Khandige Sham Bhat And Others vs The Agricultural Income Tax Officer on 29 August, 1962

Equivalent citations: 1963 AIR 591, 1963 SCR (3) 809, AIR 1963 SUPREME COURT 591, 1963 KER LJ 196, 1963 3 SCR 809, 1963 (1) SCJ 140

Bench: Bhuvneshwar P. Sinha, J.C. Shah, N. Rajagopala Ayyangar, J.R. Mudholkar

PETITIONER:
KHANDIGE SHAM BHAT AND OTHERS

Vs.

RESPONDENT:
THE AGRICULTURAL INCOME TAX OFFICER

DATE OF JUDGMENT:
29/08/1962

BENCH:
SUBBARAO, K.
BENCH:
SUBBARAO, K.
SINHA, BHUVNESHWAR P.(CJ)
SHAH, J.C.
AYYANGAR, N. RAJAGOPALA
MUDHOLKAR, J.R.

CITATION:
1963 AIR 591 1963 SCR (3) 809
CITATOR INFO :
R 1963 SC 630 (28)
R 1964 SC 370 (10,11)
F 1967 SC1458 (23)
RF 1967 SC1895 (23)
RF 1969 SC 378 (3,4)
RF 1970 SC1133 (18,32)
R 1972 SC 828 (20,34)
R 1972 SC 845 (14,15)
R 1973 SC1034 (18A)
R 1974 SC 497 (21)
R 1974 SC 849 (9)
R 1975 SC1234 (25)
F 1980 SC 271 (34)
R 1980 SC 959 (4)
R 1980 SC 959 (4)
R 1980 SC1382 (75)
R 1983 SC 634 (21)
R 1988 SC2062 (14)

ACT:
Agricultural Income tax - Temporary amendment of enactment consequent on reorqanisation of States-Territorial classification in defining previous year. If discriminatory--Mode of ascertaining rate - If reasonable-Kerala Agricultural Act, 1950 (Kerala 22 of 1950), as amended by Kerala Act 11 of 1959, s.2A Constitution of India, Art 14.

HEADNOTE:
This petition challenged the constitutional validity of s. 2A of the Kerala Agricultural Income Tax Act, 1950 as amended by Kerala Act II of 1959, tinder which the petitioner was assessed to agricultural income tax, on the ground that the section infringed Art. 14 of the Constitution. Under tile States Reoganisation Act, 1956 , Kasargod Taluk where the petitioner had his agricultural land and which was in the State of Madras, became a part of the Malabar District of the State of Kerala when that State came into being on November 1, 1956. By the Travancore Cochin Agricultural Income Tax (Amendment) Act, 1957, the State Legislature extended the earlier Act of 1950 to the erstwhile Madras areas. But the Kerala High Court held that agricultural income in such areas could not be assessed to tax for the assessment year 1957-1958 whereas similar income in other areas of the State remained liable to tax, the income accrued between November 1, 1. 1956, and March 31, 1957, i.e. after the Madras areas became part of the Kerala State, could not also be taxed. In order to remedy this anomalous position brought about by the reorganisation of States the Kerala State Legislature inserted the impugned section in the original Act, which provided as follows,-
"Notwithstanding anything contained in cl. (G) of Section 2, "previous years" for the assessment for the financial year commencing from the 1st day of April 1958 and so far as such assessment relates to the agricultural income derived from lands situated in the Malabar District referred to in subsection (2) of section 5 of the States Reorganization Act, 1956 (Central Act 37 of 1957), shalt be the whole period
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commencing on the 1st day of November, 1956 and ending on the 31st day of March, 1958, or, if the accounts of the assessed have been made up to a date within the fincial year ending on the 31st day of March 1958, then at the option of the assessee, the period commencing on the 1st day of November, 1956, and ending on the aforesaid date to which, the accounts have been so made up:
provided that -

(i) notwithstanding anything continued in section 3 and 56, the agricultural income tax and super tax chargeable on the total agricultural income of the previous year as reckoned in this section shall be at the rates applicable to the 'average annual income' according to the Schedule; such average annual income' shall be an amount bearing to the aforesaid total agricultural income the same proportion as the period of twelve months bears to the period of the previous year as defined in this section; and

(ii) the limit of exemption from chargeability to tax shall be determined with reference to the average annual income."

It was urged on behalf of the petitioners that classification of the State into two parts i.e. Madras area and Travancore area made by the impugned provision had no rational relation to the object of the Act and was discriminatory and that the basis adopted for ascertaining the rate of tax was arbitrary and unreasonable.

Held, that the contentions must fail.

In order to judge whet her a law was discriminatory what had primarily to be looked into was not its phraseology but its real effect. If there was equality and uniformity within each group, the law could not be discriminatory, though due to fortuitous circumstances in a peculiar situation some included in a class might get some advantage over others, so long as they were not sought out for special treatment. Although taxation laws could be no exception to this rule, the courts would, in view of the inherent complexity of fiscal adjustment of diverse elements, permit a larger discretion to the Legislature in the matter of classification so long as there was no transgression of the fundamental principles underlying the doctrine of classification. The power of the Legislature to classify must necessarily be wide

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and flexible so as to enable it to adjust its system of taxation in all proper and reasonable ways.

Shri Ram Krishna Dalmia v. Shri Justice S. R. Tendolkar [1959] S.C.R. 287 Purshottam Govindji Halai v. Shree B.M Desai, [1955] 2 S.C.R 887 and Kunnathat Thathunni Moppil Nair v. State of Kerala, [1961] 3 S.C.R. 77, referred to

The object of the classification made in the definition of 'previous year' by the impugned section was not to discriminate against the agriculturists of the Madras area but to remove the difference that existed between them and those of the other areas of the State, due to historical reasons, by im. posing the tax on the assessees in the Madras area for the period November 1, 1956, to March 31, 1957. There could therefore, be no doubt as to the existence of a reasonable nexus between the classification and the object of the legislation.

It was not correct to say a law based on geographical or territorial classification could be constitutionally valid only if it was a preexisting Act, and not if it was enacted

after the merger. The law might be a preexisting law or one enacted after merger. The validity of classification did not wholly depend on the source of law but also on the circumstances that prevailed in the two parts merged into one by historical events.
Shri Kishan Singh v. State of Rajasthan,[1955] 2 S. C. R 531 and Purshottam Govindji Halai v. Shri B.M. Desai, [1953] S.C.R. 887. referred to.
Nor was it correct to say that the mode of the ascertaining the average annual income for fixing the rate was arbitrary and unreasonable. Although a taxation law was as much subject to Art. 14 of the constitution as any other law, the court would not for obvious reason meticulously scrutinize the impact of its burden on different persons or classes and would not strike down the law on the ground that not the one but another method of assessment should have been adopted, unless it was convinced that the method adopted was capri-cious, fanciful, arbitrary or clearly unjust.
Although no Act, permanent or temporary, could violate Art. 14, the fact that the impugned legislation was to enure for a year to tide over the situation, must have some bearing in judging the reasonableness of the method selected and it could not be struck down as unreasonable on the ground that there was better alternatives.
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JUDGMENT:

ORIGINAL JURISDICTION : Writ Petition No. 103 of 1961. Petitions under Art. 32 of the Constitution of India for enforcement of Fundamental Rights.

G. S. Pathak and R. Gopalakrishnan, for the petitioners. H. N. Sanyal, Additional Solicitor-General of India and Sardar Bahadur, for the respondents.

1962. August 29. The Judgment of the Court was delivered by SUBBA RAO, J.-These two petitions filed under Art. 32 of the Constitution by different parties are directed against the Agricultural Income-tax Officer, Kasaragod, and the State of Kerala, for a declaration that s, 2A of the Kerala Agricultural Income-tax Act, 1950, as amended by Kerala Act 11 of 1959, (hereinafter referred to as the Act) is constitutionally void and for quashing the orders of assessment made by the first respondent pursuant to the said provision-

As it is common case that the decision in the first petition would govern the second one, it would suffice if the facts in the first petition were given.

Kasaragod Taluk, wherein the agricultural lands of the petitioner's family are situate, formed part of the district of South Kanara in the Madras State. Under the States Reorganization Act, 1956 (Central Act 37 of 1956) the Kerala State comprising the following territories was formed: (a) the territories

of the existing State of Travancore-Coching excluding the territories transferred to the State of Madras by Section 4; and (b) the territories comprised in (i) Malabar District, excluding the islands of Laccadive and Minicoy, and (ii) Kasaragod Taluk of South Kanara District. Under the Act the territories comprised in Kasaragod Taluk of South Kanara District and the District of Malabar in the Madras State were constituted into a separate district known as the Malabar District in the State of Kerala. For convenience of reference we shall hereinafter describe the territories carved out of the Madras State as Madras area and the rest as T-C area. After the formation of the State of Kerala on November 1, 1956, the laws in force in the State of Madras were continued in the Madras area and those in force in the Travancore-Cochin State were continued in the T.C. area. In the T.C. area agricultural income was liable to tax under the Travancore-Cochin Agricultural Income-tax Act (22 of 1950) which came into force on April 1, 1951. After the formation of the Kerala State, the Legislature of that State enacted the Travancore- Cochin Agricultural Income-tax (Amendment) Act, 1957. Whereunder the earlier Act of 1950 was extended to the Madras area with appropriate amendments. Under the said Act agricultural income derived from lands situated throughout the State of Kerala became assessable with effect from assessment year 1957 58. Pursuant to the provisions of that Act the Income-tax authorities started proceedings to assess the income derived from lands situated in the Madras area for the year 1957-58, On a petition filed by some of the assessees, the Kerala High Court held that the State of Kerala had no authority to levy tax on agricultural income which accrued before November 1, 1956, from lands situated in the Madras area and that the assessments for 1957-58 were not sustainable under the Act even in respect of income which arose after November 1, 1956, on the ground that the previous year, as defined under the Act, was a period of twelve months ending on March 31, preceding the year for which assessment was to be made. The result of the decision was that agricultural income derived from lands in the Madras area was not liable to tax for the assessment year 195768., whereas similar income from agricultural lands situated in the T.C. area was liable to tax, indeed, the income accrued between November 1, 1956, and March 31, 1957, i. e., the income accrued after the Madras area became part of the Kerala State, also could not be taxed. To remedy the situation brought about by historical reasons in the two geographical parts of the Kerala State, the Government of Kerala promulgated on January 12, 1959 the Agricultural Income-tax (Amendment) Ordinance 11 of 1959. Subsequently the Kerala Legislature passed the Agricultural Income-tax (Amendment) Act 11 of 1959 replacing the earlier Ordinance, hereinafter called the Amending Act.

Before the Amending Act was passed,, the petitioner, who has lands in different villages in Kasaragod Taluk, submitted a return of the income of his family for the assessment year 1957-58, and on June 30, 1958, the concerned Income-tax Officer determined the petitioner's net income for the accounting period April 1, 1956, to March 31, 1957, and the tax payable thereon. The petitioner preferred an appeal to the Assistant Commissioner of Agricultural Income-tax, Kozhikode, against the order of the Income-tax Officer questioning the said assessment on the ground, inter alia, that the assessment was made arbitrarily. When that appeal was pending, the judgment of the Kerala High Court was delivered and subsequently Ordinance II of 1959 was promulgated. The Assistant Commissioner, therefore, set aside the order of the Income-tax Officer on the basis of the decision of the Kerala High Court and remanded the matter to the Agricultural Income. tax Officer for disposal in accordance with law. After remand, on March 23, 1959, the Income-tax Officer issued a notice to the petitioner to submit his return of agricultural income for the assessment year 1957- 58 in

accordance with the provisions of the Ordinance and the subsequent Amending Act replacing the said Ordinance. On November 10, 1960, the Income-tax Officer determined the net income of the petitioner for the assessment year 1958 59 at Rs. 87,745.36 and assessed the tax at Rs. 21,920.41; the tax was calculated on the average net annual income of the petitioner for 12 months under the proviso to s. 2A of the Act. The petitioner seeks to set aside that assessment on the ground that the said section offends Art-14 of the Constitution and therefore the assessment was bad. Mr. Pathak, Learned counsel for the petitioner, argues that the classification of Kerala State into two parts, i.e., the Madras area and the T-C area, has no rational relation to the object of the Act, namely, imposition of agricultural income-tax, for., as the two parts belong to the same State, no post-amalgamation law can treat assessees of the same State differently in the matter of taxation. He further contends that there is discrimination between assessees of Kasaragod Taluk and those of the other part of the Madras area inasmuch as under s.2A of the Act the average annual income would be the average annual income of 12 months out of 17 months, with the result that the assessees of Kasaragod Taluk whose entire income accrued after November 1, 1956, were unjustly discriminated from assessees of the other part of the Madras area whose income accrued only before November 1, 1956. He also contends that in any view the basis adopted for ascertaining the rate was arbitrary and unreasonable as 24 months' income was taken as income for 17 months.

Learned Additional Solicitor General, on the other hand, seeks to sustain the assessment on the ground that the classification was based on historical reasons, that on the face of the Act all the assessees falling within the class to which s.2A applies are treated alike, that the State is entitled to adopt one of the many modes available for ascertaining the rate, that whatever basis is adopted for ascertaining the rate there is bound to be some hard cases and that circumstance cannot conceivable affect the validity of the law.

At the outset it would be convenient to notice briefly the law on the doctrine of classification. The law on the subject is well settled and it does not require restatement in extenso. It would suffice if we noticed the principles relevant to the enquiry. The law has been neatly and succinctly summarized in Shri Ram Krishna Dalmia v. Shri Justice S. R. Tendolkar (1) thus:

> "It is now well established that while article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification two conditions must be fulfilled, namely, (i) that the classification must be founded on an intelligible differential which distinguished persons or things that are grouped together from others left out of the group and, (ii) that differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification may be founded on different bases, namely, geographical, or according to objects or occupations or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the (1) [1959] S.C.R. 279.296-297.

Act under consideration. It is also well established that article 14 condemns discri- mination not only by a substantive law but also by a law of procedure."

Though a law ex facie appears to. treat all that fall within a class alike, if in effect it operates unevenly on persons or property similarly situated, it may be said that the law offends the equality clause. It will then be the duty of the court to scrutinize the effect of the law carefully to ascertain its real impact on the persons or property similarly situated. Conversely, a law may treat persons who appear to be similarly situated differently; but on investigation they may be found not to be similarly situated. To state it differently, it is not the phraseology of a statute that governs the situation but the effect of the law that is decisive. If there is equality and uniformity within each group, the law will not be condemned as discriminative, though due to some fortuitous circumstance arising out of a peculiar situation some included in a class get an advantage over others, so long as they are not singled out for special treatment. Taxation law is not an exception to this doctrine : vide Purshottam Govindji Halai v. Shree B. N. Desai, Additional Collector of Bombay (1) and Kunnathat Thatunni Moopil Nair v. State of Kerala (2). But in the application of the principles, the courts, in view of the inherent complexity of fiscal adjustment of diverse elements, permit a larger discretion to the Legislature in the matter of classification, so long it adheres to the fundamental principles underlying the said doctrine. The power of the Legislature to classify is of "wide range and flexibility" so that it can adjust its system of taxation in all proper and reasonable ways.

(1) [1955] 2 S.C.R. 887. (2) [1961] 3 S.C.R. 77.

Now Let us look at the impugned section. Section 2A of the Act reads :

> "Notwithstanding anything contained in clause (0) of section 2, "previous year" for the assessment for the financial year commencing from the 1st day of April 1958 and so far as such assessment relates to the agricultural income derived from lands situated in the Malabar District referred to in sub-section (2) of-section 5 of the States Reorganization Act, 1956 (Central Act 37 of 1956), shall be the whole period commencing on the 1st day of November, 1956 and ending on the 31st day of March, 1958, or, if the accounts of the assessee have been made up to a date 'within the financial year ending on the 31st day of March 1958, then, at the option of the assessee, the period commencing on the 1st day of November, 1956 and ending on the aforesaid date to which, the accounts have been so made up :
>
> Provided that -
>
> (i) notwithstanding anything contained in sections 3 and 56, the agricultural income-tax and super-tax chargeable on the total agricultural income of the previous year as reckoned in this section shall be at the rates applicable to the "average annual income"

according to the Schedule ; such "average annual income" shall be an amount bearing to the aforesaid total agricultural income the same proportion as the period of twelve months bears to the period of the previous year as defined in this section ; and

(ii) the limit of exemption from chargeability to tax shall be determined with reference to the "average annual income".

The Malabar District in the state of Kerala is constituted by combining Kasaragod Taluk of the South Kanara District and the District of Malabar of the Madras State. For the purpose of assessment for the financial year 1958-59 in respect of agricultural income derived from the said district, s. 2A of the Act gives a special definition of "previous year". Under that definition, "previous year"

> commences from November 1, 1966 and ends on March 31, 1958, i.e., a period of 17 months ; but the assessee can elect a lesser period as "previous year" if his accounts are made up to a date within the financial year ending on March 31, 1958, that is to say he can elect any date commencing from April 1, 1957, to March 31, 1958, if his accounts are made up to that date in which case the "previous year" so for as he is concerned will commence from November 1, 1956, and end on the said date so chosen by him. The proviso to the section prescribes a mode of ascertaining the rate of tax in regard to the said income : it lays down that in respect of the said income the rates are those applicable to the ",average annual income" according to the Schedule. The "average annual income", as defined in the proviso, will be twelve-seventeenths of the total income of the previous year as defined in the sections Under the section, therefore, the assessee in the Madras area will be liable to pay agricultural income-tax on the income accrued to him during the 17 months commencing from November 1, 1956, and ending on March 31, 1958, but the rate of tax payable by him is that applicable to the "average annual income " so defined. The question is whether this section infringes Art. 14 of the constitution or whether it can be justified on the basis of the doctrine of classification. In the narration of facts we have stated why it became necessary for the Legislature to insert s.2A in Act 22 of 1950. By reason of the States Reorganization Act, the said Madras area became part of the Kerala State on November 1, 1956. By reason of the decision of the Kerala High Court, agricultural income-tax could not be imposed in respect of income accrued to assessees in the Madras area between April 1, 1956, and March 31, 1957, and it was also not possible to tax them for their income even for that part of the year after it became part of the Kerala State: with the result, the legislature was confronted with two geographical divisions in respect of one of which the said law of agricultural income-tax could not be enforced while the a ssessees in the T-C area were liable to agricultural income-tax in regard to their income from their lands for the year commencing from April 1, 1956, and ending on March 31, 1957, the income of the agriculturists in the Madras area could not be reached by that law in respect of the whole or part of that year. These differences between the two parts of the State which originated from historical reasons were the basis of classification for the purpose of taxation. The object of' making the classification was not to discriminate against the agriculturists of the Madras area but to bring them into line with the agriculturists from the rest of the Kerala State in so far as the liability to pay agricultural income-tax was concerned. The existing law bad therefore to be appropriately adapted for securing this end. In these circumstances, can it be said that there was no reasonable nexus between the

> classification and the object of the legislation? The object of the legislation thus was to impose agricultural income-tax on assessees in the Madras area and also in respect of the period between November 1, 1956, and March 31, 1957, which could not be done under preexisting law. The differences between the two parts of the State have reasonable nexus to the said object. Because of the said differences the legislature thought that the definition of "Previous year" should be so amended in respect of the Madras area that the assessees in that area may not escape payment of agricultural income-tax in respect of the period after the said area formed part of the Kerala State. It is argued that this Court sustained the constitutional validity of a law on geographical and territorial bases only in a case where the said law was a preexisting law in an erstwhile State which continued to be law in the area of that State after it merged in the larger unit, and that it cannot be invoked where the law is for the first time enacted after the merger, for, it is said, in that event the law governs the new State as an indivisible unit. Reliance is placed upon the decision of this Court in Shri Kishan Singh v, The State of Rajasthan(1) and Purshottam Govindji Halai v. Shree B.M. Desai, Additional Collector of Bombay (2). But a perusal of the Judgments does not bear out the contention. The validity of classification does not wholly depend upon the source of law; the law may be a preexisting law or one that was enacted after merger. What is important is to ascertain the existing circumstances in the two parts merged into one by historical events in order to determine whether the differences between the two have a reasonable nexus to the object of the said law. For the reasons already stated, we hold that the classification in the present case is founded on an intelligible differentia between the assessees of the two parts of the State, and that the said differences have rational relationship to the object of the Amending Act.

But it is said that the mode of ascertaining the average annual income for the purpose of finding the (1) [1955] 2 S.C.R. 531.

(2) [1955] 2 S.C.R. 887.

rate is arbitrary and unreasonable and that discrimination is inherent in such a law adopting such arbitrary process. This argument is elaborated thus: The major income of the petitioner's family is from arecanut, pepper and cocoanut; the said crops are gathered between the months of November and March; the season for harvesting arecanut in Kasaragod Taluk is from November to March; the whole year's pepper and cocoanut are gathered between the months of January and March; therefore, the income from arecanut, pepper and cocoanut accrued to the petitioner between November 1, 1956 and March 31, 1957, is the income for the entire year; but under the proviso to s. 2A of the Act, the said income is treated as the income for 5 months only, with the result that 24 months' income is treated as 17 months' income; this is an arbitrary assumption underlying the provision; instead it should have taken 12/24th of the total income as the average annual income. This arbitrary method of fixing the average annual income involved the payment of higher rate of tax by the assessees in Kasaragod Taluk as compared to the assessees in other parts of the State. It is suggested that a more reasonable course would have been to tax the assessees in the Madras area for the income that accrued to them during the 5 months by treating the said income as the income for

the entire year commencing from April 1, 1956, and ending on March 31, 1957, and that in that event not only their income for the said period could not have escaped taxation but it would have also avoided the unjust treatment meted out to them in the rate of tax. Prima facie there appears to be some plausibility in this argument; but a closer examination discloses that though the method sugges- ted may have been better than the method actually adopted, the hardship in individual cases cannot in any event be avoided. It is true taxation law cannot claim immunity from the equality clause of the Constitution. The taxation statute shall not also be arbitrary and oppressive, but at the same time the court cannot, for obvious reasons, meticulously scrutinize the impact of its burden on different persons or interests. Where there is more than one method of assessing tax and the Legislature selects one out of them, the court will not be justified to strike down the law on the ground that the Legislature should have adopted another method which, in the Opinion of the court, is more reasonable, unless it is convinced that the method adopted is capricious, fanciful, arbitrary or clearly unjust. From the standpoint of the test, let us look at the impugned legislation. The taxability of the income accrued during the 5 months is not in question. But the attack is on the manner in which the rate is ascertained. The statute does not fix different rates for the two areas. The rate is the same though it varies uniformly depending upon the different slabs of the annual income of theprevious year. The vice of the provision,if at all, lies in the mode of ascertaining the average annual income of the previous year and it is true that if the said mode is arbitrary, the same arbitrariness would attach to the rate. But the rate must necessarily relate to the annual income of ,he previous year. Diverse methods may be adopted by the Legislature to ascertain the annual income for fixing the rate, namely : (1) 12/17 of total income of the 17 months ; (2) the 5 months' income being treated as 12 months' income and the annual average income ascertained as 12/24th or half of the total income accrued during the 17 months; (3) it may adopt the first 12 months' or the last 12 months or the middle 12 months' income as the annual income ; and (4) treating the 5 months' income as 12 months' income and separately taxing it without clubbing it with the income of the subsequent year. Whatever method is adopted, there is bound to be hardship in some cases and advantage in others. For instance, under the Agricultural Income-tax Act assessees getting an income below Rs. 3,000/- are exempted from taxation. Under the impugned section the limit for exemption from taxation shall be determined with reference to the average annual income. Suppose the annual income for the 12 months commencing from April 1, 1957, and ending on March 31, 1958, is above Rs. 3,000/- ; the assessees in the T-C area would be liable to pay income-tax, but a particular assessee in the Madras area may have earned comparatively smaller income during the 5 months bringing down the average annual income below Rs. 3,000/- and he escapes assessment altogether. Assume again that the assessee gets more than Rs, 3,000/- daring the 5 months ; but he may have got very low income in the succeeding 12 months with the result that his annual average income may fall below the range of taxable income, while the assessee in the T-C area, who has got a similar income for 1956-57, would be liable to tax. It is also true that if the assessee in the Madras area gets very high income during those 5 months and little less than the taxable income during the succeeding 12 months, his income, which would have escaped taxation, would be liable to tax. These illustrations prove that the section does not always work to the disadvantage of assessees similarly situated like the petitioner, but its effect would depend upon fortuitous circumstances, such as the quantum of income accrued during the 5 months and during the succeeding 12 months. That apart under the section an option is given to the assessee to select his accounting year commencing from November 1, 1956, and ending on a date within March 31, 1958, upto which his accounts have been

made. If an agriculturist in the Malabar area had made up his accounts on a date which does not exceed a period of 12 months from November 1, 1956, he cannot have any complaint on the score that the rate fixed is arbitrary. But it is said that agriculturists in the Madras area do not keep accounts or at any rate would not have kept accounts before the Amending Act and therefore this argument is not realistic. But the record does not disclose that agriculturists of Malabar area dealing in cash crops, like arecanut, do not keep accounts or make up their accounts on a particular date. Anyhow, the law gives an option to agriculturists to adopt an alternative method in case the rate fixed on the basis of average annual income would be disadvantageous to them. The fact that they do not keep such an account could not be an argument to support the arbitrariness of the legislation. But these advantages or disadvantages to individual assessees are accidental and inevitable and are inherent in every taxing statute as it has to draw a line somewhere and some cases necessarily fall on the other side of the line. That apart, the tabular statements showing the area order the principal crops and their harvesting and marketing seasons in the Kerala State does not establish that in Kasaragod Taluk the entire crop of the year was harvested after November and in the rest of Kerala before November. The following is the said state- ment:

> T. C. area Crop 6 -Districts (in acres) Paddy 9,07,108 Tapioca 4,89,884 Cocoanut 7,74,667 Arecanut 50,534 Cardaraon 65,879 Pepper 87,216 Tea 78,043 Coffee 5,198 Rubber 2,10,703 Lemongrass 35,000 MADRAS AREA Total area
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> - - - - - - - - - - - - - - for Palghat Calicut Cannanore Kerala State (in acres) (in acres) 4,67,5442,77,9232,46,22918,98,804 8,45540,13414,8245,53,207 45,4492,36,2951,19,01411,75,425 17,29235,23620,7711,23,833 4,2842,60099373,756 8,44931,58596,6662,23,916 1,4599,8013,68592,988 4,90926,7873,16640,060 10,10435,60014,2192,70,626 4,50050040,000 Crop Harvestiag Marketing Season Season Paddy Autumn, August September to to October. October.

	Winter: December to February: Summer : - February to	January to February. March to April. March.
Tapioca	November to June & July to Aug.	Dec. to Feb. & July to Aug.
Cocoanut		
Arecanut	1. Travancore-Cochin 2. S. Malabar 3. N. Malabar	June to Nov. Nov. to March June to November Nov. to March
Cardamon	August to December	October to January
Pepper	November to January	December to February
Tea		
Coffee	November to March	September to April
Rubber		
Lemongrass	Juno to September	September

It shows that in Cannanore, which includes Kasaragod Taluk, only arecanut, popper, tea, coffee and rubber are harvested after November, but in the case of paddy, tapioca coconut and lemongrass the harvesting season is before November ; cardamon is gathered partly before November and partly after November. The same is the position in regard to the entire State except in respect of arecanut ; even in respect of arecanut, it is harvested in the Madras area other than Cannanore before November. The net result of this analysis is that in regard to a large extent of land cultivated in Kerala the harvesting season is the same in respect of all the crops except arecanut and even in the case of arecanut out of 1,23,833 acres cultivated with that crop the harvesting season in regard to 20,771 acres alone commences after November. In such a situation it cannot be said that the Legislature has arbitrarily, with an evil eye, selected the most advantageous period for the purpose of fixing the rate of taxation. The said discussion leads to the only conclusion that the Legislature in its sincere attempt to meet a difficult situation made a law adopting one of the diverse methods open to it and even the method adopted cannot be said to be either unreasonable or arbitrary, as the overall picture indicates that it works fairly well on all similarly situated, though some hardship may be caused to some in the implementation of the law which is almost inevitable in every taxation law. We cannot, therefore, say that in the present case the one method adopted instead of another is either arbitrary or capricious. The next argument is that there is discrimination between assessees in Kasaragod area and those in the rest of the Madras area in that in the case of arecanut the assessees of Madras area, other than Kasaragod Taluk, would be in a better position as they gather their crops before November. The assessees of the Madras area under the Act formed one class and s. 2A applies to all of them : s. 2A applies to both parts of the Madras Area, i. e., the Malabar area and the South Kanara area. In both the cases the income of the assessees that accrued before November 1, 1956 was not taxable; in both the cases the income that accrued thereafter is liable to tax. The rate also is the same. The statement only shows that all the crops, except arecanut, are gathered by the assessees of the entire area during the same period. The fact that in the case of one of the crops the assessees in the Malabar area harvested earlier cannot be a ground for holding that the law has made an unjust discrimination between persons belonging to the same class, but that is due only to the fortuitous circumstance of some assessees gathering the crops earlier than others. As we have pointed out, the arecanut crop is only one of the many crops in that area and the extent of its cultivation in Kasaragod Taluk is comparatively lesser than that in the entire area of the State or even the Madras area. We cannot, therefore, say that the law made an unjust discrimination between persons belonging to the same class. There is another aspect which may have a bearing on the question raised. The impugned section is a temporary provision intended to apply only for one year to tide over a difficult situation brought about by the reorganization of States. It is true that every law, whether it is temporary or permanent, cannot infringe Art. 14 of the Constitution; but in considering the question of reasonableness of the legislation this

circumstance will have some bearing, particularly when the legislature Selected one of the many methods open to it. Though the method selected may not be as good as others, we cannot hold that it is unreasonable and, therefore, liable to be struck down.

In the result the petition is dismissed with costs. It is common case that this decision will govern the other petition also, namely, Writ Petition No. 104 of 1961. The said petition also is dismissed with costs. There will be one set of hearing fee. This order is without prejudice to the order for costs made on 16-3-1962.

Petitions dismissed.