

\$5,672,557.00 for General Consumption Tax ("GCT") for the period December 1994 to December, 1997. The appellant objected and there were discussions between the parties. On 5th November, 1998 the Commissioner issued a decision to the appellant that it pay the sum of \$5,007,267.23 on GCT for the said period.

Section 41(1) of the General Consumption Tax Act provides that a person dissatisfied with the decision of the Commissioner-

"...may appeal to the Revenue Court within thirty days of such decision or within such longer period as the Court may allow in any particular case" (See also Rule 32 of the Revenue Court Rules).

No appeal was filed by the appellant within the statutory period. The first application to the Revenue Court for extension of time to file an appeal from the decision of the Commissioner was made on the 21st January, 2002, a delay of three years (3) and two (2) months.

On the 13th day of March 2001, the appellant was served with a summons returnable on 28th March, 2001 at the Resident Magistrates' Court, Kingston in respect of "the decision for taxes, interest and penalty" for the said period for \$22,828,249.96, being tax \$6,675,117.00, penalty \$1,324,382,054, interest \$14,828,750.91. The appellant attended and a trial date was fixed for 29th August, 2001. On 29th August, 2001, neither the appellant nor its counsel was present. His Honour correctly made the

order that the appellant pay the said sum in six (6) equal installments. See section 3 of the Justices of the Peace Jurisdiction Act.

No appeal was filed by the appellant from this order. Section 48 (1) of the GCT Act mandates that the Tax Collection Act shall apply for the "...collection and recovery of tax and the enforcement of payment (of) tax imposed."

Section 4 of the Tax Collection Act provides that such tax may be recovered "in a summary manner..."

The procedure and jurisdiction therefore is by way of the Resident Magistrate sitting in Petty Sessions. Anderson, J observed that the Summons returnable in the Resident Magistrates Court was endorsed "In Petty Sessions".

The order made by His Honour Mr. Parkin on 29th August, 2001 was served on **Rafaaf Hadid** on 18th September, 2001.

An appeal from " ...any Justice exercising summary jurisdiction"—such as the Resident Magistrate sitting as two Justices in Petty Sessions, in the instant case, is to the Circuit Court for the parish: [Section 3 of the Justices of the Peace (Appeals) Act], or to a Judge of the Supreme Court. Section 22 provides that "The Circuit Court...shall be the Appeal Court" for the parish in such matters. Such matters on appeal shall be heard in the Circuit Court if such Court, shall meet within one month of the perfection

of the judgment, but if longer, only then is it heard by the Judge of the Supreme Court in Chambers.

The fact that the Judge of the Revenue Court is a Puisne Judge of the Supreme Court does not confer on the former, appellate jurisdiction under the Justices of the Peace (Appeals) Act. Counsel for the Revenue was correct in her submission on this point. The right of appeal is a statutory right.

Section 6 of the Justices of the Peace (Appeals) Act allows verbal notice of appeal to be given at trial or written notice within 14 days of judgment, except that time begins to run when a copy of the order "shall have been drawn up and ready for delivery to the appellant".

The order was served on the appellant's director on 18th September, 2001, and the time for appealing expired on 2nd October, 2001.

Section 25 of the Act provides that if the appellant fails to serve the notice and grounds of appeal and enter into recognizance (section 13) "his right to appeal shall cease and determine". Although section 26 requires that the provisions of the Act shall be liberally construed, in respect of formalities, this Court of Appeal held in **Rochester v Chin** [1961] 4 WIR 40, that the giving of notice of appeal is not a formality, but a condition precedent. It expressly overruled **Aarons v Lindo** 6 JLR 205 relied on by counsel for the appellant.

There is no provision to extend time under the latter Act. (Section 12(2) of the Judicature (Appellate Jurisdiction) Act and sections 295 and 296 of the Judicature (Resident Magistrates) Act are distinctly different).

Anderson, J was correct to find that the appellant was "guilty of inordinate and inexcusable delay and has failed to give any persuasive reasons for that delay," in respect of the decision of the Commissioner, as far back as 5th November, 1998. However, Anderson J had no jurisdiction to entertain any application for extension of time in respect of the order of His Honour Mr. O. Parkin. In the final decision Anderson, J was correct to refuse both applications.

For the above reasons, this procedural appeal is dismissed.