

Denmark loses £1.4bn fraud case

Judge rules tax authority's controls were so lax 'as to be almost non-existent'

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Denmark has lost a £1.4bn tax fraud case at the High Court in London in a blow to the country's efforts to recover monies from the sprawling "cum-ex" scandal.

The country's tax authority had accused defendants including trader Sanjay Shah and his UK-based hedge fund of conducting a fraud over three years that netted them a total of about £1.4bn in dividend tax refunds.

Danish authorities, which had successfully prosecuted Shah last year, launched the lawsuit in attempt to recover the funds in one of the most complex and highest value cases to be

heard by the High Court. At a trial lasting 138 days and involving 56 defendants, the Danish Customs and Tax Administration (Skat) said it had been misled on 4,000 claims into refunding dividend taxes that had never been paid.

In the proceedings, which concluded in April, Skat accused Shah and senior people working for his hedge fund Solo Capital of tricking it into making the payments through the use of so-called "cum-ex" trades.

In a judgment yesterday, Mr Justice Andrew Baker said that while some defendants, including Shah, were dishonest in various ways, the authority had ultimately failed to establish its case.

Baker found that Skat's controls for assessing and paying dividend tax refund claims were "so flimsy as to be almost non-existent". While "greed was

present" among the defendants, the poor controls meant that, legally, it could not be said to have been misled.

In a summary of his 326-page judgment, he said that Skat "failed to establish any of the claims it pursued at trial, where liability was disputed".

The tax authority said that it strongly disagreed with the judgment and would appeal.

The outcome is a big setback for Danish authorities, despite having secured a 12-year prison sentence against Shah following a court case in Denmark.

Danish judges found he was the mastermind behind a scheme to defraud the country of DKr9bn (\$1.3bn) and handed him the sentence last December. The Danish court also ordered the confiscation of DKr7.2bn from Shah.

Shah denied any wrongdoing, arguing that he had merely exploited loopholes in Danish law. His appeal against the

sentence is due to be heard in November next year. Chris Waters, Shah's lawyer, said that the London judgment was an "overwhelming victory" for the defendants and a "catastrophic loss" for Skat. "The claim, as pleaded, should never have been brought," Waters said.

The Danish tax authority said that the ruling was a "source of surprise". It said it had so far recovered DKr3.8bn. Following a judgment last week by a New York court in Skat's favour, it was hoping to reclaim another DKr1bn, the authority added. However, the litigation in London was a big part of the country's efforts to recover the sums.

The case formed part of the widespread "cum-ex" scandal in Europe. Authorities in several countries claim to have been duped into refunding taxes on dividends that had never been paid in the first place.

Additional reporting by Richard Milne