

[TRIANTAFYLIDIS, P., STAVRINIDES, L. LOIZOU,  
HADJIANASTASSIOU, MALACHTOS, JJ.]

EXPRESS FINANCE COMPANY LTD.,

*Appellant,*

*and*

THE DIRECTOR OF THE DEPARTMENT  
OF INLAND REVENUE.

*Respondent.*

(Revisional Jurisdiction Appeal No. 112).

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—  
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FINANCE  
COMPANY LTD.

v.  
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OF THE  
DEPARTMENT  
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*Income tax—Reduced tax—Interest derived from bank deposits and mortgages—Forming part of trading income of finance company within section 5(1)(a) of the Income Tax (Foreign Persons) Law, 1961 (Law No. 58 of 1961)—Not income eligible for reduced rate of company tax as provided in paragraph 2 of the Second Schedule to section 34 of said Law 58/1961, introduced by the Income Tax (Amendment) Law, 1969 (Law No. 60 of 1969).*

*Interest—Income Tax—Finance company—Interest derived from bank deposits and mortgages—Not eligible for reduced Company Tax—See further supra.*

The facts sufficiently appear in the judgment of the Supreme Court, affirming on appeal the judgment given in the first instance by a Judge of this Court dismissing the recourse under Article 146 of the Constitution made by the appellant Company. (See the judgment appealed from reported in this Part at p. 59 *ante*).

**Appeal.**

Appeal by Express Finance Company Ltd. against the judgment of a Judge of the Supreme Court of Cyprus (A. Loizou, J.) given on the 31st January, 1973 (Revisional Jurisdiction Case No. 125/72) dismissing appellants recourse against the validity of the income tax assessment raised on them for the year of assessment 1970.

*Ph. Poetis*, for the appellant.

*A. Evangelou*, Counsel of the Republic,  
for the respondent.

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The judgment of the Court was delivered by :-

TRIANAFYLLIDES, P. : In this appeal, from the first instance judgment \* of a judge of this Court, the issue to be resolved is whether interest, from bank deposits and mortgages, which forms part of the trading income of the appellant, a finance company, and is, therefore, taxed as income derived in the course of its business, under section 5(1)(a) of The Income Tax (Foreign Persons) Law, 1961 (Law 58/61)—which by virtue of the Income Tax (Foreign Persons) (Amendment) Law, 1966 (Law 21/66) became applicable to all taxpayers in Cyprus and not only foreign persons—should be exceptionally taxed at a reduced rate of company tax, as provided for in paragraph 2 of the Second Schedule to section 34 of Law 58/61, which was introduced by the Income Tax (Amendment) Law, 1969 (Law 60/69).

The facts of the case are, in brief, that out of the total income of the appellant company an amount of £1,007 was treated by the respondent as being trading income, but, because it was derived from interest it was not, in view of the provisions of the aforesaid paragraph 2, taxed at the reduced rate of 250 mils on every pound, but at the normal rate of 425 mils on every pound.

The learned trial judge upheld the decision of the respondent as being a valid one and he dismissed the recourse of the appellant against it; as a result the appellant has filed the present appeal.

The aforesaid paragraph 2 of the Second Schedule reads as follows :-

“2. Companies and all other bodies corporate or unincorporate shall pay tax at the rate of four hundred and twenty-five mils on every pound of chargeable income :

Provided that in cases where the chargeable income of a company incorporated and registered in the Republic, which is derived from the sources specified in paragraphs (a) and (g) of sub-section (1) of section 5, not including interest, dividends and rents —

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\* Reported in this Part at, p. 59, *ante*.

(a) does not exceed the sum of £7,000, an amount of up to £5,000 of the said income, which is transferred to its reserve capital and is kept in the company and used for its purposes shall be taxed at the rate of 250 mils on every pound;

(b) exceeds the sum of £7,000, but does not exceed the sum of £8,500, the tax payable shall, subject to the provisions of paragraph (a) above, be equal to the sum of the tax payable on a chargeable income of £7,000 and of the amount by which the chargeable income exceeds the sum of £7,000 :

Provided further that in the event of the company being liquidated, the total of the capital reserve of any trading period, which was taxed at the rate of 250 mils on every pound, may be deemed to be income in the year in which such company is liquidated and shall be taxed at the rate of 175 mils on every pound."

Counsel for the appellant has argued that since the amount of interest in question, namely £1,007, was treated by the respondent as trading income, in the sense of section 5(1)(a) of Law 58/61, it did come within the ambit of the term "interested" in the sentence—(in paragraph 2, above)—"not including interest...", because interest therein means interest taxed under section 5(1)(d) of Law 58/61, and not interest taxed, as in the present case, under section 5(1)(a) of such Law; he submitted, further, that the said sentence was inserted for purposes of computation of the sums specified in sub-paragraphs (a) and (b) of paragraph 2 and not in order to differentiate among different kinds of income which were together treated as being chargeable income under section 5(1)(a).

In our opinion the only possible construction of paragraph 2 of the Second Schedule, above, is that it renders income, which is taxable under section 5(1)(a)—(or under section 5(1)(g), with which we are not concerned at all in this case)—eligible for taxation at the reduced rate of 250 mils on every pound, provided that such income

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is not in the nature of interest, dividends or rents; so, interest, even if it is taxed as trading income under section 5(1)(a)—and not, as it could be otherwise taxed, under section 5(1)(d)—cannot be treated as being income eligible for the reduced rate envisaged by paragraph 2.

In the circumstances the decision of the trial judge has to be upheld and this appeal is dismissed, without, however, any order as to costs.

*Appeal dismissed.*  
*No order as to costs.*