(2016) 01 KAR CK 0139

In the Karnataka High Court

Case No : CRP No. 189/2012

Kendanamane Estate APPELLANT

Vs

The State of Karnataka RESPONDENT

Date of Decision : 25-01-2016

Acts Referred:

Citation : (2016) 01 KAR CK 0139

Hon'ble Judges : N.K. Patil and S. Sujatha, JJ.

Bench : Division Bench

Advocate : S.P. Bhat, Advocate, for the Appellant; T.K. Vedamurthy, HCGP, for the Respondent

Final Decision : Dismissed

Judgement

S. Sujatha, J.—1. The matter arises under the provisions of the Karnataka Agricultural Income Tax Act, 1957 (the ''Act'' for short).

2. The assessee is a coffee planter. For the assessment year 2007-08, the petitioner/firm filed the return declaring coffee income of Rs. 6,33,376/-. In turn, the Assessing Officer examined the yield of coffee. Revised return was filed by the assessee declaring the coffee income at Rs. 13,53,275/-. The Assessing Officer after issuing notice and hearing the assessee, made addition of Rs. 7,71,000/- to the coffee income and estimated Rs. 5,60,000/- towards pepper income, though pepper income was not declared by the assessee in the returns. Aggrieved by the same, the assessee preferred an appeal before the First Appellate Authority inter alia raising other grounds pertaining to the relevant assessment year. The Appellate Authority allowed the appeal in part however, confirmed the addition made by the Assessing Officer to the coffee income of Rs. 7,71,000/- and the estimation of Rs. 5,50,000/- towards pepper income. Being aggrieved, the assessee preferred an appeal before the Karnataka Appellate Tribunal, Bangalore on these two issues. After considering the material on record and hearing the parties, the Tribunal dismissed the appeal as being devoid of merits. This order of the Karnataka Appellate Tribunal dated 20.09.2011 passed

in STA No. 205/2010 is challenged in this Civil Revision Petition by the assessee.

3. The petitioner/assessee has raised the following substantial question of law:

"Whether on the facts and circumstances of the case, the Tribunal is justified in sustaining the addition of Rs. 7,71,090/- made on account of coffee income by the officer and an addition of Rs. 5,60,000/- made on account of pepper income?"

4. Learned counsel Sri S.P. Bhat appearing for the appellant would contend that the assessee had maintained EB-2 register which is in conformity with Rule 9-A(IV) of the Karnataka Agricultural Income Tax Rules, 1957 (''Rules'' for short) to maintain the yield account. The authorities below and the Tribunal out rightly rejected the EB-2 register without any valid basis. It is further contended that the reasonings of the Assessing Officer confirmed by the Appellate Authority and the Tribunal that no other material was placed before the Assessing Officer to substantiate the yield declared by the assessee, more particularly, the cash book is not acceptable for the reason that EB-2 register disclosed the yield of the coffee raised in the relevant assessment year and the cash book would in no way be relevant for determining the yield of coffee, utmost, it may give the estimation towards the expenditure incurred by the assessee.

5. Further, it is contended that the Pepper Vines were not ready for yielding during the relevant Assessment year. The Assessing Officer determining the yield of Pepper Vines after visiting the estate on 19.11.2008 i.e., subsequent to the assessment year, prima facie, establishes that the Assessing Officer proceeded on an assumption that during the relevant assessment year 2,000 Pepper Vines were ready for yield without considering the exact age of the Pepper Vines.

6. Further, it is also contended that the yield of coffee and Pepper depends on the season and climatic condition and no straight jacket formula is available to estimate the yield. The best judgment assessment is based on assumptions and surmises. Accordingly, he seeks to answer the substantial questions of law raised, in favour of the assessee and against the respondent. In support of his contention, learned counsel placed reliance on the following Judgments:

"(1) B.F. Varghese v. State of Kerala (, 1969 (72) ITR 726)

(2) State of Karnataka v. M/s. V.N.S. Chidambaram (CRP No. 1383/04 disposed off on 04.01.2005)"

7. On the other hand, Sri T.K. Veda Murthy, learned Government Pleader appearing for the revenue justifies the order passed by the Tribunal confirming the order of the authorities. He would contend that the assessee had declared the income from coffee at Rs. 23,55,000/-. At the time of the Assessing Officer verifying the yield of coffee, the assessee revised the return and declared the coffee income at Rs. 39,99,435/-. The conduct of the assessee indicates that the actual income from coffee was suppressed to evade the payment of tax and the same is declared only at the time of verification of yield by the Assessing Officer. The EB-2 register has no sanctity as it used to, when the Indian Coffee Act was

in force. The Books of accounts as prescribed under Rule 9-A of the Rules are required to be maintained to prove the coffee yield during the relevant year. No material evidence was placed by the assessee to substantiate the yield declared by the assessee. In the absence of such material evidence, the Assessing Officer taking into account the average yield of the previous three seasons, assessed the income adding Rs. 7,71,000/- to the coffee income, which cannot be found fault with.

8. It is further contended that the assessee had not declared any income towards the minor plantation crops particularly, from Pepper. On the visit of the Assessing Officer to the estate of the assessee on 19.11.2008 assisted by Mrs. E. Prabhu - Managing Partner, he noticed 2000 yielding Pepper Vines. After taking necessary instructions from the Managing Partner regarding the yield, and the expenses, has given allowance to the extent of 20% of the Pepper Vines as being affected by yellow disease and estimated the income from Pepper Vines at Rs. 5,60,000/-. This estimation is made by the Assessing Officer only after ascertaining the relevant facts from the Managing Partner of the assessee and is not a guess work. As such, he seeks to dismiss the appeal and to confirm the orders passed by the Tribunal answering the substantial questions of law in favour of the revenue and against the assessee.

9. Having heard the learned counsel appearing for the parties and perusing the material on record, it is clear that the assessee owns 84.12 acres of coffee in Belagodu area of Sakaleshpur Taluk, Hassan District. The assessee filed original returns on 31.7.2007 admitting the income from coffee for the assessment year 2007-08 at Rs. 23,55,000/-. However, after the Assessing Officer examined the books of accounts to verify the yield and other claim made by the assessee, a revised return was filed by the assessee declaring the coffee at Rs. 39,99,435/-. The average yield of the previous three seasons as noticed by the Assessing Officer works out to 46,565 kgs. but appellant has declared only 32800/- kgs during the relevant assessment year. The Assessing Officer taking into consideration the climatic conditions and the season coupled with the average yield of the previous three seasons in an area of 84.12 acres in a zone known for high coffee yield, determined the income from coffee. It is also noticed by the Assessing Officer that the assessee actually received the coffee income of Rs. 13,53,275/- relating to the season 2006-07 during the period under assessment. Neither cash book nor other subsidiary registers and documents are produced to cross verify the payment particulars. Accordingly, the income declared could not be cross verified with the expenditure incurred. Rejecting EB-2 register, income of coffee was assessed at Rs. 47,70,525/- as against Rs. 32,79,536/- declared by the assessee. This best judgment assessment made by the Assessing Officer is confirmed by the First Appellate Authority and the Tribunal after extensively considering the arguments of the assessee in the light of the Judgments relied on by the assessee.

10. As regards the estimate of income from Pepper, it has come to the notice of

the Assessing Officer only during his visit to the estate of the appellant on 19.11.2008. Though subsequent to the crop year, presence of the yielding Pepper Vines numbering 2000, is not disputed by the assessee. The only argument advanced by the learned counsel on this issue is that the Pepper Vines were not ripe for yielding during the relevant assessment year, the Assessing Officer visiting the estate in the subsequent year, cannot be a basis to assess the income of Pepper unless there is adequate material to establish that the Pepper Vines were yielding during the relevant assessment year, which is not forth coming in the orders passed by the authorities. It is pertinent to note that the Assessing Officer was assisted by the Managing Partner of the assessees at the time of his visit to the estate and gathered information regarding the yielding Pepper Vines and it is only thereafter, determined that 20% of the Pepper Vines would be given allowance as being affected by yellow disease and arrived at Rs. 5,60,000/- estimating 5 kgs. to each vine and valued the same at Rs. 70/- per kg i.e., 1600 Pepper Vines out of 2000. The said assessment in our opinion is reasonable, based on the information given by the Managing Partner of the assessee.

11. In the judgments cited by the assessee in support of his contentions, we have noticed that the books of accounts as required under the Act were maintained and produced by the assessee as such, the said Judgments are not applicable to the facts of the present case. It would be significant to notice that Rule 9-A of the Rules specifies the method of account to be followed by the assessee. The assessee has admitted that he has not furnished any accounts other than EB-2 register. EB-2 register is not the relevant account required to be maintained as per the Rules. Even the contents of the EB-2 register maintained by the assessee would fulfill the requirement of Sub-clause (IV) of Rule 9-A, that itself would not be suffice to accept the claim of the assessee regarding the yield of coffee unless the corresponding expenditure towards the labour and other expenses are shown in the account books to substantiate the yield declared. Decision rendered on the factual matrix by the fact finding authorities cannot be disturbed at this stage. Accordingly, we do not see any merit in the arguments advanced by the learned counsel appearing for the assessee.

12. No infirmity or illegality is found in the order of the Tribunal to warrant interference by this Court. Thus, no substantial question of law arises for our determination.

For the foregoing reasons, petition stands dismissed.

No order as to costs. Ordered accordingly.