Commissioner Of Wealth-Tax, Andhra ... vs Officer-In-Charge (Court Of Wards) ... on 6 August, 1976

Equivalent citations: 1977 AIR 113, 1977 SCR (1) 146, AIR 1977 SUPREME COURT 113

Author: M. Hameedullah Beg

Bench: M. Hameedullah Beg, A.N. Ray, Ranjit Singh Sarkaria, P.N. Shingal, Jaswant Singh

PETITIONER:
COMMISSIONER OF WEALTH-TAX, ANDHRA PRADESH

Vs.

RESPONDENT:
OFFICER-IN-CHARGE (COURT OF WARDS) PAIGAH

DATE OF JUDGMENT06/08/1976

BENCH:
BEG, M. HAMEEDULLAH
BENCH:
BEG, M. HAMEEDULLAH
RAY, A.N. (CJ)
SARKARIA, RANJIT SINGH
SHINGAL, P.N.
SINGH, JASWANT

CITATION:
1977 AIR 113 1977 SCR (1) 146
1976 SCC (3) 864

ACT:
Wealth Tax Act (27 of 1957)--Agricultural Lands, What are--Tests for determining.

HEADNOTE:
The assessee was the owner of more than 100 acres of land within municipal limits and enclosed by a compound wall. The land was adjacent to a tank, had two wells in it, was capable of being used for agriculture, was assessed to land revenue as agricultural land, but had not been actually put to any non-agricultural use.
The High COurt held that the land was 'agricultural

land' under s. 2(e)(i) of the Wealth Tax Act, 1957 and exempt from wealth tax on the basis that, (1) the expression 'agricultural land', not having been defined in the Act, must be given the widest possible meaning; (2) so interpreted, all land which is capable of being utilised for agricultural purposes would be 'agricultural land unless it is actually put to some non-agricultural use like construction of buildings etc; and (3) the land has been assessed to land revenue as agricultural land under the State Revenue Law.

Allowing the appeal,

HELD: It is only land, which either is being actually used or ordinarily used, or has been set apart or prepared for use for agricultural purposes so as to indicate the intention of the owner or occupier of the land to put it to agricultural use, that would be 'agricultural land'. [156 A]

(1) It is not correct to give. the expression a wide meaning merely because the statute does not define it. The correct rule is for the Court to endeavour to find out logically the exact sense in which the words have been used in a particular context, reading the statute as a whole, giving an interpretation in consonance with the purposes of the statute, and avoiding absurd results. [153 A-B]

(2) The object of the Wealth Tax Act is to tax surplus' wealth. It is not all land but only 'agricultural land' that is excluded from the definition of assets. Therefore, it is imperative to give reasonable limits to the scope of the expression 'agricultural land'. [153 C]

(3) The determination of the, character of land, according to the purpose for which it is meant or set apart and can be used, is a matter which ought to be determined on the facts of each particular case. What is really required to be shown is the connection with an agricultural purpose and user, and not the mere possibility of user by some possible future. owner or possessor. for an agricultural purpose. It is not the potentiality, but its actual condition and intended user which has to be seen for purposes of exemption from wealth tax. The correct test to apply would be to. find out whether human labour had been applied to the land itself, in order to extract from its natural powers, added to or aided by other natural or artificial sources of strength, a product which can yield income. If there is nothing in its condition, or in the evidence to indicate the intention of its owner or possessor, so. as to connect it with an agricultural purpose, the land could not be agricultural land. The person claiming that any property is exempt must satisfy the conditions of the exemption. [155 G-H]

The extent of the land, its situation, that it was capable of being used for agricultural purposes and has not been actually put to any use which would make it unfit for immediate cultivation, .are, therefore, inconclusive being based on absence of user for non-agricultural purpose. Entries in revenue records are. however, good prima facie

evidence since they are based on some quasi-judicial enquiry but they raise only a rebuttable presumption. If such 147 pritma facie evidence was enough for the assessee to discharge his burden to establish an exemption, evidence to rebut it should have been led on behalf of the Department. In the present case, however, the High Court relied not only on the entries, but also on the inconclusive circumstances based on potentialities. While doing so, the High Court did not hold that categorical finding of the taxing authorities and Tribunal that the land was never used, nor was intended to be used for an agricultural purpose did not rest on any evidence at all; nor did it give any reasons for rejecting the finding. it is therefore a fit case for being remanded to the Tribunal for deciding the question of fact, after giving opportunity to both sides to adduce evidence. [155 B-E]

C.I.T.W. Bengal v. Raja Benoy Kumar (1957) I.T.R. 466, followed.

Sarojini Devi v. Raja Sri Krishno A.I.R. 1944 Mad. 401, overruled.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 2552-2556 of 1969.

(From the Judgment and Order dated 26.11.1968 of the Andhra Pradesh High Court in Case Referred No. 40/64 arising from R.A. Nos. 1709-1713/62-63). B. Sen, S.P. Nayar for the Appellants.

K. Vasudeva Pillai, H.R. Puri and P.K. Pillai for the respondent.

The Judgment of the Court was delivered by BEG, J.--Civil 'Appeals Nos. 2552-2556 of 1969, are directed against a judgment of the Full Bench of the High Court of Andhra Pradesh. The case was certified as fit under Articles 132 and 133 of the Constitution for an appeal to this Court. The question involved, as framed in the Andhra Pradesh Case is, on the facts and circumstances of the present case are certain lands situated at Begum- pet, Lalguda, Jaiguda, Subzimandi, Yerraguda, Zamboorkhana and Vicarabad, "agricultural lands"

within the meaning of section 2(e) (i) of the Wealth Tax Act (hereinafter referred to as 'the Act') ?

If any of the lands mentioned above are agri- cultural lands, as defined by the Act, they would be excluded from the definition of "assets" given in Section 2(e) of the Act, and, therefore, exempt from wealth tax. Section 2(e) says:

"2(e) 'assets' includes property of every description, movable or imovable, but does

not include--

XXX XXX XXX XXX

(i) agricultural land and growing crops, grass or standing tress on such land;"

The word 'agricultural land' occurs in entries 86, 87 and 83 of List 1 to 7th Schedule of our Constitution relating to matters on which Parlia- ment may legislate. Entry 86 here says :" Taxes on the capital value of the assets, exclusive of agricultural land of individuals and companies; taxes on the capital of companies:" Entries 87 and 88 deal with Estate duty and duties of succes- sion to property and each of them excludes agricul- tural land from property on which taxes may be levied by Parliament. Entry 18 of List II giving subjects of exclusively state legis- lation says:

> "Land, that is to say, rights in or over land, land, tenures including the relation of landlord and tenant, and the collection of. rents, transfer and alienation of agricultural land; land improvement and agricultural loans; colonization."

It is thus clear that "agricultural land" is only a species of land. The main question before us is whether it should stand for all land which is capable of being utilised for agricultural purposes or for some land which either is being actually used or has been set apart or prepared for use for agricultural purposes so as to indicate the inten- tion of the owner or occupier of the land to put it to agricultural uses. This raises the further question:What is an agricultural purpose or agri- culture ?

The term "agriculture" was discussed very thoroughly by this Court in Commissioner of Income Tax, West Bengal, Calcutta v. Raja Benoy Kumar Sahas Roy.(1) This Court said there (at p. 472-

473):

> "The term 'agriculture' and 'agricultural purpose' not having been defined in the Indian Income-tax Act, we must necessarily fall back upon the general sense in which they have been under- stood in common parlance. 'Agriculture' in 'its root sense means ager, a field, and culture, cultivation, cultivation of a field which of course implies expenditure of human skill and labour upon land. The term has, however, acquired a wider significance and that is to be found in the various dictionary meanings ascribed to it. It may be permisible to look to the dictionary meaning of the term in the absence of any definition thereof in the relevant statutes."

Therefore, this Court, beginning with the decision of Lord Coleridge in R.v. Peters(2), scanned and discussed various decisions of English and Indian Courts, and the meanings given in var- ious dictionaries of the English language, as well as in the law dictionaries.

It then reached the conclusion (at p. 510):

> "If the term 'agriculture' is thus understood as comprising within its scope the basic. as well as subsequent operations in the process of agricul- ture and the raising on the land of products which have some utility either for consumption or for trade and commerce, it will be seen that the term 'agriculture' receives a wider interpretation both in regard to its operations as well as the results of the same. Nevertheless there is present all throughout the basic idea that there must be at the bottom of it cultivation of land in the sense of tilling of the land, sowing of the seeds, plant- ing, and similar work done on the land itself. This basic conception is the essential sine qua non of any operation performed on the (1) [1957] 32 LT.R.p. 466 at 472 & 510. (2) [1886] 16 Q.B.D. 636, 641.

land constituting agricultural operation. If the basic operations are there, the rest of the operations found themselves upon the same. But if these basic operations are wanting the subsequent operations do not acquire the characteristic of agricultural operations." In Raja Benoy Kumar Sahas Roy's case (supra), the question before this Court was whether income from forest lands derived from sal and piyasal trees "not grown by human skill and labour" could constitute agricultural income. The test applied there was whether there was some integrated activity which could be described as agricultural operation yielding income. It was pointed out that, although, a mere wild or spontaneous growth of trees, not involving the employment of any human labour or skill for raising them, could not be agricultural income, yet, when there was a forest more than 150 years old, which had been carefully nursed and attended to by its owners, the income would be agricultural. It is true that this case is not a direct authority upon what is "agricultural land." Nevertheless, it goes a long way in helping us to decide what could be agricultural land. We think that this must be land which could be said to be either actually used or ordinarily used or meant to be used for agricultural purposes. In other words, "agricultural land" must have a connection with an "agricultural user or purpose. It is on the nature of the user that the very large number of definitions and authorities discussed by this Court, in Raja Benoy Kumar Sahas Roy's case (supra), have a direct bearing. In that case, this Court held that the wider meaning given to agri- cultural operations, such as breeding and rearing of live- stock, poultry farming, or dairy farming will not be ap- plicable. It held that the correct test to apply would be to find out whether human labour had been applied to the land itself, in order to extract from its natural powers, added to or aided by other natural or artificial sources of strength to the soil a product which can yield an income. In the case before us, the question is a connected one. Here also the term "agricultural land" has not been defined. That, however, does not mean that the land to be considered can be divorced from its actual or natural or ordinary user. If all land which is capable of being used for agriculture, could be intended to be excluded from "assets", practically every type of land, including that covered by buildings, would fall within that class. Hence, it seems to us to be impossible to adopt so wide a test as would obviously defeat the purpose of the exemption given. Apparently, agricul- tural land is excluded from the definition of "assets" as it was. thought that Parliament was not competent to impose taxes which will fall-on agricultural land. Whatever may be the reason for the exemption, we think that the exemp- tion is connected with the user of land for a purpose which must be agricultural It is an enactment to tax "wealth" which includes all that is ordinarily understood as "assets". 'The person claiming an exemption of any proper- ty of his from the scope of his assets must satisfy the conditions of the exemption.

It is true that, in Rain Benoy Kumar Sahas Roy's case (supra), this Court pointed out that meanings of words used in Acts of Parliament are not necessarily to be gathered from dictionaries which are not authorities on what Parlia- ment must have meant. Nevertheless, it was also indicated there that, where there is nothing better to rely upon, dictionaries may be used as an aid to resolve an ambiguity. The ordinary dictionary meaning cannot be discarded simply because it is given in a dictionary. To do that would be to destroy the literal rule of interpretation. This is a basic rule relying upon the ordinary dictionary meaning which, in the absence of some overriding or special reasons to justify a departure,. must prevail. Moreover, it was held there that the dictionary meanings. of the word "agri- cultural" were wider than what was meant by "agricultural income" as that term was used in the Income tax Act. Even if we could give a wider connotation to the term "agricul- tural" than the one it carries with it in the Income tax Act, we cannot dispense with credible evidence of at least appropriation or setting apart of the land for a purpose which could be regarded as agricultural and for which the land under consideration could be reasonably used without an alteration of its character. This, we think, is the minimal test of "agricultural land" which should be applied in such cases.

In stating the facts of the case with regard to the Begumpet property, which, according to a rather surprising agreement between parties, was to be used for reaching an inference applicable to all other lands in the case, the High Court said:

> "The property at Begumpet was known as 'Begumpet Palace, Hyderabad.' The buildings in this property were valued at Rs. 8,81,336/- while the vacant land comprising an area of about 108 acres was valued at Rs. 15,69,052. The entire plot of land was enclosed in a compound wall and the various buildings inside it had their own compound walls. The property is situated within the limits of the Hyderabad Municipal Corporation. The land had never been actually used for agriculture, in the sense, that it had never been ploughed or tilled. The property is situated adjacent to the tank known as "Hussain Sagar' on the southern side, and there are two wells in the said land. The land was capable of being used for agriculture and land revenue was being assessed and paid in respect of the said lands. A portion of the land was acquired by the Government of Hyderabad on 15th September, 1955 and utilised by them for construc- tion of buildings thereon."

The High Court then stated the views of the taxing authorities as follows:

> "On these facts, the Wealth Tax Officer, came to' the conclusion that the lands could not be treated as 'agricultural lands' as no agricultural operations were carried on, in the sense of ploughing and tilling the land and raising any crop thereon. The Appellate Assistant Commissioner, confirms the order of the Wealth Tax Officer on this point. The assessee preferred an appeal to the Income Tax Appellate Tribunal The Tribunal also took the view that the said land was never in. tended to be used for agriculture and that the lands were never ploughed or tilled and that the lands were situated within the limits of the Hyd- erabad Municipal Corporation and that the presump- tion would be that they were not agricultural lands and that the said

> presumption was not rebutted, as no agricultural operations were ever carried on in the said land. On this view, the Tribunal con- firmed the order of the Appellate Assistant Commis- sioner on this point."

The High Court had discussed the various mean- ings of the term "agriculture" and pointed out how it had acquired a wide sweep. It also discussed a number of cases, including Sarojini Devi v. Srikrishna,(1) which had not been followed by a Division Bench of the Andhra Pradesh High Court in Manyarn Meenakshamma v. Commissioner of Wealth Tax A.P.(2) on the ground that the Madras view, that it was enough that the land was capable of being used for agricultural purposes, was no longer good law in view of the pronouncement of this Court in Raja Benoy Kumar Sahas Roys case (supra). The Andhra Pradesh Division Bench had said in Smt. Manyam Meenaksharnma's case (supra) (at p. 544) :--

> "We are inclined to agree with the observa- tion of Hegde and Ahmed Ali Khan, JJ. in Sri Krish- na Rao L. Balekeai v. Third Wealth Tax Officer [1963] 48 I.T.R. 472 that the present characteris- tics and not the potentialities of a land are the proper criterion. If a land is ordinarily used for purposes of agriculture or for purposes subservient to or allied to agriculture, it would be agricul- tural land. If it is not so used, it would not be agricultural land. The question how a land is ordinarily used would be one of fact depending on the evidence in each case. If, for instance, an agricultural land, as we have interpreted above, is left fallow in a particular year owing to ad- verse seasonal conditions or to some other special reason, it would not cease to be agricultural land."

Apparently, the conflict between the views contained in Sarojini Devi's case (supra) and in Smt. Manyam Meenakshamrna's case (supra), had led to a reference of the case to a larger bench. The Full Bench of the Andhra Pradesh High Court, after discussing a number of cases of various High Courts, preferred the Madras High Court view, principally on two grounds: firstly, because as wide a connotation as was possible to give to the words, "agricultural land" was preferable in a taxing statute; and, secondly, because the entry to the large tract of vacant land in 'the Begumpet Palace in revenue records as assessable to land revenue raised a presumption of its agricultural character.

A.I.R. 1944 Mad. 401. (2) [1967] 63 I.T.R. 534 at 544.

The Full Bench stated its conclusions on ques- tions of law as follows:

> "(1) The words 'agricultural land' occurring in Section 2(e)(i) of the Wealth Tax Act should be given the same meaning as the said expression bears in Entry 86 of List I and given the widest meaning:
>
> (2) The said expression not having been defined in the constitution, it must be. given the meaning which it ordinarily bears in the English language and as understood in ordinary parlance:

(3) The actual user of the land for agricul-

ture is one of the indicia for determining the character of the land as agricultural land:

(4) Land which is left barren but which is capable of being cultivated can also be 'agricul-

tural land' unless the said land is actually put to some other non-agricultural purpose, like construction of buildings or an aerodrome, runway, etc. thereon, which alters the physical character of the land rendering it unfit for immediate culti- vation:

(5) If land is assessed to land revenue as agricultural land under the State revenue law, it is a strong piece of evidence of its character as agricultural land:

(6) Mere enclosure of the land does not by itself render it a non-agricultural land:

(7) The character of land is not determined by the nature of the products raised, so long as the land is used or can be used for raising valu-

able plants or crops or trees or for any other purpose of husbandary:

(8) The situation of the land in a village or in an urban area is not by itself determinative of its character."

The Full Bench rejecting the effect of such features as construction of a Palace and the loca- tion of the land within its compound said:

"The land is of a large extent of 108 acres and abuts Hussain Sagar tank and has two wells in the land itself. These indicate that the land possesses all the characteristics of agricultural land and that it is capable of being put to agri- culture. It is also not disputed that the land is vacant and has not been actually put to any purpose other than agriculture and that the physical character of the land is not such as to render it unfit for immediate cultivation. The other rele- vant fact is that the land has been admittedly assessed to land revenue as agricultural land under section 50 of the Hyderabad Land Revenue Act. These factors in our opinion, strongly indicate that the land in question is agricultural land."

We think that it is not correct to give as wide a mean- ing as possible to terms used in a statute simply because the statute does not define an expression. The correct rule is that we have to endeavour to find out the exact sense in which the words have been used in a particular context. We are entitled to look at the statute as a whole and give an interpretation in consonance with the purposes of the statute and what logically follows from the terms used. We are to avoid absurd results. If we were to give the widest possible connotation to the words "agricultural land", as the Full Bench of the Andhra Pradesh High Court seemed inclined to give to the term "agricultural

land", we would reach the conclusion that practically all land, even that covered by buildings, is "agricultural land" inasmuch as its potential or possible use could be agricultural. The object of the Wealth Tax Act is to tax surplus wealth. It is clear that all land is not excluded from the definition of assets. It is only "agricultural land" which could be exempted. Therefore, it is imperative to give reasonable limits to the scope of the "agricultural land", or, in other words, this exemption had to be necessarily given a more restricted meaning than the very wide ambit given to it by the Andhra Pradesh Full Bench.

The Full Bench itself saw the need for some kind of limitation to the application of "widest purpose" principle, if one may call it that. Therefore, evidently in an attempt to avoid the unreasonable conclusion to which too wide a definition of "agricultural land" would naturally lead to, the Full Bench., in the fourth conclusion recorded by it, held that, if some vacant land is actually built upon, it changes its physical characteristics and becomes unfit for immediate cultivation. It thus qualified its view that the widest possible meaning must be given to "land". Its final view was that only such land could cease to be agricultural land as had actually become unfit for immediate use for an agricultural purpose. This view seems to imply that one has to start with the presumption that all "land", as such is "agricultural land". If one were to start with such a pre- sumption, (although, we must, in fairness to the views actually expressed by the Full Bench, observe that it did' not expressly say so), even desert land will have to be first presumed to be agricultural land. We feel certain that the Full Bench did not mean to carry the application of assumptions or principles, which seem to follow from its reasoning, so far as that.

Conclusions 6, 7 and 8 are only negative in character. They merely indicated what could not be conclusive in decid- ing whether the land was agricultural. Conclusions 6 to 8, as stated above, would seem to be correct. But, in our opinion, they do not carry us far in formulating a test of what is agricultural land. Conclusion No. 5 seems to have been the real or positive test, based on entries in revenue records, actually adopted by the Full Bench for determining the nature the land.

The attempted application of the principles laid down by the Full Bench shows that what were treated as tests were really presumptions arising from the following facts: first- ly, that the area was 108 acres abutting Hussain Sagar tank; secondly, that this land had two wells in 12--1003 SCI/76 thirdly, that it was capable of being used for agricul- tural purposes; fourthly, that it had not been actually put to any use which could change the character of land by making it unfit for immediate cultivation; and, fifthly, that it was classified and assessed to land revenue as "agricultural land" under the provisions of the Andhra Pradesh Land Revenue Act 8 of 1317 Fasli perhaps on the assumption that it could be used for agriculture. We may observe that the first four indicia set out above are based on absence of any user for non-agricultural purposes. Hence, they are inconclusive. The last feature does seem to provide some evidence of the character of the land from the point of view of its purpose. Section 50 of the Hyderabad Land Revenue Act (No. VIII of 1317F) (now called the Andhra Pradesh Land Revenue Act) lays down.

> "50. Land revenue shall be assessed accord- ing to the various modes of use.
>
> (a) Agricultural use.

(b) In addition to agricultural use any other use from which profit or advantage is derived.

When rate is assessed on any land for any one of the aforesaid purposes and the land is appropriated for any other purpose the rate thereof shall be altered and fixed again, although the term of subsisting settlement may not have expired.

If any land granted by the Government with remission of land revenue for any special purpose is appropriated to some other purpose against the intention of the grant, the land revenue thereof shall be recovered.

It shall be lawful for the Taluqdar, and in case a taluqa is under settlement, for the Commis- sioner of Survey Settlement or Commissioner of land Records after giving a hearing to the land holder to prohibit its appropriation for any particular purpose and record reasons therefor and to summari- ly evict the holder who may have appropriated the said land to prohibited purpose".

Provisions of the Andhra Pradesh Land Revenue Act seem to involve quasi-judicial proceedings, or atleast, an en- quiry into the purposes for which land to be assessed has been appropriated. The Full Bench of the Andhra Pradesh High Court has held these entries to be "strong prima facie evidence", and, it practically decided the case on the basis of these entries. But, the difficulty seems to us to be that the taxing authorities had given a categorical finding that the land under consideration had neither been used for an agricultural purpose nor was it ever tended to be so used. It may be that this finding was based on no evidence or was based on the circumstance that the land appeared to have been kept, as the environs of a huge palace, unused for any agricultural purpose. It may be that the past history of such lands could give rise to some guess-work that no agricultural user was intended by the owners of the Begum pet Palace. But, is it possible to reach a categorical finding or conclusion on the basis of general notion based on past history of the way in which such lands were treated by their aristocratic owners? At any rate, there presumably was sore possibly quasi-judicial, enquiry at the time of classification of land "agricultural" under the provisions of Section 50 of the Andhra Pradesh land Revenue Act. There must have been some evidence given such a classification.

Learned Counsel for the assessee respondents submitted that evidence had been led on the question of intended user before the Taxing authorities as the "prima facie evidence", provided by the entries in the revenue records, was consid- ered enough. It has, however to be 'remembered that such entries could raise only a rebuttable presumption. It could, therefore, be contended that some evidence, should have been led before the Taxing authorities of the purpose intended user of the land under consideration before the presumption could be rebutted. If the "prima facie" evi- dence of the entries was enough for the assessee to dis- charge his burden to establish an exemption, as it seemed to be, evidence to rebut it should have been led behalf of the Department.

We think that this aspect of the question was not exam- ined by the Full Bench from a correct angle. Although it seems to have based in conclusion primarily on the "prima facie" evidence provided by the entries under Section 50 of the Andhra Pradesh Land Revenue Act it had also used other indicia which were really not very helpful. The had a bear- ing on potentialities for agricultural user. The

Full Ben had, however, not recorded a finding that conclusion reached by the Taxing authorities, that the land was never even intended to be use for an agricultural purpose, rested on no evidence at all. It had n given its reasons for rejecting this finding of the Tribunal.

We also think that the Full Bench was not correct in adopting view expressed in Sarojini Devi's case (supra) by the Madras High Court where it was held that it was enough to show that the land under consideration was capable of being used for agricultural purpose This erroneous view also seems to us to have affected the conclusion of the Full Bench on what was essentially a question of fact. It has led the Full Bench into giving excessive weight to consider- ations which had a bearing only on potentialities of the land for use for agriculture purposes.

For the reasons already given, we do not think that the term "agr cultural land" had such a wide scope as the Full Bench appears have given it for the purposes of the Act we have before us. We agree that the determination of the character of land, according to the purpose for which it is meant or set apart and can be used, is a matter which ought to be determined on the facts of each particular case What is really required to be shown is the connection with an agricultural rural purpose and user and not the mere possibility of user of land by some possible future owner or possessor, for an agricultural purpose. It is not the mere potentiality, which will only affect its valuation as part of "assets", but its actual condition and intended use which has to be seen for purposes of exemption from wealth tax.On the objects of the exemption seemed to be to encourage cultivation actual utilisation of land for agricultural purposes. If there is neither anything in its condition, nor anything in evidence to indicate the intention of its owners or possessors, so as to connect it with an agricula pur- pose, the land could not be "agricultural land" for the purses of earning an exemption under the Act. Entries in revenue ords are, however, good prima facie evidence. We do not think that all these considerations were kept in view by the taxing authorities deciding the question of fact which was really for the assessing authorities to determine having regard to all the relevant evidence and law laid down by this Court. The High Court should have sent the case to the assessing authorities for deciding the question of :t after stating the law correctly.

We think that this is a fit case in which we should set aside the judgment of the Full Bench of the High Court and hold that the tribute should determine afresh, from a correct angle, the question of fact ether any of the lands under consideration were "agricultural" or t for the purposes of the Act before it. Accordingly, we allow these peals, set aside the judgment and order of the Full Bench and send the cases to the Tribunal for appropriate orders for giving opporpriate both sides to lead further evidence, if they so desire, and the decision of the cases in accordance with the law as declared w by this Court. The parties will bear their own costs throughout.

P.S. Appeals allowed.