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EX-TEMPORE

TAFADZWA MUSARARA
v
ZIMBABWE REVENUE AUTHORITY

SUPREME COURT OF ZIMBABWE
BHUNU JA, CHATUKUTA JA & MUSAKWA JA
HARARE, NOVEMBER 2, 2021

Adv L Uriri, for the appellant

E. Mukucha, for the respondent

CHATUKUTA JA: After hearing parties on 2 November 2021, we handed down our judgment on the appeal *ex-tempore*. Hereunder appears the judgment.

This is the unanimous decision of this Court. This is an appeal against the whole judgment of the High Court dated 9 December 2020 under HH 787/20, dismissing the appellant's application for a declaratur that he had discharged the judgment debt under HC 2155/20 for the payment of duty in the sum of US\$52 483.34 by the payment of an amount of RTGS 1 364 568.14. Aggrieved by the judgment of the court *a quo*, the appellant filed the present appeal.

Counsel for the appellant submitted that the order in HC 2155/20 created a judgment debt and placed reliance on the *Zambezi Gas Zimbabwe (Pvt) Ltd v NR Barber (Pvt)*

Ltd and Anor SC 03/20. He further submitted that the payment of the duty in local currency extinguished the judgment debt.

Mr *Mukucha*, for the respondent, counter submitted that Statutory Instrument 252 A of 2018 decrees that duty of luxury vehicles is payable in United States dollars. As such the respondent cannot contract outside the law.

S.I. 252 A of 2018 is couched in peremptory terms admitting no exception. The order of CHINAMORA J in HC 2155/20 requires the appellant to pay duty in the sum of US\$52 483.34. That order is in consonance with the provisions of S.I. 252A of 2018.

That being the case, we find that the *Zambezi Gas* case is distinguishable on the basis that it was not dealing with the mandatory payment of duty in United States dollars. The appellant is therefore obliged to pay duty in United States dollars as prescribed by law. Doing otherwise would be in violation of SI 252A of 2018.

In the result, we find that there is no merit in the appeal.

Accordingly, it is ordered as follows:

“The appeal be and is hereby dismissed with costs.”

BHUNU JA : **I agree**

MUSAKWA JA : **I agree**

Rubaya & Chatambudza, appellant's legal practitioners

Zimbabwe Revenue Authority, respondent's legal practitioners