
(1966) 03 KAR CK 0023

In the Karnataka High Court

Case No : Civil Revision Petition No's. 617, 618 and 619 of 1965

A.C. Shive Gowda and Others

APPELLANT

Vs

State of Mysore

RESPONDENT

Date of Decision : 22-03-1966

Acts Referred:

Mysore Agricultural Income Tax Act, 1957 — Section 3, 3 (1), 5 (k), 55

Citation : (1967) 63 ITR 92 : (1966) 1 MysLJ 488

Hon'ble Judges : M. Sadasivayya, J;C. Honniah, J

Bench : Division Bench

Advocate : K. Srinivasan, for the Appellant; G.B. Kulharni, Government Pleader, for the Respondent

Judgement

Sadasivayya, J.—These are three revision petitions filed u/s 55 of the Mysore Agricultural Income Tax Act, 1957 (hereinafter referred to as the Act), by the three assessees, against the order of the Appellate Tribunal. The common question of law raised in all these three revision petitions is whether, on the facts and circumstances of the case, the Appellate Tribunal having accepted that the accounts of the assessee have been maintained on the cash basis system, was justified in law in reducing the allowable expenditure.

2. In each of these three cases, the agricultural crop concerned was coffee crop and the accounting year was the one ending on March 31, 1958. (The method of accounting employed by the assessees was the cash basis method). As against the order of the Agricultural Income Tax Officer each of the assessees had preferred appeals to the Mysore Sales Tax Appellate Tribunal (hereinafter referred to as the Tribunal). The contentions which had been raised before the Appellate Tribunal were, firstly that from the total realisation during the accounting year, there should be excluded such of the amounts that had been received on account of the value of the coffee crop for the prior year 1955-56 and 1956-57, as the tax payable on the coffee crops of those years had already been compounded under the provisions of the Act. This contention was based on

the judgment of this High Court in W. P. No. 913 of 1959 (M. L. Narasimhiah Setty v. Agricultural Income Tax Officer, Chikmagalur). This contention was accepted by the Tribunal and, after excluding the cash receipts attributable to the coffee crop of those prior years, the Tribunal found in the appeal, to which C.R.P. No. 617/65 relates, that the cash receipt attributable to the coffee crop of the according year was only Rs. 56,753.20P. In the appeal to which C.R.P. No. 618 of 1965 relates, it found that the cash receipts attributable to the coffee crop of the accounting year were only Rs. 64,580.95P. In the appeal to which C.R.P. No. 619 of 1965 relates, the Tribunal found that the cash receipts attributable to the coffee crop of accounting year were only Rs. 1,69,215. 10P. In regard to these findings of the Tribunal on the first point urged before it, the assesseees have no grievance in these revision petitions. It is only in regard to the finding of the Tribunal on the second contention urged by them that the assesseees have grievance in these three revision petitions.

3. The second contention was that deduction should be given to allowable expenditure incurred during the year ending with March 31, 1958. The Tribunal found in each three cases that a certain amount had to be given deduction to towards allowable or admissible expenditure. In the case to which C.R.P. No. 617 of 1965 relates, it found that the admissible expenditure was Rs. 1,17,021.50P.; in the case to which C.R.P. No. 618 of 1965 relates, it found that the admissible expenditure was Rs. 1,19,167.42P.; and in the case to which C.R.P. No. 619 of 1965 relates, it found that the admissible expenditure was a sum of Rs. 3,62,712.72P. In each of these cases, the income attributable to the coffee crop of the year ending on March 31, 1958, fell very much short of the admissible expenditure. Therefore, the contention of the assessee in each of these cases was that he had suffered loss in the year ending with March 31, 1958. But the Tribunal, taking the view that it was just and reasonable to do so, allowed deduction of only a portion of the admissible expenditure. It stated as follows :

"Justice and fairplay demand in the circumstances that only a proportionate admissible expenditure be charged off against the actual cash receipts pertaining to this year received the very year."

4. As a result of so apportioning the admissible expenditure, the Tribunal found in the case, to which C.R.P. No. 617/65 relates, that the net chargeable income for the period in question was Rs. 19,835; in the case to which C.R.P. No. 618/65 relates, it found that the chargeable income was Rs. 27,841; and in the case to which C.R.P. No. 619/65 relates, it found that the assessable income for the year in question was Rs. 57,200. The Tribunal further proceed to observe that "the coffee crop cash receipts pertaining to this year may continue to be received in parts in the subsequent two or three years; admissible expenses incurred in this year in that connection will have to be charged off against those respective cash receipt in the same proportion to be fair and just to both the parties hereto." The contention of the petitioners before us is that the Tribunal had no competence to distribute or apportion over the subsequent years the expenditure allowable for

the accounting year. It is urged that by the distribution or apportionment of the loss, in this unauthorised manner, the petitioner has been deprived of the benefit of section 15 of the Act.

5. For the reasons which will be presently stated, we are satisfied that there is much force in the contention advanced on behalf of the petitioner.

6. Section 7 of the Act is as follows :

"7. Method of accounting. - Agricultural income shall be computed for the purpose of section 5 and 6 in accordance with the method of accounting regularly employed by the assessee :

Provided that if no method of accounting has been regularly employed by the assessee, or if the method employed is such that, in the opinion of the Agricultural Income Tax Officer, the agricultural income cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as he may determine :

Provided further that in the case of coffee crop of an assessee, the agricultural income therefrom may be computed on the basis of valuation on points declared by the Indian Coffee Board in respect of such crop."

7. It is seen from the main part of the above section that the computation of agricultural income shall be in accordance with the method of accounting regularly employed by the assessee. (The second proviso is not very material for the purpose of these three petitions). The first proviso enables computation being made by the Agricultural Income Tax Officer on such basis and in such manner as he may determine, where (i) no method of accounting has been regularly employed by the assessee, or (ii) where the method employed is such that, in the opinion of the Agricultural Income Tax Officer, the agricultural income cannot properly be deduced therefrom. It is clear that this proviso cannot be restored to where any method of accounting has been regularly employed by the assessee or where the agricultural income can be properly deducted from the method employed; where any method of accounting has been regularly employed by the assessee and the agricultural income can properly be deduced therefrom, then the main part of section 7 would be applicable and the agricultural income shall be computed, for the purpose of sections 5 and 6, in accordance with the method of accounting regularly employed by the assessee.

8. It is undisputed that in each of these cases, during the relevant year of accounting, the method of accounting regularly employed by the assessee is the case basis method. It is also not the case of the tax authorities that the agricultural income cannot properly be deduced from the method of accounting which has been regularly employed by the assessee. In these circumstances, the agricultural income of these assesseees should be computed, for the purpose of section 5 and 6, in accordance with the method of accounting regularly employed by the assesseees, and no resort to proviso can be had by the Agricultural Income

Tax Officer.

9. The expenditure found by the Tribunal to be admissible for purposes of deduction falls u/s 5(k) of the Act. Section 5 requires that the agricultural income of a person shall be computed after making the deductions set out in that section. The deduction to be made under sub-section (k) is of "any expenditure (not being in the nature of capital expenditure) laid out or expended in the previous year wholly and exclusively for the purpose of deriving the agricultural income". It is clear from a reading of section 3, together with section 5(k), that the expenditure specified in section 5(k) should be deducted while making computation of the agricultural income of the "previous year" referred to in section 3(1) of the Act. Therefore, in these three cases, in computing the agricultural income, the tax authorities had to give deduction in the accounting year for the admissible expenditure.

10. The learned High Court Government Pleader (Mr. Kulkarni) appearing for the State, plainly stated that there was no provision under the Act or the Rules which authorised the tax authorities to spread over a number of years the expenditure incurred in the accounting year and for which the assessee was entitled to deduction u/s 5(k) of the Act. The Tribunal cannot, on the ground that, in its opinion, it would be fair and just, do something, not authorised under the Act and the Rules, to the prejudice of the assessee. u/s 15 of the Act, the assessee sustaining a loss in agricultural income in any year is allowed to carry forward that loss and set it off against the agricultural income for the following years. This benefit given under the Act, to the assessee, will be impaired by the unauthorised apportionment made by the Tribunal of the admissible expenditure. In doing so, the Tribunal has exceeded its powers under the Act and to that extent its order have to set aside.

11. Mr. Government Pleader suggested that these case may be sent back to the Tribunal for being disposed of fresh. We do not think that there is any necessity to do so. The powers of revision by the High Court, u/s 55 of the Act, are wide enough to either reverse, affirm or amend the order against which a revision petition has been preferred. In these three revision petitions, there is no need to send back the case to the order of the Appellate Tribunal. It would be sufficient to set aside that portion of the order of the Appellate Tribunal which distributes or apportions over a number of years the expenditure admittedly deduction u/s 5(k). We order accordingly and direct that the tax authorities shall steps as may be necessary in accordance with the above order. The petitioner in each of these cases shall get costs from the respondent. Advocate's fee Rs. 100 in each case.