

IN THE SUPREME COURT OF NEW ZEALAND

**SC 66/2007
[2007] NZSC 84**

BETWEEN WESTPAC BANKING CORPORATION
 Appellant

AND COMMISSIONER OF INLAND
 REVENUE AND OTHERS
 Respondents

SC 67/2007

BETWEEN ANZ NATIONAL BANK LTD AND
 OTHERS
 Appellants

AND COMMISSIONER OF INLAND
 REVENUE
 Respondent

Court: Elias CJ, Blanchard and Tipping JJ

Counsel: J A Farmer QC and R B Lange for Appellant (SC 66/2007)
 L McKay and S J Katz for Appellants (SC 67/2007)
 B W F Brown QC and R J Ellis for Commissioner

Judgment: 18 October 2007

JUDGMENT OF THE COURT

- A Leave to appeal is granted in both applications. The appeals will be heard together.**
- B The approved ground of the appeals is whether by virtue of:**
- (a) Section 81 of the Tax Administration Act 1994 (the Act); or**
- (b) Public interest immunity**

the Commissioner is prohibited from discovering in proceedings between the Commissioner and certain Bank of New Zealand Group companies any documents pertaining to persons who are not party to such proceedings (non-party taxpayers) that have come into the possession of the Commissioner by way of tax returns, requisitions, tax audit or the invoking by the Commissioner of s 17 of the Act; and whether any such prohibition is absolute or permits such use by the Commissioner of redacted or other forms of such documents that protect the secrecy and confidentiality of the non-party taxpayers.

- C Leave to intervene is granted to ASB Bank Ltd. The intervenor's written submissions must be filed and served by the date on which submissions are due from the appellants. The Court will determine at the hearing whether the intervenor will be given the opportunity of making any oral submissions.**

Solicitors:
Simpson Grierson, Auckland for Appellant (SC 66/2007)
Russell McVeagh, Auckland for Appellants (SC 67/2007)
Crown Law Office, Wellington