

ORIGINAL



CASE NO. B2495/23

In the application of:

GREYVENSTEYN, ANDRIES

and

THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

THE MINISTER OF FINANCE

THE SOUTH AFRICAN REVENUE SERVICE

GOLD KID TRADING (PTY) LTD



Applicant

First Respondent

Second Respondent

Third Respondent

Fourth Respondent

NOTICE IN TERMS OF RULE 16A

BE PLEASED TO TAKE NOTICE that the applicant herein has raised the following constitutional issues summarised hereunder, and in this application will be applying for an order declaring the sections referred to hereunder to be unconstitutional:

1. Section 180 of the Tax Administration Act 28 of 2011 ("TA Act"), insofar as it:

- 1.1. Infringes on the right guaranteed and entrenched by section 34 of the Constitution of the Republic of South Africa 1996 of a person (as the term is used in section 180) to have a dispute between the person and the South African Revenue Service ("SARS") about the person's alleged liability under section 180, determined in a fair public hearing before a court; and

- 1.2. Confers on - or affords to SARS the power unilaterally to determine such person's disputed liability under section 180 without such dispute being determined in a fair public hearing before a court or another independent and impartial tribunal or forum.
2. Section 184(2) of the TA Act, insofar as it:
 - 2.1. Infringes on the right of a person (as the term is used both in section 180 and section 184(2) with reference to section 180) to have a dispute between the person and SARS about the liability of the person under section 180, determined in a fair public hearing before a court, and;
 - 2.2. Confers on - or affords to SARS the power unilaterally to determine such person's disputed liability under section 180 without such dispute being determined in a fair public hearing before a court or another independent and impartial tribunal or forum;
3. Section 186(3) of the TA Act, insofar as it infringes upon a taxpayer's rights guaranteed and entrenched by:
 - 3.1. Section 21 of the Constitution of the Republic of South Africa 1996 and, in particular, the rights to freedom of movement, to leave and to enter the Republic and to a passport, and;
 - 3.2. Section 22 of the Constitution of the Republic of South Africa 1996 and, in particular, a taxpayer's right to choose their trade, occupation or profession freely;

TAKE FURTHER NOTICE that any interested party may, with the written consent of all the parties to the proceedings, given not later than 20 days after this notice has been filed, be admitted therein as *amicus curiae* upon such terms and conditions as may be agreed upon in writing by the parties.

TAKE FURTHER NOTICE that the written consent referred to above shall, within five days of its having been obtained, be lodged with the Registrar and the *amicus curiae* shall, in addition to any other provision of the Rules, comply with the times agreed upon for the lodging of written argument.

TAKE FURTHER NOTICE that if the interested party is unable to obtain written consent as contemplated herein, he or she may, within five days of the expiry of the 20-day period prescribed above, apply to the Court to be admitted as an *amicus curiae* in the proceedings. Such application shall—

- (a) Briefly describe the interest of the prospective *amicus curiae* in the proceedings;
- (b) Clearly and succinctly set out the submissions which will be advanced by the prospective *amicus curiae*, the relevance thereof to the proceedings and his or her reasons for believing that the submissions will assist the court and are different from those of the other parties; and
- (c) Be served upon all parties to the proceedings.

TAKE FURTHER NOTICE that any party to the proceedings who wishes to oppose an application to be admitted as *amicus curiae* shall file an answering affidavit within five days of the service of such application upon such party. The answering affidavit shall clearly and succinctly set out the grounds of such opposition.

DATED at JOHANNESBURG this 17 day of MAY 2023.



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**TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT,
PRETORIA**

**AND TO: THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE
FIRST RESPONDENT**

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Khanyisa Building
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-FOR SERVICE BY SHERIFF-

&

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&

STATE ATTORNEY

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-FOR SERVICE BY SHERIFF-

**AND TO: THE MINISTER OF FINANCE
SECOND RESPONDENT**
Old Reserve Bank Building, 2nd Floor
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Pretoria Central

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&

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-FOR SERVICE BY SHERIFF-

**AND TO: THE SOUTH AFRICAN REVENUE SERVICE
THIRD RESPONDENT**

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