R K Trivedi
Executive Director

National Seed Association of India
(Registered under the Societies Registration Act.)

Ref. NSAI/2022/005

February 24, 2022

To,
Dr. K Rajeswara Rao,
Special Secretary,
NITI Aayog,
Sansad Marg,
New Delhi 110001

Dear Sir,

Subject: Request for recommendation for notification in the Income-tax Rules, 1962 for Seed production on the lines of Rules for manufacture of Rubber, Coffee and Tea.

1. CBDT, on **12th November 2014**, realising the potential revenue loss and unwarranted litigation leading to avoidable compliance cost to seed producers and administrative cost to government, directed its Directorate of Income Tax (Risk Assessment) to undertake a study for determination of non-agricultural income in the total income of seed industry.

2. The comprehensive study report of **March, 2015**, "Estimating Non-agricultural Income: Case of Seed Industry" by the Directorate of Income Tax (Risk Assessment), CBDT, recommended amendment in the Income-tax Rules, 1962 to "**provide that 20 percent of combined profits of an assessee engaged in the production and distribution of seed should be deemed to be non-agricultural income**" as in cases of Tea, Coffee and Rubber.

3. It is requested that a rule for income from seed production in the Income-tax Rules may kindly be notified at the earliest possible in view of detailed reasons contained in the March 2015's Study report of the Directorate of Income Tax (Risk Assessment), CBDT & the enclosed Note.

With regards,

Yours sincerely,

R K Trivedi

Encl.
1. **CBDT Report**
2. **Note for notification of Rule for share of Non-agricultural Income of Seed Industry**

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Subject: Reasons for notification in the Income-tax Rules for income from seed production, on the lines of Rules for manufacture of rubber, coffee and tea.

1. The taxation of production of seeds has been a subject matter of dispute for past 30 years. The Assessing officers have been treating entire income of seed production, in large number of cases, on the ground that seed production involves scientific operations or composite operations and are not pure agricultural operations.

2. The above issue has gone to various Tribunals and High Courts and the Tribunals and High Courts have consistently held the cases in favour of the Seed Producers. Despite the favourable Court rulings, the litigation on the same has not died down resulting into additional time and cost not only for the Seed Producers but also to the Exchequer.

3. The protracted tax litigations are jeopardizing the financial health and the production capacity of the seed sector and hindering innovations and new capital investments potentially slowing down new seed development.

4. In order to bring certainty in taxation and to end the litigation surrounding the same, the National Seed Association of India ('NSAI') has been representing to the Government of India to introduce a rule based taxation for seed industry (engaged in the cultivation of seeds through own/contract farming mechanism) similar to rule based taxation for tea (Rule 8), rubber (Rule 7A) and coffee (Rule 7B) wherein a portion of the income from cultivation of tea, coffee and rubber is treated as business income [i.e. taxable] and the balance income is considered as agriculture income [i.e. exempt under section 10(1) of the Income-tax Act, 1961.

5. **In the year 2002,** the Director General of Income Tax (Research): DGIT(R), CBDT, commissioned a study on the taxation of income from cultivation and sale of seeds. This study stated that given the clear position of law and considering that seeds were produced by conducting agricultural operations, the income from production and sale of seeds is exempt income under section 10(1) of the Act. The report, however, recommended that **in case any part of income from seed production is sought to be brought under the tax net, a rule may be made to tax a portion of the income from cultivation, processing and sale of seeds on the same lines as that of taxation of income from cultivation of rubber, coffee and tea.**

6. Furthermore, based on the past discussions with Joint Secretary (TPL), CBDT and to take forward the recommendation of the DGIT(R), the NSAI commissioned an expert study by India Development Fund ('IDF'), an economic research organization, and submitted the report to the Central Board of Direct Taxes ('CBDT'). IDF, after a thorough study of companies from the seed industry had recommended for bifurcation of **income**

from cultivation, processing and sale of seeds into agricultural and business income in the ratio of 82:18.

7. Again, in the year 2015, The Directorate of Income Tax (Risk Assessment), CBDT, after interacting with seed industry association and IDF presented a report on the taxation of Seed Industry recommending amendment in Income-tax Rules, 1962 to **"provide that 20 percent of combined profits of an assessee engaged in the production and distribution of seed should be deemed to non-agricultural income"** as in cases of Tea, Coffee and Rubber and further stated that such rule would go a long way in settling past disputes as well which are ailing this critical business for agricultural sector and would also help in augmenting revenue for the Government given that many Seed Producers are claiming 100% exemption for taxes.

8. In view of the above, it is clear that the CBDT in its own studies have recommended a rule-based taxation for the Seed Producers for:-
   - ✓ Tax-certainty to the seed sector;
   - ✓ Settlement of tax disputes;
   - ✓ Augmentation of government revenue.

9. Besides the same, if the disputes can be settled through introduction of rule-based taxation, this would greatly help in:-
   - ✓ Ease of doing business;
   - ✓ New capital infusion into the seed sector;
   - ✓ Channelizing time, energy and money towards R&D for coming out with new varieties of seeds so as contribute to improved crop productivity and profitability of farmers;
   - ✓ Training and educating farmers;
   - ✓ Development and growth of the agricultural sector and bringing prosperity to the farmers by doubling their income, which is the dream of the Hon'ble Prime Minister.

10. In view of the above, it is desirable that in exercise of the "power to make rules" under section 295(2)(a)(i) of the Act, a rule-based taxation be introduced for Seed Producers in line with the tea, coffee and rubber and which may be in the ratio of 80:20 between agricultural and business income as per the recommendation of the IDF and in the CBDT's own 2015 report.

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