

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

CASE NO:A291/2022

(1) REPORTABLE: ~~YES~~ / NO

(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO

(3) REVISED.

DATE: 31/10/2024

SIGNATURE

In the matter between:

**SOUTH AFRICA CUSTODIAL SERVICES
(LOUIS TRICHARDT (PTY) LTD**

APPELLANT

And

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

RESPONDENT

CORAM: MABESELE J; VAN DER SCHYFF J AND MOLELEKI AJ:

J U D G M E N T

MABESELE J:

[1] This supplementary judgement seeks to vary¹ the order in the main judgment, dated 21/08/2024, pursuant to a request by the appellant's attorneys per correspondence dated 12 September 2024. The respondent made submissions in this regard. After we had considered both the request and submissions by both parties and revisited our judgment we are of the firm view that the order should be varied in order to include our decision in respect of the second application which was dealt with in paragraphs 20-22 of our judgment. This is clearly an omission on our part. We found no merit in the second application as stated in paragraph 22 of the judgement.

[2] As to the issue of costs, both counsel had already argued that costs should be awarded to a successful party in respect of each application.

[3] For these reasons the order dated 21/08/2024 is varied as follows:

3.1. The appeal is upheld, partially

3.2. The order of the court *a quo* which dismissed the appellant's first application (case no. 40420/2020) is set aside.

3.2.1. The order of Cloete J, dated 17 October 2017, (in respect of the first application) constitutes a "final decision" as contemplated in the Anti- Prescription Agreement which was concluded by the parties on 13 October 2016.

3.4. The appeal in respect of the second application is dismissed.

3.4.1. The appellant is ordered to pay the respondent's costs on scale C, including the costs of two counsel.

¹ Rule 42(1)(b) of the Uniform Rules of Court provides that the Court may, in addition to any other powers it may have, *mero motu* or upon the application of any party affected, rescind or vary an order or judgment in which there is an ambiguity, or patent error or omission but only to the extent of such ambiguity, error or omission. The respondent, in paragraph 5 of the submissions, dated 20 September 2024, correctly states that this exceptional rule should be exercised sparingly.

M.M MABESELE

(Judge of the High Court Gauteng Division)

E.VAN DER SCHYFF

(Judge of the High Court , Gauteng Division)

M.MOLELEKI

(Acting Judge of the High Court, Gauteng Division)