

FEDERAL COURT

B E T W E E N

**GOLD LINE TELEMAGEMENT INC, CARD EXPRESS PRINTING INC,
GL2CLOUD INC, GL CARRIER INC, GLWIZ INC, TOTRIX INC, and
TELERESOLVE INC**

Applicants

– and –

ATTORNEY GENERAL OF CANADA

Respondent

NOTICE OF APPLICATION

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicants. The relief claimed by the applicants appear on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicants. The applicants request that this application be heard at Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application, or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicants' solicitor or, if the applicants are self-represented, on the applicants, **WITHIN 10 DAYS** after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court, and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (t. 613.992.4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date:

Issued by: _____
(Registry Officer)

Address of local office: 180 Queen Street West
Suite 200
Toronto, Ontario
M5V 3L6

TO: MINISTER OF NATIONAL REVENUE

Department of Justice Canada
Tax Law Services Section
99 Bank Street, Suite 1100
Ottawa, Ontario
K1A 0H8

AND TO: ATTORNEY GENERAL OF CANADA

Department of Justice Canada
Tax Law Services Section
99 Bank Street, Suite 1100
Ottawa, Ontario
K1A 0H8

APPLICATION

THIS IS AN APPLICATION for judicial review in respect of the Minister of National Revenue’s decision to refuse to postpone collection action against the applicants, Gold Line Telemanagement Inc (“**Gold Line**”), Card Express Printing Inc, GL2Cloud Inc, GL Carrier Inc, GLWIZ Inc, Totrix Inc, and Teleresolve Inc (collectively, “**Group of Gold Line**”) as first communicated on July 24, 2024 (“**Decision**”).

THE APPLICANT MAKES THIS APPLICATION FOR:

1. an order:
 - (a) compelling the Minister to withdraw her requirement to pay notices against the Group of Gold Line’s banks (“**Garnishment Orders**”); and
 - (b) prohibiting the Minister from taking any further collection action against the Group of Gold Line until:
 - 1) Gold Line’s appeal to the Tax Court of Canada (“**Appeal**”)¹ has been finally determined; or
 - 2) alternatively, the Minister has reconsidered the Group of Gold Line’s request to postpone collection against them in accordance with this Court’s directions;
2. costs of this application, on a solicitor-and-client basis; and
3. such further and other relief as counsel may advise and this Court may deem just.

THE GROUNDS FOR THE APPLICATION ARE:

Background

4. the Group of Gold Line was founded in 1991;
5. the Group of Gold Line is in the telecommunications business;
6. the Group of Gold Line employs a staff of about 110 people;

¹ *Gold Line Telemanagement Inc v His Majesty the King*, 2021-3115(GST)G

The Minister's audit

7. in 2018, the Minister started conducting an audit of Gold Line's returns under the Part IX of the *Excise Tax Act*, RSC 1985, c E-15;
8. as part of Gold Line's business, it bought and sold wholesale Voice over Internet Protocol ("**VoIP**") termination;
9. the audit was based on the Minister's pre-conceived notion that certain wholesale VoIP suppliers were bad actors;
10. the audit was based on a fundamental misunderstanding of the wholesale VoIP markets;
11. the Minister assumed that a significant portion of Gold Line's wholesale VoIP business was fake;
12. as a result of the audit, the Minister assessed Gold Line for additional tax and imposed gross negligence penalties and arrears interest ("**Assessments**");
13. the Assessments have resulted in the Minister claiming tax debts due from Gold Line of over \$65,000,000 and from the other Group of Gold Line companies ("**Companies**") of over \$2,000,000 (collectively, "**Tax Debts**");
14. subsequent to the audit, Gold Line has been forced to significantly reduce its wholesale VoIP business and the Minister has been denying or withholding the Group of Gold Line's input tax credit claims;

The lack of disclosure

15. Gold Line made several requests during the audit and subsequent objection process to obtain information about the Minister's speculation that Gold Line was involved in a sham in furtherance of a carousel scheme;
16. the Minister objected to the disclosure of information on the basis that it was protected as confidential third-party information or internal procedures;

The Appeal

17. in December 2021, Gold Line appealed the Assessments, by way of notice of appeal;
18. in August 2022, the Minister responded Gold Line's notice of appeal, by way of a reply;
19. in August 2023, Gold Line responded to the Minister's reply, by way of an answer;
20. in February 2023, the Minister brought an application to determine a question naming Gold Line and 15 others as respondents ("**Reference**") and an alternative motion to consolidate Gold Line's appeals with appeals of 5 other taxpayers;
21. the Reference has delayed the Appeal process for Gold Line and added significant costs;
22. the Minister has refused to fully provide information to Gold Line relating to her speculation that Gold Line was involved in a carousel scheme or sham;

Imminent financial ruin

23. the Minister's audit, Reassessments, denial of input tax credit claims, and allegations of wrongdoing have severely affected the Group of Gold Line's ability to carry on business;
24. the Group of Gold Line has experienced a significant loss of revenue;
25. the Group of Gold Line has lost access to financing and cannot obtain new financing due to the Minister's audit, Reassessments, denial of input tax credit claims, and allegations of wrongdoing;
26. Gold Line has had to lay off over 50% of its staff, which has reduced its operational capacity and adversely affected its revenue-earning potential;
27. the Group of Gold Line is entitled to over \$10,000,000 in input tax credit claims, which the Minister has withheld;

28. the Group of Gold Line has been applying funds available to it for payroll and to keep the business operational;
29. there are insufficient funds to keep the Group of Gold Line as a going concern for much longer;

The Group of Gold Line's request

30. on April 12, 2024, the Group of Gold Line's counsel wrote to the Minister to request that she postpone collection against them until the Appeal had been finally determined ("**Request**");
31. in support of the Request, the Group of Gold Line raised issues with the Minister's audit, Assessments, denial of input tax credit claims, lack of disclosure, Tax Debts, and obstruction of the Appeal process, which caused reputational damage to the Group of Gold Line and caused imminent financial harm to them;
32. on April 22, 2024, the Minister confirmed that no collection action was being taken against the Group of Gold Line and no collection action would be taken while her collection officer was on leave;
33. on June 14, 2024, the Minister sent a legal warning letter to the Companies;
34. on June 21, 2024, the Minister confirmed that no collection action was being taken against Gold Line, but she was considering the Companies' situation as they could no longer make payments on their tax debts;
35. on July 18, 2024, the Group of Gold Line's counsel wrote to the Minister:
 - (a) to confirm their understanding that no collection action was being taken against Gold Line until the Appeal had been finally determined; and
 - (b) to request that she postpone collection against the Companies until the Appeal had been finally determined ("**Further Request**");
36. in support of the Further Request, the Group of Gold Line explained that the Companies only provided services to Gold Line, denying input tax credits to the Group of Gold Line meant that the Minister was effectively collecting on Gold

Line's tax debt, which she agreed not to take collection action on, and the Group of Gold Line's financial viability and profitability continued to decline as a result of the reasons given in the Request;

37. in the Further Request, the Group of Gold Line requested that:
 - (a) the Minister refrain from taking any further collection action against them until the Appeal had been finally determined and if, however, she decided to take further action, she refrain from taking such action until after she contacted the Group of Gold Line's counsel and she provided the Group of Gold Line with 72-hours notice; and
 - (b) the Minister's collection officer meet with the Group of Gold Line and their counsel to discuss the matter;
38. on July 19, 2024, unbeknownst to the Group of Gold Line and their counsel, the Minister issued the Garnishment Orders on the Group of Gold Line's banks;

The Minister's decision

39. on July 24, 2024, the Minister's collection officer notified the Group of Gold Line that she intended to initiate collection action against them on the Tax Debts;
40. on July 25, 2024, the Minister's collection officer confirmed to the Group of Gold Line's counsel that collection action had been initiated against them and that the Minister intended to collect on Gold Line's tax debts that were the subject of the Appeal;
41. on July 26, 2024, the Group of Gold Line's counsel wrote to the Minister to request that:
 - (a) her delegates have an in-person meeting with the Group of Gold Line and their counsel, due to the complexity of the matter;
 - (b) she provide her reasons for the Decision;
 - (c) she cease collection action and withdraw all collection holds on the Group of Gold Line's accounts until the meeting, so that they could resume business operations; and

- (d) she communicate with the Group of Gold Line's counsel on all GST/HST accounts;
42. the Minister is taking collection action on the Tax Debts before Gold Line has had a chance to have the correctness of the Assessments determined by way of the Appeal;
 43. the Minister is aware that the collection action will cause the destruction of the Group of Gold Line's business;
 44. the Group of Gold Line's banks have complied with the Garnishment Orders, depleting the funds from the Group of Gold Line's bank accounts;
 45. the Group of Gold Line's business is facing imminent financial ruin;
 46. the Group of Gold Line will be forced to shut down if the Minister continues taking collection action against them;
 47. the Minister has the discretion to postpone collection action under subsection 315(3) of the *Excise Tax Act*, RSC 1985, c E-15;
 48. the Minister has refused to postpone collection action against the Group of Gold Line;
 49. the Decision is unlawful and unreasonable;
 50. the Minister has provided the Group of Gold Line with no reasons for the Decision;
 51. the Decision lacks justification, transparency, and intelligibility;
 52. the Minister has initiated collection action against the Group of Gold Line to prevent Gold Line from pursuing the Appeal, vindicating its entitlement to input tax credit claims, and carrying on business;
 53. the Minister has initiated collection action against the Group of Gold Line in bad faith;
 54. the Group of Gold Line has been denied procedural fairness in their dealings with the Minister in respect of the Tax Debts;

55. the Minister is not at risk of suffering any prejudice from postponing collection action against the Group of Gold Line;
56. the Minister must exercise her discretion to recover tax debts in a rational, reasonable and cost-effective way;

Prohibition is necessary

57. there is a serious issue to be tried;
58. the Group of Gold Line will suffer irreparable harm if an injunction is not granted;
59. the balance of convenience favours granting an injunction;

Other grounds

60. the following statutory provisions:
 - (a) sections 296, 313 to 315 and 317 of the *Excise Tax Act*, RSC 1985, c E-15;
 - (b) sections 18 to 18.4 of the *Federal Courts Act*, RSC 1985, c F-7; and
 - (c) sections 317 to 318, 400 and 407 of the *Federal Courts Rules*, SOR/98-106; and
61. such further and other grounds as counsel may advise and this Court may deem just.

THE APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

62. the applicants' supporting affidavits and documentary exhibits; and
63. such further and other material as counsel may advise and this Court may deem just.

REQUEST PURSUANT TO RULE 317

64. The applicants request, pursuant to rule 317 of the *Federal Courts Rules*, SOR/98-106, that the Minister transmit to the applicants and to the Registry a certified copy of the material relevant to the application that is not in the possession of the applicants but is in the possession of the Minister, including, but not limited to:

- (a) all information, documents, notes, correspondence, analysis and records in respect of the Tax Debts and the Decision;
- (b) any analysis undertaken in respect of the Tax Debts and the Decision;
- (c) any directives or position papers considered in respect of the Tax Debts and the Decision; and
- (d) all records of communications between the Minister and the Department of Justice in respect of the Tax Debts and the Decision.

DATED at the City of Toronto, in the Province of Ontario, on July 31, 2024.



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