(2003) 10 GAU CK 0012

Gauhati High Court

Case No: Civil Rule No. 379 of 1998

River Valley Tea Co. Pvt. Ltd.		APPELLANT
	Vs	
Commissioner of Taxes and Others		RESPONDENT

Date of Decision: Oct. 27, 2003

Acts Referred:

- Assam Agricultural Income Tax Act, 1939 - Section 20C
- Income Tax Act, 1961 - Section 234B

Citation: (2005) GLT 675 Supp : (2004) 266 ITR 383

Hon'ble Judges: P.G. Agarwal, J

Bench: Single Bench

Advocate: V.K. Bhatra, for the Appellant; Govt. Advocate, for the Respondent

Final Decision: Allowed

Judgement

P.G. Agarwal, J.

The petitioner before us is an assessee under the Assam Agricultural Income Tax Act, 1939 (for short "the Act"). For the assessment year 1987-88, the petitioner submitted his return whereby the competent authority assessed the income and tax thereupon. So far the assessment of the income and the tax are concerned, these are not under challenge in this writ petition. Further, the assessing authority levied an interest of Rs. 2,32,623 in the assessment order dated September 7, 1996, and the same has been challenged in this writ petition stating that the interest levied is in violation of Sub-clause (5) of Section 20C of the Act (since repealed).

2. The respondent-authorities have not filed any affidavit-in-opposition.

3. Heard learned counsel for both sides.

4. There is no dispute at the Bar that the provisions of Section 20C of the Act (since repealed) are applicable in the present case as the matter relates to the period during which the said provisions were applicable.

5. Mr. Bhatra, learned counsel for the petitioner, has submitted that the provisions of Section 20C of the Act are more or less identical with the provisions of Section 234B of the Income Tax Act, 1961, and the requirement of law is that if the Assessing Officer intends to levy interest he must pass a specific order giving the grounds for levying the interest and also state the period for which the interest has been levied and at what rate, etc, etc.

6. We have perused the impugned assessment order wherein it is merely stated add interest so and so ... There is absolutely no order as to why the interest is being levied and for which period.

7. In the case of Ranchi Club Ltd. Vs. Commissioner of Income Tax and Others the Patna High Court held that in the absence of a specific and clear order by the Assessing Officer for charging interest u/s 234B of the Income Tax Act, 1961, interest cannot be charged. The matter was challenged before the apex court in Commissioner of Income Tax and Others Vs. Ranchi Club Ltd., and the apex court refused to interfere in the matter.

8. In the circumstances and the fact that the provisions of Sub-clause (5) of Section 20C of the Act were more or less identical with Section 234B of the Income Tax Act, we hold that in the absence of any specific order regarding the interest levied in the impugned order is bad in law and the same is hereby quashed.

9. The civil rule stands allowed.