

(1993) 02 KL CK 0059
In the High Court Of Kerala
Case No : T.R.C. No. 51 of 1992

Appavu Sundaram

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 23-02-1993

Acts Referred:

Citation : (1993) 203 ITR 743

Hon'ble Judges : K.S. Paripoornan, J;K.P. Balanarayana Marar, J

Bench : Division Bench

Advocate : K.C. Balagangadharan, for the Appellant; V.C. James, for the Respondent

Judgement

K.S. Paripoornan, J.—The revision petitioner is an assessee under the Kerala Agricultural Income Tax Act. The respondent is the Revenue. In this revision, we are concerned with the assessment year 1987-88. The assessee-revision petitioner assails the common order passed by the Agricultural Income Tax Appellate Tribunal dated February 1, 1991, in so far as it relates to the assessment year 1987-88. The revision petitioner purchased the property in his name, in the names of his two minor sons and other near relations. Altogether the property was purchased in the names of five persons. No separate accounts were maintained by the aforesaid five persons. The revision petitioner maintained a consolidated account. It was not discernible therefrom the nature and extent of agricultural operations conducted and the actual volume of yield obtained and expenses incurred individually. The assessing authority, the first appellate authority and also the Appellate Tribunal held that the accounts are not acceptable. They were rejected and a best judgment assessment was resorted to. The yield was estimated on the basis of local inspection conducted on January 25, 1984. The assessing authority also allowed reasonable expenses, considering the previous year's assessment. Before the Appellate Tribunal, the revision petitioner did not dispute the rejection of the returns and the yield estimated based on local inspection. He did not dispute also the expenses allowed except

tapping wages and relative bonus payment claim. In this court, the controversy is only regarding tapping wages. It is contended that the authorities declined to allow adequate tapping expenses. The Appellate Tribunal has not adopted a scientific or proper method in allowing proper tapping expenses.

2. We heard counsel for the petitioner as also counsel for the respondent-Revenue. In a very elaborate and detailed order, the Appellate Tribunal dealt with this plea in paragraph 9. The total extent of the rubber estate, their situation and lie in blocks, the tapping expenses claimed for the total number of days and the figures relating thereto, the yield per block, etc., have been discussed in detail. After discussing the above details, the Appellate Tribunal held that the amounts allowed by the assessing authority towards tapping expenses for all the years under appeal before the Tribunal in the case of all the appellants (including the revision petitioner) is comparatively higher than that covered by the guidelines. It was also held that there is no justifiable ground for interference by the Appellate Tribunal.

3. The question as to the quantum of amount allowable as tapping expenses is largely a question of fact. As the final fact-finding authority, the Appellate Tribunal, after adverting to the relevant factors in that regard, has concluded that the tapping expenses allowed are adequate--may be comparatively higher than that ordinarily allowed as per the guidelines adopted by the authorities. There is no plea before us that the Appellate Tribunal failed to advert to the relevant facts or adverted to irrelevant facts in reaching the said decision. Since the amount of tapping expenses allowable in a particular case largely turns on appreciation of facts and circumstances of the case, we hold that the decision of the Appellate Tribunal thereon is a finding of fact which is not ordinarily reviewable by a revisional authority. The fact-finding authority has found that the tapping expenses allowed in the case of the revision petitioner is much more than ordinarily or normally allowable or allowed as per the guidelines of the Department. In this perspective, we are of the view that there is no merit in this revision. The common order passed by the Agricultural Income Tax Appellate Tribunal dated February 1, 1991, does not require interference in revision since there is no error of law.

4. The revision is dismissed.