THE COMMISSIONER OF AGRICULTURAL INCOME-TAX

v.

THE CALVARY MOUNT ESTATES (PRIVATE) LTD.

1960

December 15.

(J. L. KAPUR, M. HIDAYATULLAH and J. C. SHAH, JJ.)

Agricultural Income Tax—Rubber Plantation—Expenditure on immature trees—Whether permissible deduction—Madras Plantations Agricultural Income-tax Act, 1955 (Mad. V of 1955), s. 5(e).

The assessee owned an Estate of 590 acres out of which 235 acres were occupied by immature non-bearing rubber trees, for the maintenance and upkeep of which the respondent claimed expenses from out of the income, which was allowed both by the Agricultural Income Tax Tribunal and the High Court. The appellant came up by special leave.

Held, that the provisions of s. 5(e) of the Madras Plantations Agricultural Income Tax Act, 1955 (Mad. V of 1955), applicable to the present case, and those of s. 5(j) of the Travancore-Cochin Agricultural Income Tax Act, 1950 (Tr. Co. XXII of 1950) being the same, the judgment in *Travancore Rubber & Tea Co. Ltd.* v. *The Commissioner of Agricultural Income-tax, Kerala*, in which the question of deductibility of sums expended for purposes of forking, manuring etc. of immature rubber trees had been decided, will govern this case.

Travancore Rubber & Tea Co. Ltd. v. *The Commissioner of Agricultural Income-tax, Kerala*, [1961] 3 S.C.R. 279, applied.

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 145 of 1960.

Appeal by special leave from the judgment and order dated March 18, 1958, of the Kerala High Court in Tax Revision Case No. 12 of 1957.

V. A. Seyid Muhamad and *Sardar Bahadur*, for the appellant.

C. K. Daphtary, Solicitor-General of India, Thomas Vellapally, S. N. Andley, J. B. Dadachanji, Rameshwar Nath and *P. L. Vohra*, for the respondent.

1960. December 15. The Judgment of the Court was delivered by

1960

The Commissioner of Agricultural Income-tax v. The Calvary Mount Estates (Private) Ltd.

Kapur J.

KAPUR, J.—This is an appeal by special leave against the judgment and order of the High Court of Kerala in Tax Revision No. 12 of 1957.

The respondent who is the assessee owned an estate of 590 acres in South Malabar district, now in Kerala State. Out of that area 85 acres were covered by Pepper, Arecanut, Paddy and Coconut cultivation while the rest i.e. 505 acres had rubber plantations upon it. Of that area 235 acres were occupied by immature non-bearing rubber trees and 270 acres had mature rubber trees. The assessment relates to the year 1955-56, the accounting year being the year ending March 31, 1955. The respondent claimed from out of the income expenses relating to the maintenance and upkeep of immature non-bearing rubber trees. The Agricultural Income tax Tribunal held that the expenses incurred on the whole area under rubber plantations were deductible expenses and remanded the case for ascertaining the expenses incurred in forking and manuring of the "non-bearing and immature" rubber grown areas also. The appellant then preferred a revision application to the High Court under s. 54(1) of the Madras Plantations Agricultural Income Tax Act, 1955 (Mad. V of 1955). The High Court held that the amount spent on the upkeep and maintenance of immature rubber trees was a deductible expenditure under s. 5(e) of that Act which provides:

> S. 5 "*Computation of agricultural income*: The agricultural income of a person shall be computed after making the following deductions, namely:—
>
> .....
>
> (e) any expenditure incurred in the previous year (not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of the plantation;".

The provisions of s. 5(e) of the Madras Act, applicable to the present case, are the same as those of s. 5(j) of the Travancore Cochin Agricultural Income Tax Act (Act XXII of 1950). The only difference is in the last few words. In place of "for the purpose of the plantation" in the former, the words "for the purpose of

deriving the agricultural income" are used in the latter. If anything the words of the former Act are more favourable to the respondent.

In *Travancore Rubber and Tea Company Ltd.* v. *Commissioner of Agricultural Income Tax, Kerala* (1), which was an assessment under the Travancore Cochin Act, we have decided the question of deductibility of sums expended for purposes of forking, manuring etc. of immature rubber trees. That judgment will govern this case also. This appeal therefore fails and is dismissed with costs in this court and the High Court.

Appeal dismissed