Purtabpore Company Ltd.

Vs

The State of Uttar Pradesh

Civil Appeal Nos. 1192 and 1276 of 1966

(J. C. Shah, K. S. Hegde, A. N. Grover JJ)

28.04.1970

JUDGMENT

GROVER, J. -

1. These appeals by special leave arise out of a common judgment of the Allahabad High Court in two references made under the United Provinces Agricultural Income-tax Act, 1948 (hereinafter called the Act).

2. As the points are common the facts in appeal No. 1276 of 1966 may be briefly stated.

3. The appellant is a sugar factory to which is attached a sugarcane farm. The appellant carries on agricultural farming on a large scale in District Deoria and had several farms. According to the case of the appellant it engages on each farm a Manager with necessary technical, clerical and menial staff to assist him. These persons are also provided accommodation and facilities for medical treatment and are given certain other necessary allowances. It is claimed that the whole establishment is maintained exclusively for the purposes of the farm.

4. The appellant opted to be assessed under Section 6(2) (b) of the Act for the assessment year 1357-F, the Assessing Income-tax Officer (Collector) assessed the appellant to Agricultural Income-Tax after disallowing expenses on the management charges of European Establishment etc., miscellaneous expenses, salary of European staff, rent, inspection, repairs of bungalows and offices as not being admissible under the rules. This Order was upheld by the Agricultural Income-Tax Commissioner mainly on the ground that the number of persons employed and their salary was not given and it was therefore not possible "to determine whether those persons were at all necessary when the assessee had too many other servants or labourers or the like". He disallowed the expenses on management and establishment and on the subscription on periodicals, on postage and telegram, printing and stationery, medicine etc. In his opinion these could not be regarded as costs of cultivation. A revision was filed before the Agricultural Income-Tax Board which was dismissed on the ground that the aforesaid expenses could not strictly be called expenses of cultivation and were not permissible under Section 6(2)(b)(iv) of the Act. The appellant filed an application under Section 24(2) for reference to the High Court. The Agricultural Income-Tax Board stated the following question of law :

> "Whether the amount claimed by the assessee as expenses of management, miscellaneous expenses, detailed above can be allowed as expenses of cultivation under Section 6(2)(b)(iv) of the Act ?".

5. The items which had been disallowed and with regard to which the reference was made are given below :

> #Senior Staff Establishment Rs. 3,180/-Indian Establishment Rs. 4,021/15/3Indian Menial Staff Rs. 6,825/6/-Travelling Expenses Rs. 833/6/3Staff Allowance Rs. 207/7/6Garden Maintenance Rs. 1,062/2/3Motor Car Maintenance Rs. 360/-Lighting Plant Expenses Rs. 1,844/11/-Firm Contribution to Provident Fund Rs. 574/1/-Agency Allowance Rs. 1,800/-/-##

6. The assessee had showed certain other expenses as miscellaneous expenses. They too were disallowed. They were as follows :

> #Subscription and Periodicals Rs. 159/-Postage and Telegrams Rs. 189/5/-Printing and Stationery Rs. 79/14/-Medicines and Medicals Rs. 1,529/3/8Sundries Rs. 2,838/3/8##

7. The High Court relied largely on certain decisions of this Court in which the meaning of 'agricultural' and 'agricultural purpose' was considered with reference to the provisions of the Income-Tax Act, 1922. It was held by the High Court that the expenses which were claimed to be deductible could not possibly be said to be directly or approximately connected with the raising of the crops, nor for making it fit for market or for transporting it to the market. These expenses at the best could only be said to be remotely connected with the business side of marketing the produce and had no connection with the raising of the crops. The question was therefore answered in the negative and against the assessee.

8. The Act was enacted to impose tax on agricultural income in the United Provinces. Section 2(1) defines 'agricultural income'. It is first stated that this expression has the same meaning as has been assigned to it in the Indian Income-Tax Act, 1922. In its adopted form, it is reproduced below :

> (a) any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land revenue in (Uttar Pradesh) or is subject to a local rate or cess assessed and collected by an officer of the (State Government);
>
> (b) Any income derived from such land by -
>
> #(i) .....(ii) .....(iii) .....##
>
> (c) any income derived from any building ....."

9. Section 3 provides for the charge of agricultural income-tax, Section 4(A) for computation of agricultural income, Section 5 for determination of such income and Section 6 gives an option to the assessee to have the computation of income done in accordance with its provisions. Sub-section (2)(b) says that the income shall be the gross proceeds of sale of all the produce of the land subject to the following deductions :

> #(i) .....(ii) .....(iii) .....##
>
> (iv) the expenses incurred in the previous year in raising the crop from which the agricultural income is derived, in making it fit for market and in transporting it to market, including the maintenance or hire of agricultural implements and cattle

required for these purposes;

#(v) .....(vi) .....##

(vii) any expenses incurred in the previous year on the maintenance of any capital asset if such maintenance is required for the purpose of deriving the agricultural income;".

10. The provisions of Section 6(2)(b)(iv) came up for consideration before the Allahabad High Court in Agricultural Income-Tax Reference No. 366 of 1953 decided on 11th May, 1956. In that case also the income was derived from large-scale farming. It had been found by the Agricultural Income-Tax Board that the farm had been run under the suspension of a Manager and all the figures relating to receipts and expenditure had been properly checked and scrutinized. A number of items were involved which were of identical nature as are to be found in the present case and with regard to which deductions had been claimed under Section 6(2)(b). The provident fund which represented the Company's contribution was allowed by the High Court on the ground that the employees were engaged at the farm and the contribution to their provident fund was in a way remuneration or salary paid to them. The expenses on the maintenance and repairs to the Asstt. Manager's bungalow were allowed under Section 6(2)(b)(vii). Similarly, the expenditure incurred on repairs to quarters allowed to blacksmiths, watchmen, carpenters and clerks - all connected with cultivation was allowed under the aforesaid provision. The expenses incurred on the maintenance of a lorry used for transporting the harvest and the car which we provided to the managerial staff to ensure proper supervision of the farm were also allowed by the High Court. It was considered that this expenditure was necessary for the purpose of deriving the agricultural income. As regards the payments made to Directors, Managing Agents and expenses incurred on a general office and the General Manager's Commission, the position taken up on behalf of the assessee was that all this expenditure had been incurred on controlling operations in the organization for the cultivation of land, raising, transporting and marketing of the crops etc. The High Court was of the view that all this expenditure which represented only 1/5th of the total expenditure of the Company was deductible as it had been incurred for the purposes of the farm. As regards Manager's salary, his travelling expenses, leave and passage allowance and clerical salaries, the High Court felt that unless there be reasons for holding that the expenses was so unreasonable as to justify a finding that it did not relate to the agricultural activities of the Company, the assessing authority could not substitute its own views of prudent management for the actual management by the Board of Directors of the Company. The following observations may be referred to :

"The actual raising of the crop is certainly done by the coolies who work on the farm but the brains that direct and guide the operations, protect the crops and arrange for its collection and disposal, are by no means to be ignored and if payment is made by the company to secure such assistance we do not find any justification for holding that the expense is not incurred in raising the crops."

The above case was not followed by the High Court in the present case.

11. In Mrs. Bacha F. Guzdar, Bombay v. Commissioner of Income-tax, Bombay, (Income-tax reports, (Vol. 27) 1955, p. 1) the questions which fell for determination were of a different nature altogether. The assessee there was a shareholder in certain tea companies 60% of whose income was exempt from tax as agricultural income under Section 4(3)(viii) of the Indian Income-tax Act, 1922. The assessee claimed that 60% of the dividend income received on those shares would also be

exempt from tax as agricultural income. It was held that the dividend income was not agricultural income but was income assessable under Section 12 of the aforesaid act. According to that decision, the object underlying Section 2(1) of the Income-tax Act was not to subject to tax either the actual tiller of the solid or any other person getting land cultivated by others for deriving benefit therefrom, but to say that the benefit intended to be conferred upon such persons should extend to those into whose hand that revenue fell, however, remote the receiver of such revenue might be, was hardly warranted.

12. In the other case, Commissioner of Income-tax, West Bengal, Calcutta v. Raja Benoy Kumar Sahas Roy (32 ITR 466) the question was whether income derived from the sale of sal and piyasal trees owned by the assessee which was originally a forest of spontaneous growth "not grown by the aid of human skill and labour" but on which forestry operations described in the statement of case had been carried on by the assessee involving considerable amount of expenditure of human skill and labour was agricultural income within the meaning of Section 2(1) of the Indian Income-tax Act, 1922. It was in this connection that observations were made with regard to the primary sense in which the word 'agriculture' was used and what the meaning of 'agricultural operation' was. It was said that the term 'agriculture' could not be extended to all activities which had some relation to the land and were in any way connected with the land. For instance the application of the term 'agriculture' to denote such activities in relation to the land including horticulture forestry, breeding and rearing of livestock dairying, butter and cheese-making and poultry farming was unwarranted distortion of the term.

13. The above two decisions relied upon by the High Court, with respect, have no bearing on the question which arose in the present case. It is well known that modern agricultural farming which has become mechanised involves a high degree of organisation, technical skill etc. in the same way as a well-run industry. If agricultural production has to be obtained with optimum results it is necessary that there should be a proper supervisory and other staff as also the employment of such means as would be conducive to maximum production and proper marketing of the produce. It is axiomatic that the staff would require residential accommodation which will have to be kept in a proper state of repairs. The staff will also need medical attention and other amenities which are normally afforded to employees nowadays. The benefit of provident fund can hardly be denied to them when it has become the accepted and normal feature in all forms of employment in modern times. If any motor vehicle is being maintained for enabling the supervisory or other staff to look after the farm the expenses incurred thereon cannot be regarded as foreign to farming operations. The expenditure incurred on postage, telegrams, printing and stationery for the purpose of and in connection with farming would also be allowable. If certain periodicals are being subscribed to for obtaining technical knowledge and up-to-date information in the matter of agricultural farming it is difficult to see how that could be disallowed. It is not necessary to refer to all other items the details of which have been given before. What has to be essentially determined under Section 6(2)(b)(iv) is whether the expenses were incurred on or for the purpose of the entire work and operations involved in raising the crops, making the same fit for marketing and the transportation of the produce to the market. The words "raising the crop" cannot be confined simply to the ploughing of the land, sowing the seeds and cutting the harvest. It must be emphasised that Section 6(2)(b)(iv) is not to be construed in a narrow and pedantic sense and must be given its full effect in the background of modern large-scale farming and the organization required for it. We are generally in agreement with the views expressed in the previous unreported decision of the Allahabad High Court referred to before.

14. It would appear that the authorities concerned have not considered the items in dispute from the

correct angle and it would have to be decided with regard to each item whether it was partly or wholly expended for the purposes mentioned before. An appointment may become necessary if it is determined that the entire expense was not incurred strictly for those purposes.

15. The correct answer to the question referred would be : The amount claimed by the assessee as expenses on management and miscellaneous expenses detailed before can be allowed under Section 6(2)(b)(iv) if and to the extent it is determined that they were incurred for the management, supervision, organisation, technical knowledge and assistance and other allied matters for the purpose of the raising of crops, their marketing and transportation, in the light of the observations made by us in this judgment.

16. The appeals are allowed with costs in this Court and the judgment of the High Court is set aside. One hearing fee.

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