

Supreme Court of Appeal of South Africa

MEDIA SUMMARY– JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

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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.

C: SARS v Volkswagen South Africa (Pty) Ltd

The SCA today upheld an appeal by the Commissioner for the South African Revenue Service against a decision by the Tax Court, Port Elizabeth concerning the valuation of Volkswagen's trading stock on hand at the close of a tax year. The Tax Court had held that the trading stock be valued in accordance with its net realisable value as set out in IAS 2 of the International Financial Reporting Standards and published in South Africa by the Accounting Practices Board as AC 108 in Generally Accepted Accounting Practice (GAAP).

In terms of s 22(1)(a) of the Income Tax Act trading stock must be valued at cost price, subject to the Commissioner being entitled to make a just and reasonable allowance if the stock has diminished in value for any reason acceptable to the Commissioner. The SCA held that this does not mean that it is to be valued at market value or net realisable value, but on the basis that cost price is the baseline. It is only where in lay parlance the stock is no longer worth what was paid for it, that the Commissioner may make an allowance.

The SCA held that valuing stock at net realisable value was contrary to two fundamental principles. The first was that taxable income is

determined from year to year by looking at events that have taken place during that year so that tax is backward looking, while net realisable value is forward looking. The second was that the effect of using net realisable value is that expenses that will only be incurred in a future year in the production of taxable income in that future year would become deductible in an earlier tax year. That is inconsistent with the provision that only expenses incurred in the production of income in a particular year are deductible in that year.

The appeal was accordingly upheld with costs, including the costs of two counsel and the additional assessments raised by the Commissioner were confirmed.