

21      Qb N<sup>o</sup> VR 180/1976.

IN THE MATTER OF AN APPLICATION FOR A  
WRIT OF MANDAMUS AGAINST MORRISH ALEXANDER  
BESLEY (THE COMPTROLLER-GENERAL OF CUSTOMS):  
EX PARTE V.W. AUTOMOTIVE INDUSTRIES  
(AUSTRALIA) PTY. LTD.

ORDER

Order nisi made absolute.

Respondent to pay prosecutor's costs.

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IN THE MATTER OF AN APPLICATION FOR A  
WRIT OF MANDAMUS AGAINST MORRISH ALEXANDER  
BESLEY (THE COMPTROLLER-GENERAL OF CUSTOMS):  
EX PARTE V.W. AUTOMOTIVE INDUSTRIES  
(AUSTRALIA) PTY. LTD.

JUDGMENT

BARWICK C.J.

ORAL

IN THE MATTER OF AN APPLICATION FOR A  
WRIT OF HABEAS CORPUS AGAINST MORRISH  
ALEXANDER BESLEY (THE COMPTROLLER-  
GENERAL OF CUSTOMS): EX PARTE V. W.  
AUTOMOTIVE INDUSTRIES (AUSTRALIA) PTY.  
LTD.

The Court has had an opportunity to consider what has been said in this matter.

I am satisfied in this case that the amount of the duty in question was paid under a misconception of law, namely, that in accordance with law the amount of the duty was payable as demanded by the Collector. That conception of the law was a misconception. That it was a patent misconception is demonstrated by the decision of the Supreme Court of Victoria affirmed by this Court in Carmody & Anor. v. Sarah Coventry Pty. Ltd., 48 A.L.J.R. 222.

Accordingly, the case is one in which I am of opinion that the Collector of Customs should be satisfied that the duty was paid through a patent misconception of the law. Therefore, in my opinion, the order sought should be made - that is to say, that the Collector consider and deal with the application according to law.

IN THE MATTER OF AN APPLICATION FOR A WRIT OF MANDAMUS AGAINST  
MORRISH ALEXANDER BESLEY (THE COMPTROLLER-GENERAL OF CUSTOMS);  
EX PARTE V.W. AUTOMOTIVE INDUSTRIES (AUSTRALIA) PTY. LTD.

JUDGMENT  
(ORAL)

GIBBS J.

IN THE MATTER OF AN APPLICATION FOR A WRIT OF MANDAMUS AGAINST  
MORRISH ALEXANDER BESLEY (THE COMPTROLLER-GENERAL OF CUSTOMS);  
EX PARTE V.W. AUTOMOTIVE INDUSTRIES (AUSTRALIA) PTY. LTD.

I agree.

MORRISH ALEXANDER BESLEY  
(THE COMPTROLLER-GENERAL OF CUSTOMS)

v.

V.W. AUTOMOTIVE INDUSTRIES (AUSTRALIA) PTY LTD

JUDGMENT

(ORAL)

STEPHEN J.

MORRISH ALEXANDER BESLEY  
(THE COMPTROLLER-GENERAL OF CUSTOMS)

v.

V.W. AUTOMOTIVE INDUSTRIES (AUSTRALIA) PTY LTD

I agree.

MORRISH ALEXANDER BESLEY  
(THE COMPTROLLER-GENERAL OF CUSTOMS)

v.

V. W. AUTOMOTIVE INDUSTRIES (AUSTRALIA) PTY LTD

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JUDGMENT  
(Oral)

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MORRISH ALEXANDER BESLEY  
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FOR A WRIT OF MANDAMUS AGAINST  
MORRISH ALEXANDER BESLEY (THE  
COMPTROLLER-GENERAL OF CUSTOMS)  
EX PARTE: V.W. AUTOMOTIVE  
INDUSTRIES (AUSTRALIA) PTY LTD.

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**ORIGINAL**

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**REASONS FOR JUDGMENT**

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**ORIGINAL**

*Judgment delivered at* .....MELBOURNE.....

*on* .....THURSDAY.....24TH FEBRUARY, 1977.....