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Daily Composite Insurance, Banking, Construction & Government A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Firebird Global Master Fund II Ltd v Republic of Nauru [No 2] [2015] (HCA) - costs - success on appeal not contestable by reference to determination of separate issues - no reason to depart from usual rule - appellant to pay respondents' costs of appeal (I B C G)

Commissioner of Taxation v Australian Building Systems Pty Ltd (In Liquidation); Commissioner of Taxation v Muller and Dunn as Liquidators of Australian Building Systems Pty Ltd (In Liq) (HCA) - income tax - retention obligation in s254(1)(d) *Income Tax Assessment Act 1936* (Cth) - retention obligation only arose after assessment or deemed assessment - appeals dismissed (I B C G)

Summaries With Link (Five Minute Read)

Firebird Global Master Fund II Ltd v Republic of Nauru [No 2] [2015] HCA 53

High Court of Australia

French CJ; Kiefel, Nettle & Gordon JJ

Costs - Court upheld decision of the Court of Appeal of the Supreme Court of New South Wales from which appellant had appealed, except in one respect which was a variation made to order made by Court of Appeal which had effect that appellant retained its registration of foreign judgment against first respondent - on appeal, appellant's success had been limited to certain issues - appellant unsuccessful on other issues - determination of costs - held: not a case where it could be said success was contestable by reference to determination of separate issues - no

special circumstances to warrant a departure from general rule - appellant to pay respondents' costs of appeal

[Firebird](#) (I B C G)

Commissioner of Taxation v Australian Building Systems Pty Ltd (In Liquidation); Commissioner of Taxation v Muller and Dunn as Liquidators of Australian Building Systems Pty Ltd (In Liq) [2015] HCA 48

Income tax - liquidators of Australian Building Systems (ABS) caused it to sell property during year ended 30 June 2012 - ABS made capital gain on sale which entered into calculation of ABS' assessable income of that year - common ground that assessment of taxable income calculated by reference to such capital gain would, in fullness of time, be issued to ABS, not to liquidators - Commissioner found that s254(1)(d) *Income Tax Assessment Act 1936* (Cth) obliged liquidators to retain from proceeds of sale an amount sufficient to pay tax to be assessed in respect of sale of the property in the period prior to the issue of an assessment - primary judge held obligation to retain only arose after the issue of an assessment - Full Court of Federal Court found primary judge was correct to find s254(1)(d) only imposed obligation of retention once a relevant assessment had issued - held: retention obligation in s254(1)(d) only arose after assessment or deemed assessment - appeals dismissed

[Commissioner of Taxation](#) (I B C G)



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Trumpet-man

David Conolly

Walked our streets, he did.
and breathed our air.

No - more than that,

he took our breath
and sent it flying back
into the world,
transformed.

So strong, so pure that sound:

blues for the broken,
rhythm to set feet tapping.

Crowds, as usual,
still hurry past.
What do they care that
it's his birthday?

But some stop -
the homeless,
the misfits -
and smile, and dance.

They recognise the tune.

Happy Birthday, trumpet-man.
Thanks for the melody.

David Conolly

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