(1998) 03 MAD CK 0057

In the Madras High Court

Case No : Tax Case No''s. 1180 to 1182 of 1985 (Reference No''s. 687 to 389 of 1985)

Arooran Sugars Ltd. APPELLANT

Vs

Commissioner of Income Tax RESPONDENT

Date of Decision : 23-03-1998

Acts Referred:
Income Tax Act, 1961 — Section 32
Income Tax Rules, 1962 — Rule 7, 7(2)

Citation : (1999) 239 ITR 16

Hon'ble Judges : P. Thangavel, J;N.V. Balasubramanian, J

Bench : Division Bench

Advocate : P.P.S. Janarthana Raja, Subbaraya Iyer and Padmanabhan and Ramamani, for the Appellant; C.V. Rajan, for Chitra Venkataraman, for the Respondent

Judgement

N.V. Balasubramanian, J.—The following two common questions of law have been referred to us for our consideration in respect of the

assessment years 1974-75, 1975-76 and 1978-79 ;

(1) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in holding that in computing the income

chargeable to Income Tax under the head ""Profits and gains of business"" the deduction to be made to exclude the agricultural portion of the

appellant''s income should be worked out in accordance with Rule 7(2)(a) and not Rule 7(2)(b) of the Income Tax Rules, 1962 ?

(2) Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in holding that the assessee was not entitled to deduct the

depreciation in respect of farm assets used by the assessee in its business ?

2. The assessee, is a manufacturer of sugar in its factory. The assessee also

grows sugarcane in its own lands and the sugarcane so grown is utilised

in the manufacture of sugar, The case of the assessee before the Income Tax Officer was that the income taxable under the Income Tax Act, 1961

(in short ""the Act""), should be computed by applying Rule 7(2)(b) of the Income Tax Rules, 1962 (in short ""the rules""). Both the Income Tax

Officer and the Commissioner of Income Tax (Appeals) rejected the claim of the assessee. The Income Tax Appellate Tribunal, on an appeal

preferred by the assessee, also rejected the claim of the assessee on the basis of a judgment of this court rendered in the assessee''s own case in

CIT v. Thiru Arooran Sugars Ltd., [1983] 144 ITR 4, for an earlier assessment year. The finding of the Appellate Tribunal was that while

computing the income chargeable to Income Tax under the head ""Profits and gains of business"", the deduction has to be made in accordance with

Rule 7(2)(a) of the Rules. It is also not in dispute that the Supreme Court in Thiru Arooran Sugars Ltd., Madras etc. Vs. The Commissioner of

Income Tax, Madras, affirming the judgment of this court in CIT v. Thiru Arooran Sugars Ltd. [1983] 144 ITR 4, held that Rule 7(2)(a) of the

Rules would squarely apply to the facts of the case and the market value of the sugar-cane produced and consumed by the assessee had to be

computed accordingly. Following the said decision of the apex court, we answer the first question of law referred to us by holding that the Tribunal

was correct in holding that while computing the income chargeable to Income Tax under the head ""Profits and gains of business"", the deduction

should be made in accordance with the provisions of Rule 7(2)(a) of the rules. Accordingly, we answer the first question of law referred to us in

the affirmative and against the assessee.

3. On the other hand, learned counsel appearing for the Revenue, submitted that the assessee is not entitled to depreciation, after the computation

of income in accordance with Rule 7 of the Rules.

4. We have carefully considered the submissions of learned counsel for the assessee and learned counsel for the Revenue. We agree with learned

counsel for the Revenue that Rule 7 of the Rules restricts the claim of further deduction in respect of the expenditure incurred by the assessee either

as a cultivator or as a receiver of rent in kind. It is also no doubt true that the depreciation cannot be regarded as an expenditure incurred by the assessee as a cultivator, but still the claim of the assessee has to fail. We hold that after applying the provisions of Rule 7 of the Rules and after

deducting the market value of the agricultural produce from the composite income, what remains would be the non-agricultural income. The

assessee is claiming depreciation on the farm assets utilised for the purpose of growing sugarcane and the income relatable to the sugarcane would

be agricultural income. The claim of the assessee for depreciation would be on the assets owned and used by the assessee for earning agricultural

income and the attempt of the assessee to claim the depreciation allowance on farm assets used for producing agricultural income against the non-

agriculture income portion is impermissible in law. In our view, under the scheme of the Act the assessee is entitled to claim depreciation on the

assets owned and used for the purpose of the assessee''s business and is not entitled to claim depreciation on assets used for earning agricultural

income. The assets on which depreciation claimed are farm assets which were used for earning the agricultural income, and therefore under the

provisions of Section 32 of the Act, the assessee is disentitled to claim depreciation on the farm assets used for earning agricultural income.

Further, the principle behind Rule 7 of the Rules prohibiting the deduction of expenditure incurred as a cultivator or receiver of rent in kind is also

the same and the Rule does not permit the expenses relating to the agricultural segment of income as an allowable expenditure against non-

agricultural portion of the income. Hence, the claim of the assessee for depreciation should fail because of the provisions contained in Section 32 of

the Act and, it is not necessary even to invoke Rule 7 of the Rules to deny the claim of the assessee for depreciation.

5. We are therefore of the opinion that the Tribunal was correct in holding that the assessee is not entitled to claim depreciation on the farm assets.

Accordingly, we answer the second question of law referred to us also in the affirmative and against the assessee. The Revenue will be entitled to

costs of Rs. 1,000 (rupees one thousand only) in one set.

