Inland Revenue
Te Tari Taake

CASE SUMMARY

Disputant's claim struck out under s 138H of the TAA because the requirements of s 138B were not met

Decision date: 28 October 2026

CSUM 26/15

Case	*X v Commissioner of Inland Revenue* [2026] NZTRA 005
Legislative References	Tax Administration Act 1994, 89A, 89AB, 89DA, 89F, 89G, 89H, 89K, 89M, 89N, 89P, 92B, 113, 138B, 138D, 138E, 138H Taxation Review Authorities Act 1994, 16(1), 19(2), 21A
Case Law References	*Allen v Commissioner of Inland Revenue* [2006] NZSC 19, [2006] 3 NZLR 1
Legal Terms	challenge, strike out, jurisdiction, adjournment, exceptional circumstances
Forum	Taxation and Charities Review Authority (TCRA)
Chair	G D Pearson
Decision date	28 October 2026

Summary

1. X operates an electronic food delivery platform business and considers that its GST treatment differs from competitors who operate on a similar basis.
2. X filed a challenge in the TCRA to correct its GST assessments despite the statutory disputes process under Part 4A of the Tax Administration Act 1994 (**TAA**) not being previously initiated. It subsequently issued a notice of proposed adjustment (**NOPA**) and requested the authority to adjourn the proceeding pending completion of the statutory disputes process.

3. The Commissioner's application to strike out the proceeding due to lack of jurisdiction was granted by the Authority, who held that the requirements of s 138B of the Tax Administration Act 1994 entitling the disputant to file a challenge had not been satisfied and that neither an adjournment nor reliance on s 138D (exceptional circumstances) could cure that jurisdictional defect.

Impact

4. The decision confirms that the TCRA has limited jurisdiction. A proceeding will be struck out if the requirements for jurisdiction are not met.

Facts

5. On 14 April 2026, X commenced the TCRA proceeding, before issuing a NOPA on 17 July 2026. The NOPA proposed adjustments for 13 GST periods from 31 May 2024 to 31 May 2026.
6. The Commissioner accepted the NOPA as timely for the periods ending 31 March 2026 and 31 May 2026. The Commissioner also accepted it out of time for the periods ending 30 November 2025 and 31 January 2026 but declined to accept it for nine earlier periods between 31 May 2024 and 30 September 2025. For the four accepted periods, the Commissioner issued a notice of response (**NOR**) on 11 September 2026, which X rejected and the disputes process continued.
7. At the time of the proceeding, X had not completed the statutory disputes process steps required to bring an assessment challenge.
8. X sought the proceeding to be adjourned to enable the disputes process to be completed, however the Commissioner applied to strike it out for lack of jurisdiction.

Issue(s)

9. Whether the proceeding should be struck out under s 138H of the TAA.
10. Whether an adjournment or s 138D (exceptional circumstances) could cure the jurisdictional defect.

Decision

11. The Authority granted the Commissioner's application to strike out X's GST assessment challenge. The Authority held that it lacked jurisdiction because X had not completed

the statutory dispute process steps required before commencing proceedings. In particular, no challenge notice had been issued under s 89P and no relevant amended assessment provided an alternative basis for challenge.

12. The Authority noted that s 138H permits the Commissioner to apply to strike out a challenge for failure to comply with any of the requirements of s 89M or s 138B. Here, the failure to satisfy s 138B is dispositive. Further, the ordinary principles governing strike out under s 21A of the Taxation Review Authorities Act 1994 do not overcome that failure. Those principles protect an arguable claim from premature determination of its merits. They do not authorise the Authority to hear a claim outside the jurisdiction conferred by statute.

13. X's request to adjourn the proceeding while the disputes process continued was also declined, because completing that process later could not retrospectively cure the absence of jurisdiction when the proceeding was initially commenced.

14. The Authority did not determine the merits of X's underlying GST position, including whether its proposed GST treatment was correct or whether it was entitled to credits or refunds.

15. The disputes process for the four later GST periods continue and, if the statutory requirements were met, X could commence a new challenge. For the earlier nine periods, X's potential challenge under s 89K(6) to the Commissioner's refusal to accept its late NOPA and the possible correction of assessments by the Commissioner under s 113, were separate matters that were not determined in this proceeding.

About this document

These are brief case summaries prepared by Inland Revenue of decisions made by the Taxation and Charities Review Authority, the District Court, the High Court, the Court of Appeal or the Supreme Court in matters involving the Revenue Acts. For Taxation and Charities Review Authority matters the parties' names are anonymised. The findings of the court described in a case summary are no longer current law where the matter has been successfully appealed or the relevant legislation has been amended.