

**REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO: 2018/58410

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: NO

DATE: 20/9/2024

MOKOSE SNI

In the matter between:

SASOL FINANCING INTERNATIONAL PLC

Applicant

and

THE COMMISSIONER FOR THE SOUTH AFRICAN
REVENUE SERVICES

Respondent

Case No: 2019/66502

SASOL FINANCING INTERNATIONAL PLC

1st Applicant

SASOL FINANCING (PTY) LIMITED

2nd Applicant

and

COMMISSIONER FOR THE SOUTH AFRICA
REVENUE SERVICE

1st Respondent

THE MINISTER OF FINANCE

2nd Respondent

LEAVE TO APPEAL

MOKOSE J

[1] The applicant has applied for leave to appeal to the Supreme Court of Appeal against the whole judgment and order I delivered on 1 August 2023 under the abovementioned case numbers.

[2] The applicant seeks leave to appeal on several grounds as stated in its application for leave to appeal. Counsel for the applicant addressed the court on the salient points raised in the application. These points were opposed by counsel for the first and second respondents on the grounds that I have reasoned out well in my judgment.

[3] Leave to appeal may be granted where a judge is of the opinion that the appeal would have a reasonable prospect of success or there are compelling reasons which exist why the appeal should be heard such as the interests of justice. In the matter of *Caratco (Pty) Limited v Independent Advisory (Pty) Limited*¹ it was pointed out that if the court is unpersuaded that there are prospects of success, it must still enquire into whether there is a compelling reason to entertain the appeal. Compelling reasons would include an important point of law or an issue of public importance that will have an effect on future disputes in our courts. The court also emphasised that the merits remain vitally important and are often decisive.

[4] The test laid down in Section 17 of the Act is now a subjective one and no longer an objective test. There must be a measure of certainty that another court will differ from the court whose judgment is sought to be appealed against.² The court held in the case of *The Mont Chevaux Trust v Tina Goosen & 18 Others* (*supra*) that:

"It is clear that the threshold for granting leave to appeal against a judgment of a High Court has been raised in the new Act. The former test whether leave to appeal

¹ 2020 (5) SA 35 (SCA)

² *The Mont Chevaux Trust (IT2012/28) v Tina Goosen & 18 Others* 2014 JDR 2325 at para [6]

should be granted was a reasonable prospect that another court might come to a different conclusion, see Van Heerden v Cornwright & Others 1985 (2) SA342 (T) at 343H. the use of the word "would" in the new statute indicates a measure of certainty that another court will differ from the court whose judgment is sought to be appealed against."

[5] I had dealt in depth with all the issues raised in the application for leave to appeal in my judgement. After listening to submissions by both counsel for the applicant and counsel for the first and second respondents and after reading the application for leave to appeal, I am of the view that there are prospects that another court would come to a different conclusion.

[6] In the premises, the following order is granted:

- (i) leave to appeal is granted in favour of the first and second applicants to the Supreme Court of Appeal; and
- (ii) the costs of the application for leave to appeal are costs in the appeal.

MOKOSE J
20 September 2024