

REPUBLIC OF SOUTH AFRICA



IN THE TAX COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

Case Number: 16344/2021

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES:NO
(3)	REVISED: NO

DATE 04/03/2024

SIGNATURE

SAR INVESTMENTS (PTY) LTD

(Registration Number: 2018/289859/07)

Applicant

and

THE STANDARD BANK OF SOUTH AFRICA LIMITED

(Registration Number: 1962/000738/06)

First Respondent

THE SOUTH AFRICAN RESERVE BANK

Second Respondent

THE MINISTER OF FINANCE N.O

Third Respondent

This Judgment was handed down electronically by circulation to the parties/their legal representatives by email and by uploading to the electronic file on Case Lines. The date for hand-down is deemed to be 04 March 2024.

JUDGMENT

MOLAHLEHI J

- [1] This is an application for leave to appeal against the whole of my judgment and order, delivered on 27 July 2023 after I had dismissed the application with costs. The essential reason for the dismissal of the application was that no cause of action was disclosed in the applicant's application.
- [2] In its notice of motion in the main application, the applicant sought an order to have the first and second respondents pay to it R944 085.00, jointly and severally the one paying the other to be absolved. The applicant further prayed that in case the said amount was attached by the respondents in terms of section 9 (2) (b) (i) of the Currency Exchange Control Regulations of 1961, the attachment should be set aside.
- [3] The details of the controversy between the parties are set out in the earlier judgment of this court and thus I do not deem it necessary to repeated the same herein. Similarly, there is no need to repeat the various grounds of appeal raised by the applicant in its notice of leave to appeal.
- [4] The test for determining an application for leave to appeal is set out in section 17 (1) (a) of the Superior Courts Act¹. The essential requirement of the test is that the applicant has to show that he or she has a reasonable prospect of success on appeal and that there is a compelling reason why the appeal should be heard including conflicting judgments on the matter under consideration. The threshold of this test is satisfied when it is demonstrated that there is a sound rational basis to conclude that there is a reasonable prospect of success on appeal.²

¹ Act 10 of 2013

² See *Four Wheel Drive Accessory Distributors CC v Rattan* NO 2019 (3) SA 451 (SCA) at para 34.

[5] In considering this application, I had regard to the grounds of appeal set out in the notice of application, the submission made by the parties both in their heads of argument and the oral submissions by their legal representatives. I have also had regard to the statutory and regulatory framework relied on by the applicant, including the judgment of this court.

[6] I am not persuaded that the applicant has made a case that satisfies the abovementioned requirements of section 17(1) (a) of the Act. Accordingly, the applicant's case stands to fail.

Order

1. In the circumstances, the applicant's application for leave to appeal is dismissed with costs.

E MOLAHLEHI J

**JUDGE OF THE HIGH COURT
JOHANNESBURG**

APPEARANCES:

Counsel for Applicant: CLAUDIO LUIGI PIETRO BOLLO

Attorneys for the applicant: BICCARI BOLLO MARIANOR

Counsels for the 1st Respondent: KD ILES

Attorneys for 1st respondent: VAN HULSTEYNS ATTORNEYS

Counsel for 2nd Respondent: MKHULULI STUBBS

Attorneys for 2nd Respondent: MACROBAT ATTORNEYS

Hearing Date: 28 FEBRUARY 2024

Delivered: 4 March 2024