

Judgment (5), 1971

IN THE PRIVY COUNCIL

No. 24 of 1968.

O N A P P E A L

FROM THE COURT OF APPEAL OF THE SUPREME COURT OF
JUDICATURE OF GUYANA (Civil Appeal No. 59 of 1965)

B E T W E E N :

THE ARGOSY COMPANY LIMITED
(In Voluntary Liquidation)

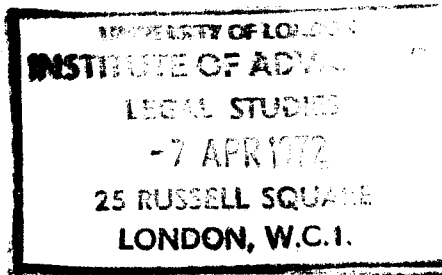
Appellant
(Respondent)

- and -

THE COMMISSIONER OF INLAND REVENUE

Respondent
(Appellant)

RECORD OF PROCEEDINGS



HEMPSONS,
33, Henrietta Street,
Strand, London, W.C.2.
Solicitors for the Appellant.

CHARLES RUSSELL & CO.,
Hale Court,
21 Old Buildings
Lincoln's Inn,
London W.C.2.
Solicitors for the Respondent.

(i)

IN THE PRIVY COUNCIL

No. 24 of 1968

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FROM THE COURT OF APPEAL OF THE SUPREME COURT OF JUDICATURE OF GUYANA (Civil Appeal No. 59 of 1965)

B E T W E E N :

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(Respondent)

- and -

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RECORD OF PROCEEDINGS

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EXHIBITS

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Documents transmitted to the Privy Council and not
Reproduced.

1. Notes as to objections etc. to Annexure C to Document No. 2 31st October 1963.
2. Objection to Assessment (S) No. 384^D/62 and Income Tax Ordinance Chapter 299 to Annexure G to Document No.2 13th February 1964

O N A P P E A L

FROM THE COURT OF APPEAL OF THE SUPREME COURT OF
JUDICATURE OF GUYANA (Civil Appeal No. 59 of 1965)

B E T W E E N :

THE ARGOSY COMPANY LIMITED
(In Voluntary Liquidation)

Appellant
(Respondent)

- and -

10

THE COMMISSIONER OF INLAND REVENUE

Respondent
(Appellant)

RECORD OF PROCEEDINGS

No. 1

NOTICE OF APPEAL

1964 No.2185 DEMERARA

IN THE SUPREME COURT OF BRITISH GUIANA

In the matter of the INCOME TAX
ORDINANCE, CHAPTER 299.

BETWEEN:

20

THE COMMISSIONER OF INLAND REVENUE,
Appellant

-and-

THE ARGOSY COMPANY LIMITED
(In Voluntary Liquidation)

Respondent

In the
Supreme Court

No.1

Notice of
Appeal.

23rd November
1964.

TAKE NOTICE that the above named, the
Commissioner of Inland Revenue intends to appeal

In the
Supreme Court

No. 1

Notice of
Appeal.

23rd November
1964.

(continued)

against the decision of the Board of Review given on the 27th day of October, 1964 on an appeal against assessment No. 384D/62.

AND FURTHER TAKE NOTICE that you are required to attend the Judge in Chambers at the Victoria Law Courts, Georgetown, Demerara, on the day and at the time notified by the Registrar of the Supreme Court on the hearing of an appeal by the Commissioner of Inland Revenue against the decision of the said Board of Review.

10

AND FURTHER TAKE NOTICE that it is the intention of the said, the Commissioner of Inland Revenue to attend the appeal by Counsel.

The Grounds of Appeal are as follows:

(1) That the assessment made on the Respondents was in accordance with the provisions of Section 48 (4) of the Income Tax Ordinance, Chapter 299, and not under Section 48 (3) of the same Ordinance and the Board of Review erred in assuming that the Commissioner assessed the Respondents under Sub-section (3) of Section 48 of the same Ordinance because the word "provisional" was used in his letter dated 4th October, 1963, addressed to the Respondents:

20

(2) That the word "provisional" was used by the Commissioner in its ordinary sense, that is to say, an assessment made for the time being pending the submission of a return of income to be made by the Respondents in compliance with the provisions of Section 40 (1) and (4) of the Income Tax Ordinance, Chapter 299 without reference to its meaning in Section 48 (3) of the Income Tax Ordinance, Chapter 299 whereby the Commissioner is empowered to make assessments within three months after the prescribed date. That in fact the Respondents were informed by letter dated 4th October 1963, that the assessment was made under the provisions of Section 48 (4) of the Income Tax Ordinance, Chapter 299;

30

(3) That the Respondents did not submit a return within the prescribed time or in accordance with the demand sent by the Commissioner

40

3.

and in fact has never submitted a return for the Year of Assessment 1962, that is, in respect of the year of income 1961. In view of this the Board of Review erred in law by finding that the Commissioner is not empowered under the provisions of subsection 4 of Section 48 of the Income Tax Ordinance, Chapter 299 to make an assessment according to the best of his judgment;

In the
Supreme Court

No.1

Notice of
Appeal.

23rd November
1964.

(continued)

- 10 (4) That the Board misdirected itself when it held that the burden of proving that the assessment was excessive was not on the respondents but that it was for the appellant to prove that the assessment was correct;
- (5) That the respondents made no attempt to prove nor have they proved that the said assessment is excessive and did not, in the first place, furnish the Commissioner with any particulars to assist him to determine the quantum of the assessments;
- 20 (6) That in the circumstances the Commissioner acted in accordance with the powers designedly given to him by the Ordinance and made an estimated assessment on the respondents thereby placing the burden to displace the assessments on them. This they have failed to do.
- (7) That there was no evidence or no sufficient evidence upon which the Board could have found that the assessment was excessive.
- 30 (8) That the decision of the Board of Review be reversed and the assessment be maintained.

(Sgd) David Singh

Barrister-at-law, acting as
Solicitor for the Appellant.

Dated at Georgetown, Demerara,
this 23rd day of November 1964.

40 This appeal was filed on behalf of the Appellant by David Singh, Barrister-at-law, of and whose address for service and place of business is at the office of the Solicitor General, 61, Main Street, Georgetown.

TO: A.G. King, Esq., Solicitor for the Respondent,
217, South Road, Lacytown, Georgetown.

In the
Supreme Court

No. 2

No.2

STATEMENT OF MATERIAL FACTS BY COMMISSIONER

No. _____ of 1965

Statement of
Material Facts
by Commissioner.
26th July 1965.

IN THE SUPREME COURT OF BRITISH GUIANA
(CIVIL JURISDICTION)

IN THE MATTER OF THE INCOME TAX
ORDINANCE, CHAPTER 299

- Between -

THE COMMISSIONER OF INLAND REVENUE
Appellant

10

- and -

THE ARGOSY COMPANY LTD.
(IN VOLUNTARY LIQUIDATION)

Respondent

A company incorporated in this Colony
under the Companies Ordinance, Chapter 328.

STATEMENT BY THE COMMISSIONER OF THE MATERIAL
FACTS UPON THE SEVERAL POINTS SPECIFIED IN THE
SUMMONS HEREIN AS GROUNDS OF APPEAL TOGETHER
WITH THE REASONS IN SUPPORT OF THE ASSESSMENT.

20

The Respondents The Argosy Company Ltd.
(In Voluntary Liquidation) a Company incorporated
in British Guiana under the Companies Ordinance,
Chapter 328 with registered office situate
at Vlissengen Road, Bel Air Park, East Coast
Demerara, carried on the business of printers,
publishers, book-binders and stationers at
Vlissengen Road and 17 Hincks Street,
Georgetown during the year 1961.

2. In early 1961, the Respondents sold out
their printery at Vlissengen Road but continued
the business of stationers at 17 Hincks Street,
Georgetown until 3rd March, 1962 when they went
into liquidation.

30

3. The Respondents did not submit a return of
their income for the year of Assessment 1962,
that is in respect of income earned for the
year 1961, within the time prescribed by law

that is on or before the 30th April 1962.

4. The Commissioner sent by Registered Post a Demand Notice dated 29th June 1963 requiring the Respondents to submit a return of their income for the Year of Assessment 1962, on or before the 29th July, 1963.

A copy of the aforementioned Notice is hereunto annexed marked "A".

10 5. By letter dated 4th October, 1963, addressed to Mr. A.M.S. Barcellos F.A.C.C.A., Liquidator of the Company, The Commissioner informed the Respondents that in the absence of a return for the Year of Assessment 1962, an assessment would be made on them in accordance with the provisions of Section 48 (4) of the Income Tax Ordinance, Chapter 299 on an estimated income of \$25,000.00.

A copy of the aforementioned letter is hereunto annexed marked "B".

20 6. The Commissioner accordingly assessed the Respondents on an estimated Chargeable Income of \$25,000.00 and a Notice of Assessment dated 31st October 1963 was sent to the Liquidator of the Company claiming income tax of \$11,250.00.

A copy of the aforementioned Notice of Assessment is hereunto annexed marked "C".

30 7. The Respondents, through their Solicitor, Mr. A.G. King, by letter dated 12th November, 1963 objected to the Assessment on the grounds that :-

- (a) the Company had sold out its entire assets in February, 1961, and had not traded since then;
- (b) in consequence of the sale of the entire assets of the Compsny in February 1961, the Company made no profit whatever in the year of income 1961, Year of Assessment 1962;
- (c) the said Assessment objected to is excessive and without justification or merit.

40 A copy of the aforementioned letter of objection is hereunto annexed marked 2"D".

In the
Supreme Court

No.2
Statement of
Material Facts
by Commissioner.
26th July 1965.
(continued)

In the
Supreme Court

No 2

Statement of
Material Facts
by Commissioner.

26th July 1965.

(continued)

8. The Commissioner, by letter dated 10th January, 1964, addressed to the Solicitor of the Company, copied to the Liquidator of the Company requested the Respondents that for the purposes of reviewing the assessment they are required to submit:

- (i) an Income Tax Return for the Year of Assessment 1962;
- (ii) the final accounts of the Company up to the last date of business in the year 1961;
- (iii) a complete inventory of the assets and full details of liabilities as at the date of the commencement of winding up and as at 31st December 1961. In addition they should arrange to make all the books and records of the Company available for his examination.

10

A copy of the aforementioned letter is hereunto annexed marked "E".

20

9. The Respondents through their Solicitor, Mr. A.G. King, by letter dated 25th January, 1964, stated that they were unable to hand over the books of the Company since the books were destroyed by fire when the Russian Bear Spirit Shop business premises were destroyed by fire in 1962.

A copy of the aforementioned letter is hereunto annexed marked "F".

10. The Commissioner by letter dated 13th February 1964 addressed to the Solicitor for the Respondents and copied to the Liquidator informed the Respondents that not having proven to him that the assessment was incorrect he was maintaining the assessment.

30

A copy of the aforementioned letter is hereunto annexed marked "G".

11. The Respondents appealed against the decision of the Commissioner to the Board of Review on the grounds that :-

40

- (a) The Respondents carried on a very limited business from January to August 1961 because they were selling out their entire business including their landed property, machinery and all equipment together with the Daily Argosy and Even News Newspapers, that from 2nd August, 1961 they carried on a very small business selling books in Regent Street, Georgetown until they went into liquidation on the 3rd day of March 1962, during which period they made no profit;
- (b) the books of the Respondents were destroyed by fire in February 1962 and they are not now available;
- (c) the Assessment now appealed against is capricious, unjustified without any foundation and excessive;
- (d) even when the Respondents were carrying on their business their profits did not justify an assessment of \$11,000.00 and in fact the Respondents suffered a loss of \$68,716.84 for the year of income 1959 and \$66,084.26 for the year of income 1960 as shown by the respective statements of Account submitted to the Commissioner of Inland Revenue.

A copy of the Respondents Notice of Appeal to the Board of Review is hereunto annexed marked "G"

12. The Respondents' Appeal to the Board of Review was heard by the Board on the 24th and 29th September, 1964. The Board allowed the Respondents' Appeal and gave a written decision.

A copy of the Board's decision is hereunto annexed marked "H"

13. It is against the decision of the Board of Review that the present appeal has been lodged.

REASONS IN SUPPORT OF THE ASSESSMENT.

The Commissioner says that :-

- (a) by the provisions of Section 40 (1) of the Income Tax Ordinance Chapter 299, every

In the
Supreme Court

No. 2
Statement of
Material Facts
by Commissioner.
26th July 1965.
(continued)

In the
Supreme Court

No. 2

Statement of
Material Facts
by Commissioner

26th July 1965.

(continued)

person chargeable with tax shall on or before the prescribed day in every year deliver to the Commissioner a true and correct return of the whole of his income from every source whatsoever for the year immediately preceding the year of assessment, but that the Appellant failed to do so;

- (b) by the provision of Section 48 (4) of the Income Tax Ordinance Chapter 299, where a person has not delivered a return he may assess that person accordingly to the best of his judgment; 10
- (c) the Respondents having failed to deliver a return he assessed them accordingly to the best of his judgment;
- (d) the Respondents carried on the whole of their business part of the year 1961 and in a reduced state for the whole of the year 1961; 20
- (e) the Board of Review had no evidence submitted to them by the Respondents to show that they in fact suffered a loss in trading in the year 1961;
- (f) Section 56 (10) of the Income Tax Ordinance, Chapter 299 provides that the onus of proving that the assessment appealed against is excessive shall be on the person disputing the assessment;
- (g) the Board of Review erred in law by stating that in every case the Commissioner must justify his assessment, in fact in order to arrive at a decision in favour of the Commissioner it is not necessary for a Court to find in the affirmative that the facts are as alleged by the Commissioner but that it is only necessary to find that there is not sufficient good evidence to justify a finding for the tax-payer; B.H. v. C.I.R. Case No. 77 V 3, Part 2 E. A. T. C. 194. 30 40
- (h) the Respondents have not produced any evidence to show that the assessment is excessive or incorrect and the fact that

they returned losses in previous years' returns (which are still under investigations by the Commissioner) does not in itself justify an assumption that the respondents continued to make losses;

(i) the decision of the Board of Review be reversed and the assessment be maintained.

In the
Supreme Court

No. 2

Statement of
Material Facts
by Commissioner
26th July 1965.
(continued)

(sgd) V.J. Cangadin

Commissioner of Inland Revenue.

10

26.7.65.

" A "

INLAND REVENUE DEPT.,
Income Tax Division,
P.O.B. 24,
Georgetown,
British Guiana

29th June, 1963.

Sir,

20 Take notice that you are hereby required by me under section 40 (4) of the Income Tax Ord., Cap. 299, to deliver to me on or before 29th July, 1963 a true and correct return of the whole of your income from every source whatsoever for the year 1961.

(2) Failure to submit your return on or before the above date will render you guilty of an offence against this Ordinance under Section 40 (5) and liable to an additional 5% penalty of your tax liability under Section 48 (4) (Revised Edition).

30 (3) A copy of Income Tax Form No. 1 for the year of assessment 1962 has already been sent you.

The Secretary,
Argosy Co. Ltd.,
Bel Air Park,
E.C.D.

Sgd. A. Chung-Wee,
Commissioner of Inland Revenue
by officer duly appointed
under Section 81 of the
Income Tax Ordinance,
Chapter 299.

10 .
" B "

In the
Supreme Court

No. 2

Statement of
Material Facts
by Commissioner.

26th July 1965.

(continued)

WR/IMH
D/3

INLAND REVENUE DEPARTMENT,
Income Tax Division
P.O.Box 24, Georgetown,

4th October, 1963.

Sir,

Re Argosy Co. Ltd.,

I regret to inform you that the above
named company has not yet submitted its income
tax return for the Year of Assessment 1962. I am
therefore raising a provisional assessment
by virtue of the provision of subsection 4 of
Section 48 of the Income Tax Ordinance,
Chapter 299 as follows :-

Estimated Income	\$25,000
Tax Payable	\$11,250

I have the honour to be,

Sir,

Your obedient servant,

Sgd. E.G. Fraser

for Commissioner of Inland Revenue

The Liquidator,
Argosy Co. Ltd.,
c/o A.M.S.Barcellos F.A.C.C.A.,
10 Fort Street,
Kingston.

10

20

" C "

THIS NOTICE MUST BE PRESENTED AT THE TIME OF
PAYMENT.

NOTICE OF ASSESSMENT

BRITISH GUIANA

E.R.

In the
Supreme Court

No. 2

Statement of
Material Facts
by Commissioner

26th July 1965

(continued)

Argosy Co. Ltd.
c/o A.M.S. Barcellos
10 Fort Street,
Kingston.

10 COMPANIES

YEAR OF ASSESSMENT 1962

on Income of Year 1961.

File No. D/3

Assessment No. 384^D/62

TAKE NOTICE that the amount of your chargeable
Income, Allowances and Tax are as specified below:-

TAX STRUCTURE		§	INCOME FROM
	at 25 %		Working of Estates, etc.
20	25000 at 45 %	11,250.00	Business, Trade, Profession 25,000
	Add 5% Penalty for late Return.		
	Less:-		Government Salary Other Salary Interest, etc. (Local)
	Set-off		Interest, etc. (Foreign)
30	D.I.T. Relief Tax Payable	11,250.00	Pensions Annuities & Charges
	Tax Instalments Paid (a)		Rents
	Balance Tax Payable (b)		Capital Gains
	Tax Over Paid		TOTAL INCOME 25,000

In the
Supreme Court
No. 2
Statement of
Material Facts
by Commissioner.
26th July 1965
(continued)

(a) Tax Instalments Paid	Less:-	
On or before 15 Mar. 1963	Wear & Tear	
" " " 15 Jun. 1963	Previous Losses	
" " " 15 Sep. 1963	Total Deductions	
" " " 15 Dec. 1963	CHARGEABLE INCOME	25,000
(b) Method of Payment	Minimum chargeable Income	
On or before 15 Jun. 1965	LOSS UNDER	
" " " 15 Sep. 1965	Head	10
" " " 15 Dec. 1963	"	
	11,250.00	
	Loss carried forward Head	
V.J.Gangadin	CAPITAL ALLOWANCES	
Commissioner of Inland Revenue		
31 October 1963.		

" D "

217 South Road,
Lacytown, Georgetown,

12th November, 1963. 20

The Commissioner of Inland Revenue,
Inland Revenue Office,
c/o G.P.O. Building,
Georgetown.

Dear Sir,

The Argosy Company Limited now in liquidation hereby give you notice that they dispute the Assessment dated the 31st October, 1963, and received on the 9th November 1963, in respect of the estimated income of \$25,000.00 for the Year of Assessment 1962, Year of Income 1961, on Assessment No. 384D/62, and hereby apply to review and revise the Assessment made upon the Company. 30

The grounds of the Objection to the Assessment are as follows :-

- (1) The Company sold out its entire assets in February 1961, and has not traded since then.
- (2) In consequence of the sale of the entire assets of the Company in February 1961, the Company made no profit whatever in the year of Income 1961, Year of Assessment 1962.
- 10 (3) The said Assessment objected to is excessive and without justification or merit.

In the
Supreme Court

No. 2
Statement of
Material Facts
by Commissioner.
26th July 1965.
(continued)

Yours faithfully,

Arthur G. King.

SOLICITOR

to THE ARGOSY COMPANY LIMITED

(In liquidation)

AGK:MN.

" E "

20 WR/LPJ
D// II

INLAND REVENUE DEPARTMENT,
INCOME TAX BRANCH,
P.O. Box 24,
Georgetown.

10th January, 1964.

Sir,

Re: Argosy Co. Ltd. - Year of Assessment
1962. Asst. 384D/62

Receipt of your letter dated the 12th November 1963 objecting to the abovementioned assessment is hereby acknowledged.

- 30 2. In order that I may be able to consider the grounds of your objection it is necessary for the Company to submit an income tax return for the Year of Assessment 1962 along with its final accounts up to the last date of business in the year 1961. In addition to this a complete inventory of assets and full details of liabilities

In the
Supreme Court

No. 2

Statement of
Material Facts
by Commissioner.

26th July 1965.

(continued)

must be submitted as at the date of commencement of winding up and as at 31st December 1961. The return and information should be submitted within 28 days of the date of this letter.

3. I may mention that I was informed that the Company did some business transaction in 1961.

4. I intend examining the books and records of the Company and I should be obliged if you would arrange to have the complete books and records available for my examination. Perhaps you would let me know when it will be convenient.

10

I have the honour to be,

Sir,

Your obedient servant,

Sgd. V.J. Gangadin
for Commissioner of Inland Revenue.

Mr. A.G. King (Solicitor),
The Argosy Company (in liquidation),
217 South Road,
Lacytown,
Georgetown.

20

c.c. Mr. A.M.S. Barcellos,
Liquidator,
The Argosy Co. Ltd.,
10 Fort Street,
Kingston,
Georgetown.

/ "F"

" F "

ARTHUR GEORGE KING,
SOLICITOR
NOTARY PUBLIC &
COMMISSIONER FOR OATHS

217 South Road,
Lacytown,
Georgetown, Demerara.
BRITISH GUIANA.

25th January, 1964.

The Commissioner of Inland Revenue,
c/o G.P.O. Building
Georgetown.

Dear Sir,

10

The Argosy Company Limited - Year of
Assessment 1962 - Assessment 384D/62.

20

With reference to your letter of the 10th instant, your Ref. No. D3 ii, I beg to inform you that Mr. A.M.S. Barcellos, the liquidator of the Argosy Company Limited, informs me that he is unable to hand over the books of The Argosy Company Limited because before leaving the colony in early 1962, Mr. C.P. Wight stored the books of the company on the premises of The Russian Bear Spirit Shop carried on by his brother the late Mr. R.M. Wight and situate at the corner of Lombard and Schumaker Streets, and unfortunately that building was destroyed in the fire of 1962 therefore there are no books of account of The Argosy Company Ltd. now in existence; but so far as the Liquidator is concerned, he very much doubts that the Argosy Company Ltd. made any profit for the year 1961, even though they may have carried on a reduced business.

30

I understood from the Liquidator that he would communicate with you on the subject.

Yours faithfully,

Sgd. Arthur G. King.

AGK:MN.

In the
Supreme Court

No. 2

Statement of
Material Facts
by Commissioner.

26th July 1965.

(continued)

/"G"

" G "

In the
Supreme Court

No. 2

Statement of
Material Facts
by Commissioner.

26th July 1965.

(continued)

WR/MVH
D/311

INLAND REVENUE DEPT.
Income Tax Branch,
P.O. Box 24,
Georgetown,

13th February 1964.

Sir,

The Argosy Company Ltd. - re - Objection
to Assessment No. 384D/62.

Receipt of your letter dated the 25th of
January, 1964, is hereby acknowledged.

10

2. I desire to inform you that you have not
proven to me that my assessment for the Year of
Assessment 1962 is incorrect. In such
circumstances, I am maintaining my assessment.

3. The tax - \$11,250.00 - collection of which
was held in abeyance is now due and payable on or
before 29th March, 1964.

4. If you are not in agreement with my decision,
you may appeal to the Board of Review or Judge
in Chambers as provided by Section 56 (5) or
Section 57 (1) of the Income Tax Ordinance,
Chapter 299. A copy of the relevant
sections and particulars as to procedure are
attached hereto for your guidance.

20

I have the honour to be,

Sir,

Your obedient servant.

Sgd. W.G.Stoll
Commissioner of Inland Revenue.

Mr. A.G. King (Solicitor,
The Argosy Company (In liquidation)
217 South Road,
Lacytown.

30

c.c. Mr. A.M.S. Barcellos,
Liquidator,
The Argosy Co. Ltd.
10 Fort Street,
Kingston.

" H "

BRITISH GUIANA

No. 15 of 1964.

In the
Supreme Court

No. 2

INCOME TAX BOARD OF
REVIEW
IN THE MATTER OF THE INCOME TAX
ORDINANCE, CHAPTER 299.

Statement of
Material Facts
by Commissioner

26th July 1965.

(continued)

Between:

The Argosy Co.Ltd. Appellant

- and -

10

THE COMMISSIONER OF INLAND
REVENUE Respondent

24th and 29th September, 1964.

Before: P. W. King, who was elected Chairman
of the meeting.

S. Heald, (Member)

C.L.Kranenburg (Member)

Appearances: Mr. G.M.Farnum, Barrister-at-law
instructed by Mr. A.G.King,
Solicitor for the Company. Mr.
20 A.M.S. Barcellos, the Liquidator of
the Company was also in attendance.

Mr. J.G. Barcellos appeared on
behalf of Commissioner of Inland
Revenue.

DECISION

30 This is an appeal by the Argosy Co.
Ltd., now in liquidation, against Assessment
No. 384D/62, dated 31st day of October, 1963,
wherein a tax in the sum of \$11,250.00 was
levied in respect of the Year of Assessment 1962
upon the income of the Appellant as determined
by the Commissioner in the year preceding the
year of assessment, i.e. 1961.

2. The Assessment was made under Section
48 (4) of the Income Tax Ordinance, Chapter 299,
which reads as follows :-

In the
Supreme Court

No. 2

Statement of
Material Facts
by Commissioner
26th July 1965.
(continued)

"Where a person has not delivered a return and the Commissioner is of the opinion that the person is liable to pay tax, he may, according to the best of his judgment, determine the amount of the chargeable income of that person and assess him accordingly but the assessment shall not affect any liability otherwise incurred by the person by reason of his refusal, failure or neglect, to deliver a return."

10

3. There is no real dispute between the parties as to the facts of the case which are as follows :-

4. The Company had delivered returns for the years 1959 and 1960 which showed losses during those two years of \$68,716.84 and \$66,084.26 respectively. These figures were corrected, however, by the Commissioner to \$32,173.41 and \$30,171.03 respectively and no appeal was made in respect of them.

20

5. The Company having failed to deliver a return in respect of their earnings for the year 1961 and after considerable correspondence between the department and the company, the Commissioner on the 31st day of October, 1963, assessed the company on an estimated income of \$25,000.00 the tax on which is the sum of \$11,250.00.

6. Mr. Farnum, on behalf of the Company submitted:

30

(a) that the Commissioner under Section 48 (4) must be "Of the opinion that the Company is liable to pay tax" before he can raise an assessment;

(b) that even if the Company is assessable under the sub-section there are no grounds on which the Commissioner could arrive at a chargeable income of \$25,000.00;

(c) that the decision of the Commissioner must be based on fact and must not be arbitrary or capricious;

40

7. In support of (a) Mr. Farnum submitted that having regard to the fact that the Company had

admittedly made substantial losses in the two years previous to the year in question he was unable to see how those losses could be turned into a profit of ₹25,000.00 when it was not in dispute that the Company had carried on business on a very limited scale in 1961. He submitted therefore that in the absence of some clear reason as to how the Commissioner arrived at the figure of ₹25,000.00 it was not possible for the Commissioner to say that the Company was liable to pay tax or to assess it.

In the
Supreme Court

No. 2

Statement of
Material Facts
by Commissioner
26th July 1965.
(continued)

8. With regard to (b) and (c) Mr. Farnum submitted that a "best of judgment assessment" implies that the Commissioner's assessment must be based on fact and he must not act dishonestly, or vindictively or capriciously because he must exercise judgment in the matter. He must make what he honestly believes to be a fair estimate of the proper figure of assessment. For this purpose he may take into consideration previous returns by the Company and other surrounding circumstances. The Commissioner is not empowered to make a pure guess assessment.

9. In support of his submissions under (b) and (c) he quoted the following cases :-

Commissioner of Income Tax, Central and United Provinces v. Laxminarain Badridas, reported in the Indian Income Reports, Vol. 5, 1937. (A decision of the Privy Council) p. 170 Talchand Bhagat Ambica Ram v Commissioner of Income Tax, Bihar and Crissa, Indian Law Reports, Vol. 37, 1959, p. 288. Raj Mohan Saha and others v Commissioner of Income Tax, Assam, Indian Law Reports, Vol. 52, Part 4, 1964, p.231 B. Abdul Gadir v Commissioner of Income Tax, Madras, Indian Law Reports, Vol. 52, Part 5, 1964, p.364 -

10. Mr. Farnum stated that the Company had filed tax returns annually until 1962 when they were unable to do so because their books and records had been destroyed by fire during the rioting in February 1962.

11. Mr. Farnum submitted that on the facts and on the authorities quoted by him the assessment should be annulled.

In the
Supreme Court

No. 2

Statement of
Material Facts
by Commissioner.

26th July 1965.

(continued)

12. Mr. John Barcellos, the Commissioner's representative was unable to say on what grounds the Commissioner had formed the opinion that the Company was liable to pay tax and he was also unable to say on what fact or facts the Commissioner had arrived at the figure of \$25,000.00 as being the Company's income for the year 1961.

13. He submitted that the Commissioner having to the best of his judgment fixed the sum of \$25,000.00 as being the income of the Company for the year in question, the onus of proving that this amount was excessive was on the Appellant. 10

14. Mr. Barcellos quoted the following cases in support of his submission *Hurt & Company v Joly* 14, Tax Cases, p. 165, *Wall v Cooper* 14 Tax Cases, p. 552.

15. Replying to questions by Mr. Kranenburg, Mr. Barcellos stated that he had found nothing to suggest that the Commissioner had made the assessment under Section 48 (3) of the Ordinance instead of 48 (4). He had before him the figures for 1960 turnover in each section of operating, and from these it would be possible to make an estimate of 1961 turnover reduced to allow for the reduced selling periods in that year. Having made such an estimate he was of opinion that the minimum chargeable income calculated at 7½% as required by Section 48 (3) would greatly exceed \$25,000.00. 20 30

16. The Board were of opinion that Section 48 (3) did not apply to this case, and that the assessment had not been made within the required period of three months from the prescribed date. It is remarkable that the assessment is termed provisional in annexure B to the Commissioner's Statement of Facts.

17. After carefully considering the facts and the admissions by the Commissioner's representative the Board find that the Commissioner had no evidence before him on which he could form the opinion that the Company was liable to pay tax. It had made substantial losses in the five years preceding the year in question and no facts have been submitted to 40

show how these losses were converted into a profit of \$25,000.00 as fixed by the Commissioner. We find therefore that under Section 48 (4) the Commissioner has not satisfied the Board that he comes within that subsection.

In the
Supreme Court

No. 2

Statement of
Material Facts
by Commissioner.

26th July 1965.

(continued)

10

18. Even if the Commissioner was in order in making the assessment of \$25,000.00 the Board is of the opinion that this amount was arrived at by guess work as no fact or facts have been submitted to the Board in support of the Commissioner's finding.

20

19. The Indian cases quoted by Mr. Farnum, one of which is a Privy Council decision, lay down very clearly how best of judgments assessments should be made. We agree with the views expressed in those judgments. The Cases quoted by Mr. Barcellos do not support his contention. In both of them there were ample facts on which the Assessing Officer exercised his judgment, if anything they support the Appellant's case.

30

20. We agree with Mr. Barcellos that under Section 56(d)10 the onus is on an Appellant to prove that an assessment is excessive. That onus, however, only applies in cases where the assessment has been properly arrived at. We do not accept the proposition that so long as the Commissioner makes an assessment that is an end of the matter and his assessment must stand unless an appellant proves it is wrong. The Ordinance gives the Commissioner no such power. In every case he must justify his assessment. In this case he has failed to do so.

21. In view of our findings above the assessment shall be annulled.

The appeal fee of \$5.00 shall be refunded.

40

I hereby certify that the above is the unanimous decision of the Board of Review given on the 29th day of September, 1964.

The Reasons for the decision are incorporated therein.

Sgd. Percy W. King
Chairman for the Meeting
27th October, 1964,

In the
Supreme Court

No. 3

NOTES OF EVIDENCE

No. 3
Notes of
Evidence
25th September
1965.

Saturday 25 September 1965

THE COMMISSIONER OF INLAND REVENUE

v.

THE ARGOSY COMPANY LIMITED.

Doodnauth Singh, instructed by Crown Solicitor for appellant. C.M. Farnum, instructed by A.G. King for respondents. A.M.S. Barcellos, liquidator of Argosy Co. Ltd. present.

10

Singh for appellant argues -

Sets out findings of Board.

Submits that Board held (1) that appellant had no evidence before him upon which he could find that the Company was liable to pay tax;

(2) that Commissioner had not satisfied the Board that Commissioner had acted under sec. 48 (4) of Cap. 299.

(3) even if Commissioner could have acted under s. 48 (4) of Cap. 299, he arrived at the assessment by pure guess work, and he had not submitted any facts indicated how he had arrived at the assessment;

20

(4) that the onus of proving that a tax is excessive is on the taxpayer

(5) that the C.I.R. must justify the assessment see p. 3 of judgment.

With exception of (4) above, submits that all other findings and rulings are erroneous.

30

(1) Submits - It is not necessary that the C.I.R. must have evidence before him before he can say that a person is liable to tax. If no return

is submitted, the C.I.R. acting in an arbitrary manner can say that a person is liable to tax, and assess such tax, it then falls upon the taxpayer to show that he is not liable, and/or that it is excessive.

In the
Supreme Court

No. 3

Notes of
Evidence

25th September
1965.

(continued)

10 2. Sec. 48 (4) of Cap. 299 gives an arbitrary power which he must exercise. The Commissioner exercises this power administratively. The Commissioner purported to act under sec. 48 (3) and there was no necessity for him to satisfy the Board that he had acted under that subsection.

3. Assessment of tax under sec. 48 (4) is intended to be pure guess work, and there is no necessity to have the results of an inquiry before him. Assessment must not be done capriciously or vindictively.

20 4. Erroneous for Board to have held the view that Commissioner must justify the assessment.

1. Refers to - (1) A.B.C. -v- Controller of Income Tax of Singapore (1959).

Taxpayer paid tax. Additional assessment - Taxpayer demanded reasons for additional assessment - Refusal - Validity of notice of additional assessment challenged - Court held that Commissioner need not show reason for raising tax. See Ex. "B" of instant appeal.

30

Submits that Commissioner is entitled to say he determines the income of a taxpayer and the tax.

Onus is on taxpayer to prove that tax is excessive - s. 56 D (10) of Cap. 299.

Commissioner not compellable under Ord. to show how he arrived at the tax.

(2) Union Steamship Co. of New Zealand. Ltd. -v- Fed. Com of Taxation (1920) C.L.R.

40

Vol. 29, p. 84, 92 Wartime Profit Tax - No need to prove that person taxed is liable to tax.

In the
Supreme Court

No. 3

Notes of
Evidence.

25th September
1965.

(continued)

- (3) Fed. Com of Taxation -v- Clarke (1927)
C.L.R. Vol. 40, p. 246, at p.251.
- (4) B.K. -v- Com. of Income Tax East African
Tax Cases Vol. 3, p.2, p. 267.
- (5) C.I.T. of Central and United Provinces -v-
Lachminaraine Badridas (1937) Indian
Reports Vol. 5, p. 170.

Submits that there was no evidence before the Board that the Commissioner had acted dishonestly, vindictively, or capriciously. 10

Distinguishes Badridas' case. - Income Tax Officer and not Commissioner makes assessment appeal then lies to Assistant Commissioner who could direct that an enquiry should be carried out. We have no such provision in B.G.

Accept that Commissioner should not act dishonestly, vindictively, or capriciously.

Court requires if Counsel accepts statement in para. 7 of Board's reasons. Mr. Singh says that the Commissioner does not accept this as a fact, that the facts are different, and that the difference was drawn to the attention of the Board. 20

Court then invites Mr. Singh to consider whether he will argue on statement in Para. 7 or whether he wishes an opportunity to consider whether he would lead evidence. He says that he wishes an opportunity to consider the matter. 30

Adjourned to 2.10.1965 at 9 a.m.

2nd October
1965.

Saturday 2nd October 1965.

Singh continues his argument :-

Refers to Badridas' case.

Submits that Commissioner does not require to supply figures, etc. If he does not, it cannot be said that he has acted capriciously.

Board of Review erred in construing the decision in Badridas' Case: it is clear that taxpayer must prove that the Commissioner acted capriciously, or in any other improper manner.

The Singapore Case is of Substantial assistance in this matter.

S. 72 of the Singapore Ord. 166. S 48 (3) local Ord.

In the
Supreme Court

No. 3

Notes of
Evidence

2nd October
1965.

(continued)

10 Mr. Singh asks leave to call evidence to lay over certain income tax returns submitted by the respondent. Mr. Farnum does not object.

JOSEPH LEONARD RAWLINS sworn states :-

I am the Assistant Commissioner of Inland Revenue (Acting).

J.L.Rawlins
Examination
2nd October
1965.

20 I produce in evidence the returns submitted by the respondents in respect of years of income 1958 to year of income 1960. (Tendered and marked A1 to A3). In 1958 the respondents operated 4 departments, including a book shop. The Hincks Street branch which is the book shop show a gross profit of \$880.08 for 1958; - doe 1959 - a gross profit of \$10,168.46; for 1960 a gross profit of \$15,275.95.

No return was filed after the year 1961.

By Mr. Farnum:-

Declined.

Singh continues his argument -

30 Commissioner had available to him returns from 1958 to 1960. He would have used these to arrive at his assessment.

Submits no prima facie proof by respondents against their being liable to tax. Respondents must show that they are not liable to tax. Board of Review has not considered this aspect of the matter.

In the
Supreme Court

No. 3

Notes of
Evidence

Respondent's
Evidence

A.Barcellos
Examination

2nd October
1965.

Mr. Farnum applies to call A.M.S. Barcellos

ANTHONY BARCELLOS sworn states :-

I am an accountant, and I am the liquidator of the Argosy Co. Ltd.,

Before this assessment was made, I spoke to Mr. Stoll the then Commissioner of Inland Revenue. I had had previous conversations with Stoll. We discussed the filing a return of the company's income. I told him that I had no records, and that a return was impossible. I told him that the books had not been written up, and whatever books that were handed to me had been destroyed in the fire. Stoll called for his department's file. Looking through the records disclosed that the Argosy Co. had an accumulated loss of about £124,801:- up to 31.12.1960. 10

In 1961, the Argosy Co. Ltd. sold to Peter Taylor - sometime in March. The book store remained at Hincks Street. This was used as a collecting depot, and contained a stock of undisposed periodicals. 20

I pointed out that it was impossible for the respondent to be liable for tax, as the accumulated loss was greater than any anticipated profits.

The Commissioner enquired who were the owners of the debentures to the value of £42,000 - which appeared on the balance sheet. I told him that the debentures belonged to Percy Wight. Stoll told the clerk to raise an assessment of £25,000:- 30

No more stock was stored at Hincks Street. Books were stored above the Russian Bear Spirit Shop which were destroyed by fire.

The stocks of the book shop was sold in 1962 for £8,000.00:-

I have no comment to make on the statements which showed gross profits in their returns.

Cross examined by Mr. Singh :-

In the
Supreme Court

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Evidence

Respondent's
Evidence.

A. Barcellos
Cross-examin-
ation.

2nd October
1965.

I cannot say if the returns were submitted by the Argosy Co. Ltd. They must have been submitted.

I sold the book shop in 1962 - stock, fittings, fixtures etc. - all for \$8,500:- All books which came up to September 1961 were stored above the rum shop. I told Mr. Stoll all of this.

10 Mr. Stoll had the previous returns before him when he told the clerk to raise an assessment of \$25,000 :- I cannot remember the date when this happened.

Re-examined:-

Declined.

Mr. Farnum submits -

Commissioner must exercise judgment before he can raise an assessment in these circumstances.

20 "To the best of his ability" does not take him out of the jurisdiction of the court to enquire whether he exercised his judgment.

Facts are that appellants had shown a substantial loss.

Book shop showed for same period a gross profit.

30 Appellant contend that assessment must have been raised by Commissioner as a result of his taking into account the gross profits of book shop. There is nothing to show what the net income was. Tax payer is not taxable on gross income. There was a very large overall loss.

How could Commissioner assess that Company made a net profit of \$25,000:- in 1961.

Appellant cannot now rely on Sec.48 (3)(1) of Cap. 299.

In the
Supreme Court

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Notes of
Evidence

2nd October
1965

(continued)

Respondent contend that although burden is on taxpayer to show that an assessment is wrong that burden only so rests where the Commissioner has acted in accordance with the Ordinance. Respondents have shown prima facie that assessment has not been computed on the basis of previous returns or on basis of available information; and if this is so, Commissioner must show that his assessment was based on some material relevant to the formation of an estimate.

10

On Commissioner's case, what is the basis of Commissioner's assessment?

Power of Commissioner as regards arbitrary assessments is overdue for arbitration.

Refers to Chettyar -v- Com. I. Tax 4 Income Tax Com. of India, at P. 87.

No evidence has been given that the assessment of ₹25,000 - was based on the returns submitted. Commissioner could not have urged this when they showed an overall loss. Concedes not necessary to have an inquiry, but opinion ought to be based on available information.

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Ravi Balmokhan -v- Com. of I.T. - 4 Income Tax Reports of India at p. 454.

Submits that even though Commissioner need not indicate to taxpayer his basis for assessment, he must disclose this to the Court when matter reaches this stage.

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Lalchand Ram -v- Com. of Bihar & Orissa (1959) 37 Indian I.T. Reports, 288.

Abdul Kadir -v- Com. of Madras (1964) 52 Indian I.T. Reports 364.

Singh in reply :-

Except for Chettyar's case. the sections not given.

Indian Tax Cases - all assessments are made by an officer and assessment comes up to Commissioner of Review.

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Decision reserved to 16.10.65. 9 a.m.

In the
Supreme Court

No. 3

Notes of
Evidence

2nd October
1965.

(continued)

Saturday 16th October 1965

16th October
1965.

Decision in writing

Appeal allowed with costs. Decision of
Board of Review reversed and assessment of
Commissioner re-instated.

Stay for 6 weeks.

G.L.B. Persaud

Puisne Judge

16.10.65.

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No. 4

No. 4

JUDGMENT

Judgment

1964 No. 2185 DEMERARA.

16th October
1965.

IN THE SUPREME COURT OF BRITISH GUIANA

IN THE MATTER OF THE INCOME TAX ORDINANCE
(CAP. 299)

BETWEEN:

THE COMMISSIONER OF INLAND REVENUE
Appellant

20

and

THE ARGOSY CO. LTD. (In Voluntary
Liquidation) Respondents.

In the
Supreme Court

No. 4

Judgment.

16th October
1965.

(continued)

BEFORE PERSAUD J. (IN CHAMBERS)

September 25; October 2; 16; 1965.

Doodnauth Singh for the Appellant

G.M. Farnum for the Respondents.

A.M.S. Barcellos, Liquidator in person.

JUDGMENT:

This is an appeal by the Commissioner of Inland Revenue against a decision of the Board of Review in which the Board allowed an appeal by the Argosy Co. Ltd., (the respondents) - now in liquidation - against an assessment made by the Commissioner on October 31, 1963 whereby the income tax of the respondents was assessed in the sum of \$11,250.00 in respect of year of income 1961 upon an income of \$25,000, determined by the Commissioner in the purported exercise of his best judgment in accordance with sec. 48 (4) of the Income Tax Ordinance, Cap. 299.

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It would be necessary to examine sec. 48 (4) of Cap. 299, as this appeal really turns on the interpretation of that section; but before doing so, I should deal with certain preliminary matters.

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There seemed to have been some confusion as to whether the Commissioner purported to act under sub-section (3) or (4) of sec 48. No doubt the confusion arose because in his letter to the respondents on October 4, 1963 (Exhibit "B"), the Commissioner informed the liquidator of the respondents that he was making a "provisions assessment", the express words used by sub-section (3), but which do not appear in sub-section (4); but he went on to say in his letter that he was raising the provisional assessment by virtue of the provisions of sub-section (4) of s. 48. The confusion was perpetuated by the language used by the Board in its judgment when it said - "We find therefore that under the section 48 (4) the Commissioner has not satisfied the Board that he comes within that sub-section", when earlier in their judgment, they had expressed the opinion

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that section 48 (3) did not apply. My understanding of the Board's statement quoted above is that the Commissioner did not have any material before him by means of which he could have exercised his best judgment under section 48 (4), and nothing more. Indeed, it seems to me that the Commissioner must stand or fall by section 48 (4) in this particular instance.

In the
Supreme Court

No. 4
Judgment
16th October
1965.

(continued)

10 Prior to 1961, the respondents carried
on four separate businesses, including a book
shop. The returns for the years of income
1958, 1959 and 1960 show an overall substantial
loss to the company resulting in an accumulated loss
of \$124,801 up to December 31, 1960; but they
also show that the book shop was returning a
20 gross profit of \$888.08 in 1958, \$10,168.46 in
1959, and \$15,275.95 in 1960. In March 1961,
the respondents sold their entire enterprise,
with the exception of the book shop which they
continued to operate until March 1962 when
they went into liquidation. These facts do not
appear to have been brought to the attention of
the Board, or if they were (as I have been
assured by counsel for the Commissioner), the
Board did not seem to consider them of any
significance, as they are not mentioned in the
Board's decision.

30 In 1962, the respondents failed to deliver
their income tax return, as their books of
accounts which were being kept on the premises
of the Russian Bear Bar were destroyed by fire
in February, 1962. This circumstance was
brought to the attention of the Commissioner,
and after some correspondence, and a meeting
with the liquidator, the Commissioner raised a
tax of \$11,250.00 in 1963. From all of this,
it can be seen that that part of the business
which the respondents retained have been showing
40 a gross profit which had been increasing from
year to year beginning from 1958.

Section 48 (4) of the Ordinance provides
as follows -

"Where a person has not delivered a
return and the Commissioner is of
the opinion that the person is
liable to pay tax, he may, according
to the best of his judgment, determine

In the
Supreme Court

No. 4

Judgment

16th October
1965.

(continued)

the amount of the chargeable income of
that person, and assess him accordingly
....."

Counsel for the Commissioner has submitted
that so long as the Commissioner does not act
dishonestly, vindictively or capriciously -
and there is no evidence of this - sec. 48 (4)
intends him to assess by pure guess, and
that there is no necessity for him to show
that he made any enquiries, and if so, what
enquiries, before he made his assessment; 10
and further, that once he has made his
assessment, the law provides that the taxpayer
must then satisfy the appellate tribunal that
the assessment is excessive, and it is not for
the Commissioner to justify his assessment.
Counsel is in effect relying on the joint
operation of sections 48 (4) and 56 D (10) of
the Ordinance.

The Respondents' counsel has, on the 20
other hand, argued that, while he concedes that
no enquiry is necessary in order that the
assessment may be made, nevertheless the
Commissioner's assessment ought to be based
on available information, and that even though
the Commissioner need not indicate his basis
of assessment to the taxpayer, he must do so
when an assessment is being tested on appeal.
Counsel further contended that the assessment
which is being challenged must have been raised 30
on the basis of the gross profits as indicated
in the previous returns, and as there was
nothing to show what the net income was, it
was pure guess work to say that the
respondents' net income for the year 1961
was \$25,000.

In dealing with sec. 39 of the Australian
Income Tax Assessment Act, 1922-25, which
provides that the Commissioner's assessment
is to be taken as prima facie correct, Isaacs,
A.C.J. in Federal Com. of Taxation v. Clarke
(1927) C.L.R. 246 used language which to my 40
mind can be regarded with profit in relation to
the onus of proof in income tax matters. At
p. 251 (ibid), the learned judge said -

"....the burden of proving to the
satisfaction of the court that the
sum in question was not income, but
capital transformed, and that

it was not his income rests on the respondents. The justice of that burden cannot be disputed. From the nature of the tax, the Commissioner has, as a rule, no means of ascertainment but what is learnt from the taxpayer, and the taxpayer is presumably and generally, in fact, acquainted with his own affairs. The onus may prove to be dischargeable easily or with difficulty according to circumstances. Whereas here a taxpayer has failed to keep any records of considerable dealings while engaged in profit-making transactions relied on by him to avoid the taxation ordinarily incident to such profits, and where, as here he has entangled these transactions, and has given discordant, and in some cases, inconsistent accounts and explanations of them, the onus is of the heaviest character."

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Supreme Court

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16th October
1965.

(continued)

Now as to the interpretation to be placed on sec. 48 (4) of Cap. 299.

First of all, I wish to say that my reading of the section does not make it obligatory on the Commissioner to make an assessment on any person who has failed to deliver a return, but only where such a person is in the opinion of the Commissioner liable to pay tax, in which event, he must use his best judgment in making his assessment. See Morisse v. Royal British Bank, (1856) 1 C.B. (N.S.) 67

In using his best judgment, the Commissioner must not rely on matters of conjecture, suspicion and surmises See Lalchand Bhagat Ambica Ram v. C.I.T (1959) 37 I.T.R.288, but he must make the assessment according to the rules of reason and justice, not according to private opinion, according to law, not humour, so that the assessment must not be arbitrary, vague and fanciful, but legal and regular. See Chettyar Firm v. C.I.T. Burma. 4 Indian Income Tax Cases, 87.

In C.I.T. v. Badridas (1937) Indian Income Tax Reports 170, which was a decision of the Privy Council involving a best judgment assessment, Lord Russell of Killowen, said at p. 179 (ibid) -

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Supreme Court

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16th October
1965.

(continued)

"If the assessment in this case was made by the officer to the best of his judgment, it must stand unless the assessee succeeded in satisfying the officer that he had not a reasonable opportunity to comply or was prevented from complying with the terms of the notice under s.22(4) requiring him to produce or cause to be produced his accounts for three years."

10

It is to be observed that Lord Russell was considering s. 22 (4) of the Income Tax Act which enabled the taxing officer to serve a notice upon the taxpayer calling for production of accounts, upon the failure of which, the taxing officer may assess to the best of his judgment. We do not have such a provision in our laws.

Again at p. 180 (ibid), Lord Russell said -

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"The officer is to make an assessment to the best of his judgment against a person who is in default as regards supplying information. He must not act dishonestly, or vindictively or capriciously because he must exercise judgment in the matter. He must make what he honestly believes to be a fair estimate of the proper figure of assessment, and for this purpose he must, their Lordships think be able to take into consideration local knowledge and repute in regard to the assessee's circumstances, and his own knowledge of previous returns by and assessment of the assessee, and all matters which he thinks will assist him in arriving at a fair and proper estimate; and though there must necessarily be guess-work in the matter, it must be honest guess-work. In that sense too, the assessment must be to some extent arbitrary."

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To my mind, the words "to the best of his judgment" appearing in section 48 (4) of Cap. 299 and in the laws that were being considered in the cases referred to in this

judgment, must connote that there must be in existence some material on which the Commissioner exercises his judgment. But if he has no such material, or he acted on no such material, he can be said to have acted capriciously. The onus of proving this circumstance lies squarely on the shoulders of the taxpayer. The submission that the Commissioner is not compellable under the Ordinance to show how he arrived at the tax assessed does not admit of dispute, but it does appear to me that if the taxpayer can show from the circumstances that the assessment was an arbitrary one in the sense that there were no facts on which the Commissioner could have exercised his best judgment, he ought to succeed. In this regard I do not accept the contention of counsel for the respondents that the Commissioner ought to disclose to the Court the information upon which the assessment has been based as there is nothing in the Ordinance which says that he should, and there is no support for this proposition to be found in the authorities. Indeed the dictum of the Australian Court of Appeal in George v. Fed. Com. Taxation (1952) 86 C.L.R. 183 at p. 203 is against such a proposition. At p. 203 it is said -

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"But, even were it true that the commissioner must, upon the hearing of the appeal, affirmatively prove by evidence that he formed a judgment of the amount of the income upon which the appellant ought to be taxed, it could not be part of his case to establish the facts upon which he acted in forming the judgment of the grounds on which he proceeded, the materials before him, or the reasoning actuating him."

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Counsel for the Commissioner has invoked to his assistance, and relied heavily upon the case of The Union Steamship Co. of New Zealand Ltd. -v- Federal Commissioner (1920) 29 C.L.R. 84, and argued in effect that income tax legislation is so heavily weighted against the taxpayer, that there is no need even for a taxing authority to prove that the assessee is liable to tax. I would agree that the

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(continued)

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(continued)

income tax legislation is on the side of the taxing authority, and deliberately and rightly so, for this is the only way in which tax dodgers can be made to meet their obligations to the State incurred under the income tax laws. No doubt, counsel wishes to give weight to this passage of Isaacs, A.C.J.'s judgment which appears at p. 92 (ibid), and which is as follows -

"When an assessment is made which I may call a default assessment the person assessed may or may not be in reality a taxpayer, he may be assessed in respect of a business which is exempt, or he may be assessed in respect of an amount which is erroneous. But for some reason or another he may be called upon by the assessment to pay an amount which is more than he ought, under the circumstances, according to law to be called upon to pay."

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In that case, the judge was referring to default assessments under a particular ordinance, viz: the War-time Profits Tax Assessment Act, 1917. In any event, when the facts of the case are examined, it will be seen that the assessment was made on a disclosed basis.

Another case relied upon heavily by counsel for the Commissioner is A.B.C. v. C.I.T. Singapore - a case from the High Court of Singapore, a cyclostyled copy of which was made available to me by counsel. Sec. 72 of the Income Tax Act Cap. 166 of Singapore is similar in terms to our sec. 48 (4). In that case the taxpayer had been assessed for a certain period, and the Comptroller wishing to make a general enquiry into the taxpayer's income tax position for the same period, requested certain particulars from the taxpayer which were not forthcoming. The Comptroller assessed and served notices of assessment on the taxpayer calling upon him to pay additional tax. The taxpayer called upon the Comptroller to furnish him with reasons for or detailed basis on which the latter made the assessments. On appeal, the main and substantial question was the validity of the notices of assessment. There are certain passages in the judgment of Buttrose J. which seem to

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lend support to counsel's submission.

The Judge said -

10 "It is no doubt a truism to say that you cannot have income without a source but on the constructions of the Ordinance as a whole I am unable to find anything which required the Comptroller or imposes upon him a duty to specify or give particulars of the sources of a taxpayer's income before a legal liability to tax is disclosed."

And speaking of the onus which is on the taxpayer to prove the assessment excessive, the judge said -

20 "If the taxpayer fails to discharge it because he has conveniently lost his memory or books or failed to keep proper records he must take the consequences. The onus on the appellant here is not only to show that the assessment is wrong but what must be done to put it right."

Later the judge continued -

"The Comptroller is, in my view, perfectly entitled under the Ordinance to say 'I determine you chargeable income at $\text{₹}X$ and assess your liability to tax $\text{₹}Y$ and nothing more'."

30 And again -

40 "The appellant here is not entitled, in my view, to the particulars as to the source or sources from which the Comptroller alleges that the appellant derived the amounts in question set out in the Notices of Assessment. The Comptroller may no doubt assign a source if he wishes but there is nothing in the Ordinance which can compel him to do so."

In George v. Fed. Com. of Taxation (supra)
s. 116 of the Income Tax Assessment Act

In the
Supreme Court

No. 4

Judgment

16th October
1965.

(continued)

In the
Supreme Court

No. 4

Judgment

16th October
1965.

(continued)

1936-1937 enabled the Commissioner to make an assessment of the amount of taxable income of any taxpayer, and of the tax payable thereon from the returns, and from any other information in his possession, or from any one or more of these sources. I pause to observe that we do not have a similar provision in our law. s. 167 of the same act provides that where a person makes default in furnishing a return, or the Commissioner is not satisfied with the return furnished, or has reasons to believe that any person who has not furnished a return has derived taxable income, he may make an assessment of the income upon which in his judgment income tax ought to be levied. In the case referred to the taxpayer had furnished returns with which the Commissioner was dissatisfied, and he increased the taxpayer's income and proceeded to tax him on the income so increased. The taxpayer lodged an objection, and sought an order to have the Commissioner assign a source or sources for the moneys included in taxable income in the assessment over and above those disclosed as taxable income in the return.

10

20

The judge of first instance dismissed the Appeal, and the matter went to the Full Court of Australia comprised of five judges. I should have mentioned that under the Australian Act too the onus of proving the assessment excessive lies on the taxpayer. Dealing with this onus of proof, the Full Court in referring to the increase of the Taxpayer's assets said (at p. 201 *ibid*):

30

"It is a fact outside any knowledge the commissioner can have except from inquiry into the affairs of the appellant and it is not unreasonable that the onus of proof should be placed by law upon the latter."

40

At p. 204 (*ibid*) - it is stated in unmistakable language as follows :-

"The fact is that unless the taxpayer discharges the burdens laid upon himof proving that this ascertainment or judgment is excessive, he cannot

succeed and it can be no part of the duty of the commissioner to establish affirmatively what judgment he formed, much less the grounds of it, and even less still the truth of the facts affording the grounds."

In the
Supreme Court

No. 4

Judgment

16th October
1965.

(continued)

10 It seems to follow, therefore, that if the taxpayer is unable to discharge the onus whether inferentially or otherwise, which the law places on his shoulders, the assessment must stand.

20 I wish now to make a brief reference to s. 48 of our Ordinance, Sub-s (1) authorises the Commissioner to assess every person chargeable with tax after the day for the delivery of returns. Sub-sec. (2) provides for two contingencies, namely, the acceptance by the Commissioner of a return, and assessment accordingly, and the non-acceptance of the return, and a best judgment assessment. Sub-s. (4) (which concerns us here) speaks of the non-delivery of a return and the best judgment assessment. To my mind, this section clearly contemplates the Commissioner using his best judgment on matters other than previous returns; but it does of course not exclude previous returns. And when it is borne in mind that in this case, the Commissioner had before him three previous returns which showed gross profits, it can be seen how hard put the respondents would be to discharge the onus, particularly so where their records have all been destroyed. In my judgment they have not discharged this heavy burden of proof, and the assessment must stand by a reversal of the decision of the Board of Review.

30

40 Perhaps it can with some justification be urged that this is a hard case from the respondents' point of view; so it is, and in my opinion must be so having regard to the interpretation which I have placed upon the law. However, I feel that I am bound by the Ordinance and the authorities to find against the respondents.

The appeal is therefore allowed: The Commissioner's assessment is restored, and the

In the
Supreme Court

No. 4

Judgment

16th October
1965.

(continued)

respondents must pay the appellant's costs.

G.L.B. Persaud

Puisne Judge.

Dated this 16th day of October, 1965.

No. 5

Order on
Judgment.

16th October
1965,

No. 5

ORDER ON JUDGMENT

1964 No. 2185 DEMERARA

IN THE SUPREME COURT OF BRITISH GUIANA

IN THE MATTER OF THE INCOME TAX ORDINANCE
(CAP.299)

10

BETWEEN:

THE COMMISSIONER OF INLAND REVENUE
Appellant

-and-

THE ARGOSY CO. LTD. (In Voluntary
Liquidation) Respondents.

BEFORE THE HONOURABLE MR. JUSTICE PERSAUD
(IN CHAMBERS).

SATURDAY THE 16th DAY OF OCTOBER, 1965.

ENTERED THE 15th DAY OF DECEMBER, 1965.

20

UPON appeal by way of motion dated the 23rd day of November, 1964 made unto this court by the Commissioner of Inland Revenue AND UPON HEARING counsel for the appellant and for the respondents and the Liquidator in person and the evidence adduced IT IS ORDERED that this appeal be allowed and that the decision of the Board of Review be set aside AND THAT the Assessment of the Commissioner be affirmed AND IT IS FURTHER ORDERED that the

30

respondents do pay to the appellant his costs of this appeal to be taxed AND THAT there be a stay of execution for six weeks from the date hereof.

BY THE COURT

(sgd) Kenneth W. Barnwell

DEPUTY REGISTRAR.

In the
Supreme Court

No. 5

Order on
Judgment.

16th October
1965.

(continued)

No. 6

NOTICE OF APPEAL

In the
British Caribbean
Court of Appeal
(now Guyana Court
of Appeal)

No. 6

Notice of Appeal

16th November,
1965.

10 IN THE BRITISH CARIBBEAN COURT OF APPEAL

TERRITORY: BRITISH GUIANA

CIVIL APPEAL NO. 59 OF 1965.

NOTICE OF APPEAL

In the matter of the Income Tax Ordinance

Chapter 299.

Between:-

THE ARGOSY COMPANY LIMITED
(In Voluntary Liquidation) Appellant
(Respondent)

20 - and -

THE COMMISSIONER OF INLAND REVENUE,
Respondent
(Appellant).

30 TAKE NOTICE that the Appellant (Respondent) being dissatisfied with the decision more particularly stated in paragraph 2 hereof of the Supreme Court of British Guiana contained in the judgment of the Honourable Mr. Justice Persaud, dated the 16th day of October 1965, whereby the learned judge allowed the appeal by

In the
British Caribbean
Court of Appeal
(now Guyana Court
of Appeal)

No. 6

Notice of Appeal
16th November,
1965.

(continued)

the Respondent and confirmed the assessment of \$11,200.:- tax on an income of \$25,000:- estimated by the Respondent to have been earned by the appellant company in respect of the year of income 1961 (hereinafter referred to as "the said assessment") doth hereby appeal to the British Caribbean Court of Appeal upon the grounds set out in paragraph 3 hereof, and will at the hearing of the said Appeal seek the relief set out in paragraph 4. 10

And the Appellant (Respondent) further states that the names and addresses including his own of persons directly affected by the appeal are those set out in paragraph 5.

2. The whole decision.

3. GROUND OF APPEAL.

(1) The decision was erroneous in law that:-

(a) the learned judge disregarded the admitted and undisputed evidence that the Appellant Company had ceased to trade since the sale of their assets except their stationery department in February, 1961, and that after the sale of their assets as aforesaid the stationery department was maintained by the Appellant Company solely as a collecting department and not for the purpose of trade. 20

(b) the uncontradicted and unchallenged evidence on behalf of the Appellant Company having shown that the Appellant ceased to trade after February, 1961, and that the Respondent raised the said assessment on the assumption that the Appellant Company was trading throughout 1961, the onus shifted to the Respondent to show that he had raised the said assessment in the manner contemplated by section 48 (4) of the Income Tax Ordinance; the Respondent having failed to lead any evidence, the learned judge erred in confirming the assessment and allowing the appeal; 30 40

(c) the learned judge failed to direct himself that the Respondent in raising

the assessment arbitrarily and without cause rejected the information supplied on behalf of the Appellant Company that they had ceased to trade since February 1961, and found as a fact that they were carrying on business of stationers from early in 1961 until the 3rd March 1962;

In the British Caribbean Court of Appeal (now Guyana Court of Appeal)

No. 6

Notice of Appeal

16th November, 1965.

(continued)

10 (d) the evidence on oath of the witness A.M.S.Barcellos given before the learned judge that the Appellant Company, after the sale of all their assets in February 1961 maintained the stationery department solely as a collecting department, was uncontradicted and unchallenged;

accordingly the learned judge erred in allowing the appeal by the Respondent and confirming the said assessment.

20 (2) Further and in the alternative the learned judge failed to direct himself that the Respondent had no reasonable grounds for believing that the Appellant Company was liable to tax on income earned in 1961 because -

(a) The appellant Company had ceased to trade in February, 1961; and

30 (b) The Commissioner had accepted that during the years 1959 and 1960 the Appellant Company had sustained losses of \$32,173:41 and \$30,171:03.

The relief sought from the British Caribbean Court of Appeal is that the assessment of \$11,200:- tax on the estimated income of the Appellant Company for the year of income 1961 be set aside.

5. Persons directly affected by the appeal:-

Names

Addresses

40 The Argosy Company Limited (In Voluntary Liquidation) c/o A.M.S.Barcellos Esq. Liquidator, 10 Fort Street, Kingston, Georgetown.

In the
British Caribbean
Court of Appeal
(now Guyana Court
of Appeal)

No. 6

Notice of Appeal
16th November,
1965.
(continued)

Names

The Commissioner of
Inland Revenue.

Addresses

Income Tax Division,
G.P.O. Building,
Robb Street,
Georgetown.

Dated the 16th day of November 1965.

(sgd) Arthur G. King

Solicitor for the
Appellant (Respondent).

In the
Court of Appeal
of the Supreme
Court of
Judicature

No. 7

Judgment.
26th October
1966.

No. 7

10

JUDGMENT

IN THE COURT OF APPEAL OF THE SUPREME COURT
OF JUDICATURE.

CIVIL APPEAL NO. 59 of 1965.

Between:

THE ARGOSY COMPANY LIMITED
(In Voluntary Liquidation),

Appellants
(Respondents)

- and -

THE COMMISSIONER OF INLAND
REVENUE

Respondent
(Appellant)

20

BEFORE: Hon. Sir Kenneth Stoby - Chancellor
Hon.E.V.Luckhoo - Justice of Appeal
Hon.P.A. Cummings - Justice of Appeal

1966: October 26.

G.A.C. Farnum, Q.C. for the Appellants.

Doodnauth Singh for the Respondent.

J U D G M E N T

Sir Kenneth Stoby:

On the 26th October, 1966, this appeal was dismissed, and the Court was asked to give a written judgment in December 1967.

The grounds of appeal which came before the Guyana Court of Appeal are as follows :-

(1) The decision was erroneous in law in that:-

In the
Court of Appeal
of the Supreme
Court of
Judicature.

No. 7

Judgment.

26th October,
1966.

(continued)

10

(a) the learned judge disregarded the admitted and undisputed evidence that the Appellant Company had ceased to trade since the sale of their asset except their stationery department in February, 1961, and that after the sale of their assets as aforesaid the stationery department was maintained by the Appellant Company solely as a collecting department and not for the purpose of trade.

20

(b) the uncontradicted and unchallenged evidence on behalf of the Appellant Company having shown that the Appellant ceased to trade after February, 1961, and that the Respondent raised the said assessment on the assumption that the Appellant Company was trading throughout 1961, the onus shifted to the Respondent to show that he had raised the said assessment in the manner contemplated by section 48 (4) of the Income Tax Ordinance; the Respondent having failed to lead any evidence, the learned judge erred in confirming the assessment and allowing the appeal;

30

(c) the learned judge failed to direct himself that the Respondent in raising the assessment arbitrarily and without cause rejected the information supplied on behalf of the Appellant Company that they had ceased to trade since February 1961, and found as a fact that they were carrying on business of stationers from early in 1961 until the 3rd March 1962;

40

In the
Court of Appeal
of the Supreme
Court of
Judicature.

No. 7

Judgment.

26th October.
1966.

(continued)

(d) the evidence on oath of the witness A.M.S. Barcellos given before the learned judge that the Appellant Company, after the sale of all their assets in February 1961 maintained the stationery department solely as a collecting department, was uncontradicted and unchallenged;

accordingly the learned judge erred in allowing the appeal by the Respondent and confirming the said assessment. 10

2. Further and in the alternative the learned judge failed to direct himself that the Respondent had no reasonable grounds for believing that the Appellant company was liable to tax on income earned in 1961 because -

(a) The appellant Company had ceased to trade in February, 1961; and

(b) The Commissioner had accepted that during the years 1959 and 1960 the Appellant Company had sustained losses of \$32,173.41 and \$30,171.03. 20

Counsel for the appellant argued grounds 1(a), (b), (c) and (d) together. His only point was that on the uncontradicted evidence of Barcellos the Argosy Company sold its business about February 1961 and although the bookshop was maintained it did not trade. The bookshop was kept as a depot. Counsel contended that on this evidence the Commissioner's assessment was arbitrarily and capriciously made. 30

I took into account a statement in previous proceedings before the Board of Review when the Argosy Company had appealed to the Board, that it had carried on a limited business from January to August, 1961, and from 2nd August, 1961 to 3rd March, 1962, the bookshop had traded and made no profit. I also took into account the evidence that the bookshop had been making a profit for the past three years. Since s. 48 (4) of the Income Tax Ordinance authorises the Commissioner to determine to the best of his judgment the chargeable income of a person who has made no return, the Commissioner was justified in this case in making an assessment to the best of his judgment, as the Argosy had made no return. 40

Under these circumstances there was no dispute that the onus was on the appellants to show that the assessment was excessive. Counsel for the appellants argued that the onus was satisfactorily discharged, having regard to Barcellos' evidence. I did not agree. The Income Tax Ordinance requires every person chargeable with tax to submit a return. The reason given for not submitting the return was the fire of 1962, in which the books were burnt. Had there been no fire and Barcellos had alleged there were no profits the Commissioner's assessment to the best of his judgment could not be impeached. If it could, then it would always be enough for a trader to say he has made no profits.

10

I considered that while the fire made it difficult for the taxpayer to discharge its onus, an attempt at reconstruction could have been made.

20

The information contained in Exhibit "A" shows the stock of the Hincks Street Branch, that is, the bookshop as \$14,803.93 and purchases \$52,793.41; sales are recorded as \$54,553.57 and stock \$26,673.27 at the 31st December, 1958. Using this as a starting point, it would have been a simple operation to check the Customs figures in order to ascertain the value of books imported in 1960 and 1961. Books are dutiable in Guyana and accurate figures of importations are kept. Although the 1962 fire destroyed the books Mr. C.P. Wight was alive in England. He must know who was employed and the value of books stored at the Russian Bear Shop. Assuming \$8,000 was a reasonable price for the stock of books at March 1962, then the 1959, 1960 and 1961 importations would give a fair estimate of the profit made at the percentage of profit could be arrived at, having regard to the 1959 profit of \$10,168.46 and the 1960 profit of \$15,275.95.

30

40

No argument was addressed to us regarding tax loss and so this aspect was not considered.

I was of the opinion not only that the appellants did not discharge the onus on them,

In the
Court of Appeal
of the Supreme
Court of
Judicature

No. 7

Judgment.

26th October.
1966.

(continued)

In the
Court of Appeal
of the Supreme
Court of
Judicature

but had the company wished, there was
material available which could have shown
the Commissioner to be wrong.

Dated this 17th day of December, 1968.

No.7

Sgd. KENNETH S. STOBY

Judgment.

LUCKHOO, J.A.

26th October.
1966.

I concur.

(continued)

Sgd. EDWARD V. LUCKHOO.

CUMMINGS, J.A.

I concur.

Sgd. PERCIVAL A. CUMMINGS

10

No. 8

No. 8

Order on
Appeal.

ORDER ON APPEAL

26th October
1966.

IN THE COURT OF APPEAL OF THE SUPREME COURT
OF JUDICATURE.

CIVIL APPEAL NO. 59 of 1965.

Between:

THE ARGOSY COMPANY LIMITED
(In Voluntary Liquidation)

Appellant
(Respondent)

20

- and -

THE COMMISSIONER OF
INLAND REVENUE

Respondent
(Appellant)

BEFORE:

THE HONOURABLE SIR KENNETH STOBY, CHANCELLOR

THE HONOURABLE MR. JUSTICE LUCKHOO, JUSTICE
OF APPEAL: and

THE HONOURABLE MR. JUSTICE CUMMINGS, JUSTICE
OF APPEAL (AG).

30

DATED THE 26th DAY OF OCTOBER, 1966.

ENTERED THE 19th DAY OF NOVEMBER, 1966.

UPON READING the Notice of Appral on behalf of the abovenamed Appellant (Respondent) dated the 16th day of November 1965 and the record of appeal filed herein on the 28th day of December 1965;

10 AND UPON HEARING Mr. G.M. Farnum of counsel for the Appellant (Respondent) and Mr. Doodnauth Singh Crown Counsel of counsel for the Respondent (Appellant);

IT IS ORDERED that the Order of the Honourable Mr. Justice Persaud dated the 16th day of October 1965, in favour of the Respondent (Appellant) be affirmed and this appeal be dismissed with costs to be taxed certified fit for counsel and paid by the said Appellant (Respondent) to the Respondent (Appellant).

20

BY THE COURT

H. Maraj

SWORN CLERK & NOTARY
PUBLIC for REGISTRAR.

In the
Court of Appeal
of the Supreme
Court of
Judicature

No. 8

Order on Appeal
26th October
1966.

(continued)

In the
Privy Council

No. 9

ORDER GRANTING FINAL LEAVE TO APPEAL TO HER
MAJESTY IN COUNCIL

No. 9

Order granting
final leave to
appeal to Her
Majesty in
Council.

AT THE COURT AT BUCKINGHAM PALACE
the 13th day of November, 1967.

13th November
1967.

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY

Lord President Mr. Grosland
Lord Steward Mrs. Hart
Lord Shepherd Mr. Henry Wilson

16

WHEREAS there was this day read at the Board
a Report from the Judicial Committee of the
Privy Council dated the 18th day of October
1967 in the words following, viz:-

"Whereas by virtue of His late Majesty
King Edward the Seventh's Order in Council
of the 18th day of October 1909 there was
referred unto this Committee a humble
Petition of The Argosy Company Limited
(in voluntary liquidation) in the matter
of an Appeal from the Court of Appeal of
the Supreme Court of Judicature of Guyana
between the Petitioner and the Commissioner
of Inland Revenue Respondent setting forth:
that the Petitioner prays for special leave
to Appeal to Your Majesty in Council
against the Judgment of the Court of Appeal
of Guyana dated the 26th October 1966
whereby the said Court dismissed the
Petitioner's Appeal from an Order of the
Supreme Court of Guyana dated the 16th
October 1965 allowing an Appeal by the
Respondent from a Decision of the Board of
Review and setting aside that Decision:
that by its Decision dated the 29th
September 1964 the Board of Review had
annulled an assessment to tax made by the
Respondent on the 31st October 1963 upon
the Petitioner in the sum of \$11,250.00 (tax)
in respect of the year of assessment 1962: And
humbly praying Your Majesty in Council to
grant the Petitioner special leave to appeal
against the said Judgment of the Court of

20

30

And 40

Appeal of Guyana dated the 26th October 1966 and for such further or other relief:

In the
Privy Council

No. 9

Order granting
final leave to
appeal to Her
Majesty in
Council.

13th November
1967.

(continued)

10

"THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute its Appeal against the Judgment of the Court of Appeal of Guyana dated the 26th October 1966 upon depositing in the Registry of the Privy Council the sum of £400 as security for costs:

20

"And Their Lordships do further report to Your Majesty that the proper officer of the said Court of Appeal of Guyana ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the Appeal upon payment by the Petitioner of the usual fees for the same."

30

HER MAJESTY having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor-General or Officer administering the Government of Guyana for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

W. G. AGNEW.

Exhibits

"A1"

Letter submitting
information to
commissioner
of Inland
Revenue.

12th July 1960.

EXHIBITS

EXHIBIT "A1" - Letter submitting information to
Commissioner of Inland Revenue.

A. L. B. S.

A. S. C.

2.10. 65.

THE ARGOSY COMPANY, LIMITED.

STATIONERY STORE
Vlissengen Road
Bel Air Park.

BOOKSTORE BRANCH
17, Hincks Street,
Robbstown, Georgetown.

10

PRINTERS, PUBLISHERS, BOOKBINDERS
AND STATIONERS RUBBER STAMP SPECIALISTS
VLISSENGEN ROAD, BEL AIR PARK,
EAST DEMERARA, BRITISH GUIANA.

12th July, 1960.

Commissioner of Inland Revenue,
Inland Revenue Department,
Income Tax Division,
P.O. Box 24
Georgetown.

20

Sir,

In reply to your letter No. D/3/59 dated
18th May, 1960, we beg to submit the attached
information.

Yours faithfully,

"THE ARGOSY" COMPANY LIMITED

H.A. Walks

Assistant Secretary.

Exhibits

"A1"

Letter sub-
mitting
information to
Commissioner of
Inland Revenue
12th July 1960

(continued)

DEPARTMENTAL TRADING FOR YEAR ENDED 31st DECEMBER, 1958
"THE ARGOSY COMPANY LIMITED"

	CONTRACT	JOBGING	PROCESS ENGRAVING	STATIONERY	NEWSPAPER	CONTRACT	JOBGING	PROCESS ENGRAVING	STATIONERY	NEWSPAPER
Stock	-	-	2,261.28	32,809.90	-	230,381.40	181,395.59	29,229.05	19,004.69	280,985.21
Purchases	31,844.07	34,900.10	8,350.24	3,226.45	87,408.97	-	-	2,996.49	16,569.16	-
Working Expenses	124,024.55	86,897.60	18,981.00	4,711.47	244,933.74	-	-	-	-	-
Gross Profit	74,512.78	59,597.89	2,633.02	-	-	-	-	-	5,173.97	51,357.50
	230,381.40	181,395.59	2,225.54	40,747.82	332,342.71	230,381.40	181,395.59	32,225.54	40,747.82	332,342.71

No Stock
" Purchases
" Working Expenses
" Gross Profit

HINCKS STREET BRANCH	RADIO DEPT.	HINCKS STREET	RADIO DEPT.
14,808.93	402.97	54,553.57	100.00
52,793.41	-	23,673.27	302.97
9,744.42	-		
880.08	-		
<u>78,226.84</u>	<u>402.97</u>	<u>78,226.84</u>	<u>402.97</u>

Exhibits

"A1"

Letter Sub-
mitting
information to
Commissioner of
Inland Revenue
12th July 1960.
(continued)

2. BAD DEBTSSubscribers' Accounts.

G.T. Manley	40.66)	Left Colony
C.V. Pollard	25.50)	Dead
Plaisance-Sparendam		
Community Centre	30.00)	Newspaper
Ralph Rice	78.15)	supplied.
W. Sousa	21.26)	Disputed
J.J. Thomas	18.00)	Left Colony
J.L. Turner	18.00)	Dead
	231.57	Dead
		Left Colony 10

Newspaper Agents - Country.

E. Bazilio	197.26)	
S. Blue	891.04)	
Mary Burrowes	291.47)	
S. Blue	120.00)	
Martin Chichester	128.25)	
E. Edwards	467.08)	
B.A. Ho-A-Yun	112.88)	
Robert Higgins	852.38)	
Frank Juman	81.08)	20
Mrs. I. Lambert	181.78)	Newspaper
Edgar Mohabir	160.35)	Vendors.
Pandit H. Persaud	20.26)	
D. Raghubeer	1,083.30)	
R.K. Rai	369.90)	
Rajaram	143.10)	Uncollectible
Ramlall	515.16)	
Rampersaud	520.76)	
N.M. Rutherford	117.74)	
E.D. Saul	305.45)	20
Chandra Shekhar	269.84)	
L. Singh	100.00)	
C. Singh	229.59)	
L. Wiltshire	458.21)	7,614.88

Newspaper Agents - Georgetown.

H. Andrews	742.41)	
Mrs. Braithwaite	514.93)	
Beckles	18.42)	
C. Blackman	60.50)	
Mrs. Carr	34.50)	Newspaper
Edwards	80.40)	Vendors
R. Herenstine	102.16)	
Loff	40.51)	Uncollectible
M. Moore	85.48)	
Ousley	31.25)	

Newspaper Agents - Georgetown (continued)Exhibits

R. Pilgrim	290.85)	
Rollox	26.50)	
J. Wilkie	72.67)	
C. Wilkie	28.68)	2,129.26

"A 1"

Letter Sub-
mitting
information to
Commissioner of
Inland Revenue

Printing and Advertising Accounts

	E. Baxilio	44.50)	
	E.R. Borrowes	136.03)	9,975.71 Printing
	B.F. Fernandes	105.81)	"
10	India Overseas Ltd.	67.50)	Uncollectible Adv. & Ptg.
	Pestano's Outfit	16.11)	"
	R.H. Singh	40.74)	410.69 Printing

12th July 1960

(continued)

Printing and Advertising Accts.

	G.C. Phillips	299.43)	Ptg. & Dead Stationery
	R. Rice	17.16)	Printing Left Colony
	Lloyd Smith	18.16)	" Dead
	Mrs. Taitt	27.60)	Adver- Dead tising
20	Mrs. J. Ridley	28.00)	Stationery Dead
	C. David	21.39)	" "
	Geo. Paul	20.00)	" Cannot be found
	F.R. Allen	131.60)	Stationery
	B.G. Cinemas Ltd.	207.65)	Adver- Disputed tising
	M.S. Hussein	29.52)	Stationery
	Jos. Ramlogan	234.00)	" Cannot be found
30	H. Smith	22.50)	"
	Swins Agency & Sales Company	121.96)	Adver- Disputed tising
	Universal-Internatinnal Pictures	396.91)	" "
	Verdum Aerated Water Factory	330.50)	Stationery
	Rupert Weekes	23.00)	"
	Eileen Williams	93.00)	"
40	B.F. Anderson	100.00)	"
	J.A. De Barros	85.00)	"
	R.A. Crane	303.48)	Left Colony
	D.A. Singh	70.50)	"
	Mrs. Iris Morgan	23.25)	"
	L.A. Husbands	96.00)	"
	Doreen Cummings	38.04)	"
	C. Shaw	106.25)	Adv. & Uncollect- Printing ible.
			2,544.90
50			<u>12,931.30</u>

Exhibits

"A1"

Letter Sub-
mitting
information to
Commissioner of
Inland Revenue
12th July 1960
(continued)

Note - The difference of \$362.62 between the amount written off as Bad Debts and the amount for which details are submitted represent amounts ranging from below \$15.00 to \$1.00.

3. EXPENSES - \$9,601.62

Wages	3,937.17	
Stamps	327.30	
Stationery & Printing	2,832.95	
Overtime Refreshments to Staff	505.14	10
Telephone Rent	165.13	
Trunk Line Calls	10.48	
First Aid Supplies	269.81	
Funeral Expenses paid for deceased employees	110.00	
Cables	121.10	
Postages	73.42	
Repairs to Typewriters	160.00	
Miscellaneous	1,089.12	\$9,601.62

4. UNPAID INTEREST WRITTEN BACK - \$40,000: 20

We refer to your letter No. D/3/55 of the 14th February, 1959. Item 1 (a) Interest on Advance A/c. 1953-1958 and our reply to it under head "Amt. credited to Sundry Creditors Outstanding A/c." 5 years at \$8,000 - \$40,000:

In view of the fact that the Company has been called upon to pay Income Tax on this amount, Mr. Percy C. Wight has decided to waive his claim for this amount.

5. REPAIRS AND RENEWALS TO PLANT - \$17,705.57 30

Imported Parts:-

for Linotype Machines (replacement of Matrices and parts)	7,999.46
for Printing Machines	2,587.94
for Monotype Machines (replacement of Matrices and parts)	3,494.38
for Teletype Machines	653.18

Local Repair charges:-

Linotype Machines (Welding, etc.)	131.00
Printing Machines	270.98
Monotype "	67.79
Wages to machine servicemen	1,310.22
Electrical Equipment all over the plant	1,190.62
	<u>17,705.57</u>

Exhibits

"A1"
Letter Sub-
mitting
information to
Commissioner of
Inland Revenue
12th July 1960
(continued)

/Exhibit "A1"
continued...

Exhibits

"A1"

Letter Sub-
mitting
information to
Commissioner of
Inland Revenue
12th July 1960
(continued)

"THE ARGOSY" COMPANY LIMITED

BALANCE SHEET as at 31st DECEMBER 1958.

Liabilities and Capital		Assets	
AUTHORISED CAPITAL:-		BEL AIR BUILDING	129,360.00
750 Ordinary Shares at \$100 each	\$ 75,000.00	Less amount written off	2,587.20
ISSUED AND SUBSCRIBED CAPITAL:-			<u>126,772.80</u>
750 Ordinary Shares at \$100 each	\$ 75,000.00	BEL AIR LAND	3,000.00
RESERVES AND PROVISIONS:-		COSSAR PRESS	26,054.80
General	10,000.00	Less Depreciation	3,256.85
Bonus	7,500.00	LINOTYPE MACHINES	<u>32,853.99</u>
Contingencies	3,500.00	Less Depreciation	4,106.75
Depreciation	176,206.72	PRINTING AND BINDING PLANT	61,396.56
Property and Plant Replacement	20,000.00	Less Depreciation	<u>7,674.57</u>
Unexecuted Contract	12,000.00	EQUIPMENT	2,286.71
Provision for completing Public Printing Contract	14,000.00	Less Depreciation	285.84
Provision for Staff Bonus	<u>10,907.92</u>	ARTESIAN WELL	<u>1,803.23</u>
DEBENTURES	42,000.00	Less Depreciation	180.32
LOAN CREDITORS:-		RESERVOIR AND FILTER	1,588.22
Percy C. Wight	120,000.00	Less Depreciation	198.53
TRADE CREDITORS:-		MOTOR CARS	6,568.35
Foreign	10,686.03	Addition during year	475.00
Local	67,975.96		<u>7,043.35</u>
Accrued Expenses	8,489.29	Less one car sold	1,373.09
Barclays Bank - Overdraft	<u>24,101.58</u>		5,670.26
INCOME TAX LIABILITY - YEAR OF ASSESSMENT		Less Depreciation	<u>1,445.83</u>
1954, 1955, 1956, 1957	49,685.58	MOTOR VAN	419.58
DIRECTOR		Addition during year	3,585.88
DIRECTOR			<u>4,005.46</u>
SECRETARY		Less old van sold during year	419.58
			<u>3,585.88</u>
		Less Depreciation	859.12
		AUTO CYCLES	438.80
		Less Depreciation	<u>109.70</u>
		FURNITURE AND FITTINGS	8,692.70
		Less Depreciation	470.74
		TELETYPE EQUIPMENT	<u>12,834.86</u>
		Less Depreciation	1,283.48
		MONOTYPE MACHINES	44,022.12
		Less Depreciation	<u>5,502.76</u>
		INVESTMENT at cost	80,000.00
		STOCK ON HAND	76,173.30
		Less Reserve for Overvaluation	18,199.43
		SUNDRY DEBTORS	<u>186,738.69</u>
		Less Reserve for Bad Debts	15,500.00
		CASH ON HAND	7,853.41
		CLAIM FOR REFUND OF INCOME TAX ON INVESTMENT	7,936.47
		PROFIT AND LOSS ACCOUNT:-	
		Debit Balance brought forward	12,252.83
		Add: Net Loss this year as per Profit and Loss Account	<u>9,171.37</u>
			21,424.20
			<u>\$652,053.08</u>

The Shareholders,
"The Argosy" Company Limited.

Gentlemen,

I have examined the above Balance Sheet with the books, accounts and vouchers of the Company. I have received all the information and explanations I have required.

In my opinion the Balance Sheet is properly drawn up so as to exhibit a true and correct view of the Company's affairs, according to the information and explanations given me and as shown by the books.

J.L. Sam - Certified Accountant
Auditor.
30/4/60.

"THE ARGOSY" COMPANY LIMITED
 PROFIT AND LOSS ACCOUNT FOR YEAR ENDED
 31st DECEMBER, 1958

<table border="0" style="width: 100%;"> <tr> <td style="width: 80%;">To Audit Fee</td> <td style="width: 10%; text-align: right;">500.00</td> <td style="width: 10%;"></td> </tr> <tr> <td>" Circulation Audit Fee</td> <td style="text-align: right;">907.92</td> <td></td> </tr> <tr> <td>" Bad Debts written off</td> <td style="text-align: right;">13,293.92</td> <td></td> </tr> <tr> <td>" Bank Charges on Bills of Exchange</td> <td style="text-align: right;">397.15</td> <td></td> </tr> <tr> <td>" Car Expenses</td> <td style="text-align: right;">1,343.68</td> <td></td> </tr> <tr> <td>" Depreciation</td> <td style="text-align: right;">27,961.69</td> <td></td> </tr> <tr> <td>" Directors Fees</td> <td style="text-align: right;">1,440.00</td> <td></td> </tr> <tr> <td>" Discount</td> <td style="text-align: right;">43.10</td> <td></td> </tr> <tr> <td>" Donations</td> <td style="text-align: right;">485.85</td> <td></td> </tr> <tr> <td>" Employees Benefit Scheme</td> <td style="text-align: right;">900.00</td> <td></td> </tr> <tr> <td>" Expenses</td> <td style="text-align: right;">9,601.62</td> <td></td> </tr> <tr> <td>" Insurance</td> <td style="text-align: right;">7,000.37</td> <td></td> </tr> <tr> <td>" Interest</td> <td style="text-align: right;">11,386.81</td> <td></td> </tr> <tr> <td>" Legal Expenses</td> <td style="text-align: right;">318.90</td> <td></td> </tr> <tr> <td>" Loss on sale of car</td> <td style="text-align: right;">623.09</td> <td></td> </tr> <tr> <td>" Motor Truck Hire</td> <td style="text-align: right;">1,618.53</td> <td></td> </tr> <tr> <td>" Motor Van Expenses</td> <td style="text-align: right;">2,783.69</td> <td></td> </tr> <tr> <td>" Pensions</td> <td style="text-align: right;">3,621.00</td> <td></td> </tr> <tr> <td>" Premises Working Expenses</td> <td style="text-align: right;">1,284.65</td> <td></td> </tr> <tr> <td>" Bonus to Staff</td> <td style="text-align: right;">120.00</td> <td></td> </tr> <tr> <td>" Repairs and Renewals to Plant</td> <td style="text-align: right;">17,705.57</td> <td></td> </tr> <tr> <td>" Provision for Income Tax</td> <td style="text-align: right;">33,356.81</td> <td></td> </tr> <tr> <td>" Gross Loss viz:</td> <td></td> <td></td> </tr> <tr> <td style="padding-left: 20px;">Stationery Department</td> <td style="text-align: right;">5,173.97</td> <td></td> </tr> <tr> <td style="padding-left: 20px;">Newspaper Department</td> <td style="text-align: right;"><u>51,357.50</u></td> <td></td> </tr> <tr> <td></td> <td></td> <td style="text-align: right;">56,531.47</td> </tr> <tr> <td></td> <td></td> <td style="text-align: right;"> <u>£193,207.82</u></td> </tr> </table>	To Audit Fee	500.00		" Circulation Audit Fee	907.92		" Bad Debts written off	13,293.92		" Bank Charges on Bills of Exchange	397.15		" Car Expenses	1,343.68		" Depreciation	27,961.69		" Directors Fees	1,440.00		" Discount	43.10		" Donations	485.85		" Employees Benefit Scheme	900.00		" Expenses	9,601.62		" Insurance	7,000.37		" Interest	11,386.81		" Legal Expenses	318.90		" Loss on sale of car	623.09		" Motor Truck Hire	1,618.53		" Motor Van Expenses	2,783.69		" Pensions	3,621.00		" Premises Working Expenses	1,284.65		" Bonus to Staff	120.00		" Repairs and Renewals to Plant	17,705.57		" Provision for Income Tax	33,356.81		" Gross Loss viz:			Stationery Department	5,173.97		Newspaper Department	<u>51,357.50</u>				56,531.47			 <u>£193,207.82</u>	<table border="0" style="width: 100%;"> <tr> <td colspan="2">By Gross Profit viz:</td> <td></td> </tr> <tr> <td style="width: 80%;">Contract Department</td> <td style="width: 10%; 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Exhibits

"A1"

Letter Sub-
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 information to
 Commissioner of
 Inland Revenue
 12th July 1960

(continued)

"THE ARGOSY" COMPANY LIMITED
BALANCE SHEET AS AT 31ST DECEMBER, 1959.

Exhibits
"A2"
Return for 1960

LIABILITIES AND CAPITAL	ASSETS
AUTHORISED CAPITAL:- 750 Ordinary Shares at \$100.00:- each <u>\$ 75,000.00</u>	BEL AIR BUILDING <u>\$126,772.80</u> Less amount written off <u>2,535.45</u> <u>124,237.35</u>
ISSUED AND SUBSCRIBED CAPITAL:- 750 Ordinary Shares at \$100.00:- each <u>\$ 75,000.00</u>	BEL AIR LAND <u>3,000.00</u> \$127,237.35
RESERVES AND PROVISIONS:-	COSSAR PRESS <u>22,797.95</u> Less Depreciation <u>662,849.74</u> 19,948.21
General <u>\$ 10,000.00</u>	LINOTYPE MACHINES <u>28,747.24</u> Less Depreciation <u>3,593.40</u> 25,153.84
Bonus <u>7,500.00</u>	PRINTING AND BINDING PLANT <u>53,721.99</u> Less Depreciation <u>6,715.25</u> 47,006.74
Contingencies <u>3,500.00</u>	EQUIPMENT <u>2,000.87</u> Addition <u>499.11</u> <u>2,499.98</u> Less Depreciation <u>275.06</u> 2,224.92
Depreciation <u>176,206.72</u>	ARTESIAN WELL <u>1,622.91</u> Less Depreciation <u>162.29</u> 1,460.62
Property and Plant Replacement <u>20,000.00</u>	RESERVOIR AND FILTER <u>1,389.69</u> Less Depreciation <u>173.71</u> 1,215.98
Provision for Completing Public Printing Contract <u>14,000.00</u>	MONOTYPE MACHINES <u>38,519.36</u> Less Depreciation <u>4,814.92</u> 33,704.44
Provision for Staff Bonus <u>10,907.92</u> 242,114.64	MOTOR CARS <u>4,224.43</u> Less Depreciation <u>1,056.10</u> 3,168.33
DEBENTURES <u>42,000.00</u>	MOTOR VAN <u>2,726.76</u> Less Depreciation <u>681.69</u> 2,045.07
LOAN CREDITORS:-	HILLMAN HUSKY - IH. 482 <u>3,536.02</u> Less Depreciation <u>405.17</u> 3,130.85
Percy C. Wight <u>120,000.00</u>	AUTO CYCLE <u>329.10</u> Less Depreciation <u>82.28</u> 246.82
TRADE CREDITORS:-	FURNITURE AND FITTINGS <u>8,221.96</u> Less Depreciation <u>445.36</u> 7,776.60
Foreign <u>\$ 25,181.09</u>	TELETYPE EQUIPMENT <u>11,551.38</u> Less Depreciation <u>1,155.13</u> 10,396.25
Local <u>433.55</u>	INVESTMENT AT COST <u>80,000.00</u>
Accrued Expenses <u>12,450.60</u>	STOCK ON HAND <u>79,820.57</u> Less Reserve for Overvaluation <u>18,199.43</u> 61,621.14
Barclays Bank - Overdraft <u>24,163.31</u> 62,228.55	SUNDRY DEBTORS <u>99,860.14</u> Less Reserve for Bad Debts <u>15,500.00</u> 84,360.14
INCOME TAX LIABILITY - YEARS OF ASSESSMENT 1954, 1955, and 1957 <u>43,122.53</u>	CASH ON HAND <u>7,115.10</u>
	CLAIM FOR REFUND OF INCOME TAX ON INVESTMENT <u>7,936.47</u>
	PROFIT & LOSS ACCOUNT <u>21,424.20</u> Balance at 31.12.58 <u>37,292.65</u> 58,716.85 Net Loss for 1959
	<u>\$584,465.72</u>

"THE ARGOSY" COMPANY LIMITED

PROFIT AND LOSS ACCOUNT FOR YEAR ENDED THE 31ST DECEMBER, 1959

TO Audit Fee	£ 500.00	By GROSS PROFIT viz:-		
" Circulation Audit	618.54	HINCKS STREET BRANCH	£ 10,168.46	
" Bank Charges on Bills of Exchange	287.92	JOB PRINTING DEPARTMENT	16,072.41	
" Car Expenses	780.54	SUBSIDIARY SALES	<u>262.92</u>	£ 26,503.79
" Depreciation	24,945.55	" Miscellaneous Sales		134.81
" Directors Fees	1,440.00	" Insurance Cash Profits		3,281.24
" Discount Account	38.61	" Transfer Fee		.60
" Donations	409.01	" Premises Working Expenses		101.74
" Employees Benefit Scheme	900.00	" Sale of Motor Truck		550.00
" Expense Account	10,279.78	" Reserve for Unexecuted Contract written off		12,000.00
" Insurance	6,911.40	" NET LOSS		<u>37,292.65</u>
" Interest	1,976.52			
" Legal Expenses	296.04			
" Motor Truck Hire Account	753.95			
" Motor Van Expense Account	2,559.85			
" Pensions	6,162.28			
" Repairs and Renewals to Plant	9,622.54			
" GROSS LOSS Viz:				
PROCESS ENGRAVING DEPT.	£1,680.80			
STATIONERY DEPT.	3,877.07			
NEWSPAPER DEPT.	<u>5,824.43</u>			
	11,382.30			
	<u>£79,864.83</u>			<u>£79,864.83</u>

Exhibits

"A2"

Return for 1960
(continued)

"THE ARGOSY" COMPANY LIMITED
BALANCE SHEET AS AT 31ST DECEMBER, 1960

LIABILITIES AND CAPITAL			ASSETS	
AUTHORISED CAPITAL:-			BEL AIR BUILDING	124,237.35
750 Ordinary Shares at \$100:- each	\$ 75,000.00		Less amount written off	2,484.75
ISSUED AND SUBSCRIBED CAPITAL:-				121,752.60
750 Ordinary Shares at \$100:- each	\$ 75,000.00		BEL AIR LAND	3,000.00
RESERVES AND PROVISIONS:-			COSSAR PRESS	19,948.21
General	10,000.00		Less Depreciation	2,493.53
Bonus	7,500.00			17,454.68
Contingencies	3,500.00		LINOTYPE MACHINES	25,153.84
Depreciation	176,206.72		Less Depreciation	3,144.23
Property and plant replacement	20,000.00			22,009.61
Provision for completing Public Printing Contract	14,000.00		PRINTING AND BINDING PLANT	47,006.74
Provision for Staff Bonus	<u>10,907.92</u>	242,114.64	Less Depreciation	5,875.84
DEBENTURES		42,000.00		41,130.90.
LOAN CREDITORS:-			EQUIPMENT	2,224.92
Percy C. Wight	130,000.00		Less Depreciation	266.27
Barclays Bank D.C.O.	<u>38,000.00</u>	168,000.00		1,958.65
TRADE CREDITORS:-			ARTESIAN WELL	1,460.62
Foreign	15,929.89		Less Depreciation	146.06
Local	489.80			1,314.56
Accrued Expenses	7,988.16		RESERVOIR AND FILTER	1,215.98
Barclays Bank D.C.O. - Overdraft	<u>1,651.78</u>		Less Depreciation	152.00
INCOME TAX LIABILITY - YEAR OF ASSESSMENT				1,063.98
			MOTOR CARS	3,168.33
			Less one car sold	264.41
				2,903.92
			Less Depreciation	792.08
				2,111.84
			MOTOR VAN	2,045.07
			Less Depreciation	511.27
				1,533.80
			AUTO CYCLES	246.82
			Less Depreciation	61.71
				185.11
			FURNITURE AND FITTINGS	7,776.60
			Less Depreciation	419.68
				7,356.92
			TELETYPE EQUIPMENT	10,396.25
			Less Depreciation	1,039.63
				9,356.62
			MONOTYPE MACHINES	33,704.44
			Less Depreciation	4,213.06
				29,491.38
			HILLMAN HUSKY - LH. 482	3,130.85
			Less Depreciation	782.71
				2,348.14
			COOLER ACCOUNT	623.50
			INVESTMENT AT COST	80,000.00
			STOCK ON HAND	75,509.00
			Less Reserve for overvaluation	18,199.43
				57,309.57
			SUNDRY DEBTORS	104,008.15
			Less Reserve for Bad Debts	49,679.50
				54,328.65
			CASH ON HAND	7,228.71
			CLAIM FOR REFUND OF INCOME TAX ON INVESTMENTS	7,936.47
			PROFIT AND LOSS ACCOUNT:-	
			At 31.12.59	58,716.85
			Net loss for 1960	<u>66,084.26</u>
				124,801.11
				\$594,296.80

Exhibits

"A3"

Return for 1961

"THE ARGOSY" COMPANY LIMITED
 PROFIT AND LOSS ACCOUNT FOR THE YEAR ENDED
 31.12.60.

Exhibits

"A3"

Return for 1961
(continued)

TO Audit Fee	500.00	BY GROSS PROFIT viz:-	
" Bad Debts written off	3,057.34	Process Engraving	982.39
" Bank Charges on Bills of Exchange	520.88	Hincks Street Branch	15,275.95
" Car Expenses	708.66	Job Printing Department	6,544.04
" Depreciation	22,382.82	Newspaper Department	<u>26,015.98</u> 48,818.36
" Directors' Fees	1,440.00	" Miscellaneous Sales	157.55
" Discount Account	51.93	" Insurance Cash Profits	1,286.25
" Donations	448.79	" Premises Working Expenses	83.28
" Employees Benefit Scheme	900.00	" NET LOSS	66,084.26
" Expense Account	11,220.23		
" Insurance	6,620.21		
" Interest	2,702.21		
" Legal Expenses	661.76		
" Motor Van Expense Account	2,824.20		
" Pensions	7,655.64		
" Repairs and Renewals to Plant	5,043.47		
" Provision for Bad and Doubtful Debts	34,179.50		
" GROSS LOSS viz:			
Stationery Department	15,512.06		
	<u>£116,429.70</u>		<u>£116,429.70</u>

WORKING EXPENSES FOR 1959.

	Newspaper Working Expenses	Job Printing Working Expenses	Stationery Working Expenses	Hincks St. Working Expenses	Process Eng. Working Expenses	Newspaper Working Expenses	Job Printing Working Expenses	Stationery Working Expenses	Hincks St. Working Expenses	Process Eng. Working Expenses
Salaries	64802.68	29836.07	3447.70	6496.00	7328.90	59465.63	26497.80	3575.36	7573.25	6074.90
Wages	64757.91	54271.49	1305.83	2236.45	6406.12	6037.43	51670.81	1066.29	1934.64	6341.45
Telephone Rental										
Trunk & Local Calls	701.00	509.64	585.35	171.41	184.80	958.75	571.56	40.18	218.47	101.88
Rent	2160.00	1980.00	300.00	2220.00	1680.00	2160.00	1980.00	300.00	2760.00	1680.00
Light & Power	3766.12	3295.24	-	102.00	2353.79	3922.03	3431.77	-	232.80	2451.26
Stationery & Printing	2947.86	5527.61	-	197.52	25.00	2347.79	4110.67	13.55	335.58	6.16
Freight & Postages	729.24	43.91	-	86.94	-	933.09	48.45	-	67.11	-
Cables	11699.00	-	9.36	8.80	-	11975.87				
Portion of Mono- type Working Expenses	1158.39	2702.91				1120.78	2615.16			
Teletype Working Expenses	855.57					794.31				
Photographic Working Expenses	3446.85					3920.40				
Charges by Process Engraving Dept. for making blocks for news items in Newspapers	14400.00					14400.00				
Charges by Job Printing Dept. for Printing Comic Supplement	10400.00					10400.00				
and for work done on Evening Post	3600.00					3600.00				
Foreign Features News Service Comic Strips & Reuter Service	21483.35					25325.09				
Local Contri- bution of News	9837.66					8399.97				
Transportation of Newspapers	8105.42					8724.40				
Travelling Allowances	629.97	194.50				669.64	208.26			
Subsistence to Reporters	1734.33					1471.98				
Gasoline & Oil for Motor Van	634.12					389.04				119.48
Travelling Agency	3030.89	2811.32			113.91	1314.08	1298.81			
Water Rates	114.10	113.91				120.21	119.49			
Portion of Store- keepers Working Ex.	1926.94	1926.93				1452.01	1452.01	400.00	600.00	
Advertising	165.12		600.00	600.00		59.30)				
Miscellaneous	4665.65	1813.23	127.01	847.96	753.25	1763.09	1368.48)	384.93	1022.77	1419.16
	2237752.17	105026.76	5875.25	12967.08	18745.77	225665.59	95432.55	5780.31	14744.62	18194.29

Exhibits
"A3"
Return for 1961
(continued)

THE ARGOSY COMPANY LIMITED

Exhibits

"A3"

Return for 1961
(continued)STATIONERY STORE
Vlissengen Road
Bel Air ParkPRINTERS PUBLISHERS,
BOOKBINDERS AND
Stationers,
ADVERTISING SPECIALISTS.
VLISSINGEN ROAD,
BEL AIR PARK,
EAST DEMERARA,
BRITISH GUIANA.10 BOOKSTORE BRANCH
17 Hincks Street,
Robbstown, Georgetown.

23rd October, 1961

Commissioner of Inland Revenue,
Inland Revenue Department,
Income Tax Division,
P.O. Box 24, Georgetown.

Dear Sir,

20 In reply to your letter of October 2,
1961, we submit the following information as
requested:

- (a) Detailed expense account for years
of income 1959 and 1960..
- (b) Working account for years 1959 and 1960
- (c) Bad debts written off for year of
assessment 1961.

30 The sum of \$1,334.84 represents sums of
money credited to News Agents in Georgetown
which were treated as newspaper cash sales.
These persons are News Agents and were dealing
with the Company up to the end of February 1961.
On the closing down of the newspaper business we
find it impossible now to collect this money.
No legal action was taken against these persons
because we have every reason to believe that
they would not be able to satisfy any Court
judgment against them.

40 With respect to the amount owing by C.V.
Dumont, we would advise that was a shortage in
cash for which he was responsible and George
Green has left the colony. In regard to the

Exhibits

"A3"

Return for 1961
(continued)

B.G. Amateur Cycle and Athletic Association
we believe that this Association has no legal
entity and therefore a suit cannot be brought
against them.

We remain,

Yours faithfully,

"THE ARGOSY" COMPANY LIMITED.

J.A. Viera

Secretary,

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<u>DETAILED EXPENSE ACCOUNT</u>	<u>1959</u>	<u>1960</u>	
Wages	£2,912.59	£2,895.81	10
Trunk Calls	13.74	97.95	
Telephone Rent	150.60	254.77	
Stamps	479.65	287.34	
Overtime Refreshment to Staff	655.23	370.14	
Entertainment Expenses	642.49	1,029.42	
Car Hire	304.48	112.84	
Repairs to Office Equipment	168.50	216.82	
Postages	401.64	325.83	20
Stationery & Printing	3,069.59	2,211.53	
First Aid Supplies	79.57	103.25	
Cables	46.36	20.86	
Travelling Allowances	444.00	1,090.35	
Miscellaneous Expenses	911.44	1,500.52	
Gratuity		565.00	
Funeral Expenses Paid for deceased employee		138.00	
	<u>£10,279.78</u>	<u>£11,220.23</u>	

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WORKING ACCOUNTS FOR 1959Exhibits

"A3"

Return for 1961
(continued)Process Engraving Dept.

Purchases	ø 9,792.68		
Working Expenses	<u>18,745.77</u>	28,538.45	
Sales	26,422.20		
Stock	<u>435.45</u>	26,857.65	1,680.80 Gross Loss.

Stationery Department

	Purchases	23,987.78	
10	Working Expenses	<u>5,875.25</u>	29,863.03
	Sales	10,203.02	
	Stock	<u>15,782.94</u>	25,985.96 3,877.07 Gross Loss.

Newspaper Dept.

Purchases	85,828.10	
Working Expenses	<u>237,752.17</u>	323,580.27
Sales		317,755.84 5,824.43 Gross Loss

Hincks Street Branch

20	Sales	76,177.28	
	Stock	<u>28,953.74</u>	105,131.02
	Purchases	81,955.48	
	Working Expenses	<u>12,967.08</u>	94,962.56 10,168.46 Gross Profit

Jobbing Dept.

Sales		152,736.81
Purchases	31,637.64	
Working Expenses	<u>105,026.76</u>	<u>136,664.40</u> 16,072.41 Gross Profit

<u>Exhibits</u>	<u>WORKING ACCOUNTS FOR 1960</u>			
"A3"	<u>Process Engraving Dept.</u>			
Return for 1961	Sales	\$ 26,646.47		
(continued)	Stock	<u>1,146.85</u>	27,793.32	
	Purchases	8,616.64		
	Stock	<u>18,194.29</u>	26,810.93	982.39
				Gross Profit.
	<u>Stationery Dept.</u>			
	Purchases	21,804.17		10
	Working Expenses	<u>5,780.31</u>	27,584.48	
	Sales		12,072.42	15,512.06
				Gross Loss
	<u>Newspaper Dept.</u>			
	Sales		335,554.20	
	Purchases	83,872.63		
	Working Expenses	<u>225,665.59</u>	309,538.22	26,015.98
				Gross Profit
	<u>Hincks Street Branch.</u>			
	Sales	102,717.86		20
	Stock	<u>42,725.85</u>	145,443.71	
	Purchases	115,423.14		
	Working Expenses	<u>14,744.62</u>	130,167.76	15,275.95
				Gross Profit
	<u>Jobbing Dept.</u>			
	Sales		140,516.98	
	Purchases	38,540.39		
	Working Expenses	95,432.55	133,972.94	6,544.04
				Gross Profit

BAD DEBTS WRITTEN OFF.Exhibits

"A3"

Return for 1961
(continued)

	<u>Name</u>	<u>Address</u>	<u>Amount</u>
	Andrews Mrs.H.	52 D'Urban St. Lodge	§ 50.11
	Adonis A.L.	3/4 D'Urban St. Lodge	111.54
	Browne J.		253.70
	Cantzlaar		2.17
	Cumberbatch		9.80
10	Carr Miss E.		22.09
	De Weever		103.56
	Edwards E.		115.22
	Ellis V.		4.24
	Forrester A.	First Alley, Wismar	9.65
	Gushway		4.80
	Moore Mrs. Mcrae		8.19
	McLenan O.		58.67
	Parkinson		42.00
20	Perry		8.25
	Pilgrim		469.06
	Jacobs M.		7.30
	Wilkie C.		<u>54.49</u>
			§1,334.84
	Dumont C.V.		736.57
	Greene G.		1,284.94
	B.G.Amateur Cycle Athletic Assoc.		<u>118.24</u>
			<u>§3,474.59</u>
30	Less:		
	Bad & Doubtful Debts recovered		<u>417.25</u>
			<u>§3,057.34</u>

IN THE PRIVY COUNCIL

No. 24 of 1968.

O N A P P E A L

FROM THE COURT OF APPEAL OF THE SUPREME COURT OF
JUDICATURE OF GUYANA (Civil Appeal No. 59 of 1965)

B E T W E E N :

THE ARGOSY COMPANY LIMITED
(In Voluntary Liquidation)

Appellant
(Respondent)

- and -

THE COMMISSIONER OF INLAND REVENUE

Respondent
(Appellant)

RECORD OF PROCEEDINGS

HEMPSONS,
33, Henrietta Street,
Strand, London, W.C.2.
Solicitors for the Appellant.

CHARLES RUSSELL & CO.,
Hale Court,
21 Old Buildings
Lincoln's Inn,
London W.C.2.
Solicitors for the Respondent.