

IN THE SUPREME COURT OF NEW ZEALAND

SC 33/2013
[2013] NZSC 66

BETWEEN

ALESCO NEW ZEALAND LIMITED
First Applicant

PARBURY BUILDING PRODUCTS
(NZ) LIMITED
Second Applicant

THERMO FISHER SCIENTIFIC
NEW ZEALAND LIMITED
Third Applicant

ALESCO NZ TRUSTEE LIMITED
Fourth Applicant

CONCRETE PLUS LIMITED
Fifth Applicant

AND

COMMISSIONER OF INLAND
REVENUE
Respondent

Court: McGrath, William Young and Arnold JJ

Counsel: L McKay, R G Simpson and M McKay for Applicants
B W F Brown QC and R L Roff for Respondent

Judgment: 9 July 2013

JUDGMENT OF THE COURT

A Leave to appeal is granted.

B The approved grounds of appeal are whether, in light of the principles laid down by this Court in *Ben Nevis Forestry Ventures Ltd v Commissioner of Inland Revenue*¹ and other cases on tax avoidance:

¹ *Ben Nevis Forestry Ventures Ltd v Commissioner of Inland Revenue* [2008] NZSC 115, [2009] 2 NZLR 289.

- (i) the structure used by the applicants for funding the transactions is a tax avoidance arrangement;**
 - (ii) the Commissioner's application of shortfall penalties was a proper exercise of the relevant statutory powers;**
 - (iii) the Commissioner's reassessments were a proper exercise of the relevant statutory powers.**
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Solicitors:
Bell Gully, Auckland for Applicants
Crown Law Office, Wellington for Respondent