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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ITA 1162/2005

NATIONAL AGRICULTURAL COOP.MKT.....Appellant

Through: Mr. Satyen Sethi, Mr. Arta Trana
Panda and Ms. Gargi Sethee Advs.

versus

COMMISSIONER OF INCOME TAX NEW.....Respondent

Through: Mr. Abhishek Maratha, Sr. Standing
Counsel, Mr. Apoorv Agarwal, Jr.
SC, Ms Nupur Sharma, Mr. Gaurav
Singh, Mr. Bhanukaran Singh Jodha,
Ms Muskaan Goel, Mr. Himanshu
Gaur, Mr. Gaurav Kumar Arya and
Mr. Pushpag Shah Johri, Advs.

(34)

+ ITA 1163/2005

NATIONAL AGRICULTURAL M.F.OF IAppellant

Through: Mr. Satyen Sethi, Mr. Arta Trana
Panda and Ms. Gargi Sethee Advs.

versus

COMMISSIONER OF INCOME TAX NEWRespondent

Through: Mr. Abhishek Maratha, Sr. Standing
Counsel, Mr. Apoorv Agarwal, Jr.
SC, Ms Nupur Sharma, Mr. Gaurav
Singh, Mr. Bhanukaran Singh Jodha,
Ms Muskaan Goel, Mr. Himanshu
Gaur, Mr. Gaurav Kumar Arya and
Mr. Pushpag Shah Johri, Advs.

(35)

+ ITA 1164/2005

NATIONAL AGRICULTURAL COOP.M.FAppellant

Through: Mr. Satyen Sethi, Mr. Arta Trana
Panda and Ms. Gargi Sethee Advs.



versus
COMMISSIONER OF INCOME TAX NEWRespondent
Through: Mr. Abhishek Maratha, Sr. Standing
Counsel, Mr. Apoorv Agarwal, Jr.
SC, Ms Nupur Sharma, Mr. Gaurav
Singh, Mr. Bhanukaran Singh Jodha,
Ms Muskaan Goel, Mr. Himanshu
Gaur, Mr. Gaurav Kumar Arya and
Mr. Pushpag Shah Johri, Advs.

(36)

+ ITA 1166/2005

NATIONAL AGRICULTURAL COOP.M.FAppellant
Through: Mr. Satyen Sethi, Mr. Arta Trana
Panda and Ms. Gargi Sethee Advs.

versus
COMMISSIONER OF INCOME TAX NEWRespondent
Through: Mr. Abhishek Maratha, Sr. Standing
Counsel, Mr. Apoorv Agarwal, Jr.
SC, Ms Nupur Sharma, Mr. Gaurav
Singh, Mr. Bhanukaran Singh Jodha,
Ms Muskaan Goel, Mr. Himanshu
Gaur, Mr. Gaurav Kumar Arya and
Mr. Pushpag Shah Johri, Advs.

(37)

+ ITA 1168/2005

NATIONAL AGRICULTURAL COOP.M.FAppellant
Through: Mr. Satyen Sethi, Mr. Arta Trana
Panda and Ms. Gargi Sethee Advs.

versus
COMMISSIONER OF INCOME TAX NEW.....Respondent
Through: Mr. Abhishek Maratha, Sr. Standing
Counsel, Mr. Apoorv Agarwal, Jr.
SC, Ms Nupur Sharma, Mr. Gaurav
Singh, Mr. Bhanukaran Singh Jodha,
Ms Muskaan Goel, Mr. Himanshu



Gaur, Mr. Gaurav Kumar Arya and
Mr. Pushpag Shah Johri, Advs.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

ORDER

13.05.2026

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1. All these appeals were admitted vide order dated 23.11.2005 on the following substantial question of law:-

“Whether in the facts and circumstances of the case, the ITAT was justified in law in allowing miscellaneous application No.89(D)/1999 filed by the revenue and rectifying the final order passed in ITA Nos.6648 to 6656/Del/1996 for the assessment years 1986-87 to 1994-95 on the basis of a subsequent amendment to Section 80-P(2)(a)(iii) of the Income Tax Act and a pronouncement of the Supreme Court upholding the said provision?”

2. Mr. Satyen Sethi, learned counsel for the appellant submitted that the Income Tax Appellate Tribunal, Delhi Bench ‘D’ Delhi (*hereinafter referred to as ‘the Tribunal’*) has erred in passing the order dated 31.08.1998 and allowing the miscellaneous application filed by the respondent-Income Tax Department, in view of the amendment brought in Section 80P(2)(a)(iii) of the Income Tax Act, 1961 (*hereinafter referred to as ‘the Act of 1961’*), which came into force after the order of the Tribunal.

3. He pointed out that at the time, when the Tribunal had decided the appeal, no amendment had been introduced in the relevant section and the amendment came to be introduced only on 08.01.1999 and argued that subsequent amendment may be with retrospective effect (from 01.04.1968),



does not make the order to be suffering from an apparent error.

4. He thus argued that since there was no apparent error in the order of the Tribunal, the Tribunal was not justified in upturning its judgment pursuant to the miscellaneous application filed by the Department.

5. Mr. Abhishek Maratha, learned Senior Standing Counsel for the respondent, on the other hand, submitted that the amendment which was brought into effect was given retrospective effect and made applicable from 01.04.1968. Therefore, the legal fiction created by the amendment required that the amended provision be treated as existing on that date (31.08.1998), when the Tribunal decided the appeals.

6. Heard learned counsel for the parties.

7. It is noteworthy that vires of the retrospective amendment has been affirmed by this Court in the judgment dated 16.02.2001 titled as **National Agricultural Co-operative Marketing Federation of India v. Union of India** reported in [2001] 251 ITR 285 (Delhi) and the same has been affirmed by the Apex Court by judgment dated 25.03.2003 in the case titled as **National Agricultural Co-operative Marketing Federation of India Ltd. v. Union of India** reported in [2003] 260 ITR 548 (SC).

8. Since the amendment in question has been made applicable from the year 1968, we are of the view that the approach of the Tribunal in allowing the Department's miscellaneous application cannot to be said to be erroneous in any manner.

9. We are of the view that no fruitful purpose would be served, even if we find some substance in the contention raised by the appellant qua which a question has already been framed.

10. The appeals are dismissed, while holding that the Tribunal was



justified in allowing the miscellaneous application filed by the Department.
The question of law is, therefore, answered against the assessee.

11. The appeals stand dismissed.

DINESH MEHTA, J

OM PRAKASH SHUKLA, J

MAY 13, 2026/dd