



THE SUPREME COURT OF APPEAL  
REPUBLIC OF SOUTH AFRICA

**MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL**

14 September 2007

STATUS: Immediate

*CSARS v The Baking Tin* [2007] SCA 100 (RSA)

*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 Receiver of Revenue, charged with the administration of the Customs and Excise Act 91 of 1964 determined that aluminum containers for baking and cooking ready-made food, imported by The Baking Tin, constituted kitchen articles and were thus dutiable and liable to anti-dumping duties under the Act. The Cape High Court held that the articles were disposable, not durable and thus could not be classified as kitchen articles under the relevant classification in the schedule to the Act.

On appeal to the Supreme Court of Appeal the Receiver argued that the importers' intention that the containers be disposed of after the food was consumed entailed the conclusion that they were not kitchen articles, despite the fact that they could be reused for other purposes. The court held, however, that the importer's intention was not a determinant of the objective characteristics of the containers: they were to be classified as kitchen articles and as 'hollowware' – hollow articles of cookware. They are thus dutiable as contended by the Receiver.

---