

Neutral Citation Number: [2026] EWHC 1039 (Ch)

Case No: BR-2024-001137

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST (ChD)
IN THE MATTER OF KHURRAM SHAHZAD
AND IN THE MATTER OF THE CROSS-BORDER INSOLVENCY REGULATIONS
2006

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 07/05/2026

Before :

ICC JUDGE AGNELLO KC

Between :

KHURRAM SHAHZAD
- and -
LARS SKANVIG BRAMHELFT
(as the foreign representative and Bankruptcy
Trustee of Khurram Shahzad)

Applicant

Respondent

Mr David Berkley KC (instructed by Taylor Rose LLP) for the Applicant
Mr Daniel Judd (instructed by CMS Cameron McKenna Nabarro Olswang LLP) for the
Respondent

Hearing date: 5 March 2026

JUDGMENT

ICC JUDGE AGNELLO KC:

1. On 28 February 2025, the Applicant, Mr Shahzad (the Applicant) issued an application seeking to set aside the order of this court dated 31 January 2025 which recognised Mr Shahzad's Danish bankruptcy as a foreign main proceeding pursuant to the Cross-Border Insolvency Regulations 2006 (CBIR). The application sought (1) to set aside the recognition order, (2) permission to rely upon expert evidence, and (3) directions for the disposal of the application. Before me the grounds of the application to set aside is public policy, on the basis that the recognition order is an enforcement of Danish tax liabilities.
2. At the start of the hearing, Mr Berkley KC, on behalf of the Applicant, applied to amend the application notice to apply, as an alternative, for an order setting aside or varying the further relief which had been ordered by the Judge pursuant to Article 21 of the CBIR. After hearing submissions, I refused permission to amend and gave a short judgment as to the reasons for that decision. This judgment only relates to the application to set aside the recognition order based on public policy grounds.
3. The Respondent, Mr Lars Skanvig Bramhelft (the Trustee) as the bankruptcy trustee in Denmark opposes the application.

Legal principles

4. The legal principles governing applications for the recognition of foreign insolvency proceedings are agreed between the parties. Mr Berkley makes specific submissions on the facts of this case in relation to what the Applicant submits is the enforcement of foreign revenue laws, but no issue is raised in relation to the legal principles themselves.

5. As is set out in summary in Mr Judd’s skeleton argument, the CBIR incorporates into the law of England and Wales and of Scotland the provisions of the UNCITRAL Model Law on Cross-Border Insolvency (the Model Law).
6. The purpose of the Model Law has been described as “*to assist States to equip their insolvency laws with a modern, harmonized and fair framework to address more effectively instances of cross-border insolvency*” (Re OJSC International Bank of Azerbaijan [2019] BCC 452 at [34]).
7. As set out in Article 17 of the CBIR, the court is obliged to recognise a foreign insolvency proceeding where the requirements of Article 17 of the CBIR are satisfied, subject to Article 6. Article 17 provides :-

‘Subject to article 6, a foreign proceeding shall be recognised if—

- (a) it is a foreign proceeding within the meaning of sub-paragraph (i) of article 2;
- (b) the foreign representative applying for recognition is a person or body within the meaning of sub-paragraph (j) of article 2;
- (c) the application meets the requirements of paragraphs 2 and 3 of article 15; and
- (d) the application has been submitted to the court referred to in article 4.’

8. Recognition under Article 17 requires that the foreign insolvency meets the definition of “foreign proceeding”. This term is defined by Article 2(i):

‘a collective judicial or administrative proceeding in a foreign State, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control

or supervision by a foreign court, for the purpose of reorganisation or liquidation’

9. The court has to be satisfied before making a recognition order that the foreign proceeding is: (i) a collective proceeding; (ii) pursuant to a law relating to insolvency; (iii) subject to control or supervision by a foreign court; and (iv) for the purpose of reorganisation or liquidation.
10. The other requirements of Article 17 require the Court to be satisfied that the foreign representative applying for recognition is a person or body within the meaning of Article 2(j) , and that the requirements set out in Article 15(2) and (3) are met as well as the application having been made to the court referred to in article 4.
11. If the Court is satisfied that the requirements set out in Article 17 are established, then the Court will make a recognition order.
12. The issue raised by the Applicant relates to article 6 which states :-

‘Nothing in this Law prevents the court from refusing to take an action governed by this Law if the action would be manifestly contrary to the public policy of Great Britain or any part of it’

13. The public policy exception is restricted by the statutory provisions in the CBIR itself. In *Kireeva v Bedhamova [2025] AC 812* the Supreme Court considered an application made under common law to exercise its general ‘just and convenient’ discretion to appoint a receiver over immovable property located in Great Britain. At common law, a foreign court has no jurisdiction to make orders in respect of land situated in England and Wales. The Supreme Court refused to

grant the order sought based on the public policy underlying the immovables rule, but expressly stated that no such public policy issue arises in relation to cases under the CBIR. At paragraph 60, the Supreme Court stated :-

‘60. The words "all or part of the debtor's assets located in Great Britain" are not qualified in any way and are plainly wide enough to include interests in land. There is nothing in the context of the UNCITRAL Model Law or of the CBIR, or in the Guide to its Enactment and Interpretation published by UNCITRAL, that would suggest an implicit qualification by reference to the immovables rule.

61. Like section 426, it is the clear effect of the CBIR that the immovables rule does not apply to foreign bankruptcies recognised under the CBIR.’

14. The public policy exception relating to the enforcement of foreign revenue laws has been curtailed under the CBIR under Article 13, which states :-

‘1. Subject to paragraph 2 of this article, foreign creditors have the same rights regarding the commencement of, and participation in, a proceeding under British insolvency law as creditors in Great Britain.

2. Paragraph 1 of this article does not affect the ranking of claims in a proceeding under British insolvency law, except that the claim of a foreign creditor shall not be given a lower priority than that of general unsecured claims solely because the holder of such a claim is a foreign creditor.

3. A claim may not be challenged solely on the grounds that it is a claim by a foreign tax or social security authority but such a claim may be challenged—

(a) on the ground that it is in whole or in part a penalty, or

(b) on any other ground that a claim might be rejected in a proceeding under British insolvency law.’

Background facts

15. The Applicant was made bankrupt in Denmark by the Danish Commercial and Maritime Court on 16 December 2022. The Trustee was appointed by the Danish court and has been administering the estate in bankruptcy in accordance with Danish bankruptcy law. The evidence filed in support of the application for recognition dated 11 December 2024 sets out that pursuant to the Danish Bankruptcy Act, that the Danish bankruptcy is a collective insolvency proceeding in accordance with the provisions of the CBIR.

16. According to the Trustee’s evidence, his appointment was recommended by the Danish tax authority. The Danish court considered the issue and made the appointment. The evidence of the Trustee sets out that, once appointed, the duty of the bankruptcy trustee is to the Danish Court and he is obliged to act in the best interests of all the creditors of the Danish Bankruptcy. Distributions under Danish bankruptcy law are on the basis of the *pari passu* principle.

17. The Trustee’s evidence sets out the list of creditors in the Danish bankruptcy estate which includes as a creditor, the Danish tax authority. The aggregate quantum of proofs filed in the estate as at 27 May 2025 is DKK 32,491,487.72 (approximately £3.8 million). The claims made by the Danish tax authority total

DKK 3,180,004.30 representing approximately less than 10% of the overall claims in the bankruptcy estate. The creditors include companies which are themselves in insolvency processes and the Danish tax authority has made claims in those insolvencies. According to the list of creditors and the Trustee's evidence, in all the other insolvency cases, save for one (Biler Roskildevej A/S, in bankruptcy) the Danish tax authority is a minority creditor.

18. On 13 January 2025 the court granted interim relief and recognition to the Trustee on its application dated 11 December 2024. The return date of the application was listed for 31 January 2025. The Applicant was served with the proceedings. The Applicant did not attend that hearing and was not represented. The order dated 31 January 2025 made the recognition order. The order stipulated that the Applicant had permission to apply to set aside the recognition order within 28 days on 'legal grounds' but not on factual grounds, on notice to the Trustee. By application notice dated 28 February 2025, the Applicant applied to set aside the recognition order. The issue relating to expert evidence was not pursued.

The application to set aside on public policy grounds

19. It is accepted by Mr Berkley that in light of the decision of the Supreme Court in *Kireeva*, the immovables rule does not apply to the Applicant's bankruptcy in accordance with the CBIR. Mr Berkley referred to the well-known common law principles set out in Dicey and Morris that the courts of one country will not enforce the penal and revenue laws of another country as follows :-

‘There is a well-established and almost universal principle that the courts of one country will not enforce the penal and revenue laws of another country.

Although the theoretical basis for the Rule is a matter of some controversy, the best explanation, it is submitted, is that suggested by Lord Keith of Avonholm in *Government of India v Taylor* that enforcement of such claims is an extension of the sovereign power which imposed the taxes, and “an assertion of sovereign authority by one State within the territory of another, as distinct from a patrimonial claim by a foreign sovereign, is (treaty or convention apart) contrary to all concepts of independent sovereignties.”

20. Mr Berkley submits that the claims being pursued by the Trustee arise for the most part for the benefit of the Danish tax authority and accordingly the above rule is engaged. He submits that the substance of the claim being made in the bankruptcy estate is a Danish revenue claim being enforced.
21. He does not dispute that the Danish bankruptcy proceedings have been correctly determined to be a collective insolvency proceeding in accordance with the CBIR, but submits that they are in substance debt collection by the Danish tax authority.
22. He accepts that in relation to a foreign revenue creditor seeking to prove in a UK bankruptcy, such a claim will not be treated as an enforcement of a foreign revenue claim and be in breach of the rule. Effectively Article 13 reverses the common law rule set out in *Government of India v Taylor [1955] AC 91* that foreign revenue liabilities are not provable debts in insolvency proceedings.
23. No evidence was filed seeking to challenge the list of creditors which includes numerous creditors with no connections to the Danish tax authority. The Applicant submits that the Danish tax authority is the dominant creditor in relation to the substance of the bankruptcy proceedings and that it is its interests

which are being pursued. It was the Danish tax authority which petitioned for the Applicant's bankruptcy. The Trustee was nominated by the Danish tax authority and was the proposed appointee of the Danish tax authority.

24. Reliance is also placed on the Trustee acting as insolvency office holder across multiple linked bankruptcy estates, being Biler Roskildevej A/S, Ejendoms- og Udlejningsselskabet I ApS, and A-S ApS. These are all listed as creditors on the list which was produced in evidence by the Trustee. The Applicant asserts that in those three estates, the Danish tax authority is the principal creditor.

25. Mr Berkley submits that the misfeasance and director liability claims in three different company estates which are listed as creditors in the Applicant's Danish bankruptcy are not independent private law debts. They are derived from the same tax assessments. The companies went into insolvency because they could not pay their tax. Any recovery on these claims will go to satisfy tax liabilities, not private creditors. Accordingly it is submitted that the Danish tax authority is the ultimate beneficiary. Reliance is placed upon a letter written by Mr Rasmus Nilsson Børresen dated 4 June 2025, the Danish lawyer acting on behalf of the Applicant in the Danish bankruptcy proceedings before the court in Denmark. In that letter, Mr Børresen questions the independence of the Trustee, challenges the entitlement of the Danish tax authority to have pursued the bankruptcy case against the Applicant and asserts that the three company claims are essentially claims for the benefit of the Danish tax authority. The letter asserts that the Danish tax authority is the driving force behind the bankruptcy and states that the Danish tax authority is funding the bankruptcy proceedings.

Mr Børresen has not provided a witness statement with an accompanying statement of truth.

26. Reliance is placed upon the Irish case of *Peter Buchanan Ltd v McVey* [1954] IR 89. The facts in that case in summary are that a Scottish company was put into compulsory liquidation by the Inland Revenue. The liquidator was appointed at the Revenue's instance. The court held that the sole purpose of the liquidation was to recover assets to satisfy the Revenue debt. The Irish court held: "when it appears to the court that the whole object of the suit is to collect tax for a foreign revenue, and that this will be the sole result of a decision in favour of the plaintiff, then a court is entitled to reject the claim."
27. Reference is also made to *QRSI ApS v Frandsen* [1999] 1 WLR 2169. This case concerned a private civil action in England for restitution and/or damages. The loss relied upon for the purposes of the damages claim in the action was non-payment of revenue liabilities of a foreign state. The claimants were all companies in liquidation. The relevant tax authority was the sole creditor of the companies bringing the civil claim. On the strike-out application issued by the defendant, the Court of Appeal held that the claim was bound to fail because it was a revenue matter pursuant to the Convention on Jurisdiction and the Enforcement of Judgement in Civil and Commercial Matters. The Court of Appeal held that the rule that the English courts would not directly or indirectly enforce the revenue laws of another country applied to the facts of the case.
28. Reliance was placed on the following passage of the judgment which itself refers to the earlier case of *Buchanan*, at page 1276 :-

[1276C] 'All that said, I for my part would wish to emphasise the relative narrowness of rule 3 of Dicey & Morris in so far as it applies to this particular kind of indirect enforcement. As Lord Mackay of Clashfern said in Williams and Humbert Ltd. v. W. & H. Trade Marks (Jersey) Ltd. [1986] A.C. 368, 440:

"From the decision in the Buchanan case [1955] A.C. 516 counsel for the appellants sought to derive a general principle that even when an action is raised at the instance of a legal person distinct from the foreign government and even where the cause of action relied upon does not depend to any extent on the foreign law in question nevertheless if the action is brought at the instigation of the foreign government and the proceeds of the action would be applied by the foreign government for the purposes of a penal revenue or other public law of the foreign state relief cannot be given. It has to be observed that in the Buchanan case the action was being pursued by a person whose title as liquidator of the company depended on his having been appointed by a petition to the court in Scotland on behalf of the Inland Revenue, that the ground of action was that the transactions being attacked in the proceedings in Dublin were ultra vires and dishonest because there existed at the time that they were effected in Scotland a claim by the Inland Revenue which the transactions were designed to defeat, and that if no such claim existed the defendant would have been entitled to retain the subject matter of the claim. Most important there was an outstanding revenue claim in Scotland against the company which the whole proceeds of the action apart from the expenses of the action and the liquidation would be used to meet. No other interest was involved. That this was regarded as of critical importance appears from what was said in the decision on appeal by Maguire C.J., at p. 533. Having regard to the questions before this House in

Government of India v. Taylor [1955] A.C. 491 I consider that it cannot be said that any approval was given by the House to the decision in the Buchanan case except to the extent that it held that there is a rule of law which precludes a state from suing in another state for taxes due under the law of the first state. No countenance was given in Government of India v. Taylor, in Rossano's case [1963] 2 Q.B. 352 nor in Brokaw v. Seatrain U.K. Ltd. [1971] 2 Q.B. 476 to the suggestion that an action in this country could be properly described as the indirect enforcement of a penal or revenue unsatisfied. The existence of such unsatisfied claim to the satisfaction of which the proceeds of the action will be applied appears to me to be an essential feature of the principle enunciated in the Buchanan case [1955] A.C. 516 for refusing to allow the action to succeed."

I can readily understand Lord Mackay's insistence on the narrowness of the Buchanan decision and his approach certainly appears consistent with the view of the editors of Cheshire and North, Private International Law, 12th ed.

(1992), p. 116: "It is questionable whether the general ban on indirect enforcement is not too rigid." They do not, however, criticise the Buchanan case [1955] A.C. 516 and, as I repeat, the present case is indistinguishable from the Buchanan case: both are to be regarded as cases where the liquidator, as nominee for a foreign state, in substance is seeking a remedy designed to give extraterritorial effect to foreign revenue law. In my judgment, such claims plainly fall within the compass of revenue matters as that expression would be understood by all member states for the purposes of article 1 of the Convention.'

29. Mr Berkley submits that there is a clear link between the Danish tax authority's pursuit of the Applicant in the bankruptcy proceedings and the claims of the three companies asserting to be creditors of the Applicant in the bankruptcy. He submits that the three company claims demonstrate an indirect enforcement of Danish revenue laws in accordance with the cases of *Buchanan* and *QRSI*. The character and substance of the Danish bankruptcy proceedings is one of enforcement of the claims by the Danish tax authorities.
30. In summary, Mr Judd relied on the evidence of the Trustee. This is not a case where on the evidence, the Danish tax authority is the sole creditor. This distinguishes this case on its facts from both *Buchanan* and *QRSI*. The Trustee's evidence demonstrates that the Danish tax authority is not even the majority creditor. The evidence also demonstrates that the three company claims which form part of the list of creditors are not ones where the sole creditor is the Danish tax authority. According to the Trustee, the Danish tax authority is not the majority creditor in two of those company claims.
31. The evidence as well as the recognition order which was made establishes that the Danish bankruptcy proceedings are collective insolvency proceedings. This means : (i) a collective proceeding; (ii) pursuant to a law relating to insolvency; (iii) subject to control or supervision by a foreign court; and (iv) for the purpose of reorganisation or liquidation. The Applicant has not challenged that evidence or the determination by the Court that those requirements have been met.
32. As to whether the rule of not enforcing foreign revenue laws applies, Mr Judd submits that the court ask itself whether the substance of the right involves a matter of revenue and the enforcement of revenue liabilities. Mr Judd submits

that there is simply no evidence to support what is being asserted. The Trustee's evidence already stated that he is being funded by the Danish tax authority, but the Trustee is clear that he is acting under Danish insolvency law and in the interests of all the creditors. The evidence as to funding was before the Court when the interim relief was granted.

33. In his evidence in reply, the Trustee has challenged the contents of Mr Børresen's letter and confirms that the list of creditors is accurate as well as confirming that he is acting in accordance with Danish bankruptcy law and not acting at the direction of one creditor only. There is no evidence produced by the Applicant which challenges the Trustee's evidence in relation to the creditors in the estate and the creditors in the estates of the three companies listed as creditors over which the Trustee has been appointed as the office holder. Mr Børresen's letter and what the Applicant sets out are simply assertions made.

Discussion

34. In my judgment, Mr Judd is correct in his submissions relating to the issue of the treatment of the Danish proceedings and the Danish tax authority's position. The evidence demonstrates that the Danish proceedings are a collective insolvency proceeding in accordance with the CBIR. There is no challenge to that. There is also no challenge to the evidence as to the existence of other creditors in the bankruptcy estate. The Applicant asserts that the Danish tax authority is the dominant creditor. This is not an assertion that the Danish tax authority is the sole creditor as was the case for the relevant tax authority in the two cases relied upon by Mr Berkley. A dominant creditor is not one who can

recover more than the other creditors in a collective insolvency proceeding. Any distribution is in accordance with the relevant insolvency process, which in Denmark is *pari passu*. Any distributions will be made to all creditors and not exclusively to the Danish tax authority. There is in reality no real legal meaning to being a dominant creditor. In so far as this is supposed to signify that the Danish tax authority is in some way able to dictate to the Trustee what he should do and what action he should take (or has done so in the past), there is no evidence of this being the position. The Danish bankruptcy is under the control and supervision of the Danish court. That is accepted by the Applicant in that there is no challenge to the Danish proceedings being a collective insolvency proceeding.

35. There is no evidence that the Trustee has acted at the direction of the Danish tax authority in its administration and conduct of the Danish bankruptcy. The Applicant's submission in relation to the Danish tax authority being the dominant creditor is simply unsustainable. There is no evidence that in substance the Danish bankruptcy is in reality for the benefit of only the Danish tax authority. The evidence is clearly that there are other numerous creditors. Accordingly, the facts of this case are fundamentally different from the cases of *Buchanan* and *QRSI*. The evidence does not support in this case the argument that the substance of the Danish bankruptcy is for the sole benefit of the Danish tax authority. The passage set out above from *QRSI* is clear in relation to when the common law rule concerning the enforcement of foreign revenue law might apply to insolvency proceedings. In my judgment, the rule relating to the enforcement of the foreign revenue law is not applicable to the current case as on the evidence there is no direct or indirect enforcement of the relevant foreign

law. It is unnecessary to consider other submissions made on behalf of the Trustee.

36. I will dismiss the application.