

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG**

CASE NO: 13863



DATE OF JUDGMENT:

(1)	RTABLE: YES/NO	REPO
(2)	INTEREST TO OTHER JUDGES: YES/NO	OF
(3)	ED	REVIS

In the matter between:

BENHAUS MINING (PROPRIETARY) LIMITED

Appellant

And

**COMMISSIONER OF THE SOUTH AFRICAN
REVENUE SERVICES**

Respondent

LEGAL SUMMARY

WEINER J:

- (1) The appellant, a contract miner, reflected the income received from the holders of the mining rights as mining income and was so assessed by the respondent. The appellant disputed the assessment alleging that it conducted mining operations and therefore was entitled to capital allowances applicable to mining companies.
- (2) The question to be decided by the court was whether the appellant derived income from mining operations which would entitle it to the mining capital allowances. Having consulted the conflicting authorities on this question the court preferred a purposive view of the legislation concerned as advanced in the Davis Tax Commission, in interpreting this legislation.
- (3) The court held that the appellant failed to demonstrate that as a contractor, not a holder of mining rights, it derived its income from mining operations. Further, even if that had been demonstrated the appellant did not comply with subsections of Section 37 of the Act. Therefore the deductions it claimed could not be allowed. Consequently the assessments in respect of recoupments, penalties and interest could not be challenged.
- (4) Accordingly, this appeal was dismissed.