

(1942) 02 CAL CK 0007

In the Calcutta High Court

Case No : Cases stated under Section 28 (2) of the

IN THE MATTER OF : BABU BROJENDRA KISHORE ROY CHAUDHURY.

Date of Decision : 19-02-1942

Acts Referred:

Citation : (1942) 10 ITR 419

Hon'ble Judges : Derbyshire, C.J;Panckridge, J

Bench : Division Bench

Judgement

DERBYSHIRE, C.J. - The facts of the case are set out in the Reference to this Court.

The question asked was - Does the phrase "accrued due in the previous agricultural year" in clause (c) of Section 7 include arrear as well as current dues ?

Section 7 of the Assam Agricultural income tax Act of 1939 provides :

"The agricultural income mentioned in sub-clause (1) of clause (a) of Section 2 shall be deemed to be the sum realised in the previous agricultural year on account of agricultural income mentioned in the said sub-clause (1) after making the following deductions : * * * *

(c) a sum equal to 15 per cent. of the total amount of the rent which accrued due in the previous agricultural year, in respect of the charges for collecting the same".

The member of the Board of Agricultural income tax for Assam, Mr. Higgins, has answered the question as follows :

"I would submit that the answer to the question should be that the phrase rent which accrued due in the previous agricultural year refers only to the current demand of rent for that year".

Dr. Sen Gupta who has appeared for the assessee says that he is unable to contend that that answer is incorrect. I agree with Dr. Sen Gupta and, in my

opinion, the answer which the Member of the Board of Agricultural income tax for Assam has given is correct and that the phrase "rent which accrued due in the previous agricultural year" refers only to the current demand of rent for that year.

Another question was asked, but that does not arise because of the answer which has been given to the question already discussed.

The result is that the question which has been asked is answered in the manner I have indicated.

No order is made as to costs.

The same answer is given in Reference No. 4A of 1941.

PANCKRIDGE, J. - I agree.

Reference answered accordingly.