(1992) 06 MAD CK 0014

In the Madras High Court

Case No : Tax Case No. 154 of 1983 (Revision No. 94 of 1983)

New Ambadi Estates (Pvt.) Ltd. APPELLANT

Vs

State of Tamil Nadu RESPONDENT

Date of Decision : 29-06-1992

Acts Referred:

Tamil Nadu Agricultural Income Tax Act, 1955 — Section 5

Citation : (1994) 207 ITR 874

Hon'ble Judges : Raju, J;Bhakthavatsalam, J

Bench : Division Bench

Advocate : R. Gangadharan, for the Appellant; Mrs. Chitra Venkataraman, for the Respondent

Judgement

Raju, J.—The assessee is the petitioner before this court. For the assessment year 1980-81, the petitioner appears to have failed a return

under the Tamil Nadu Agricultural Income Tax Act, 1955 (hereinafter referred to as ""the Act""), and the rules made thereunder, disclosing a net

agricultural income of Rs. 28,72,934. The Agricultural Income Tax Officer-II, Nagercoil, on going through the accounts and considering the

various claims for deduction, determined the net assessable income at Rs. 34,35,514 and the total tax due for the said assessment year from the

assessee at Rs. 22,33,084.10.

2. Aggrieved against the action of the assessing authority in disallowing certain deductions claimed, an appeal has been preferred before the

Assistant Commissioner of Agricultural Income Tax, Nagercoil. The first appellate authority partly allowed the appeal by sustaining deductions

claimed on certain accounts and in other respects dismissed the appeal.

3. The assessee pursued the matter on further appeal before the Tamil Nadu

Agricultural Income Tax Appellate Tribunal, Madras. Before the

Tribunal, deductions have been claimed under nearly 14 items. The Tribunal a also partly allowed the appeal before it and rejected the appeal in

other respects. Aggrieved, the above revision has been filed before this court.

4. The revision petition filed is directed against the disallowance sustained by the Tribunal in respect of the following four items :

Rs.

1. Corporation tax 2,000

2. Advertisement expenses 8,028

3. Subscription to clubs 1,745

4. Legal expenses 7,250

5. Mr. R. Gangadharan, learned counsel for the petitioner, vehemently contended that the disallowance of the items referred to above by the

authorities below from deduction claimed is contrary to law and that the claim of the assessee in respect of the above items also should have been

allowed as against section 5(e) of the Act. Learned counsel sought to place reliance upon the decision of the Bombay High Court in Godavari

Sugar Mills Ltd. Vs. Commissioner of Income Tax,

6. On the other hand, Mrs. Chitra Venkataraman, the learned Additional Government Pleader (Taxes), contended that, having regard to the nature

of the expenditure, their purport and object, no exception could be taken to the disallowance of the claim of the petitioner by the authorities below

and that the provisions of section 5(e) do not enure to the rescue of the petitioner to justify the deduction claimed. On behalf of the Revenue, the

ratio of an unreported decision of this court in New Ambadi Estates (P.) Ltd. v. State of Tamil Nadu, represented by the Commissioner of Agrl.

Income Tax (T. C. Nos. 711 to 713 of 1981, dated February 19, 1991), relating to the very case of the petitioner with regard to earlier years,

was pressed into service.

7. We have carefully considered the submissions of learned counsel appearing on either side. In our view, the authorities below cannot be said to

have committed any patent error of law not could their approach, appreciation and findings be said to have been vitiated by any perversity of

approach. Section 5(e) of the Act reads as thereunder :

any expenditure incurred in the previous year (not being in the nature of capital expenditure of personal expenses of the assessee) laid out or

expended wholly and exclusively for the purpose of the land;

8. Though the scope and purport of the above provision was construed many a time by this court, inasmuch as assessees who were dissatisfied

with the disallowance of their claims before the authorities below often tried to justify their claim under the provision in question, considering the

same to be their last resort, the same question is being often and relentlessly reiterated. Before adverting to the justifiability or otherwise of the

claims made in the present case, it would be useful to refer to the scope and purport of the provision in question once again. Before justifying the

claim for deduction u/s 5(e) of the Act, an assessee is bound to substantiate that any expenditure in respect of a deduction has been incurred in the

previous year, the same not being in the nature of capital expenditure or personal expenses of the assessee, wholly and exclusively for the purpose

of the land. The phraseology ""wholly and exclusively for the purpose of the land"" was considered in juxtaposition with the phraseology used in

some other sub-sections of section 5 such as ""actually spent on the land from which the agricultural income is derived"" and ""in respect of"" or ""for

the benefit of"" land from which the agricultural income is derived. In so construing, it has been held by this court, vide Kil Kotagiri Tea and Coffee

Estates Co. Ltd. Vs. Government of Madras, , that the expression ""for the purpose of the land"" is much wider in scope than the other expressions

and that it may cover a wide range of expenses not necessarily incurred for deriving agricultural income. But at the same time, such judgments have

repeatedly reiterated and emphasised the fact that notwithstanding the possible wide import of the expression, it should be substantiated to have

the benefit of the said provision, that the expenditure in question has been expended wholly and exclusively for the purpose of the land, meaning

thereby that the expenses in question should be shown to have been spent for the purpose of or in connection with the lands, though not directly

having nexus between the expenses incurred and the land or the activities connected with the land should be substantiated. Hence, in our view,

unless some nexus or relevance of the expenditure to the land or activities connected with the land is established, the assessee cannot claim the benefit of section 5(e) in respect of any and every expenditure incurred.

9. So far as the items of deduction claimed by the petitioner before us are concerned, we are of the view that none of the said items of expenditure

could be considered to be eligible for deduction u/s 5(e) of the Act. Neither the Corporation tax said to have been paid with reference to the

Administrative Office at Madras, nor the advertisement expenses or the subscription to clubs (Madras Club and Madras Gymkhana) could, even

by any liberal construction given, be said to be satisfying the essential requisite that the expenditure in question has been wholly and exclusively

incurred for the purpose of the land. The item of expenditure sought to be excluded under the pretext of legal expenses is nothing but the fee paid

to the Registrar of Companies for the purpose of increasing the capital of the company and the connected expenditure therewith cannot also in our

view be said to satisfy the vital requirement noticed by us supra to qualify the claim to be sustained u/s 5(e) of the Act. The reliance sought to be

placed on the decision of the Division Bench of the Bombay High Court, referred to by learned counsel for the petitioner, is wholly inappropriate

for the issue before us. The decision of the Bombay High Court was in the context of the peculiar provisions contained under the Income Tax Act,

1961, and, therefore, cannot be pressed into service, without regard to the special language used in the Act under consideration before us. It may

also be noticed for the sake of completeness that, in the unreported decision relied upon by the learned Additional Government Pleader, the

Division Bench of this court held that tax paid u/s 111 of the Madras City Municipal (Corporation) Act, being rates on profession, art of calling or

business or appointment within the city of Madras, there is absolutely no relevance to the tax paid at Madras to the Corporation for the land and

this claim for deduction need not be sustained u/s 5(e) of the Act.

10. For all the reasons stated above, in our view, the action of the authorities below and the conclusion of the Tribunal, disallowing the items of

expenditure claimed for deduction in respect of items challenged before us, could not be said to suffer from any error of law warranting our

interference. The above revision, therefore, fails and shall stand dismissed, but, in the circumstances of the case, there will be no order as to costs.