

PETITIONER:
PURTABPORE COMPANY LTD.

Vs.

RESPONDENT:
STATE OF UTTAR PRADESH

DATE OF JUDGMENT:
28/04/1970

BENCH:
GROVER, A.N.
BENCH:
GROVER, A.N.
SHAH, J.C.
HEGDE, K.S.

CITATION:
1970 AIR 1578 1971 SCR (1) 426
1970 SCC (2) 152

ACT:
U.P. Agricultural Income-tax Act of 1948 s. 6(2) (iv)-
Expenses of cultivation-What are....

HEADNOTE:

The assessee- a sugar factory, carried on agricultural 'farming on a large scale and had several farms. It engaged on each farm a Manager with necessary technical, clerical and menial staff to assist him. These persons were claimed to have been employed exclusively for the purpose of the farm and were provided with accommodation, medical facilities, and the allowances. On the question whether the-expenses on the management charges of the Establishment rent inspection, repairs of bungalows and offices, expenses on car, travelling, postage periodicals, assessee's contribution to Provident Fund, could be allowed as expenses of cultivation under s. 6(2)(b)(iv) of the U.P. Agricultural Income-tax Act, 1948, this Court;

HELD : The amount claimed by the assessee as expenses on management and miscellaneous expenses could be allowed under s. 6(2) (b) (iv) if and to the extent, that it was determined that they were incurred for the management, supervision, . organisation, technical knowledge and assistance and other allied matters for the purpose of the raising of crops, their marketing and transportation. An apportionment may become necessary if it was determined that the entire expense was not incurred strictly for those purposes. [433 A-C]

What has to be essentially determined under s. 6 (2) (b) (iv) is whether the expenses were incurred on or for the purpose of the-entire work. and ,operations involved in raising the crops, making the same fit for marketing and the transportation of the produce to the market. The word "raising the crop" cannot be confined simply to the ploughing of the land, sowing the seed and cutting the harvest. Section 6(2)(b)(iv) is not to be construed in a narrow and pedantic sense and' must be given its full effect in the background of modern large scale farming and the organisation required for it. [432 F-H]

It is well known that modern agricultural farming which has

become mechanised involve-,, a high degree of organisation, technical skill etc., in the same way as a well run industry. If agricultural production has to be obtained with optimum results it is necessary that there should be a proper supervisory and, other staff as also the employment of such means as would be conducive to maximum production and proper marketing of the produce. It is axiomatic that the staff would require residential accommodation which will have to be kept in a proper state of repair. The staff will also need medical attention and other amenities which are normally afforded to employees now a days. The benefit of provident fund can hardly be denied to them when it has become the accepted and normal feature in all forms of employment . in modern times. If any motor vehicle is being maintained for enabling the supervisory or other staff to look after the farm the expenses incurred thereon cannot be regarded as foreign to farming operations. 'The expenditure incurred on postage, telegrams, printing and stationery for the purpose

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of and in connection with farming would also -be allowable. If certain periodicals are being subscribed for obtaining technical knowledge and up-to-date information in the matter of agricultural farming it is difficult to see how that could be disallowed. [432 C-F]

Agricultural Income-tax No. 366 of 1953 decided by the Allahabad High Court on May 11, 1956 approved.

Mrs. Bacha F. Guzder, Bombay v. Commissioner of Income-tax Bombay, Income Tax Reports (Vol 27) 1955 page 1, Commissioner of Income-tax, West Bengal, Calcutta V. Raja Benoy Kumay Sahas Roy, 32 I.T.R. 466 distinguished,

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeals Nos, 1192 and 1276 of 1966.

Appeals by special leave from the judgments and orders dated September 30, 1965 and November 23, 1965 of the Allahabad High Court in Agricultural Income-tax Reference Nos. 142 of 1954 and 232 of 1957.

Gopinath Kunzru, V. K. S. Chaudhury and Ganpat Rai, for the appellant (in both the appeals).

C. B. Agarwala and O. P. Rana,, for the respondent(in both the appeals)

The Judgment of the Court was delivered by Grover, J. These appeals special leave arise out of a common judgment of the Allahabad High Court in two references made under the United Provinces Agricultural Income Tax Act, 1948 (hereinafter called the Act).

As the points are common the facts in appeal No. 1276 of 1966 may be briefly stated

The appellant is a sugar factory to which is attached a sugar cane farm. The appellant carries on agricultural farming on a large scale in District Deoria and had several farms. According to the ease of the appellant it engages on each farm a Manager with necessary technical, clerical and menial staff to assist him. These persons are also provided accommodation and facilities for medical treatment and are given certain other necessary allowances. it is claimed that the whole establishment is maintained exclusively for the purposes of the farm.

The appellant opted to be assessed u/s 6 (2) (b) of the Act for the assessment year 1357F, the Assessing Income Tax Officer (Collector) assessed the appellant to Agricultural

Income-Tax after disallowing expenses on the management charges of European Establishment etc., miscellaneous expenses, salary of European staff, rent, inspection, repairs of bungalows and offices

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as not being admissible under the rules. This Order was upheld by the Agricultural Income Tax Commissioner mainly on the ground that the number of persons employed and their salary was not given and it was therefore not possible "to determine whether those persons were at all necessary when the assessee had too many other servants or laborers or the like". He disallowed the expenses on management and establishment and on the subscription on periodicals, on postage and telegram, printing and stationery, medicine etc. In his opinion these could not be regarded as costs of cultivation. A revision was filed before the Agricultural Income Tax Board which was dismissed on the ground that the aforesaid expenses could not strictly be called expenses of cultivation and were not permissible u/s 6 (2) (b) (iv) of the Act. The appellant filed an application under Section 24(2) for reference to the High Court. The Agricultural Income Tax Board stated the following question of law :

"Whether the amount claimed by the assessee as expenses of management, miscellaneous expenses, detailed above can be allowed as expenses of cultivation u/s 6 (2) (b) (iv) of the Act".

The items which had been disallowed and with regard to which the reference was made are given below

Senior Staff Establishment-Rs. 3,180/-

Indian Establishment-Rs. 4,021/15/3

Indian Menial Staff-Rs. 6,825/6/-

Travelling Expenses-Rs. 833/6/3

Staff Allowance Rs. 207/7/6

Garden Maintenance-Rs. 1,062/2/3

Motor Car Maintenance-Rs. 360/-

Lighting Plant Expenses-Rs. 1,844/1 1

Firm Contribution to Provident Fund-Rs. 574/1

Agency Allowance-Rs. 1,800/-/-

The assessee had showed certain other expenses as miscellaneous expenses. They too were disallowed. They were as follows.-

Subscription & Periodicals-Rs. 159/-

Postage & Telegrams--Rs. 189/5/-

Printing & Stationery-Rs. 79/14/-

Medicines & Medicals-Rs. 1,5;29/3/8

Sundries-Rs. 2,838/3/8.

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The High Court relied largely on certain decisions of this Court in which the meaning of 'agricultural' and 'agricultural purpose' was considered with reference to the provisions of the Income Tax Act, 1922. It was held by the High Court that the expenses which were claimed to be deductible could not possibly be said to be directly or approximately connected with the raising of the crops, nor for making it fit for market or for transporting it to the market. These expenses at best could only be said to be remotely connected with the business side of marketing the produce and had no connection with the raising of the crops. The question was therefore answered in the negative and against the assessee.

The Act was enacted to impose tax on agricultural income in the United Provinces. Section 2 (1) defines 'agricultural income'. It is first stated that this expression has the

same meaning as has been assigned to it in the Indian Income Tax Act, 1922. In its, adapted form, it is reproduced below :

(a) any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land revenue in (Uttar Pradesh) or is subject to a local rate or cess assessed and collected by an officer of the (State Government)

(b) Any income derived from such land by-

(i)

(ii)

(iii)

(c) any income derived from any building

Section 3 provides for the charge of agricultural income-tax, section 4 (A) for computation of agricultural income, section 5 for determination of such income and section 6 gives an option to the assessee to have the computation of income done in accordance with its provisions. Sub-section 2(b) says that the income shall be the gross proceeds of sale of all the produce of the land subject to the following deductions:-

(i).....

(ii).....

(iii).....

(iv) the expenses incurred in the previous year in raising the crop from which the agricultural

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income is derived, in making it fit for market and in transporting it to market, including the maintenance or hire of agricultural implements and cattle required for these purposes;

(v).....

(vi).....

(vii) any expenses incurred in the previous year on the maintenance of any capital asset if such maintenance is required for the purpose of deriving the agricultural income;".

The provisions of Section 6(2) (b) (iv) came LIP for consideration before the Allahabad High Court in Agricultural Income Tax Reference No. 366 of 1953 decided on 11th May, 1956. In that case also the income was derived from large scale farming It had been found by the Agricultural Income Tax Board that the farm had been run under the supervision of a Manager and all the figures relating to receipts and expenditure had been properly checked and scrutinized. A number of items were involved which were of an identical nature as are to be found in the present case and with regard to which deductions had been claimed u/s 6(2) (b). The provident fund which represented the Company's contribution was allowed by the High Court on the ground that the employees were engaged at the firm and the contribution to their provident fund was in a way remuneration or salary paid to them. The expenses on the maintenance and repairs to the Assistant Manager's bungalow were allowed u/s 6(2)(b)(vii). Similarly the expenditure incurred on repairs to quarters allowed o blacks-smiths, watchman, carpenters and clerks-,ill connected with cultivation was allowed under the aforesaid provision. The expenses incurred on the maintenance of a lorry used for transporting,, the harvest and the car which was provided to the managerial staff to ensure proper supervision of the farm were also allowed by the High Court. It was considered

that this expenditure was necessary for the purpose of deriving the agricultural income. As regards the payments made to Directors, Managing Agents and expenses I incurred on a general Office and the General Manager's commission, the position taken up on behalf of the assessee was that all this expenditure had been incurred on controlling operations in the Organization for the cultivation of land, raisin transporting and marketing of the crops etc. The High Court was of the view that all this expenditure which represented only 1/5th of the total expenditure of the Company was deductible as it had been incurred for the purposes of the farm. As regards Manager's salary, his travelling expenses, leave and passage allowance and clerical salaries, the High Court felt that unless there be reasons for holding that the expense was so unreasonable as to justify

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a finding that it did not relate to the agricultural activities of the company, the assessing authority could not substitute its own views of prudent management for the actual management by the Board of Directors of the Company. The following observations may be referred to :

"The actual raising of the crop is certainly done by the coolies who work on the farm but the brains that direct and guide the operations, protect the crops and arrange for its collection and disposal, are by no means to be ignored and if payment is made by the company to secure such assistance we do not find any justification for holding that the expense is not incurred in raising the crops".

The above case was not followed by the High Court in the present case.

In Mrs. Macha F. Guzder, Bombay v. Commissioner of Income Tax, Bombay(1), the questions which fell for determination were of a different nature altogether. The assessee there was a shareholder in certain tea companies 60% of whose income was exempt from tax as agricultural income under section 4 (3) (viii) of the Indian Income-tax-Act, 1922. The assessee claimed that 100% of the dividend income received on those shares would also be exempt from tax as agricultural income. It was held that the dividend income was not agricultural income but was income assessable under section 2 of the aforesaid act. According to that decision, the object underlying section 2(1) of the Income-tax Act was not to subject to tax either the actual tiller of the soil or any other person getting land cultivated by others for deriving benefit therefrom, but to say that the benefit intended to be conferred upon such persons should extend to those into whose hand that revenue fall, however, remote the receiver of such revenue might be, was hardly warranted.

In the other case, Commissioner of Income tax West Bengal, Calcutta v. Raja Benoy Kumar Sahas Roy(2) the question was whether income derived from the sale of Sal and plyasal trees 'in the forest owned by the assessee which was originally a forest of spontaneous growth "not grown by the aid of human skill and labour" but on which forestry operations described in the statement of case had been carried on by the assessee involving considerable amount of expenditure of human skill and labour was agricultural income within the meaning of S. 2(1) of the Indian Income tax Act, 1922. It was in this connection that observations were made with regard to the primary sense in which the

(1) Income Tax Reports (Vol 27) 1955, page (1).

(2) 32 I.T.R., 466..

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word 'agriculture' was used and what the meaning of 'agricultural operation' was. It was said that the term 'agriculture' could not be extended to all activities which had some relation to the land and were in any way connected with the land. For instance the application of the term 'agriculture' to denote such activities in relation to the land including horticulture forestry, breeding and rearing of live-stock, dairying, butter and cheese-making and poultry farming was unwarranted distortion of the term.

The above two decisions relied upon by the High Court, with respect, have no bearing on the question which arose in the present case. It is well known that modern agricultural farming which has become mechanised involves a high degree of Organisation, technical skill etc. in the same way as a well run industry. If agricultural production has to be obtained with optimum results it is necessary that there should be a proper supervisory and other staff as also the employment of such means as would be conducive to maximum production and proper marketing of the produce. It is axiomatic that the staff would require residential accommodation which will have to be kept in a proper state of repairs. The staff will also need medical attention and other amenities which are normally afforded to employees now a days. The benefit of provident fund can hardly be denied to them when it has become the accepted and normal feature in all forms of employment in modern times. If any motor vehicle is being maintained for enabling the supervisory or other staff to look after the farm the expenses incurred thereon cannot be regarded as foreign to farming operations. The expenditure incurred on postage, telegrams, printing and stationery for the purpose of and in connection with farming would also be allowable. If certain periodicals are being subscribed to for obtaining technical knowledge and up-to-date information in the matter of agricultural farming it is difficult to see how that could be disallowed. It is not necessary to refer to all other items the details of which have been given before. What has to be essentially determined under S. 6 (2) (b)(iv) is whether the expenses were incurred on or for the purpose of the entire work and operations involved in raising the crop, making the same fit for marketing and the transportation of the produce to the market. The words "raising the crop" cannot be confined simply to the ploughing of the land, sowing the seed and cutting the harvest. It must be emphasised that section 6 (2) (b) (iv) is not to be construed in a narrow and pedantic sense and must be given its full effect in the background of modern large scale farming and the organization required for it. We are generally in agreement with the views expressed in the previous unreported decision of the Allahabad High Court referred to before.

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It would appear that the authorities concerned have not considered the items in dispute from the correct angle and it would have to be decided with regard to each item whether it was partly or wholly expended for the purposes mentioned before. An apportionment may become necessary if it is determined that the entire expense was not incurred strictly for those purposes.

The correct answer to the question referred would be : The amount claimed by the assessee as expenses on management and miscellaneous expenses detailed before can be allowed u/s 6(2)(b) (iv) if and to the extent it is determined that they were incurred for the management, supervision, Organisation, technical knowledge and assistance and other allied matters for the purpose of the raising of crops, their marketing and

transportation, in the light of the observations made by us in this judgment.

The appeals are allowed with costs in this Court and the judgment of the High Court is set aside. One hearing fee.

Y.P. appeals
allowed.

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JUDIS