

THE HIGH COURT
(CIRCUIT COURT APPEAL)



BETWEEN:

P. C. O LAOGHAIRE, INSPECTOR OF TAXES

-and-

AVONREE BUILDINGS LIMITED



Judgment of Mr. Justice O'Hanlon delivered 24th day of February 1983

I have come to a different conclusion from that of the learned Circuit Court Judge as to the manner in which the question of law referred to in the Case Stated should be answered.

Sec. 31 of the Finance Act 1975 provided for relief against liability to income tax for certain trading companies where the value of the company's trading stock at the end of the accounting period exceeded the value of its trading stock at the beginning of the accounting period.

The Section also provides, however, that for the purpose of computing the value of a company's trading stock, there should be deducted therefrom "any payments on account....received by the company in respect of any trading stock."

The question arising for decision in this case is whether in the case of the Respondent Company, Avonree Buildings Limited, who were engaged in the sale and erection of prefabricated houses and buildings, advance payments of

deposits by clients should be regarded as "payments on account received by the company in respect of trading stock". If they should then, according to the terms of the Section, "the value of that stock shall be reduced accordingly."

The Company in the present case operated a system whereby they took deposits from intending purchasers of 15% of the contract price with application, although the Company was not itself bound by the contract until it accepted the application in writing, and the "Conditions of Sale" imposed no time limit on it in this regard.

The company thereafter had the use of the purchaser's money until completion of the transaction and was entitled to use it, and should have used it, to acquire the goods and materials necessary for the manufacture of the buildings which were to be provided.

I consider that the deposit should be regarded as payments on account received by the company in respect of trading stock and that in the application of the provisions of the Section it is reasonable and proper to take the value of the stock and the deposits held at the relevant dates for the purpose of arriving at the net figure on which the claim to relief should be based.

For these reasons I propose to answer in the negative the Question of

Law submitted by the learned Circuit Court Judge for the determination of this Court, as set out in paragraph 8 of the Case Stated and the Case Stated will be remitted back to the Circuit Court to be dealt with on this basis.

Approved:



R. J. O'Hanlon.

24th February, 1983.