



**IN THE COMPANIES TRIBUNAL OF THE REPUBLIC OF SOUTH AFRICA
("THE TRIBUNAL")**

CASE NUMBER: CT004OCT2015

In the matter between:

THE NEW RECLAMATION GROUP (PTY) LTD

APPLICANT

and

COMPANIES AND INTELLECTUAL

PROPERTY COMMISSION

RESPONDENT

Coram: PJ Veldhuizen

Order delivered 13 January 2016

ORDER & REASONS

1. Introduction

- 1.1 The Applicant applied to the Tribunal in terms of section 172 of the Companies Act No. 71 of 2008 (“the Act”), read with section 212 of the Act, for the review of a decision taken by the Respondent on 16 September 2015.
- 1.2 The Tribunal erroneously issued an Order on 10 December 2015 refusing the Application.
- 1.3 The adjudication of the matter was erroneous in that the Applicant had not applied for a Default Order and consequently the Tribunal was not in a position to make such a Default Order.

2. Applicable Law

Regulation 153, Companies Act, 2008 – Default Orders

- (1) If a person served with an initiating document has not filed a response within the prescribed period, the initiating party may apply to have the order, as applied for, issued against that person by the Tribunal.
- (2) On an application in terms of sub-regulation (1), the Tribunal may make an appropriate order—
 - (a) after it has heard any required evidence concerning the motion; and
 - (b) if it is satisfied that the notice or application was adequately served.

Rule 42 – Uniform Rules of Court - Variation and Rescission of Orders

- (1) The court may, in addition to any other powers it may have,

mero motu or upon the application of any party affected, rescind or vary:

- (a) An order or judgment erroneously sought or erroneously granted in the absence of any party affected thereby; [Para. (a) as substituted by GN R235 of 18 February 1966.]

3. Order

For the reasons above, the Default Order granted on 10 December 2015 is rescinded.



PJ VELDHUIZEN

MEMBER OF THE COMPANIES TRIBUNAL

CAPE TOWN