

To,

Date:28.09.2022

Shri Tarun Bajaj, IAS,  
Revenue Secretary,  
Department of Revenue,  
Ministry of Finance,  
North Block, New Delhi – 110001

Respected Sir,

**Sub:** Request of National Seed Association of India (NSAI) for notification of a new Rule in the Income-tax Rules, 1962 for the 'Income from the business of the production and distribution by the seed producers in India' on the lines of Rule 7B (Coffee), Rule 8 (Tea)- For treating 20% as Business Income and 80% as Agricultural Income for Seed Producers.

**The issue of framing of Rule for seed producers, on similar lines of Rule for tea, coffee, and rubber producers, are under consideration of the Government for more than 21 years after considering possibility of taxation at least a part of the income from development and production of hybrid seeds by the DGIR in 2002.**

2. Studies in this regard were conducted by the Director General of Income Tax (Research), CBDT ("DGIR") in 2002 and again in 2015 by the Directorate of Income Tax (Risk Assessment), CBDT ("DIRA") as assigned by CBDT . After analyzing various aspects and practices in seed production, both DGIR in 2002 and DIRA in 2015 recommended 20 % Business Income (taxable) and 80% Agricultural Income (exempt) for Seed Producers.

**In the preface of the extensive Study Report of 2002, the Director General of Income Tax (Research), CBDT writes-**

***"4. Our study shows that the process of development and production of hybrid seeds is partly an agricultural operation and partly non-agricultural. It was also found that different companies treat the income from development and production of hybrid seeds for tax purposes differently. While some companies, principally the Indian arms of the foreign companies, claim the entire income to be agricultural, several Indian private companies as also almost all the state seed corporations treat the same as business income. There are also companies, which claim part of the income as agricultural and part as non-agricultural.***

***5. The study deals with all the queries raised by the Board and makes recommendations for future action in the matter. It has, inter alia, been suggested that a rule on the lines of rules 7A, 7B and 8 may be inserted in the Income Tax Rules to provide for taxing a part of income from hybrid seeds production.”***

The 2015 Study Report of the Directorate of Income Tax (Risk Assessment), CBDT also recommends as follows:

***“9.1 The seed sector is, indisputably, critical to a vibrant farm economy. Considering the importance of the seed sector and the existing precedence in Tea, Coffee and Rubber, a rule based approach is necessary to support this growing sector and to settle all the ongoing litigations. It is unlikely that the matter will be settled soon through judicial decisions. In the light of the discussions in the foregoing sections of this Report, it is recommended that the Income tax Rules, 1962 should be amended to provide that 20 percent of the combined profits of an assessee engaged in the production and distribution of seed should be deemed to be non- agricultural income for the purposes of taxation under the Income tax Act, 1961. Further, the Government should allow any such assessee, who is engaged in a pending litigation, to also take advantage of the new rule. Further, since the exercise was constrained by the limited availability of data, the allocation ratio may be reviewed after 5 years.***

***9.2 The advantage of making such a Rule lies in the fact that there shall be clarity and consistency in the approach of the Department towards Seed companies which undisputedly have a mixed activity of agricultural and non-agricultural operations. This shall also lead to an increase in revenue collection, as seed companies which are presently not paying taxes will be covered within the gambit of the new rule and at least 20 percent of their profits would be liable to tax. Going for a rule based approach will be a big step towards dispute resolution.”***

**3. Various representations have been made by National Seed Association of India (NSAI) over past 21 years and recently vide letters of NSAI dated 06.12.2021, 24.02.2022 & 27.03.2022 and personal meetings with the then Chairman, CBDT and the representatives of NSAI on 27.02.2022, 28.03.2022 and it has been submitted that notification of 20(Business):80(Agricultural) Rule would be a win-win situation for revenue and seed producers as it shall lead to: -**

- ❖ increase in taxable revenue,
- ❖ reduction in needless litigation,
- ❖ justice to seed producers on the lines of deductions, exemptions, and special rates of taxes available to most sectors of the economy.

### **3.1. INCREASE IN TAXABLE REVENUE**

- a) Almost all seed producers are claiming 100% exemption of income from seed production as agricultural income,
- b) In cases which are selected for scrutiny, whenever additions have been made by AO, in most cases, the additions have been deleted by CIT(A),
- c) ITATs have dismissed Departmental Appeals in almost all cases, treating the entire income as exempt agricultural income
- d) HCs, except in one known exception, has held that the entire income is exempt as agricultural income .

Thus, practically very small amount of tax is finally realised by the Government, but a notification in the lines of exempting 80% as agricultural income and 20% as taxable income through a Rule in the Income Tax Rules shall lead to substantial collection by way of tax on part of the income from seed production.

### **3.2. REDUCTION IN NEEDLESS LITIGATION**

Large number of disputes and litigation at the levels of AO, CIT(A), ITAT, HC etc shall get settled and future disputes shall be minimized leading to reduction in administrative costs to the Government & Compliance cost to the assessee.

### **3.3. JUSTICE TO SEED INDUSTRY AS MOST SECTORS & ASSESSES GETS UNDER THE INCOME-TAX ACT**

- ❖ Income-tax Act also provides simplified and liberalised tax regime inform of special provision for computing income on presumptive basis from Section 44AD to 44DA for business, profession, goods carriage business, retail, shipping & Aircraft & Civil construction business by Non-Residents, mineral oil exploration, co-operative banks etc.
- ❖ Allocation of business and agriculture income rules have been provided for production of tea, coffee, and rubber under Income-tax Rules in forms of Rule 8, 7A & 7B.
- ❖ Under Income-Tax Act, deduction under Chapter VIA have been provided to Industrial Undertakings, undertakings in backward areas, cold storage, hotel,

shipping , undertakings developing Infrastructure like road, port, airport, bridge, rail, power generation and transmission, telecom, SEZ, housing projects, Undertaking in NER, profits of collecting and processing bio-degradable waste, Start-ups, multiplex theatre, convention centre, hospitals, co-operatives etc but no such deduction has ever been provided for seed producers, may be assuming that the income from seed production, being essentially agricultural activity, is exempt.

**But certain AOs action to treat entire income as business income (even though it is consistently being deleted at appeal levels) is causing hardship to tax payers / assessee; and providing 20(Business):80(Agriculture) Rule for Seed Producers would be fair and just. The Seed Industry once freed from needless litigation can focus on its core activity for development of superior plant varieties and supply quality seeds for improving farm productivity and farmer income.**

**4. In view of the above, it is submitted that it would be in the national interest to notify taxable & exempt income allocation Rules for seed producers as early as possible.**

With regards,

Yours' Faithfully,  
For National Seed Association of India



M Prabhakar Rao  
President

Copies to:

1. Smt. Nirmala Sitharaman, Hon'ble Finance Minister, Government of India, North Block, New Delhi – 110001
2. Shri Nitin Gupta, IRS, Chairman, CBDT, New Delhi