(1997) 08 MAD CK 0053

In the Madras High Court

Case No : T.C. No''s. 408 and 409 of 1987

Shanthi Plantations APPELLANT

Vs

State of Tamil Nadu RESPONDENT

Date of Decision : 19-08-1997

Acts Referred:

Income Tax Act, 1961 — Section 28

Citation : (1999) 240 ITR 105

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 Tamil Nadu Agricultural Income Tax Appellate Tribunal, Madras-104, has held that the assessee should be

assessed as an association of persons and not as tenants-in-common. The fact that the property had been purchased as tenants-in-common in

equal shares by five brothers and that, that status has been recognised by the Authorised Officer, Land Reforms, was not in dispute. The Tribunal

has taken the view that the tenants-in-common are also to be regarded as association of individuals and assessed as such.

2. Though the Act does not define ""tenants-in-common"", the charging section 3(3) itself requires that the persons holding property as tenants-in-

common and deriving agricultural income, be assessed at the rate applicable to the agricultural income of each of the tenants-in-common. Had the

Legislature intended that the status of tenants-in-common should be treated in the same manner as that of the association of individuals, section

3(3) would not have been enacted. Section 3(3) is a special provision meant to be applied to tenants-in-common. The assessment of the assessee should therefore have been made in accordance with section 3(3) of the Act.

3. It is to be noticed here that the decision in A.T.A. No. 105 of 1984 decided on March 25, 1986, and relied upon by the Tribunal has been

reversed by us in T.C. No. 1305 of 1986. These revision cases are allowed. No costs.

