

Docket: 2008-272(GST)G

BETWEEN:

BRIAN DAVID CHERNIAK,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on December 9, 10 and 11, 2013 and
November 24 and 25, 2014, at Toronto, Ontario.

Before: The Honourable Justice Robert J. Hogan

Appearances:

For the Appellant:	The Appellant himself
Counsel for the Respondent:	Craig Maw
	Roxanne Wong

JUDGMENT

The appeal from the assessment made under section 323 of the *Excise Tax Act*, notice of which is dated August 3, 2006 and bears number A107795, is allowed, and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment to give effect to the Concession (as defined in the attached reasons), the whole in accordance with the attached reasons for judgment.

Costs are awarded to the Respondent.

Signed at Ottawa, Canada, this 2nd day of March 2015.

“Robert J. Hogan”

Hogan J.

Citation: 2015 TCC 53
Date: 20150302
Docket: 2008-272(GST)G

BETWEEN:

BRIAN DAVID CHERNIAK,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Hogan J.

I. Overview

[1] The issue in this appeal is whether the Appellant, Mr. Brian David Cherniak (“Mr. Cherniak”), was properly assessed by an assessment (the “Assessment”) under subsection 323(1) of the *Excise Tax Act* (the “ETA”) in respect of the unremitted goods and services tax (“GST”) of GMC Distribution Ltd. (“GMC”) in the circumstances described below.

[2] The Appellant challenges the Assessment on two grounds. First, the Appellant claims that GMC does not have any GST liability and thus disputes the underlying assessment (the “Corporate Assessment”) issued against it. Secondly, the Appellant argues that he acted diligently to ensure that GMC complied with its GST collection and remittance obligations.

II. Factual Background and Credibility Findings

[3] In July of 2006, the Minister of National Revenue (the “Minister”) assessed the Appellant for the amount of \$6,165,394.23 with respect to unremitted GST, interest and penalties owed by GMC for the reporting periods from March 1, 1999

to September 30, 2002. The particulars of the Assessment are set out in Appendix A to these reasons for judgment.¹

[4] On October 24, 2002, the Canada Revenue Agency (“CRA”) registered a certificate with the Federal Court under section 316 of the ETA with respect to the unpaid GST liability of GMC. On the same date, a writ of seizure and sale (the “Writ”) was issued by the Federal Court to the sheriff of the City of Toronto. The sheriff’s office was instructed in 2006 to execute the Writ. It was returned *nulla bona* on account of the fact that GMC had no assets. This prompted the Minister to assess the Appellant as noted above.

[5] At the outset of the trial, the Respondent conceded that the amounts shown for the first ten periods listed in Appendix A, representing in total \$8,482.71, could not be assessed against the Appellant because these amounts were not covered by the certificate filed with the Federal Court on October 24, 2002, as described above (the “Concession”). While acknowledging that the appeal should be allowed to the extent of giving effect to the Concession, the Respondent submits that the balance of the Assessment is accurate.

[6] The Appellant’s evidence was, for the most part, presented by himself. He also called Mr. George Abela (“Mr. Abela”) to describe his alleged business dealings with GMC. As elaborated upon below, the Appellant’s and Mr. Abela’s accounts differed significantly on numerous points.

[7] The Respondent called two CRA officers as witnesses. I heard from Mr. Ruffolo, the CRA collection officer who issued the Assessment against the Appellant. Mr. Yasotharan then testified concerning the circumstances that led him to issue the underlying Corporate Assessment against GMC.

[8] The Appellant testified that GMC started carrying on the business of selling new and used computer parts in bulk in 1999 (the “Computer Parts Business”). The Appellant claims he was approached with this opportunity by a person he identified as Mr. John Nixey (“Mr. Nixey”). The business venture was operated through GMC even though neither Mr. Nixey nor the Appellant held an interest in GMC. According to the Appellant, the economic arrangement with Mr. Nixey was that the latter would receive a leased vehicle from another corporation belonging to the Appellant. The Appellant dealt with the banks. The Appellant alleges that

¹ Appendix A was included with the Respondent’s reply to the Appellant’s notice of appeal.

Mr. Nixey handled all of the other day-to-day operations of the Computer Parts Business.

[9] According to the Appellant, GMC acted as intermediary between Micro Computer Connections (“Micro Connections”), a sole proprietorship belonging to Mr. Morgan Jacobs (“Mr. Jacobs”), and Brocton Resources (collectively, the “Suppliers”), and Jag Distributors, Jay-Tek and perhaps FB Enterprises, StarDust.com, and Computer Micro-Electronic Canada (the “Customers”), entities controlled by Mr. Abela and/or his son. It appears from the invoices submitted as evidence that Micro Connections supplied substantially all of the computer parts to GMC. According to the Appellant, Mr. Abela and his son were in the business of exporting computer parts to Malta and the United States.

[10] As intermediary between the Suppliers and the Customers, GMC earned a nominal gross margin of approximately 0.25%. The Appellant calculated the sale price of the computer parts by taking into consideration the purchase price and marking it up by approximately 0.25%. The Appellant then applied the GST rate to that total amount.

[11] The Appellant claims that the first large amounts of computer parts were received in the months of July, August and September 1999. During examination in chief, the Appellant alleged that he only saw the parts that Mr. Nixey had left over because they were not being shipped, or that were part of the small inventory that was kept at the time. During cross-examination, the Appellant maintained that he had seen from 20% to 25% of all the shipments received. His evidence on this point was very uncertain.

[12] The Appellant caused GMC to maintain an account at the Royal Bank of Canada (the “Royal Bank Account”) for receipts and payments related to the Computer Parts Business. When he received computer parts, the Appellant alleges, Mr. Jacobs instructed him to make payments to an account at the Canadian Imperial Bank of Commerce (the “CIBC Account”) through electronic funds transfers. The CIBC account was linked to an offshore account at a German bank in the Bahamas. The Appellant claimed that Mr. Nixey would fill in the amount of the payment or have the bookkeeper, the Appellant’s mother, complete the payment instructions. The Appellant would sign each request for payment.

[13] The Appellant testified that the terms of payment were cash on delivery because the Suppliers did not offer GMC any credit terms and GMC did not have financing available to immediately pay for its supplies. GMC would buy the parts

from the Suppliers and deliver them to the Customers on the same day. According to the Appellant, GMC's Customers released payment before receiving the computer parts. When the Appellant was asked during the trial to provide further information as to how this payment system operated, he testified that he was not sure he had accurate information on that and that he did not remember every detail.

[14] The evidence shows that the Royal Bank ("RBC") expressed concerns about the amount and the nature of the payments made out of and the deposits made into the Royal Bank Account. RBC threatened the Appellant with closing the account unless information concerning the operations and the financial standing of the parties was provided. RBC eventually did close the Royal Bank Account.

[15] During trial, the Appellant said that, when he met with the Suppliers in 1999, they provided him with a GST number either verbally or by fax. The Appellant alleges that he called the CRA to confirm whether the GST number was valid, but he was informed that the CRA could not provide him with that information. Nevertheless, Mr. Jacobs' invoices for the period before August 30, 2000 submitted by the Appellant as exhibits during trial did not indicate a GST registration number.

[16] A number of Mr. Abela's observations on the circumstances surrounding his business dealings with GMC stood in stark contradiction to the Appellant's version of the facts. The most notable example of their inconsistent testimony was their disagreement on how the Customers paid for the goods supplied by GMC.

[17] As indicated, Mr. Cherniak stated that Micro Connections, the key supplier to GMC, required that GMC pay for the goods on or before delivery. Mr. Cherniak acknowledged that GMC did not have a line of credit or any funds to pay for the goods. Therefore, GMC demanded payment from its Customers prior to delivering the computer parts to them. In contrast, Mr. Abela insisted during his testimony that GMC's Customers were in the same precarious financial situation as GMC. They could not pay for goods before receiving payment from their own customers. Mr. Abela testified that his clients paid on delivery or in the 30-day period following delivery. From Mr. Abela's testimony, it does not appear that GMC could have paid for the goods acquired from the Suppliers prior to delivery.

[18] In the audit report for GMC, Mr. Yasotharan carefully documents the alleged flow of computer parts starting with Micro Connections. His findings in that regard are illustrated in Appendix B to these reasons. He observes that Micro Connections was not registered for GST purposes until August 30, 2000. This

explains why there was no GST number indicated on the invoices provided to GMC. He believes that Micro Connections became a registrant because Mr. Jacobs had learned that GMC was being audited. Mr. Yasotharan also noted in his testimony that Micro Connections did not remit the GST that it purportedly collected from GMC.

[19] Mr. Yasotharan further notes that payments from the final non-resident customers in the chain of transactions were made from an offshore bank account located in the Bahamas. Surprisingly, payments made by GMC to Micro Connections were also deposited in an offshore bank account with the Ansbacher Bank. He described it as odd that a Canadian supplier of computer equipment that allegedly purchased computer parts in Canada would deposit Canadian dollar payments in an offshore account. He could not identify the holders of these offshore bank accounts. GMC and the Appellant did not provide any credible evidence in this regard. Mr. Yasotharan's conclusion was that the payments were simple window dressing designed to mask the fact that the entities inserted in the chain were engaged in artificial transactions designed to trigger large GST refunds in connection with fictitious zero-rated export sales. He also concluded that all documentation created into by the parties was window dressing.²

[20] As pointed out by the Respondent's counsel in his oral submissions, this type of arrangement is commonly known as a "carousel scheme". Money flows in a predetermined manner opposite to the flow of fictitious transactions. The money starts and ends with the same parties. The GST is drawn out of the system on the basis of fictitious export sales of zero-rated supplies that allow the exporter-seller to receive large refunds in connection with tax that was never remitted in the first instance. Numerous buyers and sellers are inserted into the transaction flow to mask what is really going on.

[21] Another striking contradiction relates to the Appellant's and Mr. Abela's testimony on who played a key role in the transactions. The Appellant claims that Mr. Nixey handled the day-to-day operations of the computer parts business. According to the Appellant, he himself handled only the bank transactions, which were based on invoices received and the payment instructions prepared at the direction of Mr. Nixey. In contrast, Mr. Abela insisted that he often dealt with Mr. Cherniak, including when he picked up goods.

² According to the witness, this includes courier shipment documents and any miscellaneous parts that the parties acquired to bolster their ruse.

[22] Another curious example of contradictory evidence is Mr. Abela's and the Appellant's divergent testimony on the circumstances which led them to terminate their business dealings. Mr. Cherniak claimed that the entities controlled by Mr. Abela and his son discovered the source of GMC's supply and arranged with Micro Connections to eliminate GMC as an intermediary. Mr. Abela alleges that this is not what happened. Rather, his customers suddenly stopped placing new orders. I surmise that it was no coincidence that the business dealings of the entities listed in Appendix B stopped following the commencement of CRA's audit of their arrangements.

[23] The following is a list of some other facts which further serve to discredit the Appellant's evidence.

- (i) Mr. Cherniak claims that Mr. Nixey brought him the proposal to launch the Computer Parts Business. Mr. Nixey allegedly did all the work, came up with a plan for purchasing goods from, and selling them to, acquaintances of his, yet he had no ownership or profit interest in the business. According to Mr. Cherniak, 100% of the shares of GMC belonged to his brother. Early in his testimony, the Appellant alluded to the fact that Mr. Nixey was provided with the use of a vehicle by Amber Technology, along with an office on its premises. The impression the Appellant gave was that this was Mr. Nixey's compensation for his work in the Computer Parts Business. When the hearing resumed many months later, the Appellant changed his story. He alleged that the vehicle and the use of an office were provided by Amber Technology to Mr. Nixey as part of the consideration for his purchase of shares in Amber Technology. The question left unanswered is what was Mr. Nixey's and the Appellant's economic interest in the business. The Appellant offered no reasonable explanation why he and Mr. Nixey apparently decided not to be shareholders of the entity that carried on the business.
- (ii) Mr. Cherniak claims that the computer parts were, for all intents and purposes, commodities, yet GMC never tried to diversify its supplier base. There is also no evidence to suggest that GMC tried to diversify its customer base.
- (iii) Mr. Abela acknowledged that he knew little about computers and their components. When cross-examined regarding the parts listed on the invoices prepared by Mr. Abela, he could not identify what functions

were performed by the parts or, for that matter, who manufactured them. It was abundantly clear from the evidence that Mr. Abela did not have the experience or skills to run a multi-million dollar computer parts business. Further, Mr. Cherniak knew Mr. Abela personally. He had hired him to do some construction work on Amber Technology's premises. It is impossible for me to believe that Mr. Cherniak, who is an astute business person and a Chartered Management Accountant, did not discern Mr. Abela's shortcomings in this regard.

- (iv) The gross margin on sales made by GMC was absurdly low. Mr. Cherniak acknowledged that GMC earned a net profit of \$60,000 on sales of approximately \$54,000,000. I cannot conceive how this low gross margin allowed GMC to absorb all of its costs.
- (v) Mr. Cherniak acknowledged that RBC expressed concerns over the financial transactions flowing through GMC's account. Ultimately, RBC terminated its relationship with GMC.

[24] In light of all of the above, I conclude that the evidence presented by the Appellant was neither reliable nor credible. The compelling inconsistencies noted above suggest that the Appellant did not testify truthfully. Mr. Abela's evidence also fell well short of the mark. As a final observation, I note that Mr. Abela acknowledged that he declared bankruptcy soon after receiving an assessment for unremitted GST due by the corporations for which he acted as a director. Mr. Abela claims that he did not challenge the assessment made against him because he did not have the financial resources to do so. From his testimony, I infer that he likely concluded that he could not mount a successful defence. Many times, he answered questions on cross-examination by claiming he could not recall the facts. The impression I was left with was that Mr. Abela was deliberately trying to mask his complicity in a so-called carousel scheme. Likewise, the Appellant left me with a similar impression.

III. Analysis

A. Were the Transactions Genuine?

[25] The Appellant challenges the Corporate Assessment on the grounds that GMC was entitled to claim the input tax credits ("ITCs") that were denied by the Minister.

[26] The evidence leads me to the conclusion that GMC was not buying and selling computer parts. In my opinion, GMC could only pay the Suppliers' invoices because the parties were not preoccupied with payment and credit risks. The payments flowed in a circular fashion, starting and ending in offshore bank accounts likely controlled by parties who were acting in concert. Therefore, I accept the Respondent's theory that GMC participated with others in what amounted to be paper transactions as part of an elaborate ruse to defraud the government of tax revenue.

[27] While the transactions were artificial and GMC was barred from claiming ITCs in respect of its fictitious purchases, it was nonetheless required to remit the GST that it charged and collected from its customers. Section 222 of the ETA provides that every person who collects an amount "as or on account of tax" is deemed to hold the amount in trust for the government. Such amounts are included in the definition of "net tax" under subsection 225(1) of the ETA. This triggers the requirement for the GST registrant to remit those amounts with its GST returns. This interpretation of the law was endorsed by the Federal Court of Appeal (the "FCA") in *800537 Ontario Inc. v. The Queen*.³ Therefore, apart from the Concession, the Assessment against GMC is accurate.

B. The Appellant's Due Diligence Defence

[28] The Appellant argues that as a director of GMC he exercised the degree of care, diligence and skill to prevent the failure to remit that a reasonably prudent person would have exercised in comparable circumstances. The Appellant made the dubious claim that any blame for GMC's failure to remit the GST belongs to Mr. Nixey.

[29] Subsections 323(1) and 323(3) of the ETA read as follows:

If a corporation fails to remit an amount of net tax as required under subsection 228(2) or (2.3) or to pay an amount as required under section 230.1 that was paid to, or was applied to the liability of, the corporation as a net tax refund, the directors of the corporation at the time the corporation was required to remit or pay, as the case may be, the amount are jointly and severally, or solidarily, liable, together with the corporation, to pay the amount and any interest on, or penalties relating to, the amount.

...

³ 2005 FCA 333 at paras. 5, 9, 14 and 17; see also *Gastown Actors' Studio Ltd. v. R.*, [2000] G.S.T.C. 108 at para. 10; and *The Queen v. 1524994 Ontario Ltd.*, 2007 FCA 74.

A director of a corporation is not liable for a failure under subsection (1) where the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances.

[30] The FCA's approach to the directors' due diligence defence under subsection 323(3) of the ETA has evolved over time as noted below. The original test, as formulated in *Soper v. The Queen*,⁴ was an objective-subjective test that incorporated the common law subjective test into the statutory provision:

... Rather than treating directors as a homogeneous group of professionals whose conduct is governed by a single, unchanging standard, that provision [subsection 227.1(3) of the *Income Tax Act*] embraces a subjective element which takes into account the personal knowledge and background of the director, as well as his or her corporate circumstances in the form of, *inter alia*, the company's organization, resources, customs and conduct. ...⁵

[31] In March 2011 the FCA released its decision in *Buckingham v. Canada*,⁶ where it held that the directors' due diligence defence test in *Soper* had been replaced "by the objective standard laid down by the Supreme Court of Canada in *Peoples Department Stores*. . . . The reference to a reasonably prudent person is a clear indication that the test is objective rather than subjective."⁷ Even though the decision in *Peoples Department Stores Inc. (Trustee of) v. Wise*⁸ dealt with the wording of the *Canada Business Corporations Act*, the provision dealing with directors' liability has similar wording to subsection 323(3) of the ETA. Thus, on the basis of the statutory interpretation principle of the presumption of coherence between statutes, the FCA has interpreted the decision in *Peoples Department Stores* as setting the standard for a due diligence defence for directors' liability under the ETA and the *Income Tax Act* (the "ITA").⁹

[32] In *Buckingham*, the FCA outlines as follows how to apply the objective standard:

This objective standard has set aside the common law principle that a director's management of a corporation is to be judged according to his own personal skills, knowledge, abilities and capacities: *Peoples Department Stores*, at paragraphs 59

⁴ 97 DTC 5407, [1997] F.C.J. No. 881 (QL) (FCA).

⁵ *Ibid.* at p. 5416 DTC, para. 37 (QL).

⁶ 2011 FCA 142, [2013] 1 F.C.R. 86, 2011 G.S.T.C. 74.

⁷ *Ibid.* at paras. 34-35.

⁸ 2004 SCC 68, [2004] 3 S.C.R. 461.

⁹ *Buckingham*, *supra* note 6 at para. 38.

to 62. To say that the standard is objective makes it clear that the factual aspects of the circumstances surrounding the actions of the director are important as opposed to the subjective motivations of the director: *Peoples Department Stores* at paragraph 63. The emergence of stricter standards puts pressure on corporations to improve the quality of board decisions through the establishment of good corporate governance rules: *Peoples Department Stores*, at paragraph 64. Stricter standards also discourage the appointment of inactive directors chosen for show or who fail to discharge their duties as director by leaving decisions to the active directors. Consequently, a person who is appointed as a director must carry out the duties of that function on an active basis and will not be allowed to defend a claim for malfeasance in the discharge of his or her duties by relying on his or her own inaction: Kevin P. McGuinness, *Canadian Business Corporations Law*, 2nd ed. (Markham, Ontario: LexisNexis Canada, 2007) at 11.9.¹⁰

[33] This evaluation should not be undertaken, however, without considering the particular circumstances facing the corporation and the appellant. The FCA, in *Buckingham*, asserted that contextual factors are part of an objective analysis.¹¹

[34] The FCA in *Buckingham* specifically notes that, in applying the test under subsections 227.1(3) of the ITA and 323(3) of the ETA, one must consider a director's actions undertaken to prevent a failure to remit.¹²

[35] The Appellant contends that he should not be required to bear the corporation's GST liability because the corporation's failure to remit the GST occurred without his knowledge and was due to circumstances beyond his control. When he discovered the failure, it was too late for him to do anything about it.

[36] The Appellant tried his best to place the blame for GMC's failure to remit the GST squarely on Mr. Nixey's shoulders. Despite the Appellant's best efforts in this regard, he failed to establish that he was an unsuspecting victim of a ruse implemented by Mr. Nixey. On the contrary, there were many suspicious and unusual circumstances that show that the Appellant was an active participant in the arrangement. For example, the Appellant acknowledged that GMC's Suppliers needed to be registered for the GST and to provide GMC with proof of their registration in order for GMC to be able to claim ITCs on its purchases. In spite of this, the Appellant did not take adequate steps to ensure that the Suppliers had valid GST numbers. The evidence shows that no registration number was shown on the invoices that GMC received from the Suppliers. He claims that he inquired about and received a GST number from Micro Connections when GMC

¹⁰ *Ibid.*

¹¹ *Ibid.* at para. 39.

¹² *Ibid.* at para. 40.

commenced purchasing goods from Mr. Jacobs. However, when he was asked by the CRA auditor to produce the number allegedly provided by Mr. Jacobs at the outset of his dealings with GMC, the Appellant provided the auditor with the number obtained by Mr. Jacobs only after the audit had commenced. There is not a shred of reliable evidence to support Mr. Cherniak's assertion that he looked into this matter. The volume of purchases and sales was huge for a new business. Payments were made to an offshore bank account. RBC asked questions, yet Mr. Cherniak claims he did not have any reason to worry.

[37] It was Mr. Cherniak's evidence that Mr. Nixey handled all of the day-to-day operations of the computer business. His evidence was contradicted by that of Mr. Abela.

[38] Mr. Cherniak's description of his business relationship with Mr. Nixey is simply unbelievable. He claims that Mr. Nixey brought GMC the opportunity and that he worked ceaselessly to make the business a success, yet he acknowledges that Mr. Nixey was not paid for his services and did not have an ownership interest in GMC. He implied that Mr. Nixey enjoyed the use of a leased truck, but this vehicle and the use of an office were supplied by Amber Technology, a corporation controlled by Mr. Cherniak. Later in Mr. Cherniak's testimony, he claimed that these perks had nothing to do with Mr. Nixey's role in the Computer Parts Business. Mr. Nixey apparently negotiated the perks as part of the consideration for a capital investment in Amber Technology.

[39] As a final observation, I note that Mr. Cherniak did not call Mr. Nixey as a witness, although he was reminded by the Court that he could call additional witnesses when it became apparent that the hearing could not be completed in the time requested by the parties. He was also informed that he could compel reluctant witnesses to appear by subpoena. In spite of this, the Appellant chose not to call Mr. Nixey. I therefore infer that Mr. Nixey's testimony likely would have contradicted the evidence presented by the Appellant.

[40] In light of all of the above, I conclude that there is sufficient evidence of Mr. Cherniak's complicity in allowing GMC to engage in non-bona fide transactions. In summary, the evidence completely undermines the Appellant's due diligence defence.

[41] Therefore, the appeal is allowed only for the purpose of allowing the Minister to give effect to the Concession.

[42] Costs are awarded to the Respondent.

Signed at Ottawa, Canada, this 2nd day of March 2015.

“Robert J. Hogan”

Hogan J.

CITATION: 2015 TCC 53

COURT FILE NO.: 2008-272(GST)G

STYLE OF CAUSE: BRIAN DAVID CHERNIAK v. HER
MAJESTY THE QUEEN

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: December 9, 10 and 11, 2013 and
November 24 and 25, 2014

REASONS FOR JUDGMENT BY: The Honourable Justice Robert J. Hogan

DATE OF JUDGMENT: March 2, 2015

APPEARANCES:

For the Appellant: The Appellant himself
Counsel for the Respondent: Craig Maw
Roxanne Wong

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: William F. Pentney
Deputy Attorney General of Canada
Ottawa, Canada

Appendix "A"

PARTICULARS OF ASSESSMENT

Registrant: GMC Distribution LTD
 Account #: 138215496rt

<u>Period Start</u>	<u>Period Ending</u>	<u>Tax</u>	<u>Interest</u>	<u>Penalties</u>	<u>Period Balance</u>
✓ 2002-09-01**	30-Sep-02	\$ 692.83	\$ 76.42	\$ 152.76	\$ 922.01
✓ 01-Jul-02	31-Jul-02	\$ 1,138.64	\$ 136.18	\$ 315.88	\$ 1,590.70
✓ 01-Jun-02	30-Jun-02	\$ 627.81	\$ 77.07	\$ 179.08	\$ 883.96
✓ 01-May-02	30-May-02	\$ 659.59	\$ 82.76	\$ 192.53	\$ 934.88
✓ 01-Apr-02	30-Apr-02	\$ 376.70	\$ 48.44	\$ 112.75	\$ 537.89
✓ 01-Mar-02	31-Mar-02	\$ 591.36	\$ 77.75	\$ 181.31	\$ 850.42
✓ 01-Feb-02	29-Feb-02	\$ 274.59	\$ 36.86	\$ 85.99	\$ 397.44
✓ 01-Jan-02	31-Jan-02	\$ 678.32	\$ 93.21	\$ 217.76	\$ 989.29
✓ 01-Dec-01	31-Dec-01	\$ 299.90	\$ 42.04	\$ 98.29	\$ 440.23
✓ 01-Nov-01	30-Nov-01	\$ 633.01	\$ 90.69	\$ 212.19	\$ 935.89
01-Oct-01	31-Oct-01	\$ 476.99	\$ 70.91	\$ 163.81	\$ 711.71
01-Sep-01	30-Sep-01	\$ 555.08	\$ 85.44	\$ 195.07	\$ 835.59
01-Jul-01	31-Jul-01	\$ 452.79	\$ 95.10	\$ 205.40	\$ 753.29
01-Jun-01	30-Jun-01		\$ 19.32	\$ 35.61	\$ 54.93
01-May-01	31-May-01		\$ 25.76	\$ 46.58	\$ 72.34
01-Apr-01	30-Apr-01		\$ 19.01	\$ 33.71	\$ 52.72
01-Mar-01	31-Mar-01		\$ 7.16	\$ 72.38	\$ 79.54
01-Sep-01	30-Sep-00	\$ 168,286.29	\$ 493,419.15	\$ 807,471.76	\$ 1,469,177.20
01-Aug-00	31-Aug-00	\$ 589,845.63	\$ 69,452.12	\$ 180,957.00	\$ 820,254.75
01-Jul-00	31-Jul-00	\$ 338,574.93	\$ 39,865.92	\$ 92,390.29	\$ 470,831.14
01-Jun-00	30-Jun-00	\$ 368,567.90	\$ 43,397.48	\$ 100,574.74	\$ 512,540.12
01-May-00	31-May-00	\$ 364,932.17	\$ 42,969.41	\$ 99,582.63	\$ 507,484.21
01-Apr-00	30-Apr-00	\$ 301,403.12	\$ 35,489.07	\$ 82,246.82	\$ 419,139.01
01-Mar-00	31-Mar-00	\$ 1,404,585.65	\$ 165,384.71	\$ 383,283.09	\$ 1,953,253.45
01-Mar-99	31-Mar-99	\$ 241.05	\$ 569.05	\$ 861.42	\$ 1,671.52
TOTAL:		<u>\$3,543,894.35</u>	<u>\$891,631.03</u>	<u>\$1,729,868.85</u>	<u>\$6,165,394.23</u>

Amounts Unpaid and Assessed Under Subsection 323(1)
 Interest calculated until July 27, 2006
 Interest and penalties are accruing daily on the unpaid balance

**\$24.00 in law cost subtracted from period

Appendix B

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CANADA CUSTOMS AND REVENUE AGENCY - AUDIT REPORT

A.

SCOPE OF AUDIT:	<input type="radio"/> Income Tax	<input checked="" type="radio"/> GST	<input type="radio"/> Combine	<input type="radio"/> Excise	AUDIT TYPE: [1L]
CLIENT'S NAME: GMC DISTRIBUTION LTD			AUDIT PERIOD FROM 1998-04-01 TO 2000-09-30		
REGISTRANT'S NAME (if different than client):			GST FILING FREQUENCY: 03		
CLIENT'S ADDRESS: C/O BRIAN CHERNIAK 31 BELVIA RD TORONTO ON M8W3R2			CLIENT'S ACCOUNT # Income Tax GST/HST 5496 RT0001		
INCOME TAX CASE NO:	INCOME TAX FILE NO:	GST CASE NO:	GST FILE NO:		
		38671632	200 075961		

	AUDITOR	TECHNICAL ADVISOR	TEAM LEADER
NAME	Bala Yasotharan		Kane Chu
SIGNATURE	<i>B. Yasotharan</i>		<i>K. Chu</i>
DATE	23-02-02		Sept 23/02

ASSOCIATED / RELATED ENTITIES:

ASSOCIATED (A)		RELATED (R)	
TYPE	NAME	BN	
[R]	Alliance Drive Systems Inc	86752 0934	
[R]	Amber Technology ltd	89639 4962	

No closely related companies to make election under subsection 156(1) of the ETA

B. DESCRIPTION OF BUSINESS:

a) Type of supplies

Taxable @ 7% / 15%: Water transportation services and wholesale supply of used computer chips. All supplies were made in Ontario and taxed at 7%.

Zero-rated: None

Exempt: None

b) Description of Commercial Activities:

(A) Water Distribution Contract:

The company is holding a contract to distribute water using one truck with Crystal Springs since 1994. The principal shareholder Mr. Brian Cherniak's brother Greg Cherniak operates this truck.

The distribution fee is paid fortnightly by Crystal Spring based on number of calls per day with GST at 7%. Crystal Spring pays for the operating expenses of the truck and debits the operator's account net of GST.

(B) Computer parts wholesale:

The company supplied used computer memory chips to George Abela since July 1999. This activity was terminated by early September 2000 following the closure of bank account by Royal Bank. This was after I contacted Brian to commence the audit but before I was given an appointment for initial visit. Hence, I was not able to physically verify the activity.

Brian told me that Mr. Morgan Jacobs, a jobber, bought the used computer parts from major computer companies in Ontario. He delivered first few shipments to the company's warehouse at 31 Belvia Road, Toronto for repackaging and shipping to George. The rest of the shipments went direct to George. At the request of George, the supplies of computer parts to George were invoiced to the corporations owned by/related to George.

The company took a mark-up of 0.25% on the cost for repackaging and supplying the parts to George. The company allowed 30 days for George to pay the invoices as it received similar credit to settle the purchases to Mr. Morgan Jacobs.

George deposited the funds into the bank account of the company with Royal Bank (A/C # 100-668-3) on the due dates. On the same day or the following day the amount due to Mr. Jacobs was remitted to Ansbacher (BAH) limited, through CIBC - Head Office Commerce Court Branch.

Ansbacher (BAH) Limited is a off-shore bank operating in Bahamas. Brian told me that he remitted the funds to Ansbacher (BAH) Limited at the request of Mr. Jacobs but I have no evidence to link Mr. Jacobs to Ansbacher (BAH) Limited.

Total value of the transactions during the period is \$53.8 Million.

SIC CODE: 5744 - Computer parts wholesale
4561 - Contract trucking services

ORGANIZATION & LEGAL STRUCTURE: This is a CCPC fully owned by Mr. Brian Cherniak, a Certified Management Accountant.

ELECTIONS: None

TAX ACCOUNTING METHOD: Standard

C. ACCOUNT HISTORY:

- i) Audits of prior periods: None
- ii) Filing history: Compliance not satisfactory. GST returns not filed after 1999/04/01.

D: EXTENT OF AUDIT:**i) Screener's comments/Reason for audit**

1294161 Ontario Inc (Jag Distribution) and 1366108 Ontario Inc (Jay-Tek) have taken substantial amounts as ITC on the purchases from GMC Distribution. However, GMC Distribution has not filed GST returns since April 1998

ii) Audit Plan and Scope of audit:**(a) GST Returns:**

Company filed GST returns upto the year ended 1998/03/31 at the time I initiated the audit. Subsequently, received and processed the return for the year ended 1999/03/31. No returns filed by the company for the periods starting from 1999/04/01. I have now processed internally prepared NIL returns to upload this audit.

(b) GST reporting periods:

The company is identified in our system as an annual filer with quarterly remittances. However, the company exceeded the \$6 million threshold in December 31, 1999. Therefore, it should file monthly returns from January 01, 2000. I have now updated the GST system to recognize monthly returns from April 2000.

(c) ITC on the Purchases of Computer Parts:

Mr. Morgan Jacobs operating as MicroComputer Connections did not register for GST until August 30, 2000. All the supplies by Mr. Jacobs to this company were made before August 30, 2000. Therefore, Mr. Jacobs has neither reported nor remitted the GST on the sales he made to the company.

No evidence was available to link Mr. Morgan Jacobs to the bank account with Ansbacher (BAH) Limited. If Mr. Morgan Jacobs acquired the computer chips in Canada, why the money was remitted to an offshore bank that has no business in Canada.

Hence, I was unable to confirm that GMC Distribution paid to Mr. Morgan Jacobs for the supply of computer parts. Further, at the time I visited the company, it ceased computer parts activity. Hence, I was not able to physically verify the purchase of parts from Mr. Morgan Jacobs. Only evidence that was available was the purchase invoices from Mr. Morgan Jacobs (o/a Micro- Computer Connections). There were no independent shipping documents for the delivery of goods nor were any expenses for the delivery of goods to George Abela.

It appears that the money remitted to offshore bank was used to fund the export of computer parts by Mr. Mohamed Ali (o/a Nabsco Marketing International). It also appears that the transactions with Mr. Morgan Jacobs were fictitious and only introduced into the chain to justify the ITC claim after I contacted to commence the audit.

Morgan Jacobs has confirmed that he neither operated offshore bank account nor physically supplied computer parts to GMC Distribution Ltd

iii) Compliance Reviews:

- a) **Income Tax** – No income tax returns are filed by the company. Therefore it not applicable.
- b) **Excise Tax** – Company is not a licensee. Hence, not applicable.

CLIF GMC DISTRIBUTION LTD

E. EXPLANATION OF ALL CHANGES

 Gross negligence penalty attached

ADR #	W/P #	Description	Reference	Amount	Summary ID	Fiscal End Date
8	902	To assess the difference between the GST collected from Crystal Spring and that reported on the return for 1998/99	221,225	795	GST/HST Collectible (GST)	1999-03-31
15	902	To adjust the duplication of ITC on fuel bills.	169	290	Input Tax Credit (ITC)	1999-03-31
		Total		1,086		1999-03-31
1	901	To recover the amounts collected for the reporting period as or on account of tax under Division II of the Excise Tax Act.	225, 228	1,402,183	GST/HST Collectible (GST)	2000-03-31
9	902	To assess the GST on the transportation supplies to Crystal Springs.	165,221	5,932	GST/HST Collectible (GST)	2000-03-31
16	902	To allow ITC related to transportation business for the reporting year 1999/00	169	-237	Input Tax Credit (ITC)	2000-03-31
		Total		1,407,878		2000-03-31
2	901	To recover the amounts collected for the reporting period as or on account of tax under Division II of the Excise Tax Act.	225, 228	301,403	GST/HST Collectible (GST)	2000-04-30
		Total		301,403		2000-04-30
3	901	To recover the amounts collected for the reporting period as or on account of tax under Division II of the Excise Tax Act.	225, 228	364,273	GST/HST Collectible (GST)	2000-05-31
10	902	To assess the GST on the transportation supplies to Crystal Springs.	165,221	659	GST/HST Collectible (GST)	2000-05-31
		Total		364,932		2000-05-31
4	901	To recover the amounts collected for the reporting period as or on account of tax under Division II of the Excise Tax Act.	225, 228	367,856	GST/HST Collectible (GST)	2000-06-30
11	902	To assess the GST on the transportation supplies to Crystal Springs.	165,221	711	GST/HST Collectible (GST)	2000-06-30
		Total		368,568		2000-06-30
5	901	To recover the amounts collected for the reporting period as or on account of tax under Division II of the Excise Tax Act.	225, 228	337,823	GST/HST Collectible (GST)	2000-07-31
12	902	To assess the GST on the transportation supplies to Crystal Springs.	165,221	752	GST/HST Collectible (GST)	2000-07-31
		Total		338,575		2000-07-31
6	901	To recover the amounts collected for the reporting period as or on account of tax under Division II of the Excise Tax Act.	225, 228	589,105	GST/HST Collectible (GST)	2000-08-31
13	902	To assess the GST on the transportation	165,221	741	GST/HST	2000-08-31

CLIF GMC DISTRIBUTION LTD

		supplies to Crystal Springs.			Collectible (GST)	
		Total		589,846		2000-08-31
7	901	To recover the amounts collected for the reporting period as or on account of tax under Division II of the Excise Tax Act.	225,228	167,194	GST/HST Collectible (GST)	2000-09-30
14	902	To assess the GST on the transportation supplies to Crystal Springs.	165,221	1,092	GST/HST Collectible (GST)	2000-09-30
		Total		168,286		2000-09-30

SAA - Summary of assessment for the period		1998-04-01 to 2000-09-30
Adjustments to GST/HST Collectible (GST)		\$3,540,520.24
Adjustments to Input Tax Credit (ITC)		\$53.44
Adjustments to GST/HST Rebates		\$0.00
Adjustments to Real Property		\$0.00
Adjustments to Imported Supplies		\$0.00
Unpaid Claim		\$0.00
Total Adjustments for Assessment Period		\$3,540,573.68
Penalty		\$519,178.00
Interest		\$369,021.80
Other Penalty		\$0.00
Amount Owing		\$4,428,773.48
** Penalty and Interest calculated up to: 2002-09-25		

Analysis of net tax assessed by business segment:

Water Distribution business:		
GST collected	D.11	10,682.30
ITC	D.11	53.44
Net Tax		10,735.74
Computer parts wholesale:		
GST collected	E.11	3,529,837.94
Net Tax		3,529,837.94
Total Adjustments for Assessment Period		3,540,573.68

(a) Water Distribution - GST Collected

FACTS:

- The company under reported the GST collected on water distribution services for the year-ended 1999/04/30 by \$795.42
- The above difference of \$795.42 is computed by comparing the amount on the return with that calculated by applying 7/107 to the total service fee of \$78,361.62 received for the year ended on 1999/04/30 from Crystal Springs.

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CLI/ GMC DISTRIBUTION LTD

- Although the annual reporting period for GST ended on March 31, the company has been reporting transactions for the year ended on April 30, as the fiscal year end for income tax is April 30. To be in consistence with the pervious GST returns I accepted the difference in cut-off dates.
- The company has not filed the returns since 1999/03/31. Hence, it did not report the GST collected from Crystal Springs since 1999/05/01 on any returns filed todate.

LEGISLATION: Subsections 165(1), 221(1), and 296(1)

RATIONALE/BASIS OF ASSESSMENT:

- The difference of \$795.42 for the year-ended 1999/04/30 is included in the assessment.
- GST calculated at 7/107 on the total fees received from Crystal Spring for the year ended on 2000/04/30 and May to September 2000 is also included in the assessment.

(b) Water Distribution - ITC

FACTS:

- Expenses related to the operation of the truck were claimed from Crystal Spring.
- Crystal Spring took the ITC and debited the net amount to the operator's account. Hence, the company on truck operating expenses paid no GST.
- The company took \$290.16 as ITC on truck operating expenses for the year ended on 1999/04/30.
- The company did not file the GST return for the year ended on 2000/04/30. Hence, it did not claim any ITC related to the operations of water distribution business since 1999/05/01.
- The company did not provide the details of GST paid on the expenses related to water distribution business for the period May to September 2000 until I completed the audit work at the field (December 2000). Hence I informed Brian to claim the ITC related to May to September 2000, in the return to be filed after October 2000.

LEGISLATION: Subsection 169(1)

RATIONALE/BASIS OF ASSESSMENT:

- The amount claimed on truck operating expenses for 1999/04/30 is disallowed.
- Allowed ITC amounting to \$236.72 to cover GST paid on travel, office expenses etc for the year ended on 2000/04/30.

(c) Computer Parts - GST Collected

FACTS:

- The company provided invoices from following for the purchase of computer parts for resale:
 Mr. Morgan Jacobs (o/a MicroComputer Connections)
 GST # 866277569
 Jay & S Auto
 Brocton Resources

E33	{	\$52,270,647.63
		1,295,787.80
		<u>254,543.34</u>
		<u>53,823,453.77</u>

- The GST registration number is not appearing on the purchase invoices.
- B2.7 • The company failed to provide GST registration number for Jay & S Auto and Brocton Resources.
- Mr. Morgan Jacobs registered for GST on 2000/08/30, after the company ceased computer parts activity and I contacted the company to commence the audit.
- The money for the purchases supported by the invoices from MicroComputer Connections were remitted to an offshore bank account with Ansbacher (BAH) Limited in Bahamas.
- B2.19 • The company provided a photocopy of the letter dated November 16, 1999, from Morgan K. Jacobs requesting to remit the proceeds to an offshore bank account with Ansbacher (BAH) Limited. This document was given to me in January 2002, after I raised the issue of connection between the supplier Morgan Jacobs and the offshore bank

CLIENT : GMC DISTRIBUTION LTD

account. This is rather unusual for a status Indian supplier who purchased all the goods in Canada using Canadian dollars to request the proceeds to go to an offshore bank account.

- At the meeting Morgan Jacobs and Randal Hill had with CCRA representatives Michael Cox and Rob Sybermsa on May 30, 2002, denied any knowledge of offshore bank account. They maintained no knowledge of supplying computer parts or related banking information. Neither party received payment for the computer chips as specified on the invoices. Both stated that they did not operate, nor open any bank account that could have been used in these transactions. Morgan Jacobs acknowledged that he issued the first invoice for computer chips. Morgan Jacobs also stated that he provided Mr. Joe Roth with his Indian Status Card and several other pieces of Identification.

MicroComputer Connections neither filed GST returns nor reported the GST on the invoices it issued to GMC Distribution Limited.

- The owner and President of the company Mr. Brian Cherniak told me that Mr. Morgan Jacobs, a jobber, bought the used computer parts from major computer companies in Ontario. He delivered first few shipments to the company's warehouse at 31 Belvia Road, Toronto for repackaging and shipping to George Abela. The rest of the shipments went direct to George. At the request of George, the supplies of computer parts to George were invoiced to the corporations owned by/related to George.
- The company sold the computer parts to the following companies for eventual export to Pameco Business Group Limited in Bahamas.

1294161 Ontario Inc (Jag Distribution)	28,495,214.97
1261531 Ontario Ltd (FB Enterprises)	11,411,455.85
1366108 Ontario Inc. (Jay-Tek)	10,078,997.61
1197188 Ontario Inc. (StarDust. Com)	1,888,027.84
Ahmad Hack (Computer Micro-Electronic Canada)	<u>2,082,399.24</u>
	<u>53,956,095.51</u>

- GST at 7% is collected on all the invoices the company issued to the above companies.

LEGISLATION: Subsections 222(1), 225(1), 169(1) and 169(4)

RATIONALE/BASIS OF ASSESSMENT:

- Under subsection 222(1) any amount collected on account of GST is deemed to be held in trust until it is remitted to the Receiver General. Further, under subsection 225(1) any amount collected as tax should be included to determine the net tax. Subsection 296(1) gives the authority to assess the net tax under division V. In this case the company has collected GST on the amounts it received from the companies to which it issued invoices for the sale of computer parts. Hence, the amounts collected as tax is now assessed.
- The invoices from Jay & S Auto and Brocton Resources do not meet the documentation requirements, as the GST number of the companies is not made available.
- The company failed to provide evidence that it paid the GST on purchases from Micro Computer Connections nor we have any evidence from Micro Computer Connections that it collected the GST. Further Morgan Jacobs, the owner of MicroComputer Connections confirmed that he did not receive any money from GMC Distribution Ltd for the supply of computer parts. He also confirmed that he did not open and operate any offshore bank accounts. Mr. Hill and Morgan Jacobs denied physically supplying computer parts to GMC Distribution or George Abela. This is in direct contradiction with the statement by Brian Cherniak, who stated that the computer parts were purchased and shipped by Morgan Jacobs. Based on the inconsistencies in the description of transactions by the supplier and recipient, it is concluded that the transactions are fictitious. For this reason ITC is not allowed. Further we have no evidence for the payment of GST to Mr. Morgan Jacobs. Hence, no rebate is allowed for the payment of taxes in error under section 261.

CLF GMC DISTRIBUTION LTD

PENALTY UNDER SECTION 285: The Company has not filed GST returns for the periods related to computer parts wholesale business. Therefore, no additional penalty under section 285 is assessed.

F. CLIENT'S REPRESENTATIONS: As a result of the nature of this audit, no proposed assessment was forwarded to the company. This audit is a result of what CCRA has determined to be an attempt to collect ITC based on fictitious transactions by the last person in the distribution chain. Decision to assess was taken at a general meeting of all TSO's affected by these group of companies attended by Mark Andrews and John Rose.

G. CLIENT'S CONCURRENCE: N/A refer (F) above

H. REFERRALS: (provide explanations as necessary)

(a) Collections	applicable: Y
(b) Investigations	applicable: Y (Did not accept, Filed returned)
(c) Source Deductions	applicable: N
(d) Real Estate Appraisals	applicable: N
(e) Business Valuations	applicable: N
(f) Registration	applicable: N
(g) Non Filers	applicable: Y (Morgan jacobs and Jay and S Auto)
(h) International	applicable: N

I. GST AUDIT ISSUES: (provide explanations as necessary)

(a) HST	applicable: N
(b) Ambiguities in the law and/or policies	applicable: Y
The treatment of natives as it applies to the GST. Sec 86 of the Indian Act and its interpretation to GST and the current Court case Benoit Vs the Queen.	
(c) Transactions with Non-Residents/Exports	applicable: N
(d) Advance Rulings	applicable: N
(e) Tax Avoidance	applicable: N
(f) 3 rd Party Authorization	applicable: N
(g) Books & Records Borrowed	applicable: N
(h) Overpayment Indicator	applicable: N
(i) Upload documents (same as RA1 & RA2 screens?)	Updated: Y
(j) Was "pamphlet" given to Registrant?	N Annual revenue over \$15 million
(k) Team Leader and/or Tech Advisor involvement	Various meetings with the Team Leader, Other TSOs and the Region

J. TIME CHARGED:

Total AIMS time @ date	174
Additional time charged... Week 2002/09/20	16
Total Aims Time on this case:	190
Less: Compliance Review Time - Income Tax	
Compliance Review Time - Excise Tax	
IDEA Time	
Real Estate Appraisal Time	
Other	

CL: GMC DISTRIBUTION LTD

GST Audit Time per WINALS disk 146

K. MATTERS TO BE FOLLOWED UP: None

L. OTHER ITEMS: N/A

-END-

~~MARKS~~ 602210

GMC IS THE ONLY REGISTRANT THAT FILED AN APPEAL AT THE TAX COURT
Flow of computer parts upto August 15, 2000
⊙ OBJECTION FILED

LAYER 0
INDIAN NON-FILERS

Morgan Jacobs C324
(o/a Micro-Computer Connections)
GST # 7569

Hill, Steven Earl C331
(o/a Jay & S Auto)
GST # 5658

MONIES TO BAHAMA

SALES \$92,258,556
GST reg. after assessment period.

LAYER 1

GMC - water dist'n
- Trucking service

GMC Distribution Ltd
GST # 5496
GST # 3540,520

1/4 of 1%

LAYER 2

129461 - Sale vehicle
1261531 - ✓
1366108 - ✓ computer parts
1197188 - ✓ water filters
AHMAD HACK ✓ Electronics

1294161 Ontario, C317
Inc. C317
(Jag Distribution)
GST # 1597
ITC # 4406,356

1366108 Ontario, C319-C320
Inc. C319-C320
(Jay-Tek)
GST # 1185
ITC # 2158996

1261531 Ontario, C321
Ltd. C321
(FB Enterprises)
GST # 4290

1197188 Ontario, C324-C325
Inc. C324-C325
(StarDust.Com)
GST # 7291

Ahmad Hack C326
(Computer Micro-Electronic Canada)
GST # 4817

1/2 of 1%

LAYER 3

ACT-SALE OF VEHICLES
FLATT - EXPORTING

Mohamed Ali C312-C314
(o/a Nabsco Marketing International)
GST # 6664RT0002
ITC 516,044

Suzanne Flatt C315-C316
(o/a Tara Export Company)
GST # 2122
ITC 1,691,142

3/4 of 1%

LAYER 4

Concord L.F.F Company
Zebbug, Malta

Pameco Business Group Ltd
Nassau, Bahamas

Total profit 1/2%

Audit adjustments
Water Distribution business

GST Collected:

Earnings from Crystal Spring

	Billings	GST @ 7/107	per return	Difference	
Y/E 30/04/1999	78,361.62	D ₂ 5,126.46	4,331.04	795.42	A ₁ 2
Y/E 30/04/2000	90,675.39	D ₃ 5,932.03	0.00	5,932.03	A ₁ 3
May 2000	10,072.13	658.92	0.00	658.92	A ₁ 3
June	10,875.05	711.45	0.00	711.45	A ₁ 3
July	11,487.66	751.53	0.00	751.53	A ₁ 4
Aug	11,320.14	740.57	0.00	740.57	A ₁ 4
Sep	<u>16,697.62</u>	<u>1,092.37</u>	<u>0.00</u>	<u>1,092.37</u>	A ₁ 4
	<u>229,489.61</u>	<u>15,013.34</u>	<u>4,331.04</u>	<u>10,682.30</u>	A ₂ 3

Adjustments to ITC

Y/E 30/04/1999

ITC on fuel bills duplicated

D₂ 290.16 A₁ 2

Y/E 30/04/2000

ITC allowed for the year

D₃ -236.72 A₁ 3
53.44 A₂ 3

Summary of Sales and Purchases on cash basis

	Gross Sales	GST @ 7/107	Net Sales	Purchases	GST @ 7/107	Net Purchases	Profit
July -99	E2.1 188,131.52	12,307.67	175,823.85	E3.1 187,635.00	12,275.19	175,359.81	464.04
Aug	836,887.34	54,749.64	782,137.70	834,721.42	54,607.94	780,113.48	2,024.22
Sep	E2.1 887,124.44	58,036.18	829,088.26	884,834.72	57,886.38	826,948.34	2,139.93
Oct	1,212,461.56	79,319.92	1,133,141.64	1,210,720.56	79,206.02	1,131,514.54	1,627.10
Nov	1,913,753.51	125,198.83	1,788,554.68	1,908,923.73	124,882.86	1,784,040.87	4,513.81
Dec	3,530,731.39	230,982.43	3,299,748.96	3,521,834.46	230,400.39	3,291,434.07	8,314.89
Jan -00	3,284,421.21	214,868.68	3,069,552.53	3,275,681.93	214,296.95	3,061,384.98	8,167.55
Feb	4,448,014.65	290,991.61	4,157,023.04	4,436,896.86	290,264.28	4,146,632.58	10,390.46
March	5,131,839.20	335,727.80	4,796,111.40	5,118,988.20	334,887.08	4,784,101.12	12,010.28
Fiscal 1999/00	21,433,364.82	1,402,182.75	20,031,182.07	21,380,236.88	1,398,707.09	19,981,529.79	49,652.28
A1.3							
April	E2.2 4,607,162.03	301,403.12	A1.3 4,305,758.91	4,595,676.54	300,651.74	4,295,024.80	10,734.10
May	5,568,176.81	364,273.25	A1.3 5,203,903.56	5,554,212.48	363,359.69	5,190,852.79	13,050.78
June	E2.2 5,622,948.54	367,856.45	A1.4 5,255,092.09	A1.4 5,608,838.89	366,933.39	5,241,905.50	13,186.59
July	5,163,871.96	337,823.40	A1.4 4,826,048.56	A1.4 5,150,658.45	336,958.96	4,813,699.49	12,349.07
August	9,004,891.59	589,105.06	A1.4 8,415,786.53	A1.4 8,982,082.20	587,612.85	8,394,469.35	21,317.19
Sep	E2.3 2,555,678.45	167,193.92	A1.4 2,388,484.53	A1.4 2,549,273.33	166,774.89	2,382,498.44	5,986.09
Fiscal 2000/01	32,522,729.38	2,127,655.19	30,395,074.19	32,440,741.89	2,122,291.53	30,318,450.36	76,623.82
Cum Totals	53,956,094.20	3,529,837.94	50,426,256.26	53,820,978.77	3,520,998.61	50,299,980.16	126,276.10

A2.5

Summary Sales and Purchases

	<i>Gross Sales</i>	<i>GST @ 7/107</i>	<i>Net Sales</i>	<i>Purchases</i>	<i>GST @ 7/107</i>	<i>Net Purchases</i>	<i>Profit</i>
July -99	188,131.52	12,307.67	175,823.85	187,635.00	12,275.19	175,359.81	464.04
Aug	836,887.34	54,749.64	782,137.70	834,721.42	54,607.94	780,113.48	2,024.22
Sep	887,124.44	58,036.18	829,088.26	884,834.72	57,886.38	826,948.34	2,139.93
Oct	1,212,461.56	79,319.92	1,133,141.64	1,210,720.56	79,206.02	1,131,514.54	1,627.10
Nov	1,913,753.51	125,198.83	1,788,554.68	1,908,923.73	124,882.86	1,784,040.87	4,513.81
Dec	3,530,731.39	230,982.43	3,299,748.96	3,521,834.46	230,400.39	3,291,434.07	8,314.89
	<u>8,569,089.76</u>	<u>560,594.66</u>	<u>8,008,495.10</u>	<u>8,548,669.89</u>	<u>559,258.78</u>	<u>7,989,411.11</u>	<u>19,083.99</u>
Jan -00	3,284,421.21	214,868.68	3,069,552.53	3,275,681.93	214,296.95	3,061,384.98	8,167.55
Feb	4,448,014.65	290,991.61	4,157,023.04	4,436,896.86	290,264.28	4,146,632.58	10,390.46
March	5,131,839.20	335,727.80	4,796,111.40	5,118,988.20	334,887.08	4,784,101.12	12,010.28
April	4,607,162.03	301,403.12	4,305,758.91	4,595,676.54	300,651.74	4,295,024.80	10,734.10
May	5,568,176.81	364,273.25	5,203,903.56	5,554,212.48	363,359.69	5,190,852.79	13,050.78
June	5,622,948.54	367,856.45	5,255,092.09	5,608,838.89	366,933.39	5,241,905.50	13,186.59
July	5,163,871.96	337,823.40	4,826,048.56	5,150,658.45	336,958.96	4,813,699.49	12,349.07
August	9,004,891.59	589,105.06	8,415,786.53	8,982,082.20	587,612.85	8,394,469.35	21,317.19
Sep	2,555,678.45	167,193.92	2,388,484.53	2,549,273.33	166,774.89	2,382,498.44	5,986.09
	<u>45,387,004.44</u>	<u>2,969,243.28</u>	<u>42,417,761.16</u>	<u>45,272,308.88</u>	<u>2,961,739.83</u>	<u>42,310,569.05</u>	<u>107,192.11</u>
Cum Totals	<u>53,956,094.20</u>	<u>3,529,837.94</u>	<u>50,426,256.26</u>	<u>53,820,978.77</u>	<u>3,520,998.61</u>	<u>50,299,980.16</u>	<u>126,276.10</u>

Analysis of Sales

	Total	Jag Dis	261531 Ont Ltd	Jay-tek	Comp-Micro	Stardust.com
27/7/99	188,131.52	188,131.52 ✓	188,131.52 ✓			
5/8/99	E11 169,676.00	169,676.00 ✓	169,676.00 ✓			
24/8/99	333,605.67	333,605.67 ✓	333,605.67 ✓			
27/8/99	836,887.34	333,605.67	333,605.67			
10/9/99	E11 238,873.72	238,873.72 ✓	238,873.72 ✓			
20/9/99	E11 393,050.13	393,050.13 ✓	393,050.13 ✓			
24/9/99	887,124.44	255,200.59	255,200.59 ✓			
4/10/99	E11 254,568.34	254,568.34 ✓	254,568.34 ✓			
8/10/99	E11 298,500.00	298,500.00 ✓	298,500.00 ✓			
19/10/99	E11 193,830.64	193,830.64 ✓	193,830.64 ✓			
26/10/99	E11 256,704.79	256,704.79 ✓	256,704.79 ✓			
28/10/99	1,212,461.56	208,857.79	208,857.79 ✓			
5/11/99	E11 496,906.86	496,906.86 ✓	496,906.86 ✓			
15/11/99	E11 473,018.87	473,018.87 ✓	473,018.87 ✓			
23/11/99	E11 464,355.43	207,650.64	207,650.64 ✓	256,704.79 ✓		
30/11/99	1,913,753.51	479,472.35	153,384.50	326,087.85 ✓		
3/12/99	E11 462,567.96	204,550.83 ✓	204,550.83 ✓	258,017.13 ✓		
8/12/99	E11 468,383.94	261,264.04 ✓	261,264.04 ✓	207,119.90 ✓		
13/12/99	E11 467,153.71	311,374.55 ✓	311,374.55 ✓	155,779.16 ✓		
17/12/99	E11 572,595.52	260,508.62 ✓	260,508.62 ✓	312,086.90 ✓		
21/12/99	E11 519,327.18	260,382.36 ✓	260,382.36 ✓	258,944.82 ✓		
24/12/99	E11 521,749.12	260,611.34 ✓	260,611.34 ✓	261,137.78 ✓		
30/12/99	3,530,731.39	518,953.96	259,344.46 ✓	259,609.50 ✓		
5/1/00	E11 469,963.54	261,053.26 ✓	261,053.26 ✓	208,910.28 ✓		
12/1/00	E11 471,541.78	261,636.40 ✓	261,636.40 ✓	209,905.38 ✓		
17/1/00	E11 416,925.50	156,423.30 ✓	156,423.30 ✓	260,502.20 ✓		
20/1/00	E11 674,002.64	415,899.91 ✓	415,899.91 ✓	258,102.73 ✓		
25/1/00	E11 678,248.40	261,611.26 ✓	261,611.26 ✓	416,637.14 F116		
28/1/00	3,284,421.21	573,739.35	313,873.80 ✓	105,097.54	154,768.01 F116	
2/2/00	E11 575,565.85	314,204.44 ✓	314,204.44 ✓	208,952.81	52,408.60 F116	
7/2/00	E11 627,168.73	312,570.54 ✓	312,570.54 ✓	104,230.84	210,367.35 F116	
10/2/00	E11 574,888.54	261,363.02 ✓	261,363.02 ✓	209,294.68	104,230.84 F116	
15/2/00	E11 577,120.02	315,607.20 ✓	315,607.20 ✓	52,314.98	209,197.84 F114	
18/2/00	E11 834,420.78	313,185.26 ✓	313,185.26 ✓	260,365.24	260,870.28 F114	
22/2/00	E11 629,943.78	314,511.52 ✓	314,511.52 ✓	315,432.26		
25/2/00	4,448,014.65	628,906.95	314,504.57 ✓		314,402.38 F117	
1/3/00	E11 577,223.81	261,791.55 ✓	261,791.55 ✓	315,432.26		
6/3/00	E11 576,820.61	315,138.20 ✓	315,138.20 ✓	261,682.41 F117		
9/3/00	E11 575,876.68	314,202.29 ✓	314,202.29 ✓	208,954.42	52,719.97 F117	
14/3/00	E11 524,808.26	315,117.68 ✓	315,117.68 ✓	104,967.00	104,723.58 F117	
17/3/00	E11 731,184.50	261,633.19 ✓	261,633.19 ✓	261,539.03	208,012.28 F117	
21/3/00	E11 732,764.90	418,764.30 ✓	418,764.30 ✓	314,000.60	314,000.60 F115	
24/3/00	E11 733,024.03	419,170.02 ✓	419,170.02 ✓	313,854.01		
30/3/00	5,131,839.20	680,136.41	365,934.12 ✓		314,202.29 F115	
4/4/00	E11 576,353.56	261,253.88 ✓	261,253.88 ✓	315,099.68		
10/4/00	E11 574,269.01	261,588.79 ✓	261,588.79 ✓	312,680.22	312,680.22 F116	
12/4/00	E11 524,268.97	209,866.59 ✓	209,866.59 ✓	314,402.38		
17/4/00	E11 524,643.51	261,791.55 ✓	261,791.55 ✓	262,851.96	262,851.96 F116	

not reflected in the
accounting records of
Jag Distribution

✓ Traced to the purchases in Jag Distribution
Notes: Ref F11-F12 (tested upto 21.5.00)

E2.1

Analysis of Sales

		Total	Jag Dis	261531 Ont Ltd	Jay-tek	Comp-Micro	Stardust.com
19/4/00		836,825.08	521,553.32 ✓	262,691.96	52,579.80		
24/4/00	E4-15	786,718.54	314,503.46 ✓	209,523.12	262,691.96		
27/4/00	4,607,162.03	784,083.36	366,245.15 ✓	104,230.84	313,607.37		
1/5/00	E1-1	732,286.80	418,559.59 ✓	313,727.21			
5/5/00		732,952.15	419,198.19 ✓		313,753.96		
10/5/00		679,441.76	262,040.33 ✓	260,939.87	156,462.89		
15/5/00	E4-18	680,678.57	314,533.46 ✓	261,667.63	104,477.48		
18/5/00		627,537.54	313,930.17 ✓		313,607.37		
19/5/00		366,517.39	52,408.60 ✓	314,108.79			
23/5/00		575,504.37	470,621.90 ✓✓		104,882.47		
26/5/00		327,709.44	171,245.48 ✓		156,463.96		
30/5/00		523,896.09	366,738.23 ✓		157,157.86		
31/5/00	5,568,176.81	321,652.70	244,238.20 ✓		77,414.50		
2/6/00	E1-1	523,557.43	209,106.90	314,450.53			
6/6/00		287,145.20	94,652.20		192,493.00		
7/6/00		523,808.88	209,606.05		314,202.83		
12/6/00		289,713.20	144,343.00		145,370.20		
12/6/00	E4-22	472,220.97	157,443.55	314,777.42			
15/6/00		260,275.36	161,407.36		98,868.00		
16/6/00		471,186.28	314,235.47				
20/6/00		1,046,055.57	413,224.93	317,000.34	158,578.28	156,950.81	
26/6/00		1,009,288.76	584,974.89		109,863.32	157,252.02	
29/6/00	5,622,948.54	739,696.89	212,157.46	266,316.05			314,450.53
4/7/00	E1-1	688,451.92	320,283.10	105,183.14		262,985.68	261,223.38
10/7/00		696,864.27	322,782.62	211,505.85			162,575.80
14/7/00		648,715.32	324,473.22			163,590.16	160,651.94
19/7/00	E4-23	429,562.20	211,083.18		218,479.02		
20/7/00		603,748.07	106,873.74	333,475.13	163,399.20		
24/7/00		388,540.54	275,917.69		112,622.85		
26/7/00		935,939.70	604,219.37				331,720.33
28/7/00	5,163,871.96	772,049.94	441,098.94	330,951.00			
1/8/00	E1-1	470,612.75	202,847.39		267,765.36		
4/8/00		828,276.30	329,886.35		165,470.15	332,919.80	
8/8/00		424,114.83	156,349.47		267,765.36		
9/8/00		778,835.01		337,714.67	166,114.29		275,006.05
10/8/00		418,204.15	312,710.71		105,493.44		
11/8/00	E4-25	723,398.11	331,584.44			337,714.47	54,099.20
14/8/00		384,112.88	164,386.24		219,726.64		
16/8/00		657,405.86	329,105.25				328,300.61
17/8/00		320,422.20	159,436.42		160,985.78		
18/8/00		656,663.28	324,818.83	331,844.45			
21/8/00		492,848.42	328,447.20	164,401.22			
22/8/00		609,367.14	275,006.05			334,361.09	
23/8/00		441,890.02	113,257.36		328,632.66		
25/8/00		372,640.36	215,189.86		157,450.50		
28/8/00	E4-26	548,460.60	216,409.64		332,050.96		
30/8/00	9,004,891.59	877,639.68	377,019.85	334,101.08	166,518.75		
1/9/00	E1-1 E4-29	167,817.73				167,817.73	

Analysis of Sales

	Total	Jag Dis	261531 Ont Ltd	Jay-tek	Comp-Micro	Stardust.com
5/9/00	662,346.62	442,848.96		219,497.66		
8/9/00	721,574.83	552,767.35			168,807.48	
12/9/00	672,668.34	340,823.89		331,844.45		
13/9/00	2,555,678.45	222,321.39		108,949.54		
	<u>53,956,094.20</u>	<u>53,956,094.20</u>	<u>28,495,214.97</u>	<u>11,411,455.85</u>	<u>10,078,997.61</u>	<u>2,082,399.24</u>
		<u>254,588.34</u>				
		<u>28,749,803.31</u>				

Analysis of Purchases

	Total Paid	Jay & S Auto	Brocton Resources	E3k - E38 Micro Connect	Bank charges	Profit	Margin
27/7/99	187,635.00	E4 187,660.00		0.5 187,635.00	25.00	471.52	0.25%
5/8/99	E11 169,250.00	E5 14		0.5 169,225.00	25.00	426.00	0.25%
24/8/99	E4 332,773.21	E5 332,748.21			25.00	832.46	0.25%
27/8/99	834,721.42	E4 332,773.21	E5 332,748.21		25.00	832.46	0.25%
10/9/99	E11 238,272.31	E5 238,247.31			25.00	601.41	0.25%
20/9/99	E4 392,069.07	E5 392,044.07			25.00	981.06	0.25%
24/9/99	884,834.72	E4 254,568.34	E5 23	254,543.34	25.00	632.25	0.25%
4/10/99	E11 254,593.34			254,568.34	25.00	(25.00)	-0.01%
8/10/99	297,725.00			297,700.00	25.00	775.00	0.26%
19/10/99	E4 193,428.71	E4 193,403.71		193,403.71	25.00	401.93	0.21%
26/10/99	E4 256,729.99			256,704.99	25.00	(25.20)	-0.01%
28/10/99	1,210,720.56	208,368.52		208,343.52	25.00	489.27	0.23%
5/11/99	E11 495,625.00			495,600.00	25.00	1,281.86	0.26%
15/11/99	E4 471,904.88			471,879.88	25.00	1,113.99	0.24%
23/11/99	E4 463,215.66			463,190.66	25.00	1,139.77	0.25%
30/11/99	1,908,923.73	478,278.19		478,253.19	25.00	1,194.16	0.25%
3/12/99	E11 461,405.53			461,380.53	25.00	1,162.43	0.25%
8/12/99	E4 467,242.64			467,217.64	25.00	1,141.30	0.24%
13/12/99	E4 465,999.84			465,974.84	25.00	1,153.87	0.25%
17/12/99	E4 571,178.16			571,153.16	25.00	1,417.36	0.25%
21/12/99	E4 518,036.88			518,011.88	25.00	1,290.30	0.25%
24/12/99	E4 520,438.76			520,413.76	25.00	1,310.36	0.25%
30/12/99	3,521,834.46	517,707.65		517,682.65	25.00	1,246.31	0.24%
5/1/00	E11 468,793.60			468,768.60	25.00	1,169.94	0.25%
12/1/00	E4 470,371.82			470,346.82	25.00	1,169.96	0.25%
17/1/00	E4 415,922.77			415,897.77	25.00	1,002.73	0.24%
20/1/00	E4 672,086.12			672,061.12	25.00	1,916.52	0.28%
25/1/00	E4 676,580.65			676,555.65	25.00	1,667.75	0.25%
28/1/00	3,275,681.93	572,076.97		572,051.97	25.00	1,662.38	0.29%
2/2/00	E11 574,153.29			574,128.29	25.00	1,412.56	0.25%
7/2/00	E4 625,650.26			625,625.26	25.00	1,518.47	0.24%
10/2/00	E4 573,452.44			573,427.44	25.00	1,436.10	0.25%
15/2/00	E4 575,699.71			575,674.71	25.00	1,420.31	0.25%
18/2/00	E4 832,329.68			832,304.68	25.00	2,091.10	0.25%
22/2/00	E4 628,413.26			628,388.26	25.00	1,530.52	0.24%
25/2/00	4,436,896.86	627,373.22		627,348.22	25.00	1,533.73	0.24%
1/3/00	E11 575,817.41			575,792.41	25.00	1,406.40	0.24%
6/3/00	E4 575,428.92			575,403.92	25.00	1,391.69	0.24%
9/3/00	E4 574,458.45			574,433.45	25.00	1,418.23	0.25%
14/3/00	E4 523,514.47			523,489.47	25.00	1,293.79	0.25%
17/3/00	E4 729,354.62			729,329.62	25.00	1,829.88	0.25%
21/3/00	E4 730,938.25			730,913.25	25.00	1,826.65	0.25%
24/3/00	E4 731,213.24			731,188.24	25.00	1,810.79	0.25%
30/3/00	5,118,988.20	678,462.84		678,437.84	25.00	1,673.57	0.25%
4/4/00	E11 574,947.23			574,922.23	25.00	1,406.33	0.24%
10/4/00	E4 572,847.89			572,822.89	25.00	1,421.12	0.25%
12/4/00	E4 522,996.06			522,971.06	25.00	1,272.91	0.24%

Analysis of Purchases

		Total Paid	Jay & S Auto	Brocton Resources	Micro Connect	Bank charges	Profit	Margin
17/4/00		523,365.83			523,340.83	25.00	1,277.68	0.24%
19/4/00		834,745.10			834,720.10	25.00	2,079.98	0.25%
24/4/00	<i>EK11</i>	784,797.77			784,772.77	25.00	1,920.77	0.24%
27/4/00	4,595,676.54	782,151.66			782,126.66	25.00	1,931.70	0.25%
1/5/00	<i>E11</i>	730,499.55			730,474.55	25.00	1,787.25	0.24%
5/5/00		731,138.34			731,113.34	25.00	1,813.81	0.25%
10/5/00		677,761.69			677,736.69	25.00	1,680.07	0.25%
15/5/00	<i>EK16</i>	678,994.03			678,969.03	25.00	1,684.54	0.25%
18/5/00		626,001.48			625,976.48	25.00	1,536.06	0.24%
19/5/00		365,626.61			365,601.61	25.00	890.78	0.24%
23/5/00		574,090.69			574,065.69	25.00	1,413.68	0.25%
26/5/00		326,891.28			326,866.28	25.00	818.16	0.25%
30/5/00		522,599.33			522,574.33	25.00	1,296.76	0.25%
31/5/00	5,554,212.48	320,859.48			320,834.48	25.00	793.22	0.25%
2/6/00	<i>E11</i>	522,272.20			522,247.20	25.00	1,285.23	0.25%
6/6/00		286,426.55			286,401.55	25.00	718.65	0.25%
7/6/00	<i>EK22</i>	522,507.60			522,482.60	25.00	1,301.28	0.25%
12/6/00		288,994.55			288,969.55	25.00	718.65	0.25%
12/6/00		471,079.13			471,054.13	25.00	1,141.84	0.24%
15/6/00		259,636.96			259,611.96	25.00	638.40	0.25%
16/6/00		470,045.50			470,020.50	25.00	1,140.78	0.24%
20/6/00		1,043,461.19			1,043,436.19	25.00	2,594.38	0.25%
26/6/00		1,006,782.92			1,006,757.92	25.00	2,505.84	0.25%
29/6/00	5,608,838.89	737,882.29			737,857.29	25.00	1,814.60	0.25%
4/7/00	<i>E11</i>	686,752.60			686,727.60	25.00	1,699.32	0.25%
10/7/00		695,140.23			695,115.23	25.00	1,724.04	0.25%
14/7/00	<i>EK23</i>	647,088.87			647,063.87	25.00	1,626.45	0.25%
19/7/00		428,519.34			428,494.34	25.00	1,042.86	0.24%
20/7/00		602,259.52			602,234.52	25.00	1,488.55	0.25%
24/7/00		387,588.63			387,563.63	25.00	951.91	0.24%
26/7/00		933,608.56			933,583.56	25.00	2,331.14	0.25%
28/7/00	5,150,658.45	769,900.70			769,875.70	25.00	2,149.24	0.28%
1/8/00	<i>E11</i>	469,567.75			469,542.75	25.00	1,045.00	0.22%
4/8/00		826,211.59			826,186.59	25.00	2,064.71	0.25%
8/8/00	<i>EK25</i>	423,068.76			423,043.76	25.00	1,046.07	0.25%
9/8/00		776,923.11			776,898.11	25.00	1,911.90	0.25%
10/8/00		417,158.08			417,133.08	25.00	1,046.07	0.25%
11/8/00		721,621.23			721,596.23	25.00	1,776.88	0.25%
14/8/00		383,174.88			383,149.88	25.00	938.00	0.24%
16/8/00		655,494.87			655,469.87	25.00	1,910.99	0.29%
17/8/00		319,629.73			319,604.73	25.00	792.47	0.25%
18/8/00		655,011.59			654,986.59	25.00	1,651.69	0.25%
21/8/00		491,636.50			491,611.50	25.00	1,211.92	0.25%
22/8/00		607,875.95			607,850.95	25.00	1,491.19	0.24%
23/8/00		440,810.76			440,785.76	25.00	1,079.26	0.24%
25/8/00		371,700.20			371,675.20	25.00	940.16	0.25%
28/8/00	<i>EK26</i>	547,128.84			547,103.84	25.00	1,331.76	0.24%

Analysis of Purchases

	Total Paid	Jay & S Auto	Brocton Resources	Micro Connect	Bank charges	Profit	Margin
30/8/00	8,982,082.20						
1/9/00	<i>E14</i> 875,468.36			875,443.36	25.00	2,171.32	0.25%
5/9/00				828,092.26	25.00	2,072.09	0.31%
8/9/00				719,777.23	25.00	1,772.60	0.25%
12/9/00				670,976.07	25.00	1,667.27	0.25%
13/9/00	<i>E14</i> 2,549,273.33			330,427.77	25.00	818.16	0.25%
	<u>53,820,978.77</u>	<u>53,823,453.77</u>	<u>1,295,787.80</u>	<u>254,543.34</u>	<u>2,475.00</u>	<u>132,665.43</u>	<u>0.25%</u>
				<i>E38</i>			