

**NINETEEN ELEVEN VENTURES**  
**v**  
**(1) MINISTER OF FINANCE & ECONOMIC DEPARTMENT (2)**  
**ZIMBABWE REVENUE AUTHORITY (3) TOYOTA ZIMBABWE**  
**(PRIVATE) LIMITED (4) ATTORNEY GENERAL OF ZIMBABWE**

**SUPREME COURT OF ZIMBABWE**  
**MAVANGIRA JA, UCHENA JA & MUSAKWA JA**  
**HARARE, 15 JULY 2021**

*L. Uriri*, for the appellant

*O. Zvedi*, for the first respondent

*S. Bhebhe*, for the second respondent

*B.S Ziwa*, for the third respondent

**MUSAKWA JA:**

**RULING**

This is the unanimous decision of this Court.

This is an appeal against the whole judgment of the High Court handed down on 26 June 2020.

The brief facts of this matter are as follows. The appellant through the third respondent purchased a motor vehicle from Japan on 27 September 2018. The first respondent introduced a new law through Statutory Instrument 252A of 2018 requiring importers to pay duty for certain designated goods in foreign currency as from 3 January 2019. The appellant's motor vehicle was not shipped to comply with the deadline because it had to await the filling of the container. It therefore was imported after the 3<sup>rd</sup> of January 2019.

The first respondent refused to grant the appellant exemption.

The appellant applied to the court *a quo* for an order declaring s 3 (3) of Statutory Instrument 252A/18 to be grossly irrational and unreasonable and in contravention of s 68 (1) of the Constitution. In the alternative, the appellant sought an order declaring that to the extent that s 3 (3) of Statutory Instrument 252A/18 imposes the 22<sup>nd</sup> of November 2018 and the 3<sup>rd</sup> of January 2019 as the dates qualifying for the purchase and consignment of goods which are liable to exemption for the payment of duty in foreign currency, the said statutory provision contravenes s 71 (2) of the Constitution and is to be set aside.

It is therefore clear that both in the main and alternative relief sought the appellant sought a declaration of constitutional invalidity. According to the case of *Mfundo Mlilo v The Republic of Zimbabwe* SC 179/20, this Court has no jurisdiction to hear an appeal on the constitutional validity or invalidity of a statute.

We therefore find that this Court has no jurisdiction to hear this appeal.

Therefore, the matter has to be struck off the roll. Costs will follow the cause.

It is accordingly ordered as follows:

“The matter is struck off the roll with costs.”

**MAVANGIRA JA** : I agree

**UCHENA JA** : I agree

*Hove & Associates*, appellant's legal practitioners.

*Civil Division of the Attorney General's Office*, 1<sup>st</sup> & 4<sup>th</sup> respondents' legal practitioners.

*Kantor & Immerman*, 2<sup>nd</sup> respondent's legal practitioners

*Gill, Godlonton & Gerrans*, 3<sup>rd</sup> respondent's legal practitioners