

**IN THE HIGH COURT FOR THE STATE OF TELANGANA ::  
HYDERABAD**

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**INCOME TAX TRIBUNAL APPEAL Nos.91 and 92 of 2008**

Between:

M/s. A.G. Biotech Laboratories (India) Ltd.  
Bachupalli Village, Outbullapur Mandal,  
Ranga Reddy District.

Appellant

VERSUS

Income Tax Officer,  
Ward-1(1), Hyderabad.

Respondent

**COMMON JUDGMENT PRONOUNCED ON: 21.11.2025**

**THE HON'BLE SRI JUSTICE P.SAM KOSHY  
AND  
THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA**

1. Whether Reporters of Local newspapers  
may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be  
marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to  
see the fair copy of the Judgment? : **Yes**

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**P.SAM KOSHY, J**

**\* THE HON'BLE SRI JUSTICE P.SAM KOSHY**  
**AND**  
**THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA**  
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! Counsel for appellant : Mr. A.V.A. Siva Kartikeya, learned  
counsel appearing on behalf of  
Mr. A.V. Krishna Koundinya.

^ Counsel for respondent : Ms. Bokaro Sapna Reddy, learned  
Senior Counsel for Income Tax  
Department appearing on behalf of  
Mr. J.V. Prasad, learned Senior  
Standing Counsel for Income Tax  
Department.

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> HEAD NOTE:

? Cases referred

- 1) 2014 SCC OnLine Guj 13112
- 2) 241 ITR 530
- 3) (1957) 32 ITR 466 : 1957 SCC OnLine SC 34
- 4) ITTA No.88 of 2014, decided on 21.02.2014
- 5) [2025] taxmann.com 486 (Telangana)

**THE HON'BLE SRI JUSTICE P.SAM KOSHY**

**AND**

**THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA**

**INCOME TAX TRIBUNAL APPEAL Nos.91 and 92 of 2008**

**COMMON JUDGMENT:** *(per the Hon'ble Sri Justice P.Sam Koshy)*

Heard Mr. A.V.A. Siva Kartikeya, learned counsel appearing on behalf of Mr. A.V. Krishna Koundinya, learned counsel for the appellant; and Ms. Bokaro Sapna Reddy, learned Senior Standing Counsel for the Income Tax Department appearing for Mr. J.V. Prasad, learned Senior Standing Counsel for the Income Tax Department, for the respondent.

2. Income Tax Tribunal Appeal No.91 of 2008 is filed by the appellant / assessee under Section 260A of the Income Tax Act, 1961 (for short the 'Act') assailing the order passed by the Income Tax Appellate Tribunal, Hyderabad Bench 'B' Hyderabad (for short the 'ITAT') in I.T.A.No.1172/Hyd/2006, for the assessment year 2002-03, decided on 28.09.2007. Similarly, Income Tax Tribunal Appeal No.92 of 2008 is filed by the same assessee under Section 260A of the Act assailing the order passed by the ITAT, in

I.T.A.No.1173/Hyd/2006, for the assessment year 2003-04, which also stands decided on 28.09.2007.

**3.** Since the issue involved in both the Appeals is one and the same, the parties to be dispute being the same, and the contentions raised on either side also being the same, we proceed to decided the two Appeals by this common judgment.

**4.** For convenience, the facts in Income Tax Tribunal Appeal No.91 of 2008 are discussed hereunder.

**5.** The appellant M/s.A.G. Biotech Laboratories (P) Ltd. is engaged in the business of micro-propagation of plants through tissue culture technology. The primary dispute in the instant case is classification of income earned by the assessee from the sale of tissue-cultured plants for the assessment year 2002-03. The assessee claimed that this income should be treated as agricultural income exempt from tax under Section 10(1) of the Act. The Income-tax Officer rejected this claim and treated the income as business income subject to taxation. The tissue culture process adopted by the assessee involves taking tissue samples from mother plants grown on land, culturing these tissues in a clinical

laboratory under sterile conditions, multiplying the plant material through micro-propagation techniques, and subjecting the cultured plants to various processes to make them suitable for withstanding normal atmospheric conditions before finally selling these plants in the market. However, the ITAT examined the entire process undertaken by the assessee and noted that through micro-propagation, a single explant can be multiplied into several thousand plants in less than one year, representing a significant technological advancement over traditional agricultural methods. The major part of the activities was performed in a laboratory under sterile conditions using sophisticated scientific technology and research, while land was used only incidentally to grow mother plants from which tissues were extracted.

**6.** Thus, the ITAT held that plant were not a direct result of basic agricultural operation on land but rather the outcome of advance scientific methods.

**7.** Now the question that arise for consideration by this Bench is “whether the resultant product sold in the market was a direct result of basic agricultural operations carried out on land involving human skill and labour, or whether it was primarily the outcome of

scientific and technological processes conducted in clinical laboratories, thereby constituting business or professional income rather than agricultural income?"

**8.** The primary contention of the learned counsel for the appellant was that their operations were rooted in agriculture activities, as they cultivated mother plants on leased agriculture land. These mother plants served as the source material from which tissues were extracted for micro-propagation process. Further, mother plants required the performance of all basic agricultural operations like preparing and tilling the soil, planting seeds or saplings, regular watering and irrigation, application of manures and fertilizers, weeding, and ongoing maintenance and care. Without these foundational agricultural activities carried out on land involving human skill and labor, their business would simply not exist.

**9.** Learned counsel for the appellant further contended that the tissue extracted from these mother plants was not an independent creation but a direct derivative of the agricultural produce grown on the land. Therefore, he argued that the resultant income from selling plants propagated from this agricultural source material

should be treated as agricultural income, as the entire chain of production originated from and depended upon basic agricultural operations performed on land.

**10.** Learned counsel for the appellant relying upon the decision of the Gujarat High Court in **Shri Puransingh M. Verma vs. CIT**<sup>1</sup> drew the attentions of this Bench in comparing with the nursery operations that were held to constitute agriculture income. He argued that just as nursery businesses involve basic agricultural operations like tilling, sowing, planting, watering, and manuring, which qualify the resulting income as agricultural despite involving pots and controlled environments, tissue culture operations similarly require fundamental agricultural activities after the laboratory phase. He further submitted that once the plantlets are micro-propagated through scientific methods under sterile conditions, they must still be hardened and grown in actual land where all the same basic agricultural operations become necessary to achieve better yields. This process involves human skill and labour on the land itself transforming the scientifically developed material into marketable produce through traditional cultivation

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<sup>1</sup> 2014 SCC OnLine Guj 13112

methods. He therefore contended that since the income ultimately derives from plants that undergo complete agricultural operations on land, just as nursery plants do, the income from tissue culture should logically be treated as agricultural income rather than business income, especially given that the Gujarat High Court recognized nursery income as agricultural despite its commercial and scientific elements.

**11.** Similarly, the learned counsel for the appellant relied on the decision of the Madras High Court in the case of **CIT vs. Soundarya Nursery**<sup>2</sup> wherein it was held that income from the sale of plants grown in pots constituted agricultural income because the plants were the result of basic agricultural operations carried out on land, even though they were ultimately sold in pots rather than directly from the ground. Similarly, they too were engaged in growing mother plants through agricultural operations from which they derived tissue that was then used to propagate more plants through scientific methods. Therefore, the intermediate steps of tissue extraction and laboratory propagation should not change the essential agricultural character of the income, just as transferring

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<sup>2</sup> 241 ITR 530

plants to pots did not change the agricultural nature of income in the **Soundarya Nursery** (supra). Therefore, he argued that the use of modern scientific techniques in their process was merely an enhancement of agricultural methodology rather than a fundamental departure from agriculture itself.

**12.** Learned counsel for the appellant further contended that modern agriculture is no longer limited to traditional methods of sowing seeds and harvesting crops, but now encompasses a wide range of scientific applications including hybrid seed development, genetic selection, controlled environment cultivation, precision farming, and biotechnology. Moreover, he argued that tissue culture technology is fundamentally an agricultural technique which is more efficient, reliable, and productive method of plant propagation that serves the ultimate purpose as traditional agricultural methods, namely the production of plants for cultivation and consumption. Therefore, adopting a narrow or archaic definition of agriculture that excluded modern scientific methods would be contrary to the legislative intent behind Section 2(1A) of the Act.

**13.** Lastly, the learned counsel for the appellant contended that tissue culture technology provided substantial and critical support

to Indian farmers and the agricultural sector as a whole by enabling the production of high-quality, disease-free, and genetically uniform planting material for fruits, spices, plantation crops, and other agricultural products. This technology has helped farmers significantly increase their productivity, reduce crop losses due to disease, ensure consistency in crop quality, and ultimately improve their per capita income and standard of living. Thus, treating their income other than agriculture income is illogical and unjust and that their activities had been officially recognized and classified as agricultural by multiple authorities, including the Government of Andhra Pradesh and various banking and financial institutions. These governmental and financial bodies provided them with agricultural incentives, subsidies, and loans specifically on the basis that their tissue culture operations constituted agricultural activity. Therefore, the classification by competent authorities who had examined their operations in detail should be given substantial weight in determining the true nature of their business for income tax purposes.

**14.** The learned counsel for the appellant also placed reliance on the following table which shows the difference between nursery and

tissue culture activities, which for ready reference is reproduced hereunder:

Sl. No.	Nursery / traditional plants production	Tissue culture / micro-propagation plants production
1.	Traditional production of plants through grafting, budding, layering, cutting and seedlings and which requires large land area and will take longer period for propagation.	Tissue culture is the cultivation of plant tissue or organs on specially formulated soil nutrient media. In this way, thousands of copies of a plant can be produced in a short time.
2.	The primary source of the plants in the nursery production was the large number of mother plants which are growing in blocks on the land and requires human labour and manures and fertilizers. The mother plants also growing on land in raised beds under Green House or shade house.	The primary source of the plants in the tissue culture activities was the mother plant, which is reared on earth / land and for which certainly contribution of human labour and energy was essential, The no. of mother plants are less compared to nursery production
3.	Requires large parts of the mother plant and sometimes whole plant used for propagation	Requires small tissues or organs of the mother plant for propagation
4.	Propagation of plants slow and genetic variation may occur during propagation.	Rapid propagation of superior plant while maintaining its genetic make up.
5.	Nursery activity requires, mother plants, nursery, green houses, shade and houses skilled manpower and regular	Tissue culture application only requires a sterile workplace /containers based on land, mother plants growing farm, nursery and

	manures and fertilisers, pesticides and watering.	green house/shade house and skilled manpower and regular manures and fertilisers and watering
6.	Production of the plants in containers/pots/poly bags in open area in polybags and containers with more soil, sometimes carry the pest and diseases.	The Production of the plants in sterile containers that allows them to be moved with greatly reduced chances of transmitting diseases, pests and pathogens.
7.	In the nursery production also, the mother plants are the result of the basic operations on the land on expending human skill and labour thereon and it is only after the performance the basic operations on the land, the resultant product grown or such part thereof as was suitable for being nurtured in a pots/poly bags for propagation, was separated and placed in a pots/poly bags and nurtured with water and by placing them in the green house or in shade and after performing several operations, such as weeding, watering, manuring, etc., they are made ready for sale as plants, all these agricultural operations Involves human skill and effort. Thus, the plants sold by through nursery propagation	In the tissue culture, the mother plants are the result of the basic operations on the land on expending human skill and labour thereon and it is only after the performance of the basic operations on the land, the resultant product grown or such part thereof as was suitable for being nurtured in a sterile containers for mass propagation, was separated and placed in a pots/poly bags and nurtured with water and by placing them in the green house or in shade and after performing several operations, such as weeding, watering, manuring, etc., they are made ready for sale as plants, all these agricultural operations involves human skill and effort. Thus, the plants sold by through tissue culture propagation in pots/poly bags were the result of primary as well as subsequent

	in pots/poly bags were the result of primary as well as subsequent operations comprehended within the terms "agriculture and they are clearly the products of agriculture.	operations comprehended within the terms "agriculture" and they are clearly the products of agriculture.
8.	Basic operations of agriculture were carried out on land in greenhouse / shade house which require human skill and labour, and subsequent operations, no matter how sophisticated, were only to foster the growth and to protect the produce, therefore, Income from these operations can only be said to be agricultural Income. Therefore, merely because a greenhouse was Involved, the nature of operations would not change.	Basic operations of agriculture akin to nursery production were carried out on land in greenhouse which require human skill and labour, and subsequent operations, no matter how sophisticated, were only to foster the growth and to protect the produce, therefore, Income from these operations can only be said to be agricultural Income. Therefore, merely because a greenhouse was Involved, the nature of operations would not change.
9.	To maintain mother stock under openly condition and sometimes diseases escaped and transmitted through nursery propagation.	To maintain mother stock plants under controlled condition, elimination of diseases escaped from plant propagative material.
10	Nursery activities are to prepare seedlings on scientific lines: that the mother plants are grown onprepared beds on lands and the plants are then grafted or budded; that the resulting grafts are transplanted in suitable	Tissue culture activities are to prepare seedlings on scientific lines: that the mother plants are grown onprepared beds on lands owned by It and the plants are then micro-propagated that the resulting seedlings are transplanted in

<p>containers and are reared in green houses or in shade and after they take root, they are transmitted to large containers filed with top soil and manure, etc, till they establish themselves; and there after those plants are sold.</p>	<p>suitable containers and are reared in green houses or in shade and after they take root, they are transmitted to large containers filed with top soil and manure, etc, till they establish themselves; and there after those plants are sold.</p>
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**15.** *Per contra*, the learned Senior Standing Counsel for the Income Tax Department contended that the income derived from the sale of tissue culture plants constitutes as business income. The statutory definition of the agricultural income under Section 2(1A) of the Act requires that income must be derived from the land through the basic agricultural operations involving human skill and labour and that the appellant's activities failed to satisfy this fundamental requirement. Further, she argued that while the appellant did maintain some mother plants on leased agricultural land, this represented only an incidental and preliminary step in their overall business process, rather than the substantive activity from which income was generated. However, the significant portion of the appellant's operations took place not on agricultural land but rather in sophisticated clinical laboratories under sterile conditions where tissues extracted from mother plants were subjected to

complex scientific processes of micro-propagation, multiplication, and hardening. These laboratory operations were fundamentally scientific, technological and industrial in character rather than agricultural, involving specialized technical knowledge, expensive equipment, controlled environmental conditions and scientific research rather than the traditional agricultural activities of tilling, sowing, watering and harvesting that the legislature contemplated when defining agricultural income for tax exemption purposes.

**16.** Furthermore, the learned Senior Standing Counsel argued that judicial precedents cited by the learned counsel for the appellant were factually distinguishable and legally inapplicable to the present case, and that the appellant had mischaracterized the true nature of the holdings in those cases to support their position. With respect to the Madras High Court's decision in **Soundarya Nursery** (supra) and the Gujarat High Court's decision in **Shri Puransingh M. Verma** (supra), she contended that the case involved a fundamentally different fact pattern where plants were actually grown on land through traditional agricultural operations and were merely transferred to pots for convenience of sale and transportation. Whereas in the appellant's case, the plants sold

were not the direct product of agricultural operations on land but rather were created through laboratory multiplication of tissue samples in a scientific process that bore little resemblance to conventional farming. Moreover, in the nursery case the basic agricultural operations performed on land were the primary and essential activities that produced the plants that were sold, whereas in the appellant's tissue culture business, the agricultural operations on land were merely preliminary steps to obtain source material, and the actual commercial product, and thousands of micro-propagated plantlets, was manufactured in the laboratory through scientific technology.

**17.** Learned Senior Standing Counsel rejected the appellant's reliance on classifications made by the State Government and various banking institutions that had treated the appellant's activities as agricultural for purposes of providing incentives, subsidies, and financial assistance. Therefore, these classification by other governmental departments and financial institutions while perhaps appropriate for the limited purposes for which they were made, such as determining eligibility for agricultural development schemes or agricultural credit facilities, had no bearing whatsoever

on the proper classification of income under the Act which is governed by specific statutory definitions and judicial interpretations that must be applied uniformly across all taxpayers.

**18.** Thereafter, the learned Senior Standing Counsel argued that the definition of agricultural income in Section 2(1A) of the Act is a matter of central legislation that cannot be varied or modified by state government policies or banking practices and that permitting such external classifications to influence income tax assessments would create uncertainty, inconsistency, and opportunities for manipulation in tax administration. Therefore, different statutes and different administrative schemes may legitimately adopt different definitions and classifications appropriate to their respective purposes, but for income tax purposes, only the statutory definition in the Act is interpreted. Furthermore, she argued that the motivations behind the state government classifications, such as promoting biotechnology industries, encouraging rural employment, or supporting agricultural development, while laudable from a policy perspective, could not override or supplant the clear legal requirements established by the parliament in the tax legislation.

**19.** Lastly, the learned Senior Standing Counsel contended that the social utility and beneficial impact of tissue culture technology on Indian agriculture and farmers' welfare are of economic policy and social benefit which could not justify treating income as agricultural when it did not meet the statutory definition and legal requirements established by the Act. Further, the learned Senior Standing Counsel argued that the tax system must be administered according to law rather than according to sympathy or policy preferences, and that while tissue culture technology may indeed provide valuable support to farmers and contribute to agricultural productivity, this fact alone cannot transform what is essentially business income from a scientific and technological enterprise into a tax-exempt agricultural income. Moreover, if the legislature wished to provide tax incentives or exemptions for bio-technology businesses that support agriculture, it could do so explicitly through appropriate amendments to the tax law, but such specific legislative provisions are absent. Therefore, the Revenue was bound to apply the existing statutory definitions and could not create *de-facto* exemptions based on the perceived social utility of particular businesses. Thus, the income from the sale of tissue

cultured plants must properly be assessed as business income subject to tax, and accordingly confirm the assessment orders treating the appellant's income as taxable business income for the assessment year 2002-03.

**20.** Having heard the contentions put forth on either side and on perusal of records, it would be relevant at this juncture to take note of the definition of agriculture as per the Provisions of the Finance Act, 2008, which reads thus:

*"4. Widening the scope of "agricultural income" 4.1 "Agricultural income" is defined in sub-section (1A) of section 2 of the Act to mean, inter-alia, income derived from land which is situated in India and is used for agricultural purposes. Such agricultural income is exempt from tax under sub-section (1) of section 10 of the Income-tax Act, 1961. It has been held by judicial authorities that whether income from nursery operations constitutes agricultural income or not, will depend on the facts of each case. If the nursery is maintained by carrying out basic operations on land and subsequent operations are carried out in continuation of the basic operations, then income from such nursery would be agricultural income not liable to tax under section 10. However, if the nursery is maintained independently without resorting to basic operations on land, then income from such nursery would not be agricultural income and would be liable to be included in the total income.*

*4.2 With a view to giving finality to the issue, an Explanation in section 2 of the Income-tax Act, has been inserted providing that any income derived from saplings or seedlings grown in a nursery*

*shall be deemed to be agricultural income. Accordingly, irrespective of whether the basic operations have been carried out on land, such income will be treated as agricultural income, thus qualifying for exemption under sub-section (1) of section 10 of the Act.*

*4.3 Applicability: This amendment has been made applicable with effect from 1<sup>st</sup> April, 2009 and shall accordingly apply for assessment year 2009-10 and subsequent assessment years."*

**21.** It would also be relevant to take note of a few judgments on the subject matter. Firstly, the Madras High Court in the case of **Soundarya Nursery** (supra) held in paragraph Nos.6, 8, 9 and 10 as under:

*"6. The Tribunal, after considering all the relevant facts, as also the applicable law, concluded that the assessee's activities are to prepare seedlings on scientific lines; that the other plants are grown on prepared beds on lands owned by it and the plants are then grafted or budded; that the resulting grafts are transplanted in suitable containers and are reared in green houses or in shade and after they take root, they are transmitted to large containers filled with top soil and manure, etc., till they establish themselves; and thereafter those plants are sold and that the primary source of the plant is the mother plant, which is reared on earth and for which activities, certainly contribution of human labour and energy are essential.*

*8. Our attention was then invited by learned counsel to the decision of the Supreme Court in the case of CIT v. Raja Benoy Kumar Sahas Roy, [1957] 32 ITR 466, which is the leading case of "agriculture". It was held therein that agriculture in its primary sense denotes the cultivation of the field and is restricted to*

*cultivation of the land in the strict sense of the term, meaning thereby tilling of the land, sowing of the seeds, planting and similar operations on the land and these are basic operations, which require the expenditure of human skill and labour upon the land itself. The apex court further held that besides the basic operations, the subsequent operations would also be comprehended within the terms of agriculture, and such subsequent operations are illustrated as weeding, digging the soil around the growth, removal of undesirable undergrowth and all operations which foster the growth and preservation of the same not only from insects and pests, but also from deprecation, from outside, tending, pruning, cutting, harvesting and rendering the produce fit for the market, which would all be agricultural operations, when taken in conjunction with the basic operations.*

*9. All the products of the land, which have some utility either for consumption or for trade or commerce, if they are based on land, would be agricultural products. Here, it is not the case of the Revenue that without performing the basic operations, only the subsequent operations, as described in the decision of the apex court have been performed by the assessee. If the plants sold by the assessee in pots were the result of the basic operations on the land on expending human skill and labour thereon and it is only after the performance of the basic operations on the land, the resultant product grown or such part thereof as was suitable for being nurtured in a pot, was separated and placed in a pot and nurtured with water and by placing them in the green house or in shade and after performing several operations, such as weeding, watering, manuring, etc., they are made ready for sale as plants all these questions would be agricultural operations all this involves human skill and effort. Thus, the plants sold by the assessee in pots were the result of primary as well as subsequent operations*

*comprehended within the term "agriculture" and they are clearly the products of agriculture.*

*10. So far as the seeds are concerned, we are surprised that, that question should have been raised at all by the Revenue, as it is not possible for the seeds to exist without the mother plants, and the mother plant, it is nobody's case, was not grown on land. It is also not the case of the Revenue that the seeds were the result of the wild growth and not on account of cultivation by the assessee. The seeds were clearly a product of agriculture and the income derived from the sale of seeds, was agricultural income."*

**22.** The Hon'ble Supreme Court in **CIT v. Benoy Kumar Sahas Roy**<sup>3</sup> held in paragraph Nos.89 and 91 as under:

*"89. We have, therefore, to consider when it can be said that the land is used for agricultural purposes or agricultural operations are performed on it. Agriculture is the basic idea underlying the expressions "agricultural purposes" and "agricultural operations" and it is pertinent therefore to enquire what is the connotation of the term "agriculture". As we have noted above, the primary sense in which the term agriculture is understood is agar — field and cultra — cultivation i.e. the cultivation of the field and if the term is understood only in that sense, agriculture would be restricted only to cultivation of the land in the strict sense of the term meaning thereby, tilling of the land, sowing of the seeds, planting and similar operations on the land. They would be the basic operations and would require the expenditure of human skill and labour upon the land itself. There are however other operations which have got to be resorted to by the agriculturist and which are absolutely necessary for the purpose of effectively raising the produce from*

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<sup>3</sup> (1957) 32 ITR 466 : 1957 SCC OnLine SC 34

*the land. They are operations to be performed after the produce sprouts from the land e.g. weeding, digging the soil around the growth, removal of undesirable under-growths and all operations which foster the growth and preserve the same not only from insects and pests but also from deprecation from outside, tending, pruning, cutting, harvesting, and rendering the produce fit for the market. The latter would all be agricultural operations when taken in conjunction with the basic operations above described, and it would be futile to urge that they are not agricultural operations at all. But even though these subsequent operations may be assimilated to agricultural operations, when they are in conjunction with these basic operations, could it be said that even though they are divorced from these basic operations they would nevertheless enjoy the characteristic of agricultural operations? Can one eliminate these basic operations altogether and say that even if these basic operations are not performed in a given case the mere performance of these subsequent operations would be tantamount to the performance of agricultural operations on the land so as to constitute the income derived by the assessee therefrom agricultural income within the definition of that term?*

**91.** *In considering the connotation of the term "agriculture" we have so far thought of cultivation of land in the wider sense as comprising within its scope the basic as well as the subsequent operations described above, regardless of the nature of the products raised on the land. These products may be grain or vegetables or fruits which are necessary for the sustenance of human beings including plantations and groves, or grass or pasture for consumption of beasts or articles of luxury such as, betel, coffee, tea, spices, tobacco etc., or commercial crops like, cotton, flax, jute, hemp, indigo etc. All these are products raised from the land and the term "agriculture" cannot be confined merely to the production of grain and food products for human beings and beasts*

*as was sought to be done by BhashyamAyyangar, J., in Murugessa Chetti v. Chinnathambi Goundun [(1901) ILR 24 Mad 421, 423] or Sadashiva Ayyar, J., in Rajah of Venkatigiri v. Ayyappa Reddi [(1913) ILR 38 Mad 738] but must be understood as comprising all the products of the land which have some utility either for consumption or for trade and commerce and would also include forest products such as timber, sal and piyasal trees, casuarina plantations, tendu leaves, horranuts etc."*

**23. The Gujarat High Court in the case of Shri Puransingh M.**

**Verma** (supra) held as under:

*"If the term "agriculture "is thus understood as comprising within its scope the basic as well as subsequent operations in the process of agriculture and the raising on the land of products which have some utility either for consumption or for trade and commerce, it will be seen that the term "agriculture "receives a wider interpretation both in regard to its operations as well as the results of the same'. Nevertheless there is present all throughout the basic idea that there must be at the bottom of it cultivation of land in the sense of tilling of the land, sowing of the seeds, planting, and similar work done on the land itself This basic conception is the essential sine qua non of any operation performed on the land constituting agricultural operation. If the basic operations are there, the rest of the operations found themselves upon the same. But if these basic operations are wanting the subsequent operations do not acquire the characteristic of agricultural operations. All these operations no doubt require the expenditure of human labour and skill but the human labour and skill spent in the performance of the basic operations only can be said to have been spent upon the land. The human labour and skill spent in the performance of subsequent operations cannot be said to have been spent on the land itself,*

*though it may have the effect of preserving, fostering and regenerating the products of the land.*

*This distinction is not so important in cases where the agriculturist performs these operations as a part of his integrated activity in cultivation of the land. Where, however, the products of the land are of spontaneous growth, unassisted by human skill and labour, and human skill and labour are spent merely in fostering the growth, preservation and regeneration of such products of land, the question falls to be considered whether these subsequent operations performed by the agriculturist are agricultural operations and enjoy the characteristic of agricultural operations."*

*[Emphasis Supplied]*

*6.2 In the case of Green Gold Tree Farmers P. Ltd. (supra), similar case wherein the assessee also used to carry on nursery business came up for consideration before the Uttarakhand High Court. The Uttarakhand High Court relying upon the decision of the Apex Court in the case of Raja Benoy Kumar Sahas Roy (supra) held that sale proceeds of the land belonging to the assessee constituted income from agriculture and hence should be exempted from tax under the Act. The relevant paragraphs are quoted as under:*

*The terms "agriculture" and "agricultural purposes" not having been defined in the Indian Income-tax Act, but necessarily fall back upon the general sense in which they have been understood in common parlance. "Agriculture" in its root sense, means a gear, a field and cultivate, cultivation of field which of course implies expenditure of human skill and labour upon land. Turning to the dictionary meaning of "agriculture", Webster's New International Dictionary describing it as the art or science of cultivating the ground, including rearing and management of livestock husbandry farming, etc., and also including in its good sense farming, horticulture, forestry, butter and cheese making, etc. Murray's Oxford Dictionary*

*describes it as the science and art of cultivating the soil, including the allied pursuits of gathering in the crop and rearing livestock, tillage, husbandry, farming in the widest sense. In Bouviers' Law Dictionary quoting the Standard Dictionary agriculture is defined as the cultivation of soil for food products or any other useful or valuable growths of the field or garden, tillage, husbandry, also by extension, farming, including any industry practised by cultivator of the soil in connection with such cultivation as breeding and rearing of stock, dairying, etc. The science that treats of the cultivation of the soil. In Corpus juris Secundum the term "agriculture" has been understood to mean, art or science of cultivating the ground, especially in fields of large quantities, including the preparation of soil, the planting of seeds, the raising and harvesting of crops, and the rearing, feeding and management of livestock tillage, husbandry and farming. In its general sense, the word also includes gardening or horticulture. Century Dictionary and Anderson's Dictionary of Law: The primary meaning of 'agriculture' is the cultivation of the ground, and in its general sense, it is the cultivation of the ground for the purpose of procuring vegetables and fruits for the use of man and beast including gardening or horticulture and the raising or feeding of cattle and other stock. Wharton's Law Lexicon adopts the definition of agriculture, in 8 Edn. VII, C. 36. As including horticulture, forestry and the use of land for any purpose of husbandry, etc. In 10 Edn. VII, C8, Section 41, it was defined so as to include the use of land as meadow or pasture land or orchard or osier or woodland or for market gardens, nursery grounds, or allotments, etc. In 57 and 58 Vict C 30 Section 22, the term "agricultural property" was defined so as to include agricultural land, pasture, and woodland, etc."*

**24.** This High Court also in the case of **The Commissioner of Income Tax, Hyderabad vs. M/s. Prabhat Agri-Biotech Ltd.**<sup>4</sup>

had an occasion of dealing with a similar issue which arose for consideration and while considering the said issue, it was held as under:

*"In this case, we find that the assessee claimed for exemption under Section 10 (1) of the Income Tax Act, 1961 treating the income generated from the sale of basic/foundation seeds as agricultural income. Therefore, the question is whether the income arising from out of the sale of seeds can be treated to be income otherwise than the agricultural income. No one can dispute that the seed is the product of agricultural activity and the seeds cannot be sold commercially, unless it is produced by agricultural activity.*

*We are unable to accept this farfetched idea that artificial production of seeds can be sold or used for commercial purpose. May be a few hybrid seeds could be produced by artificial method in a laboratory. The seeds so produced with non-agricultural activity again will have to be sown in the agriculture field to have a larger quantity for sale in the market. Accordingly, we hold that the seed is a product of agricultural activity. Therefore, the sale of the same cannot be brought under the provisions of the Income Tax Act. We, therefore, upheld the decision of the learned Tribunal in this matter."*

**25.** The fundamental question before us is whether the employment of advanced scientific techniques and laboratory-

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<sup>4</sup> ITTA No.88 of 2014, decided on 21.02.2014

based processes necessarily transforms what is essentially an agricultural activity into a commercial or business operation. In our view, the essence of the assessee's activity remains rooted in agriculture, the cultivation of mother plants on land through basic agricultural operations, followed by the multiplication and propagation of plant material through tissue culture technology. The fact that sophisticated scientific methods are employed to enhance efficiency and productivity does not alter the agricultural character of the underlying operation. Just as the use of modern machinery, hybrid seeds, or advanced irrigation systems does not convert traditional farming into a non-agricultural activity and the application of tissue culture technology which is merely an advanced form of plant propagation cannot be said to denature the agricultural foundation of the enterprise.

**26.** This Bench finds considerable merit in the learned counsel for the appellant's contention that tissue culture operations represents a natural evolution and modernization of traditional agricultural practices. The cultivation of mother plants on land involves all the basic agricultural operations contemplated under Section 2(1A) of the Act i.e. tilling, planting, nurturing, and harvesting. The

subsequent laboratory based multiplication process is essentially an extension and intensification of the propagation that would otherwise occur naturally or through conventional vegetative methods such as grafting, layering, or cutting. The legislature, in defining agricultural income did not intend to freeze the concept of agriculture in a time warp or restrict it to primitive methods of cultivation. Agriculture, like all human endeavors, evolves with technological advancement and the introduction of tissue culture technology serves the same purpose as traditional agricultural methods, the production of plant material for cultivation, but achieves this objective with greater efficiency, uniformity, and disease-free quality. To deny the agricultural character of such operations merely because they employ modern scientific techniques would be ignoring the reality of contemporary agricultural practices and would create an arbitrary distinction that finds no support in the statutory language or legislative intent.

**27.** Interestingly, this very Bench recently in **The Principal Commissioner of Income Tax vs. M/s. Nuziveedu Seeds**

**Ltd.**<sup>5</sup> regarding hybrid seeds has taken a remarkably progressive view on agricultural income classification and this perspective holds significant relevance for tissue culture operations. In the said case, this Bench recognized that even though the assessee company was not directly involved in agricultural operations but worked through farmers using scientific research, hybridization techniques, and extensive supervision and the income still qualified as agricultural income. The Bench specifically noted that while the production involved scientific study, research and development of parent seeds, and elaborate technical processes, the crucial factor was that the cultivation occurred under the company's supervision and control on agricultural land. This reasoning suggests that where agricultural operations forms the foundational basis of the enterprise even when sophisticated scientific technology is employed to enhance or multiply plant material, the income may still retain its agricultural character. The Bench also emphasized on the indirect involvement through contracted farmers who performed agricultural operations under the company's technical guidance which mirrors the situation in tissue culture where

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<sup>5</sup> [2025] taxmann.com 486 (Telangana)

mother plants are grown on leased land and laboratory processes serve to multiply and enhance the basic agricultural output. Thus, the same logic also apply to tissue culture operations that begin with basic agricultural operations and use laboratory techniques merely as an advanced method of plant propagation rather than a complete departure from agriculture.

**28.** In light of the foregoing analysis and following the precedent established by various Courts earlier in similar cases involving the production of agricultural products through modern scientific methods, we hold that the income earned by the assessee from the sale of tissue cultured plants constitutes agricultural income within the meaning of Section 2(1A) of the Act and is therefore exempted from tax under Section 10(1) of the Act holding that mother plants are grown on land owned or leased by the assessee through basic agricultural operations and the tissue culture process that follows is merely an advanced method of propagating and multiplying the plant material derived from those mother plants. The fact that the multiplication occurs in a controlled laboratory environment rather than in open fields does not sever the essential connection to agriculture or transform the character of the income.

**29.** Taking into consideration the definition and also the precedents cited above, this Bench is of the considered opinion that the income derived from tissue culture operations by the assessee qualifies as agricultural income which is exempted under Section 10(1) of the Act. Accordingly, the instant Appeal viz., Income Tax Tribunal Appeal No.91 of 2008 filed by the assessee stands allowed and the question of law stands decided in favour of the assessee and against the Revenue.

**30.** Consequently, Income Tax Tribunal Appeal No.92 of 2008 also stands allowed.

**31.** As a sequel, miscellaneous petitions pending if any, shall stand closed. However, there shall be no order as to costs.

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**P.SAM KOSHY, J**

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**NARSING RAO NANDIKONDA, J**

Date: 21.11.2025

**Note:** LR Copy to be marked.  
(B/o)GSD