

**आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR**  
श्री रविश सूद, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।  
BEFORE SHRI RAVISH SOOD, JM & SHRI ARUN KHODPIA, AM

**आयकर अपील सं. / ITA No: 518/RPR/2024**  
(निर्धारण वर्ष Assessment Year: 201415)

Income Tax Officer-3(1), Aayakar Bhawan, Central Revenue Building, Civil Lines, Raipur-492001, Chhattisgarh	V	Chhattisgarh State Agricultural Marketing Board, Beej Bhawan, Telibandha, Raipur-492001, C.G.
<b>PAN: AABTC0154C</b>		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri R. B. Doshi, CA
राजस्व की ओर से /Revenue by	:	Smt. Tarannum Verma, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	24.01.2025
घोषणा की तारीख/Date of Pronouncement	:	31.01.2025

**आदेश / ORDER**

**Per Arun Khodpia, AM:**

The present appeal is filed by the revenue against the order of Commissioner of Income Tax (Appeals), NFAC, Delhi, [in short "Ld. CIT(A)"], u/s 250 of the Income Tax Act, (in short "the Act"), for the AY 2014-15, dated 22.10.2024, which in turn arises from the order u/s 154 of the Act, passed by Central Processing Centre (CPC), Bangluru,(in short "Ld. AO"), dated 18.06.2020.

2. The grounds of appeal raised by the revenue, reads as under:

- (1) *Whether on facts and in the circumstances of the case, the Id. CIT(A) was justified in allowing the exemption of Rs.2,12,61,318/- claimed u/s 10(26AAB) of the Act which was disallowed by the CPC, Bangalore?"*
- (2) *"Whether on facts and in the circumstances of the case, the Id. CIT(A) was justified in allowing the exemption of Rs.2,12,61,318/- by ignoring the facts as brought on record by the CPC, Bangalore.*
- (3) *The order of the Id. CIT(A) is erroneous both in law and on facts.*
- (4) *Any other ground which may be adduced at the time of hearing.*

3. The brief facts of the case, as described by the Ld. CIT(A) in this order are extracted hereunder for the sake of completeness of facts:

1. *The appellant is assessed with ITO-3(2), Raipur< The appellant filed return of income declaring Nil income after claiming exemption of Rs.2,12,61,318/- u/s. 10(26AAB). The appellant is agricultural produce marketing board constituted under Chhattisgarh Krishi Upaj Mandi Adhiniyarn,,1972 with effect from 03.12.2000. The appellant is covered within the meaning of Agriculture Produce Market Committee referred in section 10(26AAB) and income of appellant is eligible for exemption*

2. *Due to inadvertence, the appellant filed its return of income in Form no. ITR-7 instead of Form no. ITR-5. The return of income was processed by CPC, Bangalore on 24.12.2016 disallowing the exemption claimed by the appellant and assessing the income at Rs.2,12,61,318. The appellant filed rectification request on 04.11.2019 before CPC Bangalore. In the rectification order passed on 23.11.2019, the total income has been taken at Rs.2,12,61,318- and no exemption was allowed.*
3. *Thereafter, the appellant again filed rectification request on 04.01.2020 before CPC Bangalore. The appellant has also filed grievance in the portal of Income tax department on 16.01.2020 and which was resolved as under :*

*"Dear Taxpayer, processing of your e-filed return is in progress. Please wait for intimation u/s.143(1) which will be sent to your email id once the process is completed."*

*On 24.01.2020 and 06.02.2020, when the appellant checked the status of rectification, there was no outstanding demand and pending actions in the Income tax portal. On 18.06.2020, the appellant received order u/s 154 by e-mail, but again no exemption was allowed vide rectification order dt. 18.06.2020.*

4. Aggrieved with the aforesaid order dated 18.06.2020 u/s 154 passes by the CPC, wherein the rectification request to allow the exemption claimed u/s 10(26AAB) by the assessee board was rejected by the CPC, the assessee preferred an appeal before the Ld. CIT(A) wherein contentions of assessee

found to be acceptable and, therefore, the appeal of assessee is partly allowed with the following observations:

**5. DECISION:**

- 5.1 *Ground no.1 is related to rejecting application filed u/s.154 for allowing exemption u/s.10(26AAB) was claimed by the appellant. The appellant is agricultural produce marketing board constituted under Chhattisgarh Krishi Mandi Upaj Adhinyam, 1972 w.e.f. 03.12.2000. The appellant is covered within the meaning of Agriculture Produce Market Committee referred in section 10(26AAB) and income of appellant is eligible for exemption.*
- 5.2 *Due to inadvertence, the appellant filed its return of income in Form no. ITR-7 instead of Form no. ITR-5. The return of income was processed by CPC, Bangalore on 24.12.2016 disallowing the exemption claimed by the appellant and assessing the income at Rs.2,12,61,318. The appellant filed rectification request on 04.11.2019 before CPC Bangalore. In the rectification order passed on 23.11.2019, the total income has been taken at Rs.2,12,61,318- and no exemption was allowed.*
- 5.3 *Thereafter, the appellant again filed rectification request on 04.01.2020 before CPC Bangalore. On 18.06.2020, the appellant received order u/s 154, but again no exemption was allowed vide rectification order dt. 18.06.2020. The present appeal is being filed against the order u/s.154 passed by Assistant Director of Income Tax, CPC.*
- 5.4 *It appears that the exemption was denied for the reason of filing ITR in form 7 instead of form 5. The Hon'ble ITAT B Bench Kolkata in the case of Young*

*Mens Welfare Society vide order I.T.A Nos.613 & 614/Kol/2022, has held as under:-*

*"5. Before us, the Id. AR of the assessee has submitted that the appeal filed by the assessee before the CIT(A) is required to be treated within the limitation period as the same was covered by the decision of the Hon'ble Supreme Court in Suomoto Writ Petition (C) No. 3 of 2020 dated 10.01.2022. The Id. Counsel for the assessee has further submitted that the assessee has filed rectification application which has been dismissed by the Assessing Officer in a mechanical manner. However, the claim of the assessee was, therefore, rejected by the CPC and the assessee was taxed at maximum marginal rate without giving deduction of the expenses. However, the assessee filed the M.A which was also rejected by the Assessing Officer. In view of the aforesaid action of the lower authorities without considering the claim of the assessee on merits was not justified. It has been held time and again that the Income Tax Authorities are not supposed to punish assessee's for their bona fide mistake. We, therefore, set aside the impugned orders of the lower authorities and I restore the matter to the file of Assessing Officer with direction to examine the contentions raised by the assessee and tax the assessee at the rates as applicable to the assessee considering the revised return filed by the assessee."*

*5.5 The case of the appellant is squarely covered by the above discussed decision of ITAT. Respectfully following the decision it is held that appellant is entitled for rectifying mistake by filing return in correct ITR 5. Here in the case of the appellant the exemption was denied for the sole reason of filing return in ITR 7 instead of ITR 5. Respectfully following the above discussed decision of Hon'ble ITAT, AO is directed to allow filing return in correct ITR 5 and allow exemption u/s.10(26AAB). This ground of the appeal is allowed.*

*5.6 Ground no.2 is related to amend, alter or add any ground of appeal, since no such option has been exercised. This ground of the appeal is dismissed.*

*6. In the result, the appeal is treated as **partly allowed**.*

**5.** As the relief is granted by the Ld. CIT(A) to the assessee by allowing exemption u/s 10(26AAB) claimed, aggrieved thereby the revenue assailed the impugned order by filing of the present appeal.

**6.** At the outset, Ld. Departmental Representative, Smt. Tarannum Verma (in short "Ld. Sr. DR"), placed her strong reliance on the rectification order by CPC u/s 154 of the Act and have submitted that the order of Ld. CIT(A) was not justified in allowing the exemption claimed u/s 10(26AAB) of the Act, which was disallowed by the CPC.

**7.** On the contrary, Shri. R. B. Doshi, CA, Authorized Representative (in short "Ld. AR") on behalf of the assessee, to establish the eligibility of the assessee board for exemption u/s 10(26AAB) have submitted that the assessee is a "State Agricultural Marketing Board" set up under the Chhattisgarh Krishi Upaj Mandi Adhinyam, 1972 for which a notification was issued on 23.12.2000, by order and in the name of Governor of Chhattisgarh,

copy of the same is placed before us at page no. 236-237. The same is extracted hereunder for the sake of reference and information:

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D.

Madhya Pradesh State Seed Corporation, Mandi, Jabalpur, 1972 (as amended) hereby makes the Rules

M. P. State Seed Certification Agency Memorandum of Association & Rules of Association.

The Madhya Pradesh State Agro-Industries Development Corporation Limited, Memorandum and Articles of Association 1969

The M. P. State Agro-Industries Development Corporation Limited Service (Recruitment & Selection) Regulation 1976.

Indira Gandhi Krishi Vishwavidyalaya, Raipur Pratham Pariniyam, 1987.

M. P. State Land Development Corporation of 1976.

By order and in the name of the Governor of Chhattisgarh,  
B. K. S. RAY, Secretary.

[Redacted Signature]

अधिसूचना

क्रमांक /मण्डी/डी/2000/15/14-3 - कृषि विभाग के अनुकूल आदेश क्रम/मण्डी/डी/2000/AS/14-3, दिनांक 16-12-2000 के रूप में राज्य सरकार द्वारा कृषि विभाग, मण्डी अधिनियम, 1972 की धारा 40 द्वारा प्रदत्त शक्तियों को प्रयोग में लाते हुए, राज्य सरकार, रायपुर, छत्तीसगढ़ में कृषि विपणन बोर्ड को दिनांक 23 दिसंबर 2000 में स्थापित करती है।

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,  
चन्द्रहास बेहार, संयुक्त सचिव,

Raipur the 23rd December 2000

NOTIFICATION

No./Agri/Mandi/D/2000/15/14-3. — In exercise of the powers conferred by Section 40 of the Chhattisgarh Krishi Utpad Adhiniyam, 1972, read with Agriculture Department's Adaption order, Agriculture Mandi/D/2000/15/14-3 dated 16-12-2000, the State Government hereby establish "Chhattisgarh State Agricultural Marketing Board" with effect from 23 day of December 2000.

By order and in the name of the Governor of Chhattisgarh,  
CHANDRAHAS BEHAR, Joint Secretary.

The Chhattisgarh Krishi Upaj Mandi Adhiniyam, 1972

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अध्याय 8.

छत्तीसगढ़ राज्य कृषि विपणन बोर्ड

40. छत्तीसगढ़ राज्य कृषि विपणन बोर्ड—

(1) ऐसी तारीख से, जिसे कि राज्य सरकार अधिमूचना द्वारा इस संबंध में नियत करे, छत्तीसगढ़ राज्य के लिए एक बोर्ड स्थापित किया जायेगा जो छत्तीसगढ़ राज्य कृषि विपणन बोर्ड कहलायेगा।

(2) बोर्ड एक निगमित निकाय होगा, उसका शासक उतराधिकार होगा तथा उसकी एक सामान्य मुद्रा होगी, और वह अपने निगमित नाम से वाद चला सकेगा तथा उक्त नाम से उसके विरुद्ध वाद चलाया जा सकेगा, और वह किसी भी सम्पत्ति को अर्जित करने तथा धारण करने, पट्टे पर देने, बेचने या अन्यथा अन्तर्गत करने के लिए तथा सविदा करने के लिए और इस अधिनियम के प्रयोजनों के लिए आवश्यक समस्त अन्य बातें करने के लिए सक्षम होगा।

[ 40 क. राज्य सरकार की निदेश देने की शक्ति—(1) राज्य सरकार, बोर्ड तथा मंडी समितियों को निदेश दे सकेगी।

(2) बोर्ड तथा मंडी समितियाँ, राज्य सरकार द्वारा उपधारा (1) के अधीन जारी किये गये निदेशों का अनुपालन करने के लिए आबद्ध होंगी। ]

[ 41. बोर्ड गठन.—(1) राज्य सरकार बोर्ड का गठन करेगी जिसमें अध्यक्ष तथा निम्नलिखित सदस्य होंगे, अर्थात्:—

क-पदेन सदस्य

(क) मंत्री, जो कृषि विभाग, छत्तीसगढ़, का भारसाधक हो;

(ख) प्रमुख सचिव/सद्विच, छत्तीसगढ़ शासन, कृषि विभाग व उनके नामित प्रतिनिधि, जो कि उपसचिव की श्रेणी से निम्न श्रेणी के न हो ;

## CHAPTER VIII

Chhattisgarh State Agricultural Marketing Board

40. Chhattisgarh State Agricultural Marketing Board.- (1) With effect from such date as the State Government may, by notification, appoint in this behalf, there shall be established for the State of Chhattisgarh a Board called the Chhattisgarh State Agricultural Marketing Board.

(2) The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold, lease, sell or otherwise transfer any property and to contract and to do all other things necessary for the purposes of this Act.

[40-A. Power of State Government to give direction.- (1) The State Government may give directions to the Board and Mandi Committees.

(2) The Board and the Mandi Committees shall be bound to comply with directions issued by the State Government under sub-section (1).

[ 41. Constitution of Board.- (1) The State Government shall constitute the Board which shall consist of the President and the following members, namely-  
A. Ex-Officio Members

(a) Minister having the charge of Agriculture, Chhattisgarh;

(b) Principal Secretary/Secretary Government of Chhattisgarh, Agriculture Department or his nominated representative, not below the rank of Deputy Secretary;

1. मध्यप्रदेश अधिनियम क्र. 27 सन् 1997 द्वारा (दिनांक 15-6-1997 से) अन्तःस्थापित।

2. मध्यप्रदेश अधिनियम क्र. 18 सन् 1979 द्वारा (दिनांक 7-6-1979 से) प्रतिस्थापित।

8. Ld. AR further drew our attention to CBDT Circular 18/2017, dated 29.05.2017, the same is culled out hereunder:

**CIRCULAR No. 18 /2017**

**F. No. 385/01/2015-IT (B)**  
Government of India/ भारत सरकार  
Ministry of Finance/ वित्त मंत्रालय  
Department of Revenue/(राजस्व विभाग)  
Central Board of Direct Taxes/(केन्द्रीय प्रत्यक्ष कर बोर्ड)  
\*\*\*\*\*

North Block, New Delhi  
29<sup>th</sup> May, 2017

**Subject: Requirement of tax deduction at source in case of entities whose income is exempted under Section 10 of the Income-tax Act, 1961 - Exemption thereof.**

The Central Board of Direct Taxes (the Board) had earlier issued Circular No. 4/2002 dated 16.07.2002 and Circular No. 7/2015 dated 23.04.2015 which laid down that in case of such entities, whose income is unconditionally exempt under Section 10 of the Income-tax Act (the Act) and who are also statutorily not required to file return of income as per Section 139 of the Act, there would be no requirement for tax deduction at source (TDS) from the payments made to them since their income is anyway exempted from tax under the Act. The issue of whether exemption from TDS can be extended to more entities on these principles and whether the exemption is needed to be withdrawn in respect of some of the exempted entities was examined by the Board.

2. Examination of the eligibility of entities for exemption from TDS on the principle of unconditional exemption and no requirement to file return revealed that Circulars No. 4/2002 and 7/2015 are required to be updated to make the following changes:

- Entities that meet both the above mentioned conditions but are not mentioned in the aforesaid Circulars need to be included in the list of exempted entities.
- Entities that are mentioned in Circular No. 4/2002 but their exemption from income tax has since been withdrawn need to be removed from the list of exempted entities.
- Entities that are mentioned in Circular No. 4/2002 but because of subsequent amendment they are now required to mandatorily file their returns of income u/s 139 need to be removed from the list of exempted entities.

3. In view of the above, a revised list of entities exempted from TDS has been drawn by adding entities in the first category listed above to the entities mentioned in Circular No. 4/2002 and Circular No. 7/2015 and removing entities in second and third categories from the list of existing entities eligible for exemption from TDS.

4. Accordingly, it has been decided that in case of below mentioned funds or authorities or Boards or bodies, by whatever name called, referred to in section 10 of the Income-tax Act, whose income is unconditionally exempt under that section and who are also statutorily not required to file return of income under section 139 of the Income-tax Act, there would be no

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**No.385/01/2015-IT(B) Circular No. 18/2017**

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requirement for tax deduction at source, since their income is anyway exempt under the Income-tax Act -

- (i) "local authority", as referred to in the *Explanation* to clause (20);
- (ii) Regimental Fund or Non-public Fund established by the armed forces of the Union referred to in clause (23AA);
- (iii) Fund, by whatever name called, set up by the Life Insurance Corporation of India on or after 1st August, 1996, or by any other insurer referred to in clause (23AAB);
- (iv) Authority (whether known as the Khadi and Village Industries Board or by any other name) referred to in clause (23BB);
- (v) Body or authority referred to in clause (23BBA);
- (vi) SAARC Fund for Regional Projects set up by Colombo Declaration referred to in clause (23BBC);
- (vii) Insurance Regulatory and Development Authority referred to in clause (23BBE);
- (viii) Central Electricity Regulatory Commission referred to in clause (23BBG);
- (ix) Prasar Bharati referred to in clause (23BBH);
- (x) Prime Minister's National Relief Fund referred to in sub-clause (i), Prime Minister's Fund (Promotion of Folk Art) referred to in sub-clause (ii), Prime Minister's Aid to Students Fund referred to in sub-clause (iii), National Foundation for Communal Harmony referred to in sub-clause (iiia), Swachh Bharat Kosh referred to in sub-clause (iiiaa), Clean Ganga Fund referred to in sub-clause (iiiaa) of clause (23C);
- (xi) Provident fund to which the Provident Funds Act, 1925 (19 of 1925) referred to in sub-clause (i), recognized provident fund referred to in sub-clause (ii), approved superannuation funds referred to in sub-clause (iii), approved gratuity fund referred to in sub-clause (iv) and funds referred to in sub-clause (v) of clause (25);
- (xii) Employees' State Insurance Fund referred to in clause (25A);
- (xiii) Agricultural Produce Marketing Committee referred to in clause (26AAB);
- (xiv) Corporation, body, institution or association established for promoting interests of members of Scheduled Castes or Scheduled Tribes or backward classes referred to in clause (26B);

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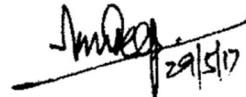
**No.385/01/2015-IT(B) Circular No. 18/2017**

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- (xv) Corporation established for promoting interests of members of a minority community referred to in clause (26BB);
- (xvi) Corporation established for welfare and economic upliftment of ex-servicemen referred to in clause (26BBB);
- (xvii) New Pension System Trust referred to in clause (44).

4. This circular supersedes earlier Circulars on this issue e.g. Circular No. 4/2002 dated 16.07.2002 and Circular No. 7/2015 dated 23.04.2015 with effect from the date of issue of this Circular.

5. Hindi version shall follow.



(Sandeep Singh)

Under Secretary to the Govt. of India

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1. Chairman, Members and all other officers of the Central Board of Direct Taxes.
2. Pr. CCIT/ Pr. DGIT/ CCIT/ DGIT with a request to circulate the same amongst all officers in their Region / Charge.
3. Commissioner (Media & Technical Policy) and Official Spokesperson, CBDT.
4. Addl. Director General of Income-tax (PR, PP & OL)
5. Office of Comptroller & Auditor General of India.
6. ADG (Systems)-IV for uploading on the Departmental website.
7. Database Cell for uploading on the IRS Officers website.
8. Guard File.

9. Referring to para 4 of the aforesaid circular by the CBDT, Ld. AR advanced his argument that as per the clause no. (xiii) of para 4 of the aforesaid circular “any agricultural produce marketing committee referred to in clause 26AAB of section 10 of the Income Tax Act, cannot be subjected to taxations according to the provisions of the Income Tax Act. As per aforesaid clause, the authorities or boards or bodies, by whatever name called, referred to in section 10 of the Income Tax Act, whose income is unconditionally exempt under that section and who are also statutorily not required to file return of income under the provisions of Income Tax Act, there would be no requirement for tax deduction at source, since their income any way is exempt under Income Tax Act.”

10. With such contention, Ld. AR submitted that the assessee board was not even require to file return of income under the provisions of Income Tax Act, as the same is covered u/s 10(26AAB) and according to the CBDT’s Circular No. 18/2017 (**supra**), its income is unconditionally exempt.

11. For a proper evaluation of the aforesaid contentions, the provisions of section 10(26AAB) are culled out as under:

**“Section 10:** *In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included-*

...

...

...

**(26AAB):** *Any income earned by the agricultural produce marketing committee for regulating the marketing of agricultural produce is exempt from tax.”*

**12.** Based on aforesaid submissions, it was the prayer by Ld. AR that since the income of assessee board is unconditionally exempt as per CBDT Circular No. 18/2017 dated 29.05.2017, which is binding on the authorities of Income Tax Department, under such circumstances mere filing of return of income under wrong Form should not be the sole reasons for denying the exemption to the assessee board, who is eligible for exemption under the provisions of section 10(26AAB) of the Act.

**13.** We have considered the rival submissions, perused the material available on record and case laws referred to by the Ld. AR. Admittedly, there is no dispute that the assessee board i.e., “Chhattisgarh State Agricultural Marketing Board” is an authority or board covered under the provisions of section 10(26AAB) of the Act, however the exemption claimed by the assessee is denied by the CPC on account of assessee’s filing of return in Form No. ITR-7 instead of Form No. ITR-5 for which the reasons stated by the Ld. AR was

that, the assessee board is having Alphabet T in their PAN No., the extant Income Tax Portal / system had not permitted the assessee to file the return in Form No. ITR-5. This was an inadvertent error on the part of assessee, which was very mechanically dealt with by the CPC and have disallowed the exemption without going through the merits of the claim of the assessee. On this issue, Ld. CIT(A) had rightly taken the support from the order of Coordinate Bench of ITAT, i.e., "B" Bench, Kolkata in the case of **Young Mends Welfare Society** in **ITA No. 613 & 614/Kol/2022**, wherein it is categorically observed that the action of lower authorities in mechanical manner, without considering the claim of assessee on merits was not justified. It has been held time and again that the Income Tax Authority was not supposed to punish assessee for their Bonafide mistakes.

**14.** Further, we find support to the contention raised by the Ld. AR, from the CBDT's Circular No. 18/2017 referred to (supra) that the assessee board's income is unconditionally exempt, and the board is not statutorily liable to file the return of income.

**15.** In backdrop of aforesaid facts and circumstances, we do not find any infirmity in the order of Ld. CIT(A) in allowing the exemption claimed by the

assessee u/s 10(26AAB) of the Act, therefore, we do not see any reason to interfere with the said decision of the Ld. CIT(A).

16. Resultantly, the appeal filed by the revenue in absence of any contention contradicting the arguments of Ld. AR or the case laws or the directions under Circular No. 18/2017 of CBDT referred to supra, therefore the appeal of department in **ITA No. 518/RPR/2024**, being bereft of merits, stands **dismissed**.

Order pronounced in the open court on 31/01/2025.

<b>Sd/-</b> <b>(RAVISH SOOD)</b> न्यायिक सदस्य / JUDICIAL MEMBER	<b>Sd/-</b> <b>(ARUN KHODPIA)</b> लेखा सदस्य / ACCOUNTANT MEMBER
रायपुर/Raipur; दिनांक Dated 31/01/2025	
Vaibhav Shrivastav	

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant- ITO-3(1), Raipur
2. प्रत्यर्थी / The Respondent- Chhattisgarh State Agricultural Marketing Board
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

**// सत्यापित प्रति True copy //**

आदेशानुसार/ BY ORDER,

**(Senior Private Secretary)**  
आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur