

proceedings u/s.154 & 143(3) of the Income Tax Act, 1961 [in short, 'the Act'] ; respectively.

Heard both the parties. Case files perused.

2. As it has already been indicated in the opening paragraph, these two assessee's appeals involve Section 143(3) assessment as well as Section 154 proceedings followed by the Revenue's cross objection in the former appeal.

3. A perusal of the CIT(A)'s order dt.23-01-2017 dealing with assessee's appeal in ITA No.701/Hyd/2017 in Section 143(3) proceedings reveals that he has treated the assessment in question deemed to have been annulled in view of the Assessing Officer's subsequent rectification order dt.24-09-2015. This is the precise reason for the Revenue to file its cross objections C.O.No.06/Hyd/2019.

4. Both the learned representatives appearing at assessee's Revenue's behest are very much *ad idem* during the course of hearing that neither of the lower appellate authority's order passed u/s.143(3) or 154 has dealt with the main substantive issue of the taxpayer's agricultural income claim *qua* its seed production business. Mr.Rao also quoted case law CIT Vs. Namdhari Seeds (P) Ltd., (2011) [16 taxmann.com 83] (Kar.) and similar other judicial precedents that - *income derived from seed production activity also amounts to agricultural income entitled for Sec.10(1) exemption.*

5. Learned CIT-DR, on the other hand, has also referred to his written submissions that the following case law makes it clear that such an income is not agricultural income

- i. Decision of the Hon'ble Supreme Court of India in the case of K.Lakshmanan & Co (2000) [108 Taxman 167] (SC), February 4, 1998;
- ii. Decision of Hon'ble ITAT Delhi Bench 'F' in the case of Pioneer Overseas Corporation (2010) [35 SOT 467] (Delhi), November 30, 2009;
- iii. Decision of Hon'ble ITAT Delhi Bench 'F' in the case of P.H.I. Seeds (P) Ltd., (2018) [96 taxmann.com 493] (Delhi -Trib), December 18, 2017;
- iv. Decision of Hon'ble High Court of Karnataka in the case of Namdhari Seeds (P) Ltd., (2011) [16 taxmann.com 83] (Kar), October 24, 2011;

6. Be that as it may, we wish to repeat here that we are yet to see the CIT(A)'s detailed adjudication on this issue in either of the twin rounds of proceedings. We therefore hold that the CIT(A) has erred in treating the assessee's Section 143(3) regular assessment as deemed to have annulled u/s.154 of the Act since the latter provision forms part of the former and not vice-versa and restore the instant lis back to him for his appropriate afresh adjudication as per law as contemplated u/s.250(6) of the Act requiring framing of points of determination followed by a detailed discussion. The assessee's both appeals ITA Nos.700/Hyd/2017 & 701/Hyd/2017 stand remanded to the CIT(A) therefore. The Revenue's cross

objection in C.O.No.06/Hyd/2019 in ITA No.700/Hyd/2017 suffers from delay of 530 days as attributable to procedural and other official approvals is condoned on account of circumstances beyond its control and as per assessee's concession given before us. We also keep in mind the fact that the assessee's main appeal itself has been remanded to the CIT(A). This cross objection also follows suit.

7. These two assessee's appeals ITA Nos.700 & 701/Hyd/2017 as well as Revenue's C.O.No.06/Hyd/2019 are treated as allowed for statistical purposes in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 27th January, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Hyderabad,
Dated: 27-01-2021

Copy to :

1.M/s.Nusun Genetic Research Limited, C/o. P. Murali & Co., Chartered Accountants, 6-3-655/2/3, 1st Floor, Somajiguda, Hyderabad.

2.DCIT, Circle-16(1), Hyderabad.

3.CIT(Appeals)-4, Hyderabad.

4.Pr.CIT-4, Hyderabad.

5.D.R. ITAT, Hyderabad.

6.Guard File.