



**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

JUDGMENT

Reportable/~~Not Reportable~~

Case no: A117/2025

In the matter between:

DR J REID

FIRST APPELLANT

DR J REID INC

SECOND APPELLANT

and

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

RESPONDENT

Neutral citation: X and Another v Commissioner for the South African Revenue Service
(A117/2025) [2026] ZAWCHC (16 April 2026)

Coram: SALLER AJ (FORTUIN J and RALARALA J concurring)

Heard: 21 JANUARY 2026

Delivered: 16 APRIL 2026

ORDER

1. The appeal is dismissed.
 2. The appellants to pay the costs of the appeal jointly and severally on scale C, such costs to include the costs of two counsel where employed.
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JUDGMENT

Saller AJ:

Introduction

- [1] This is an appeal under sections 133(1) and (2)(a) of the Tax Administration Act, 28 of 2011 ('TAA') against an order of the Tax Court *per* Magardie AJ on 2 December 2024.
- [2] The Tax Court dismissed an application launched by the appellants under Rule 52(2)(b) of the "Rules Prescribing Procedures for Lodging an Objection and Appeal, the Procedures for Alternative Dispute Resolution, the Conduct and Hearing of Appeals, Application on Notice before a Tax Court and Transitional Rules", as made by the Minister of Finance under section 103 of the TAA and promulgated on 10 March 2023¹ ('the 2023 Tax Rules' and 'the Rule 52(2)(b) application').
- [3] Rule 52(2)(b) entitles a taxpayer to apply to a tax court for an order that an objection treated by SARS as invalid under Rule 7, is valid. In the Tax Court, the appellants had sought an order declaring as valid the appellants' objection filed on 14 August 2023 ('the second objection' – to distinguish it from an earlier, presently irrelevant objection) against an estimated additional assessment made by the South African Revenue Service ('SARS') on 25 March 2022 under section 95(1) read with section 92 of the TAA.

¹ By way of R.3146 in GG 48188 of 10 March 2023

[4] The Rule 52(2)(b) application flowed from SARS’ notice of invalid objection under Rule 7(4) dated 22 September 2023 (‘the notice’), whereby SARS had informed the appellants, among other things, that the second objection was invalid in that it failed to meet the requirements set out in Rule 7(2)(b) for a valid objection.

The statutory scheme for the resolution of disputes

[5] The TAA sets out a detailed dispute resolution mechanism in Chapter 9 which is headed “Dispute Resolution”. This includes, in section 103, provision for the Minister of Finance² to make rules governing the procedures to lodge an objection and appeal against an assessment or other decision by SARS, and the conduct and hearing of an appeal before a tax board or a tax court. The 2023 Rules are those presently applicable rules.

[6] In section 1, the TAA defines “assessment” as “the determination of the amount of a tax liability or refund, by way of self-assessment by the taxpayer or assessment by SARS”.

[7] An assessment is based on a return submitted by the taxpayer to SARS, defined as “a form, declaration, document or other manner of submitting information to SARS that incorporates a self-assessment, is a basis on which an assessment is to be made by SARS or incorporates relevant material required under [the relevant provisions of the TAA]”.

[8] Chapter 8 of the TAA sets out the different types of assessments SARS may make. There are four different types of assessments identified in sections 91-94 of the TAA: original, additional, reduced, and jeopardy assessments.

[9] Section 95(1) of the TAA allows SARS to make each of the above-mentioned assessments on an estimated basis, if the taxpayer did not submit a return, submitted a return or other relevant material to SARS that was incorrect or inadequate, or did not respond as required to more than one request under section 46 of the TAA. Section 95(2) requires of SARS to make the estimate based on information readily available to it. Section 95(4) makes clear that the making of an estimated assessment under subsection (1) does not detract from the obligation on the taxpayer to submit a return or relevant material which the taxpayer is otherwise required to provide to SARS.

[10] Section 104(1) of the TAA entitles a taxpayer who is aggrieved by an assessment made by SARS in respect of that taxpayer to lodge an objection. Section 104(3) of the TAA

² In consultation with the Minister of Justice and Constitutional Development.

requires the objection to be lodged in the manner, under the terms, and within the period, prescribed in the 2023 Tax Rules.

[11] Furthermore, unless a High Court directs otherwise, section 105 of the TAA limits a taxpayer to disputing an assessment in proceedings under Chapter 9 of the TAA.³

[12] Under section 106(1) of the TAA, SARS is required to consider any “*valid objection*” in the manner and within the period prescribed in the TAA and the 2023 Tax Rules. Under section 106(2), SARS may disallow the objection or allow it in whole or in part. Once a notice of SARS’ decision has been issued to the taxpayer in respect of the objection, under section 107(1) the taxpayer may appeal against that decision to the tax board or a tax court.

[13] Section 106(1) does not specify what is a valid objection, but the necessary implication is that it is an objection that complies with section 104(3), read with the 2023 Tax Rules. These are Rules 7(1) and (2) of the 2023 Tax Rules, including in Rule 7(2)(b) the following requirements:

“(2) A taxpayer who lodges an objection to an assessment must-

...

(b) set out the grounds of the objection in detail including—

(i) specifying the part or specific amount of the disputed assessment objected to;

(ii) specifying which of the grounds of assessment are disputed; and

(iii) submitting the documents required to substantiate the grounds of objection that the taxpayer has not previously delivered to SARS for purposes of the disputed assessment.”

[14] Rule 7(4) then provides:

“Where a taxpayer delivers an objection that does not comply with the requirements of subrule (2), SARS may regard the objection as invalid and must notify the taxpayer accordingly and state the ground for invalidity in the notice ...”

[15] Rule 7(2)(b)(iii) was amended when the 2023 Tax Rules introduced a requirement into Rule 7 that a person objecting to an assessment must not merely “*specify*” documents

³ United Manganese of Kalahari v Commissioner, South African Revenue Service and Four Similar Cases 2026 (2) SA 227 (CC) para 48.

required to substantiate the grounds of objection as previously required,⁴ but to “*submit*” such documents as part of the objection insofar as they had not been previously provided to SARS.

[16] That requirement must be understood in light of the provision made in Chapter 4 of the TAA for the submission of returns and related documents to SARS by a taxpayer; and the provision made in Chapter 5 of the TAA granting SARS the power to gather information, including through a request under section 46 of the TAA, requiring a taxpayer or another person to submit to SARS relevant material (whether orally or in writing) that SARS requires.

[17] Read together, section 106(1) of the TAA read with Rule 7(2) and Rule 7(4) of the 2023 Tax Rules, create preconditions before an objection may be considered on the merits. Specifically relevant for present purposes is the burden imposed by Rule 7(2)(b)(iii) on an objecting taxpayer, akin to an evidentiary burden, which facilitates the proper determination of the merits of the objection with reference to all documents required to substantiate the grounds of objection.

[18] If SARS declines to decide the merits of an objection because it regards the objection as invalid for non-compliance with Rule 7(2)’s preconditions, the stage of allowance or disallowance of the objection cannot be reached without first resolving the objection’s disputed validity. Rule 52(2)(b) is the means by which this must be done.⁵

[19] An application under Rule 52(2)(b) is not an application for judicial review – the relief provided for by the Rule is an order declaring that the objection is valid. No provision is made for the remittal of the decision to SARS. This is in keeping with the nature of the Tax Court’s special appeal powers more generally, whereby the Tax Court gives its own decision on the merits of the case before it in place of SARS’ decision.⁶

[20] Whereas a review applicant may be content to identify material shortcomings in an administrator’s decision-making, and may succeed to have the matter remitted if they are

⁴ Rule 7(2)(b)(iii) of the old Rules promulgated by way of GN 550 in GG 37819 of 11 July 2014.

⁵ See the Full Bench decision in this division reported as *C.V v Commissioner for the South African Revenue Service* (A322/2019) [2020] ZAWCHC 140 (30 October 2020), despite dissent, all three Justices agreed on this point: majority decision of Mantame J and Ndita J at para 9; minority decision of Cloete J at paras 37-38, endorsing the Judgment in the Tax Court of Rogers J (as he then was) reported as *CM v Commissioner for the South African Revenue Service* (35/2019) [2019] ZATC 20 (11 September 2019) paras 51 and 52.

⁶ See in this regard the discussion in *United Manganese of Kalahari v Commissioner, South African Revenue Service and Four Similar Cases* 2026 (2) SA 227 (CC) paras 22-27.

able to identify a single material bad reason for the decision,⁷ an applicant under Rule 52(2)(b) must satisfy the Tax Court afresh that its objection is valid with reference to the requirements of Rule 7(2) before it can be afforded relief. This is also the hurdle the appellants must clear in the present appeal before us.

Factual background

[21] The factual background to the matter is fully traversed in the comprehensive judgment of the Tax Court, and not in issue. I traverse it briefly.

[22] The first appellant is a specialist neurologist who renders services to the second appellant company, and is its public officer. The SARS audit in respect of which the second objection was launched relates to the first appellant's liability for personal income tax and donations tax, and the second appellant's liability for corporate income tax and value added tax ('VAT').

[23] As part of the audit, SARS repeatedly but unsuccessfully required that it be granted access to the appellants' Healthbridge Electronic Medical Records System ('Healthbridge system') in order to verify information which the appellants had provided to SARS. It is access to the Healthbridge system that has become key to the determination of the appeal.

[24] On 25 March 2022 SARS issued the appellants with estimated additional assessments under section 95(1) of the TAA, read with section 92 ('the estimated assessments'). SARS' entitlement to employ section 95 is not in dispute.

[25] On 25 October 2022 the appellants filed their first objection to the estimated assessments, which became the subject of the appellants' first application to the Tax Court under Rule 52(2)(b). That application was withdrawn on 1 August 2023, after publication of the 2023 Tax Rules.

[26] The appellants did not challenge the lawfulness of the amendment of Rule 7(2)(b)(iii), and the introduction of the extended requirement relating to the provision, as opposed to the mere specification, of substantiating documentation. Instead, on 14 August 2023 the appellants submitted their second objection through their tax practitioners. In the second objection, the appellants accept in terms that the new Rule 7(2)(b)(iii) requires the

⁷ Rustenburg Platinum Mines Ltd (Rustenburg Section) v CCMA 2007 (1) SA 576 (SCA)

submission of substantiating documentation insofar as these have not already been provided.

[27] The second objection includes a table in which the appellants specify the documents on which they say they rely (“*documents ... referred to throughout this objection under the relevant sections*”), and indicate whether or not they were previously delivered to SARS. The appellants attach three additional documents to the second objection, likely compiled by their tax practitioners, as Annexure A (described as a recordal of the loan account between the first and second appellants), Annexure B (described as the second appellant’s debtor’s age analysis) and Annexure C (described as the second appellant’s VAT schedule).

[28] In respect of a further category, listed as item 4. in the above-mentioned table of documents, and identified as “[*the second appellant’s*] *Healthbridge Electronic Medical Records system for 2016 to 2020*”, the second objection tenders “*Electronic access*” to those documents. Later in the second objection (under para 34), the appellants again expressly agree to grant SARS access to the Healthbridge system.

[29] The seeds of the current dispute were sowed when in the second objection the appellants ostensibly challenged the reasonableness of SARS’ estimated assessments, while in substance putting SARS to the proof of the correctness of those assessments without, however, providing it with the substantiating documents that would have allowed SARS to properly make a determination on the merits.

[30] The standard of reasonableness as developed by our courts is one that is context-dependent and variable.⁸ The reasonableness of an estimated assessment falls to be determined with reference to the obligation which section 95(2) of the TAA places on SARS to make the estimate based on information readily available to it. Where the reasonableness of an assessment is challenged, the question to be asked, therefore, is whether the estimated assessment falls within the bounds of a reasonable conclusion based on the information readily available at the time the assessment was made. The question is not whether the estimates were objectively correct.

⁸ *Bato Star Fishing (Pty) Ltd v Minister of Environmental Affairs and Tourism and Others* [2004] ZACC 15; 2004 (4) SA 490 (CC) para 45.

- [31] In the second objection, the appellants begin by outlining what they say is the burden of proof cast on SARS to prove the reasonableness of the estimated assessments. What follows, however, does not constitute such an enquiry.
- [32] Instead, the second objection disputes the correctness of SARS' characterisation of payments to and from the first appellant as income, capital gains, and donations; the calculation of input and output VAT on the second appellant's income and expenditure, and the characterisation of payments to the second appellant as income; as well as the imposition and calculation of related penalties. The appellants provide what they say are factual explanations for payments and calculations, and argue points of law, and put SARS to the proof of their estimated assessments in light of such explanations. Instead of providing substantiating original material, however, the appellants attach documents which they or their tax practitioners have compiled, and, as mentioned, tender electronic access to the Healthbridge system.
- [33] In its notice of invalid objection, SARS denies that the grounds set out in the second objection translate into an onus on it under section 102(2) of the TAA. SARS instead asserts that that the burden is on the appellants to discharge the onus cast on them under section 102(1) of the TAA.
- [34] The first point to make is that the question of onus is not one that arises in the objection process at all. Where the onus lies is relevant to the ultimate determination of the merits of the objection in due course before a court.
- [35] Second, in the present matter, taking its cue from the manner in which the second objection is formulated, SARS proceeded to address correctness of the assessments, rather than their reasonableness based on the information readily available to it. However, it found itself unable to verify the appellants' claims in the absence of substantiating original documents and access to the Healthbridge system, and thus precluded from substantively considering the grounds of objection.
- [36] The unhappy result, in the notice of invalid objection, is SARS' conclusion that the appellants both failed to submit documentation required to substantiate their grounds of objection as required by Rule 7(2)(b)(iii) for a valid objection, and failed to discharge the onus cast on them by section 102(1) of the TAA, including to show that payments did not constitute taxable income or were deductible. Both cannot be true – in the absence of a valid objection that met the preconditions of Rule 7(2), including that in sub-rule (iii),

SARS was not in a position to take a view on whether the appellant's challenge to the correctness of the assessments was merited.

[37] That is also not something which either the Tax Court in the Rule 52(2)(b) application, nor this Court on appeal, is called on, or in a position, to determine. We are only concerned here with the validity of the objection.

[38] Under Rule 7(4), SARS had 30 business days within which to consider the second objection's compliance with the requirements of Rule 7(2), which period expired on Monday, 25 September 2023 – a public holiday.

[39] What followed was protracted engagement between the appellants' tax practitioners and SARS' Electronic Forensic Services Department ('EFS') who sought electronic access to the Healthbridge system. But it quickly became apparent that despite the appellants' tender, access would not be easily forthcoming. The appellants variously suggested access over the weekend, for unreasonably short periods, and later offered to provide what they said was a copy of the electronic data on a hard drive for SARS. SARS consistently advised the appellants that what it required was access by its EFS team to the original system over two consecutive working days.

[40] The engagement between SARS and the appellants at that stage must be considered against the background of the appellants' earlier refusal during the audit process to grant the EFS team access to the Healthbridge system, despite SARS' repeated requests to that effect. SARS had already informed the appellants at that stage that its audit protocols required the EFS team to access electronic records directly from the source so as to confirm the authenticity and veracity of the data.

[41] Given the impending expiry of the time period provided by Rule 7(4), SARS proposed an agreed extension of time to consider the validity of the second objection, which the appellants did not consent to.

[42] Eventually, the appellants agreed that the EFS team would be granted access to the Healthbridge system from 10am on 19 September 2023. There are different versions of what transpired when the EFS team arrived at the appellants' premises. What is clear and undisputed, is that despite the EFS team's request, the appellants and their employees were not present to assist SARS with practical access and guidance on how its Healthbridge system functioned, and where relevant data and reports contained on the system were located. This was not only required for practical purposes, but SARS has

explained that its officials are not permitted to access taxpayers' electronic systems unsupervised by the taxpayer due to risks of data loss, system crashes and potential civil liability. The EFS team left the premises without being able to access the Healthbridge system.

[43] Two days later, on 21 September 2023, with a single working day to spare ahead of the expiry of the statutory deadline, the first appellant reached out to SARS regarding electronic access. He did not tender an extension of the deadline, nor did he tender his presence during the EFS team's investigation. SARS informed him that there was insufficient time left to conduct the required investigation.

[44] On 22 September 2023, the last working day ahead of the expiry of the deadline, SARS issued its notice of invalid objection, in the form of a 20 page document that traversed in detail the appellants' grounds of objection. The notice concluded that the appellants had failed to submit a valid objection for reasons of non-compliance with Rule 7(2)(b), and also failed to discharge the onus on them under section 102(1) of the TAA. I deal with the question of onus in more detail below. The notice concluded with a proposal for a meeting between the parties.

[45] Further engagement ensued, during which SARS advised the appellants' tax practitioners that the first appellant would be required to personally attend a meeting with the EFS team to discuss the Healthbridge system. The parties were unable to agree on mutually convenient and available dates.

[46] On 24 October 2023 the appellants launched their application under Rule 52(2)(b) to the Tax Court that is the subject of the present appeal.

In the Tax Court

[47] In the Tax Court, the appellants argued that SARS had erroneously conflated the test for validity of an objection under Rule 7(2) with the question whether the objection should be allowed or disallowed on the merits. They argued that SARS' primary concern, as reflected in the notice, was that the taxpayers had not discharged the burden of proof which rested on them in terms of section 102(1)(a) of the TAA.

[48] The Tax Court was not persuaded. It found that while SARS did reference the burden of proof, the main reason given in the notice for the invalidation of the second objection was non-compliance with the preconditions for a valid objection. This related to the

taxpayers' failure to submit substantiating documents, and the lack of specificity in their objections, both of which were matters within the ambit of rule 7(2)(b).

[49] The appellants further argued that it was for the taxpayer to decide which documents were considered necessary to substantiate its grounds of objection, and that it was not for SARS to prescribe which documents should accompany an objection. If SARS considered that necessary documents were absent, its remedy was to request them under Rule 8, rather than invalidating the objection.

[50] The Tax Court found that Rule 7(2)(b)(iii) did not afford taxpayers a wholly subjective choice over which documents to submit. It found that if it were otherwise, a taxpayer could simply choose to submit nothing and still have the objection proceed to a merits determination, rendering the documentary submission requirement nugatory and undermining the statutory scheme.

[51] Third, the appellants argued that SARS's approach would trap them in a never-ending cycle of invalidated objections, effectively denying them access to court in breach of section 34 of the Constitution.

[52] The Tax Court dismissed this as speculative, finding no factual basis to conclude that SARS had adopted an inflexible position that the objections would never be accepted. The Tax Court further held that Rule 52(2)(b) itself provided a tailor-made mechanism for taxpayers to approach a court. The statutory scheme's requirement of a valid objection as a precondition for an appeal did not amount to an unlawful restriction of the right of access to courts.

[53] Lastly, on the substance of the appellants' grounds of objections, the Tax Court considered these and agreed with SARS that the appellants had adopted a generalised, globular approach in the objection, rather than dealing with each assessed amount individually as required by Rule 7(2)(b)(i), and had failed to submit basic substantiating documents as required by Rule 7(2)(b)(iii).

[54] The Tax Court dismissed the application.

The appellants' contentions

[55] By the time the matter was argued in this Court, the appellants' argument had crystallised from the somewhat diffuse case presented in heads of argument. At the core of the

appellants' submission in argument is the proper interpretation of Rule 7(2)(b)(iii) in light of the assignment of the burden of proof provided for in section 102 of the TAA.

[56] The appellants say that the requirement introduced in the amended Rule 7(2)(b)(iii) – that is, the requirement to “*submit*” substantiating documents along with the objection – was drafted for the “*normal, usual or invariable situation*” where it is the taxpayer who ultimately bears the burden of proof under section 102(1) of the TAA.

[57] Where, as here, SARS has issued estimated assessments under section 95 of the TAA, and will ultimately bear the burden of proving their reasonableness under section 102(2) of the TAA, the appellants say that it is inherently illogical and contrary to natural justice to require them to furnish documents substantiating their grounds of objection against an estimated assessments. They say this would effectively allow SARS to dictate how they run their case despite the onus on it, SARS, to prove the reasonableness of the estimated assessments.

[58] The appellants consequently submit that the context and purpose of the Rules, constitutionally interpreted, require that Rule 7(2)(b)(iii) and Rule 7(4) be interpreted “*so as not to apply to a taxpayer which does not bear the burden of proof*”. On the appellants' core argument, no more is required of a taxpayer who objects to an estimated assessment than “*genuinely*” and in good faith to dispute the assessment.

[59] At that point, so the argument goes, SARS is required to consider the objection on the merits. This is because, on the one hand, the documentation submission requirement of Rule 7(2)(b)(iii) will not apply, and, on the other, possibly in the alternative, SARS should exercise the “*administrative discretion*” afforded to it by Rule 7(4) to consider the objection as valid, in favour of the taxpayer.

[60] The interpretation for which the appellants contended would accordingly negate the requirement in Rule 7(2)(b)(iii) (that documentation required to substantiate the grounds of objection must be submitted insofar as it has not already been provided to SARS) in the case of an objection to an estimated assessment, where the grounds of the objection place in issue the correctness of the estimated assessment rather than its reasonableness with reference to the documents that had been readily available to SARS at the time it made the estimated assessment. Taken to its logical conclusion, it would also likely fatally undermine any effort by SARS to obtain additional substantiating documents under Rule 8.

[61] The most immediate problem with the appellants' argument on the facts of the present matter is that they expressly tendered, in their second objection, electronic access to their Healthbridge system which they identified as containing documents required to substantiate their grounds of objection as provided by Rule 7(2)(b)(iii). There can thus be no question of SARS dictating to the appellants what documents to provide – SARS did no more than to hold the appellants to their own version. Leaving all other issues aside, when the appellants made reasonable electronic access to the Healthbridge system impossible, they failed to submit the documents they themselves had identified as being required to substantiate their grounds of objection.

[62] Regarding the interpretation of the Rule contended for, the starting point is that there is no challenge before us – constitutional or otherwise – to Rule 7(2)(b)(iii) that might engage the Court's remedial powers to sever, or read in, any part of the Rule and it falls to be interpreted as it stands.⁹ The proper objective meaning to be ascribed to the provision therefore must follow the well-established process of judicial interpretation, having regard to the provision's text, context, and purpose, with due regard to the Constitution.¹⁰

[63] There is nothing in the language nor in the immediate context of Rule 7(2)(b)(iii), or in Chapter 9 of the TAA as a whole, to support the appellants' contention that a taxpayer who objects to an estimated assessment made under section 95 is subjected to a less onerous procedural burden than one who objects against an ordinary assessment. It is quite simply not a distinction that is drawn either expressly or by necessary implication in the statutory scheme.

[64] On the other hand, there are contextual indications to the contrary. As mentioned, section 95(4) of the TAA expressly provides that the making of an estimated assessment under subsection 95(1), due to the taxpayer's failure to submit to SARS a true and complete return or relevant material in whole or in part, does not detract from the taxpayer's continuing obligation to submit such a return or relevant material. In other words, there is no entitlement on the part of the taxpayer to withhold documentation which the taxpayer is obliged to produce, notwithstanding the practical mechanism devised by the TAA to deal with its failure to date to have done so.

⁹ *National Coalition for Gay and Lesbian Equality v Minister of Home Affairs* [1999] ZACC 17; 2000 (2) SA 1 (CC) para 24.

¹⁰ *Cool Ideas 1186 CC v Hubbard* [2014] ZACC 16; 2014 (4) SA 474 (CC) para 28.

[65] It is also worth noting that under section 100(1)(b), in the absence of an objection (which must mean a valid objection), an assessment becomes final. In submitting an objection, the taxpayer is seeking a reversal of the assessment. The requirement for the submission of substantiating documentation must be seen in this light.

[66] Moreover, Rule 7(2)(b)(iii)'s evident purpose – to ensure that SARS has available to it all substantiating documentation required to make a proper determination of an objection on the merits and thereby give effect to the statutory scheme which treats SARS' consideration of the taxpayer's objection as a precursor of an appeal to the Tax Court (see section 107(1) of the TAA) – is, if anything, of greater importance in circumstances where SARS was forced to make an estimated assessment because the taxpayer did not provide a return or relevant material at the audit stage.

[67] The appellants' argument hinges entirely on the assignment of the burden of proof in section 102 of the TAA. They rightly point out that, under sub-sections 102(1)(a)-(f), the taxpayer ultimately bears the burden of proving the elements of a reduction in tax liability (such as, for example, amounts being exempt or deductible, the applicable tax rate, and, generally, whether a decision that is subject to objection and appeal is incorrect). Under section 102(2), on the other hand, SARS bears the burden of proving that an estimated assessment made under section 95 is reasonable.

[68] That is a red herring for two reasons.

[69] First, because the burden of proof under section 102 of the TAA does not come into play at the objection stage, but applies in litigation in the Tax Court in an appeal as provided for by section 129 of the TAA.

[70] Second, because in the present matter the appellants' grounds of objection do not, in substance, challenge the reasonableness of the estimated assessments but take issue with their correctness.

[71] The appellants also say that only the interpretation they contend for will give effect to their constitutional right under section 34 of the Constitution to have their dispute with SARS decided by a court or other independent impartial tribunal or forum.¹¹ But it is clear that the preconditions imposed by Rules 7(2) and 7(4) do not infringe on the

¹¹ With reference to the Judgment of Rogers J for the Constitutional Court in *United Manganese of Kalahari v Commissioner, South African Revenue Service and Four Others* [2025] ZACC 2 para 76.

appellants' rights under section 34 of the Constitution, when regard is had to the ameliorating effect of Rule 52 which caters for the eventuality that SARS finds that such preconditions are not met. As the Tax Court has rightly noted, Rule 52(2)(b) provides a tailor-made mechanism for taxpayers in such circumstances to approach the Tax Court, as the appellants have done.

[72] The true obstacle standing in the appellants' way to have their dispute with SARS adjudicated on the merits by a court, is that they were unable to persuade the Tax Court of the validity of their second objection.

[73] In conclusion on the proper interpretation of Rule 7(2)(b)(iii), the appellants have not been able to show that the rule means anything other than what it says. Nor am I satisfied that the appellants' second objection meets the precondition of a valid objection imposed by Rule 7(2)(b)(iii), in that they have failed to submit to SARS the very documents which they say were required to substantiate their grounds of objection against the correctness of the estimated assessments through electronic access to the Healthbridge system.

[74] Lastly, the appellants say SARS' issuing of the notice of invalid objection was vitiated by institutional bias and improper purpose. They provide no evidence. In any event, since under Rule 52(2)(b) the Tax Court, as well as this Court on appeal, is required to consider the validity of the objection afresh, there is considerable doubt in my mind that an attack against SARS' notice of invalid objection on procedural grounds is open to the appellants.¹²

¹² See in this regard the discussion of Rogers J in *United Manganese of Kalahari v Commissioner, South African Revenue Service and Four Others* [2025] ZACC 2 at paras 94 and 95.

Conclusion

[75] Consequently, the appeal must fail.

[76] There is no reason for costs not to follow the result. The matter is of sufficient complexity to warrant a costs order scale C, and the employment of two counsel.

K SALLER
ACTING JUDGE OF THE HIGH COURT

I agree

N RALARALA
JUDGE OF THE HIGH COURT

I agree, and it is so ordered

C FORTUIN
JUDGE OF THE HIGH COURT

Appearances

For appellant: Adv T S Emslie SC et Adv A J Marais

Instructed by: Labuschaigne & Co Inc

For respondent: Adv T Golden SC et Adv M Titus

Instructed by: State Attorney, Cape Town