

# SUPREME COURT OF APPEAL OF SOUTH AFRICA

## **MEDIA STATEMENT – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL**

### **M A Y SHAIKH t/a YOUNG AMERICAN v STANDARD BANK OF SA & ANOTHER**

**From: The Registrar, Supreme Court of Appeal**

**Date: 29 November 2007**

**Status: Immediate**

**Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.**

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The Supreme Court of Appeal today dismissed an appeal by Mohamed Amin Yusuf Shaikh, (the appellant) against a judgment of the Durban High Court which had dismissed with costs two points *in limine* raised by him.

The appellant, a manager of a business that had under declared the value of the shoes it had imported, became liable to pay import duties and other taxes in terms of s 103 of the Customs and Excise Act 91 of 1964. SARS issued notices in terms of s 114A of the Customs Act appointing the bank at which the appellant had an account as his agent and instructed the bank to pay monies owing in respect of customs duty, Vat, forfeiture, fine, penalty and interest. The bank duly complied.

The appellant thereafter instituted an application challenging the validity of the notices on the basis that they were *ultra vires*. At the hearing of the application the appellant contended that he was not liable under s 103 for Vat and demanded a refund of R364 421,54. The court below dismissed the points raised by the appellant whereafter he approached this court with the leave of the court below.

The court in dismissing the appeal agreed with the conclusion by the court below that SARS had the authority to issue the notices even though it had erroneously referred to s 114A of the Customs Act and omitted to refer to s 47 of VAT Act and that the validity of the notices was unaffected.