

1966 Present : H. N. G Fernando, S.P.J., and Manicavasagar, J.

**D. J. RANAWEERA, Appellant, and S. SITTAMPALAM**  
(Commissioner of Inland Revenue),  
Respondent

*S. C. Nos. 75, 77, 78 and 80 of 1965-Applications for Conditional Leave to Appeal  
under the provisions of the Appeals (Privy Council)  
Ordinance in D. C. Colombo, 2461/A1*

*Income tax-Proceedings for recovery of tax by seizure and sale of property-No right of appeal  
to Privy Council-Income Tax Ordinance, s. 84.*

A District Judge performs only a ministerial act when a certificate is issued to him by the Commissioner under section 84 of the Income Tax Ordinance for the recovery of income tax by seizure and sale of property. In such a case, the proceedings in the District Court are not judicial proceedings and, therefore, do not have the character of a civil suit or action. Accordingly, there is no right of appeal to the Privy Council from an order made by the Supreme Court dismissing an appeal in respect of such proceedings.

**APPLICATIONS** for conditional leave to appeal to the Privy Council.

*H. W. Jayewardene, Q.C., with S. S. Basnayake, for the petitioner-appellant.*

*M. Kanagasunderam, Crown Counsel, for the Crown.*

*Cur. adv. vult.*

April 6, 1966. **H. N. G. FERNANDO, S.P.J.-**

After hearing argument we refused these 4 applications for conditional leave to appeal to the Privy Council from the judgments of this Court I regret that I had overlooked the need to state our reasons.

I cannot agree with the submission that the orders made by this Court dismissing the appeal were made in a civil suit or action.

A person who is assessed for income tax is given a statutory right by the revenue laws themselves to contest the validity or correctness of the assessment by an appeal to the appropriate authority, and subject to certain restrictions by recourse to the courts. But where the Commissioner of Income Tax issues a Certificate under Section 84 of the Income Tax Ordinance to a District Court, the sole purpose of the certificate is to obtain the assistance of the Court through its powers of execution to recover the tax in default. The District Judge in such a case is not called upon to exercise his judicial discretion. If then, the District Judge performs only a ministerial act when a certificate under Section 84 is issued to him, the proceedings in which he performs that act are not judicial proceedings and therefore do not have the character of a civil suit or action.

MANICAVASAGAR, J.-I agree.

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*Applications dismissed.*

*- End -*