

(1976) 09 MAD CK 0019

In the Madras High Court

Case No : Tax Case No. 36 of 1972 (Revision No. 23 of 1972)

Hopeville Estate

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 09-09-1976

Acts Referred:

Tamil Nadu Agricultural Income Tax Act, 1955 — Section 5
Tamil Nadu Agricultural Income Tax Rules, 1955 — Rule 4(1)

Citation : (1976) 09 MAD CK 0019

Hon'ble Judges : Sethuraman, J;Ismail, J

Bench : Division Bench

Advocate : K. Ramgopal, for the Appellant; K.S. Bakthavatchalam, Additional Government Pleader, for the Respondent

Judgement

Ismail, J.—This is a petition u/s 54 of the Tamil Nadu Agricultural Income Tax Act, 1955, to revise the order of the Agricultural Income Tax

Appellate Tribunal, Madras, dated February 2, 1970.

2. The matter lies within a very narrow compass. The petitioner claimed depreciation on the value of the tank said to have been constructed for the

use of the workers, in the computation of the agricultural income. This claim was rejected by all the authorities on the ground that depreciation

cannot be allowed as per the Central Income Tax Act. It is the correctness of this conclusion that is challenged in this tax revision petition.

3. The learned counsel for the petitioner relies on the provisions contained in Section 5(f) of the Tamil Nadu Agricultural Income Tax Act, 1955,

and Rule 4 of the Tamil Nadu Agricultural Income Tax Rules, 1955. Section 5(f) of the Tamil Nadu Agricultural Income Tax Act states :

The agricultural income of a person shall be computed after making the following

deductions, namely :--.....

(f) in respect of depreciation of buildings, machinery, plant and furniture which are the property of the assessee and are required for the purpose of

deriving the agricultural income a sum equivalent to such percentage on the written down value thereof as may in any case or class of cases be

prescribed, and where the buildings have been newly erected or the machinery or plant newly installed, a further sum subject to such conditions as

may be prescribed :

Provided that the prescribed particulars have been duly furnished :

Provided further that the aggregate of all such allowances made under this Act shall in no case exceed the original cost to the assessee of the

buildings, machinery, plant or furniture, as the case may be.

Explanation.--In this clause "building includes all structures constructed with a view to provide amenities to workers as defined in the Plantations

Labour Act, 1951 (Central Act LXIX of 1951) employed on the plantations.

4. Rule 4 of the Tamil Nadu Agricultural Income Tax Rules, 1955, states in Sub-clause (1) thereof:

A deduction u/s 5(f) in respect of the depreciation of buildings, machinery, plant and furniture, which are the property of the assessee and are

required for the purpose of deriving agricultural income from the land, shall be made in accordance with the rates prescribed from time to time for

the purpose of the Income Tax Act, 1922 (Central Act XI of 1922).

5. The learned counsel for the petitioner contends that all the authorities including the Tribunal committed an error in thinking that under the Income

Tax Act, only the buildings are entitled to depreciation and the tank is not a building, and forgot to take note of the Explanation to Section 5(f) of

the Tamil Nadu Agricultural Income Tax Act which we have already extracted.

6. Even if the authorities have loosely referred to the applicability of the provisions of the Income Tax Act, still we are of the opinion that the

petitioner is not entitled to succeed with regard to the facts of this case. We are assuming for the purpose of this argument that the contention of the

learned counsel that building includes all structures constructed with a view to provide amenities to workers as defined in the Plantations Labour

Act, 1951, as contained in the Explanation to Section 5(f) of the Tamil Nadu

Agricultural Income Tax Act, is correct. Still the petitioner will have to establish with reference to the provisions contained in the Income Tax Act, the rate of depreciation to which it is entitled, because Rule 4(1) of the Tamil Nadu Agricultural Income Tax Rules, 1955, refers to the rates prescribed in the Income Tax Act for calculating the rate of depreciation to be arrived at u/s 5(f) of the Tamil Nadu Agricultural Income Tax Act, 1955. Under rule 5 of the Income Tax Rules, 1962, read with Appendix I thereto, buildings are classified into four categories and in respect of the first three categories only the rate of depreciation has been prescribed. Consequently, before claiming depreciation u/s 5(f) of the Tamil Nadu Agricultural Income Tax Act, the petitioner must furnish the necessary particulars in order to claim the particular rate of depreciation as provided for in the Income Tax Rules. No such claim whatever has been made in the present case, and the only contention that has been put forward was a general one that the tank is a building, and, therefore, a depreciable asset. As a matter of fact, Section 5(f) itself expressly states that the depreciation will be deducted only when the assessee furnishes the prescribed particulars. In this case, no such particulars have been furnished by the petitioner. In view of these circumstances, it is not necessary to consider and deal with any general question, and with reference to the facts of this case for the year in question the Tribunal and the authorities below were right in holding that no depreciation could be deducted in computing the agricultural income.

7. Hence, this petition is dismissed. There will be no order as to costs.