

Supreme Court of Appeal of South Africa

MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME COURT  
OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 23 May 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*

THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE  
SERVICE v TREND FINANCE (PTY) LTD & ANOTHER

1. In 1999 Trend Finance (Pty) Ltd, a Cape Town based company, imported three consignments of cheap shoes manufactured in China into South Africa to be sold by Pep Stores and Foschini. The controller of customs, Cape Town, seized the consignments pending an investigation as to whether their value had been under declared, but released them on payment of security. The controller subsequently demanded over R1 million in additional duty and VAT and penalties in respect of the first consignment but made no determination in respect of the second and third consignments.

2. The Cape High Court set aside the penalty but confirmed the Commissioner's decision that the additional duty was payable in respect of the first consignment. The Commissioner did not appeal the order setting aside the penalty. Trend unsuccessfully appealed against the additional charges imposed. The Cape High Court ordered the Commissioner to return security in respect of the second and third consignments. The SCA upheld the order on the basis that the Commissioner had had more than a reasonable time to investigate whether the value of these consignments had been under declared, and found that the further detention of the money paid as a security was unlawful. The Commissioner was accordingly ordered to repay the R900 000 he had held since 1999 in respect of those consignments.

--ends--