Cour fédérale Federal Court

Date: 20260227

Docket: T-690-25

Citation: 2026 FC 272

Toronto, Ontario, February, 27 2026

PRESENT: The Honourable Justice Thorne

BETWEEN:

6857559 MANITOBA LTD.

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for judicial review of a January 31, 2025, Second Review decision of a Minister of National Revenue Delegate [Delegate] that denied the Applicant's request for relief from interest and penalties in relation to certain unmet tax obligations [Decision]. The penalties and interest had been levied under subsection 220(3.1) of the *Income Tax Act*, RSC 1985, c 1 (5th Supp) [*ITA*] for the 2016, 2017 and 2018 taxation years, as well as under s 281.1

of the *Excise Tax Act*, RSC 1985, c E-15 [*ETA*] for reporting periods ending March 31, 2016, to December 31, 2020. In this matter, the self-represented corporate Applicant is represented by the sole remaining Officer and employee of the corporation, Justin Mitchell [Representative].

[2] The Delegate declined the request for relief for the following reasons:

1. With respect to a legal proceeding that the Applicant had claimed impacted its ability to meet its tax obligations, the Delegate's review failed to find a connection between the legal proceeding and this ability;

2. Generally, the Canada Revenue Agency [CRA] does not consider lawsuits or legal claims as a ground for taxpayer relief;

3. The Applicant did not demonstrate reasonable care and expedience in attending to their tax obligations; and

4. In the Delegate's view the Applicant had not established financial hardship warranting relief.

[3] In essence, the Applicant alleges the Decision was unreasonable and procedurally unfair asserting that the CRA acted abruptly, misapprehended the evidence about financial hardship and the timing of the legal claim, and failed to request or allow for clarification in relation to its concerns about the financial documentation.

[4] For the reasons that follow, I grant the application and return the Decision for redetermination by a different Minister's delegate.

II. **Background**

[5] The Applicant, 6857559 Manitoba Ltd., was incorporated in the province of Manitoba in 2014. The business, which provided local delivery and courier services, began to experience difficulties in August 2015, when one of the corporation's officers resigned as director and employee of the company and began providing similar services independent of the corporation. This triggered a downward spiral for the company, which experienced increasing losses of revenue, and resulted in the corporation's Treasurer resigning in September 2015. This left the Representative as the sole director and employee of the corporation.

[6] The Applicant states that in or around 2015 it began civil legal proceedings against the former director, alleging that they had appropriated its client list and were illegitimately competing with the Applicant, which sought damages to recoup this lost business revenue.

[7] Owing to its financial situation and the Representative's lack of expertise with respect to the tax process, the Applicant was assessed, late-filed or failed to file certain of its T4, payroll and GST returns and remittances beginning in the 2016 taxation year. The Applicant accordingly incurred tax penalties and interest for certain of these infractions.

[8] The Applicant was subsequently sent correspondence from the CRA notifying it of the source deductions arrears and unremitted GST, including requests to file the overdue documents, notices of assessments and reassessment, and statements of arrears and accounts. On January 15, 2019; February 11, 2020; February 4, 2022, and December 13, 2023, the CRA issued legal

warnings to the Applicant. At one point, the Applicant entered into a payment arrangement and temporarily began to pay to defray the debt.

A. First Request for Relief

[9] On June 30, 2023, the Applicant submitted its first request for relief to the CRA in relation to the associated penalties and interest owed. The Applicant provided similar explanations in respect of these requests, essentially stating that it had been unable to meet its tax obligations because of what they termed as the diversion of business revenue due to the actions of their former director, and noted that they were involved in a legal proceeding against this party which they hoped would alleviate the situation and facilitate being able to make a payment plan for the tax obligations. It also noted that it was paying what it could at that time to defray the debt. The Applicant's Representative followed up by corresponding with the CRA and providing various requested documents and explanations.

[10] By letter dated December 7, 2023, a delegate of the Minister denied the request.

[11] A CRA record of contact dated December 8, 2023, recorded the CRA's correspondence with the Representative "Owner, Justin Mitchell". In these, it is recorded that "On previous call with Justin Mitchell, he stated that the reason they haven't been able to file any T2 returns as they have a 50% shareholder that they would need the signature of in order to do it but that shareholder is against them in a legal battle and has been since 2016".

[12] Taxpayer Relief Fact Sheets [Fact Sheet(s)] are summaries prepared for and consulted by the Delegate to document their analysis of their files. The detailed Fact Sheets accompanying the Decision outlined the relevant considerations and facts taken into consideration in the Decision, including mentioning the legal dispute "since 2015", the "mental and physical burden" on the Representative, and that "[t]hey are hoping to conclude their legal claim soon, at which time they will make a plan to pay off the remaining source deductions. The owner states that currently they are making what payments they can afford but are having difficulty making a dent". By December 13, 2023, the Applicant had received legal warnings about the tax debts for source deductions in the amount of $36,445.91 and its GST/HST debt of $4,726.26.

B. Second Review Request

[13] On December 3, 2024, the Applicant requested a second review of the request for relief from the GST/PST and payroll account debt penalties and interest. The Applicant specifically requested relief from the following penalties and arrears interest:

- **Payroll Deductions**: Late remitting penalties, failure to remit and arrears interest for the remitting period ending January 31, 2016, to December 31, 2024.
- **GST**: Failure to file penalty for GST/HST for the reporting period ending March 31, 2016.
- **GST**: Arrears interest for the reporting period ending March 31, 2016, to December 31, 2024.

[14] The Applicant again outlined similar reasons for both requests, citing financial hardship/inability to pay and "other circumstances". In the request for the payroll account relief the Applicant specifically stated that it:

> "has been involved in an ongoing legal claim working to recover lost revenues/damages and has not had revenues of more than $500.00/year since 2018. [In the first request for relief] We were

> not able to provide completed financial statements or a copy of the Statement of Claim that shows we have been virtually inoperable for many years, while being charged interest of approximately $900.00/quarter. We feel that these updated documents will help prove the companies [*sic*] inability to pay."

[15] A similar explanation was provided by the Applicant in relation to the GST/HST debt relief.

[16] By a letter dated January 31, 2025, a Delegate of the Minister found that financial hardship had not been substantiated and that relief was not warranted. In the Decision, the Delegate addressed the Applicant's legal proceeding, asserting they had found there was no connection between this and the Applicant's ability to fulfil their tax obligations:

> Your request indicated that you were involved in legal claim of recovering lost revenues and damages. A review of your accounts and court document filed and dated January 21, 2020, shows the plaintiff, 6857559 Manitoba Ltd [*sic*] making claims against defendant Daniel Leblanc. However, this is after the remittance due dates for the 2016 to 2019 tax years. Regarding reporting period ending December 31, 2020, enough time has elapsed for you to be able to follow through with your remitting obligations. Therefore, our review failed to find a connection between the court case and your ability to fulfill your tax obligations.

[17] The Delegate also noted that a lawsuit or legal claims are generally not a ground for the extension of tax relief, "as this is a circumstance within the taxpayer's control". In rejecting the relief request, the Decision further noted that sales tax source deductions cannot be used as cash flow for businesses as they are considered deemed trust amounts required to be held separate and apart. The Delegate held that the Applicant did not demonstrate reasonable care and did not act quickly to avoid or limit delay despite being advised of their tax obligations. Finally, regarding

financial hardship, the Delegate referred to their review of the Applicant's financial statements and asserted that these indicated the existence of a cash flow that could have been used to "offset penalties and interest without putting the business in jeopardy".

[18] The Applicant filed for judicial review on February 26, 2025.

III. Issues and Standard of Review

[19] The issues at play in this matter are:

1. Whether procedural fairness was breached?
2. Whether the Second Review Decision was reasonable?

[20] The judicial review of an administrative decision on its merits is subject to the presumptive standard of reasonableness as set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (CanLII), [2019] 4 SCR 653 [*Vavilov*]. Accordingly, this is the applicable standard of review of taxpayer relief decisions pursuant to subsection 220(3.1) of the *ITA* and section 281.1 of the *ETA* (*Clarke v Canada (Attorney General)*, 2023 FC 34 at paras 13-16; *Demma v Canada (Attorney General)*, 2024 FC 2091 at para 16).

[21] A reasonable decision is one which is transparent, intelligible and justified and "based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at paras 12-13 and 15, 85; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 8, 63). The party challenging the decision bears the onus to satisfy the reviewing court that there are "sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification,

intelligibility and transparency" (*Vavilov* at para 100). An administrative decision may be unreasonable where there is a "failure of rationality internal to the reasoning process" or a "failure of justification given the legal and factual constraints bearing on the decision" (*Vavilov* at para 101). If the decision maker misapprehended the evidence before it, the decision may be unreasonable (*Vavilov* at paras 125-126).

[22] Procedural fairness is reviewed on a standard akin to correctness (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69, [2019] 1 FCR 121 [*CPR*] at paras 34-35 and 54-55, citing *Mission Institution v Khela*, 2014 SCC 24 at para 79; *Shirafkan v Canada (Attorney General)*, 2025 FC 1351 at para 14). The overarching analysis for procedural fairness is contextual and considers whether the parties knew the case to meet and had a full and fair chance to respond (*CPR* at para 56).

IV. Preliminary Issues

A. Style of Cause

[23] The Applicant named the Canadian Revenue Agency as the Respondent in this matter.

[24] At the request of the Attorney General, without objection from the Applicant, and in accordance with Rule 303(2) of the *Federal Courts Rules*, SOR/98-106, the title of proceedings shall be amended to name the Attorney General of Canada as the Respondent in this application.

A. The Affidavit Evidence submitted by the Applicant is inadmissible

[25] The Respondent argues that the Applicant's Affidavit of the Representative Justin Mitchell, sworn on April 3, 2025 [Affidavit] and submitted in support of its judicial review arguments contains information that was not before the Delegate. The exhibits appended to this Affidavit included:

- Exhibit A: Resignation letter from treasurer of the Applicant dated September 15, 2011
- Exhibit B: CRA Second Review Decision dated January 31, 2025
- Exhibit C: Demand letter from Law Firm for Windsor Investments Ltd. to Daniel LeBlanc dated March 2, 2016
- Exhibit D: Income Statement Information Taxation Year End December 31, 2021
- Exhibit E: 6857559 Manitoba Ltd. Yearly Financial Statement 2017
- Exhibit F: 6857559 Manitoba Ltd. Yearly Financial Statement 2018
- Exhibit G: 6857559 Manitoba Ltd. Yearly Financial Statement 2019
- Exhibit H: 6857559 Manitoba Ltd. Yearly Financial Statement 2020
- Exhibit I: 6857559 Manitoba Ltd. Yearly Financial Statement 2021

[26] With the exception of the Second Review Decision (Exhibit "B"), all the exhibits in the Applicant's Application Record do not appear in the Certified Tribunal Record and were not previously submitted to the Delegate. The Respondent specifically contests Exhibit C, a legal demand letter dated March 2, 2016, arguing that it should not be considered by the Court since none of the jurisprudential exceptions to the general rule against the admissibility of new evidence on judicial review apply.

[27] I agree that this is the case. The general rule is that new evidence that was not before the administrative decision maker is inadmissible on judicial review unless (1) it assists the court by providing general background information; (2) the information is relevant on an issue of procedural fairness; (3) it highlights a complete absence of evidence before the decision-maker (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency*

(Access Copyright), 2012 FCA 22 [*Access Copyright*] at para 20). I note this list of exceptions is non-exhaustive (*Access Copyright* at para 20).

[28] In addition, this Court has found that the third exception does not apply to new affidavit evidence if it was submitted "to substantiate an applicant's position, it was not before the decision maker, and goes to the merits of the decision under review" (*Gregory v Canada (Attorney General)*, 2024 FC 157 at para 18, citing *Ramos v Canada (Public Safety and Emergency Preparedness)*, 2021 FC 667 at para 20; see also *Access Copyright* at para 26). This is exactly the case in relation to the Exhibit C, and indeed all of the exhibits to the Affidavit, save Exhibit B. Further, though the Respondent does not advance submissions on this point, the Affidavit at paragraphs 17 to 22, 24-25 and 33-34 contains argument and additional information that was not before the decision maker and is evidence relevant to the merits of the matter (*Delios v Canada (Attorney General)*, 2015 FCA 117 at para 46). The exhibits in question do not fall into any of the *Access Copyright* exceptions, and nor does the Applicant advance any argument as to why they should be included. I find that these documents and portions of the Affidavit constitute inadmissible new evidence and have disregarded them.

V. Legal Framework

[29] Under subsection 220(3.1) of the *ITA* and section 281.1 of the *ETA*, the Minister of National Revenue has broad discretion to waive or cancel all or any portion of any penalty or interest payable under the relevant provisions of those acts (*Allen v Canada (Attorney General)*, 2021 FC 364 at para 7). Two non-binding guidelines are applicable to the exercise of discretion, with the Information Circular 07-1R1 pertaining to section 281.1 decisions under the *ETA*

[Circular] and the GST/HST Memoranda Series, Chapter 16.3, Cancellation or Waiver of Penalties and/or Interest pertaining to decisions of subsection 220(3.1) under the *ITA* [Memorandum].

[30] The considerations for granting taxpayer relief under s 220(3.1) of the *ITA* were recently described by my colleague Justice Grammond in *McMillan v Canada (Attorney General)*, 2025 FC 408 at para 25, and it is of note that the Circular and the Memorandum contain similar categories under which relief may be granted pursuant to the *ETA* and the *ITA*, respectively:

> [25] […] The CRA has issued an administrative guideline, Circular 07-1R1 [Circular], setting out factors that the Minister considers upon determining relief requests.
>
> [26] The Circular explains the purpose of subsection 220(3.1) of the Act:
>
> > The [Act] gives the CRA the ability to administer the income tax system fairly and reasonably. The CRA does this by helping taxpayers resolve issues that come up through no fault of the taxpayers and by allowing for a common-sense approach in dealing with taxpayers who, because of personal misfortune or circumstances beyond their control, could not comply with a legal requirement for income tax purposes.
> >
> > It provides for three categories of circumstances upon which the Minister may grant relief: (1) extraordinary circumstances; (2) actions of the CRA; and (3) financial hardship. The CRA will also consider the taxpayer's conduct, including whether they have a history of voluntary compliance with tax obligations, whether they knowingly allowed a balance to exist, whether they exercised a reasonable amount of care with respect to their tax affairs, and whether they acted quickly to remedy delays or omissions on their part: *Simmons v Canada (Attorney General)*, 2021 FC 202 at paragraph 19.

VI. Analysis

A. The Decision is unreasonable

[31] The Applicant essentially argues that the Decision was unreasonable and that it was procedurally unfair. As I have found that the Decision was not reasonable for one key reason, I confine my analysis to that issue and need not address the remaining submissions, including those relating to procedural fairness, which were without merit in any event.

[32] With respect to assessing reasonableness, when undertaking an analysis of a taxpayer relief decision in the context of subsection 220(3.1) the *ITA*, the reviewing court must "start with the reasons of the Minister's delegate, read them with due consideration in light of the evidentiary record before the Minister's delegate, take into account that the Minister's delegate has a very wide, unconstrained discretion under subsection 220(3.1) of the Act to determine what is fair (itself a rather subjective and impressionistic concept that cannot be concretely defined), and, finally, assess whether the decision of the Minister's delegate fell outside the rather loose constraints in this case" (*Canada (Attorney General) v Maloney*, 2025 FCA 165 at para 6 [*Maloney*]).

[33] I find that in this matter, the Delegate's Decision is unreasonable. In particular, the Decision specifically purported to address the issue of a legal proceeding the Applicant was embroiled in, the circumstances underlying which the Applicant had explained were ultimately responsible for its inability to meet its tax remission obligations. I find that in relation to this key issue, the Delegate's reasons for rejecting that event, and the circumstances which caused it, as

reasons that might have warranted the granting of relief are not transparent, intelligible or justified in light of the record before me (*Vavilov* at para 86).

[34] As noted, the reasoning in the Decision with relation to the issue of the lawsuit was that:

> Your request indicated that you were involved in legal claim of recovering lost revenues and damages. A review of your accounts and court document filed and dated January 21, 2020, shows the plaintiff, 6857559 Manitoba Ltd making claims against defendant Daniel Leblanc. However, this is after the remittance due dates for the 2016 to 2019 tax years […] **Therefore**, our review failed to find a connection between the court case and your ability to fulfill your tax obligations. [Emphasis added]

[35] From this, it appears that the Delegate solely considered the timing of the legal proceeding as the reason for not granting tax relief in relation to the legal proceeding. In essence, the Decision states that since the Applicant's statement of claim in that matter was dated January 21, 2020, and as this date was after the missed tax remittance due dates, the Delegate thus concluded that there was no connection between the legal proceeding and the Applicant's capacity to meet its tax obligation, with the result that no tax relief was warranted.

[36] A review of the Second Review Taxpayer Relief Fact Sheets confirms that it was simply this timing issue which led the Delegate to find that there was no connection between the underlying circumstances of the legal proceeding and the taxpayer's non-compliance. At one point, in responding to the Fact Sheet questions, it is recorded:

> Do the dates and explanations correspond to the events for which the request is made? Explain.
>
> No. The dates and explanations do not correspond to the event.

> The court document, statement of claim provided in the request is dated January 21, 2020, the date it was filed in court. I am unable to find a connection between the circumstance and the non-compliance as the litigation started after the remittance due date for RPE from March 31, 2016, to December 31, 2019. [Emphasis added]

[37] At another point, the Fact Sheet further elaborates:

> The court document dated January 21, 2020, shows the plaintiff, 6857559 Manitoba Ltd making claims against defendant Daniel Leblanc. **This is after the remittance due date for 2016 to 2018 tax years. Therefore, review failed to find a connection between the court case and taxpayer's ability to resolve their tax obligation.** [Emphasis added]

[38] With respect, this reasoning is not intelligible. It seems clear that at no point did the Delegate consider the substance of the lawsuit – that is to say, the circumstances or events underlying the legal proceeding. The Statement of Claim in the record outlines the Applicant's contention as to the subject matter of this dispute – that a former Director of the Applicant diverted revenue by utilizing the Applicant's client list to target and steal its clientele, resulting in severe financial difficulties. As expressed in their Second Request for relief, it is these events which the Applicant claims were responsible for its inability to satisfy its tax obligations. Having wholly failed to engage with this information, it is not clear how the Delegate could have reasonably determined that there was no connection between the circumstances of the legal proceeding and the tax non-compliance.

[39] Further, while the Delegate repeatedly stated that the Statement of Claim was dated after the missed tax remittance periods in finding a lack of connection, this seemingly ignores not only that the substance of the claim clearly focused on events that had occurred during the noted

remittance periods, but also that the record establishes that CRA had been informed of the legal process and dispute by the Applicant multiple times dating back to both 2015 and 2016, and long preceding the date of the final Statement of Claim.

[40] Thus, the Delegate failed to address the content of the claim, which overtly referenced and concerned events during the remittance periods and which the Applicant alleged were directly connected to their lost revenues and the financial difficulties responsible for their inability to meet their tax obligations (*Vavilov* at para 128 citing *Allen v Canada (Attorney General)*, 2021 FC 364 at para 18). This is important because it formed the "link" or "connection" to the financial difficulty the Applicant purported to be facing (*CPNI Inc v Canada (National Revenue)*, 2013 FC 96 at para 54). Further, I note that the Delegate's misapprehension is evident, and rather glaring, in the context of the repeated mentions by the Applicant to the CRA of the nature of the legal dispute, as confirmed by the record.

[41] For example, in the Taxpayer Relief Fact Sheet of the Applicant's first review request for GST/HST relief, the CRA officer notes: "[t]he owner stated that they have been a plaintiff in an ongoing legal dispute since 2015 and that the business has incurred penalties and interest that they cannot pay as all income has been diverted into a different company against their will. The cost and time has put a mental and physical burden on them. They are hoping to conclude their legal claim soon, at which time they will make a plan to pay off the remaining source deductions and GST. The owner states that currently they are making what payments they can afford but are having difficulty making a dent." [Emphasis added]

[42] Similarly, in another Fact Sheet entry dated December 8, 2023, a CRA officer notes: “On previous call with Justin Mitchell, he stated that the reason they haven’t been able to file any T2 returns is they have a 50% shareholder that they would need the signature of in order to do it but that shareholder is against them in a legal battle and has been since 2016”.

[43] An officer had also acknowledged in their First Review Taxpayer Relief Fact Sheet that “[i]n the phone conversation the owner stated that the court case started early 2016 but the request for relief starts at the beginning of the tax year 2015. The timeline presented does not demonstrate how the business was prevented from remitting or filing on time”.

[44] The Applicant also offered in the Second Review request to provide further documentation and again informed the CRA that the Applicant was a plaintiff in a legal dispute since 2015:

> Electronic request – they were informed on June 30, 2023:
>
> “Our numbered company has been involved as a plaintiff in an ongoing legal dispute since 2015. We have incurred interest and penalties totaling $13, 519.40 on outstanding source deductions of $21,647.07 that we are not able to remit in full, as our business income is being diverted into an other business against our will […] We can provide any documentation requested and are hoping to conclude our legal claim soon, at which time we will be able to put a plan in place for [*sic*] have the remaining source deductions paid in full.”

[45] Further, entries in the CRA’s Electronic Taxpayer Relief Registry system also directly recorded communications from the Applicant indicating:

> “Our company has been involved as the plaintiff’s [*sic*] in a very long lasting legal claim that has severely harmed the finances of

> our business and we have been working very hard to try to recover the losses from the defendant."
>
> And that the CRA had been informed the legal battle had been ongoing "since 2016"

[46] The record also contained corroborating information which spoke to the elements of the legal proceeding, for example corporate records that established that the defendant in the lawsuit had indeed been an Officer of the corporation.

[47] I note that in the hearing, the Respondent conceded that the Delegate had seeming failed to consider the events and circumstances underlying the Applicant's lawsuit, as opposed to its timing. However they submitted that (1) the Delegate's Decision rested on the submissions made to them by the Applicant, and suggested that the Applicant had not clearly outlined the connection between these circumstances and the inability to satisfy their tax obligations; (2) that the Decision had also indicated that lawsuits were not generally considered to be a ground of relief, as they were circumstances within the taxpayer's control; and (3) that perhaps the substance of the lawsuit had been implicitly considered as the Decision had also determined that there was no financial hardship as the financial statements in the record indicated that there had been cash flow sufficient to make payments.

[48] With respect, I do not find these arguments persuasive. First, as I have noted, the materials submitted by the Applicant to the CRA did explain how the underlying events had impacted the Applicant's ability to meet its tax obligations. It would have certainly been within the Delegate's power to disagree with or reject this explanation as not persuasive, but utterly failing to consider it all, and merely hinging its finding of the lack of connection on the timing

issue (while ignoring the other timing evidence) is not intelligible. Second, while the Decision did state that since lawsuits are circumstances within the control of the taxpayer they are generally not considered to be grounds of relief, it is not transparent or intelligible how the Delegate would have been able to conclude that this particular situation fell into that general category, when it would seem that they wholly failed to consider the specific circumstances at issue.

[49] Finally, as to the notion that as the Delegate found there to be no financial hardship restricting the Applicant's ability to pay, the Court should therefore assume that the substance of the lawsuit was considered by the Delegate, I do not agree. This rationale is simply not reflected in the Decision, and nor does it flow logically from it. The reasoning of the Delegate cannot be buttressed in this fashion, after the fact, by speculating about a potential line of analysis by the Delegate that is not apparent in the Decision itself. The jurisprudence is clear that reasonableness review does not permit this Court to entertain supplemental reasons beyond those issued in the decision under review (see e.g. *Alexion Pharmaceuticals Inc v Canada (Attorney General)*, 2021 FCA 157 at paras 8, 15, citing *Vavilov* at para 97; *Rezaei v Canada (Immigration, Refugees and Citizenship)*, 2020 FC 444 at para 28). I also note that this contention is further undermined by issues in the Delegate's analysis of financial hardship, including their clear misinterpretation of certain of the financial documents submitted by the Applicant, such as mistakenly concluding that the Applicant had instituted a series of dramatic wage increases for its remaining Officer.

[50] Ultimately, while it was open to the Delegate to conclude that the lawsuit was not a ground of relief, it must be discernable why that conclusion was reached. Here, beyond the blithe

mention of the timing issue, there is no further explanation given as to why a legal issue concerning the revenues of the corporation in the context of that corporation's ability to pay the tax obligations is not adequately connected nor what would be required to establish such a connection. In my view, given the centrality of this particular submission and in view of the record showing multiple acknowledgements of the significance of this legal dispute, the reasoning is not transparent nor is it responsive to the standard set in *Vavilov* (*Maverick Oilfield Services Ltd. v. Canada (Attorney General),* 2023 FC 1728 at para 50 citing *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21). Significantly, the Applicant did advise the CRA of the legal proceeding that began in 2015-2016, as early as in its first request for relief. Their Second Review request then included the Statement of Claim which referred to events beginning in 2015, along with a letter indicated that they had faced declining revenues.

[51] However, the Delegate finds only that there is a lack of correspondence between the date of the Statement of Claim and the missed deadlines, and on that basis concludes that there was no "connection" between the circumstances and the non-compliance. Yet, the content of the Statement of Claim in light of the record, demonstrated that communications with the CRA had indicated they were in a legal dispute since 2015 or 2016. It is not clear why a 2020 Statement of Claim showing that the Applicant has been unable to operate since 2015 was insufficient evidence of a *connection* between the circumstances and tax non-compliance. As noted by Justice Diner in *1680169 Ontario Limited v Canada (Attorney General)*, 2019 FC 562 at para 34, "the discretion to grant taxpayer relief must take into account all the relevant circumstances" (*Parmar v Canada (Attorney General)*, 2018 FC 912 at para 61).

[52] In short, the Delegate simply announces a conclusory statement without intelligible or transparent explanation. I find the Decision to be unreasonable.

[53] Finally, I note that in terms of remedy the Applicant has requested that the Court "waive" its tax penalties and interest in this matter. However, in judicial review, the remedy normally granted is simply to quash the decision and remand the file for reconsideration before a new decision maker (*Canada (Minister of Human Resources Development) v Rafuse*, 2002 FCA 31 at para 13; *Vavilov* at para 141). This is because on judicial review, the Court does not typically "step into the shoes" of the administrative decision maker to replace that decision with its own, as such directions are in effect a *mandamus* order that are only appropriate in "limited scenarios" (*Vavilov* at paras 139-142; see also *Canada (Attorney General) v 1230890 Ontario Limited*, 2026 FCA 4 at para 11). This is not such a scenario.

VII. Conclusion

[54] For these reasons, this application for judicial review is granted. The noted errors undermine the transparency, justifiability and intelligibility of the Decision. I therefore set aside the January 31, 2025, Second Review Decision denying the Applicant's request for relief, and return this matter for redetermination before a different Delegate of the Minister. Prior to the redetermination, the Applicant shall be given an opportunity to provide updated submissions and documentation in support of their request.

VIII. APPENDIX

***Income Tax Act*, RSC 1985, c 1 (5th Supp)**	***Loi de l'impôt sur le revenu*, LRC 1985, c 1 (5e suppl)**
Waiver of penalty or interest	Renonciation aux pénalités et aux intérêts
220 (3.1) The Minister may, on or before the day that is ten calendar years after the end of a taxation year of a taxpayer (or in the case of a partnership, a fiscal period of the partnership) or on application by the taxpayer or partnership on or before that day, waive or cancel all or any portion of any penalty or interest otherwise payable under this Act by the taxpayer or partnership in respect of that taxation year or fiscal period, and notwithstanding subsections 152(4) to (5), any assessment of the interest and penalties payable by the taxpayer or partnership shall be made that is necessary to take into account the cancellation of the penalty or interest.	220 (3.1) Le ministre peut, au plus tard le jour qui suit de dix années civiles la fin de l'année d'imposition d'un contribuable ou de l'exercice d'une société de personnes ou sur demande du contribuable ou de la société de personnes faite au plus tard ce jour-là, renoncer à tout ou partie d'un montant de pénalité ou d'intérêts payable par ailleurs par le contribuable ou la société de personnes en application de la présente loi pour cette année d'imposition ou cet exercice, ou l'annuler en tout ou en partie. Malgré les paragraphes 152(4) à (5), le ministre établit les cotisations voulues concernant les intérêts et pénalités payables par le contribuable ou la société de personnes pour tenir compte de pareille annulation.
***Excise Tax Act*, RSC 1985, c E-15**	***Loi sur la taxe d'accise*, LRC 1985, c E-15**
Waiving or cancelling interest	Renonciation ou annulation — intérêts
281.1 (1) The Minister may, on or before the day that is 10 calendar years after the end of a reporting period of a person, or on application by the person on or before that day, waive or cancel interest payable by the person under section 280 on an amount that is required to be remitted or paid by the person under this Part in respect of the reporting period.	281.1 (1) Le ministre peut, au plus tard le jour qui suit de dix années civiles la fin d'une période de déclaration d'une personne ou sur demande de la personne présentée au plus tard ce jour-là, annuler les intérêts payables par la personne en application de l'article 280 sur tout montant qu'elle est tenue de verser ou de payer en vertu de la présente partie relativement à la période de déclaration, ou y renoncer.
Waiving or cancelling penalties	Renonciation ou annulation — pénalité pour production tardive
(2) The Minister may, on or before the day that is 10 calendar years after the end of a reporting period of a person, or on application by the person on or before that day, waive or cancel all or any portion of any	(2) Le ministre peut, au plus tard le jour qui suit de dix années civiles la fin d'une période de déclaration d'une personne ou sur demande de la personne présentée au plus tard

	ce jour-là, annuler tout ou partie des pénalités ci-après, ou y renoncer :
(a) penalty that became payable by the person under section 280 before April 1, 2007, in respect of the reporting period; and	a) toute pénalité devenue payable par la personne en application de l’article 280 avant le 1er avril 2007 relativement à la période de déclaration;
(b) penalty payable by the person under section 280.1, 280.11 or 284.01 in respect of a return for the reporting period.	b) toute pénalité payable par la personne en application des articles 280.1, 280.11 ou 284.01 relativement à une déclaration pour la période de déclaration.

JUDGMENT in T-690-25

THIS COURT'S JUDGMENT is that:

1. The judicial review application is granted.

2. The decision of the Delegate dated January 31, 2025, is set aside and the matter is returned for redetermination by a different Delegate of the Minister. Prior to the redetermination, the Applicant shall be given an opportunity to provide updated submissions and documentation in support of their request.

3. The title of proceedings in this matter is amended to name the Attorney General of Canada as the Respondent.

4. No costs are awarded.

"Darren R. Thorne"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-690-25
STYLE OF CAUSE:	6857559 MANITOBA LTD. v THE ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	WINNIPEG, MB
DATE OF HEARING:	JANUARY 22, 2026
JUDGMENT AND REASONS:	THORNE J.
DATED:	FEBRUARY 27, 2026

APPEARANCES:

Justin Mitchell	FOR THE APPLICANT (ON HIS OWN BEHALF)
Caroline Pellerin	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Winnipeg, Manitoba	FOR THE RESPONDENT