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**(1994) 10 MAD CK 0022**

**In the Madras High Court**

**Case No :** Tax Case (Revision) Petition No. 253 of 1987

Hariharaputhra Plantations Ltd.

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

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**Date of Decision :** 24-10-1994

**Acts Referred:**

**Citation :** (1995) 215 ITR 111

**Hon'ble Judges :** P. Shanmugam, J;K.A. Thanikkachalam, J

**Bench :** Division Bench

**Advocate :** K. Vaitheeswaran, for the Appellant; Mrs. Chitra Venkataraman, for the Respondent

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## **Judgement**

Thanikkachalam, J.—The assessee is the petitioner. The first point in this revision relates to claim for deduction of the amount paid towards

professional tax. The assessee has paid a sum of Rs. 125 towards professional tax and claimed deduction under the agricultural Income Tax

assessment proceedings. The authorities below held that there is no nexus between the payment of agricultural tax and the agricultural activities.

Therefore, they disallowed the same. Aggrieved, the assessee is in revision before this court.

2. When a similar issue came up before this court for consideration in Kanthimathy Plantations P. Ltd. v. State of Tamil Nadu [1993] 4 MTCR

409, it was clearly held by this court that the professional tax cannot be allowed as a deduction under the agricultural Income Tax assessment

proceedings. Therefore, the order passed by the Tribunal on this point is in order.

3. The next ground in this revision relates to the expenditure claimed for vehicle maintenance. The assessee has incurred a sum of Rs. 37,356 and

also a sum of Rs. 4,872 towards driver batta and expenses. Out of this, the Agricultural Income Tax Officer, Nagercoil, has disallowed 25 per cent. since in respect of the cars, no log book or trip sheets were maintained to show that the cars were entirely used for agricultural purposes. On appeal, the Appellate Assistant Commissioner (Agricultural income tax) Grade-I, Nagercoil, upheld the disallowance. On further appeal, the Tribunal also confirmed the order passed by the Appellate Assistant Commissioner of Agricultural Income Tax, Grade-I, Nagercoil. Aggrieved, the assessee is in revision before this court.

4. Inasmuch as the assessee has not maintained the log book and the trip sheets, the assessee is not entitled to claim the entire maintenance expenses for the cars. In fact, the Agricultural Income Tax Officer, Nagercoil, has allowed the actual expenses incurred under the said head and disallowed only 25 per cent. In such circumstances, we consider that there is no infirmity in the order passed by the Tribunal on this point. Another ground raised in the revision relates to the expenditure claimed under the head "Replanting expenses" amounting to Rs. 67,842. The Agricultural Income Tax Officer disallowed out of replanting expenditure of Rs. 67,842 an amount of Rs. 48,082. In disallowing the claim, he has been following the provisions contained in section 5(g) of the Act. On appeal, the appellate authority also confirmed the order passed by the Agricultural Income Tax Officer. However, before the Appellate Tribunal, the assessee contended that out of the said sum of Rs. 67,841, Rs. 36,898 represented replanting expenses, while Rs. 30,943 relates to upkeep and maintenance. The Appellate Tribunal pointed out that both these expenses were claimed under one head, viz., "replanting expenses". The Tribunal also did not agree to bifurcate the expenditure into expenses incurred for replanting and the expenses incurred for maintenance and upkeep of the crop.

5. We have heard learned counsel appearing for the assessee as well as learned Additional Government Pleader (Taxes) appearing for the respondent. It remains to be seen that the expenditure incurred for replanting is taxable under section 5(g) of the Act to the extent of two and half per cent. per acre and that the expenditure for maintenance and upkeep of the crop can be taxed u/s 5(g) of the Act. The facts on record show

that the assessee has not claimed any amount under the head ""Upkeep and maintenance of the crops"". The entire expenditure was claimed under the head ""Replantation expenses"". When the assessee himself has not claimed either before the Agricultural Income Tax Officer, Nagercoil, or before the Appellate Assistant Commissioner any amount under the head ""Upkeep and maintenance of the crops"" and in the absence of any documentary evidence on the side of the assessee to establish that the expenses were incurred for the purpose of maintenance and upkeep of the crops by the assessee, we consider that it is not proper for the assessee to make such a claim at this stage. Accordingly, we hold that the order passed by the Tribunal on this aspect is in order and we confirm the order passed by the Tribunal.

6. In the result, this revision is dismissed. However, there will be no order as to costs.