



## THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

### MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

**From:** The Registrar, Supreme Court of Appeal

**Date:** 12 May 2026

**Status:** Immediate

***The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal***

*The Commissioner for the South African Revenue Service v Poulter* (1110/2024) [2026] ZASCA 68 (12 May 2026)

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Today, the Supreme Court of Appeal (SCA) dismissed an appeal against the judgment of the Full Court of the Western Cape Division of the High Court, Cape Town (the full court), with costs.

The appeal concerned whether a non-legal practitioner may appear on behalf of a taxpayer in the Tax Court. The respondent, Ms Candice-Jean Poulter, had authorised her father, Mr Gary Van der Merwe (Mr Van der Merwe), who is not a legal practitioner, to appear and present her case in an appeal before the Tax Court concerning her 2018 tax assessment. The Commissioner for the South African Revenue Service (SARS) objected to his appearance on the basis that he was not a legal practitioner. The Tax Court upheld the objection, precluded Mr Van der Merwe from appearing, proceeded in the taxpayer's absence, confirmed the assessment, and ordered the taxpayer to pay costs on an attorney and client scale.

The full court set aside the Tax Court's decision and remitted the matter for a fresh determination. SARS appealed to the SCA. The central issue before the SCA was the proper interpretation of ss 12 and 125 of the Tax Administration Act 28 of 2011 (TAA), read with rule 44(7) of the Tax Court Rules (the TCR), and whether those provisions require a taxpayer's representative in the Tax Court to be a legal practitioner.

The SCA held that neither s 12 nor s 125 of the TAA regulates the taxpayer's right of appearance in a manner that restricts representation to legal practitioners. Section 125(2), before its deletion, expressly allowed an 'appellant or the appellant's representative' to appear at the hearing of a tax appeal and did not limit such representation to legal practitioners. Its deletion was a technical correction and did not remove the taxpayer's entitlement to appear personally or through a duly authorised representative.

The SCA further held that rule 44(7) of the TCR does not require the authorised person appearing on a party's behalf to be a legal practitioner. On its ordinary meaning, the phrase 'a person authorised to appear on the party's behalf' includes any individual vested with the taxpayer's authority. The Tax Court therefore erred in relying on that rule to exclude Mr Van der Merwe and to decide the appeal as though the taxpayer or her representative had failed to appear.

The SCA rejected SARS' reliance on earlier cases concerning the appearance of laypersons in ordinary courts, holding that those cases were distinguishable because they did not concern representation in the Tax Court under the statutory scheme created by the TAA.

The SCA also held that the earlier interlocutory order relied upon by SARS, which had stated that Mr Van der Merwe was not entitled to appear, could not justify his exclusion at the later tax appeal hearing.

Although it was unnecessary to decide the point, the SCA agreed with the full court that the Tax Court is not a court of law contemplated in s 166 of the Constitution. It held that the Tax Court is not listed in s 166 and is established on an ad hoc basis by presidential proclamation under the TAA, rather than by Parliament as part of the judicial system contemplated by the Constitution.

The SCA concluded that a duly authorised layperson may represent a taxpayer in Tax Court proceedings. The appeal was accordingly dismissed with costs.

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