.

[37] Whether the wages of the employees who provided the services were paid under the table or whether these employees were not all declared is irrelevant as such to the issue whether the sub-contractors who hired and paid them provided the services supplied to Salaison. The weight to be given to missing or incomplete payroll records depends on the context and other evidence on the record. This too is an issue for the trier of fact to determine. It is therefore of little use for the appellant to cite the decision of the Tax Court of Canada or that of this Court in *Kosma-Kare Canada Inc. v. The Queen*, 2014 TCC 13 and 2014 CAF 225. In this case, I noted that the judge's conclusion of fact that the subcontractors described in the invoices were neither service suppliers nor intermediaries was not challenged before us.

[38] I am satisfied that the judge was entitled to conclude that the argument that the agencies with which the appellant dealt did not carry out any commercial activities was unsubstantiated and that Salaison discharged its burden by relying on the testimony and the documentary evidence produced by it, which, with respect to some items, was completed and corroborated by information provided by the appellant's representatives. In the circumstances, the Court's intervention is not warranted.

II. Costs

[39] The parties agree that they did not have an opportunity to make representations before the judge as to the amount of costs. They also do not dispute, as submitted by Salaison, that the

judge did not apply the correct test in paragraph 125 of his reasons, where he writes that “[t]he award of a lump sum or of any other increase to the statutory tariff requires circumstances and an exceptional context where the history of the case shows elements of abuse, frivolousness and/or bad faith”. The matter must therefore be referred back to the judge so that he can redetermine this issue after hearing the parties or allowing them to file written representations.

III. Conclusion

[40] For the above reasons, I propose that the main appeal be dismissed, except with regard to the \$2,348.29 and \$855.09, amounts which Salaison never disputed. Salaison should be entitled to costs on appeal.

[41] The matter should also be referred back to the judge so that he can redetermine the amount of costs to be awarded to Salaison.

“Johanne Gauthier”

J.A.

“I agree.

J.D. Denis Pelletier J.A.”

“I agree.

A.F. Scott J.A.”

Certified true translation
François Brunet, Revisor



Annex A

Excise Tax Act
R.S.C. 1985, c. E-15

...
PART IX: GOODS AND SERVICES TAX

...
Required documentation

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

...
Collection of tax

221. (1) Every person who makes a taxable supply shall, as agent of Her Majesty in right of Canada, collect the tax under Division II payable by the recipient in respect of the supply.

...
False statements or omissions

285. Every 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, application, form, certificate, statement, invoice or answer (each of which is in this section referred to as a “**return**”) made in respect of a reporting period or transaction is liable to a penalty of

Loi sur la taxe d'accise
L.R.C. (1985), ch. E-15

...
PARTIE IX : TAXE SUR LES PRODUITS ET SERVICES

...
Documents

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;

...
Perception

221. (1) La personne qui effectue une fourniture taxable doit, à titre de mandataire de Sa Majesté du chef du Canada, percevoir la taxe payable par l'acquéreur en vertu de la section II.

...
Faux énoncés ou omissions

285. Toute personne qui, sciemment ou dans des circonstances équivalant à faute lourde, fait un faux énoncé ou une omission dans une déclaration, une demande, un formulaire, un certificat, un état, une facture ou une réponse — appelés « déclaration » au présent article — établi pour une période de déclaration ou une opération, ou y participe, y consent ou y acquiesce, est passible d'une

the greater of \$250 and 25% of the total of

(a) if the false statement or omission is relevant to the determination of the net tax of the person for a reporting period, the amount determined by the formula

A - B

where

A

is the net tax of the person for the period, and

B

is the amount that would be the net tax of the person for the period if the net tax were determined on the basis of the information provided in the return,

(b) if the false statement or omission is relevant to the determination of an amount of tax payable by the person, the amount, if any, by which

(i) that tax payable

exceeds

(ii) the amount that would be the tax payable by the person if the tax were determined on the basis of the information provided in the return, and

(c) if the false statement or omission is relevant to the determination of a rebate under this Part, the amount, if any, by which

(i) the amount that would be the rebate payable to the person if the rebate were determined on the basis of the information provided in the return

exceeds

(ii) the amount of the rebate payable to the person.

pénalité de 250 \$ ou, s'il est plus élevé, d'un montant égal à 25 % de la somme des montants suivants :

a) si le faux énoncé ou l'omission a trait au calcul de la taxe nette de la personne pour une période de déclaration, le montant obtenu par la formule suivante :

A - B

où :

A

représente la taxe nette de la personne pour la période,

B

le montant qui correspondrait à la taxe nette de la personne pour la période si elle était déterminée d'après les renseignements indiqués dans la déclaration;

b) si le faux énoncé ou l'omission a trait au calcul de la taxe payable par la personne, l'excédent éventuel de cette taxe sur le montant qui correspondrait à cette taxe si elle était déterminée d'après les renseignements indiqués dans la déclaration;

c) si le faux énoncé ou l'omission a trait au calcul d'un remboursement prévu par la présente partie, l'excédent éventuel du remboursement qui serait payable à la personne s'il était déterminé d'après les renseignements indiqués dans la déclaration sur le remboursement payable à la personne.

***Input Tax Credit Information
(GST/HST) Regulations***

SOR/91-45

...

2. In these Regulations,

...

“intermediary”

“intermediary” of a person, means, in respect of a supply, a registrant who, acting as agent of the person or under an agreement with the person, causes or facilitates the making of the supply by the person; (intermédiaire)

...

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 \$30,

(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;

***Règlement sur les renseignements
nécessaires à une demande de crédit
de taxe sur les intrants (TPS/TVH)***

DORS/91-45

...

2. Les définitions qui suivent s'appliquent au présent règlement.

...

« intermédiaire »

« intermédiaire » Inscrit qui, agissant à titre de mandataire d'une personne ou aux termes d'une convention conclue avec la personne, permet à cette dernière d'effectuer une fourniture ou en facilite la réalisation.

(intermediary)

...

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 30 \$:

(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 30 \$ ou plus et de moins de 150 \$:

(i) le nom ou le nom commercial du

(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 supplies, is \$30 or more and less than \$150,

(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 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

fournisseur ou de l'intermédiaire et le numéro d'inscription attribué, conformément à l'article 241 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 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

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 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 \$150 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.

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 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 150 \$ 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.

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-134-14

STYLE OF CAUSE: HER MAJESTY THE QUEEN v.
SALAISSON LÉVESQUE INC.

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: DECEMBER 3 AND 4, 2014

REASONS FOR JUDGMENT BY: GAUTHIER J.A.

CONCURRED IN BY: PELLETIER J.A.
SCOTT J.A.

DATED: DECEMBER 17, 2014

APPEARANCES:

Éric Labbé
Danny Galarneau

FOR THE APPELLANT

Louis Tassé
Marie-Claude Marcil

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Larivière Meunier
Revenue Quebec
Québec, Quebec

FOR THE APPELLANT

Cousin Taylor LLP
Montréal, Quebec

FOR THE RESPONDENT