
(2004) 10 MAD CK 0074

In the Madras High Court

Case No : Tax Case (Revision) No. 509 of 1999

Velimalai Rubber Co. Ltd.

APPELLANT

Vs

State of Tamilnadu

RESPONDENT

Date of Decision : 14-10-2004

Acts Referred:

Tamil Nadu Agricultural Income Tax Act, 1955 — Section 54(1)

Citation : (2004) 10 MAD CK 0074

Hon'ble Judges : S.R. Singharavelu, J;P.D. Dinakaran, J

Bench : Division Bench

Advocate : K.C. Rajappa, for the Appellant; T. Ayyasami, Spl. G.P. (T), for the Respondent

Final Decision : Dismissed

Judgement

P.D. Dinakaran, J.—The above revision is filed against the order of the Tamilnadu Agricultural Income Tax Appellate Tribunal, Chennai dated 27th July 1999 made in A.T.A.No.38 of 1995 disallowing the items claimed by the applicant as allowance of deduction u/s 5(e) of the Tamilnadu Agricultural Income Tax Act , in short, TNAIT Act.

2.1. In brief, the assessment is relating to the year 1992-93. The applicant declared the net income of Rs.17,11,140/- for the above said assessment year. The assessing officer found that certain expenses claimed by the applicant are not allowable u/s 5(e) of the TNAIT Act, as the details were not forthcoming by an order dated 25.02.1993.

2.2. Against the said disallowance of certain expenses, the applicant preferred an appeal before the Assistant Commissioner of Agricultural Income Tax, Grade-I, Nagercoil, who confirmed the view of the assessing officer by an order dated 13.01.1995.

2.3. Hence, further appeal was preferred before the Tamilnadu Agricultural Income Tax Appellate Tribunal against the order of the Assistant Commissioner of

Agricultural Income Tax dated 13.01.1995. Before the Appellate Tribunal, the applicant claimed following allowances and the same were either allowed or rejected are as here under:

"Head Office Expenses:

- a) Rent paid to Managing Director's residence to the tune of Rs.13,800/- and the same was allowed;
- b) Postage and Telephone expenses to the tune of Rs.24,378/-, which was also allowed;
- c) Subscriptions and donations to the tune of Rs.16,062/-, as there is no clear details regarding this expenditure, the Tribunal disallowed this claim.
- d) Advertisement charges to the tune of Rs.7,700/-, as there is no direct nexus with company's agricultural activity, this claim was also not allowed;
- e) Travelling expenses to the tune of Rs.18,939.50, the same was allowed;
- f) Contribution to Superannuation fund to the tune of Rs.13,800/- was also allowed;
- g) Disallowance of 3% difference, which works out to Rs.20,044/-, as the details were not furnished, the same was disallowed;
- h) Disallowance of 18% relating to non-plantation crops in Head Office, which works out to Rs.1,16,658/-, for want of details, the same was disallowed;

Estate Expenses:

- a) Disallowance of 18E relating to non-plantation crops in estate expenses, as the details are not sufficient to find out whether it is allowable or not, this claim was disallowed;
- b) Property tax to the tune of Rs.11,295/- following the earlier assessment years, this claim was allowed;
- c) Repair and Maintenance of Building to the tune of Rs.17,326/-, which was disallowed;
- d) Repairs to Machinery to the tune of Rs.9,393.80 , which was also not allowed;
- e) Repairs and Maintenance of Roads to the tune of Rs.7,202.69, finding that certain percentage towards expenditure for repairs and roads is not allowable and disallowed this expenditure for exemption;
- f) Repairs and Maintenance of Vehicles to the tune of Rs.30,714.32, as this Court held that the expenditure both in plantation and non-plantation area are comprehensive and inseparable, this claim was disallowed;
- g) Repairs and Maintenance of others to the tune of Rs.21,893/- was also disallowed;

- h) Professional Tax to the tune of Rs.250/-, which was allowed;
- i) Postage and Telephone Charges to the tune of Rs.3,512.50, finding that this expenditure was incurred only in connection with the agricultural operation, this claim was allowed;
- j) Sales Tax due to the tune of Rs.4,26,248/-, as the case relating to this expenditure was pending before the Supreme Court, this claim was remanded to the Agricultural Income Tax Officer;
- k) Depreciation value to the tune of Rs.1,07,078.30 in respect to Estate, as the details furnished are not sufficient to examine whether this expenditure is allowable or not, this expense was disallowed; and
- l) Depreciation value to the tune of Rs.2,970/- in respect to Head Office was also disallowed."

3. Aggrieved by the following disallowed claims, the applicant preferred this revision.

"Head Office Expenses:

- i) Subscriptions and donations to the tune of Rs.16,062/-; ii) Advertisement charges to the tune of Rs.7,700/-; iii) Disallowance of 3% difference, which works out to Rs.20,044/-; and iv) Disallowance of 18% relating to non-plantation crops in Head Office, which works out to Rs.1,16,658/-;

Estate Expenses:

- i) Disallowance of 18E relating to non-plantation crops in estate expenses; ii) Repair and Maintenance of Building to the tune of Rs.17,326/-; iii) Repairs to Machinery to the tune of Rs.9,393.80; iv) Repairs and Maintenance of Roads to the tune of Rs.7,202.69; v) Repairs and Maintenance of Vehicles to the tune of Rs.30,714.32; vi) Repairs and Maintenance of others to the tune of Rs.21,893/-; vii) Depreciation value to the tune of Rs.1,07,078.30 in respect to Estate; and viii) Depreciation value to the tune of Rs.2,970/- in respect to Head Office."

4. Mr.K.C.Rajappa, learned counsel appearing for the applicant contends that in view of the amended Act (Act 40 of 1991), which came into effect from 1.4.1992, there is no liability to pay tax for non-plantation area and therefore, allowing the deduction proportionate to the plantation and non-plantation area is not permissible in law, as the question of paying the tax does not arise in the case of non-plantation area.

5. Per contra, Mr.T.Ayyasamy, learned Special Government Pleader appearing for the respondent contends that unless and until the applicant establishes and substantiates his claim that the deduction claimed by him u/s 5(e) of the TNAIT Act and such expenditure were incurred by him in the previous year wholly and exclusively for the purpose of the land from which the agricultural income is derived, he is not entitled for the deduction as claimed.

6. We have given careful consideration to the submissions on both sides.

7. It is settled proposition that the expenditure incurred by the assessee by way of corporation tax, advertisement expenses, subscription to clubs and legal expenses are not deductible u/s 5(e) of the TNAIT Act, as the expenditure was not incurred wholly and exclusively for the purposes of land from which the agricultural income is derived as held in *New Ambadi Estates (Pvt.) Ltd. Vs. State of Tamil Nadu*, and *Puthutotam Estates (1943) Ltd. Vs. State of Tamil Nadu*, . The view taken in the above said decisions is in conformity with the ratio laid in *Kil Kotagiri Tea and Coffee Estates Co. Ltd. Vs. Government of Madras*, wherein it is held as follows :

"These decisions show that the expression "for the purpose of the land" covers a wide range of expenses taking in not only the expenses incurred actually for deriving agricultural income, but also expenses which are not directly incurred for deriving agricultural income but expended in connection with the lands which do not have any relationship to the agricultural income derived in the previous year."

8. In the instant case, the petitioner is cultivating both plantation and non-plantation crops. Therefore, they are comprehensive and inseparable expenses incurred by them in the above headings sought to be deducted and the same are not wholly and exclusively incurred for the purpose of the land, from which agricultural income is derived, namely, the land which is declared by the applicant itself, namely, the plantation area alone.

9. That apart, the assessing officer, appellate authority and the Tribunal have concurrently arrived at a conclusion that there is no sufficient materials placed before them to substantiate that the said expenses are wholly and exclusively incurred for the plantation area. In the absence of any such materials and in view of the law laid down in the decisions referred supra, we do not find any reason to interfere with the order of the Tribunal. Accordingly, this revision stands dismissed.