

# **Skatteforvaltningen (the Danish Customs and Tax Administration) (Respondent) v Solo Capital Partners LLP (in special administration) and others (Appellants)**

**Case ID: 2022/0066**

## **Case summary**

### **Issue**

Whether the Danish Customs and Tax Administration's ("SKAT") claims for the recovery of tax refunds made to the appellants are not admissible before the English courts by reason of Rule 3(1) of Dicey, Morris & Collins on the Conflict of Laws, which says that "English courts have no jurisdiction to entertain an action... for the enforcement, either directly or indirectly, of a penal, revenue or other public law of a foreign State".

### **Facts**

SKAT had paid refunds of Danish tax totalling £1.44 billion. The basis of its claims was the recovery of sums which had been wrongfully extracted from it by fraudulent misrepresentations orchestrated principally through entities based in England. The defendants were individuals and corporate entities who had procured the refund applications and received the bulk of the sums; they had never paid, or been liable to pay, the tax themselves. Many were domiciled in Brussels-Lugano Member States when the proceedings were served. Dicey Rule 3 provides that English courts had no jurisdiction to entertain an action for the enforcement, either directly or indirectly, of a penal, revenue or other public law of a foreign state. The Commercial Court determined as a preliminary issue that SKAT's claims fell within the scope of that rule and were therefore inadmissible. The judge concluded that seeking to recoup tax refunds erroneously paid was a claim directly or indirectly to enforce a foreign tax law and that although SKAT had framed its claims as private law causes of action, they were, in substance, claims to enforce Denmark's sovereign right to the tax in question. The respondent appealed to the Court of Appeal.

The Court of Appeal allowed the appeal, finding that a claim by the Danish tax authority to recover tax refunds said to have been induced by the fraudulent misrepresentations of entities based in England was a claim directly or indirectly to enforce a foreign tax law. The Danish tax authority, as a victim of fraud, sought only the restitution of monies of which it had been defrauded; its claims were therefore not inadmissible by virtue of the Dicey rule. The appellants now appeal to the Supreme Court.

### **Judgment appealed**

[\[2022\] EWCA Civ 234](#)

### **Parties**

#### **Appellant(s)**

- (1) Sanjay Shah
- (2) Elysium Global (Dubai) Ltd

#### **Respondent(s)**

Skatteforvaltningen (The Danish Customs and Tax Administration)

## **Appeal**

### **Justices**

Lord Hodge, Lord Lloyd-Jones, Lord Briggs, Lord Hamblen, Lord Richards

### **Hearing start date**

5 July 2023

### **Hearing finish date**

6 July 2023

### **Watch hearing**

5 July 2023 [Morning session](#) [Afternoon session](#)

6 July 2023 [Morning session](#) [Afternoon session](#)

## **Judgment details**

### **Judgment date**

8 November 2023

### **Neutral citation**

[2023] UKSC 40