

# **R (on the application of Haworth) (Respondent) v Commissioners for Her Majesty's Revenue & Customs (Appellant)**

**Case ID: UKSC 2019/0124**

## **Case summary**

### **Issue**

(1) Whether, for the purposes of the follower notice regime in the Finance Act 2014, "would" in s.205(3)(b) requires HMRC to consider that the principles or reasoning of a judicial ruling are more likely than not to result in the tax advantage being denied, or that the principles or reasoning will deny the advantage. (2) Whether in the present case HMRC had overstated the significance of Hughes LJ's judgment in *Smallwood v Revenue and Customs Commissioners* [2010] EWCA Civ 778, [2010] STC 2045. (3) Whether the CA was wrong to conclude that the identified misdirections justified quashing the follower and accelerated payment notices.

### **Facts**

The case relates to a trust established by Mr Haworth for the benefit of himself and his family which held shares in a company. In order to avoid capital gains tax on the disposal of shares held by the trust, Mr Haworth was advised that the existing Jersey trustees should resign in favour of trustees resident in Mauritius. This arrangement, known as a 'round-the-world' scheme, was designed to take advantage of a double taxation treaty between the United Kingdom and Mauritius. Mr Haworth and his advisers duly enacted the scheme in 2000.

In 2016, HMRC sent Mr Haworth a follower notice, which renders the recipient liable to a penalty if he does not take steps to counteract or surrender a tax advantage, and an accelerated payment notice, which requires up-front payment of the disputed tax. Mr Haworth initiated judicial review proceedings of HMRC's decision to issue these notices. At first instance, Mr Haworth was unsuccessful. However, the Court of Appeal allowed Mr Haworth's appeal and quashed the notices.

## **Judgment appealed**

[\[2019\] EWCA Civ 747](#)

### **Parties**

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

Commissioners for Her Majesty's Revenue & Customs

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

R (on the application of Haworth)

### **Appeal**

## **Justices**

Lord Briggs, Lady Arden, Lord Leggatt, Lord Stephens, Lady Rose

## **Hearing start date**

21 Apr 2021

## **Hearing finish date**

21 Apr 2021

## **Watch hearing**

21 Apr 2021 [Morning session](#) [Afternoon session](#)

## **Judgment details**

### **Judgment date**

2 July 2021

### **Neutral citation**

[2021] UKSC 25

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