

**(1976) 02 CAL CK 0001**

**Calcutta High Court**

**Case No:** Civil Rule No. 7917 (W) of 1974

Dhirendra Nath Patra Das

APPELLANT

Vs

Agricultural Income Tax Officer,  
Range-II

RESPONDENT

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**Date of Decision:** Feb. 27, 1976

**Acts Referred:**

- West Bengal Agricultural Income Tax Act, 1944 - Section 7

**Citation:** 82 CWN 117 : (1978) 112 ITR 233

**Hon'ble Judges:** Sabyasachi Mukharji, J

**Bench:** Single Bench

**Advocate:** Jagadindra Nath Maity and Radhasyam Maitry, for the Appellant; Joydeb Mukherjee, for the Respondent

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### **Judgement**

Sabyasachi Mukharji, J.

In this application the petitioner challenges the assessments for 1972-73 and 1973-74 under the Bengal Agricultural Income Tax Act, 1944. The main point seems to be that under the Agricultural Income Tax Act u/s 7, income is assessable on the basis of the amount of the agricultural income received by the assessee in the previous year. Agricultural income has been defined to mean, inter alia, any income derived from land by agriculture. The assessee's contention is that as a result of the West Bengal Land Reforms Act his lands being cultivated by bargadars he had been in fact receiving only 25 per cent. of the total produce of the land and as such was liable to be taxed on that basis. It appears that the respondent, the Agricultural Income Tax Officer, has proceeded on the basis of what was the income receivable by him, computing the same on the basis of the total land held by the assessee on the basis of reasonable yield from that land and thereupon deducting from that calculation the costs in terms of the proviso to Section 7 of the Act. But the first question that requires to be considered is what was the agricultural income received by him. It is not material what was receivable by him in such a case. Therefore, the

amount that was received by the petitioner is the material consideration in this case. From that point of view, in my opinion, it appears that the impugned orders of assessment for these two years contain errors apparent on the face of the record and need rectification. In the aforesaid view of the matter I set aside these two orders and direct the Agricultural Income Tax Officer to proceed afresh in accordance with law on the basis of agricultural income actually received by him and compute such income in accordance with law. For this purpose, the petitioner should produce all relevant evidence indicating the amount actually received by him. With the aforesaid direction, the rule is made absolute. There will be no order as to costs.