

Menolly Homes Ltd v the Appeal Commissioners and Revenue

Judgment

Section 23 VAT Act requires that an Inspector to have "reason to believe" that an amount of tax is due and payable before he can raise an assessment. The taxpayer contended that the Inspector could not "reasonably have believed" that tax was due in respect of the assessment raised and wished to test this by examining the relevant inspector in front of the Appeal Commissioner. A full summary of the case details are available [here](#).

The Appeal Commissioner refused to allow the examination of the Inspector and the taxpayer initiated Judicial Review proceedings in respect of the Appeal Commissioner's decision in this regard. The High Court refused to quash the Appeal Commissioners decision but the High Court's decision relies heavily on the distinction between an appeal under section 23 and an appeal under section 25. The Judgement, if it is not appealed, means that the Appeal Commissioner cannot order the examination of an inspector in respect of a section 23 assessment but leaves open the question as to whether such an order is possible in respect of an appeal under section 25. The case is accessible [here](#)