

(1948) 09 PAT CK 0018

In the Patna High Court

Case No : Misc. Judicial Case No. 146 of 1948

Ram Ranbijaya Prasad Singh

APPELLANT

Vs

Province of Bihar

RESPONDENT

Date of Decision : 16-09-1948

Acts Referred:

Bihar Agricultural Income Tax Act, 1938 — Section 2

Citation : AIR 1950 Patna 76

Hon'ble Judges : Agarwala, C.J.;Meredith, J

Bench : Division Bench

Advocate : Sarjoo Prasad and N.K. Prasad II, for the Appellant; A.G., for the Respondent

Judgement

Agarwala, C.J.—This is a reference u/s 25 (3), Bihar Agricultural Income Tax Act, 1938. The assessee is a landlord, the Maharaja of Dumraon. The reference arises out of the assessment on him in respect of agricultural income for the Fasli year 1351. The assessment was on a total agricultural income of Rs. 11,82,091-4-2 pies which included a sum of Rs. 13,177-8-2 pies which the assessee realised by the execution of decrees for arrears of rent, cess and interest. This amount comprised Rs. 11,793-12-1 pie arrears of rent and cess, and Rs. 1,373-12-1 pie for interest thereon.

2. Two questions have been referred to us for decision :

"(1) Whether the amount of Rs. 13,177-8-2 pies realised in the shape of lands purchased in execution of rent decrees could be assessed or whether it was a capital asset not liable to assessment, and (2) Whether the controlled rate prevailing at the time of the harvest should be taken in lieu of the average rate from the Gazette in absence of sale of the crops by the petitioner assessee."

Neither of these questions is very happily worded, but the points they intend to raise are clear. The first question really to be decided is whether, in the circumstances of the case, the assessee can be said to have received the sum of

Rs. 13,177-8-2 and whether this sum was taxable as agricultural income. What actually happened with regard to this sum is that in execution of his decrees the assessee put the tenant's holdings up to sale and purchased them himself, setting off the purchase price against the decretal dues. On his behalf it is contended that the effect of this transaction is merely to increase his capital assets and not to amount to a receipt of income. There is no substance whatsoever in this contention. If the purchaser at the execution sales had been a stranger, and the assessee had received the purchase price through the Court it could not have been contended that he had not received the decretal dues. The mere fact that he himself was the auction purchaser makes no difference. The essence of the transaction was that the holdings were sold in execution of the decrees, and the purchase price satisfied the assessee's demands on account of rent, cess and interest, that is to say, notionally, the assessee received the purchase price of the holdings and with that money purchased the holdings. In these circumstances, the entire sum must be held to be income received by the assessee. Not the whole of it, however, is agricultural income. Rupees 1373-12-1 pie was received on account of interest on rent, and the Privy Council has recently held that interest on arrears of rent does not fall within the definition of agricultural income. The answer to the first question must, therefore, be that out of the sum of Rs. 13,177-8-2 pies Rs. 11,793-12-1 pie is assessable as agricultural income and Rs. 1,373-12-1 pie is not so assessable.

3. With regard to the second question, the facts were that the assessee himself cultivated the land and raised crops on it, which were not sold in the year of assessment. It is not disputed that he is assessable in respect of the value of these crops. But he contends that the value of the crops should be determined by the controlled rate which prevailed at the time the crops were harvested. The Agricultural Income Tax Department, however, contends that, in order to ascertain the value of the crops, the average controlled rate for the whole year should determine the question. This is not very clearly brought out in the second question, because the word "controlled" has been omitted before the words "average rate." But from the statement of the case it is clear that this is what the Department intended, for the Board says : Assuming that the assessee had sold his entire produce (which he did not certainly) his sale would not have been confined to the harvesting season only, but it would have been spread over a considerable period of the year according to his convenience. In that view of the matter, the Board was of opinion that his agricultural produce was correctly appraised at the average controlled rate by the assessing officer, to the advantage of the assessee, at a time when the market price of the commodities was appreciably higher. By "market price" the Board apparently meant what is called "black market price," as there could be no legitimate market price in the case of products the price of which is controlled, except the controlled rate. As the Board states that the adoption of the average controlled rate operated to the advantage of the assessee, it is obvious that this rate was lower than the rate prevailing at the time of the harvesting, and therefore, that the assessee has no

grievance in respect of the rate fixed. As the question has been referred to us for decision, however, it must be decided. It is obvious that, when a farmer retains his crops and does not sell them and the market price of the crops varies from time to time during the period that he retains them owing to changes in the market rate, their value will vary from time to time throughout the year. In these circumstances, it appears to me to be legitimate for the assessing authority to take the average rate for the purpose of determining the value of the crops and I would, therefore, answer the second question in the negative. As this reference fails, the assessee must pay the costs, which we fix at Rs. 250, including the sum of Rs. 100 which he deposited for the reference.

Meredith, J.

4. I agree.