(1995) 06 MAD CK 0009

In the Madras High Court

Case No : Tax Case No. 132 of 1995 (Revision No. 49 of 1995)

State of Tamil Nadu APPELLANT

Vs

Harrisons Malayalam Ltd. RESPONDENT

Date of Decision : 22-06-1995

Acts Referred:
Tamil Nadu Agricultural Income Tax Act, 1955 — Section 5

Citation : (1996) 218 ITR 121

Hon'ble Judges : K.A. Swami, C.J;Raju, J

Bench : Division Bench

Advocate : Chitra Venkataraman, Addl. Government Pleader, for the Appellant;

Judgement

K.A. Swami, C.J.—The question for consideration in this case is as to whether the expenditure incurred on the payment of gratuity by the

company can be deductible for the purpose of Section 5(e) of the Tamil Nadu Agricultural Income Tax Act, 1955 (hereinafter referred to as ""the

Act"").

2. Section 5(e) of the Act is as follows :

5. Computation of agricultural income. -- The agricultural income of a person shall be computed after making the following deductions, namely :--

(a) Any sums paid in the previous year on account of land revenue due to the Government, local rates and cesses and municipal taxes in respect of

land ;

(b) any rent paid in the previous year to the landlord or superior landlord, as the case may be, in respect of the land from which the agricultural

income is derived ;

(c) any expenses incurred in the previous year on the maintenance of any protective work constructed for the benefit of the land from which the

agricultural income is derived ;

Explanation. -- ''Maintenance'' includes current repairs and includes also, in the case of protective dykes and embankments all such work as may

be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes ;

(d) any expenses incurred in the previous year on maintenance and repairs in respect of any capital asset which was purchased or constructed for

the benefit of the land from which the agricultural income is derived ;

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

expended wholly and exclusively for the purpose of the land....

3. The contention of the learned Additional Government Pleader for Taxes is that the expenses incurred must be relatable directly to the land,

because the expression used in Section 5(e) is ""expended wholly and exclusively for the purpose of the land"".

4. It may be pointed out here, that the expenditure for gratuity on the employees who are employed for the purpose of doing agricultural work on

the land cannot be held to be falling outside the category of expenditure incurred wholly and exclusively for the purpose of the land. As long as the

persons for whom the amount is paid are working on the land, the amount spent for payment of gratuity to them is an unavoidable expenditure,

because under the statute the respondent is liable to pay gratuity to the employees employed for doing agricultural work. Therefore, it is an

expenditure incurred wholly and exclusively for the purpose of the land as without utilising the service of the employees the land cannot be put to

the intended use. The tea and cardamom estate in question cannot be maintained and produce cannot be obtained and agricultural income from the

land cannot be obtained without employing workmen and staff, Therefore, it is an expenditure incurred wholly and exclusively for the purpose of

the land.

5. In fact, a Division Bench of this court in Kil Kotagiri Tea and Coffee Estates Co. Ltd. Vs. Government of Madras, has taken the view that

Section 5(c) of the Act cannot be interpreted in such a restricted manner. The relevant portion of the judgment is as follows (at page 167) :

We are unable to accept this view of the Tribunal. We are of the view that the expression ''for the purpose of the land'' is much wider in scope

than the expression ''for the purpose of deriving the agricultural income from the land''. Section 5(e) is in the nature of a residuary clause and would

take in not only those expenditure incurred for the purpose of earning the agricultural income but also very many expenses involved in carrying on

the agricultural activity as an occupation. If the expenses are reasonably connected with the holding of the land and using it for the purpose of

agriculture, we are of opinion that those expenses will come under the expression ''for the purpose of the land''.

6. For the reasons stated above, we see no ground to admit this case.

7. It is rejected.