[VASSILIADES, P., TRIANTAFYLLIDES, JOSEPHIDES, STAVRINIDES, LOIZOU AND HADJIANASTASSIOU, JJ.]

BYRON PAVLIDES,

Appellant,

v.

THE REPUBLIC OF CYPRUS, THROUGH
1. THE COMMISSIONER OF INCOME TAX,
2. THE ATTORNEY-GENERAL AS SUCCESSOR TO THE GREEK COMMUNAL CHAMBER,

Respondents.

(*Revisional Jurisdiction Appeal No.* 16).

Income Tax — Assessments — Unmarried persons — Appellant, a bachelor, assessed on the higher taxation scale provided for unmarried persons—Prior to the decision of the Supreme Court in Panayides *case,* (infra) *declaring unconstitutional the relevant legislative provisions establishing higher taxation scale for unmarried persons—Assessments in question not objected to—Tax paid, also, prior to the said decision, under protest—Refusal of Respondent to refund the difference on the basis of the aforesaid two scales of taxation for married and unmarried persons — Such refusal is a perfectly lawful decision — Assessments—Assessments made and tax paid without objection of any kind—Through an error second assessments made in respect of the same years—Without any intention to revoke or alter the previous ones—Second assessments are without any legal basis and void* ab initio*—Therefore, rightly the Respondent withdrew and cancelled the second assessments—Which were made on the lower scale provided for married persons—Laws of the Greek Communal Chamber Nos.* 16 *of* 1961, 18 *of* 1962 *and* 9 *of* 1963*—Cfr. also section* 33 *of the Schedule to the said Law No.* 16/61*—See, also, under the headings hereinbelow.*

Administrative Law—Administrative acts—Revocation, withdrawal or cancellation of an administrative act done in error—The author of such an erroneous and wrongful administrative act has a duty to cancel it—Subject to the right of the citizen to obtain redress in cases where he may have suffered any damage in consequence of such error—The second assessments referred to above under

Income Tax were made without any legal basis—They were void ab initio*—Therefore, the Respondent, on discovering his error, was bound to cancel them—And the complaint of Appellant that such second assessments ought to have been acted on, is devoid of any legal basis—See, also, above; and also herebelow.*

Administrative Acts—Revocation, withdrawal or cancellation of administrative acts done in error—See above.

Erroneous administrative acts—See above.

Constitutional Law—Principle of equality—Safeguarded by Article 28 *of the Constitution—Principles of certainty of the law and justice are equally essential features of the rule of law—Therefore, no person could demand the adjustment of a tax assessment which had become final and tax paid without any objection or recourse made in time—Any inequality which may be caused thereby does not offend against the principle of equality.*

Equality—Principle of—See above.

Certainty of the law and justice—Essential features of the rule of law—See above under Constitutional Law.

Constitutional Law—Constitutionality of statutes—Judicial decisions declaring statutory provisions unconstitutional—Effect—How far binding—Articles 144.3, 146.1, 4 *and* 5, 148 *of the Constitution—Decision of the Supreme Constitutional Court, now of the Supreme Court, on a recourse under Article* 146 *of the Constitution—Annulling an administrative decision on the ground that it was based on certain legislative provisions declared to be unconstitutional—Such as the decision of the Supreme Court in* Panayides *case* (infra)*—Its effect and its binding force—On the true construction of Articles* 144, 146 *and* 148 *of the Constitution, the decision in* Panayides *case, as well as any other decision of the Court in the exercise of its jurisdiction and competence under Article* 146 *of the Constitution—Is only binding* erga omnes *in so far as the act, decision or omission, subject-matter of the recourse, is concerned—But this binding force does not extend to the legislative provisions declared to be unconstitutional—Those provisions are not and cannot be annulled by the Court acting under Article* 146 *of the Constitution—They were and remain in force until repealed or amended by the ordinary legislative machinery—And it is not within the jurisdiction or competence of the Court under Article* 146 *to annul laws on the ground of unconstitutionality or to give decisions on constitu-*

tionality of general application—And under that Article 146 *the Court can deal with the constitutionality of an enactment only to the extent to which such issue is relevant to the validity of the administrative act, decision or omission, which is the subject-matter of the recourse—But it cannot decree the unconstitutionality of an enactment as such—And in cases under Article* 146, *nothing can be rendered binding, under article* 148 *of the Constitution, "on all courts, organs, authorities and persons in the Republic", which is not within the "jurisdiction or competence" of the Court under Article* 146 *of the Constitution.*

Res Judicata—Res judicata erga omnes—See immediately above under Constitutional Law.

Constitutionality of statutes—Decisions declaring legislative provisions to be unconstitutional on a recourse under Article 146 *of the Constitution—The question of their binding force—See above under Constitutional Law—Constitutionality of statutes.*

Judgments—Judgments of this Court in the exercise of its competence under Article 146 *of the Constitution—The question of their binding force with regard to the issue of constitutionality of statutes—See above under Constitutional Law—Constitutionality of statutes.*

On the 30th November, 1964, the Appellant, who is a bachelor, was assessed by the Respondent under Greek Communal Chamber Laws Nos. 16 of 1961, 18 of 1962 and 9 of 1963, in respect of the years of assessment 1961, 1962 and 1963, respectively, to pay a total amount of taxes (in the way of income tax) amounting to £1,333.385 mils. On the 5th January, 1965, the Appellant paid the above mentioned sum in full settlement of his relevant income tax liabilities. These assessments—hereinafter referred to as the first assessment—were based on the taxation scale applicable under the said Laws to unmarried persons, which is higher than that applicable to married persons.

Shortly thereafter, on the 2nd of March, 1965, the Supreme Court, acting in the exercise of its competence on a recourse under Article 146 of the Constitution (see the Administration of Justice (Miscellaneous Provisions) Law, 1964), delivered its judgment in the case *Panayides and The Republic* (1965) 3 C.L.R. 107, by which it was held that the provisions of the aforesaid Greek Communal Chamber Law No. 16 of 1961 (*supra*) making a distinction, for the purposes of taxation imposed by the said Law, between married and unmarried

persons were unconstitutional. Similar distinction is provided in the other two aforesaid Laws (*i.e.* Nos. 18 of 1962 and 9 of 1963, *supra*).

On the 11th June, 1965, the Commissioner of Income Tax, made three income tax assessments on the Appellant in respect of the same years of assessment, 1961, 1962 and 1963. The total amount of tax payable thereunder was now £822.225. Those second assessments—hereinafter referred to as the "secont assessment"—were no longer based on the higher scale for unmarried persons. The Appellant made no objection to the second assessments, but by a letter dated the 5th August, 1965, he asked for a refund of the sum of £511.260 mils, being the difference of the tax imposed by the first and second assessments. On the 18th August, 1965, the Commissioner of Income Tax wrote a letter in reply to the effect that the notices in respect of the three second assessments were sent through a misapprehension and should be now considered as cancelled, the reason being that Appellant had already paid the tax in the first assessments, a fact which was brought to the knowledge of the Commissioner after the second assessments were sent to the Appellant. In the result the Commissioner refused to accede to the request of the 5th August, 1965, on behalf of the Appellant for the refund of the difference as aforesaid. The Appellant filed on the 26th August, 1965, a recourse under Article 146 of the Constitution challenging the aforesaid refusal of the Respondent to refund to him the sum of £511.260 mils, being the difference between the first and second assessments.

This recourse was dismissed by a single judge of the Supreme Court some time in May, 1966 (see (1966) 3 C.L.R. 530); and it is against that dismissal that the Appellant now appeals under section 11 (2) of the Administration of Justice (Miscellaneous Provisions) Law, 1964 (Law No. 33 of 1964) on the following two grounds:

1st Ground. The decision appealed from is erroneous because it results in the unlawful enrichment of the State at the expense of the citizen, in the sense that the state collected tax not legally due.

2nd Ground. The Appellant is entitled in the particular circumstances of this case to the return of the money, because

the income tax authorities themselves reopened the matter by sending new revised assessments for the same years.

With regard to the first ground counsel for the Appellant argued that since the Appellant had paid the tax assessed upon him prior to the decision of the Supreme Court in the *Panayides* case (*supra*) he ought not to find himself in a worse position than bachelors who had paid their tax after the said decision, because this would be contrary to the principle of equality safeguarded by Article 28 of the Constitution.

It was further argued that as Article 148 of the Constitution provides that: "Subject to the provisions of paragraph 3 of Article 144, any decision of the Supreme Constitutional Court on any matter within its jurisdiction or competence shall be binding on all courts, organs, authorities and persons in the Republic"—,a decision of the Supreme Court, exercising the Competence of the Supreme Constitutional Court under Article 146, such as in the *Panayides* case, was binding not only *inter partes*, as in the case of a decision given on a reference under Article 144, (*infra*) but constituted a decision establishing the unconstitutionality of the provisions relating to the special taxation scale for unmarried persons, thus rendering it unlawful for the Respondent to refuse to refund the difference in tax between the first and second assessments.

Article 144 of the Constitution, paragraphs 1 and 3 provide:

"1. A party to any judicial proceedings, including proceedings on appeal, may at any stage thereof, raise the question of the unconstitutionality of any law or decision or any provision thereof material for the determination of any matter at issue in such proceedings and thereupon the Court before which such question is raised shall reserve the question for the decision of the Supreme Constitutional Court and stay further proceedings until such question is determined by the Supreme Constitutional Court".

"3. Any decision of the Supreme Constitutional Court under paragraph 2 of this Article shall be binding on the court by which the question has been reserved and on the parties to the proceedings and shall, in case such decision is to the effect that the law or decision or any provision thereof is unconstitutional, operate as to make such law or decision inapplicable to such proceedings only".

Article 146, paragraphs 1, 4 and 5, of the Constitution provide:

"1. The Supreme Constitutional Court shall have exclusive jurisdiction to adjudicate finally on a recourse made to it on a complaint that a decision, an act or omission of any organ, authority or person, exercising any executive or administrative authority is contrary to any of the provisions of this Constitution or of any law or is made in excess or in abuse of powers vested in such organ or authority or person."

"4. Upon such a recourse the Court may, by its decision—

(a) confirm, either in whole or in part, such decision or act or omission; or

(b) declare, either in whole or in part, such decision or act to be null and void and of no effect whatsoever; or

(c) declare that such omission, either in whole or in part, ought not to have been made and that whatever has been omitted should have been performed".

"5. Any decision given under paragraph 4 of this Article shall be binding on all courts and all organs or authorities in the Republic and shall be given effect to and acted upon by the organ or authority or person concerned."

On the other hand Article 148 of the Constitution reads as follows:

"Subject to the provisions of paragraph 1 of Article 144 (*supra*), any decision of the Supreme Constitutional Court on any matter within its jurisdiction or competence shall be binding on all courts, organs, authorities and persons in the Republic."

It is to be noted that the competence and powers of the Supreme Constitutional Court, *inter alia*, under Article 146 of the Constitution (*supra*) are now exercised by the Supreme Court under the Administration of Justice (Miscellaneous Provisions) Law, 1964 (Law No. 33 of 1964) *supra*.

The Court in dismissing the appeal:

Held, with regard to the second ground of appeal:

(1) We are in full agreement with the reasoning of the learned trial Judge to the effect that: (a) An administrative act done in error must, in most cases, be cancelled when the author of such act has become aware of such error, such cancellation being, of course, without prejudice to the rights of the citizen to obtain redress in cases where he may have suffered any damage in consequence of such error. (b) The Respondent had a duty, in accordance with the accepted principles of Administrative Law pertaining to administrative acts, which have been done in error, to rectify such errors by cancelling the three administrative acts which resulted in the second assessments.

(2) It is abundantly clear, in our view, that the second assessments were made in error. They were a mere duplicity and they did not in any way constitute new assessments under any provision of law authorizing their making, nor could they be said to have been intended to be revocations of the first assessments. The Commissioner, therefore, has acted without proper legal basis at all in sending the second assessments to the Appellant; such assessments were void *ab initio* and the Respondent had a duty and was bound to cancel them.

(3) Therefore, the second ground of appeal fails.

Held, with regard to the first ground of appeal:

(1) The learned trial Judge in dismissing the contention of counsel for the Appellant based on the principle of equality, has referred to a decision of the German Federal Constitutional Court of the 12th December, 1957, and published in the "Yearbook on Human Rights for 1957" under the heading "Equal Treatment in General". The German Court ruled in that case "that no person could demand the adjustment of a tax assessment which had become final before the 21st February, 1957, on the ground of equality. . . . That this involved no violation of the Basic Law since the certainty of the law and justice were equally essential features of the rule of law. . .; that the legislator was at liberty to decide to which of these two principles he wished to give preference; inequality thereby created did not offend against the principle of equality".

We are in full agreement with the above view.

(2) Coming next to the second contention of Appellant regarding the first ground (*supra*):

(a) In the *Panayides* case (*supra*), which was decided on a recourse under Article 146 of the Constitution, it was held by the Supreme Court that because of the distinction made between married and unmarried persons this relevant legislative provision regarding taxation of unmarried persons in the said Law No. 16 of 1961 (*supra*), was unconstitutional.

(b) Under Article 146 the Court can deal with the constitutionality of an enactment only to the extent to which such issue is relevant to the validity of the administrative act, decision or omission, which is the subject-matter of the recourse; but it cannot decree the unconstitutionality of an enactment as such.

(c) Thus, when Article 148 of the Constitution (*supra*) is applied to a decision under Article 146 (*supra*), its effect is that it is the actual decision in the particular recourse, which is binding on all courts, organs or authorities and persons in the Republic (*supra*). This is quite clear if one reads together paragraphs 4 and 5 of Article 146 itself (*supra*).

But under Article 148 there cannot be rendered binding anything which is not within the "jurisdiction or competence" under Article 146. There can be, therefore, no question of the *Panayides* case (*supra*) being a decision on constitutionality of general application.

(d) It follows that the sections under which the first assessments were made were and remain in force and there is no question of any unlawful enrichment of the State or of the Appellant having paid beyond his liability according to law. It was up to the Appellant, if he so wished, to attack by a recourse under Article 146 the first assessments, but instead he elected to pay his tax liability without any protest.

(e) For the above reasons the first ground of appeal also fails.

Appeal dismissed. No order as to costs.

Cases referred to:

Panayides and The Republic (1965) 3 C.L.R. 107;

Decision of the German Federal Constitutional Court of the 12th December, 1957 (BV ref. GE 7/194) published in the "*Yearbook on Human Rights for* 1957" under the heading "*Equal Treatment in General*".

Appeal.

Appeal against the judgment of a Judge of the Supreme Court of Cyprus (Munir J.) given on the 28.5.66 (Revisional Jurisdiction Case No. 150/65) dismissing a recourse against the decision of the Respondent not to refund to Applicant the sum of £511.260 mils paid to the Respondent in excess, allegedly, of his tax liability under Laws 16/61, 18/62 and 9/63 of the Greek Communal Chamber.

A. Triantafyllides for the Appellant.

K. Talarides, Counsel of the Republic, for Respondent.

Cur. adv. vult.

VASSILIADES, P.: The Judgment of the Court will be delivered by Mr. Justice HadjiAnastassiou.

HADJIANASTASSIOU, J.: The Appellant (Applicant), who is a bachelor filed a recourse dated 26th August, 1965, against the decision of the Respondent not to refund to him the sum of £511.260 paid to the Respondent in excess, allegedly, of his tax liability under Laws 16/61, 18/62 and 9/63 of the Greek Communal Chamber.

The Case was heard by a Judge of this Court, at first instance, who dismissed the recourse and the Applicant now appeals against that decision* on the following two grounds, under section 11(2) of the Administration of Justice (Miscellaneous Provisions) Law 1964 (Law 33/64):

"(1). The trial Court erred in deciding that Respondents should not return the income tax paid by Applicant in excess of his true income tax liability. Such decision results in the unlawful enrichment of the State at the expense of the citizen. In other words the State collected tax not legally due and to that extent Government has received money to which they are not entitled.

(2). Appellant further submits that in the circumstances of this particular case he is entitled to the return of the money paid in excess of his actual liability, because the income tax authorities, themselves re-opened the matter by sending new revised assessments for the same years".

The facts in this Case, as briefly as possible, are as follows:

*Decision reported in (1966) 3 C.L.R. 530.

On the 30th November, 1964, the Appellant who is a bachelor was assessed by the Respondent under Laws 16/61, 18/62 and 9/63 of the Greek Communal Chamber, in respect of the years of assessment 1961, 1962 and 1963 respectively, to pay a total amount of taxes amounting to £1,333.385. On the 5th January, 1965, the Appellant paid the above-mentioned sum in full settlement of his relevant tax liability. (For convenience we shall hereinafter refer to these assessments as the "first assessments"). They were based on the taxation scale applicable to unmarried persons, which is higher than that applicable to married persons.

On the 2nd March, 1965, the Supreme Court delivered its Judgment in *Panayides and The Republic* (1965) 3 C.L.R. 107 by which it was held that the provisions of Greek Communal Law 16/61, making a distinction, for the purposes of taxation imposed by the said Law, between married and unmarried persons, were unconstitutional.

On the 11th June, 1965, the Commissioner of Income Tax made three other assessments on the Appellant in respect of the same years of assessment, 1961-1963 inclusive. The total amount of tax payable under them was £822.225. (For convenience we shall hereinafter refer to these assessments as the "second assessments"). They were no longer based on the taxation scale for unmarried persons.

Appellant made no objection to the second assessments but by a letter written by his legal advisers on the 5th August, 1965, he asked for a refund of the sum of £511.260, being the difference of the tax imposed by the first and second assessments.

This letter reads as follows:

"We have been instructed by our client Mr. Byron Pavlides of Nicosia, to acknowledge receipt of the above assessments representing his assessments for income tax for the years of assessment 1961, 1962 and 1963, and to inform you that our client is already credited with you in respect of the following sums:

Receipt	No. A 171901	£ 260.735
"	No. A 171902	£ 529.425
"	No. A 171903	£ 543.225
		£1,333.385

It would appear from the above that Mr. Pavlides is now credited with a sum of £511.260 mils, which we have been instructed to claim from you. Early settlement will oblige".

On the 18th August, 1965, a letter was written on behalf of the Commissioner of Income Tax to the Appellant's legal advisers, in reply to *exhibit* 2; such letter reads as follows:

> "I have the honour to refer to your letter dated the 5th August, 1965, and to inform you that it has now come to light that the notices sent to your client on 11/6/65 in respect of his assessments for the years 1961, 1962 and 1963 were done so in a misapprehension and should now be considered as cancelled, the reason being that he had already paid the tax in the original assessments. This fact was only brought to my notice after the assessments referred to in your letter had been sent out. In view of this, your client is entilted to a refund of the tax applicable to the reduction agreed to be made to the original assessments such reduction being £55 for 1961 and £110 for each year 1962 and 1963. The total tax refundable to your client amounts to £124.200 *i.e.* £5.400 for 1961, £59.400 for 1962 and £59.400 for 1963. A cheque will be sent to your client direct".

It is common ground that this refund, which is offered by Respondent in *exhibit* 3, is not in any way connected with the difference arising out of the use for the first assessments of the taxation scale for unmarried persons.

We find it convenient to deal first with the second ground of appeal:

Counsel for the Appellant has argued that the Commissioner of Income Tax has acted under the provisions of section 33 of Law 16/61 – and the corresponding similar provisions of Laws 18/62 and 9/63 – in sending the second assessments to the Appellant.

Section 33 of the Schedule to Law 16/61 reads as follows (in translation):

> "If it be proved to the satisfaction of the Commissioner that any person for any year of assessment has paid tax by deduction or otherwise in excess of the amounts with which he is properly chargeable, such person shall be entitled to have the amount so paid in excess refunded".

The main argument of Appellant's counsel before us, as well as before the trial Judge, was that the second assessments constituted valid administrative acts, purposefully made, which are binding on both the Appellant and the Administration alike, in fixing the actual tax liability of the Appellant for the years of assessment concerned; therefore, any amount collected over and above such liability ought to be refunded.

The learned trial Judge, in rejecting Appellant's submission on this issue, found that the second assessments were made in error and had this to say in his Judgment at p. 550 of the report:

> "In my opinion an administrative act which has been done in error must, in most cases, be cancelled when the author of such act has become aware of such error. Such cancellation is, of course, without prejudice to the rights of the citizen to obtain redress in cases where he may have suffered any damage in consequence of such error".

He then went on to state at p. 551:

> "As I have already stated the Respondent, in my opinion, had a duty, in accordance with the accepted principles of Administrative Law pertaining to administrative acts, which have been done in error, to rectify such error by cancelling such administrative acts. I am of the opinion that this duty to cancel the three administrative acts, which resulted in the second assessments in respect of the three years of assessments in question, was duly discharged by the Respondent when he became aware of the error and the Applicant was accordingly informed of this by *Exhibit* 3, where it was expressly stated that the assessments in question 'were done so under misapprehension and should now be considered as cancelled, the reason being that he (the Appellant) had already paid the tax on the original assessments' ".

We are in full agreement with the above reasoning of the learned trial Judge. It is abundantly clear, in our view, that the second assessments were made in error. They were a mere duplicity and they did not in any way constitute new assessments under any provision of law authorizing their making nor could they be said to have been intended to be revocations of the first assessments. In our opinion, therefore, the Commissioner of Income Tax has acted without proper legal basis at all in sending the second assessments to the Appellant;

such assessments were void *ab initio* and the Respondent had a duty and was bound to cancel them.

Having reached the above conclusion ground (2) of the appeal fails.

With regard to the first ground of appeal counsel for the Appellant, in his able argument, has submitted that since the Appellant had paid the tax assessed upon him prior to the decision of the Supreme Court in the *Panayides* case (*supra*) he ought not to find himself in a worse position than bachelors who had paid their tax after the said decision, because this would be contrary to the principle of equality safeguarded by Article 28 of the Constitution.

He further submitted that as Article 148 of the Constitution provides that "Subject to the provisions of paragraph 3 of Article 144, any decision of the Supreme Constitutional Court on any matter within its jurisdiction or competence shall be binding on all courts, organs, authorities and persons in the Republic" a decision of the Supreme Court, exercising the competence of the Supreme Constitutional Court under Article 146, such as in the *Panayides* case, was binding not only *inter partes*, as in the case of a reference under Article 144, but constituted a decision establishing the unconstitutionality of the provisions relating to the special taxation scale for unmarried persons, thus rendering it unlawful for the Respondent to refuse to refund the relevant difference in tax resulting on the basis of the first and second assessments; Respondent's refusal led to unlawful enrichment of the State at the expense of the citizen, submitted counsel for the Appellant.

The learned trial Judge in dismissing the contention of counsel for the Appellant based on the principle of equality, has referred to a German case reported at p. 92 in the "Yearbook on Human Rights for 1957" under the heading "Equal Treatment in General", and had this to say at p. 23 of his Judgment (pp. 545-546 of the report):

> "In that case the joint assessment of married couples, which up to then had been legal and customary, had been declared by the Court on the 21st February, 1957 to be unconstitutional. The Federal Constitutional Court ruled on the 12th December, 1957 (BV ref. GE7/194) 'that no person could demand the adjustment of a tax assessment

which had become final before the 21st February, 1957, on the ground of the principle of equality'. It was held by the Federal Constitutional Court 'that this involved violation of the Basic Law, since the certainty of the law and justice were equally essential features of the rule of law' and that 'the legislator was at liberty to decide to which of these two principles he wished to give preference; inequality thereby created did not offend against the principle of equality' ".

We are in full agreement with the above view.

We come next to the second contention of Appellant regarding ground (1):

In the *Panayides* case, which was decided under Article 146, it was held by the Court that because of the distinction made between married and unmarried persons the relevant legislative provision regarding taxation of unmarried persons, in Law 16/61, was unconstitutional.

Under Article 146 the Court can deal with the constitutionality of an enactment only to the extent to which such issue is relevant to the validity of the act, decision or omission, which is the subject-matter of the recourse; but it cannot decree the unconstitutionality of an enactment, as such.

Thus, when Article 148 is applied to a decision under Article 146, its effect is that it is the actual decision in the particular recourse, which is binding on all courts, organs or authorities and persons. This is quite clear if one reads together paragraphs 4 and 5 of Article 146 itself, which read as follows:

"4. Upon such a recourse the Court may, by its decision:

(a) confirm, either in whole or in part, such decision or act or omission; or

(b) declare, either in whole or in part, such decision or act to be null and void and of no effect whatsoever; or

(c) declare that such omission, either in whole or in part, ought not to have been made and that whatever has been omitted should have been performed".

"5. Any decision given under paragraph 4 of this Article shall be binding on all courts and all organs or authorities

in the Republic and shall be given effect to and acted upon by the organ or authority or person concerned".

Under Article 148 there cannot be rendered binding anything which is not within the "jurisdiction or competence" under Article 146.

There can be, therefore, no question of the *Panayides* case being a decision on constitutionality of general application.

It follows that the sections under which the first assessments were made were and remain in force and there is no question of any unlawful enrichment of the State or of the Appellant having paid beyond his liability according to law. It was up to Appellant if he so wished to attack by a recourse the first assessments, but instead he elected to pay his tax liability without any protest.

Having reached the above conclusion and for the above reasons the first ground of the appeal also fails.

The Order of the Court, therefore, is that the appeal fails and it is hereby dismissed.

VASSILIADES, P.: As regards costs, the practice of the Court is to let costs follow the event, unless, in any particular case, there are reasons for making a different order. Recourses, being themselves proceedings of a public nature, in a way, this Court has only rarely, in the past, awarded costs in appeals; especially in cases involving points of law of general interest, which had not been decided in an earlier case.

In the present appeal, we are inclined to the view that in the circumstances of the case, there should be no order for costs in the appeal.

Appeal dismissed. No order as to costs in the appeal.