Inland Revenue
Te Tari Taake

CASE SUMMARY

High Court dismisses judicial review

Decision date: 18 June 2026

CSUM 26/08

CASE

Jia v Commissioner of Inland Revenue [2026] NZHC 1739

LEGISLATIVE REFERENCES

Tax Administration Act 1994, s 109, 113, Part 4A (89A- 89P), Part 8A (138A-138S), 141E

Income Tax Act 2007, s CB 3

LEGAL TERMS

judicial review; issue estoppel; error of law, unreasonableness, predetermination, breach of legitimate expectation

CASE LAW REFERENCES

X v Commissioner of Inland Revenue [2021] NZTRA 4

Commissioner of Inland Revenue v Jia [2026] NZHC 899

Charter Holdings Limited v Commissioner of Inland Revenue [2016] NZCA 499

Tannadyce Investments Ltd v Commissioner of Inland Revenue [2011] NZSC 158, [2012] 2 NZLR 153

Map Transport Ltd v Director of Land Transport [2025] NZHC 753

Muir v Commissioner of Inland Revenue [2015] NZCA 591, (2015) NZTC 22-034

Chatfield & Co Ltd v Commissioner of Inland Revenue [2017] NZCA 148, (2017) 28 NZTC 23-015

LEGAL SOLICITOR

Caroline Russell

Summary

Xiaoquan Jia (**Mr Jia**) applied to judicially review the decision of the Commissioner of Inland Revenue (the **Commissioner**) declining to consider Mr Jia's application under s 113 to amend his tax assessments for the 2014, 2015, and 2016 tax years.

Mr Jia did this despite the Taxation Review Authority (**TRA**) having found the assessments to be correct in unsuccessful challenge proceedings brought by him under Part 8A of the TAA.

The Court found issue estoppel applies. The decision of the TRA is a final decision of a court of competent jurisdiction as to the correctness of the Commissioner's assessments. The TRA determined that the assessments are correct. Therefore, it is not open to Mr Jia to argue in this (or any other) proceeding with the Commissioner that the assessments are not correct.

The Court held that the Court of Appeal's decision in *Charter Holdings*[1] is clearly distinguishable from the present case. In *Charter Holdings*, the fact the taxpayer failed to invoke the disputes and challenge process meant there was no court decision regarding the impugned assessments. In contrast, Mr Jia has gone through the disputes and challenge process resulting in the decision of the TRA.

Impact

Confirms that issue estoppel prevents taxpayers from challenging the correctness of assessments once determined by a court of competent jurisdiction.

Facts

In January 2018, following an investigation, the Commissioner assessed Mr Jia for income tax in the years 2014, 2015, and 2016. The assessments amounted to $1,730,217.80.

Of this, $1,664,217.83 related to the profits from the sale of five properties that Mr Jia had purchased in the name of Chinese nationals using powers of attorney. These profits were not returned by Mr Jia and were assessed as income under s CB 3 of the Income Tax Act 2007.

Mr Jia invoked the statutory disputes process in Part 4A of the TAA. He then brought challenge proceedings in the TRA under Part 8A of the TAA. The TRA upheld the Commissioner's assessments without alteration on 29 October 2021 (**TRA Decision**).

[1] *Charter Holdings Limited v Commissioner of Inland Revenue* [2016] NZCA 499.

Mr Jia filed an appeal seeking to overturn the decision of the TRA. But approximately one month prior to the High Court appeal hearing, he abandoned the appeal.

The debt recovery proceeding and strike-out

In December 2024, the Commissioner commenced debt recovery proceedings against Mr Jia. The Commissioner sought to strike out certain paragraphs of the of the first defendant's statement of defence on the basis s 109 prevents the first defendant from seeking to dispute the Assessments in the context of these debt proceedings.

Mr Jia opposed the Commissioner's strike-out application. However, Associate Judge Sussock struck out the paragraphs in Mr Jia's statement of defence that are barred by s 109.

Mr Jia's s 113 application

During the strike-out application hearing, counsel for Mr Jia handed up a letter from Mr Jia's solicitors (dated 16 September 2025) requesting that the Commissioner amend Mr Jia's assessments under s 113 of the TAA. On 6 October 2025, Mr Jia's solicitors sent the Commissioner an amended version of the letter (**113 application**).

Mr Jia's 113 application maintained that the construction costs figures allowed as deductions were much too low, resulting in the assessment amounts being "manifestly excessive".

The 113 application attached two affidavits. The first was that of a quantity attaching a "Detailed Design Estimate" that estimated the construction costs for the five properties. The second was an affidavit of a forensic accountant who endorsed the figures and opined that the figures used by Inland Revenue were "erroneous".

The affidavits contained entirely new information, which had not been presented to the TRA. Before the TRA, Mr Jia relied instead on his own calculations based on a Beacon Pathway report.

These were rejected, with the TRA preferring the Commissioner's figures derived from the Rawlinsons handbook.

The Commissioner's decision

On 10 October 2025, the Commissioner sent Mr Jia's solicitors a reply letter regarding the 113 application. The letter stated that the Commissioner declined to consider Mr Jia's application to amend the assessments under s 113. The reasoning included that the assessments that Mr Jia sought to have amended had been determined to be correct by the TRA. Accordingly, the Commissioner was satisfied that the assessments were correct.

Mr Jia's case

Mr Jia advanced four judicial review grounds, namely error of law, unreasonableness, predetermination, and breach of legitimate expectation.

Mr Jia argued the Commissioner made an error of law because he misinterpreted s 113 in a way that caused him to not have any regard to the affidavits. Further, he says that the failure to have regard to the affidavits resulted in the Commissioner making an unreasonable decision, predetermining the application, and breaching Mr Jia's reasonable expectation that the affidavits would be given proper consideration.

Mr Jia relied on *Charter Holdings Ltd v Commissioner of Inland Revenue*. In that case, the taxpayer had been in a position to invoke the statutory disputes and challenge procedures under Parts 4A and 8A of the TAA but failed to do so. Instead, the taxpayer applied under s 113 to have the relevant assessments amended and, when the Commissioner declined to do so, the taxpayer sought judicial review.

The High Court concluded that judicial review was not available because of s 109 of the TAA as interpreted by the Supreme Court in *Tannadyce Investments Ltd v Commissioner of Inland Revenue*. However, the Court of Appeal disagreed. While s 109 prevents a "disputable decision" by the Commissioner being disputed in any court other than through a challenge proceeding, s 109 does not apply to a judicial review of a decision under s 113 because a decision under that section does not come within the definition of a "disputable decision". Section 113 "is intended to stand outside of, and be supplemental to, the disputes and challenge process provided for in the TAA." Accordingly, judicial review was available.

Issues

1. Whether a taxpayer can judicially review the Commissioner's decision to decline a s 113 application where a court of competent jurisdiction has determined the correctness of the Commissioner's assessments.

Decision

The Court dismissed Mr Jia's application for judicial review. It held that *Charter Holdings* was distinguishable because Mr Jia had already completed the disputes and challenge process.

As a result, issue estoppel applied and the correctness of the assessments could not be revisited.

The Court found that s 113 gives the Commissioner the power to amend assessments to "ensure their correctness." As the correctness of the assessments cannot be disputed, the Commissioner was justified in treating the assessments as correct and therefore declining to consider the 113 application.

About this document

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