
(1978) 115 ITR 709

Karnataka High Court

Case No: Income-tax Referred Cases No"s. 112 and 117 of 1975

Addl. Commissioner of
Income Tax, Karnataka

APPELLANT

Vs

Ryots Agricultural,
Produce Co-operative
Marketing Society Ltd.

RESPONDENT

Date of Decision: Aug. 10, 1978

Acts Referred:

Income Tax Act, 1961 " Section 256 (1), 8 (i) (c)

Citation: (1978) 115 ITR 709

Hon'ble Judges: M.K. Srinivas Iyengar, J; E.S. Venkataramaiah, J

Bench: Division Bench

Advocate: S.R. Rajasekharamurthy, for the Appellant; G. Sarangan, for the Respondent

Judgement

Venkataramaiah, J.

The common question referred to us under s. 256(1) of the I.T. Act, 1961 (herinafter referred to as "the Act"), in

these two cases which relate to the assessment years 1965-66 and 1967-68 reads :

Whether, on the facts and in the circumstances of the case, the Tribunal is right in holding that the assessee was entitled to exemption under s.

81(i)(c) in respect of its income from marketing of agricultural produce of its members after processing it with the aid of power ?" The above

question arises in the following circumstances :

The assessee is a co-operative society and is engaged in the marketing of the agricultural produce of its members, among other activities. During

the accounting years relating to the assessment years in question, the assessee marketed certain quantity of rice grown by its members after hulling

it in its mill which was run by power. Similarly, it had marketed the oil derived from the groundnut grown by its members after converting it into oil

in its expeller run by power. During the assessment years in question, the Assessee claimed that the whole of the income derived by it by the

marketing of rice and oil derived from the paddy and groundnut belonging to its members was not liable to tax in view of the provisions of s. 81(i)

(c) of the Act as it stood the. The ITO rejected the said claim on the ground that the processing of paddy and under clause (e) of s. 81(i) it could

not claim the relief notwithstanding the fact that the rice and oil had been actually marketed. In the appeal filed by the assessee,, the AAC allowed

the claim of the assessee and directed the modification of the orders of assessment passes by the ITO accordingly. In the appeal filed by the

department before the Tribunal, the order of the AAC was confirmed in so far as the income derived from the marketing of the goods in question

was concerned. The Tribunal, however, allowed the appeal of the department to the extent it related to the income attributable to hulling and

expeller charges received by the assessee from its members where the marketing of the goods was not involved. At the instance of the department,

the Tribunal has referred the above question for the opinion of this court.

2. The relevant part of s. 81, as it stood in the assessment years, read as follows :

81. Income of co-operative societies. - Income Tax shall not be payable by a co-operative society -

(i) in respect of the profits and gains of business carried on by it, if it is -

(a) a society engaged in carrying on the business of banking or providing credit facilities to its members; or

(b) a society engaged in a cottage industry; or

(c) a society engaged in the marketing of the agricultural produce of its members; or

(d) a society engaged in the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of

supplying them to its members; or

(e) a society engaged in the processing without the aid of power of the agricultural produce of its members; or

(f) a primary society engaged in supplying milk raised by its members to a federal milk co-operative society :

Provided that, in the case of a co-operative society which is also engaged in activities other than the mentioned in this clause, nothing contained

herein shall apply to that part of its profits and gains as is attributable to such activities and as exceeds fifteen thousand rupees,...."" The contention

of Sri S. R. Rajasekharamurthy, learned counsel for the department, is that since under clause (e) of s. 81(i) exemption is given in respect of the

income of a society which is engaged in the processing without the aid of power of the agricultural produce of its members, the income derived by

the assessee by the marketing of the agricultural produce of its members which had been processed with the aid of power should be treated as not

being within the scope of s. 81. Sri Rajasekharamurthy wanted us to read all the clauses in s. 81(i) together in support of his contention, and in

particular clause (e) with clause (c). His argument was that clause (c) was subject to the provisions in clause (e) and, therefore, the relief granted

by the Tribunal in respect of income derived by the marketing of the agricultural produce which had been processed with the aid of power, was

untenable. We find it difficult to agree with the above submissions. In *Surat Vankar Sahakari Sangh Ltd. Vs. Commissioner of Income Tax*,

Gujarat II, while construing s. 81 of the Act, the High Court of Gujarat has observed as follows (page 727)

This section is obviously enacted with a view to encouraging and promoting growth of co-operative sector in the economic life of the country in

pursuance of the declared policy of the Government. There are five different heads of exemptions enumerated in the section. Each is a distinct and

independent head of exemption. Whenever a question arises whether a particular category of income of a co-operative society is exempt from tax,

it will have to be seen whether such income falls within any of the several heads of exemption; if it falls within any one head of exemption, it would

be free from tax notwithstanding that the conditions of another head of exemption are not satisfied and such income is, therefore, not free from tax

under that head of exemption : vide U.P. Co-operative Bank Ltd. Vs. Commissioner of Income Tax,

3. The expression ""marketing"" appearing in clause (c) of s. 81(i) is an expression of wide import. In order to make agricultural produce fit for

marketing it may have to be transported or processed, but still if ultimately the goods in question are sold, all the activities involved are understood

as amounting to a single activity, namely, marketing and not independent activities such as transporting, processing, selling, etc. ""Marketing

generally means ""the performance of all business activities involved in the flow of goods and services from the point of initial agricultural production

until they are in the hands of the ultimate consumer"". The marketing functions involve exchange functions such as buying and selling, physical

functions such as storage, transportation, processing and other commercial functions such as standardisation, financing, market intelligence, etc.

4. The goods in question having been marketed and the business of the assessee being marketing of the agricultural produce of its members, the

case clearly falls under s. 81(i)(c) even though it may not fall under clause (e) thereof. The fact that the goods which are ultimately marketed had

been earlier processed with the aid of power would, therefore, be of no consequence in so far as exemption granted under s. 81(i)(c) is

concerned.

5. In the circumstances, we are of opinion that the view taken by the Tribunal is correct. The question referred to us in each of the above cases is,

therefore, answered in the affirmative and in favour of the assessee. The assessee is entitled to costs. Advocate's fee Rs. 250 one set.