



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

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QI Logistics v The Commissioner for SARS (180/2025) [2026] ZASCA 96 (3 July 2026)

Today the Supreme Court of Appeal (SCA) handed down judgment in an appeal against the judgment of the Gauteng Division of the High Court, Pretoria (Davis J sitting as court of first instance). The SCA upheld the appeal, with costs, including the costs of two counsel where so employed, and replaced the order of the High Court with an order setting aside the impugned decisions, remitting the matter back to the decision maker.

QI Logistics (Pty) Ltd (QI) is a licensed clearing agent. It received instructions to process the clearance of fuel shipments by road through the Komati border onto Botswana and Zimbabwe on behalf of several import and export companies. In 2009 the Commissioner of the South African Revenue Service (the Commissioner) informed QI that it was auditing goods transported in transit through the Republic from Mozambique to Zimbabwe during the period 1 April 2018 to 31 August 2018 and requested QI to submit the relevant clearance documents. This was followed by a notice of intent from the Commissioner, alleging contraventions of the Customs and Excise Act 91 of 1964 (the Act) and claiming approximately R47 million in duties, levies, and penalties from QI. Detailed representations were submitted by QI in response, together with four lever-arch files of acquittal documents.

There is no evidence that the Commissioner engaged with those representations. Instead, it issued a second notice of intent, holding QI liable for almost R13 million in duties and penalties in respect of 26 consignments of fuel. QI requested reasons why the documents were said to be insufficient to prove due acquittal, but the Commissioner never furnished any reasons. On 3 July 2019, the Commissioner issued a letter of demand, holding QI liable for over R14 million in duties and almost R21 million in penalties and forfeiture. The reasons stated in the letter of demand were sparse and repeated only that some entries were not endorsed for arrival and exit. The High Court held that QI was liable under the Act, but granted leave to appeal to the SCA against its finding. The central question on appeal was whether the reasons given for holding QI liable for duties, and for making the forfeiture-related demand,

as reflected in the notices of intent and the letter of demand, are rationally connected to the information before the Commissioner and to the statutory powers he purported to exercise.

Before the SCA, QI advanced two related complaints about defects in the Commissioner's decision-making process. The first complaint was that there is no evidence that the Commissioner engaged rationally with the material submitted, nor is there an explanation why it was insufficient to prove due export of the fuel. The second complaint concerned the decision under s 88(2) of the Act to demand an amount in lieu of forfeiture.

In respect of procedural rationality the SCA referred to the Constitutional Court's decisions in *Democratic Alliance v President of the Republic of South Africa*, and *Albutt v Centre for the Study of Violence and Reconciliation*, emphasising that the question is whether the Commissioner acted lawfully and rationally on the material before him, and whether the reasons disclosed a rational process from that material to the decision taken. The SCA confirmed that procedural rationality concerns whether the steps taken by the decision-maker bear a logical connection to the purpose of the power, the information before the decision-maker and the reasons advanced. A failure to consider material relevant to the exercise of public power may render the process irrational.

The SCA applied these principles to the two decisions implicated in the appeal, namely the Commissioner's decision to hold QI liable for duties, and the separate decision to demand an amount in lieu of forfeiture under s 88(2). It stressed that the distinction between the two decisions mattered because the procedural requirements attaching to those decisions are not identical.

The SCA found that the reasons provided for the decision to hold QI liable for duties did not demonstrate any rational engagement with the documents provided, nor do they explain why the material failed to prove due acquittal. Therefore the SCA held that the letter of demand lacked a demonstrated rational connection between the information before the Commissioner, the reasons given and the decision to hold QI liable for the unpaid duties.

On the other hand, the decision to demand an amount in lieu of forfeiture under s 88(2) of the Act is a discretionary power, which discretion is not merely mechanical but involves a distinct and reviewable exercise of public power. The SCA confirmed that it must therefore be exercised lawfully and rationally, consistently with the ordinary principles governing public power and with due regard to the purpose of the forfeiture provisions, namely protecting the revenue and the integrity of customs control while avoiding arbitrary or disproportionate punishment. In the absence of any disclosed basis showing how the s 88(2) discretion was exercised, the SCA found that that decision too was irrational and liable to be set aside.

As a result, the SCA upheld the appeal, with costs, including those of two counsel, and remitted the matter to the Commissioner for the reconsideration, on a complete record, of QI's representations and the furnishing of adequate reasons for the decision ultimately reached.