

(1965) 12 SC CK 0048
In the Supreme Court Of India
Case No : Civil Appeal No. 979 of 1964

State of Kerala

APPELLANT

Vs

Karimtharuvi Tea Estate Ltd.

RESPONDENT

Date of Decision : 15-12-1965

Acts Referred:

Kerala Agricultural Income Tax Act, 1950 — Section 2

Citation : (1966) 60 ITR 275

Hon'ble Judges : Y. V. Chandrachud, J;P. Satyanarayana Raju, J;P. B. Gajendragadkar, J;M. Hidayatullah, J;K. N. Wanchoo, J

Bench : Full Bench

Final Decision : dismissed

Judgement

Satyanarayana Raju, J.—This appeal, by special leave, is against the judgment and order of the High Court of Kerala in income tax Reference Case No. 10 of 1962, and raises the question as to whether the amount realized by the sale of grevelia trees as firewood is a revenue receipt and liable to tax under the Kerala Agricultural income tax Act, 1950 (XXII of 1950), hereinafter called the Act.

2. The facts leading to the case may be briefly stated. The respondent is a company which carries on the business of manufacturing and selling tea. For the purpose of affording shade to the tea bushes, the respondent grows grevelia trees in its different tea estates. During the accounting year relevant to the assessment year 1957-58, the respondent received a sum of Rs. 600-12-0 by the sale of grevelia firewood and this amount was included by the Agricultural income tax Officer, Special Circle, Quilon, in computing the agricultural income of the respondent. The respondent appealed to the Deputy Commissioner of Agricultural income tax & Sales Tax, Quilon, contending that the said sum was a capital receipt, but the Deputy Commissioner rejected the contention. The contention was reiterated by the respondent in second appeal filed by it to the Kerala Agricultural income tax Appellate Tribunal.

3. The Appellate Tribunal by its order dated August 2, 1962, held that the said

sum could not be considered to be a revenue receipt and was not therefore liable to be included in computing the agricultural income of the respondent. On a reference made to the High Court, the Division Bench agreed with the Tribunal and answered the question in favor of the respondent. The appellant thereupon applied to this court and obtained special leave.

4. The contention of the appellant is that the sale proceeds of the firewood of the grevelia trees constituted agricultural income. The contention for the respondent is that the grevelia trees of the tea estates of the respondent constituted capital assets. Now, section 2 of the Kerala Agricultural income tax Act, 1950 (XXII of 1950), hereinafter called the Act, defines "agricultural income" as follows"

"Agricultural income' means

(1) any rent or revenue derived from land which is used for agricultural purposes;

(2) any income derived from such land in the State by

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed than a process of the nature described in sub-clause (ii)."

5. The question is whether the sale proceeds of grevelia trees which had become useless, did not fall within the definition of "agricultural income" under the Act.

6. There is no controversy about the fact that the owners of tea estates plant grevelia trees not for the purpose of deriving any income therefrom but solely for the purpose of providing shade for the tea plants and that such shade is essential for the proper cultivation of tea. The trees were cut down and sold after they had become useless by efflux of time. The grevelia trees in the tea estate of the respondent constituted therefore capital assets and the proceeds derived therefrom by sale as firewood would not constitute agricultural income under the Act.

7. The appeal has therefore no merits and is dismissed with costs.

8. Appeal dismissed.