

NO. 27738

IN THE SUPREME COURT OF THE STATE OF HAWAII

In the Matter of the Tax Appeal of

HENRY F. JOHNSON (SHAREHOLDER), Taxpayer/Appellant/Appellant
and INTERNATIONAL RESOURCE RECOVERY, INC., Taxpayer/Appellant,

vs.

DIRECTOR OF TAXATION, STATE OF HAWAII, Appellant

APPEAL FROM THE TAX APPEAL COURT
(TAX APPEAL CASE NO. 05-0066)

ORDER VACATING THE JUNE 15, 2006 ORDER DISMISSING APPEAL
(By: Nakayama, J., for the court¹)

E.M. RIMANDO
CLERK APPELLATE COURTS
STATE OF HAWAII

2006 JUN 28 PM 1:46

FILED

Upon further review of the record, it appears that the separate document rule under Rule 58 of the Hawai'i Rules of Civil Procedure (HRCPP) and our holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994), does not apply to an appeal from a final decision by a tax appeal court, and, thus, "no separate judgment is required[.]" Alford v. City and County of Honolulu, 109 Hawai'i 14, 22, 122 P.3d 809, 817 (2005). The Honorable Gary W. B. Chang's December 30, 2006 "Order Granting Director of Taxation, State of Hawaii's Motion to Dismiss Filed on November 21, 2005" is an appealable decision pursuant to HRS § 232-19 (1993). Therefore,

¹Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.

IT IS HEREBY ORDERED that the June 15, 2006 "Order
Dismissing Appeal" is vacated, and the parties in this appellate
case shall continue to proceed with briefing.

DATED: Honolulu, Hawai'i, June 28, 2006.

FOR THE COURT:

Paula C. Takayama

Associate Justice

