IN THE HIGH COURT OF JUDICATURE AT BOMBAY, AURANGABAD BENCH, AT AURANGABAD.

Income Tax Appeal No. 20 of 2014 With
Income Tax Appeal No. 21 of 2014 With
Income Tax Appeal No. 22 of 2014 With
Income Tax Appeal No. 23 of 2014 With
Income Tax Appeal No. 24 of 2014 With
Income Tax Appeal No. 25 of 2014 With
Income Tax Appeal No. 26 of 2014

The Commissioner of Income Tax,
Aayakar Bhavan, Near Holy Cross
School, Cantonment, Aurangabad. .. Appellant.

versus

Ajeet Seeds Ltd.,
2nd Floor, Tapadiya Terraces,
Adalat Road,
Aurangabad. .. Respondent.

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Appellant and respondent in all the appeals are same.

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Mr. Alok M. Sharma, Advocate, for the appellant in all appeals.

Mr. P.M. Shah, Senior Advocate, instructed by Mr. S.P. Shah, Advocate, for the respondent in all appeals.

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CORAM : A.V. NIRGUDE & A.M. BADAR, JJ.

DATE : 18TH JUNE 2015

ORAL ORDER *(Per A.V. Nirgude, J.)* **:**

1. Heard Mr. Alok Sharma, learned Standing Counsel for the appellant, and Mr. P.M. Shah, learned Senior Counsel for the respondent.

2. Since these appeals raise a common question of law and facts, they are heard together and are being disposed of by this common order.

3. These appeals challenge concurrent findings arrived by the Commissioner of Income Tax (Appeals), Aurangabad, and the Income Tax Appellate Tribunal, Pune Bench, 'A', Pune, that the respondent - Assessee's income from sale of breeder and foundation seeds is an '*agricultural income*'. The Assessing Officer, however, held that growing breeder and foundation seeds would not be an agricultural activity and, therefore, they are not agricultural produce. He mentioned this in para 12.3 (D) of his order, which reads as under :-

> " The operation might pertain to field but number of measures restricts the role of nature. In agricultural activity, crops are left to grow and mature by the forces of nature. Growing of breeder & foundations seeds is highly regulated proposition where interplay of natural forces is minimized. "

4. There is no doubt, in our mind, that when breeder seeds and foundation seeds are grown successfully, lot of scientific help is required.

The conditions are controlled and effect of natural forces are minimized. It is only after such skillful and scientific process, such seeds are grown. The question is, whether growing such seeds does not amount to *'agricultural activity'*. The authorities below rejected this argument and held in favour of the respondent - Assessee / Company.

5. The learned Counsel for the appellant tells us, that the view taken by the authorities below is erroneous and was based on judgment of Income Tax Appellate Tribunal in the case of *Advanta India Ltd. Vs. Dy.CIT (2010) 5 ITR 57 (Bangalore Tribunal)*. According to the learned Counsel for the appellant, this judgment is set aside by Karnataka High Court, in the case of ***Commissioner of Income-tax, Central Circle, Bangalore Vs. Namdhari Seeds (P.) Ltd. [(2011) 341 ITR 342 (Karnataka)]***. According to the learned Counsel for the appellant, this case should, therefore, give rise to a substantial question of law.

6. We are unable to accept the contention raised by the learned Counsel for the appellant. We find, that the basic premise on which the appellant's case is based, is para 12.3(D) of the Assessment Officer's order. The outcome of this case has no relation whatsoever with the judgment of Karnataka High Court, in the case of ***Commissioner of Income-tax, Central Circle, Bangalore Vs. Namdhari Seeds (P.) Ltd. (supra)***. We have carefully gone through the judgment and found this. Placing reliance on this judgment, is taking the discussion in an incorrect direction.

7. Coming back to the question, as to whether growing breeder and foundation seeds would amount to *'agriculture'*, the answer has to be

affirmative. It is not denied that for growing breeder and foundation seeds, seeds are sown in field and usual agricultural operations, basic and subsequent, are undertaken utilizing human skill. In addition to this, measures are taken for restricting role of nature. Such measures are only taken in enhancing the yield. Such measures, thus, have nothing to do with the biological growth that takes place in the soil or such other substratum where the seeds are sown. An agriculturist while growing his crops, is known to have used conventional as well as scientific method for reducing hostile interplay of natural forces on his crop. When such activity is taken to highest standard, it would still not make the growing operation a synthetic one. Thus, growing seeds can never be non-agricultural. In view of this, we do not see any substantial question of law in these appeals.

8. In the result, the Appeals fail and the same are accordingly dismissed.

(A.M. BADAR)
JUDGE

(A.V. NIRGUDE)
JUDGE

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