

1986 September 6

[TRIANTAFYLIDIS, P.]

IN THE MATTER OF ARTICLE 146  
OF THE CONSTITUTION

SINGER SEWING MACHINE COMPANY,

*Applicants.*

v.

- THE REPUBLIC OF CYPRUS, THROUGH
1. THE MINISTER OF FINANCE,
  2. THE COMMISSIONER OF INCOME TAX,

*Respondents.*

(Case No. 240/82).

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*Special contribution—Interest paid on special contributions payable by applicants—Not an expense wholly and exclusively incurred in the production of income liable to special contribution—Not deductible in computing the special contribution payable by the applicants in respect of the period during which such payment was made.*

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This recourse is directed against the refusal of the respondent Commissioner to allow as a deductible expense for special contribution purposes interest paid by the applicants on the special contributions payable by them for the years 1979 and 1980.

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*Held, dismissing the recourse, that as the interest concerned was not an expense wholly and exclusively incurred in the production of income liable to special contribution, it could not, under sections 11 and 13 of the Income Tax Laws, 1961 - 1981. be treated as a deductible expense.*

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*Recourse dismissed.  
No order as to costs.*

Cases referred to:

*Alpan (Taki Bros.) Famagusta Ltd. v. The Republic*  
(1986) 3 C.L.R. 2465.

**Recourse.**

5 Recourse against the decision of the respondents not to allow as a deductible expense for special contribution purposes interest paid on the special contribution payable by applicants for the years 1979 and 1980.

*X. Clerides*, for the applicants.

10 *A. Evangelou*, Senior Counsel of the Republic, for the respondents.

*Cir. adv. vult.*

15 TRIANTAFYLIDIS P. read the following judgment. By means of the present recourse the applicant company challenges the decision of the respondent Commissioner of Income Tax not to allow as a deductible expense for special contribution purposes interest paid on the special contribution payable by the applicants for the years 1979 and 1980.

20 The respondent Commissioner of Income Tax initially decided to disallow a deduction of the aforesaid interest both for purposes of income tax and of special contribution, but after considering objections by the applicants he decided, on the 13th May 1982, in view of the provisions of section  
25 8 of the Special Contribution (Temporary Provisions) Law, 1978 (Law 34/78), that interest paid on special contribution is an allowable deduction for income tax purposes, but not, also, for special contribution purposes, as he considered that, under the provisions of sections 11 and 13  
30 of the Income Tax Laws, which are applicable under section 6 of Law 34/78, such interest is not an expense wholly and exclusively incurred in the production of the income in respect of which special contribution is payable.

35 Counsel for the applicants has submitted that on the correct interpretation of sections 11 and 13 of the Income Tax Laws, in conjunction with sections 6 and 8 of Law

34/78, interest paid on special contribution should be treated by the respondent Commissioner of Income Tax as a deductible expense for special contribution purposes.

The same issue arose in the case of *Alpan (Takis Bros) Famagusta Ltd., v. The Republic* (case No. 430/83, in which judgment was delivered on the 5th February 1986 and is not yet reported)\*, where it was held by me that the Commissioner of Income Tax rightly found that the interest concerned was not an expenditure wholly and exclusively incurred in the production of income in respect of which special contribution is payable, and, therefore, it could not, under the provisions of sections 11 and 13 of the Income Tax Laws, be treated as a deductible expense for special contribution purposes.

I see no reason to depart from my judgment in the case of *Alpan (Takis Bros.) Famagusta Ltd.*, supra, nor can the circumstances of the present case be distinguished from those in that case.

I am, therefore, of the view that the Commissioner of Income Tax has correctly arrived at his sub judice decision on the basis of the relevant legislative provisions and as a result the present recourse fails and it is dismissed accordingly; but with no order as to its costs.

*Recourse dismissed.*

*No order as to costs.*

\* Reported in (1986) 3 C.L.R. 2465.