(1994) 02 MAD CK 0049

In the Madras High Court

Case No : Tax Case No. 1023 of 1993 (Revision No. 607 of 1993)

Sudarsan Estate Private Ltd. APPELLANT

Vs

State of Tamil Nadu RESPONDENT

Date of Decision : 24-02-1994

Acts Referred:

Citation : (1995) 217 ITR 273

Hon'ble Judges : K.A. Swami, C.J;T. Somasundaram, J

Bench : Division Bench

Advocate : K.J. Chandran, for the Appellant; Mrs. Chitra Venkataraman, for the Respondent

Judgement

K.A. Swami, C.J.—This tax case is filed u/s 54(1) of the Tamil Nadu Agricultural Income Tax Act, 1955 (hereinafter referred to as "the Act"), against the order of the Tamil Nadu Agricultural Income Tax Appellate Tribunal, dated May 19, 1993, passed in A.T.A. No. 38 of 1992. The Tribunal has remanded the matter relating to allowing of interest on the expenditure falling u/s 5(e) or 5(k) of the Act.

2. The grievance made in this case is that the Tribunal is not justified in confirming the finding of the Agricultural Income Tax Officer and also of the appellate authority as to equipment repairs and also the income from pepper, the remand on the interest allowable on the expenses incurred falling u/s 5(e) or 5(k) of the Act, ought not to have been circumscribed by certain observations.

3. As far as the finding of the Tribunal on the equipment repairs is concerned, the Agricultural Income Tax Officer allowed only 75 per cent. of the expenditure shown on equipment repairs. The assessee claimed that it had spent Rs. 28,203.02 on equipment repairs. However, the Agricultural Income Tax Officer restricted it to 75 per cent. of the claim and disallowed 25 per cent. The appellate authority has confirmed it. The Tribunal while confirming the finding of the appellate authority on the expenses incurred for equipment repairs, has gone into the matter in detail and has held that the assessee has not produced proper

accounts with regard to this expenditure. It is also noticed from the records that proper details as to expenditure were not furnished, therefore, it is not possible to sustain the contention of learned counsel for the applicant that it is not at all open to the Agricultural Income Tax Officer and the Tribunal to disallow the claim made by the assessee as to the expenses incurred by it on equipment repairs. It is necessary for the assessee to prove by producing proper vouchers and proper accounts as to the cost incurred for equipment repairs. In the absence of proper vouchers and the maintenance of proper accounts, the Agricultural Income Tax Officer and the appellate authorities who are entitled to go into the matter and who are required to be satisfied with regard to expenses incurred for equipment repairs, are competent to record a finding as per the records produced before them. In the instant case, as proper receipts and accounts are not produced, the authorities are justified in restricting the claim to 75 per cent.

4. The income from pepper is estimated by the Agricultural Income Tax Officer at Rs. 10,500. As far as the assessee is concerned, there was no income from pepper, whereas the Agricultural Income Tax Officer on verification found that there were 700 matured peppervines in the estate of the assessee and he had estimated the yield at the rate of 1/2 kg. per peppervine. Accordingly, he has calculated the total yield as 350 kgs., and estimated the value of the yield at Rs. 10,500 at the rate of Rs. 30 per kg. We are of the view that the estimate so made by the Agricultural Income Tax Officer is very very modest, taking into consideration the normal yield of a matured peppervine and also the rate of pepper. However, the Tribunal has stated in its order that the income from pepper is Rs. 40,000. It appears to be a mistake, because, for this, the Tribunal does not give any additional reason. In addition to this, it has confirmed the findings recorded by the Agricultural Income Tax Officer and the appellate authority on this item. If that be so, it cannot be more than Rs. 10,500. Learned Additional Government Pleader for taxes does not dispute this aspect of the matter, in our view, rightly also. Therefore, the order of the Tribunal in so far as it pertains to the income from pepper shall have to be read as Rs. 10,500. Thus, the order of the Tribunal requires to be modified in this regard.

5. As far as remitting of the matter on the point as to whether the allowable interest claimed by the assessee on the expenses incurred falling either in section 5(e) or 5(k) is concerned, a reading of paragraph 13 of the order of the Tribunal discloses that it is an open remand and it cannot be read as relating to a particular expense falling either u/s 5(e) or 5(k) of the Act. Consequently, the Agricultural Income Tax Officer has to determine the same on the basis of the nature of expenses, bearing in view the decisions of this court in State of Madras Vs. Thiru Arooran Sugars Ltd., ; Puthutotam Estates (1943) Ltd. Vs. State of Tamil Nadu, and Sakthi Estates v. State of Tamil Nadu [1990] 185 ITR 600 as also of the Supreme Court in State of Madras Vs. G.J. Coelho, . Therefore, we see no justification to add to the observation made by the Tribunal in paragraph 13 of this order.

6. For the reasons stated above, this revision application is disposed of in the following terms :

(i) The order of the Tribunal is confirmed with the clarification that the remand as to the allowable interest on the expenses falling u/s 5(e) or 5(k) of the Act is an open remand. The Agricultural Income Tax Officer has to decide the same in accordance with law and in the light of the observation made in this order.

(ii) The income from pepper is Rs. 10,500 as found by the Agricultural Income Tax Officer and the appellate authority, which is confirmed by the Tribunal, therefore, the income from pepper shown as Rs. 40,000 in the order of the Tribunal is nothing but a mistake.

7. The petitioner is directed to appear before the Agricultural Income Tax Officer on April 11, 1994, to avoid delay in service of notice. There will be no order as to costs.