

KERALA HIGH COURT

Amalgamated Coffee Estates Ltd

Vs

State of Kerala

(M.S. Menon J.)

12.08.1961

JUDGMENT

M. S. Menon J.

1. This is an application by the Amalgamated Coffee Estates Limited, Sitharkunda, section 54(1) of the Madras Plantations Agricultural Income-tax Act, 1955, questioning the correctness of the order the Agricultural Income-tax Appeal No. 34 of 1959. The assessment related to the assessment year 1956-57 (accounting period : April 1, 1955, to March 31, 1956). In the accounts of the applicant for the accounting year April 1, 1955, to March 31, 1956, a sum of Rs. 56,496 was shown as the excess received from the Coffee Board in respect of the season 1953-54. The contention of the department which has found favour with the Appellate Tribunal is that the said amount is assessable in the assessment year 1956-57. Sub-section (1) of section 25 of the Coffee Act, 1942, omitting the provisos thereto, reads as follows :

"All coffee produced by a registered estate in excess of the amount specified in the internal sale quota allotted to the estate or when no internal sale quotas have been allotted to estates, all coffee produced by the estate, shall be delivered to the Coffee Board for inclusion in the surplus pool by the owner of the estate or by the curing establishment receiving the coffee from the estate."

It is common ground that the coffee with which we are concerned was produced and delivered to the Coffee Board in pursuance of the sub-section during the season 1953-54.

Sub-section (6) of section 25 provides :

"When coffee has been delivered or is treated as having been delivered for inclusion in the surplus pool, the registered owner whose coffee has been so delivered or is treated as having been so delivered shall retain no rights in respect of such coffee except his right to receive the payments referred to in section 34."

In T. R. C. No. 13 of 1958 a Division Bench of this court said :

"We further feel that delivery to the Coffee Board under statute is not sale but entrustment for purposes of sale to a statutory body. We however feel not called upon to definitely decide these points in this case."

In *Puthutotam Estates (1943) Ltd. v. Agricultural Income-tax Officer* the High Court of Madras came to the conclusion that what happens when coffee is delivered to the Board is nothing else or other than a statutory sale. Rajamannar C.J. said :

"Coffee is grown on the land and the berries collected and they are delivered to the Coffee Board. That delivery is in pursuance of a statutory sale. The sale proceeds therefore constitute the income. As the learned Advocate-General put it, the taxable event is the conversion of the coffee produce into money. This kind of income will fall under section 2(a) (2) (iii) of the Act that is, it is income derived from lands in the State by the sale by a cultivator of the produce raised by him. Now it is obvious that the transaction of sale takes place when the produce is delivered to the Coffee Board. The price is tentatively fixed at the time but it is liable to adjustment subsequently. Often it takes time before the entire sale price is realised. Keeping in mind these facts, if we take a particular accounting year, the computation of income will in a way depend upon the system of account keeping adopted by an assessee. If it is the mercantile system the income from the sale will be entered as income which has accrued, though the money might not have been actually paid either in whole or in part. But if it is the cash system which is adopted by the assessee, then though the transaction of sale might be in a particular year of account, yet only the actual amounts realised from the transaction would be entered in the books of account. If the balance is received in a succeeding year, then it would be entered in the account of the succeeding year. In such a case the actual money received during an accounting year would be the income which would be liable to tax. In the mercantile system, however, the actual receipt of the moneys would not be the decisive factor from the point of view of time."

It is not disputed that the assessee follows the mercantile method of accounting, and that the Act has no application to the agricultural income of any year prior to April 1, 1954. Under the mercantile system the sum of Rs. 56,496 received by the assessee as the excess of the 1953-54 season - though actually received in the accounting period April 1, 1955, to March 31, 1956 - has to be considered as having accrued in the accounting period April 1, 1953, to March 31, 1954. It should follow that the said income being an income of a period prior to April 1, 1954, is not liable to taxation under the Madras Plantations Agricultural Income-tax Act, 1955. The two main methods of accounting are the cash system and the mercantile system. The difference between the two has been clearly brought out by Sir Courtney Terrell C.J. in *Dhakeshwar Prasad Narain Singh v. Commissioner of Income-tax* and Iqbal Ahmad C.J. in *Commissioner of Income-tax v. Shrimati Singari Bai*. The relevant passage from the judgment of Iqbal Ahmad C.J. reads as follows :

"Under this system (mercantile accounting system) the net profit or loss is calculated after taking into account all the income and all the expenditure relating to the period, whether such income has been actually received or not and, whether such expenditure has been actually paid or actually earned, though not necessarily realised in cash, or the loss computed under this system is the loss actually sustained, though not necessarily paid in cash. The distinguishing feature of this method of accountancy is that it brings into credit

what is due immediately it becomes legally due and before it is actually received; and it brings into debit expenditure the amount for which a legal liability had been incurred before it is actually disbursed. The mercantile accountancy system is the opposite of the cash system of book-keeping under which a record is kept of actual cash receipts and actual cash payments, entries being made only when money is actually collected or disbursed."

In Keshav Mills Ltd. v. Commissioner of Income-tax the Supreme Court had occasion to deal with the incidents of the two systems of accounting. It said :

"The mercantile system of accounting or what is otherwise known as the double entry system is opposed to the cash system of book-keeping under which a record is kept of actual cash receipts and actual cash payments, entries being made only when money is actually collected or disbursed. That system brings into credit what is due, immediately it becomes legally due and before it is actually received and it brings into debit expenditure the amount for which a legal liability has been incurred before it is actually disbursed. The profits or gains of the business which are thus credited are not realised but having been earned are treated as received though in fact there is nothing more than an accrual or arising of the profits at that stage. They are book profits. Receipt being not the sole test of chargeability and profits and gains that have accrued or arisen or are deemed to have accrued or arisen being also liable to be charged for income-tax the assessability of these profits which are thus credited in the books of account arises not because they are received but because they have accrued or arisen."

In Gajapathi Naidu v. Commissioner of Income-tax the Madras High Court had to consider the implications of an account kept under the mercantile system of accounting. In that case a sum of Rs. 12,447 was received in the accounting year relevant to the assessment year 1951-52. The amount related to the transactions of 1948-49. It was held that the receipt had properly to go into the year of transactions - the accounting year ending March 31, 1949 - that the department had no option in the matter, and that the receipt cannot be included in the assessment for the year 1951-52.

In the light of what is state above we have to hold that the sum of Rs. 56,496 - the excess received in respect of the season 1953-54 - is not liable to taxation under the Madras Plantations Agricultural Income-tax Act, 1955, and that this application has to be allowed. We do so. The respondent will pay the costs of the applicant. Advocates fee Rs. 150.

Application allowed.