



**IN THE HIGH COURT OF SOUTH AFRICA  
(EASTERN CAPE DIVISION, MAKHANDA)**

**CASE NO.: 1824/2021**

<b>Reportable</b>	<b>YES</b>
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In the matter between:

**THE COMMISSIONER FOR THE SOUTH  
AFRICAN REVENUE SERVICE**

Applicant

and

**THE STATE STRUCTURED MEZZANINE  
INVESTMENT (PTY) LTD**

First Respondent

**JEAN PRIEUR DU PLESSISS**

Second Respondent

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**JUDGMENT**

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**Cengani-Mbakaza AJ**

**Introduction**

[1] The South African Revenue Service (SARS), an organ of the state as contemplated in sections 217 and 239 of the Constitution of the Republic of South

Africa,<sup>1</sup> (the Constitution) has through its Commissioner instituted an application before me, seeking an order compelling the first respondent to comply with a request to produce relevant material in terms of section 46 of the Tax Administration Act 28 of 2011 (the section 46 request as provided for in terms of the TAA). The relevant material sought by SARS pertains to the tax- years from 2009 to 2013.

[2] The first respondent (SMI), a company duly registered in terms of the company laws of the Republic of South Africa and a registered taxpayer with SARS, with a unique taxpayer's reference number, is the subject of the TAA. SMI has opposed SARS's application and the reasons for this opposition will be outlined later in this judgment.

[3] The second respondent is a registered taxpayer and is designated as the public officer of the first respondent under section 246 of the TAA.<sup>2</sup> As the public officer, the second respondent represents the first respondent in respect of the relief sought against the first respondent and is therefore an interested party in these proceedings.

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<sup>1</sup> The Constitution of the Republic of South Africa Act 108, 1996

<sup>2</sup> Section 246(2) (a) of the TAA states that the appointed public officer must be a senior official of the company. The second respondent is the director of SMI.

## **The background facts**

[4] On 01 June 2017, SARS notified SMI that an audit would be conducted for the tax- years 2009 to 2013. Additionally, SARS requested the relevant material for the tax- years 2014 to 2016, in the event that the audit scope would be extended to include these years as well.

[5] On 06 February 2020, SARS issued a further request under section 46 of the TAA to SMI via its attorneys, requiring the provision of signed loan agreements for the 2009 to 2013 tax- years within 21 business days. The request pertained to loan agreements between SMI and several entities, including Slip Knot Investments 777 (Pty) Ltd (Slipknot), Four Rivers, Blue Beacon and One Vision Investment 233 (Pty) Ltd (One Vision).

[6] On 17 February 2020, due to SMI's failure to respond, SARS sent a follow-up letter, care of its attorneys, requesting that the relevant material must be submitted no later than 05 March 2020.

[7] On 05 May 2020, since no response had been received to the section 46 request, SARS sent a further letter to the SMI. On 06 May 2020, the SMI's legal representatives responded to SARS requesting a 21-day extension to submit the requested material. They explained that SMI had started collating information, but due to the significant amount of data requested, the process was taking longer than anticipated.

SMI's objection to SARS's section 46 request

[8] The opposition to the SARS's request can be traced back to the letter written by SMI's attorneys on 20 May 2020 (the objection letter), in which they first raised the objections to the section 46 request.

[9] In its objection letter, SMI questioned SARS's authority to issue a section 46 request for the years of assessment in respect of which the audit period has already prescribed. SMI held a view that due to the prescription of the relevant time period, no assessment can be issued by the SARS, even if an audit were to be conducted. In a nutshell, SMI queried the purpose of the audit given the assumption they had regarding auditing.

[10] Further to the objection letter, SMI claimed that SARS's reliance on 'random audit' is a mere pretext to comply with section 40 of the TAA. SMI asserted that the audit is not genuinely random, but rather a contrived reason to conduct the audit. In the objection letter, SMI further submitted that the section 46 request constitutes an administrative action, which is subject to judicial review, alternatively, the section 46 request remains reviewable under the principle of legality, which requires an administrative action to be lawful, reasonable and procedurally fair. SMI asserted therefore that it was prepared to comply with the section 46 request on condition that SARS complies with the Constitution and the law.

### SARS's response to the objection letter

[11] On 14 July 2020, SARS responded to the objection letter and confirmed that the audit period was from 2009 to 2013 years of assessment. SARS indicated that the TAA does not limit the timeframe within which SARS can request information. Instead, it restricts SARS' ability to raise additional assessments to a period of three years from the date of the original assessment beyond which no further assessment can be made. SARS urged SMI to comply with the section 46 request.

[12] The further correspondence exchanged between SMI and SARS from 18 August 2020 to 09 December 2020 clearly indicates that SMI consistently and vigorously objected to the SARS's section 46 request.

### SARS' case

[13] The facts as stated in an affidavit by Stephen Luff, an employee of SARS and a specialist in the Specialist Audit Division, can be summarised as follows: SMI and Slip Knot, the holding company of SMI brought an application for provisional liquidation alternatively business rescue of Four Rivers in Gauteng Division of the High Court, Pretoria under case number 69839/2014 (the provisional liquidation application). In support of the provisional liquidation application, Mr Du Plessis (the second respondent in this matter) deposed to an

affidavit which, in part, is corroborated by an answering affidavit. The second respondent is a Director of both SMI and Slip Knot.

[14] The other key role players in the provisional liquidation application are Four Rivers, a company that conducts business in property leasing and trading, and Naidoo who together with Mrs Kasturi Naidoo were the sole shareholders and directors of Four Rivers. One Vision, an intermediary company forming part of and controlled by Slip Knot Group of Companies (SKG) and used by SKG, as part of a Black Economic Empowerment (BEE) structure to hold a controlling share in BEE entities which is targeted at procuring government leases at beneficial rates and Blue Beacon Vision is a company that is used by SGK to obtain and secure government leases.

[15] In a provisional liquidation application, SMI's claim is based on a loan agreement between Slipknot and Four Rivers dated 15 December 2009 as well as a settlement agreement between Slipknot, Four Rivers, Naidoo and SMI dated 25 August 2010. SMI is a creditor of Four Rivers in the amount of R283 761 853 (excluding interest).

[16] Slipknot initially conducted the business of providing funding to the mezzanine which business was later taken over by Slipknot on behalf of SMI. Naidoo acknowledged being indebted to SMI in the amount of R180 412 646 which arises from the loan agreement. Four Rivers has made a payment of R252 091 496 towards the loan agreement. Furthermore, it is claimed that a significant

portion of the payment made by the Four Rivers towards the loan agreement consists of a payment of R203 792 709 made on 17 October 2011. This payment was funded by Standard Bank when Four Rivers raised finance to secure commercial leases for certain properties owned by Four Rivers.

[17] SARS states that it could not intervene in the provisional liquidation application because Four Rivers had not been found to owe tax debt to SARS at that point. After receiving the liquidation application, the responsible SARS official reviewed the allegations made by Mr Du Plessis in the founding affidavit. The SARS responsible official examined Four River's business affairs based on extracts from annual financial statements (AFS) and corporate income tax declarations for the 2010-2013 tax- years of assessment.

[18] The initial investigation revealed discrepancies, which led to further investigation by SARS. SARS found larger turn-over discrepancies between the income tax and VAT declarations submitted by Four Rivers for the 2010-2013 years of assessment. The discrepancies were as follows Four Rivers, R3.3 million, and SMI: R2, 1 million, Slipknot: R1.07 million. Some irregularities were found in Four Rivers' rental income from government leases compared to Slipknot's financing of the underlying property portfolio. Four Rivers received R19.7 million in lease payments and Slipknot received over R200 million from Four Rivers in five years.

[19] A significant discrepancy was found in the interest deductions for income tax purposes, but Slipknot declared significantly less interest as gross income in each year of assessment. The mismatch, as alleged by SARS, suggests potential underreporting of income or over claiming of deductions. Meanwhile, Four Rivers' interest paid to Slipknot was the main contributor to its excess losses amounting to R16.7 million from 2010-2013. Four Rivers correctly applied accounting and tax treatment for an upward fair value adjustment of fixed property owned and leased by its government entities. This resulted in reduced losses or accounting profits, in 2012 (R580, 611) and 2013 (R192, 087). Furthermore, indications of potentially larger tax evasion schemes have emerged based on returns submitted by the auditor and a Director of Two Rivers Trading for Four Rivers, Slipknot, SMI, One Vision and Blue Beacon.

[20] A comparison of the 2013 AFS of Four Rivers, SMI and Slipknot revealed a significant mismatch of hundreds of millions of rand in interest expenses and taxable income. Specifically, SMI's AFS show loans from Four Rivers of R33, 295,527 (2012, and R33, 379,205 (2013). Four River's AFS reflect interest-bearing borrowings of R174, 265,778 (2012) and R164, 438,800 (2013). Slipknot's AFS does not show any loan receivable from Four Rivers and does not disclose the subordination of loans. SARS alleges that the notes to the AFS misleadingly describe these loans as 'rental expenses income' and 'sales expenses' instead of loan transactions. Furthermore, SARS indicates that even if



the loan and income stream owed by Four Rivers were subordinated, the total amount due could not exceed R33 million as reflected in the SMI's 2013 AFS.

[21] The SARS analysis drew two possibilities, namely, that Four Rivers overstated interest expense which should be limited to actual interest payable or accrued income; or SMI or slip Knot understated the interest receipts and underpaid tax for the corresponding tax periods. Therefore, SARS asserts that a section 46 request is made to conduct a comprehensive audit for the corresponding financial years.

### **SMI's case**

[22] A perusal of the papers filed, indicates that the application was initiated on 21 June 2021. The answering affidavit was delivered on 27 August 2021. SARS delivered its replying affidavit on 06 October 2021. The court grants condonation to both parties for failing to file the relevant papers on time. In opposing SARS's section 46 request, SMI, through an affidavit filed by the second respondent, suggests that SARS has not provided sufficient justification or explanation for why the requested documents are necessary or relevant to the investigation or audit as required by the TAA.

[23] SMI contends that by bringing this application to court, SARS is prematurely seeking judicial intervention in an ongoing audit process. It suggests that SARS has neglected to follow the clear, practical steps outlined in the TAA.

SMI'S case is that a simple explanatory letter from SARS, either in an interim letter of finding or otherwise would have been sufficient to address concerns and avoid the need for court involvement. SMI warns that allowing SARS to involve the court in routine administrative matters will overload the court, undermining the efficiency of the tax administration system and wasting resources.

[24] Furthermore, SMI contends that SARS' partly belated explanation for the relevance of the requested information amounts to an abuse of the court process. SMI notes that there is no substantiation whatsoever provided for the 56 loan agreements listed in the request. According to SMI, it appears that SARS may intend to extrapolate its reasoning regarding the Four River agreement and apply it to the remaining agreements, attempting to establish a *modus operandi*. This according to SMI is completely illogical and unsupported assumption.

[25] SMI's case goes further to suggest that the Four Rivers agreement was an arm's length transaction providing start-up capital to an external company, bridging finance activities that focused on maximizing profits with adequate security. The Four Rivers loan was significantly larger than the other loan agreements requested by SARS and had a different purpose. It was intended to enable Four Rivers to acquire property, and is typical in such transactions, it carried a higher interest rate. The 32 loan agreements requested by SARS are within the SKJ Group including loans to operational companies and a family trust. These agreements aim to minimize intragroup funding costs, with interest rates

determined by different commercial considerations. The security arrangements are also less stringent compared to loans to external parties. Notably, these entities regularly file tax returns with SARS, and no discrepancies similar to those alleged in the Four River agreement have been identified. Moreover, SARS has made no allegations regarding these operational loans.

### **The issues**

[26] The crisp issue for determination is whether SARS has satisfied the jurisdictional facts as required in terms of section 46 of the TAA.

### **The legal framework**

[27] The information requested by SARS is governed by the provisions of the TAA. This Act aims to streamline tax collection by standardising tax administration, outlining taxpayer's rights and obligations, and defining administrative roles to ensure efficient tax collections.<sup>3</sup> SARS, under its commissioner's guidance, is responsible for administering TAA.<sup>4</sup> This includes gathering comprehensive information related to tax liability for past, present or future periods, identifying taxable events and ensuring compliance with tax

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<sup>3</sup> The purpose of the Act is governed by Chapter 2, Part A which deals with general administrative provisions. Section 2 of the TAA provides, 'The purpose of this Act is to ensure the effective and efficient collection of tax by-(a) aligning the administration of the tax acts to the extent practically possible;(b) prescribing the rights and obligations of taxpayers and other persons to whom this Act applies;(c) prescribing the powers and duties of persons engaged in the administration of a Tax Act; and (d) generally giving effect to the objects and purposes of tax administration.

<sup>4</sup> See section 3(1) of the TAA.

obligations, verifying the accuracy of submitted tax returns, information and documents, confirming tax payer's identities for liability assessment, determining tax liability, assessing and refunding overpaid taxes etcetera.<sup>5</sup> This encompasses all aspects of tax administration.

[28] Section 46 of the TAA under Chapter 5 which is titled, 'Information gathering', empowers SARS to request relevant material from a taxpayer or any other person, in writing or orally within a reasonable period, for tax administration purposes. Section 46 of the TAA provides,

‘46 Request for relevant material

- (1) SARS may for the purposes of the administration of the tax Act in relation to a taxpayer, whether identified by name or otherwise objectively identifiable, require the taxpayer or another person to, within a reasonable period, submit relevant material (whether orally or in writing) that SARS requires.’

[29] According to Section 1 of the TAA, ‘relevant material ’refers to information, documents or things that SARS considers likely to be relevant for administering a tax Act, as mentioned in Section 3 of the TAA. This includes anything that could potentially be useful or important for SARS to know when carrying out its tax administrative duties.<sup>6</sup>

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<sup>5</sup> See section 3(2) (i)-(iii), the relevant part in this instance is also section (3) (2) (b)-(e) of the TAA.

<sup>6</sup> Section 1 of the TAA defines relevant material as follows: ‘relevant material’ means any information, document or thing that in the opinion of SARS Is foreseeably relevant for the administration of a tax Act as referred to in section 3’.

[30] In essence, the TAA grants SARS extensive powers to investigate and gather information before any issue arises or a dispute emerges. Under section 46, SARS can request any information it believes may potentially impact a person's tax liability, even if there is no ongoing tax dispute or issue.

### **The parties' legal submissions and the analysis by the court**

[31] Both parties submitted their heads of argument, presenting substantial points that merit thorough discussion and a comprehensive assessment by the court. The court expresses its gratitude for both parties' assistance, particularly the valuable insight in the heads of argument, which have informed this judgment. SMI initially raised points *in limine* to SARS's written request specifically alleging a conflict of interest and a lack of authority. These were later resolved through an agreement between the parties. Following a progressive analysis of the issues raised, SMI decided to withdraw the preliminary objections.

[32] Notwithstanding the withdrawal of the preliminary issues, SMI reiterated the same defences that were previously presented in an objection letter to SARS. Regarding these defences, I engaged with the parties and through this interactive process, SMI's defences to SARS's section 46 request were modified and refined, resulting in a more targeted approach. Mr Botha SC, counsel for SMI argued that SARS's section 46 request constitutes a 'fishing expedition', as they have not provided adequate reasons for seeking the requested information. Conversely, Mr

Sholto-Douglas SC, counsel for SARS refuted this contention, presenting a diametrically opposed view.

[33] To avoid unnecessary elaboration, I will combine Mr Botha SC's argument with his subsequent submissions, wherein he asserted that, pursuant to Section 35 of the Constitution<sup>7</sup>, SMI has a right to remain silent and not to incriminate itself. Furthermore, counsel argued that for the requested information to be considered relevant, it must be admissible in a court of law. In support of this, counsel contended that the affidavit relied upon by SARS in motivating its request is based on hearsay evidence lacking both admissibility and probative value.

[34] These arguments are misconceived, particularly, because SARS's role is to determine the taxpayer's taxable income, and to that end, it may conduct the information-gathering exercise, even before any issues or disputes arise between the authority and the taxpayer. The information-gathering powers are internationally recognised. In *Australia and New Zealand Banking group Ltd v Konza*<sup>8</sup>, The court acknowledged the utility of 'fishing expedition' in specific

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<sup>7</sup> Section 35 of the Constitution, specifically outlines the rights of individuals who have been detained, arrested or accused of a crime, thereby upholding their fundamental rights and ensuring a fair judicial process.

<sup>8</sup> [2012] FCA 196 Para 59, per Kenny, Edmonds and Robertson JJ, The strong reasons which inhibit the use of curial processes for the purposes of a 'fishing expedition' have no application to the administrative process of assessing a taxpayer to income tax. It is the function of the Commissioner to ascertain the taxpayer's income. To ascertain this he may need to make a wide-ranging of inquiries, and to make them long before any issue of fact arises between him and the taxpayer. Such an issue will in general, if not always, only arise after the process of assessment has been completed. It is the process of investigation before assessment that s 246 is principally, if

circumstances and stated that the prohibitions against the ‘fishing expeditions’ are inapplicable to the administrative process of tax assessment. The Commissioner is mandated to ascertain a taxpayer’s taxable income, which necessitates extensive anticipatory inquiries. Such inquiries are a critical precursor to assessment, enabling the Commissioner to gather relevant material before potential disputes of factual issues materialise.

[35] Information-gathering exercise is crucial to a tax authority’s audit activities and without the power to obtain confidential information, the burden of taxation would unfairly fall on diligent taxpayers alone. This is because revenue authorities lacking such power would be unable to identify and address non-compliance by negligent or dishonest taxpayers. Robust information-gathering capabilities enable the authority to verify compliance, detect non-compliance and maintain the integrity of the tax system.

[36] The TAA establishes a clear distinction between civil proceedings, criminal proceedings and the disclosure of relevant material, providing a framework for each with distinct objectives, procedures and consequences. Section 35’s protection is specific to accused, arrested or detained persons and does not extend to SMI in this context, as it is not a party to any criminal activity. It is acknowledged that taxpayers have certain rights, which must be respected

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not exclusively directed.’ This case was quoted with approval in *Commissioner of South African revenue Service v Company 2024 JDR 0900 (WCC)* para 30.

and protected. However, the taxpayer's rights should not impede SARS's authority and ability to discharge its statutory duties by obtaining the relevant material. Rather, taxpayers' rights should strike a balance between protecting these rights and ensuring SARS's ability to effectively administer the tax system.

[37] Counsel further argued that the period for assessment has been prescribed, rendering any attempt to obtain information for the 2019-2013 tax- years futile, as SARS can no longer take action for those years. Counsel referenced section 99(2) of the TAA, which allows the Commissioner to issue revised assessments after the three-year period has expired, in cases where the full amount of tax was not assessed due to fraud, misrepresentation, or non-disclosure of material fact. He argued therefore that SARS must make out a case in terms of section 99(2) of the TAA before it can request for information in terms of section 46 of the TAA.

[38] While SARS attempted to justify its request by citing potential irregularities involving Four Rivers, SMI and other companies, I agree with Mr Sholto-Douglas SC, that a section 46 request is a distinct process. SARS has the authority to issue such a request for tax administration purposes, as defined in Section 3(2) of the TAA. This includes gathering information relevant to a taxpayer's liability for past, present and future tax periods. As noted earlier, this is merely an information-gathering exercise, and the relevance of the required material is determined by SARS, not the taxpayer.



[39] Consequently, in the context of this specific information-gathering exercise, the provisions of section 99(2) of the TAA are inapplicable. The assertion that SARS's request for information is motivated by a desire to open another assessment is highly speculative. Consistent with the principle of rationality as emphasized by Mr Botha SC in his submissions, SARS had clearly indicated in its letter dated 06 February 2020<sup>9</sup> that the relevant material sought was financial information which was required for the purposes of conducting an audit, thereby providing a rational basis for the request.

[40] Our courts have emphasized that the provisions of Section 46 of the TAA are peremptory. In *Commissioner for the South African Revenue Services v Brown*<sup>10</sup>, Smith J referred to the case of *Natal Joint Municipality Pension Fund v Endumeni Municipality*[2012] 2 All SA 262 SCA at paragraph 18<sup>11</sup> and held:

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<sup>9</sup> In a letter dated 06 February 2020 SARS addressed a letter to SMI. The contents of the letter are as follows: ..... SARS has notified you in a letter dated 20171113 that an audit is being conducted in respect of the 2009 to 2016 tax period(s). To assist SARS in conducting the audit you are required to provide copies of the relevant material indicated below within 21 business days from the date of this letter. **Financial information:** Signed loan agreements with the following entities for the 2009-2013 YOA: AA Pest control, Air Craft Investments (Pty) Ltd, Bestvest 153 (Pty)Ltd, Canton Trading 118 (Pty)Ltd, Cape Killarney Prop Inv, Changing Tides 21 (Pty)Ltd, FXT Property Trust, Greystone Trading 1564 CC, La Colline Properties CC, Mantella Trading 473 CC, Montreau 1 (Pty) Ltd, Network Deals Prop Holdings, Niel Swart Family Trust, Rapiro 223 (Pty) Ltd, Shadowvoice 1 (Pty)Ltd, Smithrand (Pty)Ltd, Techsure Fin, Westand, Zaptron Investments 756 (Pty)Ltd, Zaptron Investments 786 (Pty) Ltd, Four Rivers Trading 422 (Pty) Ltd, JGA Slabbert, Slipknot Investments 777 (Pty)Ltd, Greenvest 101 (Pty)Ltd, Blue Bacon Investments 206 (Pty)Ltd, Cinzaco 107 (Pty)Ltd, Fairfield Place 57 (Pty)Ltd, Falcodor 136 CC, Great Force Investment 56 (Pty) Ltd, Kidd Lane Trust, Nederburg Trust, Nelbut Properties (Pty)Ltd, Newinvest 125 (Pty) Ltd, One Vision Investments 233 (Pty)Ltd, Paka Properties (Pty)Ltd, Pearce Street Trust, Saduco Eight Thousand CC, Sherpa Trade and Invest 39 (Pty)Ltd, Snowy Owl Properties 38 (Pty)Ltd, Sothern Spirit Properties 112 (Pty) Ltd, Tacora Investments (Pty)Ltd, Venscora 122 (Pty) Ltd, Sign and Seal Trading (Pty) Ltd, Olympic Park Trading 126 (Pty) Ltd, Tutuni Investments 33 (Pty) Ltd, Barkophor Investments (Pty)Ltd, Atrolor (Pty)Ltd, Arudoc CC, JP Duplessis, Jean Prieur Du Plessis Family Trust, Afropulse 497 (Pty)Ltd, Hemipak Investments (Pty)Ltd, Sweet Pea Properties, Four Rivers/36 Merriman and Dalton Trading (Pty) Ltd.'

<sup>10</sup> (561/2016)[2016] ZACPEHC17 (05 May 2016).

<sup>11</sup> See also *Commissioner for the South African Revenue Services v J Company* footnote 7 (supra) at para 27.

‘There can be little doubt, having regard to the ‘language used in the light of ordinary rules, of grammar and syntax, the context in which the provision appears and the apparent purpose of the Act that the provisions of Section 46 are peremptory. This explicit and unambiguous wording of the section simply does not allow for any interpretation.’

[41] In this instance, SARS’s request is solely based on the loan agreements between SMI and the companies that are listed in the request. In my considered opinion, SMI’s request for an extension effectively constitutes an acknowledgement of its statutory obligation to provide the relevant material as deemed necessary by SARS. Through the court’s interaction with Mr Botha SC, it became clear that the relevant material is readily available. In my view, SMI’s initial awareness of this obligation and the availability of the relevant material mean that its subsequent change of heart does not absolve it of its duty to comply with the section 46 request.

[42] Pursuant to the principle of legality, the peremptory provisions of section 46 of the TAA pertaining to a request for relevant material necessitate compliance, leaving no discretion to refuse.<sup>12</sup> The argument that SARS is interfering with the ongoing audit process by bringing this court application is unfounded. Despite sending multiple letters requesting the relevant material,

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<sup>12</sup> Section 46 (4) of the TAA provides, ‘A person or taxpayer receiving from SARS a request for relevant material **must** submit the relevant material to SARS at the place, in the format(which must be reasonably accessible) to the person or taxpayer) and.....’. (accentuation added)

SARS received no meaningful response, necessitating the court application. For information-gathering purposes, the justification provided by SARS in its letter dated 06 February 2020 is considered adequate to compel the disclosure of the relevant material. The section 46 request satisfied the requirements of reasonable specificity as contemplated in section 46(6) of the TAA. I am therefore satisfied that all the jurisdictional requirements in terms of section 46 of the TAA have been met.

### **Costs**

[43] The fundamental principles governing costs are longstanding and well-settled.<sup>13</sup> The purpose of awarding costs is to indemnify a successful party against the expenses and expenditures they incurred during the legal proceedings. After careful consideration and having regard to the intricate nature of this case, I exercise my discretion to award costs on Scale ‘C’, in accordance with Rule 67A(3) of the Uniform Rules of Court.

### **Order**

[44] In the result, the following order is issued:

1. The application to compel the respondents to submit the relevant material as listed in the letter dated 06 February 2020, as provided

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<sup>13</sup> See D e Van Loggerenburg Erasmus Superior Court Practice Volume 2: Uniform Rules and Appendices, Part D5 ‘Costs in general’ an overview of the law of costs.

in terms of section 46 of the Tax Administration Act 28 of 2011 is granted. The respondents are ordered to furnish the relevant material to the applicant free of alterations or retraction.

2. The relevant material must be provided to the applicant within 21 days from the date of this order.
3. The respondents are ordered to pay costs on Scale 'C' as contemplated in Rule 67A (3) read with Rule 69 of the Uniform Rules of Court, jointly and severally, one paying the other to be absolved.

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**N CENGANI-MBAKAZA**

**ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA**

**APPEARANCES:**

Counsel for the Applicant : Adv Sholto-Douglas SC with

Adv K Reynolds

Instructed by : Joubert Galpin Searle

Gqeberha

C/o Owen Huxtable Attorneys

Makhanda

Counsel for the Respondents : Adv A Botha SC with  
Adv J Pretorius

Instructed by : Pieterse Sellner Erasmus TRM  
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Makhanda

Heard on : 16 May 2024

Judgment Delivered on : 17 September 2024