

1986 April 30

[SAVVIDES, J.]
IN THE MATTER OF ARTICLE 146
OF THE CONSTITUTION
ELISAVET PANDELIDOU.

Applicant,

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE COMMISSIONER OF INCOME TAX,

Respondent.

(Case No. 6/83).

The Immovable Property Tax Laws, 1980-1981, ss. 3, 5, 6 and 13—The Assessment and Collection of Taxes Law, 4/78, ss. 5(2), 19, 20 and 21(1)—An objection to the tax assessment is a necessary prerequisite for filing a recourse to this Court under s. 21(1)—Applicant's objection to the sub judice assessments not accepted on the ground that it was made out of time—Information contained in the notes in the indorsement of the Notices of Assessment misleading to taxpayers in the position of the applicant—In the circumstances the Director of the Department of Inland Revenue in not accepting the objection exercised its discretion wrongly.

On the 26.5.81 applicant submitted a declaration to the Inland Revenue Department giving particulars of the immovable property she owned on 1.1.80 for the purposes of the Immovable Property Tax Laws, 1980 - 1981. In the said declaration the applicant included all the immovable property owned by her, but she did not state the value in respect of agricultural land owned by her. On 29.5.81 and at the request of the said Department applicant stated in a letter that the value of such agricultural land was £654,000, but she claimed that such land was not subject to the Immovable Property Tax.

As the applicant failed to give particulars requested of her in support of her said claim, the respondent Commissioner raised Tax assessments in respect of such property on the basis of applicant's own assessment of its value. By the relevant notices the applicant was informed of the provisions of the law concerning objections to the tax raised and certain information in this respect was indorsed on each of the said notices under paragraphs 5 and 6.* 5

The applicant did not file an objection within the period specified in the notices, but on the 17.12.82 her tax consultant submitted an objection, requesting at the same time the respondent Commissioner to accept it out of time. The Commissioner refused to accept the said request and as a result the applicant filed the present recourse. 10 15

Counsel for the respondent raised the point that as the applicant failed to make an objection within the time prescribed, she is precluded from filing and pursuing the present recourse. Both counsel agreed that this point should be determined as a preliminary point of law. After the conclusion of the hearing in respect of the said point the Court directed the re-opening of the case and invited argument as to whether the respondent correctly exercised his discretion in refusing to accept the objection of the applicant, which was made a few days out of time. 20 25

It should be noted that the sub judice assessments were raised under sections 3, 5, 6 and 13 of the Immovable Property Tax Laws, 1980 - 1981 (Laws 24/80 to 25/81). Section 5(2) of Law 4/78 authorises the Director to request, by written notice from any person to submit a statement of any property subject to tax. Section 19 of the same law provides for the service of notices, stating the object of the tax and the amount of tax payable and drawing the attention of the taxpayer to his rights under section 20 of the same law, which provides for the procedure to be followed for the submission and determination of objections to the taxation raised. Finally under the provisions of section 21(1) of the said law any person 30 35

* Quoted at p. 692

agrieved as a result of the assessment and who failed to come in agreement with the Director as provided by subsection 4 of section 20 has the right to file a recourse to the Supreme Court.

5 *Held*, annulling the sub judice decision in prayer (3) of the recourse:

10 (1) As it emanates from the decisions of this Court for a recourse to be filed under the provisions of s. 21(1) of Law 4/78, an objection to the assessment is a necessary prerequisite before the filing of the recourse.

15 (2) In the circumstances of this case the above pronouncement does not dispose of the case, because the way the relevant notices were drafted creates a doubt in the mind of the taxpayer in the position of the applicant as to whether he is bound to make an objection or the course open to him is to challenge the taxation directly by a recourse to this Court. The statement in para (3) of the notes in the indorsement on the notices of assessment that in case of taxation under code (5) a recourse can be made under 20 s. 20(5) of the Assessment and Collection of Taxes Laws is wrong, as the right to make a recourse is covered by s. 21(1). Furthermore the contents of the information indorsed in the notices are misleading as they limit the right of objection to the Director only in cases of "original taxation on the basis of the assessment of the Director" (Code 25 2) and "Revised taxation" (Code 3) which did not apply to the case of the applicant. What is required of the Director under s. 19 of Law 4/78 is to draw the attention of the person assessed and inform him of his rights to 30 make an objection under s. 20. No power is given to the Director to itemize taxation under any code and restrict the right of objection to certain items only.

35 (3) In the circumstances the respondent by refusing to accept the objection of the applicant exercised his discretion wrongly.

Declaration as per Prayer (3) of the Recourse. £75.- costs in favour of applicant.

Cases referred to:

Pitsiakkos v. The Republic (1985) 3 C.L.R. 1700;

Petrolina Ltd. v. The Municipal Committee of Famagusta
(1971) 3 C.L.R. 420;

Pelides v. The Republic. 3 R.S.C.C. 13.

5

Recourse.

Recourse: (1) Against the assessments of Immovable Property Tax on applicant's agricultural land, partly farmed by her and partly rented to others. (2) For a declaration that section 18(f) introduced on the basic Law 24/80 by Law 25/81 leads to discrimination against the applicant and is, therefore, unconstitutional and (3) Against the refusal of the Director of the Department of Inland Revenue to accept an out of time objection against the assessment raised on the applicant.

10

15

Chr. Triantafyllides, for the applicant.

M. Photiou, for the respondent.

Cur. adv. vul.

SAVVIDES J. read the following judgment. The applicant is the owner of land, part of which was gifted to her by her father and part inherited from her father who died in 1977. Part of such land was rented to farmers and cattle breeders and part was cultivated by her.

20

The applicant on the 26th May, 1981 submitted a declaration to the Inland Revenue Department giving particulars of the immovable property she owned on the 1st January, 1980 for the purposes of the Immovable Property Tax Laws, 1980 - 1981. In such declaration, though she included all the immovable property owned by her, she stated the value of part only of her property which consisted of a house and shops the value of which she assessed, as at 1st January, 1980, at £135,000, but she did not give any value for the rest of her property which consisted of agricultural land. Applicant paid tax on the basis of her assessment in respect of her property other than agricultural land

25

30

35

which amounted to £150 per year for each of the years 1980, 1981 and 1982.

On the 29th May, 1981, the applicant, apparently at the request of the Inland Revenue Department addressed
5 a letter to the Director of that Department in which she gave particulars of the agricultural land which she claimed as not liable to immovable property tax and estimated its value at £654,000. From what appears in the file and in particular from the contents of a letter dated the 22nd
10 October, 1982, the applicant was previously asked to give particulars in support of her contention that the agricultural land owned by her was exempted from the provisions of section 18 (f) of the Immovable Property Tax Laws 24/80 to 25/81. The applicant did not comply with such request
15 and as a result, the following letter was sent to her, on the 22nd October, 1982, by the Inland Revenue Department:

"Immovable Property Laws 24/80 and 25/81.

20 I wish to refer to my letter dated 26.4.1982 which I have sent to you and regret to observe that notwithstanding the fact that considerable time has elapsed. I have not received any reply and I cannot therefore decide whether you satisfy the provisions of section 18 (f) of the aforesaid law.

25 I believe that your case does not fall within the aforesaid provisions of the law for exemption from tax and for this reason I enclose herewith the relevant assessments. The assessments were based on the value of the property which you have declared and which
30 is in accordance with your own assessment. If in the future the assessment which will be made by my Department in respect of the said properties proves that your assessment is not the proper one, revised taxations will be sent to you.

35 Enclosed herewith are notices of the taxation of your immovable property for the years 1980, 1981, 1982."

According to such notices the tax payable by respondent

for each one of the years 1980, 1981 and 1982 was assessed at £1,131 less £150 already paid by the applicant in respect of each year, leaving a balance of £981 per year, making a total of £2,943 which was the amount of the additional tax demanded. By each of the said notices the applicant was informed of the provisions of the law concerning objections to the tax raised, and certain information in this respect was indorsed on the said notices under paragraphs 5 and 6, the contents of which read as follows:

"Objections/recourses.

5. In case of taxation under codes 2 and 3, you have the right to object. The objection should be made in writing to the Director of the Department of Inland Revenue by the end of the month following the one within which this taxation has been made and it must mention clearly the reasons for which the objection is made.

6. In case of taxation under code 5, your attention is drawn to section 20(5) of the Assessment and Collection of Taxes Laws 1978 - 1979, which gives you the right to file a recourse in the Supreme Court of the Republic within 75 days from the date of the present notice."

The various codes of taxation are given in the same indorsement under paragraph 4 bearing the title "Code-Type of Taxation", as follows:

"(1) Original taxation on the basis of your assessment.

(2) Original taxation on the basis of the assessment of the Director.

(3) Revised taxation.

(4) Final taxation on the determination of an objection upon agreement.

(5) Final taxation on determination of an objection without agreement.

(6) Taxation after a judgment of the Court."

The applicant did not file an objection to the above taxation within the period specified in the notices.

By letter dated the 17th December, 1982, a certain Phanos Ionides, a consultant on taxation matters, acting on behalf of the applicant, wrote a letter to the Director of the Department of Inland Revenue, whereby he objected to the taxation on the ground that under the provisions of the law such land was exempted from taxation due to its nature, and at the same time he requested the Director to accept such objection out of time, submitting that the delay in not filing the objection was the result of a misunderstanding and that the applicant acted all along in good faith. Such request was not accepted by the respondent and as a result the applicant filed the present recourse praying for the following relief:

1. A declaration to the effect that the assessments of immovable property tax at the rate of 1.5% on agricultural land held by the applicant, partly farmed by her and partly rented to others for farming purposes, are null and void and of no effect whatsoever.

2. A declaration to the effect that section 18 (f) which was introduced in the basic law 24/1980, by Law 25/81, leads to discrimination against the applicant and is therefore unconstitutional.

3. A declaration to the effect that the refusal of the Director of the Department of Inland Revenue to accept an out of time objection in the present case against the assessments raised on the applicant was unwarranted and that the respondent has failed to exercise the discretionary power vested in him by sub-section (3) of section 3 of the Immovable Property Tax Laws, 1980 - 1981 and by sub-section (2) of section 20, of the Assessment and Collection of Taxes Laws, 1978 to 1979, in a judicious and fair way.

The application was opposed and the grounds of law set out in such opposition are the following:

The acts and/or decisions complained of were properly

and lawfully taken after all relevant facts and circumstances were taken into consideration, viz.: -

- (a) The assessments for immovable property tax for the years 1980, 1981 and 1982 were raised under sections 3, 5, 6 and 13 of the Immovable Property Tax Laws, 1980 to 1981. (Laws 24/80 and 25/81). 5
- (b) Applicant has failed to make an objection to the above assessments within the time limit prescribed by law and therefore she is precluded from filing and pursuing the present recourse. A prerequisite for filing a recourse under Article 146 of the Constitution is the objection provided for in Section 13(3) of the Immovable Property Tax Laws 1980 - 1981 and Section 20(1) of the Assessment and Collection of Taxes Laws 1978 to 1979 (4/78, 23/78 and 41/79). 10 15
- (c) The Respondent Director of the Department of Inland Revenue pursuant to section 13(3) of the Immovable Property Tax Laws 1980 to 1981 and section 20(1) of the Assessment and Collection of Taxes Laws 1978 to 1979, correctly and lawfully did not accept the out of time objection made by applicant against the above assessment. 20

In the course of the hearing of this recourse counsel agreed to have the question raised under paragraph (b) of the opposition determined as a preliminary point of law. 25

In expounding on the said question, counsel for respondent submitted that the fact that an objection to the assessments has not been filed within the prescribed time, as provided by section 13(3) of the Immovable Property Tax Laws 1980 to 1981 and sections 20(1) and 21(1) of the Assessment and Collection of Taxes Laws, 1978 to 1979, has deprived the applicant of the right to file a recourse as such an objection is a necessary prerequisite to the filing of a recourse. In support of his argument, he sought to rely on the judgment of this Court in *Petrolina Ltd. v. The Municipal Committee of Famagusta* (1971) 3 C.L.R. 420. 30 35

Counsel for applicant, on the other hand, refuted the contentions of counsel for respondent and submitted that what was said in the case of *Petrolina Ltd.* was obiter dictum by way of observations and that in any event that case is distinguishable from the present one, as different legislative provisions were under consideration in that case. Counsel submitted that the provisions of section 21 of Law 4/78 apply only to cases where the procedure stipulated in section 20 of the said law is followed. Section 20 does not impose on the tax payer the obligation to object to the Director of the Inland Revenue Department before he files a recourse under Article 146 of the Constitution. He can exercise his constitutional rights and file a recourse against the imposed taxation within 75 days of its communication to him, and such right cannot be restricted by any law. If he chooses to file an objection with the Director of the Inland Revenue Department, as stipulated in section 20 of Law 4/78, then he has to wait till the final determination by the Director, against which he can file a recourse in accordance with the provisions of section 21. He finally submitted that the respondent was unjustified in not exercising his discretion in favour of the applicant and consider his objection which was filed out of time, and that in any event the refusal of the respondent to consider applicant's objection did not deprive the applicant of her constitutional right of a recourse within the time limits of Article 146.

The sub judice assessments were raised under sections 3, 5, 6 and 13 of the Immovable Property Tax Laws 1980-1981 (Laws Nos 24/80 to 25/81). Under such provisions the owner of any immovable property is bound to submit in respect of each year a statement giving particulars of the immovable property owned by him during the previous year and his own assessment of such property, as well as the tax which is payable for such year on the basis of his assessment. Under sub-section (2) of section 5 of Law 4/78 the Director is authorised to request, by written notice, from any person to submit a statement of any property subject to tax, giving particulars necessary for the purposes of the Law. Upon receipt of such statement the Director is empowered either to accept the statement and

make his assessment of tax on the basis of such statement or reject the statement and fix, in his own judgment, the amount of tax payable on the property. Section 19 of Law 4/78, provides as follows:

«Εἰς ἕκαστον πρόσωπον, οὐτινος τὸ ὄνομα ἀναγράφεται ἐν τοῖς φορολογικοῖς καταλόγοις, ἐπιδίδεται, ἐντολή τοῦ Διευθυντοῦ, εἴτε διὰ προσωπικῆς ἐπιδόσεως εἴτε διὰ συστημένης ἐπιστολῆς, εἰδοποιήσις, ἀπευθυνομένη εἰς τὴν συνήθη προσωπικὴν ἢ ἐπαγγελματικὴν αὐτοῦ διαμονήν, δηλοῦσα τὸ ἀντικείμενον τοῦ φόρου καὶ τὸ ποσὸν τοῦ πληρωτέου φόρου καὶ ἐφιστῶσα τὴν προσοχὴν αὐτοῦ ἐπὶ τῶν δυνάμει τοῦ ἄρθρου 20 δικαιωμάτων αὐτοῦ.»

(And the English translation):

“(19. The Director shall cause to be served personally on or sent by registered post to each person whose name appears on the assessment lists, a notice addressed to him at his usual or business place of abode, stating the object of the tax and the amount of tax payable and drawing his attention to his rights under section 20.”)

Section 20 of the Law provides for the procedure to be followed for the submission and determination of objections to the taxation raised. Sub-section (1) of section 20 provides as follows:

«Πᾶν πρόσωπον τὸ ὁποῖον ἀμφισβητεῖ τὴν εἰς αὐτὸ ἐπιβληθεῖσαν φορολογίαν, δύναται, δι’ ἐγγράφου εἰδοποιήσεως ἐνστάσεως, νὰ ἀποταθῆ εἰς τὸν Διευθυντὴν πρὸς ἐπανεξέτασιν καὶ ἀναθεώρησιν αὐτῆς. Ἡ εἰδοποιήσις αὕτη δέον ὅπως ἐκθέτῃ ἐπακριβῶς τοὺς λόγους τῆς ἐνστάσεώς του εἰς τὴν φορολογίαν, ἐκτὸς δὲ ἐὰν ἄλλως προβλέπηται ἐν οἰωδῆποτε ἐτέρῳ νόμῳ, δέον ὅπως αὕτη δοθῆ οὐχὶ βραδύτερον τοῦ τέλους τοῦ μηνὸς ὃ ὁποῖος ἔπεται τοῦ μηνὸς ἐν τῷ ὁποίῳ ἢ ἐν τῷ ἄρθρῳ 19 ἀναφερομένη εἰδοποιήσις ἐδόθη εἰς τὸ πρόσωπον τοῦτο:»

Νοεῖται ὅτι, ὁ Διευθυντής, ὅταν ἰκανοποιηθῆ ὅτι,

λόγω άπουσίας εκ τής Δημοκρατίας, άσθενείας ή άλλης εύλόγου αίτίας, τὸ άμφισβητοῦν τήν φορολογίαν πρόσωπον εκκλύθη από τοῦ νά δώση τήν είδοποίησιν ένστάσεως έντός τής ρηθείσης προθεσμίας, χορηγεί εύλογον υπό τας περιστάσεις παράτασιν τής προθεσμίας ταύτης».

(And the English translation):

“20. - (1) Any person who disputes the assessment made upon him may, by notice of objection in writing, apply to the Director to review and revise such assessment. Such notice shall state precisely the grounds of his objection to the assessment and shall, unless otherwise provided in any other Law, be given not later than the end of the month following that in which the notice referred to in section 19 was given to such person:

Provided that the Director, upon being satisfied that, owing to the absence from the Republic, sickness or other reasonable cause, the person disputing the assessment was prevented from giving the notice of objection within the said time-limit, shall extend the time-limit as may be reasonable in the circumstances.”)

Under the provisions of section 21(1) any person who deems himself aggrieved as a result of the assessment of tax and who has failed to come in agreement with the Director, as provided by sub-section (4) of section 20, has the right to file a recourse against such assessment to the Supreme Court.

From the provisions of section 19 it is abundantly clear that a duty is cast upon the Director of the Inland Revenue Department to draw the attention of the person assessed to pay tax, of his rights to object to such taxation in accordance with the provisions of section 20, which overshadows the presumption that every person is bound to know the law.

From a perusal of the sub judice notices and the letter of the Director of the Inland Revenue Department dated the 22nd October, 1982, which accompanied the said no-

tices, it is apparent that the Director made his assessment on the basis of the value of the properties as stated by applicant. This is expressly stated in the said letter, reference to the full text of which has already been made. At the risk of repeating myself, I wish to lay stress to the following statement contained therein in this respect: "The assessments were based on the value of the properties which you have declared and they are in accordance with your own assessment."

It is common ground in this case that the applicant did not make an objection to the assessment within the period fixed by section 20(1) of the Law and that an objection filed out of time was rejected by the respondent.

As it emanates from the decisions of this Court for a recourse to be filed under the provisions of section 21(1) of Law 4/78, an objection to the assessment is a necessary prerequisite before the filing of a recourse.

In *Pitsiakkos v. The Republic* (1985) 3 C.L.R. 1700, an income tax case, L. Loizou, J. in considering the provisions of section 21(1) of Law 4/78, had this to say at p. 1720:

"But the applicant could not so file a recourse because under the provisions of s. 21(1) of Law 4/78 an objection to the assessment is a necessary intermediate step in the process leading up to the filing of the recourse..... And once he made such objection, he could only file a recourse in case of failure to reach an agreement with the Commissioner and after determination by the latter of the amount of tax payable as in sub-section (5) of section 20 provided."

Reference is made in the above case to *Petrolina Ltd. v. The Municipal Committee of Famagusta* (1971) 3 C.L.R. 420, in which Triantafyllides, P. had this to say at p. 425:

"Before concluding I feel bound to observe that it is highly desirable that, as far as possible, the process of the examination of the validity of administrative acts and decisions should be pursued by way of hie-

5 rarchical remedies before higher administrative organs
and that only after all such remedies have been ex-
hausted a recourse under Article 146 should lie: I
think that it is, therefore, necessary to frame provi-
sions of the kind of section 10 of Law 94/68 or of
section 6 of Law 16/64 in such a manner as not
merely to enable the making of an application or an
appeal to higher authority but to render such a
course a prerequisite for the making of a recourse
10 under Article 146—as a necessary step for the com-
pletion of the relevant administrative process—as it
has been done, for example, by means of section 21(1)
of the Taxes (Quantifying and Recovery) Law, 1963
(53/63).”

15 As early as 1961 the Supreme Constitutional Court had
to deal with this matter in the case of *Pelides and The
Republic*, 3 R.S.C.C. 13, where at pp. 17, 18, the follow-
ing was stated:

20 “The Court takes this opportunity of stressing that
though Article 146 grants it exclusive jurisdiction in
administrative law matters there is nothing in such
Article to prevent procedure for administrative review
of executive or administrative acts or decisions from
being provided for in a Law. Such review may be
25 either -

(a) by way of confirmation or completion of the
act or decision in question, in which case no
recourse is possible to this Court until such con-
firmation or completion has taken place (e. g.
30 under section 17 of CAP 96): or

(b) by way of a review by higher authority or by
specially set-up organs or bodies of an admini-
strative nature, in which case a provision for
such a review will not be a bar to a recourse be-
fore this Court but once the procedure for such
a review has been set in motion by a
person concerned no recourse is possible to this
35 Court until the review has been completed.

Such review procedures, as aforesaid, are in no way contrary to, or inconsistent with, Article 30 of the Constitution because specially set up organs or bodies of an administrative nature are not judicial committees or exceptional courts in the sense of paragraph 1 of such Article." 5

In the light of the above authorities I adopt the view expressed by Loizou, J. in *Pitsiakkos* case (supra) that under the provisions of section 21(1) of Law 4/78 an objection to the assessment is a necessary prerequisite before the filing of a recourse against a taxation raised under the provisions of such law. 10

Though the above finding gives an answer to the preliminary question of law raised, nevertheless, in the circumstances of the present case such finding does not dispose of the case. A perusal of the contents of the notices, makes it apparent that the way they were drafted creates a doubt in the mind of a tax payer in the position of the applicant as to whether he is bound to make an objection to the Director against the taxation, or whether the course open to him is to challenge the taxation directly by a recourse to the Supreme Court without any objection to the Director. 15 20

What is stated in paragraph (6) of the notes in the indorsement on the notices of assessment, that in case of taxation under code (5) a recourse can be made under section 20(5) of the Assessment and Collection of Taxes Laws, is wrong, as the right to make a recourse is not covered by section 20(5) of the Law but by section 21(1). By section 19 The Director is bound to draw the attention of the tax payer to his right to make an objection under section 20, but not under any other section of the Law and reference to any other provision in the Law in respect of which no obligation is imposed on the Director tends rather to create confusion in the matter. 25 30 35

Furthermore, what is stated under the heading "Objections/Recourses" in paragraphs 5 and 6 of the indorsement is that objections to the Director can only be made in the case of assessments under codes 2 and 3 enumerated

in paragraph 4 and that a recourse to the Court lies in case of assessments under code 5. The case of the applicant does not fall within codes 2 and 3.

5 As I have mentioned earlier, as it emerges from the contents of the letter accompanying the said taxations, the tax was assessed on the assumption that the applicant agreed as to the value of the property and as to the tax payable on such property. It is abundantly clear in this case that the applicant was, all along, persisting that no tax was payable in respect of agricultural land owned by her and for 10 this reason in her statement she gave only the value of her properties other than agricultural land. That this matter was in dispute appears also from the first paragraph of the said letter of the Director in which he mentions that due to the failure of the applicant to give him sufficient particulars, he was not in a position to decide whether the applicant satisfied the provisions of section 18(f) of the 15 Law.

20 The contents of the information contained in the notes indorsed in the notices of assessment, in the way they are drafted, are misleading in the present case as they limit the right of objection to the Director only in cases of "original taxation on the basis of the assessment of the Director" (code 2) and "Revised taxation" (code 3) which 25 did not apply to the case of the applicant. What is required of the Director under s. 19 is to draw the attention of the person assessed and inform him of his rights to make an objection under section 20. No power is given to the Director to itemize taxation under any code and restrict the 30 right of objection to certain items only.

In view of the above I found it necessary to re-open the case and invite both counsel to address me on the substance of the case as to whether in the circumstances of the present case the Director rightly exercised his discretion to refuse applicant's objection which was made a few 35 days out of time.

After the case was re-opened, counsel were invited to address the Court in the light of my observations. Counsel for respondent made the following statement:

"Having gone through the material which has been produced in this case I feel that the notices of assessment leave room for misinterpretation as reference is made on such notices only to objections in respect of certain items and makes no mention about other cases and so this may not be strict compliance with the Law."

Counsel further expressed his doubt as to whether in the circumstances the discretion of the Director, in refusing to accept the out-of-time objection of the applicant, was properly exercised but he left the matter to the Court. Counsel for applicant on the other hand, relying on the statement of counsel for the respondent submitted that the Director should have accepted the out-of-time objection of the applicant and examine same in accordance with the provisions of s. 20.

Bearing in mind all the facts of the case as hereinabove narrated, the least I can say is that a doubt has been created in my mind as to whether the applicant by not making her objection in time was operating under a bona fide mistake that an objection to the Director could not be made in the present case, to which she was led by the wrong information contained in the notices of assessments whereby instead of informing the applicant of her rights to make an objection, the Director conveyed to her the impression that in her case there was no right to an objection.

In the result, I have come to the conclusion that in the circumstances the Director of the Department of Inland Revenue, by refusing to accept the objection of the applicant which was made with a few days delay, exercised his discretion wrongly. The recourse therefore succeeds on this ground and I make a declaration as per prayer (3) of the recourse with £75.- costs in favour of the applicant.

*Declaration as per prayer 3
£75.- costs in applicant's favour.*