

COMMISSIONER OF  
INCOME-TAX,  
MADRAS  
E.  
ARUNACHALAM  
CHETTIAR.

entitled to inflict a penalty upon the person who has made it. Costs to the Commissioner Rs. 250.

RAMESAM J.—I agree.

CORNISH J.—I agree.

A.S.V.

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### SPECIAL BENCH.

*Before Sir Owen Beasley Kt., Chief Justice,  
Mr. Justice Ramesam and Mr. Justice Cornish.*

1931,  
December 16.

THE COMMISSIONER OF INCOME-TAX, MADRAS,  
PETITIONER,

v.

RAJAH INUGANTI RAJAGOPALA VENKATA  
NARASIMHA RAYANIM BAHADUR VARU (ZAMINDAR  
OF KIRLAMPUDI A 2, ETC., ESTATES), RESPONDENT.\*

*Indian Income-tax Act (XI of 1922), sec. (2) (1) (a)—Agricultural income—Rent arrears and interest due by ryot to landholder—Promissory note taken from ryot by landholder for—Interest accrued due under—Agricultural income, if.*

Interest due to a Zamindar under promissory notes taken by him from his ryots for the amount of rent due by them with interest is not "agricultural income" within the meaning of section 2 (1) (a) of the Indian Income-tax Act of 1922.

Sections 61 and 187 (2) of the Madras Estates Land Act only apply if a suit is brought directly on the liability of the ryot to pay rent. They are inapplicable to a case in which by a fresh contract between the Zamindar and the ryots the actual character of the liability has been changed into a loan.

REFERENCE to the High Court under section 66 (2) of the Indian Income-tax Act (XI of 1922) in the matter of the Zamindar of Kirlampudi.

*P. V. Rajamannar* for assessee.

*M. Patanjali Sastri* for Commissioner of Income-tax.

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\* Original Petition No. 112 of 1930.

## JUDGMENT.

RAMESAM J.—The petitioner here is the Zamindar of Kirlampudi. He has been assessed to income-tax on Rs. 7,441, on the ground that it is income from money-lending. What happened was that when the ryots were unable to pay rents the Zamindar took promissory notes from them for the amount of rent with interest. The Income-tax Officer has assessed the Zamindar on the amount of accrued interest on such promissory notes. Mr. Rajamannar contends before us that this amount of interest must be regarded as agricultural income and he relies on section 61 of the Madras Estates Land Act. Section 61 says that the rate of interest on arrears of rent should be at half per cent per mensem and section 187 (2) prohibits the landlord from taking a higher rate of interest than that provided by section 61. All this is no doubt quite true. But these sections only apply if a suit is brought directly on the liability of the ryot to pay rent. But in this case by a fresh contract between the Zamindar and the ryots the actual character of the liability has been changed into a loan. It has ceased to be rent and has become merely a loan; and, when so converted, the sections relating to interest do not apply nor does the section which prohibits the landlord from suing in a Civil Court.

The result is that the interest cannot be regarded as agricultural income. Our answer to the question referred must be in the negative. Costs Rs. 250 to the Commissioner.

BEASLEY C. J.—I agree.

CORNISH J.—I agree

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v.  
ZAMINDAR OF  
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RAMESAM J.