

1. Income Tax Appeal No. (58) of 2010 ; CIT Vs. Krishi Utpadan Mandi Samiti.
2. Income Tax Appeal No. (59) of 2010 ; CIT Vs. Krishi Utpadan Mandi Samiti.
3. Income Tax Appeal No. (60) of 2010 ; CIT Vs. Krishi Utpadan Mandi Samiti.
4. Income Tax Appeal No. (61) of 2010 ; CIT Vs. Krishi Utpadan Mandi Samiti.
5. Income Tax Appeal No. (62) of 2010 ; CIT Vs. Krishi Utpadan Mandi Samiti.
6. Income Tax Appeal No. (63) of 2010 ; CIT Vs. Krishi Utpadan Mandi Samiti.
7. Income Tax Appeal No. (64) of 2010 ; CIT Vs. Krishi Utpadan Mandi Samiti.
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23. Income Tax Appeal No. (83) of 2010 ; CIT Vs. Krishi Utpadan Mandi Samiti.
24. Income Tax Appeal No. (138) of 2010; CIT Vs. Krishi Utpadan Mandi Samiti.
25. Income Tax Appeal No. (96) of 2010; CIT Vs. Krishi Utpadan Mandi Samiti.
26. Income Tax Appeal No. 177 of 2010; CIT Vs Krishi Utpadan Mandi Samiti.

HON'BLE YATINDRA SINGH, J.
HON'BLE PRAKASH KRISHNA, J.

THE FACTS

1. This bunch of 26 appeals relate to Assessment Years 2003-04 to 2005-07 in respect of assessment proceeding taken under Income Tax, 1961, the (IT Act). The assessee are different Krishi Utpadan Mandi Samitis (the Samitis) incorporated under UP Krishi Utpadan Mandi Samiti Adhiniyam, 1964 (the Mandi Act). The main question involved in these appeals is,

'Whether the amounts paid by the Samitees to the State Agriculture Produce Markets Board (the Board) under statutory obligation is application of its receipts entitling exemption under section/ allowance from the income.

2. In all these cases, the Samitis in their returns claimed exemption/ allowance for the amount sent by them to the Board under the Mandi Act.

3. Among others, the Assessing Officer disallowed the amount as according to him, it was not utilisation of the amount and the Samitis were not entitled to exemption under the IT Act.

4. The Samiti filed appeals. The Commissioner (Appeals) held that the amount sent by them to the Board is proper utilisation of the money enabling exemption for the same. The addition was deleted.

5. The Income Tax Department (the Department) filed appeals before the Income Tax Appellate Tribunal (the Tribunal). These were dismissed by different orders. Hence, the present appeals.

6. We have heard Sri AN Mahajan, and Sri Shambhu Chopra, for the Department; and Sri SK Garg, and Sri Ashish Bansal, counsel for the Samitees.

THE DECISION

7. The agricultural producers were not able to get the reasonable amount for their agricultural produce. The main reason was the chaotic state of affairs in agricultural produce markets. The Mandi Act was enacted to set it right and to see that the agricultural producers got their due.

8. The Mandi Act envisages market areas in the State and the Samitis to govern it. The Samities are a body established and incorporated under section 12 of the Mandi Act.

9. The Mandi Act also envisages establishment of the Board. Among other powers and functions of the Board, one is to supervise and control the Samiitis.

10. A question arose whether the Samiti are entitled to registration under section 12AA of the IT Act or not. A Division Bench of this Court at Lucknow opined that the Samitis were so entitled. This was in a bunch of the cases of which the leading case was ITA No. 80 of 2007 decided on 2.12.2009.

11. Under the Mandi Act, the Samitis collect *mandi shulk* as well as 'development cess'. They are required to send 50% of the *mandi shulk* and the entire development cess to the Board under sub sections (5) and (6) of section 19 of the Mandi Act.

12. The only question is, whether the aforesaid amount is the money spent or not so as entitle the Samitis to claim allowance.

13. It is not disputed that the money is sent by the Samitis to the Board under the

statutory duty. It cannot be returned back to them. It is ultimately applied for the development of market yards, samitees, and to improve management as well as to ensure better deal to the agricultural producers.

14. Under the Mandi Act, the Board has overriding title. The amount sent to the Board is utilisation and application the money received by Samitis. They are entitled to claim exemption / allowances of the same.

15. In Rajasthan, there is similar statute titled as the Krishi Upaj Mandi Samit of the Rajasthan Agricultural Produces Market Ltd, 1961 (the Rajasthan Act). Its provisions are similar to the provisions of ours Mandi Act It has similar provisions and similar question arose there.

16. A Division Bench of the Rajasthan High Court in Income Tax Appeal Nos. 4 to 12 of 2009; Commissioner of Income Tax Vs. Krishi Upaj Mandi Samit Gajsinghpur and others (2009) 21 DTR (Raj) 64 (The Rajasthan-Samiti case took similar view.

17. In our opinion,

The amount sent by the Samitis to the Board under the Act (namely 50% of the *Mandi Shulk* as well as development cess) to the Board is utilisation of the amount collected by the Samitees and it is proper application of the money;

There is no illegality in the order of the Income Tax Appellate Tribunal and Commissioner (Appeals).

CONCLUSIONS

18. Our conclusions are as follows:

(i) The amount of Mandi Shulk as well as Development Cess sent by the different Mandi Samitis to the State Agricultural Produce Market Board is a utilisation of all the receipts; and

(iii) The Tribunal as well as Commissioner (Appeals) have rightly deleted the addition.

In view of our conclusions, the appeals have no merit and are dismissed.

Date: 2.12.2010

SKS