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METROPOLITAN TAXI LIMITEDAPPELLANT;

AND

THE MINISTER OF NATIONAL }
 REVENUE} RESPONDENT.

ON APPEAL FROM THE EXCHEQUER COURT OF CANADA

Taxation—Income tax—Capital cost allowance—Depreciable property—Purchase of 14 licensed taxis—Whether amount attributable to purchase of licences depreciable property as part of automotive equipment or as licences for limited period—Income Tax Act, R.S.C. 1952, c. 148, s. 11(1)(a)—Income Tax Regulations and Schedule B, Class 10 and Class 14.

In January 1961, the appellant taxicab company paid \$104,664.04 to purchase 14 licensed taxis from a competitor. The purpose of this transaction was to acquire the 14 licences, which was the only means open to the appellant for expanding its business. These licences were to expire within a month but were ordinarily renewed annually. The agreement anticipated the renewal of the licences in the name of the purchaser; if this did not happen, the assets were to be reconveyed to the vendor. In its 1961 income tax return, the appellant allocated \$72,000 of the purchase price to the licences and the balance to cars and equipment. It claimed a capital cost allowance on the ground that the \$72,000 represented either automotive equipment within the meaning of Class 10, Schedule B of the Income Tax Regulations or a licence for a limited period in respect of property within the meaning of Class 14, Schedule B. The Minister contended that the \$72,000 had not been paid for any depreciable property. The Exchequer Court ruled that the appellant was not entitled to capital cost allowance in respect of any part of the \$72,000. The company appealed to this Court.

Held: The appeal should be dismissed.

The Exchequer Court rightly held that the appellant company was not entitled to capital cost allowance.

Revenu—Impôt sur le revenu—Allocation du coût en capital—Bien susceptible de dépréciation—Achat de 14 taxis licenciés—Le montant attribué à l'achat des licences est-il un bien susceptible de dépréciation comme représentant une automobile ou une licence pour une durée limitée—Loi de l'impôt sur le revenu, S.R.C. 1952, c. 148, art. 11(1)(a)—Règlements de l'impôt sur le revenu et cédule B, classe 10 et classe 14.

Au mois de janvier 1961, la compagnie de taxis appelante a acheté d'un concurrent 14 taxis licenciés pour la somme de \$104,664.04. Le but de l'achat était d'acquérir les 14 licences, le seul moyen dont disposait l'appelante pour agrandir son entreprise. Les licences devaient expirer dans un mois mais elles étaient ordinairement renouvelées chaque année. Le contrat prévoyait que les licences seraient renouvelées au

* PRESENT: Cartwright C.J. and Fauteux, Abbott, Martland and Spence JJ.

nom de l'acheteur, mais si elles n'étaient pas ainsi renouvelées, les biens devaient être retransmis au vendeur. Dans le calcul de son impôt sur le revenu pour l'année 1961, la compagnie appelante a considéré que la somme de \$72,000 représentait le prix d'achat des licences et que la balance du prix était représentée par les voitures et accessoires. La compagnie a réclamé une allocation du coût en capital sur ce \$72,000 pour le motif que cette somme représentait soit des automobiles dans le sens de la classe 10, cédule B des Règlements de l'impôt sur le revenu ou une licence pour une durée limitée à l'égard d'un bien dans le sens de la classe 14, cédule B. Le Ministre a soutenu que la somme de \$72,000 n'avait pas été payée pour un bien susceptible de dépréciation. La Cour de l'Échiquier a statué que la compagnie appelante n'avait droit à une allocation du coût en capital sur aucune partie de ce montant. La compagnie en appela à cette Cour.

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Arrêt: L'appel doit être rejeté.

La Cour de l'Échiquier a statué avec raison que la compagnie appelante n'avait pas droit à une allocation du coût en capital.

APPEL d'un jugement du Juge Cattanach de la Cour de l'Échiquier du Canada¹, en matière d'impôt sur le revenu. Appel rejeté.

APPEAL from a judgment of Cattanach J. of the Exchequer Court of Canada¹, in an income tax matter. Appeal dismissed.

A. J. Irving, for the appellant.

G. W. Ainslie and *J. R. London*, for the respondent.

The judgment of the Court was delivered by

THE CHIEF JUSTICE:—This is an appeal from a judgment of Cattanach J. pronounced on February 28, 1967, dismissing the appellant's appeal and allowing the respondent's cross-appeal from a decision of the Chairman of the Income Tax Appeal Board and restoring the assessment made by the respondent in respect of the appellant's 1961 taxation year.

The issue for determination is whether \$72,031.65 of the total purchase price of \$104,664.04 paid by the appellant to acquire the business of Adolph's Taxi Co. Ltd was, as contended by the respondent, for the acquisition of something other than depreciable property or, as contended by the appellant, for either automotive equipment within the

¹ [1967] 2 Ex. C.R. 32, [1967] C.T.C. 88, 67 D.T.C. 5073.

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meaning of Class 10, Schedule B of the Income Tax Regulations or for a licence for a limited period in respect of property within the meaning of Class 14, Schedule B.

The relevant facts and the submissions of the parties are set out in the reasons of the learned Exchequer Court Judge.

After a consideration of the arguments of counsel and the authorities to which they made reference I find myself so fully in agreement, not only with the conclusion of the learned Exchequer Court Judge but also with his reasons, that I am content simply to adopt them.

I would dismiss the appeal with costs.

Appeal dismissed with costs.

Solicitors for the appellant: Aikins, MacAulay and Company, Winnipeg.

Solicitor for the respondent: D. S. Maxwell, Ottawa.
