R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO. 52 OF 2017

Pr. Commissioner of Income Tax 10, Mumbai .. Appellant

Versus

M/s. Monsanto India Limited .. Respondent

....

- Mr. Arvind Pinto for the Appellant
- Mr. Nishant Thakkar a/w Mr. Jasmin Amalsadvala i/by PDS Legal for the Respondent

....

CORAM : AKIL KURESHI &
SARANG V. KOTWAL, JJ.

DATE : MARCH 11, 2019.

P.C.:

1. This appeal is filed by the Revenue to challenge the judgment of the Income Tax Appellate Tribunal ("the Tribunal" for short).

2. Following question is presented for our consideration:-

"Whether in law and on the facts and circumstances of the case, was the Tribunal correct in treating its commercial income of the sale of hybrid seeds, as agricultural income exempt under Section 10(1) of the Income Tax Act, 1961?"

3. In case of this very assessee, this question came up for consideration in Income Tax Appeal No. 1868 of 2016. This question was rejected making following observations:-

> "2. The Respondent – Assessee is a limited company. The issues relate to the assessment year 2007-2008. The company is engaged in manufacture and sale of hybrid seeds for agriculture. In relation to the income arising out of such sale of seeds, the company claims exemption under Section 10(1) of the Income Tax Act, 1961 (for short, 'the Act'). The Revenue contends that the activity of the Assessee company cannot be categorized as agricultural operation. The Assessing Officer, therefore, disallowed the exemption claimed by the Assessee. The Tribunal, by the impugned Judgment, held in favour of the Assessee upon which the Revenue has filed this Appeal raising the first question noted above.
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> 3. This issue has come before this Court on several occasions, concerning the same Assessee. For the Assessment Year 1993-1994 to the Assessment Year 2004-2005, group of Income Tax Appeals being Income Tax Appeal No.633 of 2010 and connected Appeals, were rejected by this Court by common order dated 5th August, 2011. Once again, same issue was raised by the Revenue in Income Tax Appeal No.1618 of 2016. The said appeal was dismissed on 23rd January, 2019. In that view of the matter, Question No.1 is not entertained."

4. In the result, the appeal is dismissed.

[SARANG V. KOTWAL, J.] **[AKIL KURESHI, J]**