

SOUTH AFRICA / JUDGMENT

Respublica (Pty) Ltd v Commissioner for South African Revenue Services (86431/2014) [2017] ZAGPPHC 531 (11 August 2017)

[2017] ZAGPPHC 531

COURT

North Gauteng High Court, Pretoria

BEFORE

SEM EMYA

CASE / FILE NUMBER

86431/2014

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record

REPUBLIC

OF SOUTH AFRICA

IN

THE HIGH COURT OF SOUTH AFRICA

NORTH

GAUTENG DIVISION; PRETORIA

CASE

NO:86431/2014

DATE: 11/8/2017
In

the matter between: REPUBLIC
(PTY)
LTD: APPLICANT
And
THE
COMMISSIONER FOR
SOUTH
AFRICAN REVENUE
SERVICES: RESPONDENT

JUDGEMENT

SEM.E NYA AJ

1. This is an application for leave to appeal which is brought in terms of section 17 of the Superior Courts Act 10 of 2013. The respondent in the main application intends to appeal against the orders granted against it by this court on the 29 February
2016. The application for leave to appeal was heard on the 16 August 2016. The application was opposed by the applicant in the main application. For the sake of convenience, the parties are cited as in the main application.
2. The respondent submitted that the court erred in placing more emphasis on the fact that the end users of the services were the students and not TUT, which is the institution that has rented accommodation from the applicant in the main application.
3. The respondent submitted further that the method applied by the court in its interpretation of the relevant sections of the Value Added Tax Act 89 of 1991, in particular its findings that a literal manner of interpretation, suggested by the applicant is restrictive and if applied, will result in absurdity.
4. The applicant contended that the court's interpretation of the meaning of the words used in the relevant sections of the VAT Act was correct, in particular, its findings that there is a nexus between the students and the leased properties which cannot be ignored in order for the court to arrive at a proper conclusion.
5. The test to be applied in an application of this nature is whether the appeal would have a reasonable prospect of success. It was held in *Ntshokovu v S* (unreported case of the SAC case no. 157/2015 handed down on 7 September 2016) that the applicant in an application for leave to appeal faces a higher and more stringent threshold to convince the court that the appeal would have a prospect of success.
6. I am of the view that the appeal would have prospects of success in that the appeal court may find that the method applied by the court in its interpretation of the sections of the Value Added Tax Act was erroneous and that the court should have confined itself to the relationship between the respondent and TUT and the applicant without having to extend it to the students.
7. It is ordered:
 - 7.1 Leave to appeal to the full court of this Division is granted.
 - 7.2 Costs to be costs in the appeal.

SEM EMYA AJ

ACTING JUDGE OF NORTH GAUTENG

HIGH COURT; PRETORIA

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAGPPHC/2017/531.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/respublica-pty-ltd-v-commissioner-unknown-topic-agpphc-2017>

Prepared on 27 October 2026 · Esheria