**J Ltd v Income Tax**

**Division:** High Court of Kenya at Nairobi

**Date of judgment:** 5 March 1974

**Case Number:** 4/1972 (42/74)

**Before:** Muli J

**Sourced by:** LawAfrica

*[1] Income Tax – Capital or income receipt – Profit on sale of investments of cash reserves of insurance*

*company – Income receipt – Business of investment carried on.*

**Editor’s Summary**

The appellant was an insurance company which had surplus cash reserves which it invested in equities and government stock. The full facts are set out in the judgment. The appellant contended that it was not in the business of dealing in stocks and shares and that proceeds from sales were capital gains. The respondent contended that the sale and redemption of shares was a business carried on by the respondent. **Held** – the appellant was engaged in the business of dealing in stocks and shares (*Punjab Co-operative*

*Bank v. Income Tax* (4) followed).

Appeal dismissed.

**Cases referred to Judgment:**

(1) *Californian Copper Syndicate v. Harris*, 5 T.C. 159.

(2) *Commissioners of Inland Revenue v. Livingston*, 11 T.C. 538.

(3) *Commissioners of Inland Revenue v. The Scottish Automobile*, 16 T.C. 381.

(4) *Punjab Co-operative Bank v. Income Tax*, [1940] A.C. 1055.

(5) *General Reinsurance v. Tomlinson*, [1970] 2 All E.R. 436.

(6) *N. Ltd. v. Income Tax*, [1974] E.A. 120.