



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal
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Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

Africa Cash and Carry (Pty) Ltd

v

The Commissioner for the South African Revenue Service

Today the Supreme Court of Appeal dismissed an appeal by Africa Cash and Carry (Pty) Limited (the taxpayer) against a judgment of the Tax Court.

The taxpayer had suppressed its sales for the 2003 to 2009 tax years below the level of its actual sales by manually manipulating its financial records, resulting in its income tax and VAT liability being understated. It objected to SARS's subsequent estimated assessments of its under-disclosed income tax and VAT liability, and when the objection was disallowed, appealed to the Tax Court. The Tax Court had approved of the gross profit percentage methodology used by SARS to estimate the amount of the taxpayer's under-disclosed sales, altered the estimated assessments of income tax and VAT liability in terms of section 129(2)(b) of the Tax Administration Act 28 of 2011, reduced the liability for section 89quat interest accordingly, and dismissed the taxpayer's appeal.

The Supreme Court of Appeal specifically approved of the Tax Court's finding that

the use of the methodology employed by SARS was reasonable and that it had the power to alter the amounts in the estimated assessments issued by SARS, to amounts supported by the evidence adduced before it. Its judgement also commented on other methodologies which the taxpayer contended were more appropriate to estimate the amount of under-disclosed sales, income tax and VAT liability, which were all rejected in favour of the gross profit percentage method.