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**MINISTRY OF TOURISM**

**REPUBLIC OF SOUTH AFRICA**

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**NATIONAL ASSEMBLY:**

**QUESTION FOR WRITTEN REPLY:**

**Question Number: 231**

**Date of Publication: 17 February 2023**

**NA IQP Number: 2**

**Date of reply:**

**Mr M S F de Freitas (DA) to ask the Minister of Tourism:**

With reference to expenses on legal activities undertaken by the (a) National Department of Tourism and (b) SA Tourism (i) in the past three financial years and (ii) since 1 January 2023, what (aa) are the details of the legal work that was undertaken, (bb) are the reasons in each case, (cc) were the outcomes of each matter and (dd) were the total costs incurred in each matter? NW235E

**REPLY:**

1. I have been informed by the Department

**2019/20 Financial Year**

| **(aa) What are the details of the legal work that was undertaken** | **(bb) What are the reasons in each case** | **(cc) What were the outcomes of each matter** | **(dd)What were the total costs incurred in each matter?** |
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| 1. **Jean-Pierre Klein t/a SA Online and Entertainment Vs. Minister of Tourism**:   State Attorney was instructed to defend the Action and a Notice of Intention to Defend was served on the Plaintiff and filed at court by the State Attorney.  A Plea was filed and the Plaintiff applied for a Summary Judgment, which was dismissed by the court.  Parties have exchanged pleadings and Plaintiff has not taken the matter any further. | Jean-Pierre Klein t/a SA Online and Entertainment brought an action against the Department claiming payment of the amount of R41 040-00 (Forty-One Thousand and Forty rand), alternatively damages suffered in the sum of R41, 040-00 arising from alleged breach of contract by the Department.  The claim arises out of a contract entered into with the Department whereby services of the Programme Director were required by the Department for a function.  State Attorney was instructed to defend the Action and a Notice of Intention to Defend was served on the Plaintiff and filed at court by the State Attorney.  A Plea was filed and the Plaintiff applied for a Summary Judgment, which was dismissed by the court.  Parties have exchanged pleadings and Plaintiff has not taken the matter any further. | Litigation in progress. | No costs paid |
| 1. **Nkuna Lucky vs. Minister of Tourism:** The Department has filed a Notice of Intention to Defend the matter.   A Plea has been served and filed. Pleadings closed and waited for date of hearing. | Mr Nkuna is an official of the Department and has brought a claim against the Minister for defamation of character by an official of the Department, who is Plaintiff’s supervisor.  The Department has filed a Notice of Intention to Defend the matter.  A Plea has been served and filed. We are waiting for progress report from the office of the State Attorney with regards to the status of the pleadings and date of hearing. | Matter finalised. Court ordered against the Department. | No costs paid |
| 1. **OD Mokoena and Another vs. Minister of Tourism and Another**: The Department opposed an Application which was set-down and postponed *sine die.* | Claim against the Department to interdict the Minister and the Gauteng Tourism Authority from implementing the Tourism Safety Monitors/ Tourism Ambassadors Project at Vilakazi Street, Gauteng. The Applicants claim that the project is their brainchild. | Litigation in progress | No costs paid |
| 1. **G Esitang vs. Department of Tourism and Another**: The Department filed an Application to the Labour Court to review the decision of the GPSSBC. The Department was of the view that the award of the GPSSC was reviewable on the basis that the Arbitrator misdirected himself on legal aspects of the appointment and also that the Arbitrator’s Award was vague and not capable of being implemented.   Review Application was heard on 2 November 2017 and our Application was dismissed with costs | The Applicant referred for arbitration the decision of the Department to not shortlist him for the advertised position of the Director: Labour Relations. The Applicant sought an order from the General Public Service Sector Bargaining Council (GPSSBC) that he be appointed or compensated for the loss that he suffered as a result of the decision of the Department not to shortlist him for the position.  At the GPSSBC, an order was made that the Department pay him twelve (12) months’ salary of the position he applied for as compensation.  The Department filed an Application to the Labour Court to review the decision of the GPSSBC. The Department was of the view that the award of the GPSSC was reviewable on the basis that the Arbitrator misdirected himself on legal aspects of the appointment and also that the Arbitrator’s Award was vague and not capable of being implemented.  Review Application was heard on 2 November 2017 and our Application was dismissed with costs. The court held that the Respondent be compensated the difference between the salary he receives and the salary he would have received, had he been promoted to the position of Director: Labour Relations and Employee Health and Wellness. The compensation to be limited to 12 months.  The Department has satisfied the court judgment by effecting payment to the Applicant on 5 July 2019. | Labour court ordered against the Department for payment of R175 009.00. | R221 822.00 |
| 1. **Gordon Darrol du Preez t/a Gordon Builders vs. Minister of Tourism**: The Department instructed the State Attorney to defend the matter and a Notice of Intention to Defend was served on the Plaintiff and filed at Court by the State Attorney on 12 September 2016. | Action against the Minister claiming for damages the plaintiff allegedly suffered as a result of not being awarded a tender by MBB, who has been appointed by the Department to implement one of its projects for social responsibility.  The Department received Summons from Gordon Builders, which was served at State Attorney, Port Elizabeth. The Department instructed the State Attorney to defend the matter and a Notice of Intention to Defend was served on the Plaintiff and filed at Court by the State Attorney on 12 September 2016. | Judgment in favour of the Department was delivered on 25 April 2019 including costs. | R336 814.42 |
| 1. **Lefa la Tshepo Projects (Pty) Ltd vs. Minister of Tourism and Another**: To defend a claim against the Department. | To defend a claim against the Department for supply of shortfall of the material. | Department lost the case | No costs paid |
| 1. **J. van der Merwe and 5 Others vs. Minister of Tourism and Others**: Defend the matter and raised a Special Plea that the Minister of Tourism is not a competent authority to be sued. | The Plaintiffs allege that they were unlawfully arrested by game rangers at the Makuya Nature Reserve for allegedly trespassing.  The Plaintiff issued Summons against several Defendants, including the Minister of Tourism.  We are defending the matter and raised a Special Plea that the Minister of Tourism is not a competent authority to be sued.  We instructed the State Attorney to request Plaintiff’s attorney to withdraw their claim against our Minister based on our Special Plea. The State Attorney indicated that he is of the opinion the Plaintiffs will not withdraw the action against our Minister but indicated that he will ensure that no order is made against the Minister.  Despite the Department having instructed the State Attorney to apply for the dismissal of Plaintiffs’ claim with costs in the event Plaintiffs did not withdraw their claim against the Minister, we are however mindful that there are numerous government departments sued by the Plaintiffs and it may not be in our best interest to lodge an Application for Dismissal of the Claim on our own. We are following on the matter to ensure that the interests of the Minister are protected. | Case was written off from litigation report | No costs paid |
| 1. **Minister of Tourism vs. Bonwelong Skills Development CC, Mr Inama and Nedbank Pty Ltd**: Department filed and Urgent Application to have the Bank Accounts of Bonwelong Skills Development frozen.   An Interim Order was granted with Return Date on Rule Nisi. | Litigation initiated to recover the money owed to the Department. | Litigation in progress | No costs paid |
| 1. **Minister of Tourism vs. Been Around GP Advert Consulting CC**: Department issued summons against Been Around for a refund for money paid to finish a project and failed to account. | Recovery of the amount owed to the Department | Litigation in progress | No costs paid |
| 1. **Minister of Tourism vs Wings Naledi**: Department issued summons against Wings Naledi to account on the amount of refunds and cancellation issued. Pleadings were exchanged | Claim by Department for failure to account on the use of the Department’s credit card for payment of travel arrangement services. | Litigation in progress | No costs paid |
| 1. **Minister of Tourism vs. KA Morritt/ Morritt CC:** Summons were issued and served on the Defendant. | Claim by the Department based on a collision between a departmental vehicle and a vehicle belonging to and/ or driven by KA Morritt. | Litigation in progress | No costs paid |

**2020/21 Financial Year**

| **(aa) What are the details of the legal work that was undertaken** | **(bb) What are the reasons in each case** | **(cc) were the outcomes of each matter** | **(dd)What were the total costs incurred in each matter?** |
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| 1. **Department of Tourism v Been Around GP CC:** Litigating on behalf of the Department, including, perusal of documents; consultations and drafting court papers. | To issue and serve Summons against the Defendant to recover the amount owed to the Department. | Matter is withdrawn | No costs paid |
| 1. **Minister of Tourism vs. Wings Naledi**: Department issued summons against Wings Naledi to account on the amount of refunds and cancellation issued. Pleadings were exchanged | Claim by Department for failure to account on the use of the Department’s credit card for payment of travel arrangement services. | Litigation in progress | No costs paid |
| 1. **Minister of Tourism vs. Corporate Skills Development Services:** Application was filed to set aside the award of a tender and have the contract declared null and *void abinitio*. | Claim by Department for the irregular award of a tender to Corporate Skills Development Services. | Litigation in progress | No costs paid |
| 1. **Minister of Tourism vs. KA Morritt/ Morritt CC** Summons were issued and served on the Defendant and Pleadings exchanged. | Claim by the Department based on a collision between a departmental vehicle and a vehicle belonging to and/ or driven by KA Morritt. | Litigation in progress | No costs paid |
| 1. **Minister of Tourism vs. Bonwelong Skills Development CC and Mr Inama:** Department filed and Urgent Application to have the Bank Accounts of Bonwelong Skills Development frozen.   An Interim Order was granted with Return Date on Rule Nisi. Summons have been issued and served on Bonwelong. | A claim for money paid in advance to Bonwelong for the implementation of the Hospitality Youth Programme in respect of Limpopo and North West Provinces. Bonwelong cancelled the Agreement with the Department but failed to pay back the advanced payment. Summons have been issued and served on Bonwelong. | Litigation in progress | No costs paid |
| 1. **Second Generation Consulting t/a Rivers vs. Minister of Tourism**: For perusal of the summons, consultations with client and instruction to the Office of the State Attorney to file Notice to Defend on behalf of the Department, Filed Notice of Intention to Defend the matter, investigated the claim to determine prospects of success and advised the Minister on same. Recommended settlement out of the court, settlement approved by the Minister. Concluded and signed a settlement agreement with the Plaintiff that the matter be settled out of the court. | Claim against the Department for breach of contract entered into between the Department and the Plaintiff. It is alleged that the Department failed to honour and comply with its payment obligations as provided for in the agreement. | Litigation in progress | No costs paid |
| 1. **David D Mokoena and Another vs. Minister of Tourism and Another**: Perusal of pleadings, consultation with client, drafting of pleadings and appearing in court on behalf of the Department. | Claim against the Department to interdict the Minister and the Gauteng Tourism Authority from implementing the Tourism Safety Monitors/ Tourism Ambassadors Project at Vilakazi Street, Gauteng. The Applicants claim that the project is their brainchild. | Litigation in progress | No costs paid |
| 1. **Solidarity Trade Union v Minister of Small Business Development, Minister of Tourism and others Afriforum v Minister of Tourism and others**: To defend the Applications, including, perusal of documents, consultations, research, drafting of documents, court appearance and preparation of legal opinions. | Applicants brought an urgent application to force the Respondents to provide access to certain information regarding various Funds established by government as a result of Covid-19 including the Tourism Relief Fund. The second part of the application is for an order to interdict the Ministers responsible for the various Funds to use the criteria that are allegedly discriminatory in terms of race. | Litigation in progress | No costs paid |
| 1. **Greenshoots Project & Consulting vs. Minister of Tourism & Others**: No legal work was under taken and case was withdrawn. | The Applicant is challenging the procurement process of South African Tourism. | Case withdrawn | No costs paid |

**2021-2022**

| **(aa) What are the details of the legal work that was undertaken** | **(bb) What are the reasons in each case** | **(cc) What were the outcomes of each matter** | **(dd) What were the total costs incurred in each matter?** |
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| 1. **Solidarity and another v Minister of Tourism TEF & TRF**: To defend the Applications, including, perusal of documents, consultations, research, drafting of documents, court appearance and preparation of legal opinions. | This was an urgent application to interdict the implementation of the Tourism Equity Fund by the Department. Continued litigation. | Litigation in progress. | Junior Counsel’s fees: R99 791.25 Plus  Senior Counsel’s fees: R299 718.75  **Total:**  R339 510.00 |
| 1. **Lefa La Tshepo Projects v Minister of Tourism:** To defend a claim against the Department. | To Department appealed the decision of the Court. | Judgment was against the Department and matter is finalised. | R43 500.00 |
| 1. **Second Generation t/a 24 Rivers vs Department of Tourism**: For perusal of the summons, consultations with client and instruction to the Office of the State Attorney to file Notice to Defend on behalf of the Department, Filed Notice of Intention to Defend the matter, investigated the claim to determine prospects of success and advised the Minister on same. Recommended settlement out of the court, settlement approved by the Minister. Concluded and signed a settlement agreement with the Plaintiff that the matter be settled out of the court. | Litigation to defend alleged breach of contract by the Department. | The matter was settled out of court. | R 71 353.12 was legal fees. |
| 1. **Minister of Tourism vs. Bonwelong Skills Development CC**:Litigating on behalf of the Department, perusal of documents; consultations and drafting court papers. Service of combined summons by Sheriff. | Litigation initiated to recover the money owed to the Department. | Ligation in progress. | R10 553.19 |
| 1. **Department of Tourism v AIMS & Nombo Mabhele**: Litigating on behalf of the Department, including, perusal of documents; consultations and drafting court papers. | Litigation to recover money from the implementers of Social Responsibility Projects. | Litigation in progress. | R99 000.00 |
| 1. **Department of Tourism v Been Around GP CC**: Litigating on behalf of the Department, including, perusal of documents; consultations and drafting court papers. | To issue and serve Summons against the Defendant to recover the amount owed to the Department | Matter is withdrawn | R82 150.00 |

**2022 – 2023**

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| 1. **Solidarity Afriforum vs Minister of Tourism TEF & TRF**: Continuation of litigation, including, drafting court papers: court appearances | Consultations, court appearances, etc. | Litigation in progress | Not Audited |
| 1. **Lefa La Tshepo vs Minister of Tourism:** Consultations; drafting court papers, preparation for trial and court attendances. | Litigation to defend a claim against the Department for supply of shortfall material. | Judgment was against the Department and matter is finalised. | Not Audited |
| 1. **Second Generation t/a 24 Rivers vs Department of Tourism):**   Perusal of the summons, consultation with the client and instruction to the Office of the State Attorney to file Notice to Defend on behalf of the Department, filed Notice of Intention to Defend the matter, investigated the claim to determine prospects of success and advised the Minister on same. Recommended settlement out of the court which same was approved by the Minister. Concluded and signed the settlement agreement with the Plaintiff that the matter accordingly settled out of court. | Litigation for alleged breach of contract by the Department. | The matter has been settled out of court,  and the settlement agreement was  concluded for the Department to pay  the Plaintiff an amount of R **544 000-00**  instead of R732 519-22, which was originally  claimed in the summons. | Not Audited |
| 1. **Amathemba Skills vs Minister of Tourism: Litigation on behalf of the Department including, issuing** summons, drafting pleadings on behalf of the Department. | Litigation costs for consultations and drafting court papers, amongst others | Litigation in progress | Not Audited |
| 1. **David D Mokoena vs Minister of Tourism and other:** Perusal of pleadings, consultation with client, drafting of pleadings and appearing in court on behalf of the Department. | To defend a claim against the Department for alleged copyright infringement by the Department’s Implementer, GTA. | Litigation in progress. | Not Audited |
| 1. **Minister of Tourism vs Nombo:** Litigation against the Department, including, issuing summons to recover money due to the Department. | Failure to perform in terms of the signed contract | Litigation in progress | Not Audited |
| 1. **Umbuso Training Services (Pty) Ltd vs The Member of the Executive Committee, Department of Tourism**: Defending the claim, which included, consultation; drafting court documents including Counter Claim. | A claim for damages arising from breach of contract. | Litigation in progress. | Not Audited |
| 1. **Chef’s Warehouse Canteen & Wine Bar and others v Minister of COGTA and Others:** Litigation including: consultations; perusal of documents; preparations of memorandum of advise to Minister; preparation of the Answering affidavit for the Minister of Tourism; Perusal of Replying affidavits and heads of argument. | To advise and draft all relevant court papers, including representing the Minister of Tourism in the Court Application. | The application has been withdrawn | Not Audited |
| 1. **Minister of Tourism v Audrey Phindile Mathonsi:** For service of summons upon the Defendant by the Sheriff. | Litigation to recover money owed to the Department. | Claim written-off | Not Audited |
| 1. **Minister of Tourism vs. Wayne Smith and Associates & Wayne Smith**:To issue and serve Summons against the Defendant to recover the amount owed to the Department. | Litigation to recover the amount owed to the Department. | Litigation in progress. | Not Audited |

1. **EXPENSES ON LEGAL ACTIVITIES UNDERTAKEN BY SA TOURISM**
2. in the past three financial years and (ii ) and since 1 January 2023

**2019/20 Financial Year**

| **(aa) What are the details of the legal work that was undertaken** | **(bb) What are the reasons in each case** | **(cc) What were the outcomes of each matter** | **(dd)What were the total costs incurred in each matter?** |
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| 1. **GODFEY GWELE**   **Unfair Dismissal-**  SAT dismissed Godfrey Gwele (Employee) on the 27 February 2017 and the latter subsequently instituted CCMA proceedings against SAT | On 23 February 2019 the CCMA issued an arbitration award in favour of the Employee ordering reinstatement. SAT then proceeded to institute a review application at the Labour Court. The Labour Court then referred the matter back to the CCMA for determination of fairness of dismissal. On 19 March 2020 the CCMA issued an arbitration award in favour of SAT. The Employee has referred the matter to the Labour Court again on 03 August 2020. A replying affidavit was filed on 21 December 2020.  **Annual salary-**  **R 1,247,750.00** | The Applicant failed to set down the matter within the required timeframe, and SAT has decided to take no further action until a date for set down is confirmed. | R 1,263,763.70 |
| 1. **Brian Monare**   **Unfair Dismissal & Breach of Contract** | 1. Brian Monare was employed on a fixed term contract from 1 Feb 2010 to 31 January 2015.  2. On 30 September 2010 he was dismissed by SAT following a disciplinary hearing.  3. On 17 November 2010 he referred the matter to the CCMA and an arbitration award was granted in his favour on 31 August 2011.  4. On 13 October 2011 SAT took the arbitration award on review to the Labour Court and on 31 March 2014 granted judgement in favour of SAT finding that the CCMA lacked jurisdiction to entertain the matter.  5. On 11 November 2015 Brian Monare appealed to the Labour Appeal Court which found in his favour and ruled that the CCMA order be honoured, however by then his employment contract had already expired and he could not be reinstated.  6. On 18 November 2016 SAT upon receiving Brian Monare’s statement of claim responded and raised a special plea of prescription and after replication by Brian Monare the matter was set down for trial in the Labour Court.  7. On 2 May 2019 the Labour Court granted judgement in favour of Brian Monare which prompted SAT to apply for leave to appeal on 5 July 2019 and the matter was set down for hearing by the Labour Appeal Court on 27 August 2020. | On 22 October 2020, the Labour Appeal Court (LAC) handed down judgment against SAT on this matter. SAT was ordered to pay the applicant £257 550.42 plus interest calculated from the date on which each salary fell due. SAT was also ordered to pay the applicant’s legal costs. In total excluding legal costs, SAT is liable to pay the applicant an amount of £559 262.94. Mr Monare’s claim has been settled. | R1 387 589.46 |
| 1. **Joe Public (Pty) Ltd** | **Review Application-**  Application to declare Tender no. SAT 162/19 unlawful. | Application dismissed with costs in favour of SAT with costs order. | R342,708.00 |

**2020/21 Financial Year**

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| 1. **GF ANGILERI & 24 OTHERS**   Pleadings closed, awaiting date of set down. | **Breach of Contract-**  Tourism Grading Council of South Africa (TGCSA) Assessors alleged that the TGCSA breached the Assessor Service Provider Contract by unilaterally extending the membership of its establishments by a further period of 6 months due to covid-19 pressures. They argue that the change prejudiced them in that they would lose their right to grading the establishments in the extended period. The matter was then heard by an Arbitrator who ruled in favour of the TGCSA.  **Claim- R 6,130,471.14** | Application dismissed with costs in favour of SAT. | R 1,321,568.43 |
| 1. **GREENSHOOTS PROJECTS & COMMUNICATIONS (PTY) LTD-**   Pleadings stage. | **Review Application-**  Application to review the awarding of SAT Tender 162/19 by the Applicant. No damages sought against SAT but the applicant seeks a cost order against any party opposing the application on a punitive scale and alternatively, a personal cost order against responsible officials. | SAT Court papers served and filed, however the Applicant has failed to serve and file their Replying Affidavit and set the matter down for trial. SAT is waiting for the Applicant to move the application. | R 149,240.00 |
| 1. **Thomas Bouwer** | **Unfair Labour Practice-**  1. On 24 January 2020, the Applicant instituted proceedings at the CCMA for unfair labour practice relating to the payment of early retirements benefits in the form of medical contributions.  2. On 19 March 2020 the CCMA issued an arbitration award in favour of SAT dismissing the application.  3. Mr Bouwer took the award on review to the Labour Court on 7 May 2020 which was subsequently dismissed. | Application dismissed in favour of SAT. | R250,000.00 |

**2021-2022**

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| 1. **SWIFT THINKING (PTY) LTD**-   Pleadings closed, awaiting date of set down. | **Review Application**-  The CEO of SAT in 2020 (Mr. Sisa Ntshona) contravened SAT's procurement processes by irregularly appointing the Respondent to provide services relating to international visitor tracking portal, techhub covid-19 tracking and data capturing.  Furthermore, the CEO acted beyond his limits per DOA. In light of this, the Board of SAT had taken the matter on review for an order declaring the appointment unlawful and return of monies paid by SAT.  **Contract Value- R14,214,000.00 (only claim amount paid-**  **R 8,169,109.40)** | Litigation in progress. | R 1 728,475.15 |
| 1. **LETSEMA CONSULTING AND ADVSORY (PTY) LTD-**   Pleadings closed, awaiting date of set down. | **Review Application**-  The CEO of SAT in 2020 (Mr. Sisa Ntshona) contravened SAT's procurement processes by irregularly appointing the Respondent to provide services relating to International Tourism Sector Recovery Strategy, Enterprise Programme Management and SAT Institutional Architecture Programme. Furthermore, the CEO acted beyond his limits per DOA. In light of this, the Board of SAT has taken the matter on review for an order declaring the appointment unlawful and return of monies paid. **Contract Value- R10,130,269.59** | Litigation in progress. | R 1,750,695.61 |
| 1. **WAVELA MTHOBELI**   **Unfair Dismissal-** | **Unfair Dismissal-**  Employee was employed as a Strategic Officer and was dismissed pursuant to a disciplinary enquiry on account of insolence. The employee referred the matter to the CCMA claiming reinstatement, which matter was opposed by SAT. The CCMA Arbitrator ruled in favour of the employee. SAT has, after considering its prospects of success, elected to apply to the Labour Court for the CCMA Award to be reviewed and set aside.  **Annual salary-**  **R 1,451,115.38** | The parties entered into a settlement agreement to severe the employment relationship. | R 200,000.00 |

**2022 – 2023**

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| 1. **ALFRED TLABUKWE MASEMENE-**   Pleadings stage. | **Unfair Dismissal-**  Employee was employed as a Sourcing Specialist who was dismissed on account of gross misconduct pursuant to a disciplinary hearing. Employee referred the matter to the CCMA which ruled in favour of the Employer- SAT. At present the employee has taken the decision of the CCMA Arbitrator to the Labour Court which SAT is opposing.  **Annual salary-**  **R 576,418.66** | Litigation in progress. | NIL |
| 1. **BLUEPRINT GROUP**   Pleadings Stage | **Review Application-**  The Applicant has instituted proceedings against SAT relating to SAT's refusal to grant access to records relating to SAT Tender- 182/20- Africa's Travel Indaba and Meetings Africa 2021-2023- Exhibition Management Company (Synergy Business Events and Exhibitions).  **Claim- Cost of suit** | Litigation in progress. | NIL |