(1997) 09 MAD CK 0062

In the Madras High Court

Case No : Tax Case No. 647 of 1988 in Revision No. 117 of 1988

Adinakarthar Chinthamani Athithanar Madam APPELLANT

Vs

State of Tamil Nadu RESPONDENT

Date of Decision : 01-09-1997

Acts Referred:

Income Tax Act, 1961 — Section 28

Citation : (2000) 246 ITR 142

Hon'ble Judges : R. Jayasimha Babu, J;B. Akbar Basha Khadiri, J

Bench : Division Bench

Advocate : Deokinandan, for the Appellant; K.M.L. Majele, S. Sudharsanan, for the Respondent

Judgement

R. Jayasimha Babu J.

1. This revision petition has been filed by the assessee, who was unsuccessful before the Commissioner, in his revision petition u/s 34 of the Tamil

Nadu Agricultural Income Tax Act for revising the order of the Assessing Officer who had made an assessment of the assessee''s agricultural

income for the assessment year 1985-86 u/s 17(4) of the Act.

2. This petition has to be dismissed on the short ground that the impugned order has not caused prejudice to the assessee, in view of the express

provision to that effect in the second proviso to section 34(1), as held by a Full Bench of this court in the case of N.N. Seshadrinathan Vs. State of

Madras, which held that the decision of the Privy Council in the case of CIT v. Tribune Trust [1948] 16 ITR 214 has impliedly overruled the

decision of a Special Bench of five judges of this court, in the case of VOORA SREERAMULU CHETTY Vs. COMMISSIONER OF Income

Tax, MADRAS., .

3. The Privy Council in the context of the Income Tax Act had held that where the assessee also had a complaint against any assessment made by

any subordinate officer, he had the appropriate and specific remedy which the Act provides and that when he approaches the Commissioner to

exercise his powers of revision, the assessee does nothing to worsen his own position, and he can acquire no right by having approached the

Commissioner and the Commissioner declining his plea. It was held that the assessee does not acquire a further right to approach this court by way

of a further revision. The assessee''s right is only by way of appeal against the orders of the subordinate authorities and that right has to be

exercised in the manner provided under the Act. The remedy by way of revision is limited to what is provided in section 34.

4. Having regard to this position in law, this petition has to be dismissed and is accordingly dismissed.

