

# ISHITA SETHI

*Barrister, Advisor, Director, Sessional Academic*



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## Professional Qualifications

- 2013 Admitted to the Register of Practitioners of the High Court of Australia
- 2013 Called to the NSW Bar
- 2011 Obtained designation of Chartered Tax Advisor (The Tax Institute)
- 2008 Admitted to the Roll of NSW Lawyers and obtained a practicing certificate to practice as a solicitor and barrister of the Supreme Court of NSW

## Education

- 2014 Master of Taxation (University of Sydney)
- 2013 Advocacy Skills Workshop (Australian Advocacy Institute)
- 2008 Practical Legal Training Program (The College of Law)
- 2007 Bachelor of Laws/Bachelor of Commerce  
(offered a scholarship bound Honours position) (University of NSW)

## Professional Achievements

- 2023- Guest panellist on Sky News Australia, Law and Politics
- 2022- Elected to NSW Liberal Women's Council General Management Committee
- 2021- Mentor, NSW Bar Association Bar Mentoring Program
- 2020- Executive Board Member and Treasurer, 2 Selborne Chambers, Sydney NSW
- 2020- Sessional Academic, Law Extension Committee, University of Sydney
- 2020- Chair, Australian Chapter, The Indian National Bar Association
- 2020- Mentor to law students, University of Technology Law Faculty Mentoring program
- 2019- Appointment to Tax Advisory Panel, Commonwealth of Australia, Australian Small Business and Family Enterprise Ombudsman
- 2018- Australian Legal Advisor, United Sikhs Australia, Civil and Human Rights Advocacy
- 2017- International Legal Advisor, United Sikhs, International Civil and Human Rights Advocacy
- 2017- Speaker on taxation law, Continuing Legal Education Program, LegalWise CLE Provider
- 2016- Speaker, MCLE (Tax and Equity) & Community Legal Education Programs, Toongabbie Legal Centre, Toongabbie NSW
- 2016- Pro Bono Legal Services Provider, Toongabbie Legal Centre, Toongabbie NSW
- 2015- Advisory Committee Member, Revenue Liaison Group, The Tax Institute, Australia
- 2014- Contributor, Taxation Discussion Group, The Tax Institute, Australia
- 2014 Elected Councillor and Director, NSW Bar Association
- 2014 Member of Professional Conduct Committee, NSW Bar Association
- 2014 Member of Equal Opportunity Committee, NSW Bar Association

- 2014 Executive Sub-Committee Member, Women Barristers' Forum, NSW Bar Association
- 2013- Member, NSW Bar Association
- 2013- Member of Women Barristers' Forum, NSW Bar Association
- 2011- Chartered Tax Advisor, The Tax Institute, Australia

### Interests

- Pro bono legal advice and representation
- Volunteering for NFP community organisations and legal centres
- Law, politics, community, policy, finance and education
- Diversity and representation
- Mentorship of women (especially in law and politics) to reach best potential
- Family, health, fitness

### Professional Experience

- 2020- Executive Director and Treasurer, 2 Selborne Chambers, Sydney
- 2013- Barrister – 2 Selborne Chambers, Sydney
- 2011 Solicitor – Tax, Schurgott & Noolan, Sydney
- 2010 Solicitor – Tax, LAC Lawyers, Sydney
- 2008 Solicitor – Commercial, Kreisson Legal, Sydney

### *Areas of Practice as a Barrister*

- |                           |                           |
|---------------------------|---------------------------|
| • Administrative & Public | • Government decisions    |
| • Appellate               | • Professional Negligence |
| • Commercial              | • Succession and Family   |
| • Equity and Trusts       | • Superannuation          |
|                           | • Taxation & Revenue      |

### *Examples of Work*

- Prepared submissions to Government on proposed legislation on behalf of **community based public interest groups** to facilitate meaningful participation in the **public consultation** process
- Provided advice to NFP regarding applying for **governmental grants**
- Advised class of Australian professionals on rights to seek review of administrative decisions made by **Government** pertaining to their membership of, and ability to continue to be part of representative professional body – interplay with **newly enacted legislation**
- Advised **Significant Global Entity** (≥\$1B income per annum) regarding income taxation
- Prepared Report in anticipation of presentation to the **United Nations Human Rights Council** in Geneva
- Advised Australian Chapter of an international **human rights organisation** on **administrative and judicial review** options about discriminatory administrative decision
- Advised on a **constitutional law** matter in the Federal Court of Australia based on inconsistency between State and Federal laws
- Advised **multi-\$B international investment fund** regarding tax implications of structures
- Advised corporate and individual **trustees of superannuation funds** in relation to trustee duties and taxation implications of a failure to comply with the **governing legislation and industry regulations**

- Represented parties in complex multi-issue **parenting and financial settlement applications** and **family provision** claims
- Advised large **property development** company in relation dispute with Revenue NSW
- Advised and represented family group in relation to **off-the plan property investments**
- Advised property development start-up in relation to legal facets, **council applications**, contracts, etc
- Advised and appeared (unled) in complex international **intellectual property** litigation in the Federal Circuit Court of Australia involving trademark, patents, parallel importation, copyright infringement disputes
- Advised and appeared for taxpayers against the Deputy Commissioner of Taxation in **bankruptcy** proceedings in the Federal Circuit Court of Australia
- Appeared for individual in **defamation** proceedings to re-open default judgment to avert **bankruptcy** in the Federal Circuit Court of Australia
- Advised and represented clients in **immigration** Applications and Appeals in the Federal Circuit Court of Australia and Federal Court of Australia
- Advised in relation to **Personal Services Income** of professional medical and accounting practices in anticipation of litigation proceedings in the Federal Court of Australia
- Represented corporate and individual taxpayers in criminal proceedings and **prescribed taxation offences** in the Local Court
- Advised and acted (unled) in a **payroll tax litigation**, in which parties settled upon filing of my submissions and evidence
- Advised and appeared in a number of joined payroll tax applications for review which settled part way through the hearing
- Advised and appeared in a **mediation** against NAB and obtained favourable settlement of dispute
- Represented a multi- $\$B$  Australian corporate group in respect of **corporate refinancing arrangement** subject to audit by the ATO
- Advised high wealth private group in relation to the issue of notices of assessment by the Commissioner of Taxation concerning **CFCs, transferor trusts and offshore pension funds**
- Advised a high wealth private group in relation to the issue of a notice of assessment in the range of \$200 million held in a **controlled foreign trust (CFT)**
- Advised national corporate regarding CGT implications of royalty streams worth  $>\$100M$
- **Advised the ATO** as to prospects of success in a number of anticipated actions
- Prepared objection to a notice of assessment of GST issued to an Australian export company
- Provided advice to an Australian legal practice regarding an **indemnity claim** regarding GST liabilities
- Advised and represented in many **bankruptcy proceedings** in the Federal Court of Australia
- Advised and represented a trustee of a **self-managed superannuation fund (SMSF)** regarding trustee obligations, taxation of benefits compliance status and roll-over in anticipation of ATO audit

#### *Selected Cases*

- *Bingham v Bevan – final hearing April 2023 - decision reserved*  
**Court of Appeal of New South Wales** – Led, by M.Cashion SC, for the Respondent  
 Uniform Law - Legal Professional Costs – Practitioner Costs - Defended an appeal

- *Bevan v Bingham* [2022] NSWSC 863  
**Supreme Court of NSW** – Unled, for the Plaintiff  
 Legal Professional Costs - Defended a motion to set aside – Motion refused with costs
- *Chief Commissioner of State Revenue v Benidorm Pty Ltd* [2021] HCATrans 67  
**High Court of Australia** – Led, for the Respondent  
 Application for Special Leave by the Applicant – Refused with costs
- *Chief Commissioner of State Revenue v Benidorm Pty Ltd* [2020] NSWCA 285  
**Court of Appeal of New South Wales** – Led, for the Respondent  
 Stamp duty, statutory interpretation, whether subsequent declaration of trust is dutiable transaction
- *Benidorm Pty Ltd v Chief Commissioner of State Revenue* [2020] NSWSC 471  
**Supreme Court of New South Wales** – Led, for Plaintiff  
 Stamp duty, whether declaration of trust a dutiable transaction
- *Deputy Commissioner of Taxation v Collins* (2015/331068) (settled following interlocutory hearings)  
**District Court of New South Wales** – Unled, for the Deputy Commissioner of Taxation  
 Directors’ penalty notices for federal revenue obligations of corporation, defence unavailable
- *Lloyd v Chief Commissioner of State Revenue* [2016] NSWCATAD 230  
**NSW Civil and Administrative Tribunal** – Unled, for the Chief Commissioner of State Revenue  
 Land tax, exemption for unoccupied land
- *Theophilas v Chief Commissioner of State Revenue* [2016] NSWCATAP 111  
**NSW Civil and Administrative Tribunal (Appeal Panel)** – Led, for the Chief Commissioner of State Revenue - Land tax, exemptions, defending an appeal, notice of contention
- *Theophilas v Chief Commissioner of State Revenue* [2015] NSWCATCD 121  
**NSW Civil and Administrative Tribunal (Appeal Panel)** – Unled, for the Chief Commissioner of State Revenue - Land tax, exemptions, PPR, successfully defended
- *Cosbott v Commissioner of Taxation* [2015] FCAFC 71  
**Federal Court of Australia (Full Court)** - Unled, for the Appellant  
 Capital gains tax, appeal on errors of law – prepared entire appeal to the Full Court, appeal effectively dealt with on the papers
- *Cosbott v Commissioner of Taxation* [2014] FCA 1417  
**Federal Court of Australia** – Unled, for the Appellant  
 Capital gains tax, appeal on errors of law
- *Chief Commissioner of State Revenue v Danny & Steven Knezevic* [2015] NSWCATAP 98  
**NSW Civil and Administrative Tribunal (Appeal Panel)** – Led, for the Chief Commissioner of State Revenue - Duties, exemption, appeal on errors of law

- *Spirios Theophilas v Chief Commissioner of State Revenue* [2015] NSWCATAP 39  
**NSW Civil and Administrative Tribunal (Appeal Panel)** – Led, for the Chief Commissioner of State Revenue - Land tax, exemptions, defending an appeal
- *Hunter v Hanson* [2015] HCATrans 16  
**High Court of Australia** – Led, special leave application
- *Morrison v Commissioner of Taxation* [2015] AATA 114  
**Administrative Appeals Tribunal** - Led, for the taxpayers  
Income tax, jurisdiction to amend, sham arrangements
- *Canty v PaperlinX Australia Pty Ltd* [2014] NSWCA 309  
**Supreme Court of New South Wales (Court of Appeal)** – Led, for the Appellants
- *Deputy Commissioner for Taxation v Hallacq* (settled following first day of hearing)  
**District Court of New South Wales** – Unled, for the DCT, Significant Debt
- *Agricultural & Rural Finance Pty Ltd v Atkinson & Ors (No. 2)* [2014] NSWSC 1397  
**Supreme Court of New South Wales** – Led, for the Plaintiff - Contracts review, costs application
- *Knezevic v Chief Commissioner of State Revenue* [2014] NSWCATAD 183  
**NSW Civil and Administrative Tribunal** – Unled, for the Chief Commissioner of State Revenue  
Duties, exemptions
- *Spirios Theophilas v Chief Commissioner of State Revenue* [2014] NSWCATAD 100  
**NSW Civil and Administrative Tribunal** – Unled, for the Chief Commissioner of State Revenue  
Land tax, principal place of residence exemption
- *Laviva Nominees atf The Laviva Trust v Chief Commissioner of State Revenue* [2014] NSWCATAD 84  
**NSW Civil and Administrative Tribunal** – Unled, for the Chief Commissioner of State Revenue  
Land tax, tax default and interest
- *BQRW v Federal Commissioner of Taxation* [2014] AATA 410  
**Administrative Appeals Tribunal** – Led, for the taxpayer - In both interlocutory and substantive proceedings - Deductibility of contributions, leave to re-open
- *In the matter of Allted Pty Ltd* (2014)  
**Supreme Court of New South Wales** – Unled – insolvency
- *RepairCo v Commissioner of Taxation* [2014] AATA 414  
**Administrative Appeals Tribunal** - Unled, for the taxpayer  
In both interlocutory and substantive proceedings  
Deductibility of contributions, jurisdiction to make assessment
- *In the matter of Employees of BHP Mutual Benefits Fund* [2013] NSWSC 1497  
**Supreme Court of New South Wales** – Led, for the Applicant  
Application for judicial advice.