S. S. Rajalinga Raja vs State Of Madras on 26 October, 1966

Equivalent citations: 1967 AIR 814, 1967 SCR (1) 950, AIR 1967 SUPREME COURT 814, 63 ITR 617, 1967 (1) ITJ 311, 1967 SCD 931, 1967 (1) SCWR 599, 1967 (1) SCJ 320, 1967 (1) SCR 950

Author: J.C. Shah

Bench: J.C. Shah, V. Ramaswami, Vishishtha Bhargava

PETITIONER:
S. S. RAJALINGA RAJA

Vs.

RESPONDENT:
STATE OF MADRAS

DATE OF JUDGMENT:
26/10/1966

BENCH:
SHAH, J.C.
BENCH:
SHAH, J.C.
RAMASWAMI, V.
BHARGAVA, VISHISHTHA

CITATION:
1967 AIR 814 1967 SCR (1) 950

ACT:
Madras Plantations Agricultural Income Tax Act (5 of 1955),-"Agricultural Income"-Whether agricultural produce is itself income.

HEADNOTE:
The appellant owned a cardamom plantation. For the assessment year 1957-58, he submitted a return under the Madras Plantations Agricultural Income-tax Act, 1955. The Agricultural Income-tax Officer did not accept the return, and 'added to the income the value of stocks of cardamom sold in the accounting year. The High Court in revision, confirmed the assessment made by the Department.
In appeal to this Court, it was contended that: (1) the agricultural produce itself was income and became charged to tax under the Act when it was received and not when it was

sold, used or consumed, and therefore, the High Court ought to have directed determination of the produce which was actually derived from agriculture in the year of account and ought to have brought to tax only that quantity and excluded the value of the rest of the produce received in earlier years, from taxation; and (2) from the fact that the appellant applied to compound the tax for the earlier years, it must be inferred that the produce which was sold by him in the year of account had already suffered tax in the earlier years.

HELD : (1) Merely because the produce of the plantation was received in the earlier years, income derived from sale of that produce in the year of account was not exempt from tax under the Act in that year. [953 B]

Section 3 of the Act read with the definition of "agricultural income" charges to tax the monetary return either as rent or revenue or agricultural produce from the plantation. The expression "income" in its normal con-notation does not mean mere production or receipt of a commodity which may be converted into money. Income arises when the commodity is disposed of by sale, consumption or use in the manufacture or other processes carried on by the assessee qua that commodity. It is not necessary, however, for income to accrue that there must be a sale of a commodity : consumption or use of a commodity in the business of the assessee from which the assessee obtains benefit of the commodity may be deemed to give rise to income. [952 G-H; 953 A-B]

Dooars Tea Co. Ltd. v. Commissioner of Agricultural Income-tax, West Bengal, [1962] 3 S.C.R. 157, referred to.

(2) It had to be proved by evidence that the crop sold related to the years in respect of which the assessee had applied to compound the tax, but there was no such evidence. [954 F]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 979 and 980 of 1965.

Appeals by special leave from the judgment and orders dated November 12, 1962 and January 1, 1964 of the Madras High Court in Tax Case Nos. 19 of 1961 and S.C. Petition No,.. 142 of 1963 respectively.

S. Swaminathan and R. Gopalakrishnan, for the appellant (in, both the appeals).

P. Ram Reddy and A. V. Rangam, for the respondent (in both the appeals).

The Judgment of the Court was delivered by Shah, J. S. S.Rajalinga Raja-hereinafter called 'the appellant'--owns acardamom plantation on a fifty-acre estate.

For the assessment year 1957-58 he submitted a return under the Madras Plantations Agricultural Income-tax Act 5 of 1955 disclosing a net income of Rs. 5,250/- from the plantation.. On enquiry the Agricultural Income-tax Officer learnt that the appellant had sold stocks of cardamom of the value of Rs. 58,375-9-9 between April 1, 1956 and March 31, 1957. The appellant explained that those sales represented not the produce of the year of account, but accumulated stocks of the past 3 to 4 years. That explanation was rejected by the Agricultural Income-tax Officer and after allowing expenditure estimated at the rate of Rs. 120/- per acre, the balance was brought to, tax, and a penalty of Rs. 3,000/- was levied under s. 20(1) (c) of the Act. The order was confirmed in appeal to the Appellate Assistant Commissioner, both as to the levy of tax and penalty. But the Appellate Tribunal was of the view that the average production of cardamom per acre was 40 lbs. and that if the stocks of cardamom, sold in the year of assessment be attributed to production of the year, the yield would approximately be 134 lbs. per acre. Holding that. an estimate of 40 lbs. per acre would be a "fair estimate" and that an average expenditure of Rs. 145/- per acre should be allowed, the Tribunal directed that the assessment be modified, and the order imposing penalty be set aside.

The State of Madras then applied to the High Court of Madras in revision. The High Court was of the view that a part of the stock of cardamom sold in the year, though not the whole, was probably accumulated stock out of previous year's production, but since the appellant did not lay before the taxing authorities reliable evidence, his explanation was rightly rejected. The High Court also rejected the contention of the appellant that the income from sales of' cardamom stock of previous years was not taxable in the year of' account because it had been subjected to tax in those previous. years under orders compounding the tax under s. 65 of the Act. The High Court accordingly allowed the petition and restored the assessment made by the Department. With special leave, the 1 appellant has appealed to this Court. It is claimed by the appellant in the first instance that under the Act, agricultural produce itself is income and becomes charged to, tax under the Madras Plantations Agricultural Income-tax Act 1955, when it is received, and not when it is sold, used or consumed. Relying upon this premise it was urged that even on the view expressed by them the learned Judges of the High Court ought to have directed determination of the produce which was actually derived from agriculture in the year of. account, and ought to have brought to tax only that quantity and excluded the value of the rest from taxation under the Act. Section 3 of the Act imposes the charge of tax upon the total agricultural income of the previous year of every person, and by s. 4 the total agricultural income of any previous year of any person comprises all agricultural income derived from a plantation within the State and received within or without the State. 'Agricultural income' is defined (insofar as the definition is relevant in these appeals) as meaning:

> "(1) any rent or revenue derived from a plantation;
>
> (2) any in-,am-, derived from such plantation in the State :by-
>
> (i) agriculture; o-
>
> (ii) the performance by a cultivator or receiver of rent in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market; or

(iii) the sale by a cultivator or receiver of rent-in kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii):

Explanation 1.-

Explanation 2.-

Prima facie, s. 3 of the Act read with the definition of 'agricultural income' charges to tax the monetary return either as rent or revenue or agricultural produce from the plantation. The expression "income" in its normal connotation does not mean mere production or receipt of a commodity which may be converted into money. Income arises when the commodity is disposed of by sale, consumption or use in the manufacture or other processes carried on by the assessee qua that commodity. There is no reason to think that the expression "income" in the Act has any other connotation. A tax on income whether agricultural or non- agricultural is, unless the Act provides otherwise, a tax on monetary return-actual ,or notional. Section 4 of the Act supports that view, for in the total agricultural income is comprised all agricultural income. derived from a plantation in the State. It is not necessary, however, for income to accrue that there must be a sale of a commodity: consumption or use of a commodity in the business of the assessee from which the assessee obtains benefit of the commodity may be deemed to give rise to income. Therefore, merely because the produce of his plantation was received in the earlier years, assuming that the appellant's case is true, income derived from sale of that produce in the year of account is not exempt from tax under the Act, in that year.

Counsel for the appellant strongly relied upon a judgment of this Court in Dooars Tea Co. Ltd., v. Commissioner of Agricultural' Income-tax, West Bengal(1) a case decided under the Bengal Agricultural Income-tax Act 4 of 1944. It was held in interpreting the definition of s. 2(1) (b) of

-the Bengal Agricultural Income-tax Act, 1944, which is in substantially the same language as the definition under the Act-that it was not predicated of the agricultural' income that it must be sold and profit or gain received from such sale before it can be included in the definition of agricultural income. In Dooars Tea Co. Ltd. case (1), the appellant grew bamboos, thatching grass and fuel by agricultural operations and utilized the products for the purpose of its tea business. The claim of the Income-tax authorities to tax the value of the produce was resisted on the plea that the produce was not sold. In rejecting that plea, the Court observed at p. 13:

"In terms the clause [s. 2(1) (b)] takes in income derived from agricultural land by agriculture; and as we have already pointed out giving the material words their plain grammatical meaning there is no doubt that agricultural produce constitutes income under this clause. Is there anything in the context which requires the introduction of

> the concept of sale in interpreting this clause as suggested by the appellant? In our opinion this question must be answered in the negative. Not only is there no indication in the context which would justify the importing of the concept of sale in the relevant clause, but as we have just indicated the indication provided by clauses (ii) and (iii) is all to the contrary. What this clause seems clearly to have in view is agricultural produce itself which has been used by the assessee."

But these observations do not, in our judgment, imply that agricultural produce when received by a person carrying on agricultural operations becomes income in his hands. The Court in that case was concerned to deal with a limited question whether a (1) [1962] 3 S.C.R. 157; 44 I.T.R. 6.

7Sup.C.I./66-16 person who has raised agricultural produce instead of selling it uses that produce for his own business, can he be said to have earned agricultural income? The Court in that case held that he would be deemed to be earning income. The decision is authority for the proposition that for agricultural income to arise, it is not predicated that the agricultural produce must be sold: user of agricultural produce for the purpose of the business of the assessee may give rise to agricultural income.

The decision in State of Kerala and Anr v. Bhavani Tea Produce -Co. Ltd.(1) on which reliance was placed by counsel for the appellant has, in our judgment, no relevance whatever in this case. In Bhavani Tea Produce Company's case (1) the assessee was required under s. 25 of the Coffee Act, 1942, to deliver the coffee produced by it to the Coffee Board and the question which fell to be determined was whether such delivery constituted sale by operation of law as a result of which the assessee ceased to be the owner of the coffee, the moment it handed over the produce to the Coffee Board. This Court held that under the relevant provisions of the Act as soon as the producer of coffee handed over the produce to the Coffee Board, it ceased to be the owner and income accrued to him at that point of time. That case does not lay down the proposition that income accrues to a producer of agricultural produce before the date of disposal, use or sale.

The second argument raised by the appellant has also no substance. For the years 1955-56 and 1956-57 the appellant did not submit returns of income, but applied to compound the tax under s. 65 of the Act, and paid the tax determined at the rates specified in Part 11 of the Act. Therefrom it cannot be inferred that the produce which was sold by him in the year of account to which these appeals relate had suffered tax in the earlier years. It has to be proved that the crop sold by the appellant related to the years -in respect of which he had applied to compound the tax; and on that part of the case there is no evidence. The appeals therefore fail and are dismissed with costs. There will be one hearing fee.

V. I P.S. Appeals dismissed.

(1) [1966] 2 S.C.R. 92: 59 I.T.R 254