
(1973) 06 MAD CK 0007

Madras High Court

Case No: Tax Case No. 366 of 1969 (Revision No. 241 of 1969)

Commissioner of
Agricultural Income Tax

APPELLANT

Vs

Ouchterloney Valley
Estates (1938) Ltd.

RESPONDENT

Date of Decision: June 27, 1973

Acts Referred:

- Tamil Nadu Agricultural Income Tax Act, 1955 - Section 5

Citation: (1975) 101 ITR 268

Hon'ble Judges: V. Ramaswami, J; G. Ramanujam, J

Bench: Division Bench

Advocate: K. Venkataswami, First Assistant Government Pleader, for the Appellant; S.V. Subramaniam, for Subbaraya Aiyer, Sethuraman and Padmanabhan, for the Respondent

Judgement

Ramanujam, J.

The case arises under the Madras Agricultural Income Tax Act. The assessee in this case was assessed under the said Act for the assessment year 1966-67, and its income for the assessment year was determined at Rs. 11,61,925.78 which was set off against losses of the earlier years. In determining the said income, the Agricultural Income Tax Officer disallowed certain items. In this case we are concerned only with two items, viz i (1) staff and labour bonus to the extent of Rs 1,25,000, and (2) the deduction claimed by the assessee u/s 80E of the Central Income Tax Act. The disallowance was questioned by the assessee by filing an appeal before the Tribunal. The Tribunal upheld the assessee's claim. The revenue. questions the correctness of the view taken by the Tribunal in this revision.

2. The assessee, for the period ended March 31, 1966, created a provision for payment of bonus to the staff and labourers, relevant to the assessment year, of an amount of Rs. 1,25,000. During the year they paid a bonus of Rs. 1,04,935.87 to the employees for the

year 1964. The entire claim of Rs. 1,25,000 was disallowed by the assessing authority on the ground that the expenditure had not actually been incurred by the assessee in connection with the business in the relevant accounting year. But it is not in dispute that the provision for payment of bonus was made during the year though it was actually disbursed later. The Tribunal went into the question as to whether the amount set apart for payment of bonus is, in any way, inflated and ultimately said, "we have no suspicion that the "provision made during the year is, in any way, inflated, and it is also clear that it pertains to the bonus payable to the staff and labour pertaining to the relevant accounting year." In view of this finding, the Tribunal upheld the claim of the assessee. We see no justification to differ from the view taken by the Tribunal in this regard. The Tribunal specifically finds that the entire amount has been set apart and provided for payment of the bonus to the staff and labour in relation to the relevant accounting year. The learned counsel for the revenue would, however, put forward a further contention before us, which was not, however, urged before the Tribunal. It is contended that when there is a specific provision in Section 5(1) giving allowance for bonus paid to the workers, the bonus paid to the staff which will not come u/s 5(1) cannot be brought under the residuary provision in Section 5(1). But a similar contention has been negated by this court in [State of Madras Vs. Glenburn Estates Ltd.,](#) . and [The State of Madras Vs. Balmadies Plantations Limited, Naduvattam P.O., managing Agents, Managing Agencies Private Ltd.,](#) . In view of those decisions, the contention that Section 5(e) cannot be invoked in respect of bonus paid to the staff cannot be accepted.

3. The next item in dispute relates to the allowance in relation to the deduction claimed u/s 80E of the Central Income Tax Act. The Tribunal has held that the assessee is entitled to the benefit, of the said provision in Section 80E even in respect of proceedings for assessment under the Madras Agricultural Income Tax Act. The view taken by the Tribunal is in accord with the view taken by this court on the point in [Commissioner of Agricultural Income Tax and Another Vs. Periakaramalai Tea and Produce Co. Ltd. and Others,](#) . In view of that decision, the Tribunal's view cannot be taken exception to.

4. The result is, the tax case is dismissed with costs. Counsel's fee Rs. 150.