

IN THE HIGH COURT OF FIJI

AT LABASA

[APPELLATE JURISDICTION]

CRIMINAL APPEAL NO. HAA 001 OF 2023

CONSOLIDATED WITH HAA 002 OF 2023

MAGISTRATES' COURT NOS. 567 OF 2020 AND 568 OF 2020

BETWEEN : **GOLD HOLD INVESTMENT PTE LIMITED**

AND : **MINISTRY OF FISHERIES**

Counsel : Mr A Ram for the Appellant
Ms E Thaggard for the Respondent

CRIMINAL APPEAL NO. HAA 032 OF 2023

MAGISTRATES' COURT NO. 566 OF 2020

BETWEEN : **GOLD HOLD INVESTMENT PTE LIMITED**

AND : **MINISTRY OF FISHERIES**

Counsel : Mr A Ram for the Appellant
Ms E Thaggard for the Respondent

CRIMINAL APPEAL NO. HAA 022 OF 2023

MAGISTRATES' COURT NO. 172 OF 2020

BETWEEN : **XIAZHANG DU**

AND : **MINISTRY OF FISHERIES**

Counsel : Mr A Sen for the Appellant
Ms E Thaggard for the Respondent

Date of Judgment : **21 March 2025**

JUDGMENT

[1] These appeals are consolidated because they all concern a jurisdictional error.

[2] The appellants were tried, convicted and sentenced for the offence of failure to comply with seasonal species restrictions pursuant to Offshore Fisheries Management Regulations 2014 in the Magistrates' Court at Labasa.

[3] In *Douyou Foods Imports & Export Ltd v Ministry of Fisheries*, Criminal Appeal No HAA21/23 (21 March 2025), this Court held that the Magistrates' Court does not have jurisdiction to convict and sentence for offences under the Offshore Fisheries Management Act. The jurisdiction to convict and sentence for offences under the Offshore Fisheries Management Act lies with the High Court pursuant to section 98 of that Act.

[4] It therefore follows that the convictions and sentences imposed in these cases by the Magistrates' Court must be set aside for want of jurisdiction.

[5] **Result**

- Appeals allowed.
- Convictions and penalty orders that were imposed in the Magistrates' Court are set aside.
- Fines if paid are to be refunded to the appellants after the expiry of the 30-day appeal period to the Court of Appeal.



A handwritten signature in blue ink, appearing to read "D. Goundar", is written over a horizontal dotted line.

Hon. Mr Justice Daniel Goundar

Solicitors:

Messers Gibson and Company for Appellant in Criminal Appeal Nos. HAA 001.2023 & 002.2023 and HAA 022.2023

Sen Lawyers for the Appellant in Criminal Appeal No. HAA 22.2023

Office of the Director of Public Prosecutions for the Respondent