

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20190109**

**Docket: A-129-16**

**Citation: 2019 FCA 4**

**CORAM: GAUTHIER J.A.  
RENNIE J.A.  
GLEASON J.A.**

**BETWEEN:**

**MASTER TECH INC.**

**Appellant**

**and**

**THE MINISTER OF PUBLIC SAFETY AND  
EMERGENCY PREPAREDNESS**

**Respondent**

Heard at Ottawa, Ontario, on January 9, 2019.  
Judgment delivered from the Bench at Ottawa, Ontario, on January 9, 2019.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**GAUTHIER J.A.**

**Federal Court of Appeal**



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**REASONS FOR JUDGMENT OF THE COURT**  
**(Delivered from the Bench at Ottawa, Ontario, on January 9, 2019).**

**GAUTHIER J.A.**

[1] Master Tech has failed to convince us that the Federal Court erred in dismissing its action. We essentially agree with the Federal Court's analysis. The concession reproduced at paragraph 14 of the Federal Court decision applies only to the situation as of the date of the seizure of the machinery – July 6, 2011. Nothing more.

[2] The Federal Court properly determined that it was not incumbent upon the CBSA or the Minister to allow exportation of the machines pending compliance with current export restrictions. The Federal Court cannot grant the relief sought by Master Tech in an action under section 135 of the *Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.) [Act] which, in fact, would amount to an export licence for its goods to Iran. We note that a comparison of the English and French versions of paragraph 132(1)(a) of the Act makes clear that a “removal from custody” (“levée de garde” in French) of the items after a finding of no contravention only implies the lifting of the seizure as a measure – not that the hitherto seized items may now be exported without the proper permits and authorizations.

[3] Indeed, it is possible that seized goods became subject to new regulations requiring permits or permissions during the time they remained seized, and Master Tech simply cannot avoid compliance with those export restrictions. Should Master Tech seek to export the machines to Iran following the resolution of this case, it must first follow the appropriate procedures and apply for the proper permits with the applicable regulatory authorities according to the current rules and regulations.

[4] For the foregoing reasons, the appeal will be dismissed with costs set at an amount of \$3,200.00 all inclusive.

“Johanne Gauthier”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**APPEAL FROM A JUDGMENT OF THE HONOURABLE MR. JUSTICE O'REILLY  
DATED DECEMBER 18, 2015, DOCKET NO. T-385-14**

**DOCKET:** A-129-16

**STYLE OF CAUSE:** MASTER TECH INC. v. THE  
MINISTER OF PUBLIC SAFETY  
AND EMERGENCY  
PREPAREDNESS

**PLACE OF HEARING:** Ottawa, Ontario

**DATE OF HEARING:** JANUARY 9, 2019

**REASONS FOR JUDGMENT OF THE COURT BY:** GAUTHIER J.A.  
RENNIE J.A.  
GLEASON J.A.

**DELIVERED FROM THE BENCH BY:** GAUTHIER J.A.

**APPEARANCES:**

Steven Greenberg FOR THE APPELLANT

Joël J. Robichaud FOR THE RESPONDENT  
Shain Widdifield

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