

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION: PRETORIA**

CASE NUMBER: 2023/45942

In the urgent application:

ABSA BANK LTD

Applicant

and

**THE COMMISSIONER FOR THE SOUTH AFRICAN
REVENUE SERVICE**

First respondent

MULLER N.O.; JOHANNES ZACHARIAS HUMAN
(In his capacity as curator bonis of the taxpayers'
known assets)

Second respondent

MAJESTIC SILVER TRADING 275 (PTY) LTD
(Reg. no. 2007/003632/07) [in business rescue]

Third respondent

CASSIM N.O.; ZAHEER
(In his capacity as business rescue practitioner of Majestic
Silver Trading 275 (Pty) Ltd)

Fourth respondent

SHABANGU N.O.; NGWANE ROUX
(Identity no. 740601 5373 089)

Fifth respondent

SHABANGU N.O.; PROE
(Identity no. 780315 5372 089)

Sixth respondent

SHABANGU N.O.; STEMBILE ALPHOSINA
(Identity no. 520703 0649 087)

Seventh respondent

SHABANGU N.O.; NOMZAMO PERSEVERENCE
(Identity no. 810717 0920 081)
(the fourth to seventh respondents having been cited in
their capacities as the appointed trustees of the Roux
Shabangu Family Trust, IT4848/05)

Eighth respondent

SHABANGU; NGWANE ROUX
(Identity no. 740601 5373 089)

Ninth respondent

**SHABANGU (née MAHLANGU); NOMZAMO
PERSEVERANCE**
(Identity no. 810717 0920 081)
(Alternatively the natural person who may be married to
Mr Ngwane Roux Shabangu)

Tenth respondent

**COMPANIES AND INTELLECTUAL PROPERTY
COMMISSION**

Eleventh respondent

**APPLICANT'S PRACTICE NOTE *IN RE*
URGENT ROLL OF TUESDAY, 23 MAY 2023 & PROPOSED DRAFT ORDER
PAPERS NEED NOT BE READ**

1. **Date & number on roll:** Tuesday, 23 May 2023 at 10h00 / number 38
2. **Need to read papers:** **NO**
3. **Mode of hearing:** The matter is capable of being heard over MS Teams or Zoom.
4. **Appearance for the applicant:**

Adv Gregory Amm
Tel: (011) 291 8600 / 083 287 5800
E-mail: gregoryammpa@islandgroup.co.za

Instructed by:
Webber Wentzel
Tel: (011) 530 5000
E-mail: julian.jones@webberwentzel.com /
caellyn.eedes@webberwentzel.com
Ref: J Jones/C Eedes/3057341
5. **Appearance for the first respondent (SARS):**

Albeit that the first respondent has not filed a notice of opposition:

Adv MP Van der Merwe SC
Tel: (012) 424 4009
082 920 4228
E-mail: mp@lawcircle.co.za

Instructed by:
MacRobert Attorneys
Tel: (012) 425 3400
E-mail: kwykes@macrobert.co.za
Ref: Kwykes/00072574
6. **Appearance for balance of the respondents** No notices of intention have been filed on behalf of any of the respondents
7. **Nature of the matter:** Urgent application for the release of assets owned by the applicant from a preservation order obtained by the first respondent.
8. **Relief sought by the applicant:**
 - Lifting of the moratorium envisaged under section 133(1)(b) of the Companies Act 71 of 2008 for purposes of the applicant proceeding with the application in terms of and as contemplated in section 163(9) of the Tax Administration Act 28 of 2011.
 - Release of various properties and motor vehicles from / variation to SARS' provisional preservation order granted on 14 February 2023 under case number B445/2023 in the above Honourable Court.
 - Authorising the third and/or fourth respondents to dispose of the various immovable and movable properties.
 - Costs in the event of opposition.

9. **Issues to be determined:** None presently
10. **Status of the application:** Subject to the courts direction, by agreement between the applicant and the first respondent:
- The applicant's application is to be postponed so that it can be dealt together with the return day of the preservation order granted on 14 February 2023 under case number B445/2023. The return day is 1 June 2023.
 - A proposed draft order is annexed hereto and marked **X**.
11. **Estimated duration:** 1 min - request for attached draft order to be made an order of court.
12. **Need to read papers:** No.

IN THE HIGH COURT OF SOUTH AFRICA
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ON 23 MAY 2023

BEFORE THE HONOURABLE JUSTICE VAN DER WESTHUIZEN

In the urgent application:

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Applicant

and

**THE COMMISSIONER FOR THE SOUTH AFRICAN
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COMMISSION**

Eleventh respondent

DRAFT ORDER

By agreement between the applicant and the first respondent and after having considered the matter, it is ordered that:

1. The application under the above case number is removed from the urgent roll of **23 MAY 2023** in order to be enrolled together with the 29 May 2023 anticipation date of the 1 June 2023 return day of the interim order granted by this court in the application under case number B445/2023.
2. The aforesaid order is made:
 - 2.1. with full reservation of the applicant's rights (including but not limited to those arising from the application being unopposed);
 - 2.2. without the applicant and/or first respondent conceding the issue of urgency in the application; and
 - 2.3. without the court making any determination in respect of the issue of urgency.
3. All issues of costs are reserved for subsequent determination.

BY ORDER

THE REGISTRAR

Applicant's attorneys:
Webber Wentzel
Tel: (011) 530 5000
E-mail: julian.jones@webberwentzel.com / caellyn.eedes@webberwentzel.com
Ref: J Jones/C Eedes/3057341

First respondent's attorneys:
MacRobert Attorneys
Tel: (012) 425 3400
E-mail: kwykes@macrobert.co.za
Ref: Kwykes/00072574