



## Supreme Court of New Zealand

20 December 2011

### **MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

#### **TANNADYCE INVESTMENTS LIMITED v COMMISSIONER OF INLAND REVENUE (SC 163/2010) [2011] NZSC 158**

#### **PRESS SUMMARY**

**This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz).**

Tannadyce Investments Limited appealed against a decision of the Court of Appeal striking out its application for judicial review of a tax assessment made by the Commissioner of Inland Revenue. Its contention was that it was entitled to seek judicial review of the assessment because it could not challenge it by the statutory processes enacted for that purpose. The reason for this inability was said to be that the Commissioner was in possession of documents which Tannadyce needed to make its challenge to the assessment and he had failed or refused to return them to Tannadyce when asked.

The Supreme Court has upheld the decision of the Court of Appeal to strike out Tannadyce's application. Tannadyce failed to establish that the documents in the possession of the Commissioner were such as would have enabled it to pursue its challenge.

Three members of the Court were of the view that judicial review was not available as a remedy in present circumstances unless the statutory procedures for disputing and challenging assessments could not practically be invoked. Tannadyce had failed to establish that. The other two members of the Court were of the view that judicial review was not so confined but that the present circumstances were not such as to justify resort to this remedy as opposed to the statutory procedures. Hence on either basis the Court of Appeal was right to strike out Tannadyce's application.

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