

## APPELLATE CIVIL.

*Before Mr. Justice Carr.*

ANWAR ALI

v.

TAFOZAL AHMED.\*

1924

June 5.

*Documents not open to inspection—Income-tax Returns—Income-tax Act (XI of 1922), section 54—Admission in evidence of certified copies of documents made confidential by law—Evidence Act (I of 1872), sections 65, 74, 76, 77.*

*Held*, that Income-tax Returns, being made confidential by section 54 of the Income-tax Act and the disclosure of their contents being a punishable offence, certified copies of such returns do not come within the meaning of sections 65, 74, 76 and 77 of the Evidence Act and are therefore not admissible in evidence.

*Barnabas*—for the Appellant.

*Clifton*—for the Respondent.

CARR, J.—One question arises which, while of no great importance in this case itself, is of considerable importance generally.

The defendant obtained from the Income-tax Office at Tavoy, copies, one uncertified and two certified, of Income-tax Returns made by the plaintiff. These were filed and were admitted in evidence, by the Subdivisional Judge. The District Judge pointed out that since these documents are confidential, copies should not have been issued, but then said that since they had been obtained he could not find anything to render them inadmissible in evidence. This is the wrong way to look at it. It is for the person tendering documentary evidence to show that it is admissible.

The uncertified copy was, of course, clearly inadmissible in any circumstances. As regards the certified

\* Special Civil Second appeal No. 284 of 1923 against the decree of the District Court of Tavoy in Civil Appeal No. 34 of 1923.

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copies, section 65 of the Evidence Act permits secondary evidence to be given of documents in certain cases. One of these is set out in clause (f):—  
 “When the original is a document of which a certified copy is permitted by this Act, or by any other law in force in British India, to be given in evidence.”  
 Clause (g) also permits secondary evidence “when the original is a public document within the meaning of section 74.”

Section 76 provides for the issue of certified copies of public documents, but it allows the issue only to a person who has a right to inspect the document. It does not therefore authorise the issue of certified copies of Income-tax Returns, which no private person has a right to inspect. The next section 77, allows the production in evidence of “such” certified copies. This clearly means only such copies as are lawfully issued under section 76 and does not make admissible copies which have been unlawfully issued and certified.

Section 54 of the Income-tax Act, 1922, makes it clear that the issue of these copies was unlawful, and makes the disclosure of any particulars contained in the return an offence punishable with six months’ imprisonment. There can be no doubt therefore that the copies were not admissible in evidence.