

Commissioner Of Income-Tax, Madras vs South Arcot District Co-Operative ... on 25 January, 1989

Equivalent citations: [1989]176ITR117A(SC), AIR 1990 SUPREME COURT 1249, 1990 TAX. L. R. 389, (1989) 176 ITR 117, (1990) IJR 250 (SC)

Author: R.S. Pathak

Bench: R.S. Pathak, Ranganath Misra

JUDGMENT

R.S. Pathak, C.J.

1. This appeal by certificate granted by the High. Court of Madras is directed against the judgment of the High Court disposing of a reference in favour of the assessee and against the Revenue.

2. The respondent-assessee is a co-operative society registered under the Madras Co-operative Societies Act. The assessee entered into an agreement with the State Government during the previous year ending June 30, 1960, relevant to the assessment year 1961-62, whereby the assessee agreed to hold a stock of ammonium sulphate belonging to, and on behalf of, the State Government, and to store it in godowns which, admittedly, belonged to the assessee. Under the agreement, the assessee was required further to take all necessary steps to enable such stocking and storage of the fertiliser, including taking delivery of the stock at the rail-head and transporting it to the godowns. During the previous year relevant to the assessment year 1961-62, the assessee received a sum of Rs. 31,316 on this account, the amount being described as commission.

3. In the assessment proceedings for the assessment year 1961-62, the assessee claimed exemption from tax under Section 14(3)(iv) of the Indian Income-tax Act, 1922, in respect of the said sum of Rs. 31,316. The Income-tax Officer denied the exemption, and on appeal, the Appellate Assistant Commissioner of Income-tax' confirmed the denial. But, on second appeal by the assessee, the Income-tax Appellate Tribunal held that the various terms of the agreement with the State Government constituted consideration for letting the godowns, and that any servicing done in that connection represented an insignificant part of the entire transaction. In the result, the Appellate Tribunal allowed the appeal and granted the exemption claimed by the assessee. At the instance of the Revenue, the Income-tax Appellate Tribunal referred the following questions to the High Court of Madras :

1. Whether, on the facts and in the circumstances of the case, the sum of Rs. 31,316 received by the assessed-society from the Madras Government under an agreement

for stocking and distribution of ammonium-sulphate was exempt under Section 14(3)(iv) of the Indian Income-tax Act, 1922 ?.

2. Whether, on the construction of the agreement between the assessee and the State Government, the Appellate Tribunal's finding that the receipts were mostly for letting out the godowns and that the servicing was an insignificant portion of the whole amount is reasonable and consistent with the material on record ?

4. The High Court endorsed the view taken by the. Income-tax Appellate Tribunal and answered the reference against the Revenue and in favour of the assessee.

5. We have considered the matter carefully and to our mind, it seems clear that the Appellate Tribunal and the High Court are right in the view adopted by them. As was observed by the Gujarat High Court in CIT v. Ahmedabad Maskati Cloth Dealers Co-operative Warehouses Society Ltd. , while considering the analogous provision of Section 80P(2)(e) of the Income-tax Act, 1961, the provision for exemption was intended to encourage co-operative societies to construct warehouses which were likely to be useful in the development of rural economy and exemption was granted from income-tax in respect of income derived from the letting of such warehouses for the storage of fertilisers and other related commodities concerned with co-operative marketing. Having regard to the object with which the provision has been enacted, it is apparent that a liberal construction should be given to the language of the provision and that, therefore, in the circumstances of the present case, it must be regarded that what the assessee did was to let out its godowns for the purpose of storing the ammonium sulphate handed over to it by the State Government. The remaining services performed by the assessee were merely incidental to the essential responsibility of using the godowns for the storage of that stock. It is true that a certain sum was paid to the assessee and described as commission for the services performed by it, but having regard to the totality of the circumstances and to the true substance of the agreement, it seems to us plain that the amount was paid merely by way of remuneration for the use of the godowns. In the result, the assessee is entitled to the exemption claimed by it.

6. Accordingly, the appeal fails and is dismissed. There is no order as to costs.