

**IN THE SUPREME COURT OF BELIZE A.D. 2015
(CIVIL)**

**Appeal No. 3 of 2015
BETWEEN**

ZENAIDA MOYA

Appellant

AND

**ATTORNEY GENERAL
COMMISSIONER OF INCOME TAX**

Defendants

Before: The Honourable Madame Justice Griffith
Date of hearing: 26th October, 2016; 18th November, 2016.
Appearances: Mr. Arthur Saldivar for Appellant and Mr. Nigel Hawke, Deputy Solicitor General for the Defendants.

DECISION

Income Tax Assessment – Second Appeal – First Appeal Discontinued – Second Appeal Out of Time – No Leave Sought to Extend Time to Appeal – Whether Second Appeal an Abuse of Process – Inherent Jurisdiction of the Court to Extend Time.

Introduction

1. The Appellant Zenaida Moya was assessed by the Commissioner of Income Tax for her earnings as Mayor of Belize City for the years 2008, 2009 and 2011. The Appellant challenged those assessments, which were subsequently affirmed by a decision of the Income Tax Appeal Board on April 24th, 2015. The Appellant filed an appeal (Claim No. 284/2015) against the decision of the Income Tax Appeal Board on 22nd May, 2015, pursuant to section 43(1) of the Income and Business Tax Act, Cap. 55 of the Laws of Belize ('the Act'). That appeal was withdrawn during the course of hearing by the Appellant's Attorney on the 20th October, 2015, and the present appeal now before the Court was filed by way of Notice of Appeal dated 21st December, 2015.

2. The Defendants have raised a preliminary objection to this second appeal on the basis that it has been filed outside the statutory limit of thirty (30) days for the giving of notice to appeal, which is prescribed by section 43(1) of the Act. The Appellant's position is that notwithstanding the statutory time limit, the circumstances of the filing of this appeal are as such that in order to do justice to the Appellant's right to appeal, the Court should, under its inherent jurisdiction, entertain the appeal out of time. The Appellant also contends that the totality of rules and provisions which govern the Court's jurisdiction to deal with and determine appeals enables the Court to entertain her appeal out of time. This is the Court's decision on the preliminary objection taken by the Defendants which if decided in their favour, is dispositive of the appeal.

Issues

3. The issues which arise for determination in this case are as follows:-
 - (i) Does the Court have any power (whether by statute or its inherent jurisdiction), to extend the statutory time limited for appeal?
 - (ii) If the Court does have power to entertain the appeal out of time, should that power be exercised in favour of the Appellant?

Background

4. The brief history of this matter is that the first appeal (hereinafter styled 'the original appeal') was filed in May, 2015 within the statutory time limit of thirty (30) days from the date of the decision of the Income Tax Appeals Board. The grounds of the substantive appeal are not relevant for purposes of determination of this issue. During the course of hearing the original appeal on 20th October, 2015, the Appellant's Attorney found himself at odds with his client's instructions and the appeal was discontinued on the basis of the conflict of those instructions. A new notice of appeal was filed on 21st December, 2015. By this time the statutory time limit of 30 days had already long expired and the appeal was filed without any prior application to the Court for leave to do so out of time. The Court considers the arguments in favour and against the hearing of the current appeal.

Analysis by Court

Submissions of Counsel

5. Counsel for the appellant submits that there is authority both by statute and under the inherent jurisdiction of the Court, for entertaining this appeal out of time. The statutory provisions include (i) the Constitutional designation of the Supreme Court as a court having 'unlimited original jurisdiction'¹ to hear and determine any civil or criminal proceedings under any law or according to such jurisdiction conferred by statute; (ii) Section 108(2) of the Supreme Court of Judicature Act, Cap. 91 which provides for Rules of Court to make provisions regulating, inter alia – the application for special leave to appeal after the lapse of time to appeal; Section 43(2) of the Income and Business Tax Act, Cap. 55 which provides for an appeal out of time in certain prescribed circumstances; Rule 26.9 of the Supreme Court Rules which enables the Court to put matters right where there has been a failure to comply with any rule, order or direction of the court²; and Rule 13(1) of the Supreme Court (Income Tax Appeals) Rules which provides for the practice and procedure of the Supreme Court to apply as far as applicable, to the hearing of appeals under the Act.
6. Within the framework of these provisions, the arguments in favour of the Appellant are that the Court does in fact have the jurisdiction to hear and determine the appeal and that this is so notwithstanding the discontinuance of the prior appeal. Further, that there is good reason for the Court to hear the appeal as it will allow the Court to remedy a wrong decision of an inferior court and to clarify, develop and create certainty in the application of the law. The Appellant relied on **BCB Holdings et anor v Attorney-General of Belize**³ as authority for stating that the unlimited jurisdiction provided in section 95 of the Constitution includes the inherent jurisdiction of the Court.

¹ Section 95(1), Constitution of Belize, Cap. 4.

² Rule 26.9 CPR 2005.

³ (2011) 78 WIR 41.

Additionally, that the cumulative effect of section 24 of Cap. 91, Rule 13(1) of the Income Tax Appeal Rules and Rule 26.9 of CPR 2005, was such to provide the statutory basis upon which the Court could re-open and re-hear the appeal.

7. Counsel for the Appellant also submitted that the instant case is an exceptional one, which warrants the Court exercising its inherent jurisdiction to do justice as the circumstances require. The Appellant complains that the conduct of her legal practitioner in acting contrary to her instructions at the hearing of the first appeal, was such that she was denied access to the appellate court, as she was faced with no choice but to abandon her appeal and seek new counsel. In support of this contention, the Appellant relies on the case of **Taylor v Lawrence et anor**⁴, in which the UK Court of Appeal recognized the power of that Court, in an exceptional case, to re-open and rehear an appeal already decided, if the interest of justice so demanded, especially where the Appellant would have no other recourse available.
8. The Appellant finally contended that the issue raised on appeal concerns a matter of public importance. It is claimed that the decision of the Income Tax Appeal Board insofar as it decided the Appellant's liability to tax on the basis of her status as an employee of the City Council, was a nullity. More specifically, that there is a conflict amongst statutes regarding the classification of employment status of the mayor, which requires the decision of the Court as it would foreseeably arise for decision in the future. The decision of the Board is said to be tantamount to denying the Appellant her constitutional right to equal protection of the law and finally she relies upon the remedy of '*ex debito justitiae*' as it empowers the Court under its inherent jurisdiction, to correct any injustice that has occurred.

The Statutory Provisions

9. The first provision considered is section 43 the Income and Business Tax Act, Cap. 55 of the Laws of Belize which provides as follows:-

⁴ [2002] 2 All ER 353.

“43(1) If either the Commissioner or a person whose objection has been determined by the Board is dissatisfied with the decision of the Board on the ground that the decision was erroneous in point of law, he may appeal to a judge in chambers to hear and determine any question of law arising on the objection and the decision of the Board, upon giving notice in writing to the other party to the proceedings before the Board within thirty days from the date of the decision of the Board.

Additionally, section 43(2) thereafter provides as follows:-

43(2) Notwithstanding the lapse of such period of thirty days, any person may appeal against the said assessment if he shows to the satisfaction of a judge that, owing to absence from the country, sickness or other reasonable cause, he was prevented from giving notice of appeal within such period, and that there has been no unreasonable delay on his part.

10. With respect to this provision, it is firstly the case that section 43(1) of Cap. 55, as the substantive law which enables the right of appeal, prescribes its own time limit of thirty days (from the date of decision) within which a notice of appeal must be issued and served. Additionally, section 43(2), provides that an appeal may still be made outside the period of thirty days, if the person making the appeal satisfies the judge that he or she was prevented from giving notice of appeal due to any one or more of the following:-

- (i) Absence from the country;
- (ii) Sickness;
- (iii) Any other reasonable cause;

and in any such case, that there was not unreasonable delay on the part of the person appealing.

It is therefore not the case that the time prescribed for making an appeal by section 43 is limited only to thirty days. Rather, it is that the basis upon which an appeal is allowable out of time, is limited either to the two specific grounds of absence from country or sickness, or the wider ground of other reasonable cause. What amounts to reasonable cause would clearly be a question of individual circumstances assessed within the discretion of the judge and the Court will return to the question of reasonable cause as it applies to the instant case.

11. With respect to other substantive law cited in support of her argument that the Court is authorized to treat with this second appeal, the Appellant also relied on section 95 of the Constitution and sections 24 and 108 of the Supreme Court of Judicature Act. Section 95 establishes the Supreme Court as a court of unlimited original jurisdiction with power to hear and determine any cause of action, whether rooted in statute or other law. Sections 24 and 108 of the Supreme Court of Judicature Act, Cap. 91 provide as follows:-

s. 24 The Court shall have and exercise, in accordance with Part X of this Act, or in accordance with the provisions of any other Act and of any rules of court, appellate jurisdiction in all cases determined in all inferior courts and in respect of any misdirections or misrulings of the said courts.

s. 108 (1) Every appeal from a decision of an inferior court shall be heard and determined by the Court, and the practice and procedure of the Court in cases of appeal under this section shall be in accordance with this or any other Act relating to appeals from inferior courts and any rules of court.

(2) Rules of court may make provisions regulating, inter alia-

...(f) the application for special leave to appeal after lapse of time for appeal;...

12. These provisions do nothing to advance the Appellants arguments on the issue of the Court's jurisdiction in this appeal, as they are merely declaratory of the nature and standing of the Court. In the case of section 95 of the Constitution, this is a codification of the Court's standing as a superior court of record with unlimited jurisdiction. Section 95 acknowledges what the Court is, but does not prescribe the manner in which it is to carry out its function, which is the issue in the case at bar. Likewise, section 24 of Cap. 91 acknowledges the appellate jurisdiction of the Court in relation to all decisions of inferior courts but it does not set out the means by which appeals are filed, processed and determined – or in other words, the rules governing what may be done and how. In this regard, section 108(2) is the authority by which provision is to be made for the regulation of matters arising in connection with appeals from inferior courts or tribunals.

13. With respect to procedural law, the submissions on behalf of the Appellant refer to Rule 13(1) of the Supreme Court (Income Tax Appeals) Rules, which are made pursuant to section 43(11) of Cap. 55. Rule 13(1) provides that:-

“Save as aforesaid, the procedure and practice for the time being of the Supreme Court, so far as it may be applicable shall be followed.”

The effect of this Rule is that to the extent that provision is not made for any aspect of the processing and hearing of an income tax appeal under the Income Tax Rules, it is the practice and procedure of the Supreme Court (which is that prescribed by CPR 2005), which so far as applicable, shall be followed. The question which arises is of course, in what circumstances would it be appropriate to apply the CPR 2005.

14. In this regard, the Income Tax Appeals Rules make provision for the processing and conduct of an appeal against assessment for example in respect of the requirements for filing and serving grounds of appeal (as distinct from the notice of appeal itself), the tendering of evidence whether orally or by way of affidavit, and the fixing of a date for hearing by the Court. Unlike other enactments providing a right of appeal which provide for the rules to be made but rules are never prescribed, there is very little in the process of an income tax appeal in respect of which recourse must be had to CPR 2005. It may be the case that in actual fact, procedures used accord more with the CPR, but this is of no real moment, for stipulations relating to time and jurisdiction remain within the limitations provided by the substantive enactment.

15. The Appellant contends with respect to Rule 13(1)'s provision that the CPR be followed where applicable, that Rule 26.9 of the CPR 2005 is such a rule appropriately followed. Rule 26.9 provides as follows:-

“(1) This Rule applies only where the consequence of failure to comply with a Rule, practice direction or court order has not been specified by any Rule, practice direction or court order.

(2) An error of procedure or failure to comply with a Rule, practice direction or court order does not invalidate any step taken in the proceedings, unless the court so orders.

(3) Where there has been an error of procedure or failure to comply with a Rule, practice direction, court order or direction, the court may make an order to put matters right.

(4) The court may make such an order on or without an application by a party.”

In considering CPR 2005’s Rule 26.9, it is convenient to also consider Rule 26.1 - (the Court’s general powers of management), although not referred to by counsel for the Appellant. Particularly, the reference is to Rule 26.1(2)(c), which empowers the Court to:-

“...(c) extend or shorten the time for compliance with any Rule, practice direction, order or direction of the court even if the application for an extension or shortening of the time is made after the time for compliance has passed or before it has commenced;...”

16. With respect to CPR 2005 Rules 26.1(2)(c) and Rule 26.9(3)&(4), these Rules expressly apply to a Rule, practice direction, direction or court order. The reference to Rule or practice direction is to either of them under the CPR 2005, and not a rule or practice direction under any other enactment. The reference to direction or court order refers to such already made by the Court in the particular matter at hand. Neither of these situations applies in this case. Reference is made to the Eastern Caribbean Court of Appeal’s decision of **Patrick Morille v Hermina Roseline Morille**.⁵This case concerned an appeal against a refusal of an application for extension of time in respect of a statutory appeal under the Domestic Violence Act of St. Lucia. Baptiste JA considered the argument that the Court (of 1st instance) had erred in refusing to extend the time limit of 28 days prescribed by the Domestic Violence Act, pursuant to the Court’s general power to extend time, as provided by the ECSC CPR 2000 Rule 26.1(2)(k)⁶.

17. It was held that the general power to enlarge time under the ECSC Rule 26.1(2)(k) did not provide the jurisdiction to extend the statutorily prescribed time limited for appeal. Particularly, Baptiste JA stated⁷:-

⁵ ECSC SLUHCVAP2010/0035

⁶ ECSC’s CPR 2000 Rule 26.1(2)(k) is a mirror of Belize’s CPR 2005 Rule 26.1(2)(c).

⁷ **Morille**, supra @ para 8.

“It must be noted here that the 28 day time limit for appealing, is not a rule, practice direction, order or direction of the court. It was a time limited imposed by the Act. It is not therefore amenable to be extended by invoking CPR 26.1(2)(k). Likewise, CPR 26.8 – which deals with relief from sanctions for failure to comply with any rule, order or direction, does not apply...The learned judge therefore had no jurisdiction under the CPR 2000 to extend the time for appealing.

It is entirely the view of this Court that the same conclusion is in order in relation to Belize’s Rule 26.1(2)(c) – the Court’s general power of management to extend or vary time; and Rule 26.9(3)&(4) – the power to put right a party’s failure to comply with any Rule, practice direction, direction or court order. These CPR Rules are not available to the Appellant, given that the time limited in question is prescribed by a separate substantive enactment.

18. In further consideration of the CPR’s provisions, mention is made of Part 60 of CPR 2005, again, even though not referred to by counsel for the Appellant. Part 60 deals with appeals to the Supreme Court from any tribunal or person under any enactment other than an appeal by way of case stated. This Rule makes provision for the procedural requirements for initiating such an appeal - in the first instance an appeal must be made by issuing a Notice of Appeal in the prescribed form and annexing thereto the grounds of appeal⁸. Provision is also made for the progress and conduct of the appeal to be in accordance with the procedure prescribed for the hearing of a fixed date claim⁹. Particularly, Rule 60.5 prescribes a time limit of 28 days for serving the Notice and Grounds of Appeal but the Rule is expressly stated to be *‘subject to any time limit for serving the Notice of Appeal specified in the enactment enabling the appeal’*.

19. In such case, even though not advanced in argument by the Appellant, it is considered appropriate to rule out the application of Part 60 in terms of the time limit applicable for appeal.

⁸ CPR 2005, Rule 60.2

⁹ Ibid, Rule 60.3

Unless they can be followed without conflicting with the Income Tax Appeal Rules, the other Part 60 provisions relating to the filing and processing of an appeal should also give way to the said Income Tax Appeal Rules.

20. Having disposed of the arguments made in relation to the other provisions, we now return to the question of the discretion afforded the Court to entertain an appeal outside of the 30 days prescribed under section 43(2) of the Income Tax Act. In order for the Court to exercise its discretion, clearly, an application must be made by an appellant seeking permission to make the appeal out of time. In this regard, neither the Act nor the Income Tax Appeal Rules prescribe the procedure for making such an application but this would be an instance in which recourse to the CPR as contemplated in Rule 13(1) would be appropriate and a CPR Part 11 application would be in order. In this case, as pointed out by Counsel for the Respondents, the Appellant made no such application and proceeded to file this second appeal without the leave of the Court.

21. This fact alone should have put an end to the appeal but consideration will nonetheless be given to the Appellant's position as though the appropriate application were before the Court. The facts giving rise to the filing of this second appeal are known. The Appellant withdrew her first appeal in October, 2015 after choosing to part ways with her attorney during the hearing of that appeal. In submissions (not evidence) filed in respect of the arguments in relation to this second appeal, the Appellant describes her action of withdrawing the first appeal as a decision made in the heat of the moment occasioned by her attorney's failure to carry out her instructions. In *Morille v Morille*¹⁰, Baptiste JA found that it had been the Appellant's choice to pursue judicial review proceedings in respect of which he was unsuccessful in obtaining leave and thereafter appealed. By the time the appellant had exhausted his appeals against refusal of leave for judicial review, the time for appeal had expired by eleven months.

¹⁰ Supra @ para 14.

22. Baptist JA found that having chosen a particular course of action in law, it was not open to the Appellant to seek to then invoke the appellate jurisdiction out of time. In similar vein, the Appellant's predicament in this case has been occasioned by her decision to withdraw her appeal, albeit in difficult circumstances. In respect of any perceived failure on the part of her original attorney to discharge his duties to her, it is a matter for the Appellant to consider any options that might be available to her in that regard. The Court's ability to engage the appeal out of time however, has to be determined with reference to the law. In light of this view, the circumstance in which the Appellant currently finds herself is not considered by the Court to satisfy the requirement of good reason as provided by section 43(2) of the Income and Business Tax Act. This position reflects the consideration of the public interest which requires finality of litigation and careful use of judicial time. Thus far the Appellant has not managed to convince the Court of any basis of the Court to entertain the appeal pursuant to section 43(2) of Cap. 55 or the variety of other provisions and rules cited.
23. The Appellant however, has also raised the issue of the inherent jurisdiction of the court to entertain the appeal out of time, which issue the Court now considers. The Appellant's arguments on the inherent jurisdiction of the court have already been highlighted in paragraphs 5-8 above. In relation to this question of the Court's inherent jurisdiction, counsel for the Respondents pointed out that the question is strictly one of jurisdiction according to statute. In particular, that appeals do not involve the inherent jurisdiction of the court but arise out of the jurisdiction specifically granted by the Legislature to review decisions of tribunals. More specifically, the argument on behalf of the Respondents is that in its appellate capacity, the Court becomes a creature of statute and as such is not empowered to do an act not specifically authorized by statute.

24. Reference was made to the case of **Gillespie v Manitoba Attorney General**¹¹ as authority for the submission that the inherent jurisdiction of the court cannot extend to the creation of a new rule of substantive law. Additionally, reference was made to a decision of the Ugandan High Court -**National Social Security Fund v J.B. Byumugisha**¹² to the effect that the court has no residual or inherent jurisdiction to enlarge a period of time laid down by statute. These authorities offer some useful insights into the issue of the Court's inherent jurisdiction but the Court will naturally prefer to take guidance from authorities closer to home. It is firstly considered that one must have a clear understanding of the meaning of the term 'inherent jurisdiction' as it pertains to the court, in order to determine the appropriate occasions for its use. In pursuit of this understanding, the Court considered a number of works, in which there were almost invariably, a few particular references cited by authors.

25. Two such references, (both incidentally cited in the **Gillepsie v Manitoba AG** above) are (i) The Inherent Jurisdiction of the Court¹³ by Master I.H. Jacobs and (ii) The Inherent Jurisdiction to Regulate Civil Proceedings¹⁴ by Professor M.S. Dockray. Reference will be made to the former article in an attempt to shed some light on what is consistently described as the elusive concept of the inherent jurisdiction of the Court. The first point that is usefully made, is that a distinction must be drawn between the general jurisdiction of the court and its inherent jurisdiction. After observing that the 'general jurisdiction' of the court does not mean the same thing as its 'inherent jurisdiction', Master IH Jacobs states:-¹⁵

"The general jurisdiction of the High Court as a superior court of record is, broadly speaking, unrestricted and unlimited in all matters of substantive law, both civil and criminal, except insofar as that has been taken away in unequivocal terms by statutory enactment. The High Court is not subject to supervisory control by any other court except by due process of appeal, and it exercises the full plenitude of judicial power in all matters concerning the general administration of justice

¹¹ (2000) 184 DLR (4th) 214

¹² Republic of Uganda Civil Appeal No. 13 of 2013.

¹³ I.H. Jacob (1970), Vol. 23 Current. Legal Problems 23.

¹⁴ M.S. Dockray (1997) Vol. 113 Law Quarterly Review 120.

¹⁵ I.H. Jacob supra.

within its area. Its general jurisdiction thus includes the exercise of an inherent jurisdiction."

26. Immediately following thereafter (emphasis mine):-

"Moreover, the term 'inherent jurisdiction of the court' is not used in contradistinction to the jurisdiction conferred on the court by statute. The contrast is not between the common law jurisdiction of the court on the one hand and its statutory jurisdiction on the other, for the court may exercise its inherent jurisdiction even in respect of matters which are regulated by statute or by rule of court, so long as it can do so without contravening any statutory provision."

These extracts from Master IH Jacob's article ought to put in context the concept of the 'general jurisdiction' of the Court as distinct from its 'inherent jurisdiction', so that section 95 of Constitution can be understood as prescribing the former. The character of the inherent jurisdiction is best understood as incidental to fulfilling the court's existence as a superior court of record. In *Gillepsie v Manitoba AG*¹⁶ the Court described the inherent jurisdiction as 'auxiliary', in the sense of the ordinary meaning of the word as 'giving help or aid; assisting or supporting' – or otherwise stated – "to enable a judge to fulfil his or her adjudicative function'.

27. On further expansion of this point, we return to Master IH Jacob , who says:-

"The inherent jurisdiction of the court is exercisable as part of the process of the administration of justice. It is part of the procedural law, both civil and criminal and not of substantive law; it is invoked in relation to the process of litigation."

By way of example, the Court's inherent jurisdiction is most commonly exercised to punish for contempt and to prevent the abuse of its process and this is done by summary process as distinct from by way of trial. It can also be seen to be exercised in securing the attendance of persons whether parties or witnesses. It was stated¹⁷ that the court exercises these powers not from any statute or rule of law, but from the 'very nature of the court as a superior court of law'¹⁸.

¹⁶ Supra @ para 17 et seq.

¹⁷ IH Jacob, supra @ pg. 27.

¹⁸ Ibid.

28. More particularly, that:-

'the essential character of a superior court of law necessarily involves that it should be invested with a power to maintain its authority and to prevent its process being obstructed and abused.'¹⁹

Given the characterization above, when called upon to exercise its inherent jurisdiction, the true nature of what is being asked of the court must be identified. In this case, the subject matter concerns the substantive right of appeal that is granted by statute. The exercise of that right of appeal, as a matter of substantive law is subject to a limitation for time except for certain reasons. As the authorities suggest, there may be cases where circumstances are as such that access to the exercise of a right of appeal is precluded through no fault of the appellant. It may in such circumstances, be in the interests of justice, for the Court in its inherent jurisdiction, to in effect prevent an abuse of its process in the form of a denial of access, and in so doing facilitate the exercise of a right of appeal by allowing an appeal out of time. This was discussed in *Morille v Morille*²⁰, (in slightly wider terms of the court retaining a discretion to enlarge time on a statutory time limit of appeal) but exercise of such discretion was ultimately denied.

29. In *Taylor v Lawrence*²¹ the trial judge's decision had been appealed and upheld, but after that appeal, information was discovered suggesting an appearance of bias on the part of the judge. The unsuccessful appellants sought leave to have the concluded appeal re-opened on the basis of the information lately discovered. In addressing the issue of the court's jurisdiction to do so, (with the help of reference to Lord Wilberforce in the *Amphill Peerage case*²²) the court adverted to a fundamental principle of the common law system that litigation be final, so that there is a limit placed on opening or rehearing disputes. It was however recognised, that whilst certainty engendered justice, it may do so at the expense of truth given human fallibility; but that the appeal process exists, in order to

¹⁹ Supra, pg. 27

²⁰ Supra @ para

²¹ Supra

²² [1977] AC 547

lessen the possibility of any gap between justice and truth. In this regard, the Court of Appeal in *Taylor v Lawrence*, (citing with approval Lord Wilberforce in the *Amphill Peerage Case* as stated above), recognised that in exceptional circumstances, a court (being a final court of appeal) may reopen its decision in order to ensure a just result. However, those instances would be rare and exceptional cases, arising from matters outside of the ambit of the decision itself. It is considered that this approach accords with the nature of the inherent jurisdiction of the Court as being concerned with the integrity of the court's process.

30. In the instant case, the Appellant submits that there is no other avenue available to her to seek recourse against what is urged upon the Court as an incorrect decision, as the appeal to the Supreme Court is final²³ and that her action in withdrawing her appeal was due to matters outside her control. This situation albeit unfortunate, is not found to rise to the level of such an exceptional case where the Court needs to be called upon to exercise its inherent jurisdiction to entertain an appeal out of time. The decision taken by the applicant may have been a difficult decision, but it was certainly her decision and in the circumstances, it is one with which she must abide. The Appeal is therefore dismissed.

Disposition

- (i) The appeal is dismissed;
- (ii) There is no order as to costs.

Dated the 29th November, 2016.


Shona O. Griffith
Supreme Court Judge.

²³ Income and Business Tax Act, Cap. 55 section 43(12).

W. Luis

29/11/2016.

For Arthur Saldívar

2nd Dec 2016

11:49 am

~~W. Luis~~ Windell Luis