

Sars wins court battle against delinquent taxpayer

South African Revenue Service (Sars) Commissioner Edward Kieswetter has welcomed an order issued to Tiar Construction for its sole member to cooperate with the liquidators in the administration of the company's estate.



Image source: Le Mbal Olivier – 123RF.com

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The application was instituted by the co-liquidators of Tiar Construction as a last resort to secure the cooperation of the sole member, Mr L Marimuthu, of the insolvent entity.

“This was to compel Marimuthu to cooperate with the co-liquidators in the execution of, and to secure compliance with, legal obligations in the winding up of the estate.

“The issues before the court included the failure of Mr Marimuthu, to disclose the existence of all Tiar Construction’s assets, providing the co-liquidators with all documents and assets relating to the entity, and handing over all documents and assets

of the entity,” Sars said on Monday.

During last week’s hearing, legal representatives for Marimuthu applied for the postponement of the matter.

This application for the postponement was refused by the court because it was not satisfied that the application was in good faith and that the litigants could not be allowed to evade processes of court.

“The main application was, however, heard and an order handed down by the court ordering the sole member to deliver a statement of affairs of Tiar Construction as well as to hand over all documents and assets in his possession relating to Tiar Construction and/or confirm the whereabouts of those not in his possession,” the revenue service said.

Sars has acknowledged that in trying economic times the frequency of taxpayers’ facing insolvency rises.

In this regard, the liquidators play a pivotal role during the process of winding up the business of companies and in the recovery all assets, as well as protecting the rights of creditors in the estate – including Sars.

“Sars will resist any efforts by any taxpayer to wilfully engage in a strategy to evade compliance with their obligations in liquidation proceedings and frustrate court processes.

“This is done to the detriment of creditors in the insolvent estate. In many instances, the fiscus is the main victim. Sars will continue to act without hesitation against non-compliant taxpayers and calls on those who act obstructively to stymie the pursuit of liquidation and sequestration to desist,” Kieswetter said.

The Commissioner reiterated that Sars would not tolerate it when taxpayers act maliciously through the abuse of court processes and employ dilatory tactics to deprive Sars what is due and payable to the fiscus.

“I urge all insolvency practitioners to continue to execute their duties fearlessly and determinedly. These efforts are fundamental to creditors’ abilities to recover debts due to them,” he said.

Sars said it will always work in the manner that supports the growth of the economy, creating jobs, while fighting poverty and inequality.

“Where, for whatever reason businesses do not perform optimally and they are not viable, every role player in the process is duty bound to act ethically and professionally, without fear, favour or prejudice,” Sars said.

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