(1997) 08 MAD CK 0060

In the Madras High Court

Case No : Tax Cases No''s. 902 and 1045 of 1986 (Revisions No''s. 297 and 315 of 1986)

Shaker Nagarajan and another — APPELLANT

Vs

State of Tamil Nadu — RESPONDENT

Date of Decision : 14-08-1997

Acts Referred:
Income Tax Act, 1961 — Section 28

Citation : (1999) 240 ITR 95

Hon'ble Judges : R. Jayasimha Babu, J;Akbar, J

Bench : Division Bench

Advocate : Deokinandan, for the Appellant; K.M.L. Majele, for the Respondent

Judgement

R. Jayasimha Babu, J.—The grievance of the assessees against the common order passed by the Tamil Nadu Agricultural Income Tax

Appellate Tribunal is regarding the disallowance of several items of expenditure claimed by them as having been incurred wholly and exclusively for

the purpose of the land from which the agricultural income was derived, for the assessment year 1982-83.

2. The lands owned by the assessees are coffee plantations. The income realised from, the sale of coffee is not in dispute, as the coffee was, during

the relevant years, required to be delivered to the statutory body, Coffee Board and the income was received from the Coffee Board.

3. The assessee had along with their returns filed the audited statement of accounts as the area of the land owned by them was more than 50 acres,

and the filing of such audited account is mandatory u/s 16(1)(a) of the Act. Notices were sent to the assessees under sections 16(4) and 17(2) of

the Act. The Assessing Officer has noted that in response to that notice, the assessees had ""produced accounts and explained them"".

4. The reason given by the Assessing Officer for disallowing a part of the amounts claimed under the heads cultivation expenses, pulping expenses,

manuring, spraying, office expenses, other expenses, travelling expenses and depreciation is that the claims were excessive. He has observed that

the claims were excessive and were required to be disallowed to the extent mentioned in the order.

5. The reason given for disallowing a part of the pruning expenses was that ""as pruning is done once in two years or three years period whereas the

expenditure is allowed every year. During the year 1982-83 income is also lower. Pruning is an act of cutting away all superfluous branches of

coffee plant. Therefore, there is no need to incur heavy expenditure exclusively for pruning."" For disallowing a part of the amount claimed as

expenditure for manuring, the Assessing Officer has stated that ""during 1982-83 they have purchased manure for Rs. 24,532 but the claim for

charges is Rs. 31,878 which is abnormal inasmuch as the purchase of manure has reduced to 1/2 of the previous year. The charges are also

disallowed by half.

6. That order of the Assessing Officer has been upheld by the Assistant Commissioner and the Tamil Nadu Agricultural Income Tax Appellate

Tribunal.

7. Learned counsel for the assessees contended that it was not open to the authorities to make an estimate of what in their view is the expenditure

that could have been properly incurred, when the accounts had been filed before the authorities. It was submitted that the authorities were bound

to accept the accounts unless it was found by them with regard to any particular item of expenditure or any voucher that the expenditure claimed

was unreal, or was not incurred wholly and exclusively for the purpose of the land by the assessee. Learned counsel relied upon the decisions of

the Supreme Court in the case of Commissioner of Income Tax, Bombay Vs. Walchand and Co. Private Ltd., and the case of J.K. woolen

Manufacturers Vs. Commissioner of Income Tax, U.P., . The principle stated in the earlier case was reiterated in the latter case. The question

involved in those cases was the legality of the disallowance of a part of the remuneration paid by the employer to an employee on the ground that higher remuneration was not warranted by the business, the reality of the payment not being in question. It was held by the apex court in

Commissioner of Income Tax, Bombay Vs. Walchand and Co. Private Ltd., , that the reasonableness of an expenditure has to be adjudged from

the point of view of the businessman and not of the revenue and that increased remuneration need not necessarily be regarded as justified only if

there is corresponding increase in profit of the employer.

8. Learned counsel also referred to the decisions of this court in The Newton Studios Ltd., Madras Vs. The Commr. of Income Tax, Madras, and

Commissioner of Income Tax Vs. Vijayalakshmi Mills Ltd., , in support of the submission that the reasonableness of the expenditure is not a matter

for determination by the assessing authority, but is a matter for the assessee to decide having regard to commercial expediency. Counsel also

referred to the decision of the High Court of Bombay reported in Ciba Dyes Ltd. Vs. Commissioner of Income Tax, Bombay City, , in support of

the same submission.

9. The Tribunal in an elaborate order has held that though it is true that when income as stated is accepted without question, the expenses as stated

should normally be accepted, but the expenditure can always be subjected to verification with reference to the Past records, or with reference to

the quantum of work, or number of labourers employed, etc. The Tribunal has further stated that in this case, it was found as a matter of fact that

the expenses are excessive with reference to the past records, and with reference to the assessee who owns land adjacent to that of the assessee

and therefore, ""the resort to disallowance applying best judgment cannot be questioned when there is some material to doubt the extent of

expenses recorded in the books"".

10. It is clear from the order of the Tribunal that the Tribunal as also the Assessing Officer and the appellate authority had disallowed certain

amounts which had been claimed as deduction because they doubted the extent of the expenditure recorded in the books.

11. The complaint of the assessee is that the authorities have failed to point out the particular item of expenditure under the different heads as being

unreal or not being wholly and exclusively applied for the purpose of the land.

12. Learned counsel for the assessee submitted that it was incumbent on the

part of the Assessing Officer to scrutinise each and every document

produced for his inspection and to state as to which of the items recorded in a particular document was not credible or could not be accepted, as

being an item of expenditure expended wholly and exclusively on the land.

13. The disallowance of a portion of the expenditure as a percentage is often resorted to by the Assessing Officers with a view to save time and

labour, such percentage being generally decided having regard to the nature of the business carried on by the assessee based on records which

show the general level of income and expenditure in relation to their business, the vouchers produced by the assessee and the Assessing Officer''s

knowledge of that business. The failure on the part of the Assessing Officer to specify a particular voucher or a particular payment which he

regards as unreal by itself cannot make the entire order wholly illegal. However, when called upon by the assessee to state specifically as to the

item of expenditure which in the view of the Assessing Officer is unreal, the authority is required to state as to which particular item of expenses

recorded in the document does not represent the real transaction or does not concern payment which can be regarded as having been expended

wholly and exclusively for the purpose of the land.

14. We find it difficult to accept the very broad proposition that was canvassed, namely, that the Assessing Officer should accept the documents

produced in its entirety even when the expenditure claimed under several heads are prima facie grossly excessive. It is open to the authorities to

scrutinise the accounts and disallow a part of the amount claimed as expenditure, though the statutes require that the audited accounts be filed

along with the returns by the assessees owning more than 50 acres, advisedly it has not been mandated, that such accounts shall be accepted

without further verification.

15. In the light of the submission made before us by learned counsel for the assessees that every payment made is supported by vouchers and that

such vouchers have not been doubted even though there is no reference to vouchers in the order of the Assessing Officer we consider it just in the

circumstances to direct the Agricultural Income Tax Officer to re-examine all the deductions claimed by the assessees from their income for the

relevant years with reference to the vouchers and other documents produced by the assessees. If such documents have been produced and had

been retained in the files, the Assessing Officer shall examine the claims with reference to those documents and any other explanation that may be

offered by the assessees. If those documents had not been so retained, the assessees shall produce the same before the Assessing Officer.

16. The orders of the Tribunal as also that of the appellate authority and the order of the Assessing Officer are, therefore, set aside and the matters

remanded to the Agricultural Income Tax Officer for making a fresh assessment, after due notice to the assessees and examining all the records

produced by the assessees for the relevant years. It is made clear that the assessees will not be entitled to produce any records which had not been

produced before the authorities earlier.