



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

CASE NUMBER: CT009JUL2018

In the matter of:

VALUE LOGISTICS LTD

APPLICANT

and

OSETSEKAE VALUE LOGISTICS (PTY) LIMITED

RESPONDENT

Coram: PJ Veldhuizen

Date of Hearing: Not Applicable – Default Order

Order delivered: 31 August 2018

DEFAULT ORDER & REASONS

A. INTRODUCTION

1. THE PARTIES

- 1.1. The Applicant is **VALUE LOGISTICS LTD** (“the Applicant”), a company duly incorporated and existing under the company laws of the Republic of South Africa, having its principal place of business at 49 Brewery Road, Isando, Gauteng, 1600.
- 1.2. The Respondent is **OSETSEKAE VALUE LOGISTCS (PTY) LTD** (“the Respondent”), a company duly incorporated in terms of company laws of the Republic of South Africa with a registered office address at 1395 Wonderpark Estate, Karenpark Ext. 4, Akasia, Gauteng, 0182.

B. THE APPLICATION

2. This is an application for a Default Order against the Respondent. The application is based on Sections 11(2) and 160, read with Regulation 153 of the Companies Act 71 of 2008 (“the Act”).
3. The Applicant is the registered proprietor in South Africa of several trade marks incorporating or comprising the words **VALUE** and **VALUE LOGISTICS**. The Applicant has comprehensively set out details of the registered trade marks in the affidavit deposited to by its duly authorised representative, **GINA LUZZATTO**, the Applicant’s Group Legal Advisor.
4. The Applicant’s registered rights predate the Respondent’s company registration by many years and remain valid and in force.
5. The Applicant has been in existence and has operated in the transport and logistics

industry since 1 July 1920.

6. During the past four decades, the Applicant has made extensive and considerable use of the **VALUE** and / or **VALUE LOGISTICS** marks and has developed a reputation and goodwill related to the use thereof.
7. The Applicant seeks an Order directing the Respondent to change its name to a name that meets the requirements of the Act.

C. POINTS FOR DETERMINATION

8. Were the Tribunal's procedural requirements met?
 - 8.1. Applicant is required to establish good cause in terms of section 160(2)(b) as to why there has been a delay in bringing this application after becoming aware of the Respondent's registration.
 - 8.2. The Applicant has testified as to the steps it took upon becoming aware of the Respondent and the Tribunal accepts that it has not unreasonably delayed pursuing its objection to the Respondent's company name.
 - 8.3. Accordingly, the Tribunal accepts that the Applicant has satisfied the requirement contemplated in section 160(2)(b).
9. Service / Jurisdiction.

9.1. The Applicant has provided proof of service of this application on the registered address of the Respondent in accordance with Act and the Respondent has failed to answer within the required time period.

9.2. The Tribunal enjoys jurisdiction to hear the matter and to grant the relief sought.

D. EVALUATION OF EVIDENCE

10. The deponent to the founding affidavit, **GINA LUZZATTO** as well as the Applicant's attorney of record, in the affidavit supporting the request for a Default Order have directed the Tribunal to the provisions of the Act and Regulations upon which they rely for the relief sought.

11. Furthermore, the Applicant has provided sufficient evidence in its papers filed that the Respondent's name offends section 11(2) of the Act. This evidence remains unchallenged.

12. The Tribunal therefore accepts the uncontested version put up by the Applicant and grants the relief as set out in E below.

E. DECISION

13. The Applicant is granted a Default Order in terms of Section 160(3) of the Companies Act 71 of 2008 and Regulation 153 of the Companies Regulations of 2011 in the following terms:

- 13.1. It is determined that the Respondent's company name does not satisfy the requirements of the Act.¹
- 13.2. An administrative order is issued directing the Respondent to choose a new name, and to file a notice of amendment to its Memorandum of Incorporation within 30 days of this administrative order.²
- 13.3. The Respondent is ordered to pay the costs of this application.³

PJ VELDHUIZEN

MEMBER OF THE COMPANIES TRIBUNAL

CAPE TOWN

¹ Section 160(3)(a) of the Act

² Section 160(3)(b)(ii) of the Act

³ Regulation 156(1) of the Act