

JERSEY / JUDGMENT

Halabi v Wilson and HMRC

[2018] JCA 146 (20 August 2018)

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Court of Appeal 20 August 2018 Before : James McNeill, QC; President George Bompas, QC, and Sir Wyn Williams Kt Between Simon Halabi (as executor of the estate of X, deceased) Appellant And Mark Wilson (as trustee in bankruptcy of Simon Halabi) First Respondent And Her Majesty's Revenue and Customs Second Respondent Advocate J. Harvey-Hills for the Appellant. Advocate W. A. F. Redgrave for the First Respondent. Advocate D. P. Le Maistre for the Second Respondent. judgment of the court The president: 1. On 2 July Halabi-v-Wilson and HMRC

[2018] JCA114 we dismissed the appeal of the Appellant against the judgment of the Royal Court dated 10 January 2018 Ariel-v-Halabi

[2018] JRC 006A and we directed that "the parties should file written representations on the issue of the costs of the appeal within 7 days of that date." 2. By letter dated 9 July 2018, filed on the same date, the First Respondent applied for an order that the Appellant should pay his costs of and incidental to the appeal. It is properly to be inferred from the letter that the court was being asked to direct that those costs should be taxed on the standard basis if not agreed. 3. By letter dated 10 July 2018 and filed on that date the Second Respondent applied for orders directing that the Appellant should pay to the Second Respondent its costs of and incidental to the appeal and, further, that the Court should make an interim order for costs in the sum of £18,114.90 (being 50% of the draft bill of costs submitted with the letter of 10 July). 4. On 13 July 2018 the Appellant filed written submissions upon costs to which we refer more fully below. 5. The Second Respondent did not file its applications for costs and an interim order strictly in accordance with our directions. Nonetheless, we have no doubt that the interests of justice demand that we consider the applications on their merits. We granted the Appellant the necessary extension of time in which to file his submissions. The applications for costs 6. The starting point must be that the First Respondent and the Second Respondent were successful in resisting the appeal. As the Appellant correctly acknowledges in his submissions normally that means that they are entitled to their costs. However, Advocate Harvey-Hills seeks to persuade us that we should depart from the normal rule and either make no order as to costs or direct that a percentage of the other parties' costs should be paid by the Appellant. He argues for such orders because (1) no order for costs was made below (2) our analysis differed, to a significant extent, from the reasoning of the Royal Court (3) the First Respondent's

application to the Royal Court was " an unusual means of obtaining the documents which were the subject matter of the application" and (4) the points at issue in the appeal involved difficult and important points of principle. 7. We do not regard the fact that no order for costs was made by the Royal Court as being an important consideration for us. The Appellant was warned, expressly, by the Royal Court that a different view as to costs might be taken in the event that an unsuccessful appeal was pursued. Nor do we consider the fact the application was unusual and that it involved difficult points of principle should deflect us from awarding the successful parties their costs. It is commonly the case (as it should be) that appeals to the Court of Appeal involve unusual points or important points of principle or practice. It is true that in part our reasoning differed from that of the Royal Court but that, too, is not uncommon in appeals involving unusual points. We are satisfied that no sufficient reason exists for departing from the normal rule that the successful party should recover its costs and that that the overall interests of justice are served if we direct that the Appellant should pay to both the First Respondent and the Second Respondent their costs of and incidental to the appeal to be taxed on the standard basis if not agreed. Interim Costs 8. The Appellant resists the Second Respondent's application for interim costs as a matter of principle, on the basis that the bill is not in proper form and because the making of such an order would or might have the effect of stifling an application for permission to appeal to the Judicial Committee of the Privy Council. In our judgment neither of the latter two contentions should deflect us from making an order in this case. The form of the bill provides sufficient information to gauge an appropriate percentage of costs on an interim basis. Evidence of the Appellant's means would be necessary to make good the submission that an interim award might or would stifle an appeal and no such evidence has been presented. 9. There is no reason in principle why an interim order should not be made in this case. We consider this to be an appropriate case in which to make an interim order for the reasons advanced by Advocate Le Maistre in his letter of 10 July 2018. 10. We agree with Advocate Harvey-Hills, however, that the appropriate percentage of the bill to award on an interim basis is one-third (rounded down for ease of calculation). Accordingly, we propose to direct that within 14 days of the date of the Order of Court consequent upon this judgment the Appellant shall pay to the Second Respondent on account of its costs the sum of £12,000. *Authorities Halabi-v-Wilson and HMRC*

[2018] JCA 114 . *Ariel-v-Halabi*

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Prepared on 29 October 2026 · Esheria