
(2001) 09 MAD CK 0100

In the Madras High Court

Case No : T.C. No. 480 of 1999 (Revision No. 13 of 1999)

Velimalai Rubber Co. Ltd.

APPELLANT

Vs

State of Tamil Nadu (No. 2)

RESPONDENT

Date of Decision : 19-09-2001

Acts Referred:

Citation : (2002) 256 ITR 792

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

Bench : Division Bench

Advocate : S. Devanathan, for the Appellant; S.V. Radhakrishnan, for the Respondent

Final Decision : Dismissed

Judgement

A. Subbulakshmy , J.—The tax case revision is filed as against the order passed by the Tamil Nadu Agricultural Income Tax Appellate Tribunal, Chennai, in A.T.A. No. 8 of 1997.

2. The petitioner has sought the relief in respect of the expenses which were disallowed by the Tribunal.

Advertisement expenditure :

The assessee contends that the advertisement expenditure of Rs. 26,738 has been incurred by him and it has to be allowed. Similar issue has been considered by this court in T. C No. 80 of 1997-- Velimalai Rubber Co. Ltd. Vs. State of Tamil Nadu (No. 1), and it was held that this expenditure is not connected with the agricultural activity and it has been decided against the assessee. Applying the same principle, we confirm the order of the Tribunal holding against the assessee.

Repairs and maintenance of building :

The assessee contends that with regard to repairs and maintenance of building, 2 per cent, which is Rs. 21,335 has been disallowed by the Assessing Officer on the ground that it relates to non-plantation area. According to the assessee, the

buildings are situate only in the plantation area and there is no building exclusively intended for non-plantation area and the company has to maintain the buildings in good condition. The assessee further contends that the company had leased out the non-plantation area to one Comorin Rubber and Plantations Ltd., and none of the estate employees are concerned with the cultivation work in non-plantation area and so, the entire expenditure is connected only with the plantation activity and the disallowance of expenditure by the Assessing Officer is not proper.

3. Similar matter has been considered in the earlier decision and it has been found that disallowance for non-plantation area is perfectly in order. Accordingly, we confirm the order passed by the Tribunal in this aspect.

Repairs and maintenance of vehicles :

The assessee contends that under the head repairs and maintenance of vehicles, a sum of Rs. 48,643 being 20 per cent, has been disallowed by the Assessing Officer on the ground that it pertains to non-plantation. Similar issue has also been covered by the earlier decision. Applying the principle laid down in the earlier decision, we confirm the order passed by the Tribunal on this aspect.

Repairs and maintenance of others :

The assessee contends that 20 per cent, has been disallowed under this head and the entire expenditure is related to plantation only and as the entire non-plantation area were leased out to another company, there is no question of using the vehicles for non-plantation area. The Assessing Officer found that on verification, it was found that this expenditure is not allowable. The Tribunal confirmed it. We confirm the same.

Legal and professional charges :

The assessee contends that the disallowance of Rs. 9,787 made by the Assessing Officer in this aspect is not proper since it is an allowable expenditure as it has got nexus with the agricultural operations. The Tribunal has found that the legal expenses incurred must have nexus with the agricultural operation and in such cases only it is an allowable claim and in this case, the assessee had failed to produce any proof with regard to the nexus of the expenditure with the agricultural activity.

4. Counsel for the assessee submitted that the legal and professional charges incurred are in connection with labour dispute and computer programming charge and they are purely expenses connected with the company's agricultural activity having direct nexus and hence, it should have been allowed. The Assistant Commissioner, Agricultural Income Tax, has found that the assessee did not produce any records to prove that this item of expenditure relates to agricultural purpose. Since no documents were filed to prove that this expenditure is connected with agricultural activity, it was found by the authorities below that it is not an allowable expenditure. As there is no proof that the

expenditure is connected with agricultural activity this expenditure has been rightly disallowed by the authorities below. Accordingly, we confirm the order of the Tribunal.

Loss from cloves :

Under this head, a sum of Rs. 39,010 has been disallowed by the Assessing Officer. The assessee had claimed that the net loss from cloves had not been deducted from the total income in the order. It has been found by the authorities below that the reason for the loss in cloves is not proved by evidence. According to the Agricultural Income Tax Officer, the assessee-company had given in their statement the total expenses claimed as Rs. 1,04,52,883 and it has been included with the charge of Rs. 39,010 from cloves. The Assistant Commissioner, Agricultural Income Tax, found that as the expenditure has been included in the total expenditure, there is no necessity to consider the claim of the assessee under this head. This claim has been rightly disallowed by the authorities below. Accordingly, we confirm it.

5. Counsel for the assessee further submitted that the Tribunal has not considered with regard to the total expenditure claimed and the Assessing Officer has disallowed Rs. 6,80,878 and allowed the expenditure of Rs. 92,90,099 and it is wrong and out of the total expenses of Rs. 1,04,52,883 after deducting the disallowances, the rest of the amount has to be allowed and this aspect has not been considered by the Tribunal.

6. On a perusal of the records, we see that the assessee claimed for allowance of expenditure to the tune of Rs. 1,04,52,883. The Assessing Officer disallowed only Rs. 6,80,878. So, after deducting these disallowances, the rest of the amount under the various heads of expenses has to be allowed. The expenses allowed at Rs. 92,90,099 is incorrect and after deducting the disallowed amount of Rs. 6,80,878, the balance of the expenses, i.e., Rs. 97,72,005 has to be allowed.

7. Except the modification in respect of the expenses to be allowed as indicated above, the tax case revision is dismissed.