

MARCH 2025

Reports of the Administrative Appeals Tribunal and
Administrative Appeals Tribunal decisions on appeal
in the Federal Court and High Court

ADMINISTRATIVE APPEALS REPORTS

2021

EDITOR
KIM ROSS

REPORTER
AARON MOSS

VOL 85 — PART 3

PAGES 194-288

The mode of citation of this part will be:
85 AAR

TABLE OF CASES REPORTED

Part 3 — Pages 194-288

| | |
|--|-----|
| AAM17; Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v (High Ct of Aust) | 13 |
| Administrative Appeals Tribunal; Gadzikwa v (Fed Ct of Aust) | 1 |
| Board of Professional Engineers of Queensland v Gardner (Fed Ct of Aust) | 179 |
| Commissioner of Taxation v Ross (Fed Ct of Aust) | 194 |
| DCP17 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Fed Ct of Aust) | 48 |
| Gadzikwa v Administrative Appeals Tribunal (Fed Ct of Aust) | 1 |
| Gardner; Board of Professional Engineers of Queensland v (Fed Ct of Aust) | 179 |
| Immigration, Citizenship, Migrant Services and Multicultural Affairs, Minister for; DCP17 v (Fed Ct of Aust) | 48 |
| Le v Commissioner of Taxation (Fed Ct of Aust) | 69 |
| MDCT v National Disability Insurance Agency (Cth AAT) | 32 |
| Military Rehabilitation and Compensation Commission; Palmer and (Cth AAT) | 160 |
| Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v AAM17 (High Ct of Aust) | 13 |
| National Disability Insurance Agency; MDCT v (Cth AAT) | 32 |
| Palmer and Military Rehabilitation and Compensation Commission (Cth AAT) | 160 |
| Ross; Taxation, Commissioner of v (Fed Ct of Aust) | 194 |
| SDCV v Director-General of Security (Fed Ct of Aust) | 97 |
| Security, Director-General of; SDCV v (Fed Ct of Aust) | 97 |
| Taxation, Commissioner of; Le v (Fed Ct of Aust) | 69 |

(Cases in **bold** reported in this part)



© 2025 Thomson Reuters (Professional) Australia Limited

Lawbook Co.

ABN 64 058 914 668

Published in Sydney

ISSN 0813-779X

INDEX

Part 3 — Pages 194-288

ADMINISTRATIVE APPEALS TRIBUNAL

- Appeal from — Cross-appeal from — Both appeal and cross-appeal successful — Whether Federal Court should exercise remittal powers or power to finally resolve taxpayer's applications — Appropriate circumstances for exercise of such powers — Administrative Appeals Tribunal Act 1975 (Cth) ss 43, 44.
Commissioner of Taxation v Ross (Fed Ct of Aust) 194
- Procedural fairness — Substantial delay between hearing and decision — Whether such delay resulted in unacceptable risk of impaired capacity to assess evidence.
Commissioner of Taxation v Ross (Fed Ct of Aust) 194
- Procedural fairness — Whether consideration of matter raised after conclusion of hearing was breach of principles of procedural fairness — Appeal from — Cross-appeal from — Both appeal and cross-appeal successful — Whether Federal Court ought to exercise power to finally resolve taxpayer's applications to the Tribunal — Circumstances in which exercise of such power is appropriate — Administrative Appeals Tribunal Act 1975 (Cth) ss 43, 44.
Commissioner of Taxation v Ross (Fed Ct of Aust) 194

TAXATION

- Objections — Onus of proof — Where assessments calculated using asset betterment method — Whether Administrative Appeals Tribunal erred in interpretation and application of taxpayers' onus of proof — Whether Tribunal applied correct standard of proof — Whether sufficient for taxpayers to challenge specific items in asset betterment statement — Taxation Administration Act 1953 (Cth) s 14ZZK(b)(i).
Commissioner of Taxation v Ross (Fed Ct of Aust) 194
- Objections — Penalties — Uplift penalties — Operation of provision — Whether liability for uplift penalties requires repetition of conduct after imposition of former penalty — Whether uplift penalties may be imposed where multiple assessments issued on same day — Taxation Administration Act 1953 (Cth) Sch 1, s 284-220.
Commissioner of Taxation v Ross (Fed Ct of Aust) 194