1955
Nov. 20
1956
Jan. 17

HAROLD GRIFFITH ..... APPELLANT;

AND

THE MINISTER OF NATIONAL REVENUE ..... RESPONDENT.

Revenue—Income Tax—Deductions—Claim by doctor for expenses incurred attending medical society meetings—The Income Tax Act, S. of C. 1948, c. 52, s. 12 (1) (a).

The appellant, a medical doctor specializing in the field of anaesthesia, claimed as a deduction from his taxable income under s. 12 (1) (*a*) of *The Income Tax Act,* 1948 (Can.) c. 52, expenses incurred for transportation, meals and lodgings while attending meetings of medical societies in Canada, the United States and the British Isles.

S. 12 (1) (*a*) provides:

In computing income, no deduction shall be made in respect of

(*a*) an outlay or expense except to the extent that it was made or incurred by the taxpayer for the purpose of gaining or producing income from property or a business of the taxpayer.

Held: That to obtain the deduction allowed under s. 12 (1) (*a*) of the Act the taxpayer must establish that the expense claimed was incurred with the object of actual or immediate profit. The contention here that while there was no immediate profit, the resulting prestige would eventually lead to the taxpayer gaining or producing a profit in the future, was too remote for consideration.

1956

GRIFFITH v. MINISTER OF NATIONAL REVENUE

APPEAL from a decision of the Income Tax Appeal Board (1).

The Appeal was heard before the Honourable Mr. Justice Hyndman, Deputy Judge of the Court, at Toronto.

A. L. Fleming, Q.C. and *A. L. Smoke, Q.C.* for the appellant.

K. E. Eaton and *J. D. C. Boland* for the respondent.

HYNDMAN D.J. now (Jan. 17, 1956) delivered the following judgment:

This is an appeal from the Income Tax Appeal Board dated September 30, 1954 (1), in respect of income tax assessment for the taxation year 1951 of the above named appellant.

The section of *The Income Tax Act* involved in this appeal is section 12(1), which reads as follows:

> 12. (1) In computing income, no deduction shall be made in respect of
> (*a*) an outlay or expense except to the extent that it was made or incurred by the taxpayer for the purpose of gaining or producing income from property or a business of the taxpayer.

In the case at bar, the appellant claims a deduction for expenses incurred by him for transportation, meals, and lodging, in attending various meetings of Medical Societies in Canada, United States and the British Isles.

The appellant is a medical doctor specializing in the field of anaesthesia and is one of the outstanding specialists in that field. He is the chief anaesthetist at the Queen Elizabeth Hospital in Montreal, and a consultant at the Montreal Neurological Institute, the Reddy Memorial Hospital, and the Jewish General Hospital, has been on the teaching staff of McGill University for the last ten years, and is at present chairman of its department of anaesthesia. He also lectures to university students on this subject, has been active in associations of anaesthetists for more than twenty-five years, has attended medical conventions in various parts of the world, and is also an author of articles on this subject.

The facts as found by me differ in no material respect from those set out in the judgment of Mr. Monet, Q.C., chairman of the Tax Appeal Board.

(1) (1954) 11 Tax A.B.C. 323.

1956

GRIFFITH
v.
MINISTER OF
NATIONAL
REVENUE

Hyndman
D.J.

From the judgment of Mr. Monet I quote the following:

> The issue before the Board is whether or not the expenses incurred by the appellant in 1951 to attend conventions and Board of Directors' meetings meet the test of having been incurred by him for the purpose of gaining or producing the income from his profession which, under the provisions of section 127(1)(*e*) of the Act, is a *business*.

I have considered very carefully the reasons for judgment of Mr. Monet and I am in complete accord with his conclusions of fact and law; I feel that I can add nothing of value to what he has said.

I might just add, however, that in my view the proper interpretation of the section above mentioned is that, in order to claim exemption, the expenses must have been incurred with the object of actual or immediate gain or profit as a result of the visits in relation to which the expenses were incurred. It is clear that there was no intention, in the mind of the appellant, in attending these meetings, that he should make a direct profit therefrom. The contention is that, while there was no immediate profit, nevertheless his prestige, which would have been maintained or increased by reason of attending these meetings, would eventually lead to gaining or producing profit in the future. It seems to me that such is too remote for consideration.

The case was very ably and exhaustively argued by Mr. Fleming, Q.C., of counsel for appellant, to which I have given my best consideration, but I am bound to conclude that the very able judgment of Mr. Monet is convincing and sound. Consequently, there is no valid ground for allowing the appeal.

The appeal will, therefore, be dismissed with costs taxed.

Judgment accordingly.