

T.C.A.Nos.499 and 500 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on	09.09.2024
Pronounced on	09.05.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

T.C.A.Nos.499 and 500 of 2023
and
C.M.P.No.22213 of 2023

The Principal Commissioner of Income Tax-1,
Chennai. ... Appellant in both T.C.As

Vs.

M/s.British Agro Products (India) Pvt. Ltd.,
No.9, State Bank Officers Colony
Shastri Nagar, Adyar
Chennai – 600 020
PAN: AAFCB-8238H ... Respondent in both T.C.As

Prayer in T.C.A.No.499 of 2023: Appeal under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, “C” Bench, Chennai dated 05th of April 2023 in **I.T.A.No.970/Chny/2022** for the assessment year 2018-19.

Prayer in T.C.A.No.500 of 2023: Appeal under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, “C” Bench, Chennai dated 05th of April 2023 in **I.T.A.No.969/Chny/2022** for the assessment year 2017-18.



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T.C.A.Nos.499 and 500 of 2023

For Appellant
in both T.C.As

: Mr.T.Ravi Kumar
Senior Standing Counsel

For Respondent
in T.C.A.No.499 of 2023

: Mr.Suhrith Parthasarathy
for Mr.M.Velmurugan

For Respondent
in T.C.A.No.500 of 2023

: Mr.S.Saravanakumar
for Mr.M.Velmurugan

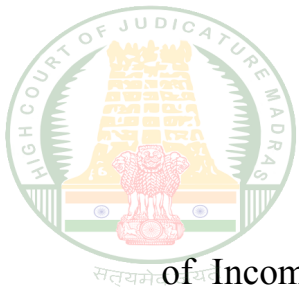
COMMON JUDGMENT

(Judgment of the Court was delivered by **C.SARAVANAN, J.**)

By this common judgement, both these Tax Case Appeals are being disposed of.

2. These Tax Case Appeals are directed against the Impugned Common Order dated **05.04.2023** passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai (hereinafter referred to as the 'Tribunal') in **I.T.A.No.969/Chny/2022** and **I.T.A.No.970/Chny/2022** for the **Assessment Year 2017-2018** and the **Assessment Year 2018-2019**.

3. By the Impugned Common Order, the Tribunal dismissed the appeals filed by the Appellant/Income Tax Department viz., the Deputy Commissioner



T.C.A.Nos.499 and 500 of 2023

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of Income Tax Department as against two Orders dated **12.09.2022** of the Commissioner of Income Tax (Appeals), National Faceless Assessment Centre (NFAC) (hereinafter referred to as the 'Appellate Commissioner') passed for the **Assessment Years 2017-2018 and Assessment Years 2018-2019.**

4. Earlier, the Appellate Commissioner had accepted the contention of the Respondent/Assessee that the income generated by the Respondent/Assessee from cultivation of white '**Button Mushrooms**' under controlled temprature was an “**Agricultural Income**” within the meaning of Section 2(1A) of the Income Tax Act, 1961 (hereinafter referred as the 'Act') and therefore, the Respondent/Assessee was not liable to pay tax under the provisions of the Act on the income from '**Buttom Mushrooms**'.

5. At the time of admission of these Tax Case Appeals, the following questions of law were framed as the Substantial Questions of Law by this Court for being answered:-

- 1. Whether on the facts & in the circumstances of the case, the Tribunal was justified in holding that the income derived from cultivation and sale of “white button mushroom” are “agricultural income” exempt from Income tax especially when mushroom is neither a plant nor a fruit nor a vegetable but a fungus (fruiting body of*



a mycelium) in strict sense of a scientific classifications?

2. *Is not the reasoning and finding of the Tribunal bad especially when the process of growing mushrooms in trays by utilizing the artificial climate conditioning for production and quality control would not fall within the definition of “agricultural income” under Section 2(1A) but it is closely associated with the process of production and manufacturing?*

6. In the Impugned Common Order, the Tribunal had predominantly placed reliance on the decision of the Special Bench of the Tribunal in the case of **DCIT Vs. M/s.Inventaa Industries Private Limited, [2018] 65 ITR 625 (Hyd.)**. There, the Tribunal concluded that in the facts of the said case, Mushroom was an agricultural product raised from land. It had therefore observed that Mushroom, like any other vegetables and other crops or plants which are grown on soil/land and are always attached to the soil until harvested and that they draw their nourishment from the soil only and did not arise from any secondary agricultural operation. The Tribunal in the above decision referred to the following case laws:-

Case Laws:-

- i. **CIT Vs. Raja Benoy Kumar Sahas Roy**, (1957) 32 ITR 466
- ii. **CIT Vs. K.E. Sundara Mudaliar**, [1950] 18 ITR 259 (MAD)
- iii. **Pandai Pathan Vs. Ramasami Chetti**, [1922] ILR 45 (MAD)
- iv. **Molar Mal Vs. Kay Iron Works (P) Ltd.**, [2000 (4) SCC 285]
- v. **Commissioner of Income Tax Vs. Soundarya Nursery**, [2000] 241 ITR 530.

7. The Tribunal in the case of **DCIT Vs. M/s.Inventaa Industries**



Private Limited, [2018] 65 ITR 625 (Hyd.), had given the following findings:-

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Findings:-

12.10. The Ld. Standing Counsel referred to the decision of the Hon'ble Madras High Court in the case of Krishna Murthy (supra) wherein at para 14, Mullah's commentary on Transfer of Property Act has been extracted along with definition of immovable property under "General Clauses Act", and argued that land is immovable property and once soil is detached from land, it ceases to be land. Definitions as relied upon by the parties are extracted for ready reference:

"Land"

In the Black's Law Dictionary, free online legal dictionary, 2nd Edition, "land" is defined as:

In the most general sense, "comprehends any ground, soil or earth whatsoever; as meadows, pastures, woods, moors, waters, marshes, furzes and health. Co.Litt 4a. The word "land" included not only the soil but everything attached to it, whether attached by the course of nature, as trees, herbage, and water, or by the hand of man, as buildings and fences. "

land" is the solid material of the earth, whatever may be the ingredients which it is composed of whether soil, rock or other substance."

"Soil"

The word "soil" as per Random House Dictionary – The unabridged Edition to include "any place or condition providing the opportunity for growth or development"

12.11. "Soil" is the thin skin that covers the land. "Soil" is material in the top layer of the surface of the earth on which



plants can grow and is a non-renewable resource. It takes ages for rocks to wither into soil and ric organic matter to build up. Land is a part of the earth, while soil refers to one part of the land. Land, as commonly understood means, the surface of the earth not covered by a body of water. Thus, the term land includes soil. In the definition referred above, “land” is defined in an inclusive manner.

12.12. *The Ld. Standing Counsel relied on the principles of “Noscitur A Sociis” for interpretation the word ‘Land’. She also argued that contextually The Indian Income Tax treats land as real immovable property.*

The terms ‘Noscitur a Sociis’ is related to legal doctrine and statutory interpretation of laws.

In Latin the term ‘Noscitur a Sociis’ means ‘the meaning of a word may be known from accompanying words’. It is also used for interpreting questionable words in statutes. When a word is ambiguous, its meaning may be determined by reference to the rest of the statute. It is one of the rules of the language used by the Courts that helps to interpret legislation. For the case with ‘Nosticur a Sociis’ the questionable meaning of a word of doubtful words can be derived from its association with other words within the context of the phrase. This indicates that words in a list which is within a statute have meanings that are related to each other.

The principle of ‘Noscitur a Sociis’ is a rule of construction. It is used by the Court to interpret legislation. This means that the meaning of an unclear word or phrase must be detrmined by the words that surround it. In other terms, the meaning of a word must be judged by the company that it keeps. The questionable meaning of a doubtful word will be derived from its association with other words. It is used wherever a statutory provision constitutes a word or phrase that is capable of bearing more than one meaning.

This rule is explained in the Maxwell on the



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interpretation of statutes in the 12th Edition in following words-

When two or more words susceptible of analogous meaning are coupled together, they are understood to be used in their cognate sense. The words take their color from and are quantified by each other, the meaning of the general words being restricted to a sense analogous to that of the less general.

This principle needs a word of phrase or even a whole provision that stands alone has a clear meaning, will be given quite a different meaning while viewed in the light of its context.

12.13. *No doubt the term 'land', as argued by the Ld. Sr. Standing Counsel, is generally understood as immovable property, under the Income Tax Act and under the T.P. Act. But in the case on hand, the context and purpose for which the term 'Land' has been used by the legislature has to be understood. Use of land and performing activity on land itself, is the requirement specified for a natural product that raises from land itself, to be an agricultural product, the income from which is exempt from tax. If the question to be answered is whether land is used for production or not, then in our view strict interpretation cannot be applied.*

12.14. *The term 'Land' in our view has to be interpreted by using the principles of 'Purposive Interpretation'.*

The purposive approach (sometimes referred to as purposivism, purposive construction, purposive interpretation, or the modern principle in construction) is an approach to statutory and constitutional interpretation under which common law courts interpret an enactment (a statute, part of a statute, or a clause of a constitution) within the context of the law's purpose.

Purposive interpretation is a derivation of mischief rule set in Heydon's Case, and intended to replace the mischief rule, the plain meaning rule and the golden rule. Purposive interpretation is used when the courts use extraneous materials from the pre-enactment phase of legislation, including early



drafts, Hansard's committee reports, and white papers. The purposive interpretation involves a rejection of the exclusionary rule.

Supreme Court in Tirath Singh v. Bachittar Singh approved and adopted the said approach. In Shamrao V. Parulekar v. District Magistrate, Thana, Bombay the Court reiterated the principle from Maxwell:

“If one construction will lead to an absurdity while another will give effect to what commonsense would show was obviously intended, the construction which would defeat the ends of the Act must be rejected even if the same words used in the same section, and even the same sentence, have to be construed differently. Indeed, the law goes so far as to require the Courts sometimes even to modify the grammatical and ordinary sense of the words if by doing so absurdity and inconsistency can be avoided.”

In Molar Mal v. Kay Iron Works (P) Ltd., the Hon'ble Supreme Court while reiterating that courts will have to follow the rule of literal construction, which enjoins the court to take the words as used by the Legislature and to give it the meaning which naturally implies, held that there is an exception to that rule. The Court observed:

“That exception comes into play when application of literal construction of the words in the statute leads to absurdity, inconsistency or when it is shown that the legal context in which the words are used or by reading the statute as a whole, it requires a different meaning.”

In Mangin v. Inland Revenue Commission the Privy Council held:

“The object of the construction of a statute, be it to ascertain the will of the legislature, it may be



presumed that neither injustice nor absurdity was intended. If, therefore a literal interpretation would produce such a result, and the language admits of an interpretation which would avoid it, then such an interpretation may be adopted”.

12.15. *‘Soil’ is a part of the land. Land is also part of earth. The upper strata of the land is soil and this is cultured and made fit for production of crops, vegetables and fruits etc., by enriching the soil. When such soil is placed on trays, it does not cease to be land and when operations are carried out on this “soil”, it would be agricultural activity carried upon land itself.*

12.16. *If the strict interpretation, as argued by the Ld. Standing Counsel is accepted then, when ‘Soil’ attached to earth is cultivated, it is agricultural activity and when ‘Soil’ is cultivated after detaching the same from earth, it is not agricultural activity. Such an interpretation in our view, would be unintended and unfair. The only part of the land that is cultivable, and which is useful for agricultural activity is ‘Soil’ which is the top layer of land. Then whether such soil is attached to land or is placed in containers above the land should in our humble view, not make a difference. Though these strong arguments of the Ld. Standing Counsel appealed to us ab-initio on an analysis of the purpose for which the term is to be interpreted, we are unable to persuade ourselves to accept the same. If the term ‘Agri’ is ‘field’, then ‘field’ can be on land or on a ‘terrace’ or on a ‘pot’, ‘tray’ etc., In view of the above discussions, we hold that it is important to distinguish between the meaning of the term ‘soil’ from ‘land’, because the cultured top strata of the earth's surface, which is fit for arable cultivation, is actually what is required for agricultural purposes and this top layer (being ‘soil’) is one on which actual agricultural growth takes place. In contrast, the meaning attributed to land (primarily as an immovable object) is of a wide import. For the purpose of understanding the nexus between an agricultural operation and an agricultural land, what needs to be inferred from the term ‘land’ is that, the*



cultured top layer of the earth, which is fit for any sort of cultivation, is land for this purpose. Hence, in our opinion, the soil which is placed on the vertical space above the land in trays, in one sense of the term, is also land.

13. We now consider the arguments on the explanation 3 to Section 2(1A) of the Act. The assessee relies on Explanation-3 to Section 2(1A) which reads as follows:

“3. For the purposes of this clause, any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income.”

Thus, what is not otherwise agricultural income, is deemed under the explanation as agricultural income.

Shri P. Chidambaram, the then Hon'ble Finance Minister, while presenting Union Budget for 2008-09 at para 167 stated as follows:

“Agriculture income is exempt from income tax. However, courts have ruled the growing saplings or seedlings of land is agriculture. But growing them in pots is not agriculture. This does not seem to be fair. Hence, I propose to exempt from tax income arising from saplings or seedlings grown in a nursery.”

(Emphasis on)

While introducing explanation 3 to Section 2(1A) of the Act, in the explanatory note at para 4.2. It is stated as follows:—

“With a view to giving finality to the issue, and Explanation in Section 2 of the Income-tax Act, has been inserted providing that any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income. Accordingly, irrespective of whether the basic operations have been carried out on land, such income will be treated as agricultural income, thus qualifying for exemption under sub-section(1) of Section 10 of the Act.”



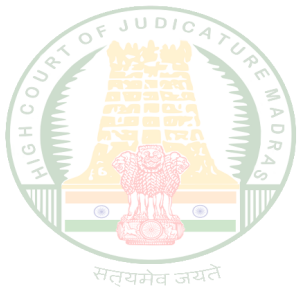
(Emphasis ours)

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13.1. *It is true that this Explanation 3 to Section 2(1A) of the Act, is a deeming provisions in the Act. It is also true that deeming fiction cannot be extended and should be strictly restricted to the fiction created. The impression that this amendment was brought into the statute to nullify certain judicial pronouncements is factually incorrect. The courts have decided that income from nursery is agricultural income.*

13.2. *The Hon'ble High Court of Madras in Commissioner of Income-tax v. Soundarya Nursery, [\(2000\) 241 ITR 530](#) (Madras), in which the court observed as under:*

“8. All the products of the land, which have some utility either for consumption or for trade or commerce, if they are based on land, would be agricultural products. Here, it is not the case of the revenue that without performing the basic operations, only the subsequent operations, as described in the decision of the Apex Court have been performed by the assessee. If the plants sold by the assessee in pots were the result of the basic operations on the land on expending human skill and labour thereon and it was only after the performance of the basic operations on the land, the resultant product grown or such part thereof as was suitable for being nurtured in a pot, was separated and placed in a pot and nurtured with water and by placing them in the greenhouse or in shade and after performing several operations, such as weeding, watering, manuring, etc., they were made ready for sale as plants all these operations would be agricultural operations and all this involves human skill and effort. Thus, the plants sold by the assessee in pots were the result of primary as well as subsequent operations



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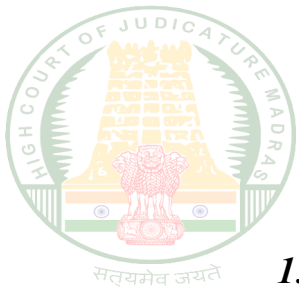


T.C.A.Nos.499 and 500 of 2023

comprehended within the term 'agriculture' and they are clearly the products of agriculture."

13.3. Thus, the Hon'ble High Court gave breadth to a more expansive definition of the term 'agricultural products' by including within its meaning all products of land, having some utility either for consumption or for trade or commerce and also, inferred that plants sold by the assessee in pots to be comprehended within the term 'agriculture'. This judgment was delivered in the year 1998, August 5th, much before the introduction of explanation 3 to Section 2(1A) of the Act in the year 2008. Similar is the judgment in the case of CIT, Chennai v. K. N. Pannerselvam, (2016) 75 taxmann.com 98 (Madras). The judgment of the Hon'ble Allahabad High Court in H.H.Maharaja Vibhuti Narayan Singh v. State of U.P., [\(1967\). 65 ITR 364](#), was considered by the Hon'ble Madras High Court in the case of Soundarya Nursery (supra) at para 6 of the judgment. The Court held that the observation of the Hon'ble Allahabad High Court was clearly an obiter.

This judgment in the case of Soundarya Nursery (supra) required basic objections to be performed on land for the income to be exempt as agricultural income. Before the introduction of Explanation 3 to Section 2(1A) of the Act, growing plants in pots was interpreted as agricultural activity by the courts. What this explanation does is to expand this interpretation further. It lays down that the basic operations are not necessary in nurseries, as required by the judgment in the case of Soundarya Nursery (see explanation note). Hence, even without this explanation, the income from plants grown in pots was held as agricultural income by the courts. As this explanation is a deeming provisions, we cannot apply the same to the assessee. But as the assessee performs basic operations on soil, the ratio of the judgment in the case of Soundarya Nursery (supra) applies to the facts of this case.



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13.4. The Ahmedabad Bench of the ITAT in the case of DCIT v. Best Roses Biotech Ltd., (2012) 17 taxmann.com 56 (Ahd.) has held as follows:—

“6.1 Activity in question : The company had developed a greenhouse for the establishment of a floriculture project. The company had grown good quality of rose flowers and also exported them abroad. It was explained that for the plantation of roses a very well treated soil is required. The quality of the soil is therefore tested. Manures are mixed for preparing a base for growing the rose plants. The company has installed a proper drainage system. Certain operations such as mixing of soil and watering of plants through drainage are explained. Then the activity of pruning and bending of growing plants carried out to get best size of rose buds. It has also been explained that pest control is also required. Insecticides are sprinkled to save the plants from any disease. From the facts as emerged from the compilation filed we have gathered that within greenhouse the floriculture activity comprises of growing of rose by deploying hydroponics technique for the farming of best quality roses. It is stated that the assessee has deployed a budding technical plant. Further it was explained that root stocks were brought from the market and placed in the green house. The plantation and the generation of sapling was nothing but agricultural activity. The mother plant is otherwise reared on earth. For rearing of mother plant human labour is involved. The tilling of soil, watering and other primary agricultural activity is the basic requirement for the growing of the rose plants. Subsequently the saplings are planted on plastic trays, which were kept at the height 2-3 ft. placed on MS stand. It was explained that the



purpose of growing the rose plants at a height is primarily to avoid the pest and to develop in a controlled atmosphere. By this method, the rose plant is protected from climate, pest, as well as other disease, to minimize the possibility of damage. The drainage system for watering the plants with the help of dipper is required. The watering of rose plants are also a technical method to avoid excessive watering so that the roots of the rose plants should not get damaged. The commercial greenhouse i.e. “bent canopy” is used for various benefits so that the sun-light and the humidity level both can be maintained. For meeting the international demand, it is explained, that the assessee-company adopted best measure to ensure best quality of rose.

6.2 Conditions of Agriculture operation-From the side of the respondent-assessee there was detailed discussion about the growing of rose plants and other connected agricultural operation carried out by the assessee. However, the objection of the Revenue was that the rose plants were not grown on the land, therefore the generation of income was not directly connected with the operation of land. Somehow we are not agreeing with the said proposition of the Revenue-department because on due consideration of the activity as explained to us, it is not justifiable to say that the growing of rose plants at all is not connected with the utilization of land. It is not in dispute that the agricultural land was acquired by the assessee from agriculturists. It is also not in disputed that mother plats are always been grown on the agricultural land.

As far as ingredients of basic operation is concerned the assessee's case is that the



technology deployed is (i) use of soil and operation on soil (ii) use of particular soil type contents i.e. coco peat, manure, etc. present in the soil, (iii) drainage system as over watering harms the roots as well as quality (iv) bending shoots for maximizing the quality of roses, and (v) pest and diseases control for providing protection to roses. Therefore we hold that the activity which is connected with the land cultivation, such as ploughing of field, leveling of field, sowing of seed in the ploughed and leveled field, growing of plants, as case the may be, plantation, manuring, watering, weeding-out of weeds, so and so forth. These agriculture operations are said to be ‘basic cultivation activity’ and thereafter an agriculturist has to perform ‘subsequent agriculture operation’, namely tending of grown plants, pruning, cutting or shaping and finally harvesting of crop. We have to clarify, as held by few honourable courts as well, that the subsequent operations ought to be a continuation of basic Agriculture operation. The fundamental requirement is that it should remain connected with the basic agriculture operation.”

13.5. *We agree with this view of the Tribunal. The process followed in the case of Best Roses Biotech (P.) Ltd., (supra) in similar to the process followed by the assessee.*

13.6. *Hence, the view of the courts was that the income in question was agricultural income and the explanation only acknowledges this fact. We should not take a ‘pedantic’ view on this issue. The view of the legislature is more expansive and purposive than the view of the courts.*

13.7. *In view of the above discussion, we conclude that “soil”, even when separated from land and placed in trays, pots, containers, terraces, compound walls etc., continues to be a*



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specie of land and hence “land” for the sole purpose of determining whether activity performed on such land is for production of an agricultural product.

14. The second issue is whether mushroom is a “fungi” and not “vegetable”. The Revenue relied on the word ‘spawn’ while the assessee relied on the word ‘mycelium’. The definitions are extracted for ready reference:

“Spawn”

The word "Spawn" is defined by Collins dictionary as the Spawn is a soft, jelly-like substance containing the eggs of fish, or of animals such as frogs, When fish or animals such as frogs spawn, they lay their eggs.

- 1. To produce or deposit (eggs, sperm, or young)*
- 2. To bring forth or be the source of (esp. something regarded with contempt and produced in great numbers)*
- 3. Horticulture to plant with spawn, or mycelium noun*
- 4. The mass of eggs or young produced by fish, mollusks, crustaceans, amphibians, etc.*
- 5. Something produced, esp. in specif., numerous offspring or progeny great quantity; usually contemptuous.*
- 6. The mycelium of fungi, esp. of mushrooms grown to be eaten.*

The word "spawn" is defined by Random House Dictionary - The mass of eggs deposited by fishes, amphibians, mollusks, crustaceans etc.

- 2. Both, the mycelium of mushrooms, esp of the species grown for the market.*



3. To plant with mycelium.

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“Mycelium”

The word "Mycelium" is defined by Random House Dictionary as - The vegetative part or thallus of the fungi, being composed of one or more filamentous elements, or hyphae.

14.1. Ld. Counsel for the assessee submitted that mycelium is a vegetative part of the fungi. Ld. Standing Counsel submits that vegetative part does not mean that the classification is vegetable and it only refers to the reproductive feature of the "fungi". "A mushroom or toadstool, is the fleshy, spore-bearing fruiting body of a fungus, typically produced above ground on soil or on its food source and the scientific classification is Kingdom; Fungi, Division. Basidiomycota" (Wikipedia).

14.2. On a careful consideration of the material on record, we conclude that mushroom, is not a 'vegetable' 'plant' or an 'animal' but a 'fungus'.

14.3. The contention of the assessee is that, what is produced by performing basic operations on the soil, is an agricultural product, even though the product is not a 'plant' or the 'flower' or a 'vegetable' or a 'fruit'. It was emphasized that the nature of the product is irrelevant as far as it is produced by performing some basic operations on the soil.

14.4. In the case of CIT Vs. Raja Benoy Kumar Sahas Roy [(1957) 32 ITR 466], as already stated, it is laid down that the "product" should be "raised on the land" by "performing some operation on land by expenditure of human skill and labour" and that the "product" should be "of some utility for consumption, for trade and commerce".

14.5. The term "product" is defined as:



(a) *an article of substance i.e. manufactured or refined for sale.*

(b) *A thing or person that is the result of an action or process.*

(c) *A product in modern times is also defined as a item or thing which is offered for sale. A product can be a service or an item. It can be physical or in virtual or cyber form.*

14.6. *It is clear that we cannot restrict the word "product" to 'plants', 'fruits', 'vegetables' or such botanical life only. The only condition is that the "product" in question should be raised on the land by performing some basic operations. Mushroom produced by the assessee is a product. This product is raised on land/soil, by performing certain basic operation. The product draws nourishment from the soil and is naturally grown, by such operation on soil which require expenditure of "human skill and labour". The product so raised has utility for consumption, trade and commerce and hence would qualify as an "agricultural product" the sale of which gives rise to agricultural income.*

14.7. *Mushroom, like vegetables and other crops or plants are grown on soil/land and are always attached to the soil until harvested. They draw their nourishment from the soil only. The product mushroom does not arise from any secondary agricultural operation. Unlike in the case of CIT vs. Kokine Dairy (1938) 6 ITR 502, relied on by the Ld.AO it cannot be said that production of mushroom is remotely connected with and. This product arises from land and is attached to land during growth and thereafter, just like 'plants' or a 'crop'. Comparison made by the Ld.AO with sale of silk cocoons by relying on the judgment in the case of K.Lakshmansa & Co. vs. CIT [1981] 128 ITR 283 (Kar.), is wrong, as on facts silkworms feed on mulberry leaves and are not products which are raised from land. Mulberry leaves which are product arising from land, are fodder to silk worms.*



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14.8. Hence, we conclude that Mushroom on the facts and circumstances of this case is an agricultural product raised from land.

15. The third issue is whether agricultural production done under "controlled conditions", results in the 'product' so raised not being a 'product from agricultural activity'.

15.1. Each and every agricultural operation involves certain procedures and protocols. Certain conditions are necessary for natural growth of the product. The degree of control and the type of scientific input differs from product to product. The type of soil to be used, the nature of agricultural operations to be undertaken, material required to be used to enrich the soil, the timing of sowing, transplanting, harvesting etc., the quantity and quality of inputs such as water, fertilizer, pesticides etc. to be used and the timing at which they have to be used, are all controls that a farmer exercises in every type of agricultural activity. There can be no agriculture without controlling the conditions of production by human intervention. Just because the degree of control of the conditions are greater in some cases, as compared to others, the product produced out of such process would not cease to be an agricultural product. The degree of control is irrelevant in arriving at a conclusion on this issue. With the advancement of technology, every aspect of production is monitored and controlled, so as to obtain optimum use of the produce. This is true with the use of greenhouse technologies.

*15.2. The ITAT Pune Bench in the case of **Asst. CIT Vs. KF Bio Plants (P.) Ltd.** [Pune Bench 'A', ITA No. 1110/PN/2011] held that the nature of agricultural income would not change merely because agricultural operation was carried out in a greenhouse under a controlled environment. The assessee in that case was engaged in the business of plant floriculture and tissue culture, and claimed exemption of income as being agricultural income under section 10(1) of the Act. The A.O. disallowed the exemption on the ground that basic operation was done in a*



greenhouse. The ITAT held that the involvement of a greenhouse and controlled environment would not change the nature of agricultural income. We endorse this view.

15.3. *The ITAT Ahmedabad Bench 'A' decision in the case of DCIT Vs. Best Roses Biotech (P.) Ltd., [(2012) 17 Taxmann.com 56 (Ahd.)] has analyzed the advanced mechanism of growing rose plants in a controlled environment and held as under:*

“7.2. Considering the advancement of technology and the use of the advanced equipment in cultivation coupled with the conventional cultivation method put together, it has to be held that the operation carried out by the assessee was agricultural operation in nature. Therefore, the income in question was an agricultural income. It cannot be included in total income being with the ambits of the provisions of Section 10 (1).

We concur with this view.

15.4. *With the advancement of modern technology, we find that most of the crops, fruits, vegetables and flowers are being grown in controlled conditions, in green houses and in pots. In these advanced scientific agricultural techniques, soil is removed from the land and is placed in different containers such as pots, trays and stands etc. and agricultural operations are performed on them to yield the desired results of production of products which have some utility.*

15.5. *In view of the above discussion we hold that, just because mushrooms are grown in controlled conditions it does not negate the claim of the assessee that the income arising from the sale of such mushrooms is agricultural income.*

16. *We now discuss the other contentions raised by the parties.*



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- *The assessee submits that the Govt. authorities and Financial Institutions treated growing of mushrooms as agriculture.*

- *That for the purpose of Mushroom cultivation, the Assessee Company borrowed funds from State Bank of Hyderabad with guidance provided by National Bank for Agriculture and Rural Development (NABARD) and the loans sanctioned are agricultural loans.*

- *NABARD conducted survey and observed that mushrooms are fruiting bodies of some members of lower group of plants. They are fleshy spore bearing structures containing numerous spores which are functionally similar to seeds of higher plants. They are used in reproduction of mushrooms. After conducting the studies, the NABARD certified Mushroom cultivation as an agricultural operation and kept the same under "agricultural" segment.*

- *That for the purpose of commencement of production activity, the assessee requires a certification from the Ministry of Commerce and Industry, Govt. of India: The said Ministry also categorized activity as "other agricultural industry". The assessee is also granted licence by the Fruit products Order, 1995 by the Ministry of Food Proceedings Industries, Government of India.*

- *The Central Excise Department classified in chapter 7 that the Mushrooms are Edible Vegetables and did not levy any tax on the assessee.*

- *The Ministry of Agriculture, Government of India categorized Mushroom cultivation as the agricultural operation. Various Universities in India and abroad also treated the Mushroom cultivation as an Agricultural Operations.*

16.1. *The Ld. Standing Counsel submits that, the view of various Government and Financial Institutions, should not*

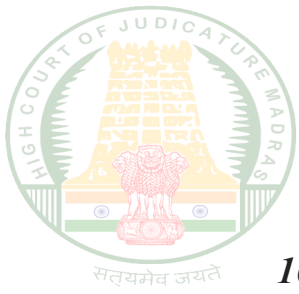


influence the interpretation of a statute. She submits that the statute has to be interpreted based on the language used therein and not based on views of universities and other organisations.

16.2. Words of the statute, when not defined, have to be construed and understood in their popular sense and according to their ordinary meaning. No doubt, statute cannot be interpreted based on the views of different Governmental Authorities and Financial Institutions, as their purpose and intent would be different, from the purpose and intent of the enactment in question. But the manner in which other Government authorities and agencies views this issue, can be gathered and understood from this material. A common man's view, as expressed by the organisations, have some use in coming to a conclusion on this issue. It would not be appropriate to hold that different arms of the Government have contrary views on the same issue.

16.3. Now we consider the argument of the Ld. Standing Counsel by placing reliance on Section 80JJA of the Act. The assessee relies on explanation 3 inserted in Section 2(1A) of the Act. Much water has flown since the introduction and repeal of Section 80JJA. With the passage of time the views change. We are of the opinion that the conclusion on this issue cannot be guided by this Section 80JJA of the Act.

*16.4. The order of the Bangalore Bench of the Tribunal in the case of **Blue Mountain Vs. ITO, (1985) 14 ITD 254 (Bang.)**, does not discuss the issue in question and hence not relevant. The Pune Bench of the Tribunal in the case of **ACIT Vs. Malhotra Mukesh Satpal, (2008) 115 ITD 467 (Pune)**, is on the issue of levy of penalty u/s 271(1)(c) and hence not relevant. The decision of the Chandigarh Bench of the Tribunal in the case of **Rachna Dogra [ITA.No.944/Chd/2010]** is also not relevant, as the observations on the issue in question are one of 'sub silentio'.*



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16.5. *The Chandigarh 'A' Bench of the ITAT in the case of **Chander Mohan Vs. ITO** in ITA No. 389.377/Chd/2012, order dt. 28.10.2014, in our view, does not lay down the correct law in the facts and circumstances of the case. In any event, the type of mushroom grown in that case and the place at which it was grown and the fact that the process of growth was not properly explained. As the division Bench has not agreed with this view of the Pune Bench of the ITAT, this issue was referred to this larger Bench.*

16.6. *Hence as basic operations are performed by expenditure of human skill and labour on land by the assessee, which results in the raising of the 'product' called "Edible white button mushroom" on the land and as this product has utility for consumption, trade and commerce, the income arising from the sale of this product is agricultural income and hence exempt u/s 10(1) of the Act.*

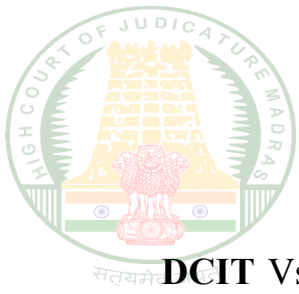
16.7. *Thus we uphold the order of the Ld. CIT(A) on this issue.*

17. *In view of the above discussion, we answer the question referred to us by the Hon'ble President in the affirmative, in favour of the assessee.*

18. *Before parting, we place on record our appreciation for the excellent contribution of the Ld. Standing Counsel Ms.K.Mamata Choudary and the Ld. Counsels for the assessee Shri S.Rama Rao and Shri K.Gopal.*

19. *In the result, all the appeals of the revenue and cross-objections of the assessee are dismissed for all the four assessment years."*

8. The learned Senior Standing Counsel for the Appellant/Income Tax Department would submit that the said decision of the Tribunal in the case of



T.C.A.Nos.499 and 500 of 2023

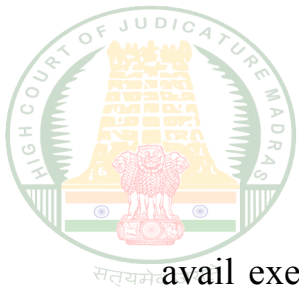
DCIT Vs. Inventaa Industries Private Limited, [2018] 65 ITR 625 (Hyd.)

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cannot be said to have attained finality as appeal in **I.T.A.Nos.58, 70, 74 and 100 of 2019** have been preferred against the aforesaid decision of the Tribunal and are still pending before the Telangana High Court under Section 260-A of the Act.

9. Learned Senior Standing Counsel for the Appellant/Income Tax Department further drew attention to the clean copy of the **Assessment Order** dated **28.12.2019** passed for the **Assessment Year 2017-2018** under Section 143(3) of the Act, which captures the screen-shots from the web portal of the Respondent/Assessee. It is submitted that initially income was declared from sale of white '**Button Mushrooms**', depreciation was claimed on plant and machinery and thereafter exemption was claimed by the Respondent/Assessee from such income.

10. Learned Senior Standing Counsel for the Appellant/Income Tax Department would refer to **Section 2(1A)** of the Act which defines "**Agricultural Income**" and contend that the Respondent/Assessee has not satisfied the requirements specified in the definition of the said provision to



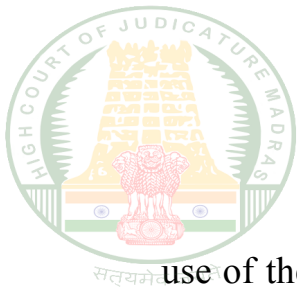
T.C.A.Nos.499 and 500 of 2023

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avail exemption from income tax from the sale of '**Button Mushroom**' under the provisions of the Act.

11. It is submitted that since, in the present case, the products, viz., white '**Button Mushroom**' are not grown on land. It is submitted that it did not involve any human labour or skill on use of land. Therefore, it cannot be considered as products of "**Agriculture**". It is therefore submitted that income derived there from are not "**Agricultural Income**" though the Respondent/Assessee performed some ancilliary operations, such as collecting and marketing.

12. Learned Senior Standing Counsel for the Appellant/Income Tax Department would point out that the term '**Agriculture**' is to be understood within its scope the basic as well as the subsequent operations in the process of agriculture and rising on the land of products which are some utility either for consumption for trade or commerce. The learned Senior Standing Counsel would further submit that the product, white '**Button Mushroom**' was neither a "plant", nor a "fruit" or a "vegetable", but a "fungus" in its strict sense of scientific classification and processing them on trays and was grown by making



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use of the field. There was no tillage of land and hence, the income earned by the Respondent/Assessee would fall under the head 'income from business' only.

13. Learned Senior Standing Counsel for the Appellant/Income Tax Department has relied on the following decisions:-

- i. **State of Kerala Vs. Karim Pharuvi Tea Estates Ltd.**, (1966) 60 ITR 0275
- ii. **C.Hanumantha Rao (decd) and another Vs. CIT**, (2011) 335 ITR 00117
- iii. **Blue Mountain Food Products Ltd., Vs. ITO**, (1985) 14 ITD 254 (Bang.)
- iv. **Chandermohan Vs. ITO, Ward-4, Yamuna Nagar**, [(2014)] 52 Taxmann.Com 203 (Chandigarh – Trib)
- v. **Mayuri Yeast India Private Limited Vs. State of UP and another**, (2008) 5 SCC 680
- vi. **Commissioner of Income Tax Vs. Rashtradoot (HUF)**, (2019) 412 ITR 0017 / (2019) 262 Taxman 0360 (SC)

14. On the other hand, the learned counsel for the Respondent/Assessee would submit that the process of cultivation of white '**Button Mushroom**' is in a way of soil being mixed with clay, paddy straw, chicken manure, etc. and then, it is loaded in big trays and the spawn/seeds cultured from matured mushrooms, are placed in the prepared soil and this involves ruffling the soil, scratching the soil, watering the soil using fungicide/pesticide/bactericide,



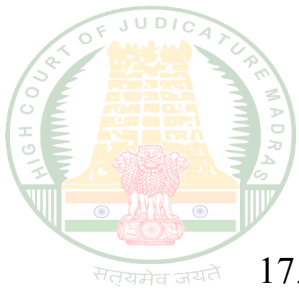
T.C.A.Nos.499 and 500 of 2023

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weeding, disease control, pruning, declustering, removing undesirable under growth, etc., and after the mushroom is harvested, it is kept in cold storage due to its nature and thereafter, dispatched for sale.

15. Therefore, the learned counsel for the Respondent/Assessee would submit that mushroom cultivation is an '**Agricultural Activity**' and it requires expenditure of 'human skill and labour' and the product mushroom has utility for consumption, trade and commerce and hence, would qualify as an '**Agricultural Product**' and the sale of such product gives rise to agricultural income.

16. Learned counsel for the Respondent/Assessee pointed out that without soil which is a part of land, Mushroom cannot be harvested and the word 'land' referred in Section 2(1A) (b) of the Act includes the 'soil' thereon and the Respondent/Assessee uses soil to grow the Mushrooms and merely because the soil is placed in trays and the Mushrooms are grown in the trays does not mean that the income from the same is not derived from the land.



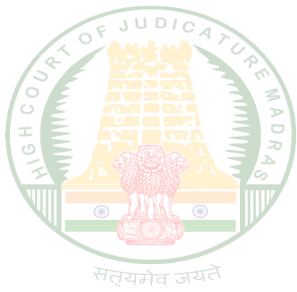
T.C.A.Nos.499 and 500 of 2023

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17. Learned counsel for the Respondent/Assessee also pointed out that in general sense, when soil attached to earth is cultivated, it is considered as '**Agricultural Activity**' and when soil is cultivated after detaching the same from earth, it can still be considered as '**Agricultural Activity**' and no other meaning can be given to it as such, the Respondent/Assessee has satisfied the norms prescribed under Section 2(1A) of the Act. Therefore, the income derived from the cultivation of '**Button Mushrooms**' would fall under the purview of '**Agricultural Income**' as per Section 2(1) of the Act and therefore, the Respondent/Assessee is eligible for exemption from tax liability for the aforesaid income.

18. Learned counsel for the Respondent/Assessee has relied on the following decisions:-

- i. **Commissioner of Income-tax Vs. Raja Benoy Kumar Sahas Roy**, [1957] 32 ITR 466 (SC)
- ii. **National Thermal Power Co. Ltd., Vs. Commissioner of Income-tax**, [1998] 97 Taxman 358 (SC)
- iii. **Smt.Manyam Meenakshamma Vs. Commissioner of Wealth-tax**, [1967] 63 ITR 534 (AP)
- iv. **Blue Mountain Food Products Limited Vs. Income-Tax Officer**, [1985] 14 ITD 254 (Bang.)
- v. **Commissioner of Income-tax Vs. Soundarya Nursery**, [2002] 123 Taxman 372 (Madras)



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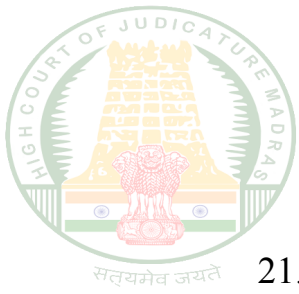


T.C.A.Nos.499 and 500 of 2023

- vi. **Assistant Commissioner of Income-tax, Circle 2, Pune Vs. Malhotra Mukesh Satpal**, [2008] 115 ITD 467 (Pune)
- vii. **Commissioner of Income-tax, Meerut Vs. Green Gold Tree Farmers (P.) Ltd.**, [2008] 167 Taxman 151 (Uttarakhand)
- viii. **Commissioner of Income-tax Vs. Jagish Ram Krishan Chand**, [2008] 304 ITR 45 (Himachal Pradesh)
- ix. **Deputy Commissioner of Income-tax, Navsari Circle Vs. Best Roses Biotech (P.) Ltd.**, [2012] 17 taxmann.com 56 (Ahd.)
- x. **Chander Mohan Vs. Income-tax Officer, Ward-4, Yamunanagar**, [2014] 52 taxmann.com 203 (Chandigarh – Trib.)
- xi. **Deputy Commissioner of Income-tax, Circle-2(1), Hyderabad Vs. Inventaa Industries (P.) Ltd.**, [2018] 95 taxmann.com 162 (Hyderabad – Trib.) (SB)

19. We have considered the arguments advanced by the learned Senior Standing Counsel for the Appellant and the learned counsel for the Respondent.

20. The facts as stated are not in dispute. The Respondent/Assessee was incorporated in the year 2017-2018 and had initially treated the income from the sale of white '**Button Mushroom**' as “**income from business**” for the **Assessment Year 2017-2018**. A Return of the Income was also filed by the Respondent/Assessee to that effect on **05.11.2017** under Section 139(1) of the Act.



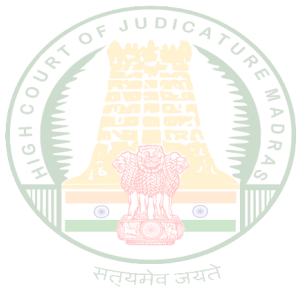
T.C.A.Nos.499 and 500 of 2023

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21. While computing the total income of any previous year, “**Agricultural Income**” of any person shall not be included under Section 10(1) of the Act.

22. However, on **31.10.2018**, a revised Return of Income was filed by the Respondent/Assessee under Section 139(4) of the Act declaring a 'nil' income for the **Assessment Year 2017-2018** from the sale of '**Button Mushroom**'. This revised Return of Income was filed pursuant to the decision of the Special Bench of the Tribunal rendered on **09.07.2018** in **M/s.Inventaa Industries Pvt. Ltd's case** (*cited supra*).

23. For the **Assessment Year 2018-2019**, the Return of Income was filed on **28.09.2019**. There, the Respondent/Assessee had declared a total income of **Rs.72,19,468/-** for sale of other products. The Respondent/Assessee had declared “**Agricultural Income**” of **Rs.11,44,54,027/-** from sale of agricultural products by claiming exemption from tax liability under Section 10(1) of the Act. The aforesaid Returns of Income filed by the Respondent/Assessee were selected for limited scrutiny under a CASS [Computer-Assisted Scrutiny Selection].

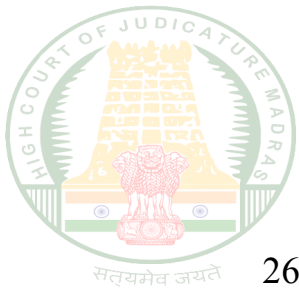


T.C.A.Nos.499 and 500 of 2023

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24. By separate orders dated **28.12.2019** and **23.09.2021** for the respective Assessment Years, the assessment was completed for the Respondent/Assessee. Income from sale of white '**Button Mushrooms**' were however treated as “**income from business**” and were taxed accordingly in the hands of the Respondent/Assessee. Thus, the benefit of exemption under Section 10(1) of the Act was denied to the Respondent/Assessee. Therefore, the Respondent/Assessee filed an appeal before the Appellate Commissioner.

25. The Appellate Commissioner allowed the appeal following the decision of the Special Bench of the Income Tax Appellate Tribunal (ITAT) in **M/s.Inventaa Industries Pvt. Ltd's case** (*cited supra*) vide two separate orders both dated **12.09.2022** in the two separate appeals of the Respondent/Assessee by accepting the contention that the income from sale of white '**Button Mushrooms**' was “**Agricultural Income**” in the hands of the Respondent/Assessee within the meaning of Section 2(1A) of the Act and thus exempt from tax liability under Section 10(1) of the Act.



T.C.A.Nos.499 and 500 of 2023

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26. Further, Appeals filed by the Appellant/Income Tax Department were also dismissed by the Income Tax Appellate Tribunal (ITAT) following the decision of the Special Bench of the Income Tax Appellate Tribunal (ITAT) in **M/s.Inventaa Industries Pvt. Ltd's case** (*cited supra*).

27. The issue which was answered by the Special Bench of the Tribunal in **M/s.Inventaa Industries Pvt. Ltd's case** (*cited supra*) which was relied by the Appellate Tribunal are presently subject matter of appeal before the Telangana High Court under Section 260-A of the Act in **I.T.A.Nos.58, 70, 74 and 100 of 2019**.

28. Though the Special Bench of the Income Tax Appellate Tribunal (ITAT) in **M/s.Inventaa Industries Pvt. Ltd's case** (*cited supra*) has given a detailed order, we are afraid that it has not examined the issue from the point of view of the definition of “**Agricultural Income**” under Section 2(1A) of the Act. Therefore, we proceed to give our view in the light of the definition “**Agricultural Income**” in Section 2(1A) of the Act.



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29. The scope of enquiry in these appeals are therefore confined to the definition of “**Agricultural Income**” under Section 2(1A) of the Act and its relevance to the facts of the case. For the sake of clarity, the definition of “**agricultural income**” under Section 2 (1A) of the Act is reproduced below:-

“Agricultural Income” means-

*(a) any rent or revenue derived from land which is situated in India and is used for **agricultural purposes***

*(b) any income derived from **such land** by-*

i. agriculture; or

*ii. The **performance** by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market; or*

*iii. The **sale** by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii) of this sub-clause;*

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any process mentioned in paragraphs (ii) and (iii) of sub-clause (b) is carried on:

Provided that-

i. the building is on or in the immediate vicinity of the land,



and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind, by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other outbuilding, and

- ii. *the land is either assessed to land revenue in India or is subject to a local rate assessed and collected by officers of the Government as such or where the land is not so assessed to land revenue or subject to a local rate, it is not situated —*

(A) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee or by any other name) or a cantonment board and which has a population of not less than ten thousand or

*(B) in any area within the distance, measured aerially, —
(I) not being more than two kilometres, from the local limits of any municipality or cantonment board referred to in item (A) and which has a population of more than ten thousand but not exceeding one lakh; or (II) not being more than six kilometres, from the local limits of any municipality or cantonment board referred to in item (A) and which has a population of more than one lakh but not exceeding ten lakh; or (III) not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (A) and which has a population of more than ten lakh.*

Explanation 1.—For the removal of doubts, it is hereby declared that revenue derived from land shall not include and shall be deemed never to have included any income arising from the transfer of any land referred to in item (a) or item (b) of sub-clause (iii) of clause (14) of this section.

Explanation 2.—For the removal of doubts, it is hereby declared that income derived from any building or land referred



to in sub-clause (c) arising from the use of such building or land for any purpose (including letting for residential purpose or for the purpose of any business or profession) other than agriculture falling under sub-clause (a) or sub-clause (b) shall not be agricultural income.

Explanation 3.—*For the purposes of this clause, any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income.*

Explanation 4.—*For the purposes of clause (ii) of the proviso to sub-clause (c), “population” means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year.”*

30. There are three parts to the definition of “**Agricultural Income**” in Section 2(1A) of the Act. Sub-clause (a) and (b) to Section 2(1A) of the Act deal with “rent” or “revenue” derived from land or income derived from such land.

31. The common denominator in sub-clause (a) and (b) to Section 2(1A) of the Act is either “rent” or “revenue” derived from land or income derived from land used for '**Agricultural Purposes**'.

32. Sub-clause (c) to Section 2(1A) of the Act deals with income from building situated on “**such land**” and/or “**any land**”. Only these categories of



T.C.A.Nos.499 and 500 of 2023

income are “**Agricultural Income**” within the meaning of Section 2(1A) of the Act.

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33. For the purpose of our discussion and for the sake of clarity, Section 2(1A) of the Act can be dissected and simplified in the following Table:-

Section 2(1A) of the Act		
(a)	(b)	(c)
Any rent or revenue derived from “ Land:	Income from “ such Land ” by:-	Any Income derived from “ Buildings ”, under any of the following, instances:-
(i) which is situated in India; and	(i) agriculture;	(i) Any income derived from any building owned and occupied by the receiver of the rent of any such land ; or
(ii) which is used for agricultural purposes.	(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be	(ii) Any income derived from any building owned and occupied by the receiver of revenue of any such land; or



Section 2(1A) of the Act

taken to market;

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii) of this sub-clause.

(iii) Any income derived from any **building** occupied by the **cultivator** of any land; or

(iv) Any income derived from any **Building** occupied by the **receiver of rent in kind** of any land.

with respect to which, or the produce of which any process mentioned in paragraphs (ii) and (iii) of sub-clause (b) are/were carried on.

34. We make it clear that what is contemplated in sub-clause (a) and (b)

to Section 2(1A) of the Act is income from the use of land for “**Agricultural**



T.C.A.Nos.499 and 500 of 2023

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Purpose” which is used for any of the three mentioned categories in sub-clause (b) to Section 2(1A) of the Act.

35. There is a subtle difference between the income contemplated in sub-clause (a) and (b) to Section 2(1A) of the Act. Sub-clause (a) to Section 2(1A) of the Act would cover with any income from “rent” or “revenue” derived from land which is/are used for “**Agricultural Purpose**”. The bottom line is such land should be situated in **India** and such land is used for “**Agricultural Purposes**”.

36. Although not illustrated, sub-clause (a) to Section 2(1A) of the Act could cover the situation where there is a tenancy of land used for “**Agricultural Purposes**” or where direct revenue is derived from the land used for “**Agricultural Purposes**”. *Sine qua non* for that Income to qualify as an “**Agricultural Income**” is that such income should be derived from land used for “**Agricultural Purposes**”.

37. The expression ‘**Agricultural Purpose**’ is not defined in the Act although the expression ‘**Charitable Purpose**’ has been specifically defined in



T.C.A.Nos.499 and 500 of 2023

Section 2(15) of the Act. We are not concerned with the definition of ‘**Charitable Purpose**’ in these cases. Therefore, we do not wish to expatiate on the same.

38. Suffice to state that the case of the Respondent/Assessee does not fall within the purview of Sub Clause (a) as the income is not from the use of the land. The facts of the case makes it clear that income of the Respondent/Assessee does not comes within the purview sub-clause (a) to Section 2(1A) of the Act as admittedly the income of the Respondent/Assessee is not from the “land” used for “**Agricultural Purpose**”.

39. Sub-clause (b) to Section 2(1A) of the Act is another species of “**Agricultural Income**” from “**such land**”. Use of the expression “such land” implies “**Agricultural Land**” used for “**Agricultural Purpose**”.

40. The expression “**Agricultural Land**” is defined in Section 2(14)(iii) of the Act. During the period in dispute, the aforesaid definition read as under:-

“**2.(14) (iii)** agricultural land in India, not being land situate-

(a) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality,



municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than ten thousand; or

(b) in any area within the distance, measured aially-

- I. not being more than two kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than ten thousand but not exceeding one lakh; or
- II. not being more than six kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than one lakh but not exceeding ten lakh; or
- III. not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than ten lakh.

Explanation.- For the purposes of this sub-clause, “population” means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year.”

41. Sub-clause (b) to Section 2(1A) of the Act treats the income derived from “**such land**” as “**Agricultural Income**”, if such income is derived, by:-

(i)	(ii)	(iii)
Agriculture; or	the performance of any process ordinarily employed:-	the sale
	1. by a cultivator of the produce raised;	1. by a cultivator of the produce raised;



(i)	(ii)	(iii)
	or	or
	2. receiver of rent-in-kind received,	2. receiver of rent-in-kind received ,
	to render such produce raised or received fit to be taken to market.	in respect of which no process has been performed other than a process of the nature described in paragraph (ii) of this sub-clause.

42. The first situation that is contemplated in sub-clause (b)(i) to Section 2(1A) of the Act is relatable to direct income from “**Agriculture**” simpliciter from “**such land**”. The second situation that is contemplated in sub-clause (b)(ii) to Section 2(1A) of the Act is relatable again to “**Agricultural Income**” from “**such land**” where there is performance of any process ordinarily employed either by:-

1. a “**cultivator**” to render the produce raised fit to be taken to the market; or
2. By “**receiver of rent-in-kind**” to render the produce received fit to be taken to market.

43. The third such category as mentioned in sub-clause (b) to Section 2(1A) of the Act is confined to “**income from sale**” of the produce raised or received by such “cultivator” or “receiver of rent-in-kind” in respect of which



T.C.A.Nos.499 and 500 of 2023

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the process is carried out by the above named persons to make the agricultural produce marketable. It should be from the produce from land used for “**Agricultural Purpose**”.

44. The activity carried out by the Respondent/Assessee does not answer to any of the three situations contemplated in sub-clause (b) to Section 2(1A) of the Act.

45. That apart, what is contemplated in the second and third situation as mentioned above is performance of actions to render the agricultural produce marketable and/or sale coupled with performance by a cultivator (other than the land owner) or income received by the owner in the form of rent-in-kind from the cultivator.

46. In the facts of the present case, the Respondent/Assessee has not derived any income from such land. Rather, it has derived income from sale of '**Button Mushroom**' grown in its factory under a controlled conditions.

47. The “**Button Mushroom**” was not raised in land used for agricultural purpose. It was cultured in a factory under controlled conditions. Therefore, does not come within the purview of second category.



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48. As far as the third specie of “**Agricultural Income**” contemplated in sub-clause (c) to Section 2(1A) of the Act is concerned, it would cover the situation where the income is received from any “**building**”, which is either owned and/or occupied by the “**receiver of the rent**” or “**receiver of the revenue**” of “**any land**”.

49. Sub-clause (c) to Section 2(1A) of the Act can be understood in the following manner:-

Any income derived from any building owned and occupied by the			
Receiver of the rent of any such land	Receiver of revenue of any such land	Cultivator of any land	Receiver of rent in kind of any land
With respect to which, or the produce of which, any process mentioned in paragraphs (ii) and (iii) of sub clause (b) is carried on:			
(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market.		(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii) of this sub-clause.	

50. The first sub-category in sub-clause (c) to Section 2(1A) of the Act would relate to income derived from “**any building**” either by the owner of the



T.C.A.Nos.499 and 500 of 2023

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building i.e., receiver of rent or from revenue from any such land. Such buildings should be situated in the land meant for “**Agricultural Purpose**” to qualify as income from agriculture.

51. Therefore, the first situation contemplated under sub-clause (c) to Section 2(1A) of the Act is not satisfied to treat the income from sale of “**Button Mushroom**” as Income from “**Agriculture**”. That apart, such income from the building has to be from such activity mentioned in paragraphs (ii) and (iii) of sub-clause (b) to Section 2(1A) of the Act.

52. As far as the second and third situation in sub-clause (c) to Section 2(1A) of the Act are concerned, it would relate to any income derived from any **building** of “**any land**”. The second situation will relate to buildings occupied by the “**cultivator**”, while the third category would relate to buildings occupied by the “**receiver of rent-in-kind**”.

53. Under both these circumstances also, the performance/sale contemplated in sub-clause (ii) and (iii) to clause (b) to Section 2(1A) of the



T.C.A.Nos.499 and 500 of 2023

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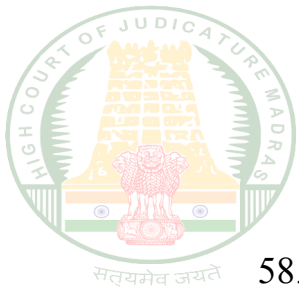
Act has to be satisfied.

54. In this case, there are no indication that income from sale of ‘**Button Mushrooms**’ would fall under any of the three situations that are contemplated in sub-clause (c) to Section 2(1A) of the Act.

55. None of the situations specified above has been satisfied for the Respondent/Assessee to claim the benefit of Section 10(1) of the Act i.e., “**Agricultural Income**”.

56. It would have been different, if mushrooms were grown by a farmer and thereafter processed by the Respondent/Assessee for making it marketable, in which case, the Respondent/Assessee could have claimed the income as ‘**Assessable Income**’ within the meaning of Section 2(1A)(c) of the Act.

57. Therefore, income from sale of ‘**Button Mushrooms**’ from a factory under a controlled condition will not come within the purview of the definition of “**Agricultural Income**” within the meaning of Section 2(1A) of the Act for the purpose of Section 10(1) of the Act.



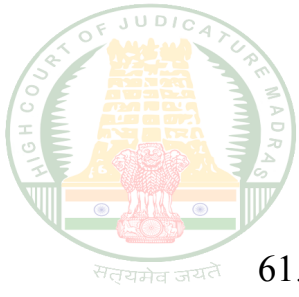
T.C.A.Nos.499 and 500 of 2023

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58. Although the impugned decision of the Tribunal is inspired from the decision of the Special Bench of the Tribunal in **M/s.Inventaa Industries Private Limited's case** (*cited supra*) rendered on **09.07.2018**, the Tribunal as the final fact finding authority ought to have given a clear finding on facts with reference to the definition of “**Agricultural Income**” in Section 2(1A) of the Act and answered the issue one way or the other i.e., either in favour of the Respondent/Assessee or in favour of the Appellant Income Tax Department, correctness of which could have been tested before us.

59. In view of the above discussion, we are of the view that the decisions of the Special Bench of the Appellate Tribunal in **M/s.Inventaa Industries Private Limited's case** (*cited supra*) cannot be applied to the facts of the present case. Therefore, these appeals of the Appellant/Income Tax Department deserve to be allowed.

60. Therefore, the Substantial Questions of Law framed are answered against the Respondent/Assessee and in favour of the Appellant/Income Tax Department.



T.C.A.Nos.499 and 500 of 2023

61. In the result, these Tax Case Appeals stand allowed. No costs.

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Connected Civil Miscellaneous Petition is closed.

[R.S.K., J.]

[C.S.N., J.]

09.05.2025

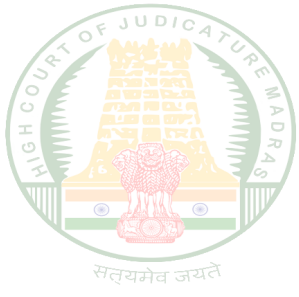
Neutral Citation : Yes / No

nst / arb

To:

1.The Principal Commissioner of Income Tax-1,
Chennai.

2.The Income Tax Appellate Tribunal,
“C” Bench, Chennai.



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T.C.A.Nos.499 and 500 of 2023

R.SURESH KUMAR, J.
and
C.SARAVANAN, J.

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T.C.A.Nos.499 and 500 of 2023

09.05.2025