Case No. D56/01

Profits tax – operating charges – whether artificial – section 61 of the Inland Revenue Ordinance (' IRO').

Panel: Anna Chow Suk Han (chairman), John Lee Luen Wai and Francis Lui Yiu Tung.

Date of hearing: 31 January 2001.
Date of decision: 20 July 2001.

The taxpayer was a medical practitioner. He claimed deduction of operating charges, that is, management fees to Company B, a private company owned by him and his wife.

The assessor considered that the management fees were not wholly incurred in the production of his assessable profits and should only be allowed in part. Thus he raised additional profits tax on the taxpayer.

Held:

1. The taxpayer failed to prove that the charges were bona fide incurred for the production of his income.

2. The dealings between the taxpayer and Company B were not on a commercial basis but artificial under section 61 of the IRO. (Seramco Limited Superannuation Fund Trustees v Income Tax Commissioner applied).

3. The Board only allowed the expenses incurred by Company B in the production of the taxpayer' s profits as deductible.

Appeal allowed in part.

Cases referred to:

D61/91, IRBRD, vol 6, 457
Seramco Limited Superannuation Fund Trustees v Income Tax Commissioner
[1976] 2 WLR 986

Copeman v William Flood & Sons Ltd 24 TC 53
Earlspring Properties Ltd v Guest [1993] STC 473
D44/92, IRBRD, vol 7, 324
D94/99, IRBRD, vol 14, 603
CIR v Douglas Henry Howe 1 HKTC 936

Lee Yun Hung for the Commissioner of Inland Revenue.
Stanley So Kai Tong of Messrs Stanley So & Co for the taxpayer.

Decision:

The appeal

1. This is an appeal by Mr A (' the Taxpayer') against the determination dated 28 July 2000 by the Commissioner. The Taxpayer had objected to the additional profits tax assessment for the year of assessment 1995/96 raised on him. He claimed that the clinic operating charges of $810,000 made to Company B should be allowed as a deductible expense in computing the assessable profits for the year.

The facts

2. The following facts are not disputed.

3. The Taxpayer commenced his profession as a medical practitioner in Hong Kong on 29 June 1991.

4. Company B was a private company incorporated in Hong Kong on 26 June 1987. Company B commenced a business in letting property on the date of incorporation. At all relevant times, the Taxpayer and his wife Madam C were the only shareholders and directors of Company B.

5. In his tax return for the year of assessment 1995/96, the Taxpayer declared assessable profits of $2,129,204, which was arrived at after deducting clinic operating charges of $810,000 to Company B. The Taxpayer claimed that the clinic operating charges were paid for the provision of clinic and related facilities including nursing services.

6. The accounts for the year ended 30 April 1995 filed by the Taxpayer in respect of his profession showed the following particulars:

	$	$

Professional fees received			3,544,153
Less:	Business registration fee	2,250	
	Clinic operating charges	810,000	
	Donation	500	
	Drugs and medicine consumed	275,353	
	Laboratory fee	296,895	
	Membership and subscription	9,372	
	Miscellaneous	7,552	
	Professional indemnity insurance	2,100	
	Taxation service fee	5,240	1,409,262
Profit for the year			2,134,891

7. The assessor raised on the Taxpayer the following profits tax assessment for the year of assessment 1995/96 subject to enquiries being raised:

	$
Assessable profits (per paragraph 5)	2,129,204
Tax payable thereon	319,380

8. Company B filed its profits tax return for the year of assessment 1995/96 with accounts. Details of its profit and loss accounts for the year ended 30 April 1995 were as follows:

		$	$
Rental income			192,000
Clinic management fee			810,000
Sundry income			1,258
			1,003,258
Less: Operating expenses			
	Auditors' remuneration	5,800	
	Bank charges	811	
	Building management fee	7,500	
	Business registration fee	2,250	
	Electricity, water and gas	10,998	
	Holiday passage	27,230	
	Insurance	12,738	
	Interest on bank loans	150,640	
	Interest on bank overdraft	16	
	Legal and professional fees	2,740	
	Motor vehicle expenses	86,541	
	Printing and stationery	1,353	
	Rent, rates and air conditioning charges	184,869	

Repairs and maintenance	2,600	
Salaries and allowances	292,925	
Sundry expenses	11,339	
Secretarial fee	550	
Tax filing fee	2,000	
Telephone and paging	12,454	
Welfare expenses	56,108	
Depreciation	242,493	1,113,955
Profit/(Loss) before taxation		(110,697)

9. In reply to enquiries raised by the assessor, Messrs Stanley So & Co (' the Representatives') claimed that:

(a) Company B engaged in two lines of business, namely letting of property and provision of management services to the Taxpayer, during the year ended 30 April 1995.

(b) The Taxpayer paid the clinic operating fee to Company B for provision of a furnished clinic, nurses and other supporting clerical and administrative services. No written agreement pertaining to the provision of clinic management services to the Taxpayer was prepared.

(c) Details of the services as well as the fee payable for the management services were based on mutual agreement. No minutes of the directors' meeting in this respect had been prepared by Company B.

(d) It was the Taxpayer' s intention to delegate as far as possible the daily routine clerical and administrative work of the clinic to an entrusted party so that he might concentrate his effort in taking care of his patients.

(e) Payment of the clinic operating fee was made through the Taxpayer' s current account with Company B.

10. As regards the expenses charged in the accounts of Company B for the year of assessment 1995/96, the Representatives provided the following information:

(a) A breakdown of expenses respectively incurred for the investment property, the clinic operated by the Taxpayer and director' s quarters provided to the Taxpayer:

	Investment property	**Clinic**	**Director' s quarters**	**Total**

	$	$	$	$
Interest on bank loan	13,470	-	137,170	150,640
Rent, rate and air-conditioning charges	-	171,041	13,828	184,869
Building management fee	-	-	7,500	7,500
Electricity, water and gas	-	3,081	7,917	10,998
	13,470	174,122	166,415	354,007

(b) Salaries and allowances $292,925

	$
Two nurses	159,925
Madam C	133,000
	292,925

(c) Insurance $12,738

	$
Fire insurance for director' s quarters	2,100
Insurance for company cars	10,638
	12,738

(d) Welfare expenses $56,108

These expenses represented fringe benefits provided to the directors in recognition of their devotion to the operation of the company.

(e) Holiday passage $27,230

The amount was fringe benefits provided to the directors and their four-year-old daughter.

11. The assessor considered that the management fees charged in the Taxpayer' s accounts were not totally incurred in the production of its assessable profits and should only be allowed for deduction to the extent as they reflected those costs directly attributable to the operations of the Taxpayer' s profession plus an appropriate mark-up. The assessor raised on the Taxpayer the following additional profits tax assessment for the year of assessment 1995/96.

	$
Profits per return	2,129,204
Add: Management fees adjustment	252,150
Assessable profits	2,381,354

Less : Profits already assessed (paragraph 7)	2,129,204
Additional assessable profits	252,150
Tax payable on $2,381,354	357,203
Less: Tax already charged (paragraph 7)	319,380
Additional tax	37,823

A computation for the management fees adjustment is as follows:

	$
Direct costs incurred by Company B for the Taxpayer' s profession	
Electricity, water and gas (paragraph 10(a))	3,081
Insurance (paragraph 10(c) $10,638 ÷ 2)	5,319
Motor vehicle expenses ($86,541 ÷ 2)	43,271
Printing and stationery	1,353
Rent, rates and air conditioning charges (paragraph 10(a))	171,041
Repairs and maintenance	2,600
Salaries and allowances (paragraph 10(b))	159,925
Sundry expenses ($11,339 ÷ 2)	5,670
Telephone and paging ($12,454 ÷ 2)	6,227
Welfare expenses ($56,108 ÷ 2)	28,054
	426,541
Add: Depreciation allowances	69,325
	495,866
Add: Mark-up of 12.5%	61,984
Allowable management fees	557,850
Management fees charged	810,000
Less: Allowed management fees	557,850
Management fees adjustment	252,150

12. The Representatives, on behalf of the Taxpayer, objected to the additional profits tax assessment. The Representatives contended that:

(a) Company B was not set up for the sole or dominant purpose of the service company arrangement mentioned in the Departmental Interpretation and Practice Note No 24. Company B was engaged in two different lines of business, one of which was the provision of a fully equipped clinic including nurses and supporting clerical and administrative services to medical practitioners of which the Taxpayer was the occupant for the period.

(b) The fee should more appropriately be described as ' rental for clinic facilities' which should be fully deductible under section 16 of the IRO.

13. In a reply to the assessor' s invitation to the Taxpayer for considering to withdraw the objection, the Representatives commented that:

(a) The Taxpayer and Company B are two distinct and legal entities.

(b) Company B was the legal tenant of the place where the Taxpayer practised. The Taxpayer had been granted licence by Company B to use the place and facilities at the premises for the year ended 30 April 1995 at a consideration of $810,000.

The evidence

14. The Taxpayer gave sworn testimony at the hearing.

15. The followings are the salient points of his evidence.

16. The Taxpayer practised as a medical doctor at the premises at Address D (' the Premises') since 1993. The item of expenditure of $810,000 (' the Charges') in his profits and loss accounts for the year of assessment 1995/96 was the clinic operating charges for the Premises.

17. The Taxpayer explained that the Charges were paid for the use of the Premises and also nursing services provided by Company B. The Charges were determined on the basis that the Premises could provide three working sessions for medical practitioners at the standard market rate of about $22,500 per session per month, thus equal to $810,000 per annum (3 x $22,500 x 12).

18. The Taxpayer further explained that the standard market rate of $22,500 per session was referable to the rate for renting a clinic similar to the size, location, facilities of the Premises. He ascertained this standard market rate from discussions with other medical practitioners.

19. He explained that one working day could be divided into three sessions, such as 10 a.m. to 1 p.m., 3 p.m. to 6 p.m. and 6 p.m. to 8 p.m. He gave an example that if he could not fully utilize the Premises, he could rent it out at the rate of $22,500 per session per month. He believed that $22,500 was the standard market rate for the period of about 1995 and the standard rate could be different now. He said that evidence to substantiate the standard market rate could be obtained from advertisements, but he had not kept such advertisements since it related back to so many years.

20. Company B paid $186,394 for the decoration of the Premises.

21. In cross-examination, he explained that Company B was set up prior to his going into private practice and Company B was used as a vehicle to separate medical and non-medical duties in his medical practice. There was a dual purpose of using Company B. Firstly, he intended to concentrate on the medical works and delegate the non-medical works to a third party, and secondly, the Premises could be rented out if he so desired.

22. The non-medical duties were delegated to the other director of Company B, Madam C, his wife. Those duties comprised of training nurses in administrative works, recruiting nurses, and day-to-day running of the clinic. Madam C did not keep regular hours at the clinic. She went there perhaps once or twice a week for about an hour or so. She took home the accounting work of Company B. The administrative works of Company B was delegated to Madam C. On the question of whether the Taxpayer delegated any non-medical works of the clinic to Madam C, the Taxpayer said Madam C assisted him in many respects. He delegated works to her in many capacities, as a director of Company B, a doctor in the practice, and a husband. Madam C assisted him in matters, such as typing medical reports and keeping accounts.

23. There was no written agreement between Company B and him because Company B belonged to him and Madam C. There would probably be one if the Premises were rented out to a third party. Before determining on the amount of the clinic operating charges, he normally talk to his fellow medical practitioners at the beginning of the financial year, in the month of May, to ascertain the standard market rate for the coming year.

24. The Charges were fixed at the beginning of the financial year but the time for payment of the Charges or the amount of each payment was not fixed. As Company B did not have regular income, he usually made payment to Company B to prevent an overdraft in Company B' s account. $450,000 was paid to Company B in August 1994 because Company B at that point needed fund.

The Taxpayer' s case

25. It is the Taxpayer' s case that the Charges to Company B should be fully allowed as deduction in computing the Taxpayer' s assessable profits for the year of assessment 1995/96. Though a sum of $557,850 being a part of the Charges was allowed as a deductible expense by the Commissioner, the Taxpayer claimed that either the whole or none of the Charges was deductible for the purpose of assessing the Taxpayer' s profits. He claimed that the Charges were not divisible under section 16 or section 17 of the IRO. He also claimed that section 61 had no application in the present case.

26. The salient points of the submission of the Representatives are as follows.

27. Section 61 had no application to the present case because it was a fact that Company B rented the Premises; Company B engaged nursing staff and Company B provided those facilities to the Taxpayer. There was nothing artificial or fictitious about that.

28. It was held in the Board of Review decision D61/91, IRBRD, vol 6, 457 that if the disputed service fee was indivisible, it should be either wholly deductible or not deductible. Unless section 61 applied, the Revenue had no power to allow only part of the disputed service fee. The Taxpayer also relied on the fact that Company B was a separate legal entity with its own independent existence.

29. There were no legal definitions of the words 'artificial' or 'fictitious' under section 61. The Board was invited to seek the meanings of these words from the case Seramco Limited Superannuation Fund Trustees v Income Tax Commissioner [1976] 2 WLR 986. It was urged upon the Board that in deciding whether or not a transaction was 'artificial' or 'fictitious', the background of the transaction, such as the purpose or reason for setting up the recipient company was irrelevant. Furthermore, in the Seramco case, in deciding whether or not a transaction was artificial or fictitious, the principle of 'commercial unreality' was not taken into account. What counted was 'whether there was any intention for the parties to carry out the transaction'. The Taxpayer and Company B did carry out the transactions.

30. It was argued that there was no room for section 61 in the present case. The Charges were incurred and paid for by the Taxpayer in the course of production of his profits and in return he had the use of the Premises and the nursing staff. There was nothing artificial or fictitious in this regard.

31. The Representatives objected to the Respondent's withdrawal of its concession to allow certain expenditures of Company B as deductible expenses. It contended that the withdrawal amounted to a new assessment and it was not within the authority of the Respondent to do so at the hearing.

The Respondent's case

32. It was the Respondent's case that the engagement of Company B by the Taxpayer for the provision of the alleged service was an artificial and commercially unrealistic transaction within the terms of section 61 of the IRO and should be disregarded. By adopting the method of dissecting the expenses of Company B, the Respondent at the assessment stage allowed $557,850 as a deduction in the computation of the Taxpayer's assessable profits pursuant to sections 16(1) and 17 of the IRO.

33. In view of the Taxpayer's claim that the Charges were indivisible and the Charges should therefore be either wholly allowed or wholly disallowed, the Respondent withdrew its

concession of allowing certain items of the expenditures in the accounts of Company B as deductible expenses in assessing the Taxpayer's profits.

34. The Respondent's submission is summarized as below.

35. It was admitted that a deduction made by a taxpayer, was prima facie a deductible expense under section 16(1). But if the transaction was such that section 61 applied, that claim of deduction under section 16(1) could be disregarded.

36. Relying on some former Board of Review decisions, the Respondent was of the view that section 61 was applicable to the present case. The factors which the Respondent said to support its contention were:

(a) Company B was beneficially owned and controlled by the Taxpayer and his wife. There were no other shareholders or directors.

(b) Company B provided services to the Taxpayer only.

(c) No information was given on how the Charges were arrived at and how they were reached on an arm's length basis.

(d) There was no formal written agreement or minutes to record the arrangement. Other rights and obligations of the parties were not known. There were no terms for payment of the Charges.

(e) Analysis of Company B's expenses indicated certain items were of private and domestic nature, such as holiday expenses of the directors, interest on bank loans, utility charges, fire insurance and building management fees of the director's quarters.

(f) Payment of salaries to the Taxpayer's wife which would otherwise not be available to the Taxpayer pursuant to section 17(2) of the IRO.

37. In assessing the profits of the Taxpayer, the Respondent employed the method of dissecting the expenses of Company B and allowed what was considered to be attributable to the cost of the services provided to the Taxpayer's practice and also allowed a mark-up of 12.5%. In so doing the Respondent relied on the words 'to the extent' in section 16(1), thus allowing the extent to which such outgoing or expense was incurred to produce the profits. Since it was the Taxpayer's contention that the Charges were indivisible and since there was no evidence that the Charges could be dissected and no evidence that the Charges were attributable to the production of the Taxpayer's profit, the Respondent did not have to rely on the expression 'to the extent' in section 16(1) in its assessment. Where section 61 applied, the artificial or fictitious transaction

might be disregarded. There was no authority for the assessor or commissioner to reconstruct the transaction. Since the Taxpayer submitted that the Charges were indivisible, the concession previously granted by the assessor should be disallowed.

38. The Respondent agreed that it was a Taxpayer' s prerogative to pay whatever amount of remuneration to whomever he liked but he must satisfy the requirement of the law that the amount so paid was incurred in the production of his profits.

39. The question of whether a payment was a deductible expense in computing assessable profits must be answered objectively. In this regard, we were referred to Copeman v William Flood & Sons Ltd 24 TC 53 and Earlspring Properties Ltd v Guest [1993] STC 473. The question of whether the deduction claimed was attributable to the production of profits must be considered.

40. The Representatives for the Taxpayer contended that the Seramco case was the authority on the principles for ' artificiality' within the ambit of section 61 and that if a principle had not been laid down in the Seramco case, that principle could not be a valid legal principle for establishing ' artificiality' . The Respondent agreed that certain criteria for establishing ' artificiality' were provided in the Seramco case but those criteria were not meant to be exhaustive. It had been accepted by many previous constituted Boards of Review that an arrangement which had no commercial basis was artificial. The words ' artificial' and ' fictitious' were not similar. The word ' artificial' was of wider import. It was held in Board of Review decision D44/92, IRBRD, vol 7, 324 at page 331 that a commercially unrealistic transaction came within the meaning of ' artificial' in section 61.

41. The setting up of Company B was not artificial but the dealings between Company B and the Taxpayer were artificial. The Taxpayer' s engagement of Company B for the provision of the alleged services was an artificial and commercially unrealistic transaction within the terms of section 61 and should be disregarded.

42. The onus was on the Taxpayer to prove that the assessment was excessive. The Taxpayer had failed to prove that the Charges were standard market rate as claimed. The so-called standard market rate was only ascertained from discussions with follow medical practitioners.

The decision

43. The Respondent relied on sections 16(1), 17(1) and (2), 61 and 68(4) of the IRO.

44. Section 16(1) provides:

> ' *In ascertaining the profits in respect of which a person is chargeable to tax under this Part for any year of assessment there shall be deducted all outgoings and expenses to the extent to which they are incurred during the basis period for*

that year of assessment by such person in the production of profits in respect of which he is chargeable to tax under this Part for any period …'.

Section 17 provides:

> ' *(1) For the purpose of ascertaining profits in respect of which a person is chargeable to tax under this Part no deduction shall be allowed in respect of –*
>
> *(a) domestic or private expenses, including the cost of travelling between residence and place of business;*
>
> *(b) ..any disbursements or expenses not being money expended for the purpose of producing such profits;*
>
> *(f) rent of, or expenses in connection with, any premises or part of premises not occupied or used for the purpose of producing such profits;*
>
> *(2) … nothing shall be deducted for salaries or other remuneration of, or for interest on capital or loans provided by, that person's spouse or, in the case of a partnership, any partner therein or any partner's spouse.'*

45. The Taxpayer contended that section 61 did not apply and section 16(1) had been satisfied in that the Charges were for provision of facilities such as the Premises and nursing staff by Company B to the Taxpayer in his medical practice and the Charges had been incurred and paid for by the Taxpayer. The Taxpayer also contended that the Charges were indivisible and thus the entirety of the Charges should be a deductible expense.

46. Hence, unless we find that the Charges are capable of division or that section 61 applies which enables us to dissect the Taxpayer' s expenses, if the Taxpayer fails to prove that the Charges were incurred for the production of his assessable profits, the whole of the Charges should be disallowed.

47. In ascertaining whether the payment is or is not a deductible expense incurred for the purpose of producing chargeable profits, we accept the proposition that the matter must be tested objectively. As said in Board of Review decision D94/99, IRBRD, vol 14, 603:

> ' *Such expense must have been bona fide incurred in the production of profits. We must look at all surrounding circumstances. For example, the relation between the payer and the payee is a relevant circumstance. So is the purpose or the reason of the payment. The basis and the breakdown of the amount are*

> *also important. The lack of a rational basis may lead us to the conclusion that the amount is wholly arbitrary, lacking in commercial reality, and thus not bona fide incurred.'*

48. In the present case, the Taxpayer explained that the Charges of $810,000 were for the use of the Premises and the nursing staff support provided by Company B; the amount of $810,000 was calculated by reference to the clinic being rented out for three sessions a day; $22,500 per session per month was the standard market rate ascertained by him from his follow medical practitioners. The alleged standard market rate was given to us by the Taxpayer. Apart from his assertion, no witness was called nor evidence produced to prove that a clinic is rented out on the basis of three sessions a day and the alleged rate was a standard market rate for renting a clinic similar to that of the Taxpayer at the relevant time. A claim cannot be supported only by bare assertion.

49. Thus, we find that the Taxpayer has failed to discharge the onus on him to prove that the Charges were bona fide incurred by him in the production of his assessable income. Since the Charges were not capable of analysis and subdivision, the Board would be justified to disallow the Charges in its entirety. However, the Respondent has invoked section 61. If we find that section 61 has application in this case, it will enable us to dissect the expenses of Company B and allow those which were incurred in the production of the Taxpayer' s assessable products.

50. We do not accept the proposition advanced by the Representatives that since the principle of ' commercial unreality' was not laid down for establishing ' artificiality' within the meaning of section 61 in the Seramco case, ' commercial unreality' had no application in determining ' artificiality' under section 61. In this connection, we derive assistance from the following passage from the Seramco case as quoted by Cons J at page 951 of the case CIR v Douglas Henry Howe 1 HKTC 936.

> ' *"Artificial" is an adjective which is in general use in the English language. It is not a term of legal art; it is capable of bearing a variety of meanings according to the context in which it is used. In common with all three members of the Court of Appeal their Lordships reject the trustees' first contention that its use by the draftsman of the subsection is pleonastic, that is, a mere synonym for "fictitious". A fictitious transaction is one which those who are ostensibly the parties to it never intended should be carried out. "Artificial" as descriptive of a transaction is, in their Lordships' view a word of wider import. Where in a provision of a statute an ordinary English word is used, it is neither necessary nor wise for a court of construction to attempt to lay down in substitution for it, some paraphrase which would be of general application to all cases arising under the provision to be construed. Judicial exegesis should be confined to what is necessary for the decision of the particular case. Their Lordships will accordingly limit themselves to an examination of the shares agreement and the*

> *circumstances in which it was made and carried out, in order to see whether that particular transaction is properly described as "artificial" within the ordinary meaning of that word'* .

In the opinion of their lordships, no attempt should be made to define or to paraphrase, or to describe the word ' artificial' , so that such definition, or paraphrase or description can be applied generally to all cases. Thus, we do not accept the contention that since the principle ' commercial unreality' was not laid down in the Seramco case, it had no application in determining ' artificiality' .

51. Weighing all the factors as submitted by the Respondent and the evidence given by the Taxpayer, we agree that section 61 applies. We find, in particular, the following factors in support of the view that the dealings between the Taxpayer and Company B were not on a commercial basis and are therefore artificial within the terms of section 61:

(a) The Taxpayer told the Board that there was no written agreement between him and Company B because Company B belonged to him and his wife. An agreement would be reduced in writing if the Premises were to be rented out to a third party.

(b) There was no fixed time for payment of the Charges. Payments were made by the Taxpayer when Company B required fund to avoid an overdraft.

(c) Madam C' s duties in Company B were imprecise and unclear. Her visits to the clinic were short and few and yet her salary almost equalled those of the two nurses.

52. Having found that section 61 applied, we now turn to the items of expenditure under Company B' s accounts. The Taxpayer had not adduced evidence to prove that the expenses in the accounts of Company B had been incurred in the production of the Taxpayer' s assessable income. From the documents produced and the evidence given by the Taxpayer, we are satisfied that the electricity, water and gas charges of the clinic, the rent, rate and air-conditioning charges of the clinic and the salaries of the two nurses, were expenses incurred in the production of the Taxpayer' s assessable profits. The assessor had in the assessment stage considered the charges of the Taxpayer and had allowed for deduction the items which reflected the costs attributable to the operation of the Taxpayer' s profession. Those items were referred to in paragraph 11 above. Save for the mark-up of 12.5% and the depreciation allowance which were not expenses incurred by the Taxpayer, we admit the following items as deductible expenses in computing the Taxpayer' s assessable profits for the year of assessment:

	$
Electricity, water and gas (paragraph 10(a))	3,081
Insurance (paragraph 10(c) $10,638 ÷ 2)	5,319

Motor vehicle expenses ($86,541 ÷ 2)	43,271
Printing and stationery	1,353
Rent, rates and air conditioning charges (paragraph 10(a))	171,041
Repairs and maintenance	2,600
Salaries and allowances (paragraph 10(b))	159,925
Sundry expenses ($11,339 ÷ 2)	5,670
Telephone and paging ($12,454 ÷ 2)	6,227
Welfare expenses ($56,108 ÷ 2)	28,054
Expenses allowed	426,541

53. Thus, the additional profits tax assessment of the Taxpayer for the year of assessment 1995/96 should be adjusted according to the aforesaid expenses allowed. The Taxpayer' s appeal is hereby dismissed.