



HIGH COURT OF AUSTRALIA

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Details of Filing

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Important Information

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IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

BETWEEN: GODOLPHIN AUSTRALIA PTY LTD ACN 093921021
Appellant

and

CHIEF COMMISSIONER OF STATE REVENUE
Respondent

APPELLANT’S OUTLINE OF ORAL SUBMISSIONS

Part I: Certification

This outline is in a form suitable for publication on the internet.

Part II: Outline of Oral Submissions

1. The Appellant maintains animals, being thoroughbred racehorses, on the land – raising them as racehorses, breeding them, racing them and selling them, all of which generates significant revenue: Appellant’s Submissions (**AS**) [10]-[17]. This is not a case where the taxpayer is running a few head of cattle to attract a land tax exemption: AS [44]-[54].
2. The Appellant conducts an integrated commercial operation: AS [17]. Success in racing increases the value of racehorses, their progeny and their relatives: AS [14]. The Appellant’s primary source of revenue and income from the land is the sale of horses, their progeny or their semen: AS [16]. The maintenance of these animals as valuable assets invariably involves activities such as educating and training them as thoroughbred racehorses: AS [61].
3. The ordinary meaning of s 10AA(3)(b) requires that the use (i.e., physical deployment) be dominant, and that this be the maintenance of animals for the purpose

of sale. There is no requirement to characterize a dominant purpose: AS [24]-[35]. The Appellant's construction is further supported by the statutory context and in particular that the Act does not stipulate a quality of purpose in s 10AA(3), in contrast to other provisions of the Act: AS [37]-[43].

4. The Appellant's construction is also supported by the legislative history and other extrinsic materials which shed light on the mischief addressed by s 10AA, being different physical uses or deployment of the land: AS [44]-[54].
5. The Appellant's contention does not mean that any sale purpose would suffice – the provision would surely be construed as not including the immaterial or the insubstantial. Whether a purpose is sufficiently material or substantial to engage the exemption may be a matter of fact and degree, but clearly satisfied on the present case.
6. Any judicial gloss, either in the expression use-for-a-purpose or dominant purpose, shifts the focus from the ordinary language and commonsense approach of characterising the use of the land: AS [21]-[23]. Further, any judicial gloss risks anomalous outcomes for primary producers in the real world: AS [34]-[35].

Notice of contention

7. Both parties' primary contention is that there is a single use of the land, although there is a debate about how it should be characterised. The respondent's alternative case that there were two separate but related uses, of which the racing purpose dominated, is inconsistent with the facts found below. None of the evidence relied on by the respondent demonstrates that the racing purpose or racing activities on Kelvinside or Woodlands could be described as dominating over the sale purpose or sale activities.

4 March 2024



Bret Walker
Senior Counsel for the Appellant