IN THE REVENUE APPEALS TRIBUNAL ESWATINI

JUDGMENT

CASE NO: RATE/IT001/22

In the appeal between:

RATE/IT001/22	**APPELLANT**
And	
THE COMMISSIONER GENERAL -	**RESPONDENT**
ESWATINI REVENUE SERVICES	

Neutral Citation:	*RATE/IT001/22 v The Commissioner for Eswatini Revenue Services (001/22) (2023) RATE 001* (April 2023)
Coram:	Mr Mbuso Simelane, Ms Fikile Dlamini, Ms Ntombenhle Shongwe, Mr Sandile Dlamini, Ms Khethiwe Dlamini (Members)
Heard:	23 March 2023
Delivered:	This judgment is to be handed down electronically by circulation to the parties, legal representative by email and uploaded on email platform. The date for hand-down is deemed to be 18 April 2023

Summary: Income Tax-Gross Income -2016-2019 Pay as you Earn (PAYE) audit assessment – Benefits in kind.

Appellant offers its employees children's educational assistance program in which the school fees of children of employees of the school are calculated using marginal cost to the employer, which is a lesser amount of school fees than that of non- employee parents whose children are enrolled at the school. The Appellant disputes the valuation of the benefit by the Respondent and argues that since the Income Tax Order of 1975 as amended, is silent on the valuation of the benefit, it should therefore be determined at cost, and to arrive at cost, marginal cost should be used as per the South African position.

Before this Tribunal Respondent disputes the Appellant's valuation of the benefit and submit that by their valuation, the Appellant understated the PAYE of teachers with children learning at the school-basing the view on ERS Practice Note No.157-taxation of benefits in kind and certain allowances which states that the value should be the market value of the benefit.

> The pertinent provision in the Income Tax Order on the definition of "gross income", including the taxation of benefits in kind, is section 7 (f) which provides thus, "***the annual value of any benefit or advantage accruing by way of employment, including that of any quarters, board or residence;"***

JUDGMENT

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1) The Appellant is RATE/IT001/22, a school duly registered in terms of the laws of Eswatini whose principal activity is to provide educational services. It is a school with its principal place of business at xxx in Eswatini.

2) The Respondent is described as Eswatini Revenue Service, a semi-autonomous revenue administration agency on behalf of the state, established through the Revenue Authority Act No. 1 of 2008. This organisation operates within the broad framework of government but outside of the civil service. The Commissioner General cited herein his official capacity as the Chief Executive Officer of Eswatini Revenue Service, a legal body charged with the responsibility of revenue collection on behalf the Government of Eswatini.

3) The facts of the matter are set in the paragraphs that follow; The employees (teachers) have their children enrolled at the Appellant school as per their employment contract with the Appellant, in terms of which, the employees of the Appellant whose children are enrolled pay school fees calculated using a marginal cost to the employer (cost of an additional student of a staff member) , which is a lesser amount of school fees from that of non-staff parents whose children are enrolled at the school.

4) Appellant received a final tax audit report (with findings and revised tax computations) for the years 2016 to 2019 dated the 18th December 2019, which was issued by the Respondent. The Appellant, apparently dissatisfied with the findings of the audit report, raised an objection to the findings and outcome of the audit report. The objection letter is dated 9th January 2020 and a response was issued on the 4th of December 2020, Respondent entertained the objection on the merits and dismissed it confirming the findings of the audit report with regards to the educational benefit. The last paragraph of the said letter states as follows: -

   "…. Kindly be advised to make full payment of the amounts as determined by the auditors, and seek advice from the authority in cases where you are in doubt with regards to the taxability of any income item in future…"

5) On the 7th April 2021, the Appellant wrote a letter of appeal to the Respondent in which he disputed the manner of valuation of the benefits as provided by paragraph 3.2 of the Legal Notice no. 4 of 2007 (The Practice Note on Taxation of Benefits in Kind and Certain Allowances arising from Employment by the Respondent). The Respondent entertained the appeal and dismissed it by a letter dated 14th November 2022. The last paragraph of the said letter is in the following words:

   "…**Please note that, in as far as we are concerned, we have exhausted all internal structures in this matter administratively. May we kindly advise that, in case of further interpretation or submissions on say, you are free to engage external structures to test our stance on this matter..".**

6) The Appellant was not satisfied with this outcome and thereupon launched an appeal to this Tribunal on the 22nd December 2022. Mr KN Simelane appeared on behalf of the

Appellant and Ms Bongekile Singwane appeared on behalf of the Respondent. The Appellant has raised the following grounds of appeal:

1. That the Respondent erred in law in finding that the children's educational assistance benefit afforded by the Appellant to its employees is taxable and it was under declared.

2. That the Respondent erred in law in finding that the definition of the value of the benefit of the educational assistance offered by the Appellant to its staff members is to be interpreted in terms of paragraph 3.2 of the Practise Note.

3. The Respondent erred in law in finding that the calculations of the cost of the benefit offered by the Appellant to its staff members is the market value of the educational benefit.

4. That the Respondent erred in law in finding that the method of calculation of the cost of the benefit provided for in paragraph 7.1 of the Practise Note is provided for in the tax legislation.

7) At the beginning of the arguments, the Tribunal was informed that Appellant was abandoning ground one and pursuing ground two, three and four. The question at the centre of this appeal now are three issues for determination and the Tribunal breaks them down below:

    7.1 The Appellant seeks the Tribunal to determine whether the educational benefit afforded to the employees of RATE/IT001/22 forms part of gross income in terms of section 7(f) of the Order and was therefore liable to tax?

    7.2 The Appellant seeks the Tribunal to determine whether the value of the educational benefit accruing to RATE/IT001/22 employees has been correctly determined by the ERS i.e., whether the ERS was correct to determine the value in accordance with paragraph 3.2 of the Practise Note.

    7.3 Lastly the Appellant seeks the Tribunal to determine whether there was an understatement of PAYE emanating from the valuation of the educational

assistance benefit at marginal cost/actual cost incurred instead of the cost incurred by the employer.

8) Appellant's submission

The Appellant in the above cases advances the following main arguments as to its case; The Appellant submits it did not under declare its employee's income tax. Instead that, it is in fact the Respondent's calculation of cost of the educational assistance benefit ("the **benefit**") that the Appellant's employees enjoy, that led to the finding of an under declaration by the Appellant.

8.1 The Appellant argues that the Respondent's calculation of the value of the educational assistance benefit advanced to the Appellant's employees using **Legal Notice No. 4 of 2004**, is erroneous as this notice was repealed. The Appellant submits that the Respondent ought to calculate the value of the benefit using **Legal Notice No. 4 of 2007**, which clearly states that the *value of the benefit is the cost to the employer for providing such benefit*.

8.2 The Appellant as a point of Departure raises a technical issue in which it draws the attention of the Tribunal to the fact that in dismissing its initial appeal the Respondent relied on Legal Notice No.4 of 2004, only to later argue that it is in fact Legal Notice No.157 of 2007 that applies. The Appellant submits that the Respondent is not at liberty to sway the legal basis for dismissing an objection at its pleasing and thus, the Appellant submits that the appeal is made pursuant to the Respondent's first Legal basis for dismissing its objection. Considering that is the basis on which the appeal was lodged, the Appellant argues that in fact on this mishap alone by the Respondent, the Appellant objection should be upheld. However, in the event the Tribunal holds a different view, the Appellant continued its argument on the merits or substance of its case.

8.3 The Appellant in terms of its merits argues that the law is clear in Paragraph 7 (f) of the Income Tax Order read together with Paragraph 7.1. of the Practice Note or Legal Notice No.4 of 2007. In particular that Paragraph 7 of the Legal Notice clearly articulates that:

"Where a benefit provided by an employer to an employee consists of the provision of educational assistance in connection with the education of an employee's children,

the value of the benefit ***is the cost of the benefit to the employer for providing such educational assistance.*** (Appellant emphasis)

8.4 The Appellant argues that this cost is the marginal cost that the employee providing the benefit incurs in providing the benefit.

"…**To this end the Appellant relies on the explanation of the author *Dury*[1] and the case of *Pepper v Hart* [2] which both serve to illustrate that where a benefit is provided in-house the calculation differs and is more difficult to quantify because the employer already incurs a cost on providing the service to the public and the cost of providing the same service to the employee is only a "*marginal additional expense*".**

8.5 For emphasis the Appellant referenced the computation in the South African Jurisdiction, which is contained in the SARS Guide for Employers in respect of Fringe benefits, and it emphasises that:

"the value of the benefit in respect to education, is the marginal cost involved in the tuition of the additional person. If the employee contributes that is equal to or more than the marginal cost, no taxable benefit accrues".

8.6 The Appellant argues that unfortunately even the provisions that the Respondent goes on to rely on, have no concrete guidance as to what the "value" of the benefit is, but simply define the benefit. Yet the Respondent insists on imputing its own interpretation that the value of the benefit is in fact the market value of the benefit, which the Appellant argues has no basis in law. The Appellant submits that Practice Note 4 of 2007, was enacted to give guidance and clarity on section 7 of the Income Tax Order and is binding on the Respondent. Therefore, there is absolutely no reason to apply neither the arm's length approach nor any other approach aside from the one stipulated in the Law.

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[1] Management Cost Accounting, 10th Edition

[2] (65) TC (UK) 421

8.7 The Appellant submits that, to insist on applying any other approach would deviate from the general principles of Taxation which are neutrality, efficiency, certainty, simplicity, flexibility, and fairness.

8.8 The Appellant submits that in keeping with these principles, if the Tribunal takes the view that the law is ambiguous in this sense (which the Appellant denies), even so the case of *Speckles Sugar Refining Co. vs McClain*[3] which explained the *contra fiscum rule* states that:

> "**where the construction of Tax law is doubtful, the doubt is to be resolved in favour of those upon who the tax is sought to be laid".**

8.9 Therefore, the provisions which are in contention should be interpreted in favour of the Appellant and that the Respondent's decision on the Appellant's objection should be set aside.

9) The Respondent's submission

The Respondent submits that pursuant to a PAYE audit conducted on the Appellant on which several findings were made, the parties agreed on all issues but one. That being the "Childrens Educational Assistance Allowance", which the Respondent submits, is a "Fringe benefit" associated and /or dependant on employment with the Appellant.

9.1 Relying on the case of *BMW South Africa vs CSARS*[4] regarding the classification of a fringe benefit it is held that;

> "**If is the actual use to which the service is put, not the intentions with which it is provided which is the determining factor. The determining factors is one of fact. The use must be wholly private or domestic..".**

9.2 To this end, the Respondent stated that the benefit affords private enjoyment or benefit solely to the employees of the Appellant and relates to their private affairs and has no direct or adverse benefit to the school. The Respondent argues that it matters

[3] 192 US 379 (1904)

[4] BMW South Africa vs Commissioner of South African Revenue Services 2018 JDR 1830 (GJ)

not whether the educational benefit serves to attract teaching staff to the school, as that falls outside the parameters of the objective test. Thereby the benefit falls within the ambit of a fringe benefit for purposes of Income Tax.

9.3 The Respondent argues to this end, that the value of such fringe benefit is included in section 7 of the Income Tax Order, whose sub paragraph (f) states that;

> **"*the annual value of any benefit or advantage accruing by way of employment, including that of any quarters, board, or residence provided that in calculating the gross income of any person;....(iv) fifty percent (50%) of the total amount paid by an employer during the year of assessment directly or indirectly, by way of contribution to any approved bursary scheme for the benefit or educational assistance of the children of any employee or dependants of such employee shall not be included*".**

9.4 The Respondent further emphasized, citing author *D Clegg*[5] that;

> ***"the foundational requirement for the transformation of a benefit or advantage into a taxable benefit is that it must flow from employment"*** (Respondent emphasis). To this end the Respondent that the benefit falls within the benefits of the Appellant employee's gross income and must be taxable.

9.5 In coming to the value of the benefit for purposes of Taxation, the Respondent submits that though the Income Tax Order does not have a definition for <u>cost</u> in relation to how the educational assistance is provided to teachers at the school is to be determined, the Legal Notice No.4 of 2007 in its Part B, paragraph 3.2 offers a reprieve by stating that:

> **"*the value of a benefit in kind is the market value of the benefit on the date the benefit is taken into account for tax purposes*".**

9.6 The Respondent states that in addition to the above, paragraph 5.1. of the same Legal Notice stipulates that;

> "**Where a benefit is by an employer to an employee consists of the provision of an educational assistance in connection with the employee's children, the value of that benefit is the cost of the benefit to the employer for providing such educational assistance".**

[5] Taxation of Employees

9.7 The Respondent argues that these provisions give clarity on the computation or determination of the value of the benefit and to that end “we cannot consider other instruments of other jurisdictions as this will leave us in a state of confusion”.

9.8 In summing up its argument the Respondent submitted that the benefit of the educational discount or assistance afforded to the Appellant employees forms part of the individual employee’s income and it follows that its value should be based on the difference between fees paid by the Appellant employee’s and fees paid by non-RATE/IT001/22 employee’s children. And that is “market value” thereof.

9.9 The Respondent prays that the Tribunal dismiss the Appellants appeal with costs and direct the Appellant to approach the Respondent for a payment arrangement in respect of the audits assessment in respect of the educational assistance discount.

10) Members Analysis

After the above submission by both parties, it should be noted, because it is fundamental to the preliminary issues raised by the Respondent, on the payment of tax pending appeal. The challenge to the Tribunal on this rule advanced by the Respondent is because it was raised during the hearing and the issue is whether or not such a challenge could have been raised by way of application. However, the Tribunal take note and advise the Appellant on the provision of the Income Tax Order section 55 read with section 20 of the Revenue Appeals Tribunal Act of 2019, that an appeal does not stop Appellant from paying the tax due.

Section 20 of the Revenue Appeals Tribunal Act of 2019 reads.

> **“.. The obligation to pay and the right to receive and recover any tax chargeable under a revenue law shall not be suspended by an appeal or pending the decision of the Tribunal or a court of law”.**

10.1 It should be noted, because it forms a necessary base or core to this issue, that the Appellant should not be found in contravention of the relevant legislations. Our view on this is that the liability to make payment has not been suspended by the appeal.

10.2 This then takes us to the second ground of appeal. The fundamental question, therefore, is whether the educational benefit afforded to the employees of

RATE/IT001/22 forms part of gross income in terms of section 7(f) of the Order and if it was therefore liable to tax.

10.3 The Appellant and Respondent both submitted that the educational assistance given to the Appellant's employees in connection with the education of such employees' children was a taxable benefit arising by virtue of their employment. Before turning to the relevant clause of the contract between employer and employee of RATE/IT001/22, it is vital to quote the relevant principle of the Income Tax Order.

Section (7) (f) of the Order provides that:

"the total amount whether in cash or otherwise received by or accrued to or in favour of any person, excluding receipt of capital nature."

Expressly included in this provision under paragraph (f) is;

"the annual value of any benefit or advantage accruing by way of employment…

10.4 The Tribunal find itself in agreement with the submission made by both parties in that, the educational assistance afforded to the employees of RATE/IT001/22 forms part of gross income in terms of section 7(f) of the Order and was therefore liable to tax.

10.5 In our judgment, the starting point for the analysis is clause 2.5 of the contract between Appellant and its employees which provides that "permanent staff members are entitled to full fees remission of two children attending any of the Appellant schools". We have received no other evidence about the purpose of clause 2.5 of the contract. In those circumstances, we accord due weight to this clause that it intended to afford the employees in question a benefit or assistance in that they as employees of RATE/IT001/22 are able to send their children to the Appellant school without having to reimburse the applicable fees in full. In the circumstances, we accept the submissions that indeed it falls within the definition of section 7 (f) of the Income Tax Order of 1975.

10.6 The third prayer seeks the Tribunal to determine whether the value of the educational benefit accruing to RATE/IT001/22 employees has been correctly determined by the ERS. It is useful, in considering this question, to determine if section 7 of the Order permits obvious rules on how these benefits are to be valued in order to calculate the amount on which the tax is to be imposed. The pertinent provision here is Section 7 (f)

which brings benefits from employment within the tax net but does not specify how they are to be valuated.

10.7 The Appellant made three main submissions under this heading. First, he submitted that the Respondent's calculation of the value of the educational assistance benefit advanced to the Appellant's employees using **Legal Notice No. 4 of 2004**, is erroneous as that Legal Notice was repealed. The Appellant submits that the Respondent ought to calculate the value of the benefit using **Legal Notice No. 4 of 2007**, which clearly states that the *value of the benefit is the cost to the employer for providing such benefit*. Secondly, Respondent submitted that the law is clear in Paragraph 7 (f) of the Income Tax Order read together with Paragraph 7.1. of the Practice Note or Legal Notice No.4 of 2007, in particular that Paragraph 7 of the Legal Notice. The Appellant argues that this cost is the marginal cost that the employee providing the benefit incurs in providing the benefit.

10.8 The Tribunal has noted the point raised by both parties on the erroneous quotation of both Practice Notes. We are cognisant of the fact that it is an established principle of law that failure to put the correct citation in a matter is fatal. However, it is our view that the misnaming of the Practice Notes was a slip of a pen, as the contents appearing in both Practice Notes are the same and thus not detrimental to the Appellant's case.

10.9 The Appellant placed particular reliance on the explanation of the author *Dury*[6] and the case of *Pepper v Hart* [7] which both serve to illustrate that where a benefit is provided in-house the calculation differs and is more difficult to quantify because the employer already incurs a cost on providing the service to the public and the cost of providing the same service to the employee is only a "*marginal additional expense*".

10.10 The issue of Practice Notes is easily dealt with here. The power to publish Practice Notes to give clear guidelines to taxpayers on how certain provisions are to be applied, is a matter of strict jurisdiction, therefore, Commissioner General retains the power to issue those guidelines to taxpayers as per section 68 *bis* of the Order, but the proper exercise of those powers are not binding to the taxpayers.

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[6] Management Cost Accounting, 10th Edition

[7] (65) TC (UK) 421

10.11 The Respondent submits that though the Income Tax Order does not have a definition for cost in relation to how the educational assistance is provided to teachers at the school is to be determined, (the Legal Notice No.4 of 2007) in its Part B, paragraph 3.2 offers a reprieve by stating that:

> **"the value of a benefit in kind is the market value of the benefit on the date the benefit is taken into account for tax purposes".**

10.12 We are of a settled ruling that the ERS approach gives rise to the bizarre result by deciding the value in accordance with paragraph 3. 2 of the Practice Note instead of 5.1 of Practice Note 157, **Legal Notice No. 4 of 2007.** Our assertion on this is based on the context in which this paragraph is used. The paragraph 3.2 reads:

> ***"the value of a benefit in kind is the market value of the benefit on the date the benefit is taken into account".***

10.13 This Paragraph 3.2 referred by the Respondent is in reference to any benefit in general not specifically, one relating to educational assistance for tax purposes. Practice Note 157 gives a general position at its beginning that the value of **any benefit** is to the market value of that benefit. However, the Practice Note does not end there, it further gives a specific valuation method for each of the benefits under their own respective paragraphs.

10.14 In the circumstances envisaged by paragraph 5.1, the value of the benefit to be included in the employee's taxable income is the **cost** of the benefit to the employer for providing such educational assistance.

The paragraph 5.1 reads:

"Where a benefit provided by an employer to an employee consists of the provision of an educational assistance in connection with the education of an employee's children, the value of the benefit is the cost of the benefit to the employer for providing such educational assistance".

10.15 The submission as contended by the Appellant as to whether the cost is the so-called marginal 'cost to the employer' of rendering the benefit as opposed to the average 'cost

to the employer' of rendering the benefit, is also a matter for consideration by the Tribunal. For emphasis, the Appellant referenced the computation in the South African Jurisdiction, which is contained in the SARS Guide for Employers in respect of Fringe benefits, and it emphasises that:

> **"the value of the benefit in respect to education, is the marginal cost involved in the tuition of the additional person. If the employee contributes that is equal to or more than the marginal cost, no taxable benefit accrues".**

10.16 The Tribunal is of the view that, in the absence of a comprehensive definition of marginal cost in the Eswatini legislation, it would not be an equitable judicial approach to impute the SARS guide or legislation into our jurisdiction without considering the domestic values and interpretive materials of the case. The Tribunal is of the view that, the habit of borrowing authoritative legislation from foreign jurisdiction, when the country's legislation is silent, might be broader than what it has suggested. We are of the idea that permitting the foreign legislation when ERS's relevant sources of law do not address this particular point (marginal cost) could result in foreign law becoming a legitimate source in the country. The citation of the SARS guide in this case might prejudice a party and we fear the possibility that in the future, the Tribunal will take even nonauthoritative foreign law citations as an indicator that it is a legitimate source of authority in similar situations. From the analysis of the case above, the legislation in our jurisdiction provides no indication as to how this cost to the employer should be determined.

10.17 For the reasons we have given, it is the Tribunals view that the correct valuation of the benefit should have been one based on paragraph 5.1 of the Practise Note since it is the one specific to the educational assistance benefit, which is the cost incurred by the Appellant in providing such a benefit to its employees.

10.18 The Respondent has further stated in their objection outcome letter that the Income Tax Order has sufficient provisions for the taxation of benefits in kind and further that they are not compelled to utilise provision of a taxing statute or guide drawn from a foreign jurisdiction''. The Tribunal finds this not an issue for debate because the Respondent should have followed the specific provision in their legislation.

10.19 The Tribunal has directed itself to the landmark case of Pepper as cited by the Appellant which lays down or illustrate an in-house benefit.

10.20 This Tribunal base its observation on the case of ***Pepper (Inspector of Taxes) V Hart, nine assistant masters and the bursar of Malven College***[8], where Lord **Brown-Wilknson** differentiated two types of benefit, external benefits and in-house benefits.

10.21 The court mentioned that the cost of an in-house benefit is more difficult to quantify because the employer already incurs costs on providing the goods or service to the public and the cost of providing the same service to an employee is only a marginal additional expense.

10.22 In support of this valuation, in this case the question raised, was how the concession is to be quantified when calculating the income tax payable by the staff in respect their remuneration. The court held in this case that;

> **"…this approach is not prescribed by the statutory formula. The statutory formula is not concerned with what, looking at the matter broadly, the employer can be said to have lost by providing the benefit. However, the statutory formula is concerned exclusively with one specific calculation: The amount of the expense incurred by the employer providing the benefit. The statutory formula must, of course be applied having due regard for the circumstances in which and the purpose for which, the expense in question was incurred and the nature of the benefit. The way the school seeks to recoup its expenditure is of no relevance to the ascertainment of what was the amount of the expense incurred in providing the benefits in question of the staff."**

10.23 Therefore, the valuation of the benefit must be the amount of the expense incurred by the Appellant in providing the benefit. In support of this, is the Article "Reduced school fees'', which provided an in-depth analysis of a similar case, Mitchell, Stein en Joooste (2017:56), argued:

[8] [1991] 2 All ER 824,

"That the cash equivalent of the benefit is the cost to the employer in rendering such service or having such services rendered, less the amount of any consideration given by the employee in respect of such service".

10.24 The relevant provision in the South African context, to which this article and the above case were analysing reads thus;

"The value of the reduced school fees fringe benefit is the 'cost to the employer' of rendering the service to the employee, less any consideration paid by the employee"

11) The last portion of the prayer seeks the Tribunal to determine whether there was an understatement of PAYE emanating from valuation of the educational assistance benefit at marginal cost/actual cost incurred instead of the cost incurred by the employer. The Appellant submitted that the Respondent erred in law in finding that there was an under-declaration of PAYE. The under-declaration finding was premised on the valuation of the benefit based on the market value as decided by the Respondent.

11.1 As per the analysis above pertaining the valuation of the education assistance benefit, it is our view that the PAYE that is due to Respondent should be calculated on the cost to the employer of the additional child.

12) Conclusion

In concluding this appeal, the Tribunal has carefully considered all the facts giving rise to the above analysis. The conclusion on this part is unavoidable that the educational assistance benefit was not correctly valuated by the Respondent as it was supposed to be premised on paragraph 5.1 of Practice Note 157 which is the cost to the Appellant of providing the educational assistance and not the market value of the educational assistance.

13) Order

The Tribunal therefore makes the following orders:

1. The objection decision is set aside.

2. The Respondent is hereby directed to determine the educational assistance benefit at cost to the employer for educating an additional child of the employee.
3. As for costs, same is ordinarily not awarded in favour of any of the parties in the Tribunal, unless a party shows that the other party's grounds of appeal are unreasonable. In this matter, neither party has claimed costs. Each party should therefore bear his own costs.

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MR MBUSO SIMELANE

PRESIDENT OF THE TRIBUNAL

I Agree.

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MS FIKILE DLAMINI

MEMBER OF THE TRIBUNAL

I Agree.

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MR SANDILE DLAMINI

MEMBER OF THE TRIBUNAL

I Agree.

____

MS NTOMBEHLE SHONGWE

MEMBER OF THE TRIBUNAL

I Agree. ______________________________

MS KHETHIWE DLAMINI

MEMBER OF THE TRIBUNAL

Appearance

For Appellant: Mr Kenneth Simelane (with him Lindokuhle Methula)

For Respondent: Ms Bongekile Nsingwane (with her Bongisipho Dlamini)