

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI
CIVIL CASE 131 OF 1978

SENTRIM KENYA LTD.....APPELLANT

VERSUS

COMMISSIONER OF INCOME TAX.....RESPONDENT

JUDGMENT

The advocates appearing for the parties to this appeal want a ruling that it is unnecessary for appeals against decisions of assessments of local committees to the High Court to come for directions under order L1, rule 2, of the Civil Procedure Rules.

It was submitted that summons for directions are not one of the exceptions mentioned in rule 20 of the Income Tax (Appeals to the High Court) Rules (“the Rules”) made under section 91 of the Income Tax Act (“the Act”). It was urged that no directions are required in this case and in other similar cases.

Section 91 of the Act provides that the Chief Justice may make rules governing appeals to the Court under part X of the Act, dealing with objections, appeals and the relief for mistakes.

Rule 20 of the rules lists matters to which the rules determining procedure in civil suits apply to an appeal as if it were a civil suit. Rule 20 concludes with the words, “save as provided in these Rules, the procedure relating to civil suits before the Court shall not apply to an appeal”. The “Court” means the High Court. The detailed extent to which rules on civil procedure apply to the Income Tax Rules excludes summons for directions. It is my opinion that the exclusion is deliberate and was intended as an omission.

It would be a breach of the Income Tax (Appeals to the High Court) Rules for appeals the subject-matter of this ruling to come for directions.

Order accordingly.

Dated and delivered at Nairobi this 5th day of October 1979.

J.O NYARANGI

JUDGE