IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.457 of 2006

Commissioner Of Income Tax, Muzaffarpur

... ... Appellant/s

Versus

Agricultural Produce Market Committee, Motihari

... ... Respondent/s

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with

Miscellaneous Appeal No. 382 of 2009

Assistant Commissioner Of Income Tax Circle-1, Muzaffarpur

... ... Appellant/s

Versus

M/S Agricultural Produce Market Committee, Muzaffarpur

... ... Respondent/s

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with

Miscellaneous Appeal No. 813 of 2010

Agricultural Produce Market Committee, Lakhisarai

... ... Appellant/s

Versus

The Commissioner Of Income Tax, Bhagalpur

... ... Respondent/s

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with

Miscellaneous Appeal No. 820 of 2010

Agricultural Produce Market Committee (Dissolved), Saharsa

... ... Appellant/s

Versus

Commissioner Of Income Tax, Bhagalpur

... ... Respondent/s

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with

Miscellaneous Appeal No. 821 of 2010

Agricultural Produce Market Committee (Dissolved), Jamui

... ... Appellant/s

Versus

Commissioner Of Income Tax

... ... Respondent/s

Appearance :
(In Miscellaneous Appeal No. 457 of 2006)
For the Appellant/s : Mr. Prakash Sahay, Advocate
For the Respondent/s : Mr. Sadashiv Tiwari (Amicus Curiae)
(In Miscellaneous Appeal No. 382 of 2009)
For the Appellant/s : Mrs. Archana Sinha, Sr. SC, Income Tax
For the Respondent/s : Mr.Amit Shrivastava, Advocate
(In Miscellaneous Appeal No. 813 of 2010)
For the Appellant/s : Mr. Shikesh Jha, Advocate
For the Respondent/s : Mr. Harshwardhan Prasad, Advocate
(In Miscellaneous Appeal No. 820 of 2010)
For the Appellant/s : Mr. Shikesh Jha, Advocate
For the Respondent/s : Mr. Harshwardhan Prasad, Advocate
(In Miscellaneous Appeal No. 821 of 2010)
For the Appellant/s : Mr. Shikesh Jha, Advocate
For the Respondent/s : Mr. Harshwardhan Prasad, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-12-2023

Heard learned counsel Sri Sadashiv Tiwari, Amicus Curiae and Smt. Archana Sinha, learned Senior Standing Counsel for the respondent.

2. The above appeals are on the very same issue but from different orders of the Tribunal. The identical issue raised is the eligibility of the Agricultural Produce Marketing Committees, created under a statute; the Bihar Agricultural Produce Market Act, 1960 for exemption from levy of tax under Section 11 and 12 of the Income Tax Act. The appeals of the

Department, M.A. No. 457 of 2006 and M.A. No.382 of 2009, are from orders of the Tribunal which respectively allowed the exemption and remanded the same for consideration after observing that the exemption is possible; in the case of two agricultural produce marketing committees in two separate districts; different entities assessed individually.

3. M.A. Nos.813 of 2010, 820 of 2010 and 821 of 2010 are filed by the Agricultural Produce Marketing Committees of Lakhisarai, Saharsa and Jamui respectively. In the orders of the Tribunal from which the appeals arose, the Tribunal rejected the claim of the assessees finding favor with the orders of the Commissioner of Income Tax (CIT) which rejected the application for exemption under Section 12 on the ground that they were delayed.

4. Admittedly, as seen from the various impugned orders itself, the various Agricultural Produce Market Committees of the different districts were exempted from the levy of income tax in the years prior to the assessment year 2003-04 by virtue of Section 10(20) of the Income Tax Act. Subsequent to the assessment year 2003-04, from the assessment year 2004-05 onwards, which is relatable to the financial year 2003-04, the Agricultural Produce Marketing

Committees were granted exemption under Section 12 based on their respective application in that financial year. The rejection was only in respect of assessment year 2002-03.

5. In M.A. No.457 of 2006, the order challenged deals with the appeals of 6 committees and the appeal filed before this Court from the said common order, is only against the order passed in favor of the Agricultural Produce Market Committee, Motihari. For that reason alone, the appeal is to be dismissed.

6. We also see that the Tribunal had relied on a decision of the Income Tax Appellate Tribunal, Delhi, which permitted the Market Committees to avail of such exemption, finding them to be charitable institutions. As has been found by the Tribunal, the object of the establishment of the Market Committee is to regulate, purchase, sale, store and process agricultural produce, with the intention to protect agriculturists from exploitation of middle men and to provide them with competitive price. The Market Committees also provide better facilities for storage and transportation of food grains.

7. The Commissioner of Income Tax in the impugned order before the Tribunal, has opined that the Agricultural Produce Market Committees do not come under the definition of either a trust or institution. An Institution, as seen from the provision, has not been defined and in such circumstances, the object has to be looked at. The Market Committees are statutory bodies created for the purposes afore-mentioned. They are not profit earning establishments and their object is also to facilitate proper disposal of the agricultural produce of individual farmers. We find the reasoning of the Tribunal to be perfectly in order. It is also to be noticed that in all the subsequent years, the Agricultural Produce Market Committees were granted exemption under Section 11 and 12.

8. Insofar as M.A. No. 382 of 2009, the Tribunal though having found that there is no reason for denial of exemption, solely in the assessment year 2003-04, remanded the matter to the lower authority. Though it is not an appeal of the assessee, we find no valid reason to uphold the remand, especially since the Market Committees are now no more in existence. The reasoning in the impugned order in M.A. No. 457 of 2006 squarely applies in this case also. As we noticed earlier, insofar as M.A. No.457 of 2006, there is no separate appeal from the common order against the other five Agricultural Produce Market Committees, whose appeals were also disposed of by the Tribunal on the above reasoning.

9. We find no question of law arising from M.A. No.457 of 2006 and reject the same.

10. In M.A. No. 382 of 2009, we find the remand to be unnecessary. Upholding the order of the Tribunal insofar as the finding that there is no valid reason to decline exemption to the appellant-assessee, which is the Agricultural Produce Market Committee at Muzaffarpur, the order is intefered with only to the extent of setting aside the remand. The reasoning upheld in M.A. No.382 of 2009 squarely applies in this appeal also.

11. Insofar as the appeals by the assessees are concerned, three District Committees have filed it, again from a common order which disposed of 10 appeals before the Tribunal. Since each of the district committees are separately assessed, we have to necessarily consider the appeals filed by the individual, different District Committees. The reason assigned by the CIT to reject the application was delay, which stood upheld by the Tribunal also.

12. In this context, we notice Section 12(A)(a) as it stood then and extract it below:-

> ***12A.*** *The provisions of Section 11 and 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:-*

(a) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the [***] Commissioner before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution[whichever is later and such trust or institution is registered under section 12AA]:

*[**Provided** that where an application for registration of the trust or institution is made after the expiry of the period aforesaid, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution,-*

(i) from the date of creation of the trust or the establishment of the institution if the [***] Commissioner is, for reasons to be recorded in writing, satisfied that the person in receipt of the income was prevented from making the application before the expiry of the period aforesaid for sufficient reasons.

(ii) from the 1st day of the financial year in which the application is made, if the [***] Commissioner is not so satisfied;]

13. Hence, the limitation insofar as newly created Trusts or Institutions, is within one year from the date of such creation or establishment. Admittedly, the Agricultural Produce Market Committees were created by the statute in the year 1960. The were also entitled to exemption under Section 10(20) of the Act as a local authority. By an amendment in the year 2002, the words ‘local authority’ was deleted from the aforesaid provision. This resulted in the market committees being no longer entitled to exemption from levy of tax by virtue of the aforesaid provision. It has to be pertinently noticed that from the next assessment year onwards, i.e. assessment year 2004-05, the exemption was granted seamlessly under Section 11 and 12.

14. In the relevant assessment year, subject matter of the case, as per the table extracted by the Tribunal, the Market Committees did not file the application within the financial year and hence, the same was rejected. The aforesaid rejection was based on clause-(ii) of the proviso which indicates that if the Commissioner is not satisfied by the reasons stated for the delay, then the application can be considered only from the first day of the financial year in which the application is made. Hence, the delay condonation is subject to the satisfaction of the Commissioner, as per clause-(i) of the proviso. The Commissioner has not considered the reason for the delay and has merely rejected it based on clause-(ii) of the proviso.

15. We are of the opinion that there is sufficient cause for condonation of delay since prior to the subject assessment year, the market committees were entitled to exemption Section 10(20); which was dis-entitled only by reason of the amendment of the year 2002 made with effect from 01.04.2002. The Agricultural Produce Market Committees had filed the applications as soon as the amendments came to their notice. The context in which the change was brought in and the eligibility for exemption from levy of tax under the Act for the earlier years and the subsequent years are reasonable grounds to enter into the required satisfaction for condonation of delay. We find the order of the Commissioner as confirmed by the Tribunal to be bad in law. We are of the opinion that the order of the Commissioner which was affirmed by the Tribunal is perverse in the facts and circumstances of the case and hence, we allow the appeals permitting the appellant-assessee to have the exemption under Section 12 for the subject assessment year, i.e. 2003-04.

16. Ordered accordingly.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

sharun/-

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