

XYZ Ltd v The Mauritius Revenue Authority, 2014 SCJ 170, R no. 107197

Appeal without proceeding through the objection process is invalid

Assessment

XYZ Ltd was assessed to payment of income tax for the years of assessment 1995/96 and 1996/97.

Tax Appeal Tribunal

On 5 March 1999, XYZ Ltd appealed to the Tax Appeal Tribunal against the assessments.

On 17 June 2003, the Tribunal determined that it was unable to find fault with the assessments and observed that the question of considering an objection and reviewing an assessment did not arise since no objection to the assessments was lodged to the tax authority (MRA).

Supreme Court

XYZ Ltd appealed from the determination of the Tribunal to the Supreme Court.

On 16 November 2004, the Supreme Court handed down its judgement by observing that after the assessments were raised, the company could not have appealed to the Tribunal without having first raised an objection with the tax authority and that the Tribunal erred in hearing the appeal on its merits. The Supreme Court found no fault with the assessments.

Judicial Committee of the Privy Council

XYZ Ltd further appealed to the Judicial Committee of the Privy Council.

On 23 January 2017, the appeal was dismissed holding that the Supreme Court was right since the tribunal had no jurisdiction to entertain the appeal of the company and that the company had not suffered any substantial injustice.

Expeditious Dispute Resolution of Tax Scheme

Pursuant to the above scheme, a person who has been assessed to tax in any period prior to 01 January 2011 and who is dissatisfied with the assessment may apply to the tax authority for a review of the assessment. The law provides that the tax authority shall not review an assessment which has already been reviewed on objection or after representation to the Assessment Review Committee.

XYZ Ltd applied for a review of the assessments despite the above provision of the law.

On 29 June 2012, the tax authority informed the company that after considering its application, it was found that the company was not eligible to join the scheme.

Judicial Review

XYZ Ltd applied for leave to apply for judicial review of the decision of the tax authority.

In the premises, the condition for non-review of the assessment, i.e. the objection being reviewed under the Tax Act, is not present.

The application showed no arguable case and it was set aside.