(1998) 09 KAR CK 0039

In the Karnataka High Court

Case No : Civil Revision Petition Nos. 3682 and 4091 to 4096 ìof 1996

B.T. Suresh APPELLANT

Vs

State of Karnataka RESPONDENT

Date of Decision : 24-09-1998

Acts Referred:

Karnataka Agricultural Income Tax Act, 1957 — Section 5(1)(K)

Citation : (1999) 47 KarLJ 274

Hon'ble Judges : S. R. Bannurmath, J;Ashok Bhan, J

Judgement

Ashok Bhan, J.-These revision petitions have been filed under Section 55 of the Karnataka Agricultural Income-tax Act, 1957 (for short the ''Act'') relating to the assessment years 1981-82, 1982-83, 1983-84, 1984-85, 1985-86, 1986-87 and 1987-88 challenging the order of the Additional Commissioner of Commercial Taxes, Mysore Zone (hereinafter referred to as the ''Revisional Authority'') whereby the Revisional Authority has set aside the order passed by the First Appellate Authority being prejudicial to the interest of the Revenue.

2. As the common question of law and fact are involved, the authorities below clubbed all the cases together and disposed them of by a common order. We adopt the same procedure for the sake of convenience.

3. The petitioner is a coffee grower and registered under the Act and also paying the agricultural income-tax. The petitioner filed his returns relating to the assessment years 1981-82 to 1987-88. The petitioner claimed cultivation expenses incurred by it. The order of assessment was framed on 26th July, 1988. While framing the assessment, the Assessing Authority did not grant the cultivation expenses as claimed by the petitioner. The petitioner filed an appeal before the Deputy Commissioner of Commercial Taxes (Appeal), Mysore (hereinafter referred to as the ''Appellate Authority'') which was partly allowed. The cultivation expenses were increased marginally keeping in view the inflationary trends and the increase in the index price on materials and wages. The chart showing the expenses allowed by the Assessing Authority and the

Appellate Authority for the relevant years is given below.-

Assessment Year Assessing Authority Appellate Authority

1981-82 Rs. 4,100/- Rs. 4,400/-

1982-83 Rs. 4,200/- Rs. 4,500/-

1983-84 Rs. 4,400/- Rs. 4,700/-

1984-85 Rs. 4,500/- Rs. 4,800/-

1985-86 Rs. 4,600/- Rs. 4,900/-

1986-87 Rs. 4,700/- Rs. 5,050/-

1987-88 Rs. 4,800/- Rs. 5,200/-

The Appellate Authority passed the order, Annexure-B on 16th June, 1989. After a lapse of six years of the passing of the order by the Appellate Authority, the Revisional Authority issued notice, dated 18th June, 1996 under Section 35 of the Act proposing to revise the order dated 16th June, 1989 passed by the Appellate Authority on the ground that the cultivation expenses allowed are on the higher side and therefore, prejudicial to the interest of the Revenue. The petitioner filed his objections which were overruled and by the impugned order Revisional Authority set aside the order of the Appellate Authority and restored the order of the Assessing Authority. Cultivation expenses were restricted to the amounts calculated by the Assessing Authority. It was observed by the Revisional Authority that the Appellate Authority had given enhanced cultivation expenses without indicating the basis for doing so. The order passed by the Appellate Authority was held to be erroneous and prejudicial to the interest of the Revenue.

4. Counsel appearing for the petitioner has raised two points. Firstly, relating to the initiation of the proceedings for revision after a lapse of six years being beyond the limitation and secondly on the merits saying that the amount granted by the Appellate Authority was neither excessive nor prejudicial to the interest of the Revenue.

5. As we are inclined to accept the revision petitions on merits for the reasons stated below we refrain from going into the question of limitation raised by the Counsel for the petitioner.

6. From the records, we find that the assessee-petitioner was allowed cultivation expenses at the rate of Rs. 4,200/- for the year 1979-80. The Assessing Authority granted cultivation expenses at a lesser rate for the subsequent years 1981-82 and 1982-83 at the rate of Rs. 4,100/- and Rs. 4,200/- respectively. Certainly the cultivation expenses for the subsequent years could not be lesser than what had been given for the year 1979-80. Noticing this fact and taking into account the inflationary trend and increase in price of inputs and labour, the Appellate Authority increased the cultivation expenses for the year 1981-82 from Rs. 4,100/- to Rs. 4,400/-. For the subsequent year 1982-83 a marginal increase

of Rs. 100/- was given and the cultivation expenses were increased to Rs. 4,500/-. For the year 1983-84 an increase of Rs. 200/- per acre and thereafter at the rate of Rs. 150/- per acre per year was given. The Revisional Authority is wrong in saying that the Appellate Authority has not indicated the basis for increasing the cultivation expenses. Cogent reasons have been recorded which according to us are both relevant and valid for increasing the cultivation expenses. The order passed by the Appellate Authority cannot be taken to be either erroneous or prejudicial to the interest of the Revenue in the given facts and circumstances of the case.

7. For the reasons stated above, we accept the revision petitions, set aside the order of the Revisional Authority and restore that of the Appellate Authority, dated 16th June, 1989.

8. No costs.