



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 28 March 2007

Status: Immediate

Clearing Agents, Receivers & Shippers v MEC Transport, Kwazulu-Natal
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 Supreme Court of Appeal today dismissed, with costs of two counsel, an appeal by Clearing Agents, Receivers & Shippers (the appellant) against a decision of the Durban High Court upholding a directive issued by the Director General of the Department of Transport that regulation 84 of The Road Traffic Regulations, (promulgated by the Minister of Transport in terms of the National Traffic Act 93 of 1996) does not authorise the issue of temporary permits in respect of imported second hand motor vehicles intended to be driven in transit on South African roads, for the purposes of export. The first and second respondents are the MEC for Transport, Kwazulu-Natal and The Minister of Transport to whom the administration of the National Road Traffic Act has been entrusted.

The appellant had sought a declaratory order on behalf of its members that regulation 84 permitted the issue of special and temporary permits to facilitate imported vehicles to be driven on South African roads to foreign destinations. The appellant's members have since October 2002 been able to facilitate the removal in bond of imported vehicles on South African roads to foreign destinations. They used the procedures provided for in regulation 84 to apply for special permits to enable the vehicles to be driven to a roadworthy testing centre and to obtain certificates of roadworthiness. Temporary permits were then issued to facilitate the driving of the vehicles to foreign destinations on South African roads. In May 2005 the Minister issued a directive that this practice was to be discontinued because the regulation did not permit the issue of temporary and special permits to facilitate the transportation of these vehicles from the port of entry to foreign countries.

The SCA concluded that regulation 84 provides for unregistered and unlicensed vehicles to be operated on a public road temporarily under a temporary or special permit, and that it was intended to be an interim measure to permit unregistered and unlicensed motor vehicle users to operate their vehicles pending their registration and licensing in terms of the Act. The regulation can therefore not be used to facilitate the transport of vehicles, using its own power, from a South African port to a neighbouring country.

The SCA also considered two subsidiary appeals. First, an order compelling the appellant to furnish security for costs and secondly, that the Minister be interdicted from acting upon the directive to discontinue the issue of temporary and special permits pending the determination of the appeal. The SCA found that these appeals had no practical effect and that no exceptional circumstances were shown to exist that warranted their consideration. In the case of the first appeal the appellant was ordered to pay the respondents' costs and in the second appeal the respondents were ordered to pay the appellants' costs.