
(2006) 06 KL CK 0060
In the High Court Of Kerala
Case No : TRC No. 431 of 2001

M/s. Kalpaka Rubber Plantations (P) Ltd.	APPELLANT
Vs	
State of Kerala	RESPONDENT

Date of Decision : 01-06-2006

Acts Referred:

Kerala Agricultural Income Tax Act, 1991 — Section 18(3)

Citation : (2006) 2 KLJ 407 : (2006) 3 KLT 487

Hon'ble Judges : V. Ramkumar, J;K.S. Radhakrishnan, J

Bench : Division Bench

Advocate : C. Kochunny Nair and Dale P. Kurien, for the Appellant; Gerogekutty Mathew (Spl. G.P. Taxes), for the Respondent

Final Decision : Dismissed

Judgement

K.S. Radhakrishnan, J.—Question that arises for consideration in this case is whether the Appellate Tribunal is justified in confirming the disallowance, of interest alleged to have been paid on the loan amount. This Tax Revision Case arised out of the order passed by the Kerala Agricultural Income Tax Appellate Tribunal, Additional Bench, Kozhikode in Agrl. income tax Appeal No. 21/1995. The assessment relates to the year 1977-78. An assessment order was passed under sec.18(3) of the Agricultural Income Tax Act, 1991, fixing a total agricultural income as proposed under sec. 18(2) notice issued to the tune of Rs. 2,52,403.44. Out of the said amount an amount of Rs. 1,76,367.24 was allowed as expenses towards bank interest paid and another amount of Rs. 28,659/- was allowed as rehabilitation allowance and thereafter the total agricultural income was rounded up to Rs. 47,377/-. An amount of Rs. 44,594.41 was claimed by the assessee being the interest paid to its sister concern M/s. Kerala Transport Company towards a loan taken from it. Assessing authority, however, disallowed the claim towards interest paid and passed Annexure A re-assessment order dt. 29-3-1983. The assessing authority held as follows in his order:-

As regards the interest paid, this includes bank charges of Rs. 742.10 which

represent the charges claimed by the bank for discounting the bills, and another sum of Rs. 44,594.41 being the interest paid to M/s. Kerala Transport Company which is not supported by any evidence.

The assessee took the matter before the Appellate Assistant Commissioner who, after perusing the assessment records, held as follows-

Scrutiny of the debit notes produced revealed that the claim of interest for the year 1977-78 and 78-79 cannot be allowed on the basis of this evidence. The amount is stated to be paid to KTC for the loan availed from them. But no loan agreement is seen executed and the property is not subjected to any kind of mortgage. No period or rate of interest is seen fixed. It is further understood that the Director of this company are partners in M/s. Kerala Transport Company from whom this Company borrowed the money. By keeping huge balance outstanding and paying exorbitant rate of interest, the assessee is proposing avoiding payment of legitimate tax. To allow the claim it must fall under any of the claims (g) to (j) of Sec. 5. Verification of the account revealed that it is only a book adjustment between the two sister concerns. It is further represented that the amount borrowed is a cash credit loan. But no limit is seen fixed and the account is not closed during the year also. Hence this cash adjustment made in the account cannot be viewed as an allowable interest paid on agricultural loan as contemplated under sec.5 of the AIT Act.

2. When the matter was taken up before the Agricultural Income Tax Appellate Tribunal, the orders passed by the authorities below were confirmed. Appellate Authority found that deduction of interest paid can be claimed only if it falls under any of the clauses enumerated in sec.5 of the Kerala Agricultural Income Tax Act, 1991 and that the assessee could not establish that the deduction claimed falls under claims (g) to (j) of sec.5 of the Act. The appellate authority also found that no loan agreement was executed between the assessee and M/s. Kerala Transport Company. It was also found that the property of the assessee is not subjected to any kind of mortgage and no period or rate of interest is seen fixed. Further it was also noticed that the directors of the assessee company are also partners of M/s. Kerala Transport Company from whom they stated to have borrowed money. Chapter III of the Kerala Agricultural income tax Act, 1991 deals with the computation of agricultural income. Sec. 5 shows how the agricultural income has to be commuted, and on what heads deductions could be made. On the facts of this case assessee could claim deduction only if the interest paid falls in clauses (g) to (j)-The burden is on assessed to show that he is eligible to get deduction while computing the agricultural income. The assessee has not adduced any acceptable evidence in the case as rightly found by the authorities below. We are of the view that the authorities below are justified in disallowing deduction of interest alleged to have been paid on the loan amount.

This Tax Revision Case stands dismissed.