

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH MUMBAI**

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
HON'BLE SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No. 7214/Mum/2025
(Assessment Year: 2016-17)**

Daftari agro Biotech Pvt. Ltd. 405, 2 nd Sea Crest Sat Bungalows Andheri (W) Mumbai, Mumbai - 400058	Vs.	Ward 9(3)(1), Mumbai Aayakar Bhawan Mumbai - 400051
PAN/GIR No. AABCD2102Q		
(Applicant)		(Respondent)

Assessee by	Shri Madhav Vichore
Revenue by	Shri Brajendra Kumar (SR. DR)

Date of Hearing	09.02.2026
Date of Pronouncement	01.04.2026

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 15.09.2025 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2016-17. The following grounds are reproduced below:

"Ground 1. On the facts and circumstances of the case and the law, the learned commissioner of income tax appeals erred in. 1 confirming the order of the assessing officer

who disallowed claim of exempted income (agricultural income) from sale of foundation seeds of Rs.7099900.

Ground 2. On the facts and circumstances of the case and the law, the learned commissioner of income tax appeals erred in holding that assessee claim of agricultural activity is not borne out of the facts even when same is not doubted anywhere by the assessing officer.

Ground 3. On the facts and circumstances of the case and the law, the learned commissioner of income tax appeals erred in denying exemption holding that essential character of assessee's operation is that of business entity engaged in commercial exploitation of research derived seeds disregarding the provisions of Article 366(1) of the constitution of India.

Ground 4. On the facts and circumstances of the case and the law, the learned commissioner of income tax appeals erred in holding that assessee has been recognized as Research and Development company earlier and hence operations are commercial in character disregarding the fact that income in instant case is derived from the land and thus falls within definition of Section 2(1A) of the Act.

Ground 5. On the facts and circumstances of the case and the law, the learned commissioner of income tax appeals erred in dismissing jurisdictional high court decisions in Ajanta Seeds Ltd which inter alia held that seed production is agricultural activity.

Ground 6. On the facts and circumstances of the case and the law, the learned commissioner of income tax appeals erred in concluding that entire arrangement is designed to recharacterize business income as agricultural income to avail exemption under 10(1) even when nothing of this sort is alleged by the assessing officer and there is nothing on record to indicate so.

Ground 7. On the facts and circumstances of the case and the law, the learned commissioner of income tax appeals

erred in holding that agricultural income under S 2(1A) does not extend to activities that are predominantly scientific and commercial in nature even though they may involve cultivation at certain stages.

Ground 8. On the facts and circumstances of the case and the law, the learned commissioner of income tax appeals erred in holding and applying aforementioned reasoning ignoring the facts that assessee is no more carrying out research activities during the year has utilized the seeds to produce foundation seeds which were sold to other for production of hybrid seeds for ultimate utilization by the farmers and assessee has no licensing OR expertise to produce and sell hybrid seeds and all activities are land related and thus qualify for exemption under the Act.
”

2. All the grounds raised by the assessee are interrelated and interconnected and relate to challenging the order of the Ld. CIT(A) in upholding the order of the AO in disallowing the claim of exempt income from the sale of foundation seeds. Therefore, we have decided to adjudicate these grounds through the present consolidated order.

3. We have heard the counsels for both parties. From the records, we notice that while scrutinizing the return filed by the assessee, the AO observed that the assessee, for the first time, had claimed that it was carrying on agricultural activity and had claimed the income derived therefrom as exempt under Section 10(1) of the Act. It was also noticed that the entire revenue shown by the assessee from operations was on account of sale of “F/S, parent seeds and hybrid seeds” to its sister concern, Daftari Agro Private Limited.

On this issue, the assessee submitted that it was approved as an R&D company under Section 80IB(8A) of the Act by the Department of Scientific and Industrial Research for a period of 10 years, which ended in Financial Year 2012–13, and that till Financial Year 2014–15, the assessee was earning royalty income as well as income from sale of breeder and foundation seeds, and such income from sale of breeder and foundation seeds was offered to tax:

Till FY.2014-15, the assessee was earning royalty income as well as income from sale of breeder & foundation seeds and income from sale of breeder & foundation seeds was offered as Business Income and not as agricultural income since sale of breeder & foundation seeds was integral to the transfer of Technology on which Royalty income was earned.

In FY 2015-16, the assessee had no agreement or tie-up with any company for transfer of technology and hence, undertook mass scale production of seeds on the agricultural lands under its possession and sold the seeds to its customers in the same condition as they were reaped from the soil. Since the company had indulged in agricultural activity and earned income by selling its agricultural produce, the income was offered as agricultural income in FY.2015-16.

3. The AO was of the view that the main activity of the assessee was as follows:

(1) The main activity of the assessee is development of high yielding crop hybrids through R&D and the hybrid seed production for commercial purpose. Production of foundation seed is subservient to and incidental to its main activity of sale of hybrid seed. And therefore, production of foundation seed cannot be "Agricultural activity"

(ii) The activity of the assessee is an integrated and composite one, right from the R&D to the final marketing/sale of hybrid seeds which involves several stages and the first few stages cannot be isolated and termed as agricultural activity. It was also seen from details of income that upto AY 2015-16, it had shown income on sale of hybrid

seeds & royalty income which clearly shows that profits of assessee were primarily commercial and not agricultural. Upto the production of basic seed, the assessee carries on extensive research on the lands owned/leased by it and thereafter under its supervision, the basic seed is developed into hybrid seed, which is finally sold to the farmers. Therefore, the entire activity of the assessee is nothing. but business activity as the essential ingredients like adventure in nature of trade continuous and systematic activity and the profit motive were present.

(iii) It can be observed that the definition of agriculture as contemplated in section 2(1A) of the Income Tax Act, 1961 does not cover the activity of foundation seed production. Further, the assessee was an approved R & D company by Department of Scientific & Industrial Research up to A.Y 2013-14. This clearly indicates that the assessee was in the business of research and income from such activities cannot be treated as agricultural income. The foundation seeds produced by the assessee are the result of intensive research and other technical inputs. The activity of research was inextricably linked with the process of growing of foundation seed and both activities, therefore, had to be considered together. Foundation seed would not be possible only through normal agricultural operations, but involvement of research based scientific techniques had to be invariably there in the process. Therefore, foundation seed production is "Non agriculture and is a clear commercial activity.

(iv) On perusal of records, it was seen that the assessee had entered into MOU on 01.04.2004 with its sister concern Daftari Agro Pvt. Ltd for a period of 11 years i.e., upto 31.03.2015. In terms of this MOU, Daftari Agro Pvt. Ltd had granted right for commercial production and marketing thereof of the research products (seeds) developed by the assessee in India. The Daftari Agro Pvt. Ltd will pay the amount of receipt of foundation/parent seeds of research products for commercial seed production to the assessee company. Apart from the above, Daftari Agro Pvt. Ltd will pay the royalty over commercialization of research product on the net sale of commercial seed production on certain percentage. This activity was carried out up to A.Y.2015-16 i.e., till 31.03.2015. After the expiry of the MOU in the current AY., the assessee continued to carry out the same activities terming them as agricultural activities. The entire products were sold to its sister concern Daftari Agro Pvt. Ltd, as done in earlier years and no royalty has been received in the year under consideration. The activities carried out by the assessee in the FY.2015-16 was same as in earlier years and there was no change in the activity of the assessee company and hence claiming the receipts as agricultural income to claim exemption u/s.10(1) of the Income Tax Act, 1961 is not justifiable.

2(e). Thereby, the AO treated the entire income as business income and denied exemption amounting Rs.70.99,900/- claimed by the assessee u/s.10(1) of the Income Tax Act, 1961.

4. Now before us, the assessee has reiterated the same arguments as were raised by him before the Revenue Authorities and has specifically relied upon the statement of facts filed before the Ld. CIT(A), the same being at para nos. 4 and 5 of the order of the Ld. CIT(A). On the contrary, the Ld. DR relied upon the orders passed by the Revenue Authorities and submitted that the appeal of the assessee be dismissed, contending that the income generated by the assessee does not fall within the ambit of agricultural income, and has relied upon various judicial precedents.

5. After hearing the counsels for both parties at length and meticulously going through the records, we find that the assessee is engaged in the production of basic/foundation seeds on its own or leased land, as such seeds cannot be produced without agricultural activities, and are result of agricultural operations.

6. The AO, however, treated the activities of the assessee as business/research, ignoring the fact that operations such as sowing, breeding, watering, pollinating, etc., are basic agricultural operations.

7. Even otherwise, the approval as an R&D company had expired in 2013 and the MoU with the sister concern had also

expired in 2015. Thus, with effect from A.Y. 2016–17, the operations of the assessee were purely agricultural.

8. We are also of the view that when seeds and foundation seeds are grown successfully, considerable scientific input is required as a necessary condition. The conditions are controlled and the effect of natural forces is minimized. Therefore, it is only after such a skillful and scientific process that such seeds are grown. On this proposition, we place reliance upon the decision of the jurisdictional ***Bombay High Court (Aurangabad Bench)*** in ***ITA Appeal Nos. 20, 21, 22, 23, 24, 25 and 26 of 2014*** in the case titled ***CIT vs. Ajeet Seeds Limited***, decided on 18.06.2025, the operative portion of which is contained in para 7.

9. Although the Ld. DR has relied upon the decision in the case of ***CIT vs. Raja Benoy Kumar Sahas Roy (1957)***, a copy of the said decision was not placed on record. However, a written synopsis was submitted which contains the title of the decision. After going through the written synopsis of the respondent, we find that the decision relied upon by the Revenue, in fact, goes against it, as the Hon'ble Supreme Court in the said case has held that for income to qualify as agricultural income, there must be basic agricultural operations on the land such as tilling, sowing, planting, and similar human efforts involving expenditure of skill and labour. It was further held that income from forests of spontaneous growth, where there is ***no human effort in cultivation, cannot be treated as agricultural income.***

10. We are of the view that the above-cited decision relied upon by the Revenue is not applicable to the facts of the present case. In the present case, as discussed above, the assessee has carried out basic agricultural operations on the land, including tilling, sowing, and planting, involving human effort, skill, and labour, as also recognized by the Hon'ble Bombay High Court in the case of ***Ajeet Seeds Limited (supra)***.

11. Thus, relying upon the decision of the jurisdictional Bombay High Court, which is applicable to the facts of the present case, we are of the considered view that the activities carried out by the assessee fall ***within the definition of agricultural activities***. Accordingly, the assessee is entitled to exempt income in respect of income accrued from the sale of foundation seeds.

12. Consequently, the grounds raised by the assessee are allowed.

13. In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 01.04.2026

SD/-

(PRABHASH SHANKAR)
ACCOUNTANT MEMBER

SD/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 01/04/2026

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

1. अपीलार्थी / The Appellant

2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/BY ORDER,

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai