

Case No. D22/10

Profits tax – allegation of capricious or dishonest act of Inland Revenue Department (‘IRD’) – deductibility of expenses claimed – artificial transactions – sole or dominant purpose to obtain a tax benefit – sections 16(1), 17(1)(a) and (b), 61, 61A , 68(4) and 68(9) of the Inland Revenue Ordinance (‘IRO’).

Panel: Colin Cohen (chairman), Albert T. da Rosa, Jr and Cissy King Sze Lam.

Dates of hearing: 24 February, 9, 10, 11, 23 March and 9, 13, 30 April 2010.

Date of decision: 24 August 2010.

The appellant in this appeal is Dr A, a registered medical practitioner. This appeal was heard at the same time as B/R 6/09 [Case No. D21/10] in which the appellant is Ms B, a registered physiotherapist.

Held:

All the circumstances, history and background and reasons for dismissing the appeal set out in B/R 6/09 [Case No D21/10] are fully adopted herein. An order for costs of \$5,000 is made and is to be added to the tax charge and recovered accordingly.

Appeal dismissed and costs order in the amount of \$5,000 imposed.

Taxpayer in person.

Eugene Fung Counsel instructed by Francis Kwan, Senior Government Counsel of the Department of Justice for the Commissioner of Inland Revenue.

Decision:

1. This is an appeal by Dr A in respect of the Determination dated 19 March 2009 by the Deputy Commissioner of the Inland Revenue (‘the Deputy Commissioner’).
2. We refer to our decision in B/R 6/09. In that decision, we set out all the circumstances, history and background and our reasons for dismissing the appeal.

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3. We therefore adopt and rely on the reasoning, discussion and analysis set out in our decision in B/R 6/09.

4. Therefore, we dismiss this appeal. We refer to section 68(9) of the IRO whereby there is power for this Board to make an order for costs. We have regard to the way in which Dr A conducted this appeal and have regard to various allegations which we have found to be unfounded. Having regard to the way in which this matter was conducted, we have no hesitation in ordering that a sum of \$5,000 should be awarded as costs and the sum is to be added to the tax charge and recovered accordingly.