

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 142/2023
[2024] NZSC 9

BETWEEN BEENA JYATIN TAILOR
Applicant

AND COMMISSIONER OF INLAND
REVENUE
Respondent

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REVENUE
Respondent

Court: Glazebrook, Ellen France and Kós JJ

Counsel: Applicants in person
H W Ebersohn for Respondent

Judgment: 16 February 2024

JUDGMENT OF THE COURT

- A The applications for leave to appeal are dismissed.**
- B The applicants must pay the respondent one set of costs of \$2,500.**

REASONS

[1] Both applicants were assessed by Inland Revenue as having failed to pay their taxes. The respondent commenced the statutory disputes procedure set out in Part 4A of the Tax Administration Act 1994. Ultimately the respondent reassessed the first

applicant's tax liability at \$42,940.59 and the second applicant's tax liability at \$76,206.46. Neither sum has been paid.

[2] Section 109 of the Act provides no disputable decision (including an assessment) may be disputed in a court or in any proceedings except in challenge proceedings and each disputable decision shall be taken as being correct in all respects. No such challenge was mounted by the applicants.

[3] The respondent brought debt proceedings in the District Court to recover the assessed tax liabilities. Neither applicant filed a statement of defence. That resulted in judgments by default. The respondent then issued bankruptcy notices. The applicants failed to comply with these notices, thereby committing acts of bankruptcy.

[4] The respondent then applied for orders adjudicating the applicants bankrupt. The applicants failed to attend the hearing. The High Court adjudicated them bankrupt on 22 September 2022.

[5] The Court of Appeal later dismissed applications for extension of time to appeal the adjudications in bankruptcy.¹ It reasoned:

[4] *Smith v Commissioner of Inland Revenue* is directly on point. There can be no doubt that there has been an act of bankruptcy – failure to comply with a bankruptcy notice – and the tax assessment on which the notice was founded is deemed correct unless challenged under the relevant processes in the Tax Administration Act 1994. This the applicants failed to do. No purpose would be served by extending time to appeal the adjudications.

Two attempts were made by each applicant to recall that judgment. Both were dismissed.²

[6] The applicants then sought annulment of the original orders adjudicating them bankrupt, but were unsuccessful.³ An application for recall of that decision was also unsuccessful.⁴

¹ *Taylor v Commissioner of Inland Revenue* [2023] NZCA 178 (Miller and Collins JJ).

² *Taylor v Commissioner of Inland Revenue* [2023] NZCA 306 (Miller and Collins JJ); and *Taylor v Commissioner of Inland Revenue* [2023] NZCA 559 (Miller and Collins JJ).

³ *Commissioner of Inland Revenue v Taylor* [2023] NZHC 2520 (Associate Judge Paulsen).

⁴ *Commissioner of Inland Revenue v Taylor* [2023] NZHC 3452 (Associate Judge Paulsen).

Proposed appeal

[7] The applicants now seek leave to appeal to this Court to enable them to contest their assessed tax liabilities. The grounds of the proposed appeal are that they do not owe the tax and that the High Court adjudicated them bankrupt based on incorrect reassessments by the respondent.

Our assessment

[8] The proposed appeals do not meet the statutory criteria for leave. They raise no question of public or general importance.⁵ Nor do they raise an issue of general commercial significance.⁶ There is no evident error in the reasoning of the Court of Appeal and therefore no likely substantial miscarriage of justice (as that term is used in a civil context) if the appeals are not heard.⁷ The applicants' failure to challenge the assessments via the procedure set out in the Act meant they must be deemed to be correct.⁸ Section 109 of the Act stands in the way of collateral judicial challenge to those assessments now. For all these reasons it is not necessary in the interests of justice for the Court to hear and determine the appeal.⁹

Result

[9] The applications for leave to appeal are dismissed.

[10] The applicants must pay the respondent one set of costs of \$2,500.

⁵ Senior Courts Act 2016, s 74(2)(a).

⁶ Section 74(2)(c).

⁷ Section 74(2)(b); and see *Junior Farms Ltd v Hampton Securities Ltd (in liq)* [2006] NZSC 60, (2006) 18 PRNZ 369 at [5].

⁸ Section 109(b).

⁹ Senior Courts Act, s 74(1).