



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 24 March 2023

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

United Manganese of Kalahari (Pty) Ltd v Commissioner for the South African Revenue Service [2023] ZASCA 29 (24 March 2023)

Today, the Supreme Court of Appeal (SCA) dismissed an appeal from the Gauteng Division of the High Court, Pretoria. The respondent, the Commissioner for the South African Revenue Services (SARS), issued a letter to the appellant, United Manganese of Kalahari (Pty) Ltd (UMK) regarding an audit conducted in respect of the 2011, 2012 and 2013 income tax years of assessment. SARS issued a letter of audit findings in terms of s 42(2)(b) of the Tax Administration Act 58 of 1962 (TAA) setting out the outcome of the audit and the grounds of SARS' proposed additional assessments. The audit was subsequently finalised and the assessments issued.

The additional assessments, in the amount of R351 034 504.47, provided that payment by UMK was due to SARS. This excludes interest levied on the dividend tax assessment. UMK sought to dispute the assessments and gave the requisite notice in terms of s 11(4) of the TAA to institute proceedings against SARS in the high court (review) instead of exercising their right of appeal in the tax court. However, the high court as well as this Court, confirmed that the high court's jurisdiction is dependent upon a directive in terms of s 105, to prevent tax-related issues being raised in a court other than the tax court. Section 105 of the TAA provides that the only forum in which a taxpayer may dispute or object to a decision of an assessment, including additional assessments, is the tax court, unless the high court directs otherwise.

The purpose of s 105 is to ensure that, in the ordinary course, tax disputes are taken to the tax court. UMK did not make out a case which warranted deviation from the established procedure and, in the result, the appeal was dismissed.

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