

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A", HYDERABAD

BEFORE
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER
&
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 2091/Hyd/2017
(निर्धारण वर्ष / Assessment Year: 2013-14)

Dy. Commissioner of Income Tax, Circle-16(2), Hyderabad	Vs. M/s. Pravardhan Seeds Pvt. Ltd., Hyderabad [PAN No. AAFCP0118A]
अपीलार्थी/Appellant	प्रत्यर्थी/Respondent

निर्धारिती द्वारा/Assessee by: Shri P. Murali Mohan Rao, AR
राजस्व द्वारा/Revenue by: Shri Sunku Srinivas, CIT-DR

सुनवाई की तारीख/Date of hearing: 03/04/2023
घोषणा की तारीख/Pronouncement on: 26/04/2023

आदेश / ORDER

PER K. NARASIMHA CHARY, JM:

Aggrieved by the order dated 22/09/2017 passed by the learned Commissioner of Income Tax (Appeals)-4, Hyderabad ("Ld. CIT(A)"), in the case of M/s. Pravardhan Seeds Pvt. Ltd., ("the assessee") for the assessment year 2013-14, Revenue preferred this appeal.

2. Brief facts of the case are that assessee is engaged in the business of production of hybrid seeds and open pollinated seed varieties of various

crops like cotton, paddy, maize, sunflower, bajra, wheat, jowar, vegetables, etc. It is carrying out the agricultural operation in whole of India; that since it is not possible for the assessee to own all the land, as required for the purpose of its agricultural operations, it has accordingly taken certain land on lease from farmers and has also availed services of farmers by entering into seed production agreement for usage of their land; that the farmers are provided with foundation seeds for carrying out the agricultural activities/cultivation for multiplication of seeds under the guidance, specifications and supervision of the assessee; that the farmers are required to deliver the final produced hybrid seeds including un-utilized foundation seeds in the assessee; that in lieu of the said activities, the assessee agrees to pay the farmers compensation for land usage and reimbursement of cultivation expenses and service charges as per terms of the agreement and the entire risk and reward of growing the hybrid seeds, with regard to the said agricultural activities/cultivations, is entirely borne by the assessee.

3. For the assessment year 2013-14, the assessee claimed the exemption under section 10(1) of the Income Tax Act, 1961 ('the Act') stating that the research and development activities of the assessee forms integral part of the agricultural activities for the purpose of section 10(1) of the Act. Assessee further pleaded before the learned Assessing Officer that for the earlier assessment years such a claim of exemption was upheld. Assessee also placed reliance on the decision of the Hon'ble jurisdictional High Court in the case of CIT Vs. Prabhat Agri Biotech Limited in ITTA No. 88/2014, dated 21/02/2014 besides the decisions of Karnataka Bench of the Tribunal and also the Karnataka High Court.

4. Learned Assessing Officer, however, was of the opinion that the assessee only carried out scientific and technological process to the seeds and multiplying them in farmers' fields so as to derive income commercially from sale of such modified and processed seeds; that to aid the process of multiplication in larger quantity, the assessee entered into

agreement with farmers for carrying out such specialised job through contract; that the assessee company is neither cultivating the seeds nor deriving income from agriculture; that the activity of the assessee is an integral and composite one, right from the research and development to the final marketing/sale of hybrid seeds which involves several stages and the first few stages cannot be isolated and termed in by the assessee company; that the definition of agriculture as contemplated in section 2(1A) of the Act does not cover the activity of foundation seeds production by the assessee, just because the assessee is undertaking basic agricultural operations like sowing, weeding, irrigation, inter-cultivating etc., and that such agricultural activities are only incidental to the main activity of production of foundation seeds. According to the learned Assessing Officer, the assessee departed from the basic agricultural operations and indulged into the production of the parent seeds by planned scientific and specialized procedures, apart from the fact that the assessee itself is not carrying out the agricultural operations, but the farmers are carrying out the activity of multiplication of parent seeds under the contractual obligation with the assessee. For these reasons, the learned Assessing Officer disallowed the claim of deduction under section 10(1) of the Act.

5. Assessee preferred appeal and pleaded before the learned CIT(A) that their activities are similar to the activities in the earlier years and also similar to the activities conducted by one Nuziveedu Seeds Ltd., and Prabhat Agri Biotech Limited in whose cases, such activities were held to be agricultural operations. Assessee further pleaded that in a number of cases referred to in their submissions, such activities were held to be eligible for deduction under section 10(1) of the Act.

6. On a consideration of the facts involved in this case, in the light of the judicial pronouncements and while following the decision of the Tribunal in the case of Nuziveedu Seeds Ltd., for the assessment year 2010-11 and also the decision of the Hon'ble jurisdictional High Court in the case

of Prabhat Agri Biotech Limited (supra), the learned CIT(A) upheld the contentions raised by the assessee and deleted the addition.

7. Aggrieved by such findings of the learned CIT(A), the Revenue is in this appeal, contending that the activity of developing and marketing of seeds is purely a commercial activity bereft of carrying of agricultural activity. Learned DR submitted that the assessee itself does not undertake any agricultural operation but procured hybrid seeds from farmers and as such the activities carried out by the farmers alone can be said to be agricultural activities but not the activities of the assessee. It is further submitted that the issue on identical facts in the case of M/s. Nuziveedu Seeds Ltd., for the assessment year 2011-12 is pending before the Hon'ble High Court and, therefore, the same cannot be taken as the settled principle of law.

8. Learned AR, Per contra, submitted that there was no disallowance of the claim for deduction under section 10(1) of the Act in the earlier assessment years and more particularly in the year 2012-13 in which year, the learned Assessing Officer did not make any addition and, therefore, the learned CIT(A) while exercising revisionary jurisdiction under section 263 of the Act, revised such order and consequently, the learned Assessing Officer passed order making such disallowance, but both the orders were quashed by the Co-ordinate Benches of this Tribunal in ITA No. 667/Hyd/2017 by order dated 30/01/2019 and ITA No. 727/Hyd/2019 dated 15/11/2019. Apart from this, he submitted that in the decision in the case of CIT Vs. M/s. Nuziveedu Seeds Ltd., in ITA No. 1594/Hyd/2014 for the assessment year 2011-12, the binding precedent of the jurisdictional High Court in the case of the Prabhat Agri Biotech Ltd., (supra) and, therefore, the Revenue cannot argue that it is not a settled principle of law. He also submitted that for the subsequent assessment year 2014-15, vide order dated 30/12/2016, such a claim was accepted and the order was passed under section 143(3) of the Act without making any such disallowance. He filed the copy of such an order.

9. We have gone through the record in the light of the submissions made on either side. There is no dispute about the activities conducted by the assessee or the assessee conducting such activities year after the year. It is also not in dispute that for the earlier assessment year, 2012-13, initially, no such disallowance of claim under section 10(1) of the Act was made, but was made consequent to the order under section 263 of the Act. It is also not in dispute that the order under section 263 as well as the order under section 143(3) read with section 263 of the Act were quashed. It is also not in dispute that the activities conducted by the assessee in this case are similar to the activities of M/s. Nuziveedu Seeds Ltd.

10. Learned CIT(A) followed the view taken by a Co-ordinate Bench of this Tribunal in the case of M/s. Nuziveedu Seeds Ltd., (supra) for the assessment year 2010-11 and 2011-12. In that case, a Co-ordinate Bench of this Tribunal while dismissing the appeal preferred against the orders of the learned CIT(A) allowing such a claim, followed the decision of the Hon'ble jurisdictional High Court in the case of Prabhat Agri Biotech (supra). It is not the contention of the Revenue that they have challenged the decision of the Hon'ble High Court in the case of Prabhat Agri Biotech (supra) in any higher forums. When the binding precedent of the Hon'ble jurisdictional High Court stands undisturbed, it is not open for the Revenue to contend that since they have preferred an appeal against the order of the Tribunal in M/s. Nuziveedu Seeds Ltd., (supra), the law on this aspect is not settled.

11. Learned Assessing Officer does not deny the fact that the activities of the assessee include such operations as are defined as the agricultural operations under section 2(1A) of the Act. Complaint of the learned Assessing Officer is that merely because the assessee is conducting the activities like sowing, weeding, irrigation, inter-cultivation etc., the same cannot be considered as agricultural operations under section 2(1A) of the Act, because assessee conducts such activities as incidental to the main

activity of producing foundation seeds which is a commercial activity in nature.

12. We are unable to agree with this argument advanced on behalf of the Revenue. Hon'ble High Court succinctly said that seed is a product of agricultural activity. When such agricultural activity is conducted and seeds are produced, merely because such seeds were sold commercially, the basic agricultural operations also cannot be dubbed as 'commercial activities', and not 'agricultural activities'.

13. Respectfully following the consistent view taken in assessee's own case, for the assessment years 2012-13 in consonance with the view taken by the Tribunal in the case of M/s. Nuziveedu Seeds Ltd., (supra) following the binding precedent of the Hon'ble jurisdictional High Court in the case of Prabhat Agri Biotech (supra), we find the impugned order perfectly legal and there are no grounds to interfere with the same. Grounds of appeal are accordingly dismissed.

14. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on this the 26th day of April, 2023.

Sd/-
(RAMA KANTA PANDA)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 26/04/2023

TNMM

Copy forwarded to:

1. Dy. Commissioner of Income Tax, Circle-16(2), Hyderabad.
2. M/s. Pravardhan Seeds Pvt. Ltd., 8-2-277/45, Ground Floor, UBI Colony, Road No. 3, Banjara Hills, Hyderabad.
3. Pr.CIT-4, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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