

## **Joharmal Murlidhar And Co. vs Agricultural Income-Tax Officer, ... on 4 August, 1970**

**Equivalent citations: AIR1970SC1980, [1971]79ITR6(SC), (1970)3SCC331, AIR 1970 SUPREME COURT 1980, 1970 SCD 901**

**Author: K.S. Hegde**

**Bench: J.C. Shah, K.S. Hegde**

### **JUDGMENT**

K.S. Hegde, J.

1. These appeals by certificate raise common question of law.

2. The appellant is a partnership firm registered under the Indian Partnership Act, 1932. It consists of two partners. The partnership owns two estates namely (1) Chowkhani Tea Seed Estate and (2) Mahadeobari Tea Estate. The dispute in this case is as to the extent of the liability of the appellant to pay the agricultural income-tax under the Assam Agricultural Income-tax Act, for the assessment years 1954-55, 1955-56, 1956-57 and 1957-58. The assessee submitted its returns in due course but thereafter it failed to produce its income-tax assessment orders on the basis of which the agricultural income-tax payable by the assessee had to be determined. Hence the assessing officer assessed the appellant under Section 20(4) of the Assam Agricultural Income-tax Act. In other words he assessed the assessee on the basis of best judgment. The assessee challenged the assessments in question by means of petitions under Article 226 of the Constitution before the High Court of Assam and Nagaland. Various grounds were urged in support of the contention that the impugned assessments were invalid in law. The High Court rejected all those contentions and dismissed the writ petitions. Hence these appeals.

3. Though several grounds were urged before the High Court in support of the relief prayed for by the appellant, in this Court Mr. A.K. Sen, its learned Counsel advanced only two grounds namely (1) the impugned assessments are invalid as those assessments were made piecemeal and (2) the best judgment assessments were made arbitrarily.

4. There is no basis for the contention that piecemeal assessments had been made. From the records produced before us, it is clear that the assessments were made in accordance with law. The assessee has produced some documents which purport to be copies of the assessment orders but in reality they are merely work sheets. Therein neither the income of the assessee was computed nor the tax payable by it quantified. Hence the first contention advanced by Mr. Sen fails.

5. Now coming to his second contention, the assessment order for the year 1957-58 reads:

Return filed but no copy of the Central Assessment order was filed in spite of the fact that sufficient time and opportunity was given to the firm to comply. I therefore consider it a fit and proper case for summary assessment to the best of my knowledge and judgment as follows:

(A) Tea income; income determined in respect of the Mahadeobari T. E. ... Rs. 1,19,303/- (B) NON TEA INCOME As per books of a/cs. produced already ... Rs. 17,934/- \_\_\_\_\_ Net agricultural income ... Rs. 1,37,237/- Tax @ 28.98 pies in the rupee ... Rs. 39,771/29 NP. Issue D. N. and Challan (S) G. B. Philip 4-5-61. Agricultural Income-tax Officer, Assam, Shillong.

6. The assessment orders made for the other years are more or less similarly worded.

7. Prima facie the order appears to be an arbitrary one. The assessing officer had not given any reasons for his conclusion. Even a best judgment assessment has to be made on some rational basis. The High Court refused to accept the contention of the assessee that the impugned assessments were made arbitrarily on the ground that the assessee had failed to take proper steps under the Act by appealing against the impugned order. That is undoubtedly a good ground for refusing to give the relief to the assessee but all the same, taking into consideration, the amounts involved and the simple nature of the proof required to be adduced by the assessee, we direct as follows:

The assessing officer shall issue a fresh notice to the assessee calling assessment orders for the relevant assessment years. The assessee shall produce those orders within a month of the receipt of the notice. If he produces those orders, the impugned assessment orders shall stand cancelled and the assessing officer shall assess the assessee afresh. If the assessee fails to produce those orders, the impugned assessment orders shall stand and further steps may be taken on the basis of those orders.

8. Subject to the above observation, this appeal is dismissed but there will be no order as to costs.