

T-1113-23 10#1

FILED	FEDERAL COURT COUR FÉDÉRALE	DEPOSE
	MAY 29 2023	
	DONYA MIRI	
TORONTO, ON		- 1 -

Notice of Application

Federal Court of Canada

BETWEEN:

MD. Golam Sarwar Mehedi

Applicant

-And-

**Bob Hamilton, Revenue Canada, and His Majesty the King
Respondents**

Notice of Application

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

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 the hearing will be as requested by the applicant. The applicant requests that this application be heard at (the *place* **180 Queen Street West, Toronto, 2nd floor, M5V 3K1** where the *Federal Court of Appeal (or Federal Court) ordinarily sits*).

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 file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, 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 (telephone 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) ~~May 26, 2023~~

MAY 29 2023

Issued by: *(Registry Officer)*

Address of local office:

180 Queen Street West, 2nd Floor, Toronto, ON
M5V 3K1

TO: *(Name and address of each respondent)*

Bob Hamilton, Commissioner of CRA
555 Mackenzie Avenue
4th floor, North Side
Ottawa, ON, K1A 0L5

Revenue Canada

His Majesty the King

(Name and address of every other person required to be served)

(Separate page) page attached.

Application

(Where the application is an application for judicial review)

The applicant is suing against the respondents, the applicant received the notice of assessment from Revenue Canada for returning the amount of money 2500 Dollars which was received by the applicant in the year 2020 taxation year in the way of a CERB grant. The applicant received the amount of 4000.00 without any condition. The applicant was entitled to receive the money, and he has received the money, he has used the money, and not returning the money. The applicant made an objection, opposed, strike out, and set aside and submitted an application to redetermination or reassess the decision and quash the decision and proceed under the federal court rules. The CRA commissioner Bob Hamilton denied redetermination and advised him to appeal against the decision for judicial review on March 07, 2023. The applicant submitted an appeal against the decision at the tax court of Canada at 180 Queen Street West, Toronto, and received a reply amended copy from the attorney general of Canada on May 22, 2023. The attorney general made the objection to accepting the complaint and advised that this is not the right court for judicial review. The applicant applied to quash the decision, because the applicant submitted the appeal against the decision, opposing the decision,

set aside the decision, and grant the application for not paying the amount of 2500 to the revenue Canada. The CRA already quashed the amount of 1500.00, but still, the amount is not quashed 2500.00. The applicant is not seeking money, this is a million-dollar lawsuit against Commissioner Bob Hamilton, His Majesty the King, and Revenue Canada under the CRA rules, and the federal rules, the Court of justice act. The applicant is seeking the cost of 1000.00.

This is an application for judicial review in respect of

(Identify the tribunal.)

(Set out the date and details of the decision, order, or other matter in respect of which judicial review is sought.)

(a) In the case of an individual state home address in full and in the case of a corporation state address in

full of principal place of business in the province in which the appeal is being instituted,

I Md. Golam Sarwar Mehedi, resident of Toronto, 21 Tubman Avenue, Apt. 712, Toronto, Ontario, M5A0N4.

Appealing this decision of Revenue Canada, the letter dated March 17, 2023, signed by assistant commissioner of Revenue Canada G. Pranke, for judicial review challenging the decision, opposing the decision, setting aside the decision, striking out the decision, and proceeding to legal action under the rules of the court of justice act, R R O. 1990, Regulation -Section 194, 59.6.2, according to the letter of Commissioner Bob Hamilton, dated March 7, 2023. Set aside the decision that has been rendered by the commissioner that the balance owing 2500.00 is not correct, not agreed, object, I was entitled to receive money, I have received money due to my disability.

I do not have the capacity to pay the amount of 2500.00. In the tax year 2022, my total income showed \$14134, I was entitled to receive a 650.00 tax return. Revenue Canada has taken that money and the system automatically transferred 650.00 to the Revenue Canada account. I am appealing for a refund to my personal account of that money 650.00. I am suing Revenue Canada and Bob Hamilton for the injustice that in the 2022 tax year I have a low income and did not go to exceed the amount, exceed income still, Revenue Canada deducted 650.00 from my account. I have an objection and requesting to return back the amount of 650.00 that has been transferred to Revenue Canada.

This is a breach of fiduciary duty, an act of negligence, and an act of discrimination. Under Rule 137.04.b, 59.6.2. This appeal is against the CRA and commissioner Bob Hamilton, striking out the decision of March 7, 2023, opposing, setting aside, and proceeding to hear, quash the decision, removing the balance owing 2500.00, and refund 650.00 that has transferred to CRA account from my account. Seeking cost of 2000.00 and seeking cost on a substantial indemnity basis, as the Honourable Justice seems just.

I have been suffering emotional distress because I was entitled to receive benefits and the government gave me that money, I have been under medical treatment because of my chest pain, heart attack, sleeping problem, and INSOMNIA.

In these circumstances, I am not in a position to pay the amount of 2500.00 and it is a genuine cause of action against Revenue Canada, and Commissioner Bob Hamilton. Cause of action sustained and proceed. It is erred in law that any individual is having physical, mental, emotional, and financial suffering and fighting for income, not having a job, and having social assistance. In these circumstances, Revenue Canada should not take money from the tax account.

This is my allegation against Revenue Canada that the 650.00 money needs to return back to my personal account immediately and remove the status owing the balance 2500.00.

- 173 (1) Where a registrant makes a supply (other than an exempt or zero-rated supply) of property or service to an individual or a person related to the individual and
 - (a) an amount (in this subsection referred to as the “benefit amount”) in respect of the supply is required under paragraph 6(1)(a), (e), (k) or (l) or subsection 15(1) of the Income Tax Act to be included in computing the individual’s income for a taxation year of the individual, or
 - (b) the supply relates to the use or operation of an automobile and an amount (in this subsection referred to as a “reimbursement”) is paid by the individual or a person related to the individual that reduces the amount in respect of the supply that would otherwise be required under paragraph 6(1)(e), (k) or (l) or subsection 15(1) of that Act to be so included,

the following rules apply:

- (c) in the case of a supply of property otherwise than by way of sale, the use made by the registrant in so providing the property to the individual or person related to the individual is deemed, for the purposes of this Part, to be used in commercial activities of the registrant and, to the extent that the registrant acquired or imported the property or brought it into a participating province for the purpose of making that supply, the registrant is deemed, for the purposes of this Part, to have so acquired or imported the property or brought it into the province, as the case may be, for use in commercial activities of the registrant, and

- (d) in any case, except where
 - (i) the registrant was, because of section 170, not entitled to claim an input tax credit in respect of the last acquisition, importation or bringing into a participating province of the property or service by the registrant,
 - (ii) an election under subsection (2) by the registrant in respect of the property is in effect at the beginning of the taxation year,
 - (iii) the registrant is an individual or a partnership and the property is a passenger vehicle or aircraft of the registrant that is not used by the registrant exclusively in commercial activities of the registrant, or
 - (iv) the registrant is not an individual, a partnership or a financial institution and the property is a passenger vehicle or aircraft of the registrant that is not used by the registrant primarily in commercial activities of the registrant,

for the purpose of determining the net tax of the registrant,

- (v) the total of the benefit amount and all reimbursements is deemed to be the total consideration payable in respect of the provision during the year of the property or service to the individual or person related to the individual,
- (vi) the tax calculated on the total consideration is deemed to be equal to
 - (A) where the benefit amount is an amount that is or would, if the individual were an employee of the registrant and no reimbursements were paid, be required under paragraph 6(1)(k) or (l) of the Income Tax Act to be included in computing the individual's income, the prescribed percentage of the total consideration, and
 - (B) in any other case, the amount determined by the formula

$$(A/B) \times C$$

Where is

- (I) where
 - 1. the benefit amount is required to be included under paragraph 6(1)(a) or (e) of the Income Tax Act in computing the individual's income from an office or employment and the last establishment of the employer at which the individual ordinarily worked or to which the individual ordinarily reported in the year in relation to that office or employment is located in a participating province, or
 - 2. the benefit amount is required under subsection 15(1) of that Act to be included in computing the individual's income and the individual is resident in a participating province at the end of the year,

the total of 4% and the percentage determined in the prescribed manner in respect of the participating province or, in the absence of a percentage determined in the prescribed manner in respect of the participating province, the total of 4% and the tax rate for the participating province, and

- (II) in any other case, 4%,

B

is the total of 100% and the percentage determined for A, and

C

is the total consideration.

- (vii) that tax is deemed to have become collectible, and to have been collected, by the registrant
 - (A) except where clause (B) applies, on the last day of February of the year following the taxation year, and
 - (B) where the benefit amount is or would, if no reimbursements were paid, be required under subsection 15(1) of that Act to be included in computing the individual's income and relates to the provision of the property or service in a taxation year of the registrant, on the last day of that taxation year.

(b) Identify the assessment(s) under appeal: include the date of assessment(s) and, if the appeal is under the *Income Tax Act*, include taxation year(s) or, if the appeal is under the *Excise Tax Act*, the *Customs Act*, the *Air Travellers Security Charge Act*, the *Excise Act, 2001* or the *Softwood Lumber Products Export Charge Act, 2006*, include the period to which the assessment(s) relate(s),

(c) Relate the material facts relied on, to the facts stated.

All the related material facts attached to this appeal

Facts: from the reply of Tax Canada, Re: MD. Golam Sarwar Mehedi v. His Majesty the King, appeal to the Tax Court of Canada. Court number 2023-603(IT)1. Signed by Elham Shirkhani, agent for the respondent.

This reply stated that the appeal is placed not in a proper court. The appeal might be dismissed. The applicant received the amended copy issued on May 10, 2023, and received it on May 22, 2023.

(d) Specify the issues to be decided, 1500 benefit is quashed, but 2500 is showing as owing. Erred in law. And against the federal court rules.

I am entitled to receive money because of my disability, I am not owing 2500.00, the balance needs to be removed and returned back to my account 650.00 which has been transferred to the Revenue Canada account instead of my bank account.

(e) Refer to the statutory provisions relied on, Federal Court Rules.

CITATION: 1

1. Supreme Court case, David Dunsmuir vs. New Brunswick case was granted in the Supreme Court of Canada, and David Dunsmuir did not receive natural justice.

The adjudicator erred in law by not considering the common law rules.

The adjudicator did not adhere to procedural fairness or duty of fairness, which is erred in law, fettering of discretion. In my case, the commissioner erred in law by not considering common law rules, and not adhering to the material fact, that I have replied to 3 times. Without my consent, 650.00 automatic transferred from my tax account to the Revenue Canada account. Which is an error in law. Rule 173 applies against the decision, to opposing and setting aside the decision.

CITATION:2

The Supreme Court Case, Hyanik vs. Mauldin. The justice system is now threatened in court today. The reviewing court has to consider the fettering argument in favor of the appellant. Revenue Canada does not have the provision to deny the Supreme Court of Canada Rules. Chief Justice McLachilin of the Supreme Court of Canada accepted the fettering argument and indicated that the applicant David Dunsmuir did not receive natural justice. In my case, the commissioner did not accept my fettering argument. The commissioner/respondent erred in law by denying the common law rules.

CITATION: Appeal from a judgment of the Federal Court of Appeal, 1996 Canlii 3884, 1997, FCJ, NO. 1726, (QL) dismissing an appeal, from a judgment of Simpson J. 1995, 101 F.T.R 110, 31 Imm. LR. Dismissing an appeal application for judicial review. Appeal allowed.

Roger Rowe and Rocco Galiati, for the appellant.

Urszula Kaczmarczyk and Cheryl D. Michelle, for the respondent.

The judgment of L, Heureux-Dube, Gonthier, McLachilin, Bastrache and Binnie JJ. Was delivered by,

Factual Background.

Paragraph 13 indicated, “Before examining the various grounds for judicial review, it is appropriate to discuss briefly the nature of the decision made under s. 114 (2) of the Immigration Act, the role of this decision in the statutory scheme, and the guidelines given by the Minister to immigration officers in relation to it.

The above case is similar to my case. The respondents did not follow the above guidelines and made an error which is against the federal court rules. This is the statute that needs to consider my case and the application for judicial review. Grant my application.

(f) Set forth the reasons the appellant intends to rely on, Citations and case law referred.

Rule 173 of the tax court, and justice act, breach of fiduciary duty, negligence, the act of discrimination. Appropriate legal representation and asked for redetermination of the assessment,

reassessing the matter, and removing the status but to no avail. My argument was granted erred in law. Natural justice denied. 650.00 was deducted from my account without my consent, which erred in law.

Rules AS AMENDED BY SOR/92-41, s. 4; SOR/2004-100, s.28; SOR/2007-142, s. 18;
SOR/2008-303, s. 21.)

174. (1) Notwithstanding anything contained in section-4, when it appears to the Income-tax Officer that any individual may leave India during the current assessment year or shortly after its expiry and that he has no present intention of returning to India, the total income of such individual for the period from the expiry of the previous year for that assessment year up to the probable date of his departure from India shall be chargeable to tax in that assessment year.

(2) The total income of each completed previous year or part of any previous year included in such period shall be chargeable to tax at the rate or rates in force in that assessment year, and separate assessments shall be made in respect of each such completed previous year or part of any previous year.

(3) The Income-tax Officer may estimate the income of such individual for such period or any part thereof, where it cannot be readily determined in the manner provided in this Act.

(4) For the purpose of making an assessment under sub-section (1), the Income-tax Officer may serve a notice upon such individual requiring him to furnish, within such time, not being less than seven days, as may be specified in the notice, a return in the same form and verified in the same manner as a return under sub-section (2) of section-139, setting forth his total income for each completed previous year comprised in the period referred to in sub-section (1) and his estimated total income for any part of the previous year comprised in that period; and the provisions of this Act shall, so far as may be, and subject to the provisions of this section, apply as if the notice were a notice issued under sub-section (2) of section-139.

(5) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act

(6) Where the provisions of sub-section (1) are applicable, any notice issued by the Income-tax Officer under sub-section (2) of section-139 or sub-section (1) of section-148 in respect of any tax chargeable under any other provision of this Act may, notwithstanding anything contained in sub-section (2) of section-139 or sub-section (1)

of section-148, as the case may be, require the furnishing of the return by such individual within such period, not being less than seven days, as the Income-tax Officer may think proper.

(g) **Indicate the relief sought, and**

Seeking a cost of 2000.00 for this appeal and removing the status that I am not owing any money.

(h) Date of notice. March 7, 2023. Grant my application, quash the decision, grant my objections, as I am suing the respondents, opposing the decisions, strike out the decisions, set aside the decisions and proceed, I am not seeking money. Seeking remedy. I have been suffering pain, emotional stress for this incorrect decision. I am a victim and this circumstance making me victim again and again. Rule 174, 189, 316.1, 301. Appeal be allowed.



(Name of appellant or appellant's counsel)

Mr. Md. Golam Sarwar Mehedi

c/o Mahabub Hasan (son)

21 Tubman Avenue, Apt. 712

Toronto, Ontario, M5A 0B4

Tel: 6476550774

Self-represented litigant, appellant, under the guidance of lawyer
Glen Roy Bastien.

Email: gsmehedi2013@gmail.com

(Address for service, telephone

number, fax number, if any, of the appellant's
counsel or, if the appellant is appearing in person,
state telephone number or fax number if any)

The applicant makes application for: *(State the precise relief sought.)*

Quash the decision, the applicant is not paying 2500 to revenue Canada, opposing, strike out and set aside the decision of CRA, and proceed against the decision, it is a million-dollar lawsuit against the respondents. The applicant is pain, suffering, sleeping problem, chest pain. Sought for cost 2000.

The grounds for the application are: *(State the grounds to be argued, including any statutory provision or rule relied on.)*

FACTS RELIED ON:

The letter from the commissioner on March 7, 2023, signed by G, Pranke, assistant Commissioner. Statement of account for COVID 19 benefits, dated February 28, 2023. Notice of redetermination for COVID 19 benefits, dated OCTOBER 27, 2022. Notice of assessment March 14, 2022. Letter from the CRA dated December 21, 2022 for CERB signed by G, Pranke, assistant commissioner. Letter from the assistant director Emilie Morgan assistant Director, Executive correspondence section, dated November 23, 2022.

On November 3, 2022 the applicant replied, Notice of redetermination for COVID-19 benefits. My object, I am entitled for money, because I am on my disability. At the time I was not employed, I want you to reverse the assessment. Currently, I am no social assistance. The letter of November 1, 2022, indicated that "you need to pay \$2500.00 minus any amounts you paid that we have not processed yet".

On Friday, December 30, 2022, the applicant stated clearly, with 2 pages letter opposing, striking out against the decision, set aside the decision and proceed. To quash the decision, made objections, return my 650.00 which was directly deposited to the CRA account which I am in need.

This application will be supported by the following material: *(List the supporting affidavits, including documentary exhibits, and the portions of transcripts to be used.)*

(If the applicant wishes a tribunal to forward material to the Registry, add the following paragraph:)

The applicant requests *(name of the tribunal)* to send a certified copy of the following material that is not in the possession of the applicant but is in the possession of the *(tribunal)* to the applicant and to the Registry: *(Specify the particular material.)*

(Date) May 25, 2023

Md. Golam Sarwar Mehedi

c/o Mahabub Hasan
712-21 Tubman Avenue, Toronto
Ontario, Canada, Tel: 6476550774
Toronto, Ontario, M5A 0N4
Gmehedi4@gmail.com
Self-represented litigant, moving party
Guidance under the lawyer Glen Roy Bastien



(Signature of solicitor or applicant)

(Name, address and telephone and fax numbers of solicitor or applicant)

I HEREBY CERTIFY that the above document is a true copy of
the original (issued out of / filed in the Court on the _____
day of MAY 29 2023 A.D. 20____
Dated this _____ day of MAY 29 2023 20____

**DONYA MIRI
REGISTRY OFFICER
AGENT DU GREFFE**