

THE ALIANZA  
COMPANY,  
LTD. v. BELL.

NO. 279.—IN THE HOUSE OF LORDS.—27th and 28th  
November, 1905.

(1) THE ALIANZA COMPANY, LIMITED, v. BELL (Surveyor  
of Taxes).

The statement of this case and the judgment of the Court of Appeal are printed in an earlier portion of the present volume of *Tax Cases* (see pages 60-73). The appeal to the House of Lords came on for argument on the 27th and 28th instant, before Lords Macnaghten, Robertson, and Lindley, when Mr. Danckwerts, K.C. (Mr. A. B. Bremner with him), argued the case for the Appellants. The Appeal was then dismissed, with costs, without Counsel for the Crown being called upon to reply.

JUDGMENT.

Lord  
Macnaghten.

*Lord Macnaghten.*—My Lords, I do not think it is necessary to say more than a very few words. I think your Lordships are satisfied with the judgment of the Court of Appeal and the reasons by which that judgment is enforced. It appears to me that this claim comes within the third Rule and that it is money wholly and exclusively laid out and expended as capital. For these reasons I ask your Lordships that this appeal should be dismissed and that the Appellants should pay the costs.

Lord  
Robertson.

*Lord Robertson.*—My Lords, I think it is undesirable that any doubt should be thrown upon a settled course of decisions on the Income Tax law, and it seems to me that, although Mr. Danckwerts has argued this case with a vigour and zest which did full justice to his case, the arguments he has advanced are of a most familiar character. The propositions required to be established in order to bring him within the provisions and decisions are these (I begin by stating that, of course, it is under Schedule D that the case is to be judged). First of all, is this capital which he proposes to obtain a deduction for? Now that, my Lords, seems to me to be entirely concluded by the findings in the case. There is no doubt whatever that the scheme of the enterprise of this Company was to invest their capital in the acquisition of this property and then to proceed to work it as a mining concern.

My Lords, that being so, the Master of the Rolls seems to me to be abundantly justified in saying that this is merely another case where capital has been embarked in a wasting

subject matter. The whole of the argument of Mr. Danckwerts is really founded upon what I suppose no one would doubt, that as the output takes place there is a consumption of a certain proportionate amount of the capital; but my Lords, that is concluded, as my noble and learned friend on the woolsack has said, by Rule III. I agree with Lord Justice Stirling further, that Section 159 is never to be laid out of account in these instances, because in its express prohibition of an allowance being made for capital, it on the face of it refers to all the various cases under the various Schedules. Accordingly the argument that there is something peculiar to Schedule A in the principle which has been applied in *Addie's* case and the other cases which have been mentioned, fails before the universal *conspectus* which in express terms is given by Section 159 to this very principle.

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Lord  
Robertson.

*Lord Lindley.*—I am entirely of the same opinion. It appears to me it is quite impossible to get out of Rule III. I cannot see my way to do it at all. Lord Lindley.

*Questions put.*

That the Order appealed from be reversed.

*The Not-Contents have it.*

That the Order appealed from be affirmed and the appeal dismissed with costs.

*The Contents have it.*

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