

IN THE COURT OF APPEAL OF NEW ZEALAND

I TE KŌTI PĪRA O AOTEAROA

**CA303/2018
[2019] NZCA 6**

BETWEEN THE COMMISSIONER OF INLAND
REVENUE
Appellant

AND WHAT IT TAKES LIMITED (IN
LIQUIDATION)
Respondent

Court: Brown, Clifford and Gilbert JJ

Counsel: M Deligiannis for Appellant
C D Owens for Respondent

Judgment: 12 February 2019 at 11.30 am
(On the papers)

JUDGMENT OF THE COURT

The appeal is allowed.

REASONS OF THE COURT

(Given by Brown J)

[1] On 10 May 2018 Associate Judge Matthews delivered a judgment dismissing the Commissioner's application for costs in the liquidation proceedings against the respondent on the basis he was bound by the reasoning of this Court in *Joint Action Funding Ltd v Eichelbaum*¹ and *McGuire v Secretary for Justice*.² Consequent upon the Supreme Court's judgment in allowing the appeal in *McGuire v Secretary for*

¹ *Joint Action Funding Ltd v Eichelbaum* [2017] NZCA 249, [2018] 2 NZAR 70.

² *McGuire v Secretary for Justice* [2018] NZCA 37, [2018] 3 NZLR 71.

*Justice*³ the parties request that the Commissioner's appeal be allowed. No order for costs are sought in this Court and the parties agree that the matter does not need to be referred back to the High Court.

[2] The parties consenting, the Commissioner's appeal is allowed.

Solicitors:
Crown Law Office, Wellington

³ *McGuire v Secretary for Justice* [2018] NZSC 116.