

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.7863/1997 @@  
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State of Assam & Ors.

Appellant (s)

VERSUS

M/s. Assam Frontier Tea Ltd.  
(With office report)

Respondent (s)

Date : 29/11/2000 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.P. BHARUCHA  
HON'BLE MR. JUSTICE DORAISWAMY RAJU  
HON'BLE MRS. JUSTICE RUMA PAL

For Appellant (s) Mr. Sunil K. Jain, Adv.  
Mr. S.Borthakur, Mr.Amitesh Lal,  
Ms. Sushma Sharma & Ms.Jaya Tomar, Advs.  
for M/s. Jain Hansaria & Co., Advs.

For Respondent (s) Dr. Debi Prasad Pal, Sr.Adv.  
Mr. P.Sudheer, Ms.Priya Hingorani,  
Mr. P.Venugopal & Mr.K.J. John, Advs.

UPON hearing counsel the Court made the following  
O R D E R

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The appeal is allowed. The respondent shall pay to the appellants the costs of the appeal, quantified at Rs.25,000/-.

.SP1 (N. Annapurna) (Shelly Sengupta)  
Court Master Court Master

(Signed order is placed on the file.)

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IN THE SUPREME COURT OF INDIA@@  
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CIVIL APPELLATE JURISDICTION@@  
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CIVIL APPEAL NO. 7863 OF 1997@@  
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State of Assam & Ors.

....Appellant(s)

versus

M/s. Assam Frontier Tea Ltd.

...Respondent(s)

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This is an appeal by the State of Assam against the judgment and order of a Division Bench of the High Court at Assam on a writ appeal. The matter relates to the Assam Agricultural Income Tax Act, 1939 and the Assessment Year 1984-85.

Under the provisions of the said Act, 'agricultural income' is defined thus:

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"Sec.2(a)(2)@@  
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"agricultural income" means -

(1) ... ..

(2) Any income derived from such land by -

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him in respect of which no process has been performed other than a process of the nature described in sub-clause (ii).

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Explanation. - Agricultural income derived from such land by the cultivation of tea means that portion of the income derived from the cultivation, manufacture and sale of tea as is defined to be agricultural income for the purposes of the enactments relating to Indian Income-tax."

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Section 8(2) of the said Act requires that rules prescribing the manner of determining the net amounts of agricultural income shall provide that deductions shall be made from the gross amounts of such income, inter alia, of:

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"(f)(vii) Any expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of earning or deriving the agricultural income;



be answered.

It was then submitted by Dr.Pal that the genuineness of the said payment of Rs.4 crores had not been doubted. That is correct, in the sense that nobody doubts that the assessee had paid Rs.4 crores to its two sister institutions as afore-mentioned. The question here is whether such payment was made wholly and exclusively for the purposes of earning or deriving the assessee's agricultural income as defined under the said Act.

Lastly, Dr.Pal submitted that if we were dissatisfied about the state of the facts on the record, we should remit the matter for reconsideration, after giving the assessee an opportunity of providing such facts. It was the assessee's case that the said payment of Rs.4 crores satisfied the requirements of ...5/-

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the said provision. It was for the assessee to place the appropriate factual material before the taxing authorities and thereafter in their writ petition before the High Court, which it did not do. The learned Single Judge had made an observation in his judgment about the lack of such material; even then, no attempt was made to place it on record. The plea of Dr.Pal cannot, therefore, be accepted.

The appeal is allowed. The judgment and order under the appeal is set aside. The order of the learned Single Judge is restored. The respondent shall pay to the appellant the costs of the appeal, quantified at Rs.25,000/-.

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.....J.  
(S.P. Bharucha)

.....J.  
(Doraiswamy Raju)

.....J.  
(Ruma Pal)

New Delhi,  
November 29, 2000.