

(1993) 02 KAR CK 0014
In the Karnataka High Court
Case No : C.R.P. No. 1107 of 1990

Coorg Tea Co. Ltd.

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 04-02-1993

Acts Referred:

Mysore Agricultural Income Tax Act, 1957 — Section 37

Citation : (1994) 208 ITR 473 : (1993) 37 KarLJ 337

Hon'ble Judges : M.M. Mirdhe, J;K. Shivashankar Bhat, J

Bench : Division Bench

Advocate : K.P. Kumar, for the Appellant; H.L. Dattu, for the Respondent

Judgement

K. Shivashankar Bhat, J.—A highly technical approach by the assessing authority has resulted in the petitioner coming to this court in this revision petition.

2. The assessee derived agricultural income from tea. For the assessment year 1978-79, the assessee while filing its return also filed the order of assessment made under the provisions of the Income Tax Act. At the same time, it was pointed out that an appeal is pending against the said order and, therefore, sought postponement of the assessment by the Agricultural Income Tax Officer. The assessing authority, however, proceeded to make the order on August 19, 1982, observing that since the assessment under the Income Tax Act has been concluded, there was no statutory bar for him to conclude the assessment under the Karnataka Agricultural Income Tax Act. 1957.

3. It seems the Commissioner Income Tax allowed the appeal of the petitioner to some extent and reduced the total tea income from Rs. 22,15,116 to Rs. 21,41,573. Though this order was made on August 12, 1982, it was served on the petitioner on August 21, 1982. Immediately, the petitioner filed an application before the Agricultural Income Tax Officer pointing out the reduction of the tea income by the Commissioner Income Tax and sought rectification of the assessment order. This application of the petitioner was rejected by the

Agricultural Income Tax Officer on the ground that the petitioner's remedy was only to challenge the assessment order by filing an appeal. This order of the said Officer has been affirmed both by the Deputy Commissioner (Appeals) as well as by the Appellate Tribunal.

4. There is no dispute that the agricultural income from tea has to be computed with reference to the estimate of the income made for the purpose of the assessment under the Income Tax Act, 1961. The income from tea has been understood as partly agricultural and partly non-agricultural having regard to the nature of the activity involved. Therefore, there has been a levy both under the Central as well as State Acts. To avoid any injustice to the assesses, provisions have been made to compute the agricultural income depending upon the computation of the income by the authorities under the Income Tax Act. Rule 6 of the Karnataka Agricultural Income Tax Rules, 1957, is a specific rule governing the fact situation. It states that in respect of agricultural income from tea grown and manufactured in the State, the portion of the income worked out under the Indian Income Tax Act, 1922, and left unassessed as being agricultural income shall be assessed under the State Act after allowing such deductions provided for in the State Act. Therefore, there can be no doubts that assessment under the State Act depends upon the computation of income for the purpose of the Central Act. The Agricultural Income Tax Officer relied on the order of the Income Tax Officer, which was part of the record in the instant case, when he made the assessment order. The said order by the Income Tax Officer stood modified in the appeal filed by the assessee. Therefore, necessarily in the eye of law, there has been an alteration in the relevant records. If so the income of the assessee as determined by the Commissioner of Income Tax should have been taken note of by the assessing authority when it was brought to his notice, because the basic document, that is to say, the order of the Income Tax Officer, stood substituted by the order of the Commissioner of Income Tax (Appeals). Consequently, the computation of the income also required rectification bearing in mind the mandate enacted under rule 6, referred to already.

5. In the circumstances, we are of the view that the assessing authority in the instant case erred in refusing to rectify the assessment order. This is a most appropriate case where the power u/s 37 of the Agricultural Income Tax Act should have been exercised by the assessing authority.

6. Consequently, we allow this revision petition, set aside the order of the Deputy Commissioner of Commercial Taxes (Appeals) as well as of the Karnataka Appellate Tribunal, and direct the assessing authority to rectify the assessment order in the light of the observations made above and in the light of the application filed by the assessee.