

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL & TAX DIVISION

CIVIL CASE NO. 75 OF 2019

STYLE INDUSTRIES LIMITED.....PLAINTIFF/APPLICANT

VERSUS

KENYA REVENUE AUTHORITY.....1ST DEFENDANT/RESPONDENT

JOHN OBURA t/a

KEYSIAN AUCTIONEERS.....2ND DEFENDANT/RESPONDENT

RULING

1. This ruling relates to a notice of motion application dated 18th February, 2019 brought under the provisions of; Order 40 Rules 1 and 2 of the Civil Procedure Rules, and Section 1A & 1B, 3, 3A of the Civil Procedure Act, Income Tax Act (Cap 470) Section 1 of Tax Procedures Act, 2015 and all enabling provisions of the law.

2. The Applicant is seeking for orders;

(a) That pending the hearing inter parties and determination of the suit, the Honourable court be pleased to issue an order of temporary injunction restraining the Respondents, whether by themselves, their agents, employees, servants or any person acting at their behest, from trespassing into the plaintiff's premises for the purposes of selling, disposing off, alienating, or in any other manner interfering with the properties of the plaintiff/Applicant on account of tax arrears of Stripes Industries Limited;

(b) That the Honourable court be pleased to grant such other or further relief as it may deem fit and necessary in the circumstances;

(c) The costs of the application be provided for.

(i) The application is based on the grounds on the face of it and an affidavit in support dated 18th February 2019, sworn by Gradus Oluoch, the Head of Legal Services (E.A.) of the plaintiff. The Respondent filed a Preliminary objection dated 3rd April 2019. The Preliminary objection is based on the grounds that; the suit herein has been filed contrary to the provisions of Section 12 and 13 of the Tax Appeal Tribunal Act No. 40 of 2013 and that the suit herein has been filed contrary to the provisions of Section 51 and 52 of the Tax Procedure Act.

3. The Applicant avers that, the Plaintiff company was incorporated in the year 2012 vide registration number CPR/2012/73312, while Stripes Industries Limited was incorporated on 20th January 1991 vide registration number C.46481. That the 1st Respondent served upon the Company Stripes Industries Limited a reminder on tax arrears, notice of distress and order to Certified Bailiff all dated 31st January 2019. Subsequently, the 2nd Respondent acting as a Distraint agent of the 1st Respondent issued a notice of distraint on the Applicant's goods which included motor vehicles KBX 646 F, KCM 496T, KCM 840P and KCN 804X that do not belong to the Applicant and may well have been those of its employees and/or customers visiting the premises at the time.

4. On 14th February 2019, the 2nd Respondent accompanied by officials from the 1st Respondent trespassed into the premises of the Applicant located at L.R. No. 209/9543 Road C, Off Enterprises Road, Industrial Area Nairobi purporting it to belong to Stripes Industries Limited for the purposes of obtaining the distrained goods belonging to the Applicant.

5. The Applicant argues that, the distrained goods belong to the Company Style Industries Limited and not Stripes Industries Limited which was served with the demand for tax. That the Applicant is tax compliant and it will suffer huge financial loss if the Respondents are not restrained from trespassing into its premises for the purposes of selling, disposing off, alienating, or in any other manner interfering with its properties on account of alleged tax arrears of Stripes Industries Limited. It is therefore in the interest of justice that the Honourable court grants the prayers in the application pending the hearing and determination of the suit.

6. However, the 1st Respondent filed a replying affidavit dated 12th March 2019, sworn by, sworn by Miriam Wairimu Macharia, an officer of the 1st Respondent. She deposed that the 1st Respondent is an Authority established under Section 3 of the Kenya Revenue Authority Act, with its primary functions being to assess, collect and account for all revenues in accordance to the law. That for many years, it has been experiencing problems in effectively assessing, collecting and accounting for all tax revenues due to various acts, omissions and/or vices perpetrated by some traders which result in incorrect and/or lower tax declarations, with resultant loss of substantial government revenue. In order to ensure that everybody pays his fair share of taxes, the Tax Procedures Act and the Value Added Tax, the Income Tax Act and the East Africa Customs Management Act 2004 have provisions that provides that when a taxpayer has a tax liability in relation to a business carried on by the taxpayer and the taxpayer transfers all or some of the assets of the business to a related person, the transferee shall be liable

for tax liability of the transferor.

7. That Stripes Industries Limited (P000606078D) was selected for an in-depth tax audit. The audit results resulted to an additional tax demand of Kshs. 115,937,286 as shown in the table below:-

Tax Head	Principal & Penalty	Interest Penalty	Total
Corp	2,096,254	11,248,193	13,344,447
VAT	59,533,495	43,074,344	102,607,839
Total	61,614,749	54,322,537	115,937,286

8. Subsequently, various demand letters were issued to the taxpayer, the last one being one dated 16th June 2015 but the taxpayer neither honoured the demands nor objected to them in accordance with the Tax Procedures Act. That if the taxpayer had any issues with the aforesaid additional tax demands issued, then the taxpayer was at liberty to raise an objection within thirty (30) days of being notified of the demand as provided for under Section 51(1) and (2) of the Tax Procedures Act.

9. However, after the lapse of thirty (30) days provided for by the law for any taxpayer aggrieved by a tax decision to challenge the same, and there being no objection received to the aforesaid assessment and demand issued, enforcement measures for recovery of the said taxes were instituted in the form of issuance of Agency notices in accordance with Section 42 of the Tax Procedures Act to Standard Chartered Bank and CFC Bank on 4th December 2015. The Banks responded that they did not hold accounts in the taxpayer's names. That the taxpayer's "I-tax" ledger has not been updated as well as meaning the taxpayer had not been operating the Pin No. P000606078D. The Agency notices having borne no fruits, the 1st Respondent issued a distress order as provided for under Section 41 of the Tax Procedures Act, but upon the 1st Respondent's agents visiting the taxpayer's physical address in Lunga Lunga Road to serve the distress order, they found a different company by the name "Style Industries Limited" on the premises. The 1st Respondent's agents managed to speak to one Mr. Mahmoud Saffideen, Head of Business E.A. who informed them that they were "Styles Industries Limited" and not Stripes Industries Limited.

10. That after further investigations being conducted the 1st Respondent made the following crucial discoveries:-

- a) That the Applicant's business is that of hairdressing equipment and supplies which is the exact business Stripes Industries Limited was engaged in;
- b) That the physical location of the Applicant and that of Stripes Industries Limited is exactly the same;
- c) That the postal address of the Applicant and that of Stripes Industries Limited is exactly the same; and
- d) That the two companies shared a common director by the name Fuad A. Sasso of Pin Number A002316347Q.

11. The similarities are captured in the table below:-

Name	Stripes Industries – P000606078d	Style Industries Ltd P051392323T
Date	11/02/1992	8/5/2012
Directors	- Saadalla Khalil A002371790Q - Fuad A. Sasso A00231347Q	- Fuad A. Sasso A00231347Q

	- Tropical Registrars Al Hoballa	
Postal Address	P. O. Box 30682-00100	P. O. Box 30682-00100
Physical address	Lunga Lunga Road	Lunga Lunga Road
Line of business	Hairdressing Equipment & supplies	Produces and distributes hair and hair additions
Brand name	Darling	darling

12. Therefore, from the investigation report annexed and marked as “KRA 4”, Darling business was founded by Saadallah Khalil and his uncle, Ali Hoballa. These two founders of Darling business are among the three directors of Stripes Industries Limited. That Godrej entered into a partnership with Darling Group Holding and acquired 51% stake in the business. Godrej is also one of the directors of Styles Industries Limited as per the records from Registrar of Companies and annexed and marked as GO1 in the Applicant’s supporting affidavit. It is therefore evident that all the directors who were initially in Stripes Industries Limited are in Styles Industries Limited but one as individual and two hidden under the veil in Godrej East Africa Limited.

13. The Respondents argued that the court do compel the Applicant to provide the directorship of Godrej and DGH Phase Two Mauritius as the same will shade more light on the Applicant’s scheme well planned to deprive the 1st Respondent Revenue. That while it may appear that the Applicant is separate legal entity from the Stripes Industries Limited the Applicant is not being sincere in its application that it is not related nor aware of the taxes due from the Stripes Industries Limited. Therefore, from the above facts, there is an explicit plan by Stripes Industries Limited to circumvent the law and evade payment of taxes by way of re-registration of the same business in a different business name and transferring its assets to it.

14. Further, from the 1st Respondent’s investigation, Mr. Faud A Sasso was a director in Stripes Industries Limited before they closed it down and opened Styles Industries Limited as the sole director as per i-tax returns. When opening Styles Industries Limited, he was fully aware of the debts in Stripes Industries Limited since he was a director there too and fully liable for the debts of Stripes Industries Limited. It cannot be a coincidence that the physical address, the Postal address, the type of business being carried out by the Applicant is exactly similar to that of Stripes Industries Limited. That this is a case of a wolf in a sheep’s skin. It is a case of a cunning taxpayer who has camouflaged himself into another entity and that is why the 1st Respondent served the Applicant with the notice of distress addressed to the Stripes Industries Limited on the 31st January 2019.

15. The 1st Respondent argued that Section 54B of the Income Tax Act, 2014, states that: Every person shall notify the Commissioner of any changes in particulars regarding shareholding and ownership within thirty (30) days of the change in particulars, yet the Applicant has not provided documentation indicating that Mr. Fraud Sasso resigned as the Applicant’s director. That although the Applicant provided CR12 to show current directors as at 18th February 2019 but has not provide the CR12 as per the year of Income 2012 to show who the Applicant’s directors were at the time of registration. Therefore, this Honourable court should to lift the veil of incorporation of the two entities and find that they are indeed not only related but one and the same.

16. The Respondent also filed a preliminary objection dated 3rd April 2019 on the grounds that; the suit herein has been filed contrary to the provisions of Section 12 and 13 of the Tax Appeal Tribunal Act No. 40 of 2013; and Section 51 and 52 of the Tax Procedure Act. However, the Applicant responded to the preliminary objection by filing a replying affidavit dated 9th April 2019 sworn by Gradus Oluoch, who deposed that, she is aware that the chairman and members of the Tax Appeals Tribunal were appointed for a period of five (5) and three (3) years respectively with effect from 1st April 2015 vide gazette notices numbers 3137 and 3138 in the Kenya Gazette issue of 8th May 2015.

17. The term of the members of the Tax Appeals Tribunal therefore expired on 1st April 2018 and there is no properly constituted Tribunal. Further that while Section 51 of the Tax Procedure States that a taxpayer who wishes to dispute a tax decision shall first lodge an objection against that tax decision, under the Section before proceeding under any other written law, the Applicant cannot raise objection within thirty (30) days of the 1st Respondent’s demand as provided in Section 51(1) and (2) of the Tax Procedure Act, since there is no tax assessment or demand or distress in respect of the Applicant. Therefore, there is no tax decision on the Applicant capable of being referred as dispute before Tax Appeals Tribunal even if the membership of the said Tribunal was properly constituted.

18. The Applicant referred to *Petition 352 of 2012 Geothermal Development Company Limited vs Attorney General & 3 Others* to argue that there is need for precision and particularly in notices for demand for taxes. In that matter, the court found that, the notice was faulty as;

(a) *“Firstly, because it did not spell out the consequences of non-compliance. This prevented the ex parte Applicant from being able to properly anticipate the next step of action or legal steps it could undertake to protect against what it perceived as an illegal claim;*

(b) secondly, the notice did not set out the provisions relating to the opportunity provided by law to contest the finding. Infact, an opportunity to contest the finding was not even provided considering the Auctioneers appointed by the Respondent served a proclamation notice the same day, and at the same time as the notice of demand.”

19. Similarly, Section 41(6)(b) of the Tax Procedure Act provides that, within ten (10) days after the property has been secured by the Commissioner Authorized officer, the property that is the subject of the distress order may be sold by public auction or private treaty as the Commissioner or authorized officer may direct. If the Applicant awaits the appointment of members of the Tax Appeals Tribunal, it may happen well after the 1st Respondent has disposed of the property of the Applicant and the Applicant will have been prejudiced with no possibility of recovering the said distrained property even if it was to succeed in the objection.

20. That, the Preliminary objection by the 1st Respondent is an afterthought, misconceived and an abuse of the court process with the aim of diverting the attention of the court from their illegal action and/or defeating the ends of justice. That Article 165(3) of the Constitution of Kenya grants the High Court unlimited original jurisdiction in criminal and civil matters. The Honourable court must exercise its inherent jurisdiction in the absence of the Tax Appeals Tribunal where the property of the Applicant is in danger of being irregularly disposed. The Applicant filed another Replying affidavit dated 2nd April 2019, sworn by Gradus Oluoch and deposed that Faud Sasso was hired as a director by the Applicant during its incubation period of 2012-2014 on account of his past experience in the business similar to the one the Applicant Styles Industries Limited is engaged in. That the 1st Respondent is confusing the difference between director and shareholder in a company. That the Styles Industries Limited purchased the Assets, plant, machinery, equipment, furniture and fittings of Strategic Industries Limited vide an agreement dated 6th July 2012 as itemized in the first schedule of the said agreement.

21. That paragraph 2.2.2. of the said Assets Purchase Agreement provide as follows:-

“That for avoidance of doubt nothing in this agreement shall operate to transfer or be deemed to transfer to the purchaser or constitute or be deemed to constitute an acceptance or assumption by the purchaser of any of the excluded liabilities or any other liability or obligation of the seller, whether in relation to the business, the assets or otherwise. the seller shall retain and be responsible for all excluded liabilities and all other liabilities or obligation of the seller.”

22. Further that the post office number of the Applicant has been provided in the Asset Purchase Agreement and in the Kenya Gazette Notice NO. 6911 as P.O. Box 41968-00100 Nairobi, while the alleged Post office Box of Stripes Industries is P.O. Box 30682-00100 Nairobi. The Respondents are aware that the physical location, directorship and post office box number is not proof of relation to the taxpayer company Stripes Industries Limited hence the fishing mission by the 1st Respondent to lift the corporate veil of Godrej East Africa Limited which is a shareholder of the Applicant but registered and domiciled in Mauritius.

23. The Applicant argued that there was no change of business name as alleged by the 1st Respondent under paragraph 22 of 1st Respondent’s replying affidavit sworn on 12th March 2019. The transfer of the Assets was published in the Kenya Gazette No. 6911 in the issue of 18th May 2012 and in the Standard and Daily Nation newspapers of the same date. The said Kenya Gazette No. 691 allowed the Applicant to carry out its business from locations and not to be responsible for the debts and liabilities of Strategic Industries Limited as follows:-

“In the event that the agreement is fully completed in accordance with its terms, the transferee intends to carry on the business from the business locations.” Notice is hereby given that the transferee shall not assume any of the debts or liabilities incurred by or on behalf of the transferor in connection with or relating to the business.”

24. Further Godrej East Africa Limited which is a shareholder of the Applicant is registered and domiciled in Mauritius and is not subject of these proceedings and the purported Corporate and Value Added Tax demanded by the 1st Respondent is for the period 2001-2003 and 1998-2003 respectively. Therefore, taking into account that the Applicant, Style Industries Limited was incorporated in the year 2012, Registration number CPR/2012/73312 while Stripes Industries Limited was incorporated on 20th January 1991, Registration number C.46481, the said tax demand cannot accrue to the Applicant which was not in existence.

25. The notice of distress to Stripes Industries Limited for which the 1st Respondent is now purporting to transfer to the Applicant is issued pursuant to Section 41 of the Tax Procedure Act, 2015 being applied retrospectively for Corporate and Value Added Tax demand for the period 2001-2003 and 1998-2003 respectively.

26. The Applicant stated that it is unfortunate and condescending for the 1st Respondent at paragraph 24 of its replying affidavit to refer to the Applicant as a wolf in a sheep’s skin after giving the Applicant an award as one of the outstanding taxpayer and issuing it with a Tax compliant certificate.

27. The parties disposed of the application by filing submissions which I have considered herein. I find that the following issues have arisen for determination:-

(a) whether the court has jurisdiction to hear and determine the matter herein;

(b) whether the 1st Respondent is enforcing the Tax liability against the proper entity?

(c) whether the court should grant the orders sought for in the application and/or uphold the preliminary objection; and

(d) who should bear the costs?

28. I have considered the submissions by the Respondent on the preliminary objection that the Applicant should have lodged its objection to the Tax Appeals Tribunal before filing the claim herein. I have also considered the counter arguments advanced by the Applicant to the effect that, there is no properly constituted Tax Appeals Tribunal to have entertained the matter, and that, the Applicant cannot avail itself of the said forum, as it is wrongfully pursued as a tax defaulter.

29. To reconcile this position, one needs to consider the law as it stands. In that regard, the provisions of Section 51 of the Tax Procedure Act (herein "the Act") provides that:-

" A taxpayer who wishes to dispute a tax decision shall first lodge an objection against that tax decision under this section before proceeding under any other written law."

30. It therefore follows from these provisions that;

(a) the person to lodge the objection is the taxpayer who has been served with the tax decision;

(b) the objector must lodge the notice of objection within thirty (30) days of knowledge of the tax decision."

31. The question that arises in this matter is; who was served with the tax decision made by the 1st Respondent and/or the Commissioner under Section 51 of the Act. I note that, the Notice of Tax arrears herein is addressed to the "Managing director of Stripes Industries Limited, Lunga Lunga Road, P.O. Box 30682 Nairobi. Therefore the party that should have lawfully lodged the notice of objection would be that entity: "Stripes Industries Limited."

32. Be that as it were, the provisions of Section 51(9) of the Act states that the Commissioner shall notify the objecting taxpayer in writing of the decision on the notice of objection. Consequently, a person aggrieved by that decision shall appeal against it to the Tax Appeals Tribunal. In that regard, Section 52 of the Act states

"52 Appeal of appealable decision to the Tribunal

(1) A person who is dissatisfied with an appealable decision may appeal the decision to the Tribunal in accordance with the provisions of the Tax Appeals Tribunal Act, 2013 (No. 40 of 2013).

(2) A notice of appeal to the Tribunal relating to an assessment shall be valid if the taxpayer has paid the tax not in dispute or entered into an arrangement with the Commissioner to pay the tax not in dispute under the assessment at the time of lodging the notice."

33. It suffices to note that, the Section makes reference to a "person" not a taxpayer. Who is a person for the purpose of this Section? I note that the word "person" is defined under Section 2 of the Act to "include, an individual, company or an international organization. Thus, it is clear that, the party to appeal under Section 52, does not necessarily refer to the taxpayer who has lodged a notice of objection. The key words are that;- "a person dissatisfied with appealable decision" under the provisions of the Tax Appeals Act, No. 40 of 2013.

34. Be that as it may, it follows under Section 52 of the Act that, a party to proceedings before the Tribunal and who is dissatisfied with the decision of the Tribunal in relation to appealable decision, may appeal to the High court within thirty (30) days of notification of the decision of the Tribunal.

35. In this regard, the law is settled that, where a statute expressly provides for the dispute resolution mechanism and in particular the forum thereof, then under doctrine of exhaustion, a party who wishes to lodge a claim must not only follow the laid down procedure but follow it strictly in accordance with the provisions of the same. In this case, the law is clear that, the party who wishes to object to the decision of the Commissioner must first and foremost file a notice of objection to the Commissioner, then if dissatisfied with the decision on the notice, file an appeal to the Tax Appeals Tribunal and thereafter to the High court. Thus the High court is the last port of call.

36. In the instant matter, it is clear that, the Applicant moved directly to the High court upon the distress of its goods by the 2nd Respondent. In that case, there was no compliance with the statutory provisions and/or processes referred to herein. However, three other issues have arisen, namely;

(a) There is no Tax Appeals Tribunal in existence;

(b) The Applicant is not a party named in the demand notice for Tax payment;

(c) The Applicant is not in Tax arrears.

37. In relation to the first issue, I find that, indeed, it is a matter of judicial notice that, at the time of filing of the claim herein, the Tax Appeals Tribunal was not in existence. As outlined by the Applicant in its Replying affidavit dated 9th April 2019, the term of the members thereof expired on 1st April 2018. By the 31st January 2019 when the 1st Respondent served the subject documents to the taxpayer named therein, there was no tax Appeals Tribunal in existence. Thus, even if the named taxpayer were to proceed to the Tribunal, it would not have been practically possible. In that case, the Applicant had no choice but move to the next available forum for the dispute resolution mechanism, which is the High court, which has inherent powers to make such orders that will meet the interest of justice.

38. However, the saving grace is that, as at the time of writing this decision, the Tax Appeals Tribunal has been put in place and therefore the court can make the appropriate orders.

39. That leads to the second issue as to whether, the Applicant is the property entity entitled to pay the tax arrears demanded. I have already held herein and indeed, it is evident that, all the documents, in particular, the notice and/or demand of tax arrears, the notice of distress and/or the 1st Respondent's instructions to the 2nd Respondent relates to a company known as Stripes Industries Limited. The Applicant argues that, it is a different, legal entity separate from the alleged taxpayer.

40. In that regard, I have taken note of the following:-

(i) There are two certificates of incorporation produced by the Applicant, which evidently show that the two entities are separate. The Applicant was incorporated in the year 2012 vide registration No. CPR/2012/73312 and Stripes Industries Limited on 20th January 1991 vide registration No. C 46481

(ii) The shareholders and/or directors of the two companies are different as detailed out in the affidavits of the parties.

41. The general principles of company law states that the legal consequences of incorporation of a company is to make it a separate and independent legal entity from its own shareholders and/or directors (See Salmon vs Salmon & Co' s case).Therefore the two subject companies herein shall be treated as such.

42. However, the 1st Respondent relies on an investigation report on "Darling Group Holdings" and argues that, the two entities are one and the same. Apparently, according to the report, one Godrej acquired 51% stake in the business in Darling Group Holdings and is also a director of Styles Industries Limited. The 1st Respondent then argues that, all the directors who were in Stripes are in Style (but one as individual and two hidden under the veil of Godrej East African Limited. That a veil of incorporation be lifted on Godrej and DGM Phase Two Mauritius so as to shade light on the Applicant's scheme in its application that it is not related nor aware of the tax due from the Stripes Industries Limited.

43. Further, a Mr. Faud A. Sasso was a director of Stripes, then closed it down and opened Styles as the sole director as per the i-tax, yet he was fully aware of the tax liability according to Stripes Industries Limited. The 1st Respondent draws the court to the fact that, both companies share physical and postal addresses.

44. I do appreciate the argument by the 1st Respondent and indeed the very high possibility that the two companies may have common shareholders/directors and/or interests. However, the law is clear, a company is a legal entity on its own. The concept of lifting of the veil of incorporation does not involve substitution of liability of one company with the other. It involves finding out the real owners of the suspect company and/or the real existence of the company. The liabilities of Stripes Industries Limited cannot be transferred to Styles Industries Limited by mere fact of common directorship, physical or postal address.

45. Even then, if the argument of the 1st Respondent were to be considered as correct, the other issue that arises is whether, indeed there has been any demand made to the Applicant to pay any tax in arrears. The documents served herein are not addressed to the Applicant, yet the 2nd Respondent decided to distress upon its goods. As can be seen, the order to the Certified Bailiff issued by the 1st Respondent to the 2nd Respondent requires the 2nd Respondent to distrain upon the goods and chattels of "Stripes Industries Limited". However, the 2nd Respondent proceeded to distrain and make an inventory of the Applicant's goods as evidenced by annexure marked "GO3" and the copies of log books produced as exhibits "GO4".

46. The upshot of all this is that, the 1st Respondent has a statutory and legal entity to collect tax as provided for under the relevant law. However, the exercise of that Authority must be done within precincts of the law. If the 1st Respondent intends to proceed against the Applicant, then it has to serve it with the relevant notices as required under the law. If the 1st Respondent is of the view that, the Applicant is the transferee of the taxpayer, under Section 46 of the Act, then evidence needs to be provided and the Respondent to formally seek to enforce the debt against the transferee through a proper formal application.

47. The Respondent cannot seek for such substantive orders of lifting the veil on the application via a replying affidavit and/or submissions. Indeed the 1st Respondent is at liberty to properly move the court. In the meantime, I find that, the 1st Respondent has not properly served the Applicant with any demand for tax liability and in that case, it will be an exercise in futility to declare that the Applicant has not properly invoked the jurisdiction of the court.

48. Be that as it were, I am of the considered opinion that, if the Applicant is properly served, if at all, with the tax demand notice, it should first follow the laid down procedure and/or forum for dispute resolution before approaching the court. Therefore, both parties should go back to the drawing board as and if need arises. I therefore allow the application in terms of prayer (a) of the application with no orders as to costs.

Dated, delivered and signed in an open court this 29th day of August 2019.

G.L. NZIOKA

JUDGE

In the presence of;

Mr. Mboya for the Plaintiff

Mr. Koimbi for Mr. Olemiso for the 1st Defendant

No appearance

for the 2nd Respondent

Dennis -----Court Assistant