

GAHC010027182015



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2026:GAU-AS:3259-

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/7505/2015

MCLEOD RUSSEL INDIA LIMITED
A PUBLIC LTD. CO. GOVERNED BY THE PROVISIONS OF THE COMPANIES
ACT, 2013 HAVING ITS REGD. OFFICE AT NO.4, MANGO LANE, KOLKATA-
700001.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM, FINANCE and
TAXATION DEPTT., DISPUR, GHY.-781006.

2:THE AGRICULTURAL INCOM TAX OFFICER

ASSAM
KAR BHAWAN
DISPUR
GHY.

3:COMMISSIONER OF TAXES

ASSAM
KAR BHAWAN
DISPUR
GHY

Advocates for the petitioner : Dr. A. Saraf, ...Sr. Counsel,
Mr. A. Kaushik, ...Advocate.

Advocates for the respondents : Mr. B. Gogoi, ..Addl. A.G., Assam
Mr. M. Bhuyan ... Advocate.

:::BEFORE:::

HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

HON'BLE MR. JUSTICE MANISH CHOUDHURY

HON'BLE MR. JUSTICE SOUMITRA SAIKIA

Date on which judgment is reserved : **19.02.2026**
Date of pronouncement of judgment : **06.03.2026**
Whether the pronouncement is of the : N/A
operative part of the judgment ?
Whether the full judgment has been : Yes
pronounced?

JUDGMENT & ORDER (CAV)

(M. Zothankhuma, J)

1. Heard Dr. A. Saraf, learned Sr. Counsel assisted by Mr. A. Kaushik, learned counsel for the petitioner. Also heard Mr. B. Gogoi, learned Addl. Advocate General, Assam assisted by Mr. M. Bhuyan, learned counsel appearing for the State.

2. This matter has been referred to this Bench in view of the opinion of the learned Single Judge in WP(C) 7505/2015 that the decision of the Division Bench of this court in the judgment dated 21.09.2012 passed in M/s Kanoi Estates Private Limited vs. The State of Assam and Others [WP(C) 3753/2012], does not appear to be in conformity with the law laid down by the Constitution Bench of the Hon'ble Supreme Court in the case of ***Karimtharuvi Tea Estate Ltd. vs. State of Kerala***, reported in ***AIR 1966 SC 1385***.

3. The issue to be decided is whether Section 8B of the Assam Agricultural Income Tax (Amendment) Act, 2009 (hereinafter referred to as the "Act"), which was notified in the Assam Gazette Notification dated 12.02.2009 and was deemed to come into force with effect from 01.04.2009, intended to tax the agricultural income of the previous financial year, i.e 2008-2009.

4. The stand of the writ petitioner is that as the amended Section 8B of the Amended Act came into effect on 01.04.2009, i.e for the financial year 2009-2010, the assessment year for that financial year 2009-2010 would be the year 2010-2011. As per the petitioner, this was in tune with the judgment of the Supreme Court in ***Karimtharuvi Tea Estate Ltd. (supra)***. However, the decision of the Division Bench of this Court in ***M/s Kanoi Estates Private Limited (supra)*** was not in conformity with the decision of the Supreme Court, as it held that the financial year pursuant to the inclusion of Section 8B of the Amended Act on 01.04.2009 would be 2008-2009.

5. On the other hand, the stand of the respondent State is that the amendment of the Act having come into force on 01.04.2009, the assessment year was 2009-2010, which *ipso facto* made the financial year to be 2008-2009. The respondents' case is thus to the effect that there is no conflict with the decision of the Supreme Court in ***Karimtharuvi Tea Estate Ltd. (supra)*** and in the judgment of the Division Bench of this Court in ***M/s Kanoi Estates Private Limited (supra)***. Both the parties have thus relied upon the judgment of the Supreme Court in the case of ***Karimtharuvi Tea Estate Ltd. (supra)***

in support of their submissions.

6. Section d(1) and (3) of the Act states as follows:

"d(1) Save as otherwise provided in this section, 'previous year' for the purpose of this Act means the financial year immediately preceding assessment year:

Provided that in the case of agricultural income derived from a source newly coming into existence in the said financial year, the previous year shall be the period beginning with the date on which the source of income newly comes into existence and ending in the same financial year.

d(3) Where the previous year in relation to the assessment year commencing on the 1st day of April, 1989 referred to in sub-clause (2) above exceeds a period of 12 months, hereinafter referred to as the "transitional previous year" the provisions of this Act shall apply subject to the modification specified in sub-clause (4) and (5) of this clause."

7. Section 1 and 2 of the Amended Act states as follows :

"1. (1) This Act may be called the Assam Agricultural Income Tax (Amendment) Act, 2009.

(2) It shall have the like extent as the principal Act.

(3) It shall come into force on the first day of April, 2009.

2. In the principle Act, after section 8A, a new section 8B shall be inserted, namely:-

8B. Notwithstanding anything contained in any other provision of this Act, in case of an assessee, being a company, which derives income from cultivation, manufacture and sale of tea, if the agricultural income tax payable under this Act on the sixty percent portion of agricultural income computed as per provisions of the Income Tax Act, 1961 is less than ten percent of the sixty percent of the book profit computed in the manner as referred to in section 115 JB of the Income Tax Act, 1961, sixty percent of such book profit shall be deemed to be the agricultural income for the purpose of levy of agricultural income tax under this Act of such assessee and the assessee shall be liable to pay agricultural income tax at the rate of ten percent of such agricultural income."

8. As can be seen from the issue formulated by this Court, we have to see whether the Amended Act which came into effect on 01.04.2009, has made the assessment year to be w.e.f. 2009-2010 or 2010-2011, in which case the financial year would be 2008-2009 or 2009-2010 respectively.

9. In the case of ***Karimtharuvi Tea Estate Ltd. (supra)***, the Supreme Court in paragraph-8 has held as follows :

"8. Now, it is well settled that the Income Tax Act, as it stands amended on the first day of April of any financial year must apply to the assessments of that year. Any amendments in the Act which come into force after the first day of April of a financial year, would not apply to the assessment for that year, even if the assessment is actually made after the amendments come into force."

10. A reading of the above paragraph-8 shows that it is in two parts. The first part states that the amendment made to the Income Tax Act on the first day of April of any financial year must apply to the assessments of that year. The above clearly shows that when the amendment is made w.e.f. 1st April of a financial year, the said assessment year would apply to financial transactions of the earlier year. The second part of paragraph-8 states that any amendments in the Act which come into force after the first day of April of a financial year, would not apply to the assessment for that year, even if the assessment is actually made after the amendments come into force.

11. Paragraph-14 of the judgment passed in ***Karimtharuvi Tea Estate Ltd. (supra)*** states as follows :

"14. The Surcharge Act having come into force on September 1, 1957 and the said Act not being retrospective in operation, it could not be regarded as law in force at the commencement of the year of assessment 1957-1958. Since the Surcharge Act was not the law in force on April 1, 1957, no surcharge could be levied under the said Act against the appellant in the Assessment year 1957-58.

12. A reading of the above, paragraph-8 and 14 of the decision in ***Karimtharuvi Tea Estate Ltd. (supra)***, in our view, shows that as the Surcharge Act had come into force only on September 1st, 1957 and not on 1st April, 1957, the Surcharge Act could not have been regarded as the law in force

at the commencement of the assessment year 1957-1958. A natural corollary of the above would go to show that if the Surcharge Act had the force of law as on 1st April, 1957, surcharge could be levied under the said Act in the assessment year 1957-1958. This is also further clarified by the decision of the Supreme Court in the case of **CIT vs. I.S. Lines**, reported in **AIR 1953 SC 439**, where it has held as follows :

“It will be observed that we are here concerned with two datum lines : (1) the 1st of April, 1940, when the Act came into force, and (2) the 1st of April, 1939, which is the date mentioned in the amended proviso. The first question to be answered is whether these dates are to apply to the accounting year or the year of assessment. They must be held to apply to the assessment year, because in income tax matters the law to be applied is the law in force in the assessment year unless otherwise stated or implied. The first datum line therefore affected only the assessment year of 1940-41, because the amendment did not come into force till the 1st of April, 1940. That means that the old law applied to every assessment year up to and including Assessment year 1939-40”

13. The Supreme Court in **Karimtharuvi Tea Estate Ltd. (supra)** thus held that the decision in **CIT vs. I.S. Lines (supra)** is the authority for the proposition that though the subject of the charge is the income of the previous year, the law to be applied is that in force in the assessment year, unless otherwise stated or implied.

14. In the case of **Shree Choudhary Transport Company Vs. Income**

Tax Officer reported in **(2021) 13 SCC 401**, one of the 4(four) issues that had to be decided was whether sub-clause (i-a) of section 40(a) of the Act, as inserted by the Finance (No.2), 2004 with effect from 01/05/2005, was applicable only from the Financial Year 2005-2006 and hence, not applicable to the Financial Year 2004-2005; and, at any rate, whole of the rigour of the provision cannot be applied to the case. The Supreme Court in the above case held that in Income Tax matters, the law to apply is that in force in the Assessment Year in question, unless stated otherwise by express intendment or by necessary implication. As per section 4 of the Income Tax Act, the charge of Income Tax is with reference to any Assessment Year, on such rate or rates as provided in any Central enactment for that purpose in respect of any total income of the previous year of any person. The expression "previous year" is defined in Section 3 of the Act to mean 'the financial year immediately preceding the assessment year; and the expression "assessment year" is defined in clause (9) of Section 2 of the Income Tax Act to mean the period of twelve months commencing on the 1st day of April every year.

15. The Supreme Court in ***Shree Choudhary Transport Company (Supra)*** further reiterated the law laid down in ***CIT Vs. Isthmian Steamship Lines*** reported in ***1951 SCC 1082*** and as per the Constitution Bench Judgment in ***Karimtharuvi Tea Estate Ltd. Vs. State of Kerala*** reported in ***(1966) 60 ITR 262 (SC)***. The judgment of the Supreme Court in para 17.5 of ***Shree Choudhary Transport Company (Supra)***, is reproduced herein below, as follows :-

"17.5. In *CIT vs. Isthmian Steamship Lines* [[1951 SCC 1082](#)], a 3-Judge Bench of this Court expounded on the fundamental principle that 'in income-tax matters the law to be applied is the law in force in the assessment year unless otherwise stated or implied.' This decision and various other decisions were considered by the Constitution Bench of this Court in the case of *Karimtharuvi Tea Estate Ltd. vs. State of Kerala* [[\(1966\) 60 ITR 262](#)] and the principles were laid down in the following terms (at pp. 264-266 of ITR):-

"Now, it is well-settled that the Income-tax Act, as it stands amended on the first day of April of any financial year must apply to the assessments of that year. Any amendments in the Act which come into force after the first day of April of a financial year, would not apply to the assessment for that year, even if the assessment is actually made after the amendments come into force.

*The High Court has, however, relied upon a decision of this court in *Commissioner of Income-tax v. Isthmian Steamship Lines*, where it was held as follows :*

"13. It will be observed that we are here concerned with two datum lines : (1) the 1st of April, 1940, when the Act came into force, and (2) the 1st of April, 1939, which is the date mentioned in the amended proviso. The first question to be answered is whether these dates are to apply to the accounting year or the year of assessment. They must be held to apply to the assessment year, because in income-tax matters the law to be applied is the law in force in the assessment year unless otherwise stated or implied. The first datum line therefore affected only the assessment year of 1940-41, because the amendment did not come into force till the 1st of April 1940. That means that the old law applied to every assessment year up to and including the assessment year 1939-40."

This decision is authority for the proposition that though the subject of the charge is the income of the previous year, the law to be applied is that in force in assessment year, unless otherwise stated or implied. The facts of the said decision are different and

distinguishable and the High Court was clearly in error in applying that decision to the facts of the present case."

16. In the case of ***CIT Bombay vs. Scindia Steam Navigation Co. Ltd***, the Supreme Court has held that the amendment of an Act which is effective from a date later than the 1st of April of the assessment year does not apply to the assessment for that assessment year. In the case of ***CIT vs. Nirmal Textiles (1996) 136 CTR (Guj) 148***, the Gujarat High Court held that the law as it exists on the 1st of April of the relevant assessment years would govern the assessment.

17. In the case of ***S.P. Jaiswal Estates (P) Limited vs. CIT (1994) 75 Taxman 298 (Cal)***, the Calcutta High Court held as follows :

"The Income tax (Fourth Amendment) Rules, 1983, prescribed higher rates of depreciation w.e.f. 2-4-1983. The assessment year began on 1-4-1983. Since the new rates of depreciation were not in force on 1-4-1983 on which the assessment year 1983-84 began, the new rates will not apply for assessment year 1983-84. The new rates were intended to apply from the assessment year 1984-85."

18. The Division Bench of this Court in ***M/s Kanoi Estates Private Limited (supra)***, on considering Section 8B of the Amended Act and various provisions of the Income Tax Act, 1961 held that the amended provisions are applicable for the assessment year in question and the same could be applied to the previous year irrespective of the fact that in the previous year, the said provision was not

there. This was due to Section 3 and other provisions of the Act.

19. On considering all the above decisions and on a plain reading of the provisions of law which has been reproduced in the foregoing paragraphs, we are of the view that there is no dichotomy between the decisions made by the Supreme Court in ***Karimtharuvi Tea Estate Ltd. (supra)*** and the Division Bench of this Court in M/s Kanoi Estates Private Limited (supra).

20. In terms of the submissions made by the learned senior counsel for the petitioner, the assessment year for Section 8B which came into force on 01.04.2009 would be the year 2010-2011, inasmuch as, the financial year would have to be from 2009-2010. However, if Section 8B had come into force on 2nd of April, 2009, the financial year would be 2010-2011 and the assessment year would be 2011-2012. We do not find any force in the above interpretation/submission made by the learned Senior Counsel, in view of the law laid down by the Hon'ble Supreme Court and the Division Bench of this Court.

21. In the case of ***Securities and Exchange Board of India vs. Ajay Agarwal***, reported in ***(2010) 3 SCC 765***, the Supreme Court has held that substantive laws to be applied for determination of tax liability must be the law which is in force in the relevant assessment year. It is well settled that law to be applied for assessment is the one which is extant in the assessment year, unless there is an amendment which is made retrospective either expressly or by necessary implication. In view of the fact that Section 8B came into force on

01.04.2009, the substantive law to be applied for determination of tax liability would require the assessment of the agriculture income for the financial year 2008-2009, as the assessment year was made effective from 01.04.2009.

22. For the reasons stated above, we hold that there is no infirmity with the decision of the Division Bench of this Court in *M/s Kanoi Estates Private Limited (supra)*, which is made in terms of the decision of the Supreme Court in *Karimtharuvi Tea Estate Ltd. (supra)*. Accordingly, we hold that Section 8B of the Act which was notified in the Assam Gazette Notification dated 12.02.2009, intended to take the agricultural income of the financial year 2008-2009, for the assessment year of 2009-2010.

23. The Reference is accordingly answered.

JUDGE

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Comparing Assistant