
(1964) 12 MAD CK 0012

In the Madras High Court

Case No : Tax Case No. 146 of 1963 (Revision No. 98 of 1963) , W.Ps. No's. 698 to 700 of 1963

Kannan Devan Hills Produce Company Limited

APPELLANT

Vs

State of Madras

RESPONDENT

Date of Decision : 09-12-1964

Acts Referred:

Constitution of India, 1950 — Article 261(1), 366(1)
Criminal Procedure Code, 1898 (CrPC) — Section 195(1)(b)
Income Tax Act, 1961 — Section 2(2), 59
Penal Code, 1860 (IPC) — Section 193

Citation : (1966) 59 ITR 184

Hon'ble Judges : Ramakrishnan, J

Bench : Single Bench

Judgement

Ramakrishnan, J.—These four cases were heard together as the points in controversy are the same. Messrs. Kannan Devan Hills Produce

Company Limited is the assessee and will be referred to as the petitioner in all these cases. The petitioner is a company incorporated in Great

Britain and carries on the business of tea planting in India. Its headquarters office in India is in Munnar in Kerala State. It owns tea estates situated

in the States of Assam, Kerala and Madras. One of the estates belonging to the petitioner is known as Chittuvarrai estate comprising 1,043 acres

of tea plantation. Out of this, 1,006.60 acres are situated in Kerala State, while the balance of 36.40 acres are situated in Madras State.

According to the petition Chittuvarrai estate is worked as one unit. It has only one factory for manufacturing the tea grown in Kerala and the

Madras portions of the estate. The managerial, supervisory and clerical staff and the estate labour force are combined for the whole estate. The

expenses are incurred for maintenance of the estate as one unit and the produce of the entire estate is manufactured and sold together. Common

accounts are maintained for the whole estate, and there are no separate accounts for the Madras portion of the estate. The accounting period of

the petitioner is the year ending 30th November. The accounts are kept on a mercantile basis. Assessment to agricultural Income Tax was made

by the Agricultural Income Tax Officer, Batlagundu in Madurai district, on the petitioner, for the three assessment years 1956-57 to 1958-59.

2. A brief reference can be made at this stage to the definition of "agricultural income" so far as that is concerned. Under article 366(1) of the

Constitution, "agricultural income" means agricultural income as defined for the purposes of the enactments relating to Indian Income Tax. Section

2(2) of the Indian Income Tax Act defines "agricultural income". This definition is incorporated in the corresponding definition in section 2 of the

Madras Agricultural Income Tax Act. Section 59 of the Indian Income Tax Act empowers the Central Government to make rules to prescribe the

manner and the procedure by which income, profits and gains shall be arrived at in the case of income derived in part from agriculture and in part

from business. It is well-known that tea is a commodity which has a poor market in its raw or green condition. It becomes a valuable marketable

product only after it has been subjected to curing by an industrial process in a factory. Exercising their power u/s 59 of the Income Tax Act the

Central Government framed rule 24 which states :

Income derived from the sale of tea grown and manufactured by the seller in the taxable territories shall be computed as if it were income derived

from business, and 40 per cent. of such income shall be deemed to be income, profits and gains liable to tax :

Provided that in computing such income an allowance shall be made in respect of the cost of planting bushes in replacement of bushes that have

died or become permanently useless in an area already planted, unless such area has previously been abandoned.

3. It would thus appear that what is assessable as agricultural income in the case of tea will be the remaining 60 per cent. after 40 per cent. had

been arrived at as income attributable to business, under rule 24 of the Rules framed under the Indian Income Tax Act. As pointed out by the

Supreme Court in *Karimtharuvi Tea Estates Ltd. v. State of Kerala* of the income so computed (under the Indian Income Tax Act), under rule 24,

40 per cent. is to be treated as income liable to Income Tax, and it would follow that the other 60 per cent. will alone be deemed to be agricultural

income within the meaning of that expression in the Income Tax Act.

4. For the first three of the assessment years mentioned above, the Agricultural Income Tax Officer, Batlagundu, in substance, accepted the

computation by the Central Income Tax Officer, and took only the balance of 60 per cent. for the purpose of agricultural income. There were small

corrections rectified u/s 36(1) but, as already mentioned, the broad principle followed for the first three years was that the computation made by

the Central Income Tax Officer was accepted. But when it came to the fourth assessment year, i.e., the assessment year 1960-61, the Agricultural

Income Tax Officer, Batlagundu, came to the conclusion that the basis of computation adopted by the central Income Tax authority for computing

the proportion of income under the Indian Income Tax Act attributable to 36.40 acres of Chittavarri estate situated in the Madras State was

incorrect, and substituted a different computation for the purpose of calculating the income under the Indian Income Tax Act, and after such a

computation, he took 60 per cent. of it as agricultural income assessable in Madras State. The assessment thus made was confirmed by the

Assistant Commissioner of Agricultural Income Tax. The matter was then taken to the Agricultural Income Tax Appellate Tribunal, which however

set aside the assessment and remanded the case to the Assistant Commissioner for disposal in the light of certain observations made by the

Tribunal. The details of these observations we will refer to presently in this judgment. Thereafter adopting the view expressed by the Agricultural

Income Tax Officer for the assessment year 1960-61, the department proposed to reassess the assessments made for the three earlier years

1956-59 and issued three notices u/s 35 of the Agricultural Income Tax Act. T. C. No. 146 of 1963 is filed by the petitioner against the order of

the Agricultural Income Tax Appellate Tribunal in regard to the assessment for the year 1960-61. The three writ petitions are filed respectively for

the three years of assessment, viz., 1956-57 to 1958-59, praying for the issue of a writ petition restraining the Agricultural Income Tax Officer,

Batlagundu, from proceeding further in pursuance of the notices issued u/s 35 of the Act for reassessment.

5. It is contended by the petitioner that under the law computation made by the Central Income Tax Officer is binding on the Agricultural Income

Tax Officer for computing agricultural income on tea, and that, in any event, the computation made by the Agricultural Income Tax Officer for

1959-60 is erroneous. The common questions that arise in all the four cases are whether the Agricultural Income Tax Officer, Batlagundu, was

justified in reopening the computation of income on tea under the Indian Income Tax Act, so far as the portion of Chittavarrai estate of 36.40 acres

situated in Madras State is concerned and, secondly, whether the computation made by the Agricultural Income Tax Officer for the year 1960-61

(subject-matter of T. C. No. 146 of 1963) is erroneous.

6. Before dealing with the first point, we will put down briefly the computation adopted by the central Income Tax authority. There are separate

accounts to show the yield of tea in the different areas including the Madras portion of 36.40 acres. The company apportioned the expenses

between Assam, Kerala and Madras on the basis of acreage of total. But the proceeds of the sale of the crop attributable to the Madras area were

calculated on the value of the yield in that area. Crop proceeds for the whole of Chittuvarrai came up to pounds 94,914-0-11. The expenditure in

the Calcutta and Cochin agencies (where sales are effected) and the expenditure in the United Kingdom (where the head officer of the company is

situated) were deducted, calculated on acreage basis for this estate, it came up to pounds 99,725-6-0. This resulted in a loss of pounds 4,811-5-1

or Rs. 64,150. Out of this Rs. 2,325 (United Kingdom) was disallowed by the Central Income Tax Officer and the balance was Rs. 61,825.

Depreciation for building, machinery, etc., and development rebate were deducted and profit on a sale of assets was added and the net amount

came in Indian currency to Rs. 9,78,602. The proportion of this expenditure for Chittuvarrai estate was calculated on the basis of the acreage

giving Rs. 40,630. The total loss, therefore, for Chittuvarrai came to Rs. 1,02,455 (Rs. 61,825 plus Rs. 40,630). Thereafter, the proportion of this

loss attributable to the Madras portion of the Chittuvarrai estate was worked out on the basis of the yield. The yield was 29,090 lbs. for 36.40

acres in Madras State against 5,68,310 lbs. for the whole estate of 1,043 acres. The proportion of the loss for the Madras State was worked out

to Rs. 5,210.40 per cent. of this was taken as income for assessment to central Income Tax in respect of the Madras portion and the remaining 60

per cent. had to be treated as the agricultural income for the Madras portion giving a loss of Rs. 3,126. A small amount of Rs. 327 was thereafter

deducted from this amount for land revenue, etc., giving a net loss of Rs. 2,799.

7. In the opinion of the Agricultural Income Tax Officer, the above method of computation (proposed by the assessee, and substantially accepted

by the Central Income Tax Officer) was incorrect. It did not take into account the significant fact that the Kerala area of the estate yielded only

656 lbs. per acre, while the Madras portion of the estate yielded 790 lbs. per acre. According to the Agricultural Income Tax Officer, the

apportionment of the expenditure at successive stages treating the whole of Chittuvarrai as one unit has resulted in a loss for the Madras State

portion and profit for the Kerala State Portion. We must point out here that the computation by the central Income Tax authority, in fact, showed a

loss for the entire Chittuvarrai estate. The reference by the Agricultural Income Tax Officer to a profit in Kerala must evidently refer to a profit on

all the estates of the petitioner in Kerala estate. Thereafter, the Agricultural Income Tax Officer made a recalculation for computing the income. He

proceeded thus. Value of the crop from 36.40 acres of Chittuvarrai estate in Madras State was taken as pounds 4,858. Thereafter, a computation

of the different items of expenditure for 36.40 acres in the Madras State was made on acreage basis and the total expenditure was determined as

pounds 3,480. This resulted in a profit of pounds 1,378 or Rs. 18,373. Small items disallowed by the Central Income Tax Officer were deducted

and other small additions made by the Central Income Tax Officer were added on a proportionate acreage basis, and a net profit of Rs. 18,477

for the Madras State portion was arrived at. Depreciation and development rebate amounting to Rs. 1,418 was deducted from this, after

apportionment on acreage basis. The net amount available as profit by this computation was Rs. 17,059 out of which 60 per cent. for the

agricultural income was taken as Rs. 10,235.

8. We have given in the appendix to this judgment the working sheet for the two

computations. It may be observed that the Central Income Tax Officer worked out the loss for the purpose of central Income Tax treating Chittuvarrai as a unit. The income was the value of the produce of that estate; the expenditure was calculated for the estate as a whole on an acreage basis wherever separate figures for the estate were not available.

After the total loss was arrived at, the proportion for the Kerala portion was calculated on the proportion of the yield of the Kerala portion to the total yield from the estate. On the other hand, the Agricultural Income Tax Officer has taken the value of the produce from the Madras portion as the gross receipt. From this, he has deducted every item of expenditure allowed by the Central Income Tax Officer, but re-calculated it for the Madras portion on the basis of acreage. By doing so, there resulted a profit. The fact that the Madras area showed a higher yield per acre than the Kerala area of the estate was given by the Agricultural Income Tax Officer as the reason for making this departure. But in our view that cannot be a valid reason for the different computation adopted by the Agricultural Income Tax Officer. The area in the Madras State is only a small fraction of the area of the entire estate. It might be possible that this area is more fertile or had received favourable and timely rainfall. On the other hand, the Kerala area might have suffered vicissitudes like excessive rain or land-slides affecting the crops on some portion. The estate as a whole has been maintained and run by the petitioner as a single unit. In the affidavit of the petitioner, in W. P. No. 700 of 1963 he stated :

4. The tea area in the Madras State is only a small portion of the petitioners Chittuvarrai estate comprising 1,043 acres of tea plantation. Of this area 1,006.60 acres of tea are situated in Kerala State while the balance 36.40 acres of tea are situated in Madras State.

5. The Chittuvarrai estate is worked as one unit. The estate has only one factory for manufacturing the tea grown in the Kerala and the Madras portions of the estate. The managerial and supervisory and clerical staff and the estate labour force, all work for the whole estate. The expenses are incurred for the maintenance of the estate as one unit and the produce of the entire estate is manufactured and sold together. Common accounts are maintained for the whole estate. Separate accounts are not maintained for the Madras portion of the estate.

9. This statement has not been challenged in the counter affidavit. Cutting up such individual items of expenditure for the estate as a whole, into small fractions, on acreage basis for the small area of the estate situated in Madras State and computing profit and loss separately for that small area, is opposed to the business policy adopted by the assessee, in running the estate as a unit. It is also wholly impractical and would work serious hardship. Expenses of the supervisory and clerical staff cannot be apportioned on acreage basis. The expenses of running a common factory for curing cannot be apportioned on acreage basis. Services like medical service, ameliorative services like creches for children, canteen for workers, cannot be apportioned on acreage basis. Method of computation by the Agricultural Income Tax Officer has adopted a narrow and parochial approach, from an erroneous belief that the petitioner has made a deliberate manipulation of his accounts to show loss from the Madras State portion of the estate, whereas the total income from all the estates in Kerala had revealed a profit. This is a wholly arbitrary and unjustifiable approach to the assessment by the taxing authority and cannot be justified from any point of view. In this connection, I may advert to one other argument of Mr. V. K. Thiruvengkatachari, learned counsel for the petitioner. He contended that the computation made by the Agricultural Income Tax Officer involves the assumption that the tea produced or manufactured in the Kerala area as well as in the Madras area in the Chittuvarrai estate was of the same quality and was sold for the same price. He contends there is no basis for such assumption and that there may be difference in quality in the tea produced in the Madras area and the same may have been sold at different times for different prices. He contends that under those circumstances, to separate the value of tea produced in the Madras area would not be a correct method of computation. But there are no data to decide how far this argument can be upheld.

10. The Appellate Tribunal recognised the impropriety of the assessment. But, we cannot accept the rectifications that the Tribunal had directed to be carried out after remand. It gave a few items of expenditure, which have to be apportioned on acreage basis and a few items of expenditure, which had to be apportioned on the basis of yield, and then directed the Appellate Assistant Commissioner to receive the remaining items of

expenditure and find out whether they are suitable for being apportioned under one or other basis, viz., acreage or yield. But here again we wish to point out that the company has treated the whole estate as a unit from the business point of view and the assessing authorities have no basis to attack this. Accounts are kept for the estate as a whole. A factory is maintained for the whole estate. The labour and other services are common. The managerial staff is common. If in a particular year a part of the estate or a pocket in it, has remained uncultivated for some reason or other, or has given poor yield, other parts of the estate had given good yield, it cannot be assumed that the items of expenditure incurred by the company as a whole for the estate as a unit, should be apportioned over such minor areas or pockets in the estate. Fluctuation in yield over different portions of an estate will be a normal feature and they cannot be utilised for cutting up the expenditure over the better yielding and poorly yielding areas. As long as no valid attack can be levied against the procedure of the company treating the estate as a single unit for business and administrative purposes, any attempt to carve out the portions of the estate for apportioning individual items of expenditure over the different portions will only lead to an improper computation of profit or loss. Therefore we are unable to agree with the order of remand by the Appellate Tribunal for recomputation.

11. There remains the point that the Income Tax Officer has apportioned the net loss for the estate in the Madras State on the basis of yield. We asked the learned counsel for the petitioner whether reapportioning this loss on the basis of acreage would give any different result, and he gave a figure of loss which will be about Rs. 600 less. Here again one cannot seriously challenge the apportionment of the final loss on the basis of the value of the produce, as the receipts are on the basis of the yield from the different portions. We, therefore, hold, on an examination of the record and after hearing the arguments of counsel of both sides, that the Agricultural Income Tax Officer has deviated from the method of computation adopted by the petitioner and accepted by the Central Income Tax Officer on totally erroneous grounds. The method of computation which he has adopted in lieu of the Central Income Tax Officers computation is wholly unfair and cannot be supported from the point of view either of business

or of making a proper assessment to tax. Equally unsupportable is the alternative method suggested by the Appellate Tribunal. Therefore, the order of the Tribunal has to be set aside and the Agricultural Income Tax Officer directed to make an assessment on agricultural income adopting the figures arrived at by the Central Income Tax Officer.

12. The above conclusion will be sufficient for disposing of the present cases. But, learned counsel, Sri Thiruvengkatachari, for the petitioner urges

that apart from the circumstances of this case, on a question of legal interpretation of the Agricultural Income Tax Act, the computation of the

Central Income Tax Officer has to be followed automatically by the Agricultural Income Tax Officer as it is statutorily binding on him, and there is

no question of substituting for that computation any other computation by the Agricultural Income Tax Officer as has been done in this case.

According to the learned counsel, under article 366(1) of the Constitution, "agricultural income" means agricultural income as defined for the

purpose of the enactments relating to the Indian Income Tax Act. The Agricultural Income Tax Act has adopted the definition of "agricultural

income" given in the Indian Income Tax Act. For applying this definition, there is a difficulty in the case of tea, which has little commercial value in

its green and un-cured condition. Only after curing, it becomes a readily marketable commodity. It has been recognised that curing of tea is an

industrial, but not an agricultural, process. Therefore, in the income realised by the sale of manufactured tea in the market, a portion has to be

attributed to industrial process and the remainder to agricultural process; the levy of Income Tax will fall in the former, while agricultural Income

Tax will be leviable on the latter portion. For this purpose, rule 24, framed under the rule making power u/s 59 of the Income Tax Act, provides

that 40 per cent. of the income computed under the Indian Income Tax Act will be assessable to the Central Income Tax. The plain implication will

be that the balance of 60 per cent. is agricultural income. The Explanation to the definition of "agricultural income" in section 2 of the Agricultural

Income Tax Act states:

Agricultural income derived from such land by the cultivation of any crop means that portion of the income derived from the cultivation,

manufacture and sale of the produce of that crop as is defined to be agricultural

income for the purposes of the enactments relating to Indian

Income Tax and if it has not been so defined, the whole of the income.

13. Therefore, the Agricultural Income Tax Act has also given statutory recognition for treating the 60 per cent. of the income, computed under

rule 24 of the Indian Income Tax Act in the case of tea, as agricultural income. The Supreme Court in *Karimtharuvi Tea Estates Ltd. v. State of*

Kerala while dealing with a case which under the Kerala Agricultural Income Tax Act, which contains a provision similar to section 2 of the

Madras Agricultural Income Tax Act, with specific reference to tea in the Explanation, observed that agricultural income from a plantation has to

be computed in the same manner as it is computed under the provisions of the Indian Income Tax Act. The learned counsel for the petitioner, Sri

V. K. Thiruvengkatachari, requested us to construe the words, "'in the same manner'" used by the Supreme Court in the above cited judgment to

mean "'actually computed by the central Income Tax authorities for levy of income tax'". On the other hand, the contention of the learned

Government Pleader for the State is that the requirement of the statute will be complied with by a factual computation in accordance with the

provisions of the Indian Income Tax Act, but it is not an obligatory requirement that computation of the Central Income Tax Officers for the levy of

Income Tax should be automatically accepted by the agricultural Income Tax authorities. The latter have a discretion to accept the Central Income

Tax Officers computation where it appears reasonable or to depart from it when they think it necessary and make independent computation of

their own, after applying Indian Income Tax Act and its Rules. Sri Thiruvengkatachari also presses us to consider in support of his argument, the

provision in article 261(1) of the Constitution :

261 (1). Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of

every State.

14. He also referred to the decision of the Supreme Court in *Lalji Haridas v. State of Maharashtra* where the view was expressed though in a

different context that proceedings before the Income Tax Officer were judicial proceedings for the purpose of section 193, Indian Penal Code, and

it must be treated as proceedings in a court for the purpose of section 195(1)(b)

of the Criminal Procedure Code. But it may not be proper to press into service this provision of the Constitution for giving statutory force to the computation by the Central Income Tax Officer, for the purpose of computing agricultural income on tea. It would give rise to practical difficulties. Thus it may happen sometimes that proceedings for the assessment under the Indian Income Tax Act are prolonged for some reason or other. It will be unreasonable to expect the Agricultural Income Tax Officer to delay the making of the assessment under the Act till the Central Income Tax Officer makes his assessment. Another circumstance pointed out by the learned Government Pleader is that the period of accounting may be different for the agricultural income and for the central income, though this will rarely happen. The learned Government Pleader referred to the decision of the Kerala High Court in *Commissioner of Agricultural Income Tax v. Perunad Plantations Ltd.* where the High Court observed that the Agricultural Income Tax Officer is not bound to accept the computation of income from tea made by the Central Income Tax Officer. Another difficulty will be where the Central Income Tax Officer has made a consolidated assessment for income in respect of properties of an assessee which are situated in two adjacent States as in this case, but where he has not indicated in his assessment order the way in which the income from the property in the different areas has to be apportioned. No doubt, in the present case, the Central Income Tax Officer has indicated the income for apportionment over the different areas but it may happen that in a particular case, the territorial jurisdiction of the Central Income Tax Officer may include both the areas, and he may not have felt it necessary to make the apportionment. In those cases it will be necessary for the agricultural Income Tax Officer to make an apportionment. Therefore, it may not be proper to lay down as a rule of law that for the computation of agricultural income in the case of tea, where both agricultural as well as industrial processes are involved, the computation made by the Central Income Tax Officer shall be the computation which the Agricultural Income Tax Officer has to adopt. But at the same time weighty reasons can be urged in favour of the view that the Agricultural Income Tax Officer should, as a rule, adopt the Central Income Tax Officers computation, particularly in cases where the Central

Income Tax Officers computation is complete, and is available to the Agricultural Income Tax Officer. As between officers of two different

Government departments engaged in making assessments, one of the Central and the other of the State, if each were to consider the other officers

computation to be wrong and proceed to make an independent but conflicting calculation under the provisions of the Indian Income Tax Act, not

merely will the assessee suffer, but there will be risk and anomaly of the central department assessing what is really agricultural income liable to

assessment by the State, and the State department assessing what is really income for the purpose of Income Tax liable to assessment by the

Central Government, each one encroaching upon the jurisdiction of the other. Such conflicts have to be avoided in the interests of the assessee as

well as of the Governments concerned. The data available to the central Income Tax department will be generally fuller, because they have been

engaged in making assessments to central Income Tax from a period long anterior to the Agricultural Income Tax Act, which has been enacted

only on 1955. Their staff are well trained in applying the various provisions of the Income Tax Act to make assessments on business income,

whereas the Agricultural Income Tax Officers ordinarily deal with the computation of purely agricultural income.

15. Our attention was drawn to certain rules framed by the Madras Government under their rule-making power for resolving such a conflict and to

ensue the making of proper assessments. Rule 7(1), which reads :

In respect of agricultural income from tea grown and manufactured by the seller in the State of Madras, the portion of the income worked out

under the Indian Income Tax Act and left unassessed as being agricultural shall be assessed under the Act after allowing such deductions under the

Act and the Rules made thereunder :

Provided that the computation made by the Indian Income Tax Officer shall ordinarily be accepted by the Agricultural Income Tax Officer who

may, for his satisfaction under sections 16 and 17 of the Act, obtain further details from the assessee or from the Indian Income Tax Officer but

shall not without the previous sanction of the Assistant Commissioner of Agricultural Income Tax require u/s 39 the production of account books

already examined by the Indian Income Tax Officer for determining the

agricultural income from tea grown and manufactured in the State of Madras or refuse to accept the computation of the Indian Income Tax Officer :
Provided further that if the income for the purpose of the Indian Income Tax Act has not been determined before the filing of return u/s 16, the assessee shall submit along with the returns a statement of profit and loss in respect of his entire income derived partly from agricultural and partly from business and thereupon he shall be assessed treating his agricultural income to be 60 per centum of the income derived from tea grown and manufactured in the State of Madras after allowing the deductions allowed by this Act; this assessment being subject to revision after the income for the year has been determined for the purpose of the Indian Income Tax Act, 1922 (Central Act XI of 1922).

16. The words shall be assessed in the main portion of the rule imply that the Central Income Tax Officers computation will be binding on the Agricultural Income Tax Officer. The second proviso to the rule providing for a revision of assessment to conform to the Central Income Tax Officers computation when it is subsequent to the Agricultural Income Tax Officers assessment, also leads to the same conclusion.

17. There is, however, one comment to be made regarding the first proviso to rule 7. It requires the Agricultural Income Tax Officer to get the prior permission of his superior officer, if he proposes to reject the computation of the Central Income Tax Officer and make a fresh computation.

Thus, he will be surrendering his judgment to that of a superior officer and take the latter's orders in the matter of deciding whether he should

accept or not accept the Central Income Tax Officers computation. However, rule 7 applies to the agricultural income from tea grown and

manufactured in the State of Madras, in the present case the tea is grown inside the State but manufactured outside the State of Madras, and rule 7

is inapplicable. We do not therefore propose to examine in this case how far the first proviso to rule 7 is a valid one.

18. According to the learned Government Pleader, rule 8 of the Rules will apply to the present case. This was also the view of the Assistant

Commissioner of Agricultural Income Tax. That rule reads :

Where an agricultural income is derived from lands situated partly within the State and partly without the State and the income attributable to the

land situated within the State cannot be determined by the assessee but where the value of the produce grown within or without the State can be separately determined from the accounts maintained by the assessee, such income shall be computed in proportion to the value of the respective quantity of produce raised within or without the State. In other cases such income shall be computed in proportion to the respective cultivated acreage of the crop lying within and without the State if the crop grown is the same, subject to such modifications as may be necessary with reference to the yield per acre, the quality of the produce and the price fetched within and without the State.

19. This rule refers to a case of agricultural income derived from lands situated partly in one State and partly in another. In the first place, this rule may not be applicable to tea, where the agricultural income has to be determined not from the value of the produce alone, but from the value of the produce sold after it has been subjected to an industrial process which will make a material difference in the computation of income. Secondly, the assessing authority has not strictly applied rule 8 in this case. He has not apportioned the net income in proportion to the value of the produce, as required in the first part of that rule. The second part of the rule requires the proportion of the net income to be calculated on the basis of the area, but the Agricultural Income Tax Officer in this case has calculated only the expenditure in the proportion of the area and deducted it from the gross income calculated on the basis of the value of the produce.

20. The foregoing discussion would show the most statutory and proper procedure will be for the Agricultural Income Tax Officer to adopt the Central Income Tax Officers computation and assess the income for the purpose of agricultural Income Tax what has been left unassessed by the Central Income Tax authorities in the case of tea. In the present case, the Agricultural Income Tax Officer has refused to accept the Central Income Tax Offices computation for totally unsatisfactory and unjustifiable reasons, and, therefore, we have to set aside the order of assessment so that the assessment might be made on the basis of the central Income Tax assessment on the facts of this case. Though the learned Government Pleader referred to the rules framed under the Agricultural Income Tax Act, in our opinion, they have no application to the facts of this case.

Learned counsel for the assessee urged that we should give a decision in that case that the Central Income Tax Officers computation should be deemed to be statutorily binding on the Agricultural Income Tax Officer. But, equally vehemently, the learned Government Pleader urged us to follow the Kerala Courts decision referred to above in Commissioner of Agricultural Income Tax v. Perunad Plantations Ltd. and hold that the Agricultural Income Tax Officer is not bound by the Central Income Tax Officers computation in the case of tea. But, on the facts of the case, which we have discussed at length the Agricultural Income Tax Officer has not given sufficient reasons for not accepting the Central Income Tax Officers computation, which must be deemed to be a proper one and which should have been adopted in this case. In view of this, it is unnecessary for us to give a finding on the abstract question whether the Central Income Tax Officers computation should be legally binding on the Agricultural Income Tax Officer.

21. We allow the revision case (T. C. No. 146 of 1963) for the reasons aforesaid, and set aside the order of the authorities below. We also make the rule nisi in each of the three writ petitions (W. P. Nos. 698 to 700 of 1963) absolute. The result is that the assessments concerned in these writ petitions are not susceptible to the revision as now proposed by the Agricultural Income Tax Officer. The Agricultural Income Tax Officer will be directed to make a revised assessment in the case T. C. No. 146 of 1963, in the light of our observations above, on the basis of the Central Income Tax Officers computation, which in the circumstances of the case, has to be accepted as the proper basis for the assessment of agricultural Income Tax. No order as to costs.