

IN THE SEYCHELLES COURT OF APPEAL

G.S. PILLAY - APPELLANT

Versus

COMMISSIONER OF TAXES - RESPONDENT

Civil Appeal No: 39 of 1996

(Before: A. M. SILUNGWE, E.O AYOOLA, L. E. VENCHARD)



Mr. R. Valabhji for the appellant

Mrs A. Antao for the respondent

JUDGMENT OF THE COURT

This is an appeal against the ruling of the Supreme Court (Alleear CJ) to the effect that the submission to the Supreme Court of the objection lodged by the appellant was within the time limit specified in Section 108 (1) of the Business Tax Act. The facts in this appeal are not in dispute.

On 17th November 1995, the appellant caused a notice of objection to assessments made by the Commissioner of Taxes to be left at the office of the Commissioner. This notice was left with a security officer. The 17th November 1995 was a Friday. The next working day was a Monday, that is, 20th of November 1995. The Notice of Objection reached the correspondence section of the Commissioner's Office on the 20th November 1995. The Commissioner had (in accordance with Section 108 (1) of the Business Tax Act) to deliver this notice of objection to the Supreme Court within ninety days. The submission was made on 16th February 1996.

Mr. Valabhji for the appellant submitted that the Commissioner was out of time, since the Notice of Objection was only delivered to the Supreme Court after a lapse of ninety-one days. He held the view that time should be computed as from the 17th of November, the date the document was left at the office of the Commissioner.

In a considered Judgment, the Chief Justice held the view that the computation of time should be made with effect from the date the

Commissioner received the notice. Accordingly, the Notice of Objection had been lodged within the prescribed time limit.


The service of documents and notices is regulated by the Interpretation and General Provisions Act, which provision in Section 55 (1) (b) as follows -

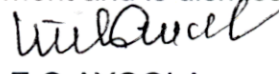
"55(1) A document or notice requires or permitted to be served or, given to, a person under or for the purposes of an act, may be served or given -

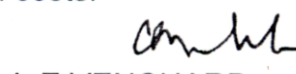
*.....
(b) In the case of a public officer as such by serving it personally upon him or by leaving it at or sending it by post to him at the principal office where he exercises and performs his functions."*

The short issue which is required to be determined in this appeal, whether the leaving of the Notice of Objection to the Commissioner on 17th November with a security guard in the building which houses the office of the Commissioner is a valid service. We are of the view that in accordance with the ejusdem generis Rule, the third option for service of the objection, namely by leaving it at the "principal office" has to be construed restrictively. The principal office has a technical meaning and implies that the notice should have been left either to his secretary, to an officer performing taxation duties or to the correspondence section and not to a security guard, messenger or gardener. In any case, time should be reckoned from the time the notice reached his principal office. We are confirmed in this view by the words "the principal office where he exercises and performs his duties" (the underlining is ours).

This appeal has no merit and is dismissed with costs.


A. M. SIKUNGWE
JUSTICE OF APPEAL


E.O AYoola
JUSTICE OF APPEAL


L.E VENCHARD
JUSTICE OF APPEAL

Dated this ^{3rd}..... day of April, 1997.