

**SUPREME COURT OF INDIA**

Commissioner of Agrl. Income-Tax, Trivandrum

Vs.

Emerald Valley Estates"

C.A.No.4650 of 1993

(S. P. Bharucha, N. Santosh Hegde and Y. K. Sabharwal JJ.)

21.02.2001

**ORDER**

1. The High Court answered in favour of the assessee the following question:

"(i) Whether on the facts and in the circumstances of the case, the Tribunal is right in holding that the expenditure incurred by the applicant-Company by way of Court-fee and Advocate fee in filing a suit against the Government of Kerala is not an expenditure incurred wholly and exclusively for the purpose of deriving agricultural income and, therefore, is not an allowable expenditure under S. 5(j) of the *Agrl. Income-tax Act, 1950*?"

It did so in relation to the Assessment Year 1981-82. It accepted the contention on behalf of the learned counsel for the assessee that the case was covered by the decision of a Full Bench of that High Court in T.R.C. No. 106/1991.

2. The said decision of the High Court was impugned before this Court and it was set aside. *Commr. of Agrl. Income-tax, Kerala v. Plantation Corporation of Kerala Ltd., Kottayam*<sup>1</sup>. It seems appropriate, in the circumstances, that the order impugned in this appeal be set aside and the matter (I.T.R. No. 162/1986 (Agrl.)) remanded to the High Court for being heard and considered afresh.

3. We note that although learned counsel for the assessee before the High Court had placed reliance upon the aforesaid Full Bench decision, learned counsel for the assessee before us submits that that decision had no application. The High Court will consider the matter afresh in the light of the decision of this Court reversing the Full Bench decision but all available contentions shall be open to both parties.

4. The appeal is accordingly allowed.

5. No order as to costs.

C.A. Nos. 4916-17/1993 :

6. What is impugned in these appeals is only an order of remand. We see no reason to interfere. No doubt, on remand, the matter will be reconsidered in the light of the law as it stands today.

7. The appeals are dismissed.

8. No order as to costs.

Appeals dismissed.

<sup>1</sup>(2001) 1 SCC 207