



सत्यमेव जयते

PRODUCTION OF HYBRID SEEDS :

**Possibility Of Taxation
As
Non-Agricultural Income**

DECEMBER, 2002

**DIRECTORATE GENERAL OF INCOME TAX (RESEARCH)
309D, DRUM SHAPED BUILDING
INDRAPRASTHA ESTATE
NEW DELHI-110002**

Ajay Sund



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PREFACE

This study regarding the feasibility of taxing at least a part of the income from development and production of hybrid seeds was assigned by the Central Board of Direct Taxes to the Directorate General of Income tax (Research) vide Joint Secretary (TPL-I), Shri A. J. Majumdar's DO letter F. No. F No.153 /183/2001-02 dated 22.7.2002.

2. The study was assigned in view of the reports that the Indian arms of several multinational companies engaged in the business of producing hybrid seeds were earning substantial profits but were not paying any tax on the ground that they were engaged in agriculture. For example, Monsanto India Ltd., showed income of Rs. 17 crores for the assessment year 2001-02 but claimed it as exempt under section 10(1) of the Income tax Act.

3. The Board desired that we examine the modalities involved in the development and production of hybrid seeds, estimate the tax implication of the exemption under section 10(1) and study the feasibility of taxing at least the non-agricultural component involved in the hybrid seed production.

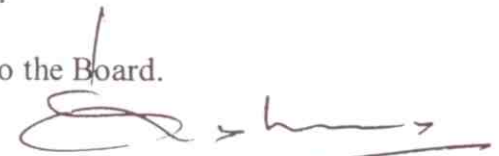
4. Our study shows that the process of development and production of hybrid seeds is partly an agricultural operation and partly non-agricultural. It was also found that different companies treat the income from development and production of hybrid seeds for tax purposes differently. While some companies, 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. It was also found by us that the revenue implication of the exemption is only about Rs.30 to 40 crores, though in future it may go up.

5. The study deals with all the queries raised by the Board and also 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 the income from hybrid seeds production.

6. The study, inter alia, involved collecting extensive macro and micro level data from various sources including the field formations of the IT Department, analysis thereof and drawing appropriate conclusions therefrom. The officers of the Directorate of Income tax (Research) who conducted the study deserve appreciation for the good work done by them. The concerned organisations, persons and the field officers who responded to our request for data deserve our thanks.

7. I hope the Board will find the study useful.

8. With these words, I commend the report to the Board.



(S. N. SHUKLA)

Director General of Income tax (Research)

New Delhi
December, 2002

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CHAPTER 1

INTRODUCTION

Charter of the Study:

The Central Board of Direct Taxes, through the D.O. Letter No. 153/183/2001-TPL dated 22.7.2002 of Shri A.J. Majumdar, Joint Secretary (TPL), CBDT (**Annexure 1-A**) assigned, to the Directorate General of Income Tax (Research), a study on the topic "**Production of Hybrid Seeds- Possibility of Taxation as Non-agricultural Income**". The background note to the study, enclosed with the aforesaid D.O. letter, suggested that the study be conducted on the following lines :-

- (i) *The nature and methodology employed for producing such hybrid seeds*
- (ii) *The feasibility of taxing at least the non-agricultural component, which goes into the production of hybrid seeds under the Direct Taxes.*
- (iii) *The total tax revenue, which might be involved in such cases".*

Hybrid Seeds:

1.2 Seed is a basic and critical input for achieving sustained growth in food grain production. It is the carrier of new technology for crop production. Hybrid Seeds are seeds of cross-bred plants which are developed after intense agricultural and bio-technological research.

1.3 In India, organized production and supply of quality seeds at the national level started during 1961-65 as a consequence of the introduction of hybrid technology. The release of high yielding dwarf varieties of wheat & rice by mid 1960s, gave further impetus to the growth of the seed industry. Initially much of the research was undertaken by the government institutions and universities, however, gradually the private sector also started taking significant steps into seed business.

1.4 From 1987, MRTP/FERA companies were also granted permission to invest in the seed sector. In 1988, under the New Seed Policy, the global seed companies were also encouraged to enter the seed business in India. As a result, in due course, several major multinational corporations eg. Monsanto, Cargill, Aventis, PGS, Zeneca, Emergent Genetics etc., started doing business in India.

Exemption of Income from Seed business as agricultural income.

5 Several seed companies in India claim a part or the whole of their profits from seed business as exempt from income tax on the ground that they are derived from agricultural operations. Monsanto India Ltd, for example, claimed its entire income of Rs. 17.17 crores from seed business during the assessment Year 2001-02 as agricultural income and hence exempt from tax. Similar claims were made by many other companies eg., Advanta India, Ankur Seeds etc. in respect of a part of their income.

6 Currently, the Income Tax Department is locked in litigation with several of these companies over the issue of such exemption. The department contends that the income from seed business can not be regarded as agricultural income.

7 The present study, inter alia, seeks to examine various aspects of this question as also to estimate the revenue implications of such exemption.

CHAPTER 2

METHODOLOGY

The work in the Directorate of Research on this study started in the first week of August, 2002.

- 2.2 One of the first steps was to study the relevant literature on the subject. For the purpose, various Internet sites were accessed to get details about the development of hybrid seeds and transgenic crops. Some of the internet sites accessed were

<http://www.biotechknowledge.monsanto.com>
<http://www.icrisat.org>
<http://www.agriculture-industry-india.com>
<http://www.agriwatch.com>
<http://www.iaripusa.org>
<http://www.agronomy.wisc.edu>
<http://www.icar.org.in>
<http://www.indrayani.com>
<http://www.primalseeds.org>
<http://www.indiaagronet.com>
<http://www.biotech-monitor.nl>
<http://www.seedquest.com>

A list of other websites accessed is given in **Annexure-2A**.

- 2.3 The members of the research team also visited various offices, libraries and book shops to obtain relevant literature such as past issues of magazine "Agriculture Today", the official reports of Ministry of Agriculture including "Agricultural Statistics at a Glance" and "Annual Report 2001-2002" etc. The Hindu's "Annual Survey of Indian Agriculture 2002" was also obtained.

- 2.4 The Officers also established contact with the concerned government agencies namely, Indian Agricultural Research Institute, Department of Biotechnology, Seed Division of Ministry of Agriculture, etc. An official reference (**Annexure 2-B**) was made to Joint Secretary (Seeds), Ministry of Agriculture. The interim and final replies received from the Seed Division are given in **Annexure 2C & 2D**, respectively. Officers of this Directorate also had a detailed discussion with J.S. (Seeds) through personal meeting. The officers

also got in touch with the seed industries associations. They interacted at length with Dr. A.S. Kataria, Director, Seed Association of India.

2.5 Letters (**Annexure 2-E & 2-F**) were also written to all administrative Commissioners dealing with company cases to seek information on hybrid seed producing companies assessed in their charges. Information sought included data regarding turnover, net profit, returned income, exemption claimed u/s 10(1), if any, and controversies relating to such exemption, if any, in their assessments.

2.6 The members of the research team also visited several Income Tax Offices in different centres and held discussions with the officers dealing in assessments of seed companies. They also studied the assessment records of the major seed producing companies. Copies of the relevant assessment and appellate orders were obtained. The past case laws on the subject were also examined.

2.7 The members of the research team also visited seed farms of M/s Nunhems Pro Agro Limited in Gurgoan, R & D Centre of M/s Indo American Hybrid Seeds Private Limited and Advanta India limited in Bangalore and Nagarjuna Agricultural Research & Development Institute (NARDI) near Hyderabad to obtain first hand knowledge of development and production of hybrid seeds. Fruitful discussions were held, inter-alia, with Dr. M.J. Vasudeva Rao, Sr. Vice President (Technology & Quality), Advanta India Ltd., Bangalore, Dr. K.P. Vasanth Shetty, Director, Vegetable Crops of Indo American Hybrid Seeds (India) Pvt. Ltd. and Dr. P. Venkateshwarulu, Director of Nagarjuna Agricultural Research and Development Institute, Hyderabad.

2.8 After collecting the necessary material and data, it was comprehensively examined and analysed. This will be discussed in the subsequent chapters.

CHAPTER 3

NATURE AND METHODOLOGY EMPLOYED FOR PRODUCING HYBRID SEEDS

This Chapter deals with the scientific procedure involved in development of hybrid seeds through conventional methods and development of transgenic crops. The Chapter shall answer the CBDT's query regarding nature and methodology employed for producing hybrid seeds.

3.2

DEVELOPMENT AND PRODUCTION OF HYBRID SEEDS THROUGH CONVENTIONAL METHODS :

The stages in development and production of hybrid seeds are:-

- (i) ♣ Identification of desirable traits
- (ii) ♣ Selection of plants with desired traits
- (iii) ♣ Inter crossing/hybridisation.
- (iv) ♣ Development of breeder seeds.
- (v) ♣ Multiplication of seeds for commercial purposes
- (vi) ♣ Processing and packaging of seeds for sale.

3.2.1

(i) ♣ Identification of desirable traits

Overall objective of plant breeding is to improve plant species. The plant breeders look for desirable traits which are incorporated in the new plant variety. The breeders may look for improvement of various traits, some of which are: better yield i.e. more crop per hectare; drought resistance; disease or pest resistance; some varieties may be developed considering distribution and marketing of the farm produce, e.g., seed less and bitterness free gherkin (pickling cucumber); carrots without fibrous midrib; tomatoes with longer shelf life; chilly which is better in colour and pungency; rice varieties with better aroma, longer cylindrical grains, more shine and better unbreakable grains; and cauliflower, the curd of which remains white. These desirable traits are specific to the crop.

(ii) * Selection of plants with desired traits

A number of steps are involved in the development of hybrid varieties. To begin with, plant breeders observe and spot plants which exhibit the desired traits.

The techniques used in selecting plants for creating a new variety are:

- (a) **Mass Selection:** This involves examination of the source population and selection of desirable plants or seed from those parent plants.
- (b) **Recurrent Selection:** This involves following the desired traits in several generations of plants, harvesting the seeds and replanting and repeating the selection and replanting. Over multiple generations, the desired traits that are true strengths will remain.
- (c) **Top Cross Techniques:** This involves incorporating one trait into an otherwise desirable variety. A donor population surrounds the recipient population and then the plants are backcrossed.
- (d) **Synthetic Variety Development:** Thousands of promising plants are grown in a nursery. After observation, 20-150 desirable plants are selected and crossed in isolation. Each is harvested individually. Genotypic evaluation (analysis of the genes) is used and the progeny are tested in various locations and environments.

Thus, various seed varieties are grown in the experimental farms of Research Institutions/Seed Company. They are grown for selecting uniform plants for one or two generations, using controlled pollination. The plants are evaluated in nursery for desired traits (like colour, growth habits, maturity rates, vigour, resistance, yield potential etc) 8 to 10 varieties/lines thus selected are intercrossed to study combining ability and heterosis (hybrid vigour). Hybrid vigour is the term associated with interbred varieties. These varieties usually show: more vigour, are taller, are higher yielding, are earlier maturing and are very uniform.

(iii)* Inter crossing/hybridisation.

There are two types of pollination involved in developing seed varieties namely, self-pollination and cross pollination. Most plants are pollinated by pollen from another plant of the same kind. This is called cross-pollination. But some plants have flowers that can pollinate themselves. This is called self pollination. For example, rice, tomato and chilly are self pollinated crops and cucumber and brinjal are cross pollinated crops. Intercrossing/hybridisation

needs controlled conditions under nethouses or polyhouses to check natural crossing by insects. Flowers selected in female plants are emasculated (removal of male organ) a day before anthesis (dehiscence of anthers i.e. opening of flower). They are labelled and covered with butter paper bags for pollination on the next day using pollen from the desired parent.

3.2.4

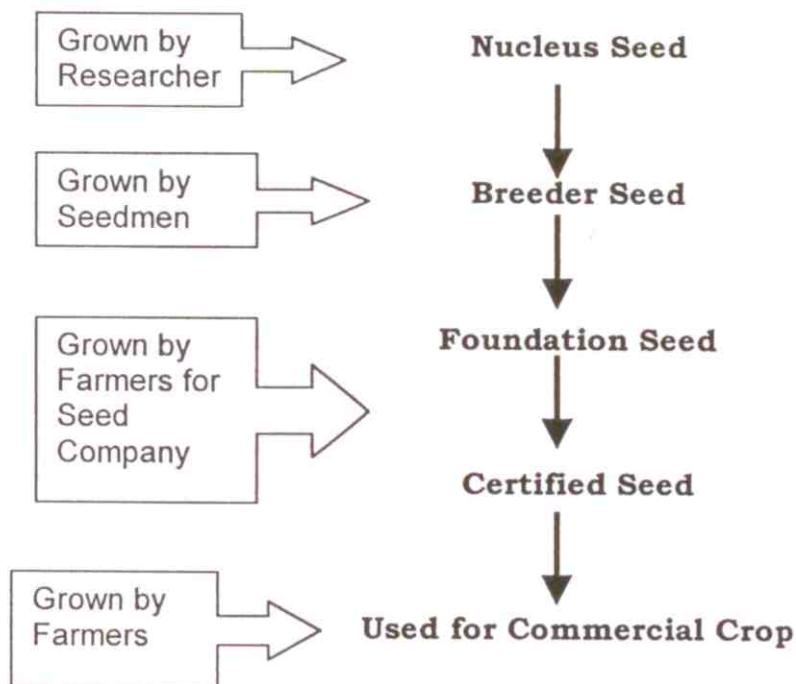
(iv) ♣ Development of breeder seeds.

The F1 hybrid seeds produced after intercrossing and selection are used to raise the crop for recording their performance. The data collected from different combination is computed to ascertain the best combiners. The seed of best combiners are multiplied to raise the experimental hybrid seeds for multilocation testing before their commercial production. Multilocal testing is done studying characteristics for adaptation, resistance to biotic and abiotic stresses and superiority for yield and quality. The seed extraction from the fruit involves washing of the fruit, crushing it, pulping it, fermenting it, again washing it and then drying it to obtain seeds. The maintenance of parental lines and experimental seed production is done under the supervision of breeders by technical staff.

The Indian Seeds programme recognise three generation of seeds namely Breeder Seed, Foundation Seed and Certified Seed. The breeder seed is progeny of nucleus seed. Foundation Seed is the progeny of breeder seed. The Certified seed is the progeny of foundation seed.

The breeder seed is grown in a small farm of an area say of $\frac{1}{4}$ of an acre. Foundation seed is grown in relatively bigger farm say of an area of 5 to 10 acres. The Certified seed is used for commercial purposes, and is grown in much larger area.

SEED MULTIPLICATION STAGES



3.2.5 (v) ♣ ***Multiplication of seeds for commercial purposes***

After seeds are certified for mass usage, the commercial seed production is done on farmer's field. Either the companies take the land on lease and employ the land owner to manage seed production or the farmer is contracted for buy back of seeds. The farmer produces the seeds at his own farm.

Normally, commercial production of seeds requires cultivation on an area of atleast 20 thousand hectares. Considering the land holding pattern in India, it involves engaging eleven to twelve thousand farmers. The company normally appoints an agent or organizer, who contacts these farmers. The company provides breeder seeds to the farmers. The farmers, in turn, return the seeds produced to the company. Normally, there is a contract between the organiser/agent and the seed Company. A draft Specimen contract between hybrid seed company and organizer/agent is reproduced in Annexure 3 A. Companies generally prepare a technical package for seed multiplication specifying the kind of soil needed, depth of

planting, time of nutrient and pesticide applications, frequency and time of irrigation, mode of harvest especially in case of hybrid seed etc. They prefer to contract between 300-400 acres in a village and designate such an area as a "seed village". They create seed processing facilities and place technically trained staff to guide seed multipliers, monitor actual production and supervise seed processing. Generally one such unit serves a cluster of 5-10 seed villages.

3.2.6

(vi) * Processing and packaging of seeds for sale.

After procurement of seeds from farmers, they are sent (a) to laboratory for quality test and (b) to processing centre, for processing as saleable high yielding hybrid variety seed.

The seed processing involves cleaning of the seed through seed pre-cleaner: Seeds are then sorted according to their size by the machine. The stones are removed by passing through De-stoner machine. The seeds are then passed through Fine Cleaner Machine which further removes unwanted particles from the seeds. The seeds then go through gravity separator machine, which separates the seeds according to their specific weight.

Seeds are tested inter alia ,for their moisture content, hybrid vigour, disease resistance, oil content, vitamin and protein content etc. The seeds are also tested for physiological properties like impact of fungus, spores, viruses, physical purity, general health etc. These tests are performed in the Company laboratories with the help of sophisticated machines to assess seed quality and to check for their genetic properties. Genetic purity is tested through Grow-Out Tests or use of electrophoresis or DNA match whatever available.

The seeds are also treated through seed treater giving them a coating of chemicals which provides final vigour to the seed and also improves its germination quality. Treated seeds are then weighed in an automatic weighing machine and each lot is filled into bags.

The seed production of most hybrid crops is generally undertaken in western and southern parts of the country because of congenial agro-climatic conditions and possibility of taking two seed crops in a year, if necessary. The prominent states are Gujrat, Maharashtra, Andhra Pradesh, Karnataka and Tamil Nadu. In contrast, the northern states from Punjab to West Bengal are dominated by rice, wheat, and legumes which are less profitable seed crops. Consequently there is a major difference in the nature of seed industry falling in the North/East and South/West of India.

Technology of seed production is moving at a rapid pace. Companies ensure that the technology is expeditiously passed on to the contract seed multipliers so as to harvest high yields of good quality seeds.

3.3

DEVELOPMENT OF TRANSGENIC PLANTS

3.3.1

A transgenic crop plant contains a gene or genes which have been artificially inserted instead of the plant acquiring them through pollination. The inserted gene sequence (known as the **transgene**) may come from another unrelated plant, or from a completely different species, transgenic Bt corn for example, which produces its own insecticide, contains a gene from a bacterium. Plants containing transgenes are called **genetically modified (or GM) crop**.

3.3.2

Traditionally the plant breeders had to laboriously crossbreed closely related plant to get the desired genes and traits. The traditional methods of plant breeding have already been discussed above. In the transgenic technology, a plant is modified with an exact genetic input, which is inserted for a precise purpose or a precise trait. The first generation of genetically modified crops enhanced traits like resistance to insects, reduced pesticide needs, better control of weeds, bigger yields. The later generation of genetically modified crops will deliver vitamins or vaccines, be nutritious, resist spoilage, use less fertiliser and grow better under extremely dry or saline conditions.

3.3.3

Transgenic technology enables plant breeders to bring together in one plant useful genes from a wide range of living sources, not just from within the crop species or from closely related plants. Therefore, it expands the possibilities beyond the limitations imposed by traditional cross-pollination and selection techniques.

3.4.

Steps in development of Transgenic Plants:

3.4.1

Following steps are involved in development of transgenic plants;

- (i) Identification and cloning of the gene which will impart desired trait to the target crop plant. This involves screening of genomic library to find the desired gene.
- (ii) The identified gene may have to be modified for expression in the crop plants. This operation may involve manipulation of coding sequence. Incorporation of marker gene may also be involved.
- (iii) The modified gene is then incorporated into the target plant gene. This may involve the transfer of the modified gene into the plant

through an appropriate mechanism or through suitable intermediate host-vector system.

- (iv) Raising of whole plants capable of transmitting the incorporated target gene to the next generation.

3.4.2

The multiplication of seeds for commercial purposes and its processing and packaging for sale is done in a manner similar to that discussed for hybrid seeds developed through conventional methods in the earlier part of this chapter (para 2.2.5 and 2.2.6).

3.5

Transgenic Research & Approved Crops:

Globally, more than 50 million hectares is under cultivation of transgenic crops. Out of this, more than 70% is in USA. Some of the transgenic crops approved in USA for commercial use are given in Table-3 B annexed with this report :

3.6

Transgenic Research and Approved Crops in India:

3.6.1

The status of present day transgenic research and application in India is as under:-

Transgenic Research and Applications: Developments in Indian Context

Company	Focus of Research
Proagro, MNC, Aventis subsidiary cabbage, cauliflower,	Hybrid mustard, insect-resistant tomato, eggplant
Monsanto, MNC resistance	Rice, sugarcane, ornamental plants for insect
Rallis India Ltd resistance	Hot pepper, bell pepper, tomato for insect
Tobacco Research Institute, Rajahmundry	Insect-resistant tobacco
Potato Research Institute, Simla	Insect-resistant potatoes
Mahyco, 26% held by Monsanto	Insect-resistant cotton adapted from Monsanto
IARI, Centre for Plant Biotechnology	Insect-resistant tomato and eggplant, quality of mustard oil
TERI, Delhi lab	Insect-resistant mustard
SPIC Science Foundation	Insect-resistant rice
JNU, Centre for Plant Molecular Biology	Protein-rich potatoes

(From Chopra, Dr.K.R.(2000) : *Update of Indian Seed Sector*, APSA, Bangalore)

- 3.6.2. Recently, Ahmedabad-based Cadila Pharmaceutical Ltd. has also announced its plan to foray into GM seeds by 2004. The company intends to focus on jowar, bajra and tomatoes.
- 3.6.3 In India, before a transgenic crop is commercially exploited, it has to be approved by Department of Bio-technology and by Genetic Engineering Approval Committee (GEAC). GEAC is part of the Ministry of Environment. In India, so far only transgenic hybrid of Bt cotton produced by Maharashtra Hybrid Seeds Company (MAHYCO) in association with the Multinational Corporation M/s. Monsanto Holdings Pvt. Ltd. has been approved for commercial production so far. The three Mahyco hybrids (MECH 12, 162, 184) were approved in March, 2002.
- 3.6.4 The Bt cotton hybrid is genetically implanted with a gene drawn from certain soil bacteria (*Bacillus thuringiensis* or shortly Bt) and is capable of resisting the damage from cotton bollworms and all pests of insect family called lepidoptera.
- 3.6.5 The second transgenic crop, namely, GM Mustard has passed through initial phases of monitoring and review by the Department of Bio-technology but final approval by GEAC is pending. The GM Mustard has been developed by Pro Agro Seeds India Pvt. Ltd., the Indian arm of MNC Aventis with PGS (Plant Genetics Systems) of Belgium. The GM Mustard contains DNA drawn from a bacterial gene that detoxifies a herbicide-glufosinate.
- 3.6.6 Thus, in India there is only one genetically modified or transgenic crop which can be commercially exploited. This is the Bt Cotton produced by MAHYCO.
- 3.7 Genetically modified varieties in major cereals used in India (e.g. rice, wheat, millets) may take a long time to develop. It appears that at present, major benefits of GM crops would accrue in crops important for the processing industry, e.g. tomato, potato, canola, soyabean, cotton and vegetables. These, however, cannot provide food security in the country in near future. Hence, genetic biotechnology in India will not be able to replace conventional breeding methods in near future. Genetic biotechnology can, at best, supplement conventional breeding methods.

CHAPTER 4

INDIAN SEED INDUSTRY : A REVIEW

Agriculture plays an important role in the Indian economy. Its contribution in GDP in 2000-01 was Rs. 430088 crores at current prices being 22.7% of GDP. Total 741.7 million people i.e. 72.22% of the population resided in rural areas. Out of this 127.6 million i.e. 31.7% were cultivators, 107.5 million i.e. 26.7% were agricultural labourers. The foodgrain production in the country was 195.92 million tons in 2000-01.

4.2 **The Indian Seed Sector:**

4.2.1 Seed is the most important input in agriculture. The use of quality seed is vital for higher yield and productivity. The organised Indian seed sector started with the formation of National Seeds Corporation (NSC) in 1963. Until late seventies NSC was virtually the sole agency for producing foundation and certified seeds, quality monitoring and to develop and train potential seed entrepreneurs in both public and private sector. World Bank supported National Seed Projects (NSP) phase-I (1975), phase-II (1981) and phase-III (1988) were launched to make Indian seed industry viable and result oriented. 13 State Seed Corporations (SSCs) were established to take over the production and marketing of quality seeds in larger states.

4.2.2 In the initial phases public sector dominated the hybrid seeds supply. Domestic private sector and multinational companies became major players after the announcement of New Seed Policy in 1988. The New Seed Policy of 1988, and later reforms, inter alia, brought the following changes:

- (i) Foreign and Indian private companies were allowed to start research, production and supply of seeds of proprietary hybrids and
- (ii) Restrictions on import of varieties and germplasm were greatly reduced and ban on import of commercial seeds were eased.
- (iii) Seed prices were allowed to rise.

4.2.3 Some states also cut back the seed subsidies to provide a platform for free competition between private and public sector seed companies.

4.2.4 In India, the public and private sector seed companies co-exist and share seed market. The private seed enterprises deal in various types of

activities - some companies undertake the entire process of development and production of hybrid seeds. (e.g. Proagro Seed, Ankur Seeds etc.), some companies undertake only the multiplication and processing of hybrid seeds (e.g. Monsanto and Navbharat Seeds) and some companies only do processing of seeds. (e.g. Kaveri Seeds and Eagle Seeds). The public sector companies (e.g. A.P. State Seed Development Corporation Ltd.), on the other hand, multiply, process and market seeds developed by public funded institutions like IARI etc.

4.2.5 The Indian seed industry has shown impressive growth during the last four decades. The area under certified seeds has increased from less than 500 hectares in 1962-63 to more than 5 lakh hectares in 1999-2000. Indian seeds programme recognises three generations of seeds namely breeder, foundation & certified seeds. The details of production, distribution and coverage of seeds in India in the last 12 years is given in **Annexures - 4 A & 4 B**.

4.3 Increasing the seed replacement ratio (SRR) is one of the major tenets of the Seed Policy, 2002. Seed Replacement Ratio (SRR) is the ratio of replacement of ordinary seeds by scientifically improved seeds. The SRR is directly associated with the economics of the crops. It is higher in sunflower, maize, cotton & vegetables but very low in pulses and cereal crops.

4.4 Despite significant growth, the Indian seed Industry still has a long way to go. More than 88% of seed needs of farmers in the country are still met by low quality farm-saved seeds. The public and private sector together provided for approximately 12% of the total seed in 1996-97. The crop wise usage of quality seeds is given in **Annexure-4C**. These latter category of seeds are high yielding quality seeds.

4.4.1 While the emphasis of public sector is on low value high volume seeds, for example foodgrains, the private sector specializes in production of low volume high value seeds, e.g. vegetable seeds. Value wise, the turnover of private seed sector accounts for about 70% and only 30% is contributed by the public sector. Volume wise, the situation is other way round. India's export of hybrid seeds is approximately \$23 million which is less than 1% of global seed trade (Agriculture Today, January 2002). We export seeds of tomatoes, bottle gourd, carrot etc. The Seed Policy, 2002 aims to increase India's share in global seed trade to 10% by the year 2020.

4.5 Government Infrastructure Relating to Seed Sector

4.5.1 The Union Ministry of Agriculture (MOA) is responsible for overall direction and coordination of agriculture through its three Departments:

Agriculture and Cooperation (DAC); Agricultural Research and Education; and Animal Husbandry and Dairying. The DAC includes a Seed Division that handles all matters related to seed. Ultimate authority for legislative and regulatory affairs rests with Central Seed Committee. Two technical sub-committees deal with variety release, one for field crops and another for horticultural crops. Central Seed Certification Board is concerned with certification procedures, seed standards and seed testing. Actual implementation of seed certification procedure is however, the responsibility of state seed certification agencies.

4.5.2

The following chart broadly gives the role of various agencies in seed development, production and trade:

Structure of Seed Supply System

Supporting Organization	Activity
Ministry of Agriculture (MOA)	Overall direction and coordination
Dept. of Agriculture & Cooperation (MOA)	Administration & Coordination on national basis
Seeds Division (MOA)	All seed related administrative matters.
Agricultural Universities, ICAR Institutes and Seed Companies	Plant breeding and variety development
All India Coordinated Crop Improvement Projects	Variety development, variety testing and identification for release
Central Seed Committee (CSC)	Seed related legislative and regulatory affairs
Central Seed Certification Board	Certification procedures and seed standards
Central Sub-Committee on Crop Standards, Notification and Release of Varieties	Evaluation of release proposals and recommendation for release and notification of varieties
Seed Technology Research Centres under National Seeds Program	Research on various aspects of seed technology
Agricultural universities, ICAR institutes, SFCI and seed companies	Breeder and foundation seed production
NSC, SFCI, State Seed Corporations and private seed companies	Foundation and commercial (certified/truthful labelled) seed production
Contract seed growers	Production of certified/labelled seed
State Seed Certification Agencies	Field inspections, monitoring of harvesting, processing and packing for certification
Seed Testing Laboratories	Evaluation of seed quality
Seed company depots,	Sale of seed to consumer farmers

distributors, sub-distributors, retailers	
State Department of Agriculture designated seed inspectors	Monitoring seed quality in market

(From Chopra, K.R. (2000), *Update of Indian Seed Sector*, APSA, Bangalore).

4.6 **Agricultural Research in India :**

4.6.1 The National Agricultural Research System (NARS) comprises of two main streams in public sector viz. Indian Council of Agricultural Research (ICAR) at the national level and State Agricultural Universities (SAUs) at state levels. The system now includes two more components: private sector and voluntary research organizations.

4.6.2 India has one of the largest agricultural research and development system in the world. More than 4000 agricultural scientists are engaged in varietal improvement at 40 agricultural universities and 160 research centres.

4.7 **LEGISLATION AND POLICY RELATING TO SEED SECTOR:** **Seed Act 1966**

4.7.1 The Seed Act of 1966 (along with the Regulations of 1968) enumerates minimum seed quality standards and seed certification and evaluation procedures. As per provisions of Seed Act 1966, Central Seed Committee (CSC) and Central Seed Certification Board (CSCB) were established. A laboratory of the Indian Agricultural Research Institute was designated as the Central Seed Testing Laboratory (CSTL). Seed Inspectors are appointed under the Seed Act, by the States for enforcement of seed laws.

4.7.2 Under the Seeds Act, seed can only be certified if the variety has been officially notified by the Central Seed Committee. However, seed that is not subjected to full certification must still meet the minimum standards of the Act and carry a label declaring its quality specification. This is known as "truthfully-labelled seed". As on 31st December, 2001, 3103 varieties have been notified by the C.S.C.

4.8 **Seed Control Order**

The Seed Control Order, 1983 brought the seed within the scope of the Essential Commodities Act of 1955 which regulates the sale of certain essential items.

4.9 **Seed Rules 1968** lay down the functions of various Committees and Agencies formed under the Act. It lays down procedure for certification of seeds; qualification & procedure for appointment of Seed Analyst and Seed Inspectors; procedure for taking seed samples and their analysis ; and specifies records to be maintained by the seed trader.

4.10 **Protection of Plant Varieties and Farmers' Rights Legislation** has been notified recently. Its objective is to stimulate investment for research and development for development of new plant varieties by ensuring appropriate returns on such investment. The Act has provision to set up a Protection of Plant Varieties & Farmers' Rights Authority to perform all functions related to the protection of plant varieties.

4.11 **National Seeds Policy, 2002**

4.11.1 The National Seeds Policy, 2002 lays down the government aims and objectives relating to seed sector. It is part of the Agriculture Policy, 2002.

4.11.2 The main focus of the new National Seeds Policy, 2002 is on, varietal development and plant variety protection, seed production, quality assurance, seed distribution and marketing, infrastructure, transgenic plant varieties, seed and planting material imports, promotion of the domestic seed industry and strengthening monitoring activities

4.11.3 National Seeds Policy, 2002 recognises seed as the most important input in agricultural production. It aims to enhance the seed replacement rates of various crops. The Seed Policy recognises need for a major increase in production of quality seed, in which the private sector is expected to play a major role. The Seed Policy, 2002 expects the seeds sector to adopt economic pricing policies which will seek to realise the true cost of production.

4.11.4 The Policy, inter-alia, aims to establish a **National Gene Fund**, to store genetic make up of plant varieties; aims to prepare a **National Seed Map**; and aims to promote a **"Seed Village Scheme"** to facilitate timely availability of quality seeds at the local level. It also aims to establish database called **National Seed Grid**.

4.11.5 To ensure quality of seeds provided to farmers, a **National Seeds Board** is proposed to be established.

4.11.6 The Policy aims to modernise seed processing facilities by encouraging **modern equipments** and latest techniques. The Policy recognises that **Biotechnology** will play a vital role in the development of the agriculture sector.

4.11.7 Under the NSP 2002, **import of seeds** and planting materials, etc. will be allowed freely subject to EXIM Policy guidelines and the requirements of the Plants, Fruits and Seeds (regulation of import into India) Order, 1989. Import of parental lines of newly developed varieties will also be encouraged. All importers will make available a small sample of the imported seed to the Gene Bank maintained by National Bureau of Plant Genetic Resources (NBPGR).

4.11.8 Government will evolve a long term policy for **export of seeds** with a view to raise India's share of global seed export from the present level of less than 1% to 10% by the year 2020. Government will provide incentives for exports and will set up Seed Export Promotion Zones.

4.11.9 **To promote domestic seed industry, the Policy aims to provide following support:-**

- (i) Incentives will be provided to the domestic seed industry.
- (ii) Seed Industry will be provided with a congenial and liberalized climate for increasing seed production and marketing.
- (iii) Membership to International Organisations and Seed Associations like ISTA, OECD, UPOV, ASSINSEL, WIPO, at the National level or at the level of individual seed producing agencies, will be encouraged.
- (iv) Financial support for capital investment, working capital and infrastructure strengthening will be facilitated through NABARD/Commercial Banks/Cooperative Bank.
- (v) Tax rebate/concessions will be considered on the expenditure incurred on in-house research and development of new varieties and other seed related research aspects. In order to develop a competitive seed market, the States will be encouraged to remove unnecessary local taxation on sales of seeds.
- (vi) To encourage seed production in non-traditional areas including backward areas, special incentives such as transport subsidy will be provided.

- (vii) Reduction of import duty will be considered on machines and equipment used for seed production and processing.

4.12

As stated above, the Seed Policy aims to provide tax concession to in-house R&D of new varieties. Weighted deduction of 150% under section 35(2AB) of the I.T. Act, 1961 is already provided for expenses on R&D for companies engaged in the business of biotechnology, w.e.f. 01-04-2002. **The National Seeds Policy 2002 does not envisage any other tax concession for the Indian seeds sector**

CHAPTER- 5

TAX REVENUE INVOLVED IN THE CASES OF COMPANIES ENGAGED IN DEVELOPMENT AND PRODUCTION OF HYBRID SEEDS

In this chapter, an attempt shall be made to answer the Board's query regarding the tax revenue involved in the cases of companies engaged in development and production of hybrid seeds.

- 5.2 The first step in this regard was to ascertain the size of the seed market and the names and addresses of the companies engaged in development and production of hybrid seeds.
- 5.3 For this purpose, the members of the research team reviewed industry literature, including past issues of *Agriculture Today*, newsletters of The Seed Association of India (SAI) and *Asian Seed*. They also studied the report of the National Seminar on Seed Sector Reforms held in October, 2001 and report of Asia Pacific Seed Association (APSA) Seminar held in Bangalore in 2000.
- 5.4 It was found that there are about 200 companies dealing in seeds in India (estimate based on reports in *Agriculture Today*, October, 2000 pg. 26 & 28) but, many of these companies are just trading companies. Only about 35 private seed companies have Research & Development units, which are recognised by the Government of India (Source : *National Seminar on Seed Sector Reforms* October, 2001 pg. 26).
- 5.5 The turnover of entire seed market in India is estimated to be between Rs. 4,000 crores (*Agriculture Today* October, 2000 pg. 24 & 37) to Rs. 5,000 crores (website on world seed congress 2003, namely, <http://www.worldseed2003.com> and <http://dagrigen.tripod.com>.) but the said estimate includes turnover of both organised and unorganised seed sector. The contribution of the unorganised seed sector, which mainly trades in farmer-saved conventional seeds, included in above estimate is substantial. However, the estimation of turnover of the unorganised sector is not very relevant to this study, as the players in this market are only small farmers and traders.
- 5.6 The industry literature estimates that the turnover of organised seed industry (which includes the conventional seed market as also companies exclusively in trading but excludes unorganised sector) to be Rs. 2560 crores approximately (Ref. Chopra K.R. (2001) in *National Seminar on Seed Sector*

Reforms (page 16) and Kataria A.S, in 'Seed Industry Revolution in India', in *Agriculture Today*, (January, 2002) (page-11). It is further estimated that about 70% of the seed market is in the hands of the private sector i.e. the turnover of the private sector is around Rs. 1790 crores. The public sector accounts for nearly 30% of the seed market, i.e. the turnover of the public sector is around Rs. 770 crores. The estimate of 70:30 private and public sector contribution, respectively, is based on following sources :

- a) Sindhu, J.S.(2000) in "Indian Seed industry-Broadening Horizons", *Agriculture Today*, October 2000 (page 34).
- b) Kataria, A.S. (2002) in "Seed Industry Revolution in India", *Agriculture Today*, January 2002 (Page 11).

5.7 According to the Seed Industry Data published in the *Agriculture Today*, (October, 2000), the top 10 seed players in Indian market are :

- i. Maharashtra Beej (Maharashtra State Seed Corpn. Ltd.)
- ii. Maharashtra Hybrid Seed Co. (MAHYCO)
- iii. U.P.Seed & Tarai Development Corpn. Ltd. (TDC)
- iv. A.P. Seed Corporation Ltd.
- v. Proagro Seed Company Ltd.
- vi. Rajasthan State Seed Corpn Ltd.
- vii. Advanta India Ltd.
- viii. M.P. State Seed Corpn Ltd
- ix. Ankur Seed Pvt. Ltd.
- x. Punjab State Seed Corpn. Ltd.

5.8 The members of the research team also obtained copies of the lists of members of the Seed Association of India (SAI) and Association of Seed Industry (ASI). These are enclosed at **Annexure-5A & 5B**, respectively. SAI has 80 members and ASI has 28 members. 18 members are common to both ASI and SAI.

5.9 A further perusal of these lists showed the following broad classification of the members of SAI :-

(i) Members dealing in domestic production and marketing of seeds	8
(ii) Members dealing in domestic production, marketing and research	12
(iii) Members dealing in international production of O.P. and F1 hybrids, marketing and research	28
(iv) Members dealing only in marketing of seeds	32

5.10

The next step in data collection was to request the field formations to furnish data on the lines of Annexure-2D in respect of the seed producing companies assessed with them. This data for the assesment years 2000-01 and 2001-02 was received and has been compiled at **Annexures 5C and 5D** in respect of 12 public sector companies and 26 private sector, respectively.

5.11

The following position emerges from this data:-

Public Sector Companies

	(Rs. in crores)	
	A. Y. 2000-01	A. Y. 2001-02
Total Turnover	676.34	645.56
Net Profit	20.64	13.43
Returned Income	21.21	37.07
Exemption u/s 10(1)	0.45	0.45

Private Sector Companies

Total Turnover	803.35	829.28
Net Profit	107.80	82.78
Returned Income	41.85	34.39
Exemption u/s 10(1)	37.70	52.59

5.12

From the above data, it is apparent that the net profits of the public sector companies are small (only 2 to 3% of their turnover). Moreover, exemption u/s 10(1) is generally not claimed by public sector companies. These companies are mainly multiplying, processing and marketing seeds developed by public-funded institutions like Indian Agricultural Research Institute (IARI) and State Agricultural Universities (SAUs). They aim to make good quality seeds widely available to farmers at reasonable prices. Many of them even subsidise the seeds made available to small and marginal farmers. Profit making is not the main motive of the public sector companies.

5.13

On the other hand, in the case of private sector companies, the net profits are substantial (10% to 13.5% of the turnover). The exemption u/s 10(1) claimed by them is also significant, though it is to be noted that a substantial part of the exemption of Rs.52.59 crores in AY 2001-02 is attributable to 4 or 5 companies, namely Monsanto India Ltd., Pro-agro Seed Company Ltd. etc., which are Indian arms of foreign companies.

5.14

In order to work out the revenue implication on account of the exemption u/s 10(1) in the case of our sample, we need to calculate the tax

effect of Rs. 52.59 crores for AY 2001-02. This comes to Rs. 21 crores (taking tax rate of 35% and surcharge of 13%).

5.15

Though our sample covers most of the large seed producing companies, it still does not cover the entire universe of the seed producing companies in India. The total turnover of the private sector seed companies in our sample is 829.3 crores for assessment year 2001-02, where as the total turnover of all private sector seed companies has been estimated at Rs. 1790 crores. Therefore, by extrapolation, the amount of aggregate exemption u/s 10(1) in respect of all seed producing companies will come to Rs. 113.50 crores ($1790/829.3 \times 52.6 = 113.5$). Applying the corporate tax rate of 35% and surcharge of 13%, the tax implication of the exemption u/s 10(1) comes to Rs. 45 crores for AY 2001-02.

5.16

However, since the aggregate turnover of all private sector seed companies of Rs. 1790 crores includes turnover of even marketing companies which are not likely to claim any exemption u/s 10(1), the actual revenue implication of the claim of such exemptions by seed producing companies is not likely to be even Rs. 45 crores.

5.17

Therefore, the answer to Board's query no. (iii), namely, "the total tax revenue, which might be involved in such cases" is, say, Rs. 35 to Rs. 40 crores (approx.) for assessment year 2001-02, as estimated above.

CHAPTER 6

LAW REGARDING TAXATION OF INCOME FROM AGRICULTURE AND DEVELOPMENT & PRODUCTION OF HYBRID SEEDS.

In this chapter, we will, inter-alia, discuss the definition and treatment of agricultural income, under the Constitution of India and the Income Tax Act, 1961, case laws relating to agricultural income, including those specifically related to production of seeds.

6.2

Agricultural Income and its treatment under Constitution of India and the Income Tax Act:

6.2.1

Article 246 of the Constitution of India deals with the power of the Union Parliament and the Legislature of any State to make laws on different subjects. The Seventh Schedule contains three lists namely, Union List, State List & Concurrent List. The Union & State lists enumerate the subjects on which respective legislatures can make laws. Laws on subject contained in the third list, viz. Concurrent List can be made both by the Union & the State. The List I is the Union List where the Union Government exclusively has the competence to make laws. As per serial no. 82 of the said list, the Union has the competence to legislate on "Taxes on income other than agricultural income". In the Constitution, "agricultural income" is defined in clause (1) of Article 366. For convenience, this portion is reproduced below :

" 366. Definitions – In this Constitution, unless the context otherwise requires, the following, expressions have the meanings hereby respectively assigned to them, that is to say --

(1) "agricultural income" means agricultural income as defined for the purpose of the enactments relating to Indian income-tax".

6.2.2

It is important to note that the definition of 'agricultural income' in the Income-tax Act governs the competence of the Union in matters of taxation of agricultural income. Thus, any change in this definition can expand or contract our tax base in this sector. In this connection, the following extract of the headnote of *Tata Tea Ltd Vs. State of West Bengal* (1988) 173 ITR 18(SC) is relevant:-

"In the case of income from sale of tea grown and manufactured by an assessee, rule 24 of the Indian Income-tax Rules, 1922, and rule 8 of the Income-tax Rules, 1962, although at first glance they appear to be rules of apportionment and computation, must be treated as incorporated in the definition of the term "agricultural income" in the Act of 1922 and the Act of 1961, respectively. The term "agricultural income" used in entry 46 of List II of Schedule VII to the Constitution of India has to be construed in accordance with the definition of the said term in article 366(1) and that definition states that agricultural income means "agricultural income as defined for the purposes of the enactments relating to Indian income-tax". Rule 8 of the Income-tax Rules, 1962, as well as rule 24 of the Indian Income-tax Rules, 1922, pertain to and are bound up with the definition of the term "agricultural income" for the purposes of laws or enactments pertaining to the Indian income-tax and hence the provisions of those rules have to be taken into account in considering the meaning of the term "agricultural income" under article 366(1)"

6.2.3 The agricultural income is exempt from income tax u/s 10(1) of the I.T. Act, 1961. The said section reads as under :

"Incomes not included in total income

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 –

(1) Agricultural income;"

6.2.4 The term 'agricultural income' is defined in sub section (1A) of section 2 of the I.T. Act, 1961. The said sub-section reads as under :

(1A) "agricultural income" means—

(a) any rent or revenue derived from land which is situated in India and is used for agricultural purposes;

(b) any income derived from such land by---

(i) agriculture ; or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market; or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii) of this sub-clause;

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any process mentioned in paragraphs (ii) and (iii) of sub-clause (b) is carried on:

Provided that-

(i) the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind, by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building, and

(ii) the land is either assessed to land revenue in India or is subject to a local rate assessed and collected by officers of the Government as such or where the land is not so assessed to land revenue or subject to a local rate, it is not situated-

(A) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee or by any other name) or a cantonment board and which has a population of not less than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year; or

(B) in any area within such distance, not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (A), as the Central Government may, having regard to the extent of, and scope for, urbanization of that area and other relevant considerations, specify in this behalf by notification in the Official Gazette.

Explanation (1)- for the removal of doubts, it is hereby declared that revenue derived from land shall not include and shall be deemed never to have included any income arising from the

transfer of any land referred to in item (a) or item (b) of sub-clause (iii) of clause (14) of this Section.

Explanation2: For the removal of doubts, it is hereby declared that income derived from any building or land referred to in sub-clause (c) arising from the use of such building or land for any purpose (including letting for residential purpose or for the purpose of any business or profession) other than agriculture falling under sub-clause (a) or sub clause (b) shall not be agricultural income.

6.2.5 Section 295 authorises CBDT to make rules for the purposes of the Income Tax Act, 1961. Sub-section 2(b) of Section 295 specifically provides authority to the Board to lay down the manner and procedure to determine income derived in part from agriculture and in part from business. Under this provision, CBDT has notified Rules 7, 7A, 7B & 8 in Income Tax Rules, 1962.

6.2.6 Rule 7, which is a general rule, lays down that in the case of income which is partially agricultural and partially income chargeable to Income Tax under the head "Profits & Gains of business", the chargeable income is determined by reducing :

- (a) market value of any agricultural produce raised by the assessee and utilised as a raw material in such business, or
 - (b) sale receipts of agricultural produce which is included in the account of the business
- and no other deduction of any expenditure shall be allowed.

6.2.7 Rule 7(2) lays down the manner to determine the market value of the raw material. In case of agricultural produce used as raw material, the market value is its average sale price during the relevant previous year. Where agricultural produce is not ordinarily sold in the market, the market value is the aggregate of :

- (i) the expenses of cultivation;
- (ii) the land revenue or rent paid for the area in which it was grown; and
- (iii) Reasonable profit.

6.2.8 Under Rule 7A, 35% of income from the manufacture of rubber is deemed to be income liable to tax.

6.2.9 Under Rule 7B, 25% of income from the manufacture of coffee grown and cured by the seller in India and 40% of income from the manufacture of coffee grown, cured, roasted and grounded by the seller in India is deemed to be income liable to tax.

6.2.10 Under Rule 8, 40% of income from the manufacture of tea is deemed to be income liable to tax.

The text of Rules 7, 7A, 7B & 8 of the I.T. Rules, 1962 is given in **"Annexure - 6 A"** of this report.

6.2.11 The now defunct provisions contained in Section 33 had allowed Development Rebate for manufacture or production of articles and things listed in the Fifth Schedule of the Income Tax Act, 1961. The said Schedule included "Processed Seeds" as one of the notified article or thing, at Sl. No. 28 thereof.

6.2.12. Companies engaged in the business of biotechnology incurring any expenditure on scientific research on in-house research and development facility as approved by the prescribed authority have been allowed a deduction of a sum equal to (one and one half times) of the expenditure so incurred u/s 35 (2AB) of the I.T. Act, 1961 w.e.f. 1.4.2002.

6.3 Case Laws relating to "agricultural income"

The interpretation of Sec 2(1A) has come up before courts in a number of cases. A few important cases, where distinction was made between agricultural and non-agricultural income, are discussed below.

6.3.1 "Agriculture" in its primary sense means "ager" (a field) and "culture" (cultivation) i.e. cultivation of a field, which implies expenditure of human skill and labour upon land. Cultivation of the field includes tilling of the land, sowing of the seeds, planting and similar operations on the land. These are basic agricultural operations. The operations, performed after the produce sprouts from the land, e.g., weeding, digging the soil around the growth, removal of undesirable undergrowth, tending, pruning, cutting, harvesting and rendering the produce fit for the market, would all be agricultural operations when taken in conjunction with the basic operations. The human labour and skill spent in the performance of these subsequent operations cannot be said to have been spent on the land itself. The mere performance of these subsequent operations on the products of the land, where such products have not been raised on the land by the performance of the basic operations, would not be enough to characterise them as agricultural operations. Only if this integrated activity which constitutes agriculture is undertaken and performed in regard to any land can that land be said to have been used for "agricultural purposes" and the income derived

therefrom be said to be "agricultural income" derived from the land by agriculture, under section 2(1) of the Indian Income-tax Act, 1922.

Agriculture covers all products of land, having some utility either for consumption or for trade and commerce. The extension of the term "agriculture" to denote activities such as breeding and rearing of livestock, dairy farming, butter and cheese-making and poultry farming is an unwarranted distortion of the term.

The court held that wild grown products or plants of spontaneous growth not involving any human labour or skill upon the land are not products of agriculture and the income derived therefrom is not agricultural income. -CIT v. Raja Benoy Kumar Sahas Roy (1957) 32 ITR 466(SC)

6.3.2 The term "agriculture" should not be given such a wide meaning so as to include activities like rearing of livestock, dairy farming, butter and cheese making, etc.- State of Orissa v. Ram Chandra Choudhury (1962) 46 ITR 246 (Orissa).

6.3.3 In order to decide whether land is "used for agricultural purposes" no assistance is to be got from the meaning of "agriculture" given in other statutes. Unless there is some measure of cultivation of the land, some expenditure of skill and labour upon it, it cannot be said to be used for agricultural purposes within the meaning of the Income tax Act -Raja Mustafa Ali Khan Vs. CIT (1948) 16 ITR 330(PC).

6.3.4 Income from the sale of forest produce such as timber, tendu leaves, mohua flowers, harra nuts, etc, derived from an uncultivated self-grown forest is not agricultural income and is not exempt from taxation under section 4(3)(viii) of the Indian Income tax Act 1922 Beohar Singh Raghubir Singh Vs. CIT (1948) 16 ITR 433(Nag.).

6.3.5 The ordinary dictionary meanings of the two words "agriculture" and "cultivation" are different. "Agriculture" is of much wider import than "cultivation". Utilization of land "for regular operations in forestry" is an agricultural operation in the wider sense of the term. Commissioner of Agricultural Income Tax vs. Raja Jagdish Chandra Deo Dhabal Deb (1949) 17 ITR 426 (Cal.)

6.3.6 Any produce or product grown on land aided by human labour and effort, which does not grow wild or spontaneously on the soil would be an agricultural product, and the process of producing it would be 'agriculture'. CIT Vs. K.E. Sundara Mudaliar (1950) 18 ITR 259(Mad.)

6.3.7

In a case under U.P. Agricultural Income Tax, Allahabad High Court has held that income from nursery is not agricultural income (H.H.Maharaja Vibhuti Narain Singh vs. State of U.P.(1966) 65 ITR 364)

6.3.8

The assessee, a dealer in coconuts, took leases of coconut thopes from different parties. He paid a fixed annual sum and was allowed to enjoy the fruits of the coconut trees for a stipulated period ranging from 1 to 3 years or even longer. The lease deed contained a stipulation in a few cases that lease did not include the land.

The Hon'ble Court held that "in order to constitute agricultural income there should be a clear nexus between such income, land and agricultural operations. In this case, the last two are present but not the first. In our view the nexus between the income and the land is missing. The connection of the income is with the trees themselves without reference to the land or agricultural operations. Thus the income was not agricultural in character." CIT Vs. K.S. Imam Sahab 71 ITR 742 (1968), Madras.

6.3.9

The assessee was doing business of growing mulberry trees and rearing silk worms. The silk worms were principally fed on mulberry leaves, plucked from the trees grown by the assessee. The cocoons formed by worms' hardened saliva were then sold in the market. Assessee claimed the entire income exempt u/s 10(1) of the Income Tax Act.

The Hon'ble Supreme Court held that "*What is taken to the market and sold must be the produce which is raised by the cultivator. Even though for the purpose of making marketable or fit for sale, some process may have to be undertaken. The section does not contemplate the sale of an item or a commodity which is different from what is cultivated and processed.*"

In this case, mulberry leaves which was agricultural produce of the assessee, were fed to the worms instead of their sale in the market. By no stretch of imagination could the silk worms or the silk cocoons be regarded as an agricultural produce of the cultivator. The Apex court held the income of the assessee from sale of cocoons as non-agricultural income. CIT Vs. K.Lakshman and Co. and others 239 ITR 597(SC)

6.3.10

The assessee purchased standing crop of tobacco and carried out operations thereon like pruning of leaves, turning the soil, plucking of ripe leaves and flue curing for marketing. He claimed its income as agricultural income.

The High Court held that, agricultural income cannot be said to accrue to every person into whose hands the produce of the land passes. The profit accruing from the purchase of a standing crop and resale of it after harvest by a merchant having no interest in land is not agricultural income,

since land is not the direct or immediate or effective source of his income which in this case rather is the trading operation of purchase of the standing crop and its resale at an advantageous price. The court held that the assessee's income was not agricultural income exempt from tax. Commissioner of Income Tax, Madras vs. Maddi Venkatasubbayya & Another (1951) 20 ITR 151(Madras)

6.3.11

The assessee leased out his agricultural land. He got back re-possession of land with standing sugarcane crop after about five months from the actual date of termination of lease. The assessee then carried out further agricultural operations on the land and the crop. The question arose as to whether income from the sale of sugarcane crop was agricultural income or not, when the assessee had not carried out initial basic operations. The court held that all the ingredients namely land, agricultural operations and income derived from commercial crops grown on agricultural land were present in this case, which were required to make an income "agricultural income". Non-performance of some part of agricultural operations would not make the income non-agricultural. Income derived from the sale of sugarcane was held assessable as agricultural income. A.S.Karachi and others vs. Commissioner of Agricultural Income tax and another. (1978) 115 ITR 629 (Kar).

6.4

Case laws relating to development & production of seeds.

The income from development & production of seeds has come up before courts in a few cases, which are discussed below :

6.4.1

The assessee had income from sale of plants grown in pots and from sale of seeds, which it claimed exempt u/s 10(1).

The High Court observed that the assessee was in the business of nursery, growing various plants and seedlings on scientific basis. Plants were grown on prepared beds and were transplanted in pots. The court observed that plants sold by the assessee in pots were the result of the basic operations on the land on expending human skill and labour therein. Income from the sale of plants was held to be agricultural income. As far as the income from sale of seeds is concerned, the court held that: "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." CIT Vs Soundarya Nursery (1998) 241 ITR 530 (Madras)

6.4.2

The assessee company was a new industrial undertaking in backward area and was engaged in the business of processing of raw seeds. The assessee's claim of deduction u/s 80HH of the Income Tax Act, 1961 was disallowed in assessment, holding that processing of seeds is not manufacture or production of goods. The ITAT allowed the claim of the assessee.

The High Court observed that in the manufacturing process, raw seeds undergo various stages to make them marketable. Stage one involves conveyance of the raw seeds through an elevator into the seed pre-cleaner. Stage two requires the seeds to come out of the pre-cleaner and into a machine, which separates the stones from the seeds. Stage three involves fine cleaning of seeds. Stage four involves the said seeds to go through the gravity separator machine; which bifurcates the seeds according to specific weight. Stage five deals with post-processing and certain tests to be carried out like physical testing, physiological testing and genetic testing. Stage six deals with assessing the intensity of a suitable dosage for seed treatment with the use of chemicals. The treated seeds are then weighed in an automatic weighing machine in seventh stage. After passing through seven stages, the raw seeds which initially could be consumed by human beings and animals, remain no longer edible and can only be used for cultivation.

The court held that a different commodity emerged after the raw seeds underwent different stages. It held that the processing of seeds involves manufacture and was entitled to deduction u/s 80 HH. CIT Vs. Jalna Seeds Processing and Refrigeration Co. Limited. (2002) 246 ITR 156 (Bombay).

6.4.3

In the case of State of Rajasthan v. Rajasthan Agricultural Input Dealers Association (1996) AIR 1996 SC 2179; (1995) 5 SCC 479. It was held that though food grains *per se* can be used both as food grains and as seeds but, after it had gone through the process of coating, it lost its basic character, namely, of being consumed as food by human beings and therefore was an entirely different commodity. The Supreme Court held that the processing of seeds did amount to manufacture.

6.4.4

The assessee company purchased seeds from the growers and undertook processing operations on them. These processing operations were shelling the shanks, dehydrating the seeds, drying them in mechanical dryers, separation of good and bad seeds through the specific gravity separators and treatment of the seed with poisonous chemicals, under highly scientific conditions. The company claimed weighted deduction of 120% u/s 35C in its assessment for asstt. Year 1978-79 (*this sub-section has been deleted subsequently with effect from 1.4.1989*). The ITAT held that the processing of seeds amounted to manufacturing and, therefore, the assessee was entitled to deduction u/s 35C of the I.T.Act. Andhra Pradesh State Seeds Vs. ITO (1983) 5 ITD 624 (ITAT, Hyderabad, 'B' Bench).

The assessee-company was engaged in developing and updating of **Hybrid seeds** of Jowar, Bajra, Maize, etc. It was necessary for the assessee-company to carry on R&D activities in the field. The assessee-company collects germplasm from different institutions and universities and also gathers from its own sources and carries on regular research and experiments in its farm exclusively earmarked for the purpose. The production and sale of parent seeds are managed under Agricultural Division of the assessee-company and the income derived from the sale of parent seeds is shown as agricultural income, and accounted in Agricultural Division. The remaining part of parent seeds are given free of cost to the willing farmers for commercial production of seeds. The commercial production of seeds is purchased back by the assessee-company from these farmers at a pre-determined market price. The assessee-company also provides the necessary technical support and guidance to these farmers in raising the commercial production. The commercial production of seeds collected from the farmers at the pre-determined market price on the basis of the buy-back agreement are further processed by the assessee-company and later sold to dealers. The purchase and sale of commercial seeds are managed under the Commercial Division of the assessee-company and the income earned out of the same is declared as business income. It is in the above context, the question was raised whether the R&D expenditure has to be absorbed fully in the Agricultural Division or in the Commercial Division of the assessee-company for the purpose of Income-tax Act.

The ITAT held that the activities carried on by the assessee-company under agricultural division and commercial division constituted distinct businesses and the R&D Expenditure incurred by the assessee-company is attributable to both the divisions. The Ld. ITAT upheld the decision of CIT (A) that the assessee-company is entitled to deduction on account of R&D expenditure but the same has to be restricted in proportion to the turnover between the agricultural division and the commercial division, and the amount relatable to commercial division can alone be allowed as business expenditure. Assistant Commissioner of Income Tax vs Kanchanganga Seeds Co. (P.) Ltd (2001) 81ITD152 (ITAT HYDERABAD).

The company purchases foundation seeds and sells it to farmers for growing hybrid seeds. The company renders technical advice and managerial guidance. After the produce is harvested, the samples are collected and tested for purity, viability and moisture content. If samples are approved, the seeds are purchased. Seeds are then graded and cleaned by mechanical process and sorted out in three categories and are then treated with mixture of chemicals and mixed mechanically as a result of which chemical mix is coated on seeds. The seeds are then packed. The assessee claimed deduction u/s 80-I and 80-HH of the I.T. Act, 1961 treating its activities as manufacturing, which was disallowed by the A.O. The Ld. ITAT

confirmed the order of the CIT (A) and allowed claims of the assessee u/s 80-HH and 80-I. ITO Vs. Navbharat Seeds (Pvt.) Ltd. (1989) 32 ITD 703 (ITAT, Ahmedabad).

6.4.7

The assessee distributes foundation seeds to farmers, who are shareholders in the company. The company advises the farmers and after the produce is harvested, the seeds are purchased from them. These seeds are tested and processed. They are graded, cleaned and sorted. They are mixed with chemicals and then packaged. The Hon'ble High Court held that processing of seeds is an industrial activity involving manufacturing or producing of an article, income from which is entitled to deduction u/s 80-J. Tarai Development Corporation Vs. Commissioner of Income Tax, Lucknow, 120 ITR 342 (Allahabad High Court)

6.4.8

In a case similar on facts with cases listed above (viz. 32 ITD 703 and 120 ITR 342), the assessee M/s Maharashtra Hybrid Seeds Co. Ltd. (MAHYCO) claimed deduction u/s 80-IA on processing of seeds in asstt. year 1995-96 and 1996-97. The said claim was disallowed by the assessing officer. The Ld. ITAT in their order No. ITA No. 979/Mum/2000 and ITA No. 2446/Mum/2000 dated 19th June, 2001 observed that the "processed seeds" have been listed as item 28 in Schedule V to the Act, for the purpose of Section 33 (1)(b)(B)(i), which requires that the plant and machinery should manufacture or produce articles or things specified in the said Schedule. Thus the Income Tax Act itself, in a different section, recognises that "processed seeds" are the result of a manufacturing or production process, different from the unprocessed or raw seeds. Therefore, there is no merit in the stand taken by the departmental authorities that the activity carried out by the assessee in its industrial undertakings at Kalkal and Kamdod does not amount to manufacture or production of article of things. Following the decision in CIT Vs. Jalna Seeds Processing and Refrigeration Co. Limited. (2002) 246 ITR 156 (Bombay), the Ld. ITAT held that assessee is eligible for deduction u/s 80-IA of the I.T.Act. This case is assessed in Circle 1 (2), Mumbai.

(The benefit u/s 33, called Development Rebate, has been discontinued w.e.f. 31.5.1977.)

CHAPTER 7

TREATMENT OF INCOME FROM SEED BUSINESS BY DIFFERENT SEED PRODUCING COMPANIES AND DISPUTES RELATING THERETO IN ASSESSMENTS

This chapter brings out how income from development and production of hybrid seeds has been differently treated by different seed producing companies. This chapter also deals with cases where disputes have arisen between the Department and the assessee on taxability of income from development and production of hybrid seeds, and they have not yet reached finality at the higher judicial stages of ITAT, High Court or Supreme Court.

Private Sector Companies

7.1

M/s. Pro Agro Seed Co. Ltd., A-311, Ansal Chamber-I, Bhikaji Cama Place, New Delhi

This case was earlier assessed in Special Range-1 in Delhi and after restructuring, is assessed in Circle -14(1), Delhi. The assessee for the A.Y. 94-95 claimed exemption u/s 10(1) of Rs. 1.62 crores, being income from development and production of hybrid seeds and of Rs. 4.20 crores, being proceeds on sale of germplasm.

Germplasm is an expression, used in a broad sense to denote the hereditary properties of a seed, an individual plant or plant population, which are transmitted from one generation to other. Germplasm lines are the basic building blocks to new hybrid seed development.

The assessee claimed exemption u/s 10(1) on sale of germplasm lines to its sister concern M/s. Pro agro PGS India Ltd on the ground that germplasm seeds were produced employing usual agricultural operations. However, the buyer company treated entire expenditure of Rs. 4.20 crores (on purchase of germplasm) as expenditure on acquiring know-how and claimed one-sixth of it as deduction u/s 35 AB. The latter remarked in its return of income that the purchase of germplasm, which takes 6-7 years of research to develop, was made to augment its research programme.

The AO treated the sale of germplasm as business income and brought it to tax, inter-alia, on the grounds that :

- (a) The purchaser company had shown the transaction as purchase of technical know-how,
- (b) In the sale proceedings, the seeds have been valued in terms of rupee per line as against the usual method of valuing the agricultural produce in terms of Kgs.
- (c) The so called agricultural operation formed only insignificant part of the whole process of development of the subject produce which mainly was the result of input of scientific knowledge and techniques of genetic engineering.

The A.O. made an addition of Rs. 2.52 crores after allowing R&D expenses out of sales proceeds of the germplasm. Sale of hybrid seeds, however, was treated as agricultural activity.

The CIT(A) set-a-side the assessment to be re-framed *de novo*.

In the re-assessment, the AO held both the income from sale of germplasm of Rs. 4.20 crores and the income from sale of hybrid seeds of Rs.1.62 crores as non-agricultural income.

The AO examined the sale agreement of germplasm and treated it as a transaction in intellectual property right (IPR). The CIT(A) confirmed this addition and held that *"to fall within the ambit of agricultural operations the produce has to be raised from the land, the produce should be fit to be taken to the market for consumption and process of raising crop should be one which is ordinarily employed by the cultivator. In the present case the produce is germplasm. It is not an agricultural product which can be sold to the farmer or sold to individual consumers."* She further held that *"what the assessee had sold are not seeds but the right, title and interest in all vegetable germplasm and vegetable seed stocks in her possession and in the possession of the affiliated companies. The sale is on basis of exclusivity and is governed by the non-compete clause"*.

The AO held in re-assessment that income of Rs. 1.62 crores on sale of hybrid seeds is also non-agricultural income since it had been earned by employing scientific and technical operations. But the CIT(A) deleted this addition and held that *"As discussed in the case of Raja Benoy Kumar Sahas Roy and subsequent judgements whatever produce is raised from the land by imparting normal agricultural activities for raising products fit to be sold in the market would be defined as an agricultural product and the sale value as agricultural receipts. Beside unlike germplasm, the hybrid seeds are consumable commodity and are sold to the farmer as certified seeds to raise crops. The seeds are admittedly sold in the market and are being used for raising agricultural crops, as such the sale proceeds constitute receipts from agriculture and income from the same will be eligible for exemption u/s 10(1)."*

Both Revenue and the assessee are in appeal before the ITAT. Similar issues have come up in later assessments also and are at various appellate stages.

7.2

M/s Advanta (India) Ltd., (formerly ITC Zeneca Ltd.), 31, S.D. Road, Secunderabad :

This case is assessed in Hyderabad. The assessee has got an R&D Lab and farm, where hybrid breeder seeds are produced. These breeder seeds, after outsourced multiplication, are processed and packaged and sold in the market by the assessee company.

In Asstt. Year 1997-98, the assessee showed taxable income of Rs. 6.3 crores after claiming deduction of expenditure of Rs. 6.69 crores on agricultural produce, namely, hybrid seeds, used as raw material in the final product. The assessee admitted that its income is partly agricultural and partly non agricultural and applied Rule-7 of Income Tax Rules, 1962. The assessee worked out the market value of hybrid seeds, used in subsequent multiplication, by applying Rule 7 (2)(b).

The Assessing Officer accepted the contention of the assessee regarding applicability of Rule-7, but he applied uniform profit rate of 15% on cost of cultivation of the said raw material for determining its value. He reworked the profit to Rs. 13.02 crores. It may be mentioned here that, as per the formula used by the assessee, the profit margin over and above the cost of cultivation worked out to 360% of cost of cultivation.

Before the Ld. CIT (A), the assessee, changing its stand, claimed entire income as agricultural and non-taxable. The Ld. CIT (A) held activities upto the stage of production of basic seeds, as agricultural activities. Thereafter, the agricultural operations having been carried out by contract organisers and contract farmers and no basic agricultural operation having been carried out by the assessee, the Ld. CIT (A) held the income attributable to the second stage to be non-agricultural, hence taxable.

The Ld. CIT (A) rejected assessee's plea of apportionment of final profits to ascertain the market value of agricultural raw material. Analysing Rule-7 (2)(b)(iii), the Ld. CIT (A) held that the expression "reasonable profit" used in the said rule is with reference to the cost of cultivation of agricultural produce and it could not be linked to the overall profit made by the assessee. Ld. CIT (A) held 60% of the total cost of cultivation, calculated using average gross margin rate on the sale of hybrid seeds, as the profit margin for computing

the market value of the basic seed, used as a raw material. Relief of Rs. 71.28 lakhs on this issue was, thus, allowed.

7.3

M/s Monsanto Technologies India Ltd. (Formerly known as Cargill Seeds India (P) Ltd.), No. 308, Sophia's Choice, No. 7, St. Marks Road, Bangalore - 560 001 now merged with Monsanto India Ltd., Mumbai :

The assessee had obtained exclusive rights of multiplication and use of foundation seeds within the territory of India from its parent company M/s Cargill Inc., USA. It identifies the products suitable for Indian conditions, assesses their 'produce' ability, conducts multi-locational trials and thereafter enters into "seed production agreement" with the interested land owning farmers for multiplication of the said seeds. The agreement stipulated that the land would be exclusively used for production of Cargill Hybrid Seeds and the crop remains the property of the assessee company. The cultivation of the crops is under supervision of the company's co-ordinator. The farmer has to pay for land revenue, irrigation, insecticide etc. used in the production of the crop. The company claimed that because of this agreement, it remained the beneficial owner of the land. It claimed entire income as exempt u/s 10(1) for the A.Ys 93-94 to 96-97.

Following the ratio of 32 ITR 466 (SC), the A.O. held that assessee is not carrying out the agricultural operations itself. The AO also pointed out that under the Karnataka Land Reforms Act, 1961, assessee cannot own/lease agricultural land in Karnataka. The A.O. relied upon the decision in the case of CIT Vs. Maddi Venkatasubbaiah 20 ITR 151 and CIT Vs. K.S. Imam Saheb 71 ITR 742 (These cases are discussed in the earlier part of this study). The A.O. denied exemption u/s 10 (1) to the assessee for all the above assessment years.

Referring to the "seed production agreement" between assessee and contract farmers, the Ld. CIT (A) held that the company was carrying out agriculture with the help of its supervisors, coordinators and farmers and that the farmers are only providers of land and services. The company was involved in the agricultural activities including supply of seeds, fertilisers, pesticides, advice regarding sowing, cutting and threshing of the crop. The assessee was, therefore, allowed exemption u/s 10 (1) of the I.T.Act, 1961.

The exemption u/s 10 (1) has gone upto Rs. 17.17 crores in asstt. year 2001-02. This case is presently assessed with Circle 8 (2), Mumbai.

This case is assessed by DCIT, Circle-4, Nagpur. The assessee has classified its activity into three categories, namely, 1. Trading, 2. Non farming (contract production) and 3. Farming (own cultivation). Under its trading activity, the company purchases ready to pack seeds from other seed producing companies. This income is shown as non-agricultural. Under the second activity, namely, non farming (contract production), the assessee takes foundation seeds from agricultural universities and gets them multiplied through contract farmers. After buy back, the seeds are processed, packed and marketed by the company under its brand name. The income from this activity is also shown as non agricultural income.

In the third activity, namely, farming (own cultivation), the assessee undertakes agricultural operations on its own land as well as land taken on lease from different farmers. The assessee undertakes all agricultural operations. After harvesting, the seed are processed, packed and sold under assessee's brand name. The assessee has treated income from this activity as partly agricultural and partly non-agricultural. The difference in GP rate from activity no. 2 (non farming) and activity no. 3 (farming) is taken as the profit from agricultural activity.

The Department has accepted the method and manner of calculation of total income in this case.

This case is assessed with Addl. CIT, Range-2, Guntur. From the Balance Sheet of year ending 31.3.2001, it is seen that the assessee has developed proprietary cotton hybrids NCS-145 and NCS-207 through the company's in house R&D facility, which is duly recognised by Department of Scientific and Industrial Research (DSIR). The entire income of Rs. 1.74 crores from development and production of hybrid seeds has been taken as business income. The income of Rs. 63.4 lakhs from production of cotton (not cotton seeds) through agricultural operations, as per Schedule 13 of the Balance Sheet, has only been taken as agricultural income.

This case is assessed with DCIT, Circle 2(1), Hyderabad. From the Balance Sheet of year ending 31.3.2001, it is seen that the assessee has

purchased hybrid seeds and processed them before marketing. The entire income has been considered as non agricultural.

7.7

Unicorn Agrotech Ltd, 1-7-139/3 S.D. Road, Secunderabad-500 003

This case is assessed with ACIT, Circle 3(4), Hyderabad. The assessee has two divisions namely, Food Division which is producing gherkins for export and Seeds Division which is developing and producing vegetable seeds. The income of Rs. 1.38 crores of A.Y. 2001-02 from the Food Division is treated as exempt u/s 10-B, on the grounds that it is a 100% E.O.U. The Gross Total Income of the Seed Division for A.Y. 2001-02 is Rs. 4.03 crores which is fully treated as business income. After availing deduction u/s 80 HHC of Rs. 3.17 crores, assessee has shown total income of Rs. 85.74 lakhs from the Seed Division.

In this case, the entire income from development and production of hybrid vegetable seeds is shown as business income by the assessee.

7.8

Indo-American Hybrid Seeds (I) Pvt. Ltd., Post Box No. 7099, 17th Cross, 2nd 'A' Main K.R. Road, Banashankari 2nd Stage, Bangalore-560 070.

This case is assessed by DCIT, Circle-11(3), Bangalore. The assessee is specialist in vegetable seeds and hybrid flowers. Its activities can be categorised into two, namely, (a) import and marketing of seeds and (b) development, production and marketing of hybrid seeds. The income from activity (a) is treated as business income whereas income from activity (b) is fully treated as agricultural income. In the last four years, assessee has consistently shown loss from activity (a) and has shown consistently agricultural profit from activity (b).

Chart showing year-wise claim of agricultural income and business income from trading of imported seeds, is given below:

Assessment Year	Business Income (Rs in Crores)	Agricultural Income (Rs in crores)
1998-99	(-) 0.90	0.73
1999-2000	(-) 2.69	0.33
2000-2001	(-) 5.50	2.46
2001-2002	(-) 1.90	2.38

7.9

Amareswara Agri-Tech Limited, 301, Durga Apts, Somajiguda, Hyderabad-82.

This case is assessed in Hyderabad. The assessee is undertaking two activities namely, (a) development and production of foundation seeds and (b) processing and marketing of commercial seeds. The assessee has treated income from activity (a) as agricultural and income from activity (b) as non agricultural.

7.10

Ganga Kaveri Seeds (Pvt) Ltd., BF/5D, DDA Flats, Munirka, New Delhi.

This case is assessed by ITO, Ward 12(1), New Delhi. The assessee is undertaking two activities namely, (a) production of foundation seeds and (b) processing and marketing of different kinds of commercial seeds. The assessee has treated income from activity (a) as agricultural and income from activity (b) as non agricultural.

7.11

Nirmal Seeds Private Ltd., Jalgoan.

This case is assessed by ACIT, Circle-2, Jalgoan. The company has a small R&D setup and is developing hybrid bajra and vegetable seeds. It is also buying and processing seeds. It is also simply trading in seeds. It has treated its entire income as business income and has claimed R&D expenditure u/s 35 and deduction u/s 80 IA on the activity of processing of seeds.

7.12

Navbharat Seeds Pvt. Ltd., Vasu-Kanan, 1st Floor, Near Lotus Flats, Opp. Gujarat Vidyapith, Ashram Raod, Ahmedabad- 380 014.

This case is assessed by ACIT, Circle-5, Ahmedabad. The company has R&D Unit duly recognised by DSIR. It has claimed R&D expenses of only Rs. 13.61 lakhs. It is developing hybrid bajra seeds. Presently, its main income is from processing and marketing of purchased seeds. It has treated its entire income of Rs. 25.51 lakhs as business income.

7.13

Eagle Seeds & Agritech Pvt. Ltd., 117, Silver Sanchora Castle, 7 RNT Marg, Indore.

This case is assessed by ACIT, Circle 1(2), Indore. The assessee is processing and trading hybrid seeds. The assessee is not doing any development of hybrid seeds. It has treated its entire income of Rs. 16.2 lakhs as business income.

Public Sector Companies

7.14

M/s National Seed Corporation Ltd., Beej Bhawan, Pusa Complex, New Delhi :

This case is presently assessed in Circle 13 (1), New Delhi. The assessee's activities include production, procurement, processing, storage, testing and distribution/sale of agricultural seeds. The assessee has three farms, where it multiplies hybrid seeds. The assessee is incurring loss on multiplication of hybrid seeds in its own farm. In asstt. year 1993-94, the assessee claimed set-off of this loss of Rs. 28.97 lakhs as business loss. The A.O. disallowed the set-off treating it as agricultural loss. The Ld. CIT (A) allowed relief on the grounds that the seeds were manufactured, even though one step in the process may not be called manufacturing activity. The Revenue's appeal against the order of the CIT (A) is pending before the ITAT.

Interestingly, the assessee has given following note in its computation of income of A.Y. 2001-02 :

There being no profits (Agriculture Income) from Corporation's Foundation/Breeder Seed Farms, exemption u/s 10(1) has not been claimed and hence the losses/expenses on these Farms have not been excluded as per practice being consistently followed in preceding years and upheld by the CIT(A).

7.15

Gujarat State Seeds Corporation Ltd. Beej Bhavan, Sector-10/A, Gandhinagar.

This case is assessed with CIT, Gandhinagar. This public sector corporation is organising production of seeds on the fields of farmers for more than 31 crops consisting of approximately 120 varieties of seeds. The entire income of Rs. 4.23 crores of A.Y. 2001-02 has been treated as business income.

7.16

The Andhra Pradesh State Seeds Development Corporation Ltd., 5-10-193, II Floor, HACA Bhavan, Hyderabad-500 004.

This case is assessed with Addl. CIT, Range-1, Hyderabad. This public sector corporation is producing hybrid seeds of paddy, maize, jowar, bajra, pulses etc. It does not have any regular R&D section and it uses breeder

seeds developed by public-funded institutions. The entire income of Rs. 0.62 crores of A.Y. 2001-02 has been treated as business income.

7.17

Maharashtra State Seeds Corporation Limited, Akola.

This case is assessed with ACIT, Akola. This public sector corporation is buying seeds from farmers and farmer cooperatives. The seeds are processed and marketed by it. The entire income of Rs. 4.79 crores of A.Y. 2001-02 has been treated as business income.

7.18

The study of the following cases of public sector seed corporations reveals facts similar to those listed above in paras 7.15 to 7.17.

- (a) Karnataka State Seeds Corporation Ltd., Beej Bhavan, Bellary Raod, Hebbal, Bangalore-560 024.
- (b) Punjab State Seeds Corporation Ltd., SCO 835-836, Sec. 22-A, Chandigarh. Assessed by ACIT, Circle 3(1), Chandigarh.
- (c) West Bengal State Seed Corporation Ltd., 4, Gangadhar Babu Lane, Kolkata – 700 012. Assessed by ITO., Ward-1(3), Kolkata.
- (d) U.P. Seeds and Tarai Development Corporation Ltd., Pantnagar, P.O. Haldi, Distt. Udham Singh Nagar. Assessed by Addl. CIT, Haldwani.

In all these cases, the public sector corporations have treated their entire income as income from business.

CONCLUSIONS

7.19

From the above discussion, it emerges that different assesseees are treating income from development and production of hybrid seeds differently:-

- a. Some private sector companies, mainly Indian arms of multinational corporations (e.g. Monsanto, Pro Agro etc.) have treated the entire income from the activity of development and production of hybrid seeds, including the income from seed multiplication through contract farming, as agricultural.
- b. Some private sector companies (e.g. Nuziveedu Seeds Ltd, Unicorn Agritech Ltd., Nirmal Seeds etc.) have treated the entire income from development and production of hubrid seeds and business income.

(iii) At least one private sector company, namely, Advanta India Ltd. has treated the income from development & production of hybrid seeds, including the income from seed multiplication through contract farming as partly agricultural and partly business. It has applied Rule-7 of the Income-tax Rules, 1962 to apportion the agricultural and non-agricultural income.

(iv) At least one private seed producing company, namely Ankur Seeds Pvt Ltd., has shown the income from seed multiplication through contract farming as business income.

(v) Some private sector companies (e.g. Amareswara Agri-Tech Ltd., Gangavathi Kaveri Seeds Private Ltd. etc.) have treated the income from development of hybrid seeds as agricultural and income from processing and marketing of hybrid seeds as non agricultural.

(vi) Almost all the public sector seed corporations have treated the income from production and processing of hybrid seeds as non agricultural income.

(vii) Sale of germplasm, which is a stage anterior to development of breeding seeds, was treated as agricultural income by Proagro Seeds Company Ltd. Both, the A.O. and the CIT(A) held it to be non-agricultural income.

7.20

Thus, there is no uniformity in taxation of income from development and production of hybrid seeds.

CHAPTER-8

FEASIBILITY OF TAXING NON AGRICULTURAL COMPONENT IN THE DEVELOPMENT AND PRODUCTION OF HYBRID SEEDS

In this chapter, we shall deal with the Board's query regarding the feasibility of taxing at least the non-agricultural component, which goes into the production of hybrid seeds under the Direct Taxes

8.2

We have seen in chapter-3 that the process of development and production of hybrid seeds consists broadly of 3 stages i.e. development of breeder seeds, multiplication of seeds and processing of seeds. In the **first stage**, the procedure, includes identification of desirable traits, selection of plants with desirable traits, pollination, repeated selection and repeated tests to ensure best combiners. The seeds of best combiners are multiplied in experimental farms, often under green house conditions, to raise breeder seeds. The experimental seeds are repeatedly tested and selected for further development in the research farms and R&D labs of the company. This stage takes up several years. In the **second stage**, the breeder seeds are subsequently grown on farmers' field, where they are multiplied. The company, through agents or organisers, gives these seeds to the farmers who multiply them through agricultural operations and sell back the multiplied seeds to the company. The company or the organisers render technical advice to the farmers during the process of production of seeds. The farmer remains the owner of the land and is also responsible for purchase of various other inputs like, fertilizers, pesticides etc. In the **third stage**, after purchase of the multiplied seeds, the company processes the seeds, tests them for quality and ultimately packs them for sale. The processing involves, cleaning, sorting, establishing purity, and coating of the seeds with certain chemicals to improve its germination quality. The quality testing includes testing the seeds for their moisture content, hybrid vigour, disease resistance etc.

8.3

In the first stage i.e. in the development of a new hybrid, though the agricultural operations are also performed, the constant role of the agricultural scientist/biotechnologist and of the R&D laboratory is of utmost importance. The value addition in this stage takes place mainly on account of the research effort rather than on account of agriculture. Therefore, in our view, the value addition from this part of the process of seed development and production should be treated as business income arising from the business of agricultural and scientific research. This view has been accepted by the CIT(A) in the case of Proagro Seeds Company Ltd. and has also been

acknowledged by the Ministry of Agriculture (Annexure 2C & 2D). However, as we have seen, in several cases the income from development of hybrid seeds has been shown as agricultural income and this seems to have been accepted by the department.

As regards the second stage i.e. multiplication of breeder seeds in farmer's field, there can be little doubt that the operation of multiplication of hybrid seeds per se is agricultural operation. However, it is debatable whether exemption u/s 10(1) of the I.T.Act was intended for corporate entities, who get the seeds multiplied through commercial contract farming as a part of their business of production and sale of seeds. As we have seen earlier, there is no uniformity in treatment of income from multiplication of seeds through contract farming. At one end of the spectrum, we have cases like Monsanto India, Pro agro, Indo-American Hybrid Seeds etc., who claim their entire income from development, production and sale of hybrid seeds as agricultural income. At the other end, there are cases of the public sector seeds corporations, as also of several private sector seed companies, who show their entire income from development, production and sale of seeds as business income. In the middle of these two ends, there are cases like Advanta India Limited and Ankur Seeds Ltd., who show part of their income from development, production and sale of seeds as agricultural and part as non-agricultural.

As regards the third stage i.e. the processing of seeds, it can be definitely argued that the operation of processing of seeds per se is non-agricultural. However, since this operation is generally performed as a part of the integrated business of development, production and sale of seeds, income from this stage is also often claimed as exempt, as in the case of Monsanto India Limited, Indo-American Hybrid Seeds etc.

8.4

The research team feels that the income from development, production and sales of hybrid seeds should be treated as partly agricultural and partly business. For this purpose, a reasonable method of computing taxable income in such cases shall be by applying Rule-7 of the I.T. Rules, 1962. However, as the case of M/s Advanta India Ltd. shows, it is not easy to determine the "market value" of the intermediate agricultural produce. Hence, the research team feels that a rule, on the lines of Rule 7A, 7B & 8 relating to income from rubber, coffee and tea respectively, will be an appropriate solution to bring to tax the non-agricultural component of income from development and production of hybrid seeds.

RECOMMENDATIONS :-

We have now answered all the queries of the Board. Our recommendations for further actions are as follows :-

(i) Since the revenue implication of the exemption u/s 10(1) in the case of all the seed companies is not very significant (only Rs. 35 crores to Rs. 40 crores), it may not be necessary for the Government to intervene in the matter at this stage. It may like to let the law take its own course. However, the important aspects of this problem may be brought to the notice of the field authorities by way of a circular.

(ii) In the alternative, if it is decided that the Government needs to intervene, perhaps because the Indian arms of the foreign companies are deriving substantial benefit on account of the exemption u/s 10(1) the following suggestions are made:

- a) The definition of agricultural income given in sub-section (1A) of Section 2 of I.T. Act, 1961 may be so amended as to exclude income from the development and production of hybrid seeds, or
- b) A new Rule may be inserted in the Income Tax Rules, 1962 on the lines of Rule- 7A, 7B and 8, prescribing certain percentage of total income from the development and production of hybrid seeds as non-agricultural income.

ANNEXURE 1-A

GOVERNMENT OF INDIA
CENTRAL BOARD OF DIRECT TAXES
D.O.F. No.153/183/2001-TPL
New Delhi, the.....

A.J. MAJUMDAR
JOINT SECRETARY (TPL-1)

New Delhi dated the 22nd July, 2002.

Dear

This is with reference to your letter dt. 15th May, 2002 on the subject of revised Charter/Annual Action Plan for DGIT (Research) for the financial year 2002-03 and our subsequent discussion in this regard.

2. In this connection, I am directed to state that the Chairman, CBDT desires that the Directorate General of Income-tax (Research) may carry out study on the following topics and submit the report by 30th September, 2002.

- (a) Production of Hybrid seeds – Possibility of taxation as non-agricultural income.
- (b) Taxation of charitable trusts and institutions – efficacy of the existing provisions.
- (c) Incentive for expenditure as scientific research under the income-tax Act – study to measure revenue loss and abuse of the provisions.
- (d) Estimate of revenue foregone under section 80G – study of abuses of the provisions.
- (e) Revenue implication of MAT provisions.
- (f) Efficacy of one-by-six scheme.

Background notes and suggested points on which study can be carried out on the above-mentioned topics are enclosed.

3. It is requested that the other issues raised in your above-mentioned letter may kindly be taken up with the Board separately.

With

Yours sincerely

Sd/-

(A.J. MAJUMDAR)

Shri S.N. Shukla
Director General
Directorate General of Income-tax (Research)
New Delhi

**BACKGROUND NOTE FOR THE PRESENT STUDY
ANNEXED WITH LETTER NO. D.O.F. No. 153/183/2001-
TPL DT. 22-07-2002 OF SH. A.J. MAJUMDAR,
JOINT SECRETARY (TPL-I), CBDT**

Hybrid seeds are being produced by many Multi-National Companies and some of the indigenous bodies are also carrying out bio-technological research for producing such high-yielding hybrid seeds. These seeds which are produced by using very sophisticated bio-technological methods and have very high non-agricultural input, are sold at a very high price, sometimes as high as Rs. 15,000/- per kg. However, since they are being produced by the process of normal tilling of land, their income is being claimed as agricultural income and, therefore, exempt from tax.

The Directorate General of Income-tax (Research) may, therefore, carry out a detailed study of the feasibility of taxing the income from growing and selling of hybrid seeds on the following lines:-

- (i) The nature and methodology employed for producing such hybrid seeds.
- (ii) The feasibility of taxing at least the non-agricultural component, which goes into the production of hybrid seeds under the Direct Taxes.
- (iii) The total tax revenue, which might be involved in such cases.

List of web sites accessed

S. No	Name of the web sites
1.	http://www.biotechknowledge.monsanto.com
2.	http://www.blonnet.com
3.	http://www.mahyco.com
4.	http://rallis.co.in
5.	http://www.nagarjunagroup.com
6.	http://www.icrisat.org
7.	http://www.businessweek.com
8.	http://www.advantaindia.com
9.	http://www.agriculture-industry-india.com
10.	http://www.agriwatch.com
11.	http://www.iaripusa.org
12.	http://forages.orst.edu
13.	http://corn.agronomy.wisc.edu
14.	http://www.icar.org.in
15.	http://cpcri.nic.in
16.	http://www.indrayani.com
17.	http://www.primalseeds.org
18.	http://www.indiaagronet.com
19.	http://www.biotech-monitor.nl
20.	http://dagrigen.tripod.com
21.	http://www.seedquest.com
22.	http://balkema.ima.nl
23.	http://www.gp.th.com
24.	http://www.biote...

V.K.Bhatia
Director

E-Mail: vkbbhatia@mail.nic.in
F.No. DIT(Research)/ /2002-03/
Dated: the 20th August, 2002

Dear Shri

The Finance Ministry have assigned a quick study to the Directorate General of Income tax (Research) on the tax implications of the economic activities of development and manufacture of hybrid seeds. The study is to be completed within the next 6 weeks.

In this connection, may I request you to kindly provide us the following information :-

- i) A list of companies engaged in development and/or production of hybrid seeds;
- ii) A note on the nature and methodology employed in (a) development of hybrid seeds and (b) subsequent production of such seeds for commercial sale;
- iii) The opinion of the concerned scientific authority, in your Ministry, on the issue whether the development of seeds through hybridization and their subsequent production for commercial sale amounts to an agricultural operation or an agricultural and scientific research operation.

Since the study is time bound, it is requested that the above information may please be provided by 30th August, 2002.

With

Yours

Sd/-

(V.K.Bhatia)

Shri Ashish Bahuguna, IAS
Joint Secretary (Seeds)
(Ex-officio Chairman, National Seeds Corporation)
Ministry of Agriculture, Room No. 147,
Krishi Bhawan,
New Delhi.

No.11-5/2002 SD VI
Ministry of Agriculture
Dept. Of Agri. & Coop.
Seed Division

Dated: 20-09-2002

Subject: **Tax implications of the economic activities of Development of Hybrid seeds.**

Sir,

The undersigned is directed to refer to letter No. DIT(Research)/42/2002-03/60 dated 20th August, 2002 seeking information for study on tax implication of the economic activities of development and production of hybrid seeds. Interim reply of this department is as follows:

(1) (a) **Development of Hybrid Seed:** The development of Hybrid seed involves collection, maintenance of varieties including inbred lines etc., crossing of varieties, introduction of plant material, their assessment, studies of their combining ability and productivity. The breeding/crossing involves incorporating certain characteristics (Yield/quality/tolerance and resistant to pests and diseases etc.) in the parental lines to facilitate hybrid seed production on economic scale. This involves large investment in plant breeding research.

(b) **Production of Hybrid Seeds:** After the lines have been developed the superior lines/hybrids are identified and production of seed is done by farmers using several labourers like the production of any other agricultural commodities. Million of small and marginal farmers are involved in production of variety seeds and hybrid seeds in different parts of the country, and, as such, production and sale of variety/hybrid seeds can be classified as agricultural operation for the purpose of taxation. The seed are basic input of agriculture like raw material in the industry. India has one of the lowest productivity in the world and huge investment is required to develop high yielding varieties to ensure food security. The agriculture production programme will depend on the strength of seed production programme of the country.

(2) **Development of Hybrid seed through hybridization and selection** is an agricultural scientific research operation and their subsequent production for commercial sale is an agricultural operation. Both are inter-linked and we cannot differentiate these operations.

(3) List of companies engaged in development and/or production of hybrid seed provided by Seed Association of India is enclosed.

(4) This Department has sought comments of India Council of Agricultural Research. Final reply will be sent after hearing from them.

(5) A copy of the latest Annual Report of the Department of Agriculture & Cooperation is enclosed. With regard to your request for "Statistics at a Glance", our Dte. of Economics & Statistics has informed that the said documents is in short supply and may kindly be accessed at web site www.agricoop.nic.in.

Sd/-

(Sanjay Vikram Singh)
Deputy Secretary(Seeds)

Shri V.K. Bhatia
Director,
Directorate of Income Tax (Research),
306, Drum Shaped Building,
I.P. Estate,
New Delhi -110 002.

No.11-5/2002-SD.VI
Government of India
Ministry of Agriculture
Department of Agri. & Cooperation

F-218, Shastri Bhavan,
New Delhi-110001.

Dated: 20.11.2002

Subject:- Tax Implication of the Economic Activities of Hybrid Seeds.

.....

This is in continuation of this office letter of even number dated 20.9.2002 on the subject stated above. **The comments of Indian Council of Agricultural Research** on the subject are as under:-

1. (a) Development of hybrid in any crops involves the following steps:
 - i) Improvement and subsequent identification of parental lines.
 - ii) Test for specific and general combining ability for identification of best hybrid.
 - iii) Multi-location testing of promising hybrids for adaptation, resistance to biotic and abiotic stresses and superiority for yield and quality.

(b) Production of Hybrid Seeds:

The seed production technology of hybrids namely synchronization of flowering of parental lines, planting ratio and isolation requirements are standardized based upon the research carried out in the Seed Technology Research Centres. In addition, **seed technology package** for seed processing, storage and quality evaluation are also standardized. This complete package of seed production technology of hybrid is made available to the seed organisations and farmers for the production of hybrid seed.

2. **Development of hybrid seed is agricultural/scientific research operation and their subsequent production for commercial sale is highly technical agricultural operation.**

This has the approval of JS(Seeds).

Sd/-
(S.SELVARAJ)
DEPUTY COMMISSIONER(SEEDS)

Shri V.K. Bhatia,
Director,
Directorate of Income Tax(Research),
306, Drum Shaped Building, I.P.Estate,
New Delhi.

V.K. Bhatia
Director

E-Mail: vkbhatia@mail.nic.in
F.No.DIT(Research)/42/2002-03/
Dated: the August, 2002

Dear Shri

The Board have assigned to the Directorate General of Income tax (Research), a study to be conducted in the next 8 weeks on the ***Production of hybrid seeds- possibility of taxation as non-agricultural income.***

2. You may be aware that hybrid seeds are produced by many multinational companies ***e.g. Monsanto, Cargill, Pharmacia etc and also by several Indian companies e.g. Maharashtra Hybrid Seeds Co. (Mahyco.), Indrayani Biotech Limited, Pro-agro, Hindustan Agrigenetics Limited, Biotech etc.***

3. In this connection, you are requested to kindly furnish the following information urgently:-

i) Whether any company dealing in development and/or manufacture of hybrid seeds is assessed in your charge? If so, please give the name and address of the concerned company.

ii) Details of returned income for the last 3 years of each of the above referred company.

iii) Whether the income from development/ production/sale of hybrid seeds is claimed exempt u/s 10 of the I.T. Act? If so, please give details of the income claimed exempt, year wise, for the last 3 years ie. A.Y. 2000-2001, 2001-2002 and 2002-2003 in each case.

iv) Please also state if in any case, the claim of exemption from tax of income from development, production and sale of hybrid seeds was rejected or varied by the Assessing Officer. If so, please give details of quantum involved, assessment year wise in each case.

4. Since the study is time bound, I will request you to kindly furnish the above information by **6th September, 2002** positively. The information for the assessment year 2002-2003 may please be furnished by 30.11.2002 after the returns for this year are filed.

With

Yours

Sd/-
(V.K.Bhatia)

F.No. DIT(R)/42/2002-03/

Dated : 25.09.2002

To
The Commissioner of Income Tax
Aayakar Bhawan,
Near Holy Cross English High School,
Aurangabad- 431001
(Maharashtra).

Sir,

**Sub: Production of hybrid seeds - Possibility of taxation as
Non-agricultural income - Matter reg.**

.....

In continuation of the D.O. Letter F.No. DIT(Research)/42/2002-03/ dated 23.8.2002 of the Director of Income Tax (Research), New Delhi, on the above subject, I have been directed to request your office to provide information about the undermentioned assessee, in the proforma, enclosed and also to attach therewith photocopies of documents/papers etc., as asked for, in the said proforma:-

I am further directed to request that the requisite information may kindly be sent by 7th Oct.02, as this is a time bound study.

This issues with the approval of the Director of Income Tax (Research), New Delhi.

Yours faithfully,
Sd/-

(A.D.MEHROTRA)
ADDL.DIRECTOR OF INCOME TAX
(RESEARCH) NEW DELHI.

Encl : As above.

SPECIMEN CONTRACT BETWEEN ORGANISER AND HYBRID SEED COMPANY.

THIS AGREEMENT MADE _____ ON _____.

Between _____ a company duly incorporated under the Indian Companies Act in the State of _____ (herein after called the Company which expression where not repugnant to the context shall include its successors and assigns) of the one part and _____ here in after called the "Organisor" which expression where not repugnant to context shall include his heirs, legal representative and assigns) of the other part, whereas the Company is interested in doing business in hybrid seeds.

AND WHEREAS the Organisor has offered to raise hybrid seeds through growers in the State of ANDHRA PRADESH for the purpose of selling the same to the Company.

AND WHEREAS the Company has accepted the offer.

NOW it is hereby agreed that the Organisor will organise agricultural operations during the Kharai/Rabi season through the farmer in ANDHRA PRADESH for raising Hybrid seed of the crops as per the details mentioned in the Annexure I and the same is sold to Company by them under the following conditions:-

1. The Organisor agrees to organise approx acres of Sunflower seed production as per Annexure I in the Villages Aukapur as per the list of growers attached (Annexure-III)
2. Organisor agrees that the area to be organised by him will be totally free of contamination from commercial crop/seed plots of other companies and with minimum isolation of 1000 metres for Sunflower and 400 metres for Maize seed plots.
3. Organisor agrees that total Male lines will be chopped/destroyed as soon as pollination is completed in seed plots and will adhere to all instructions given to him in this regard by our Production Staff.
4. Organisor will be responsible for total seed produced by growers as per clause 1 and will ensure that total seed is procured and handed over to the company.
5. Organisor will ensure supervision by a field assistant for every 100 acres organised by him.
6. Organisor will co-ordinate disbursement of Grower payments for seed procured and given to the Company. To avoid delay, the company may issue a single cheque/DD in his name for the total amount due to all

growers as per list in Annexure III subject to his obtaining proper authorisation/ acknowledgement from the growers.

7. Organisator will ensure a minimum seed yield of 2.5 qtl/acre in Sunflower crop in the areas organised by him. This will be the minimum qualifying standard for the payment of service charges to him.
8. The estimated yield per acre as jointly assessed by us will be taken into account while accepting the final quantity of seed to be procured.

And the Organisator will be paid service charges as per the Annexure-I per qtl of processed and packed seed which meet the company's quality standards (Annexure II)

In case of any dispute regarding non-compliance of terms and conditions of this agreement by either party, the courts at Hyderabad shall alone have the jurisdiction to entertain and dispose of the said dispute.

Please sign the duplicate of this letter confirming your acceptance of the terms conditions mentioned in this letter.

Signed by

(Signature)

Signed by

(Signature)

Herein called the Organisator

In the present of

1. Signature

Name :

Address:

2. Signature

Name :

Address:

Table: Transgenic Crops Approved in USA for Commercial Use (TM=Trade Name)			
Products	Genetically altered traits, the Introduced genes, along with Origin of genes	Company	Year of approval and product name, if any
Tomato	Delayed ripening, gene sequence Polygalacturonase proudction in tomato rearranged and reversed to minimize its expression by Anti-sense technology	Calgene inc.	1994, Flaver Savr TM
Tomato	Delayed ripening, Fragment of the aminocyclopropane carboxylic acid synthase gene from tomato	DNA Plant Tech.	1995, Endless SummerTM
Tomato	Delayed ripening, Aminocyclopropane carboxylic and deaminase gene from Pseudomonas-chlorphis 6 G5 strain	Monsanto Co.	1995
Tomato	Thicker skin & altered pectin content. Fragment of polygalacturonase gene from tomato	Zeneca/Pet oseed	1995
Cotton	Bt gene incorporated plants (bollworm & budworm resistant). CryIA (c) gene from Bt kurstaki	Monsanto C.	1995, Bollagard TM
Cotton	Resistant to bromoxynil, anitrilase gene from klebsiellaozaenae	Calgene Inc.	1995, BXN Cotton TM
Cotton	Resistant to glyphosate. Enolpyruvy- Ishikimate-3 phosphate synthase gene from Agrobacterium sp. CP 4	Monsanto Co.	1996, Round up ready TM
Cotton	Resistant to sulphonyl urea acetolactate synthase gene from tobacco (Nicotiana	DuPont	1996

	tabacuum cv. Xanthi		
Soybean	Resistant to glyphosate enolpyruvylshikimate-3 phosphate synthase gene from agrobacterium sp. CP4	Monsanto Co.	1995, Round up ready TM
Potato	Bt gene incorporated (Colorado potato beetle resistant) cry III gene from Bt. Tenebrionis	Monsanto Co.	1995, New Leaf TM
Potato	Insect resistant (Bt gene incorporated) modified cry III (A) gene from Bt.	Monsanto Co.	1996
Maize	Bt. Gene incorporated (resistant to cornborer) cry III (A) gene from Bt. Kurstaki	Ciba-Geigy Corp.	1995, Maximizer TM
Maize	Glufosinate resistant phosphinothricin acetyl transferase gene from streptomyces hygroscopicus	DeKalb Genetics Corp	1996
Maize	Resistant to glufosinate phosphinothricin acetyl transferase gene from streptomyces viridochromogenes	AgrEvo Inc.	1996, Liberty Link TM
Maize	Male sterility. Barnase gene from Bacillus amyloliquefaciens	Plant Genetics Sys.	1996
Maize	Bt. Gene incorporated (resistant to cornborer), cry I A(b) gene from Bt. Kurstaki	Monsanto Co.	1996, Yield Gard TM
Maize	Bt. Gene incorporated (resistant to cornborer), cry I A (b) gene from Bt. Kurstaki	Northrup King	1996
Rapeseed/ Can-ola	Altered oil composition (high lauric acid content). 12 :0 acyl carrier protein thioesterase gene from Umbellularia californica	Calgene Inc.	1995, Laurical TM
Squash	Resistant to viruses. Coat protein genes of watermelon mosaic Virus 2 and Zucchini yellow mosaic Virus	Asgrow Seed Co.	1995, Freedom II TM

Papaya	Resistant to viruses. Coast protein gene of P type of PRSVHA-5-1 from Hawaii	Cornell Univ.	1,997
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(From :Gnanasambaram (2002), *Biotechnology- The frontier tool in agriculture*,Agriculture Today, January 2002 issue)

Annexure - 4 A

Crop-wise Distribution of Certified/Quality Seeds from 1990-91 to 2001-02

Crops	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99	1999-2000	2000-01	2001-02
1	2	3	4	5	6	7	8	9	10	11	12	13
Cereals												
Wheat	14.20	14.04	15.15	18.23	20.21	22.41	23.22	24.42	26.14	29.52	26.93	25.10
Paddy	13.66	14.47	14.28	13.58	14.63	15.37	16.57	20.22	24.05	23.71	24.77	19.28
Maize	1.49	1.50	1.50	1.35	1.35	1.55	1.88	2.36	2.26	2.72	3.12	6.25
Jowar	3.46	3.46	3.91	3.69	3.25	2.73	2.73	2.83	2.57	2.67	2.46	8.70
Bajra	1.68	1.68	1.69	1.68	1.61	1.66	1.71	1.63	1.87	2.00	1.93	2.56
Ragi	0.16	0.15	0.14	0.15	0.24	0.23	0.19	0.19	0.19	0.20	0.19	0.10
Barely	0.05	0.05	0.05	0.06	0.06	0.08	0.13	0.13	0.19	0.32	0.39	0.32
Sub-Total (Cereals)	34.70	35.35	36.72	38.74	41.35	44.03	46.43	51.78	57.27	61.14	59.79	62.31
Pulses												
Gram	1.14	1.03	1.02	1.11	1.14	1.22	1.44	1.06	1.10	1.19	1.09	2.50
Lentil	0.09	0.08	0.07	0.08	0.05	0.05	0.08	0.11	0.13	0.07	0.13	0.28
Peas	0.32	0.31	0.27	0.23	0.27	0.27	0.25	0.30	0.25	0.29	0.26	0.60
Urad	0.65	0.65	0.79	0.79	0.75	0.69	1.07	0.96	1.02	0.86	0.89	1.10
Moong	0.60	0.62	0.63	0.77	0.68	0.63	0.65	0.69	0.86	0.80	0.77	1.00
Arhar	0.49	0.49	0.48	0.49	0.56	0.57	0.58	0.59	0.64	0.56	0.58	1.00
Cowpea	0.10	0.08	0.09	-	0.15	0.15	0.12	--	--	0.06	0.06	--
Others	0.02	0.03	0.05	0.15	--	--	--	0.18	0.06	0.04	0.06	--
Sub-Total (Pulses)	3.41	3.29	3.40	3.62	3.60	3.58	4.19	3.89	4.06	3.87	3.84	6.48
Oilseeds												
Groundnut	6.02	6.72	7.00	6.73	7.01	6.85	7.27	6.81	6.20	6.46	5.42	12.00
Rapeseed & Mustard	0.74	0.77	0.75	0.79	0.75	0.86	1.02	1.05	1.13	0.94	0.69	1.25
Til	0.08	0.08	0.09	0.14	0.12	0.11	0.10	0.15	0.12	0.19	0.1	0.10
Sunflower	0.41	0.55	0.63	0.73	0.68	0.82	0.58	0.75	0.62	0.51	0.42	1.50
Soyabean	1.01	1.23	1.91	2.57	2.98	3.57	3.08	3.68	5.41	4.45	4.75	3.80
Linseed	0.01	0.01	0.01	0.01	0.01	0.01	0.02	0.01	0.01	0.02	0.01	0.10
Castorseed	0.20	0.21	0.22	0.22	0.22	0.26	0.30	0.25	0.29	0.30	0.38	0.50

Safflower	0.11	0.08	0.13	0.19	0.23	0.15	0.16	0.16	0.05	0.09	0.027	0.25
Others	0.01	0.01	0.01	--	0.01	0.01	0.01	0.01	--	0.02	0.01	--
Sub- Total(Oilseeds)	8.59	9.66	10.75	11.38	12.01	12.64	12.53	12.87	13.83	12.98	11.85	19.50
Fibres												
Cotton	1.92	1.77	1.87	1.81	1.96	2.34	2.93	2.87	2.61	2.66	2.64	4.24
Jute	0.24	0.26	0.22	0.20	0.24	0.24	0.25	0.34	0.31	0.26	0.26	0.35
Mesta/others	--	--	--	--	--	--	--	--	--	0.01	0.01	0.21
Sub- Total(Fibers)	2.16	2.03	2.09	2.01	2.20	2.58	3.18	3.21	2.92	2.93	2.91	4.80
Other												
Miscellaneous												
Potato	7.97	6.90	7.10	6.17	6.62	6.85	6.69	6.83	6.86	6.89	6.86	16.50
Others	0.27	0.27	0.27	0.28	0.08	0.24	0.25	0.21	0.03	0.17	0.19	0.17
Sub-Total(Other Miscellaneous)	8.24	7.17	7.37	6.45	6.70	7.09	6.94	7.04	6.89	7.06	7.05	16.67
Grand Total	57.10	57.50	60.33	62.20	65.86	69.92	73.27	78.79	84.97	87.98	85.44	109.7 6

Source : Agricultural Statistics At a Glance 2002

Annexure- 4B

Production and Use of Agricultural Inputs in India from 1990-91 to 2001-02

Programme	Unit	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99	1999-2000	2000-01	2001-02
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1. Seeds	Thousand Qtls.												
(i) Production of Breeder Seeds		33.89	34.90	36.00	37.00	40.11	43.36	46.03	46.13	38.99	51.24	42.56(A)	45.00
(ii) Production of Foundation Seeds	Lakh Qtls.	3.35	3.75	3.93	4.06	4.73	4.76	5.76	6.84	6.75	4.66	5.90	--
(iii) Distribution of certified/Quality Seeds	Lakh Qtls.	57.10	57.50	60.33	62.20	65.86	69.90	73.27	78.79	83.00	87.98	85.44	109.76
2. Area Under HYV													
Paddy	Million Hectors	27.39	27.95	27.48	28.90	31.00	31.40	33.40	32.20	N.A.	N.A.	N.A.	N.A.
Wheat	Million Hectors	20.97	20.54	21.70	22.00	23.20	23.10	23.70	23.00	N.A.	N.A.	N.A.	N.A.
Jowar	Million Hectors	7.10	6.80	6.92	6.76	7.10	7.49	8.30	9.00	N.A.	N.A.	N.A.	N.A.
B.N.Aajra	Million Hectors	5.70	5.44	5.62	5.10	5.40	5.50	6.10	7.00	N.A.	N.A.	N.A.	N.A.
Maize	Million Hectors	2.61	2.78	2.58	2.70	3.39	3.60	3.80	3.60	N.A.	N.A.	N.A.	N.A.
Ragi	Million Hectors	1.25	1.22	1.10	1.18	1.10	1.20	1.10	1.20	N.A.	N.A.	N.A.	N.A.
Total	Million Hectors	65.02	64.73	65.40	66.64	71.19	72.29	76.40	76.00	N.A.	N.A.	N.A.	N.A.

Source : Agricultural Statistics At a Glance 2002

Seed requirement and availability for field crops in 1996-97

Crop	Area Sown (million ha)	Sowing kg./ha	Seed Regmt. (000t)	Certified/ Quality Seed supply as (000t)	Seed Supply % of Regmt.
Wheat	25.89	100	2589	232	8.96
Rice	43.43	30	1303	166	12.74
Sorghum	11.43	12	137	27	19.71
Peal Millet	9.98	4	40	17	42.50
Maize	6.26	20	125	19	15.20
Chickpea (Bengal gram)	6.85	75	514	14	2.72
Pigeonpea (Red gram)	3.51	20	70	6	8.57
Other Pulses such as Lentil Urid, Moong	12.09	20	242	22	9.09
Groundnut	7.60	150	1140	73	6.40
Rape/Mustard	6.55	5	33	10	30.30
Soybean	5.45	65	354	31	8.75
Sunflower	1.93	10	19	6	31.57
Cotton	9.12	20	182	29	15.93
Jute & Mesta	1.10	10	11	3	27.27
Total	151.19	-	6759	655	

(Source : Agricultural statistics at a glance, 1999)

List of Members of Seed Association of India

S. No.	Name of the Company	S. No.	Name of the Company
1.	Haryana Seed Development Corpn. Ltd. Bay No. 3-6, Sector 2, <u>Panchkula (HR) 134112,</u>	2.	National Seeds Corporation Ltd. Beej Bhavan, Pusa Complex, New Delhi-110012
3.	U.P seeds & Tarai Development Corporation Ltd. Pantnagar P.O. Haldi 263146, <u>Dist. Udham Singh Nargar(U.P)</u>	4.	Amwareswara Agri-tech Ltd. 4th Floor, Campus Capri Apartments, Raj Bhavan Road, Somajiguda, <u>Hyderabad 500 082.,</u>
5.	Ankur Seeds Ltd. 27, New Cotton Market Lay - out. Opposite Bus Station, <u>Nagpur 440018</u>	6.	Annapurna Seeds, Suit No.15, 2nd floor 2, N.C.Dutt Sarani, <u>Calcutta- 700 001.</u>
7.	Arora Seeds, Nawabpura Mondha Road, <u>Aurangabad- 431 001.</u>	8.	Bankim Prosad Ghosh & Co. Belur Station road, Bally 711 201 Dist. <u>Howrah</u> <u>(W.Bengal)</u>
9.	Basant Agro Tech(India) Ltd. Near S.T.Workshop, Kaulkhed, P.B.No. 87 <u>Akola 444004,</u>	10.	Beauscape Farms, J-26, Sarabha Nagar <u>Ludhiana- 141001(Pb)</u>
11.	Bejo Sheetal Seeds Pvt. Ltd., A-3, Old MIDC, <u>Jalna 431 203</u>	12.	Bihani Seeds, 2, Grain Market (Old) Sriganganagar, <u>Rajasthan- 335001</u>
13.	Century Seed Pvt Ltd. BA 22-24, mangolpuri Industrial Area, Phase II, <u>New Delhi - 110 034.</u>	14.	Cosmo Plantgene Ltd. 115, Empire Plaza, Sultanpur, Mehrauli-Gurgaon Road, <u>New Delhi 110 030</u>
15.	Deepak Fertilizers & Petrochemicals Corporation Ltd., Opposite Golf Course, Shastri Nagar, Yerawada, <u>Pune- 411 006</u>	16.	Durga Seed Farm 172, Industrial Area, Phase I, <u>Chandigarh 160 002.</u>
17.	Eagle Seeds & Biotech Ltd., 117, Silver Sanchora Castle 7, RNT Marg, <u>Indore- 452 001.</u>	18.	ECL Agrotech Limited 3rd Floor, Kalpak Arcade 19, Church Street, <u>Bangalore 560 001.</u>

19.	Exim Seeds, No.18, Exim House 1-B Cross, Near Mekhri Circle RMV Extn, <u>Bangalore</u> 560 080	20.	Ganesh Seeds Co. New Mondha, <u>Nanded</u> 431 602
21.	Ganga Kaveri Seeds Pvt Ltd 110 Indira Market, Old subzi Mandi, <u>Delhi</u> - 110 007	22.	Golden Seeds Pvt. Ltd. B-22/ A Block B, Bridge-MM Building, K.R. Road Cross, Yediyur, <u>Bangalore</u> 560 082.
23.	Heritage Seeds Pvt. Ltd 201, Lusa tower, Azadpur, <u>Delhi</u> 110 033.	24.	Hindustan Lever Ltd., Agri- Business, "Hindustan House" 1-10-8/6, Begumpet, <u>Hyderabad</u> 500 016
25.	Hindustan Seeds & Pesticides 99, Indra Market, Old Subzi mandi, <u>Delhi</u> -110007	26.	Indo-American Hybrid Seeds(India)Pvt. Ltd Post Box 7099, 2nd "A" Main 17th Cross, K.R.Road, Banashankari, 2nd Stage, <u>Bangalore</u> 560 070
27.	Indus Seed Export, NH-7, Jakkur Post <u>Bangalore</u> - 560 064	28.	Janta Agri Seeds Pvt.Ltd., 69-B Block <u>Sriganganagar</u> - 335 001.
29.	J.K.Agric Genetics, A Division of J.K. Industries Ltd 20, Paigah Colony Behind Anand Theatre, S.P.Road, <u>Secunderabad</u> - 500 003.	30.	Kanchan Ganga Seed Co.Pvt.Ltd 6-3-1089/G/15, 3rd Floor, Raj Bhavan Road Somajiguda, <u>Hyderabad</u> - 500 482
31.	Kaveri Seed Co.Pvt.Ltd., 513 B,5th Floor, Minerva Complex, S.D.Road, <u>Secunderabad</u> 500 003.	32.	Krishidhan Seeds Limited, Post Box No.92 24-C, New Mondha, Ist Floor,Bus Stand Road, <u>Jalna</u> - 431203.
33.	Krishna Seed Pvt.Ltd., 8/151, Jeoni Mandi, <u>Agra</u> - 282004(U.P.)	34.	Mahendra Hybrid Seeds Co.Ltd., A-10, Old MIDC Area, Post Box No.52, <u>Jalna</u> - 431203,
35.	Malav Seeds Pvt.Ltd., 5 Sahu Bavdi, Manek Chowk, <u>Ratlam</u> - 457 001(M.P.)	36.	Monsanto Technologies India Ltd., No. 277, IDL Centre II Floor, Chowdiah Road, 18th Cross,Malleswaram, <u>Bangalore</u> - 560 003
37.	Namdhari Seeds Pvt.Ltd, 119, 9th Main Road, Ideal Homes Township Raja Rajeshwari Nagar, <u>Bangalore</u> - 560 039	38.	Narmada Sagar Agri Seeds Pvt.Ltd., 45-46, GIDC (Motipura) <u>Himatnagar</u> - 383 001. Dist.Sabarkantha(Gujrat)

39.	Nath Seeds Limited, Nath House, Nath Road, Post Box No. 318, <u>Aurangabad</u> - 431 005.	40.	Navbharat Seeds Pvt.Ltd., "Vasu Kanan" Ist Floor, Near Lotus Flats, Opposite Gujarat Vidyapeeth, Ashram Road, <u>Ahmedabad</u> - 380014.
41.	Nav Gujarat Seeds Co., Post Box No. 10, Vijapur Highway Road, <u>Mansa</u> 382 845 Dist.Gandhinagar.	42.	Navalakha Seed Pvt.ltd., Krishi Bhawan, 1379,Bhavanipeth, <u>Pune</u> - 411 042
43	Navkar Hybrid Seeds Pvt.Ltd., Baker Ali's Wadi, Mirzapur Char Rasta, Near Leyland Company, <u>Ahmedabad</u> - 380 001.	44.	Nirankari Seeds Co., Hisar Road, Chouhan Nagar, Mandi <u>Dabwali</u> - 125 104, Sirsa
45	Nirmal Seeds Pvt.Ltd., Antruli Phata, Bhadgaon Road, P.B.No. 63, <u>Pachora</u> 424201, Dist Jalgaon	46.	Nunhems Seeds Pvt. Ltd. Dhumaspur Road, Badshahpur, <u>Gurgaon</u> - 122 001.
47	Nuziveedu Seeds Ltd., 3-5-821, Ist Floor floor, Doshi Road Building, Hyderguda, <u>Hyderabad</u> 500 029	48.	Oriental Biotech Limited, Oriental Towers, 51, Central Street, <u>Bangalore</u> 560 001.
49	Pahuja Seeds Pvt.Ltd., A/3, Panchvati, Opp. New Subzi Mandi, <u>Delhi</u> 110 033.	50.	Pallishree Limited, 7, Indian Mirror Street, <u>Calcutta</u> - 700 013
51	Parry Monsanto Seeds Limited, No. 401, Sophia's Choice,7, St.Mark's Road, <u>Bangalore</u> - 560 001.	52.	PGF Limited B-26, Nihal Vihar, Paschim Vihar, <u>New Delhi</u>
53	PHI Seeds Limited, 3rd & 4th Floor, Babukhan's Millennium Centre No.6-3- 1099/1100, Somajiguda <u>Hyderabad</u> - 500 082.	54.	Pranav Agro Industries Limited, Nav Maharashtra House, 43,Shaniwarpeth, <u>Pune</u> - 411 030
55	Proagro Seed Co. Limited, A-311, Ansal Chamber No.1, 3,Bhikaji Cama Place, <u>New Delhi</u> -110 066	56.	Rajendra Hybrid Semences Pvt.Ltd., 41, Indra Market, Old Subzi Mandi, <u>Delhi</u> - 110 007.

57	R.K.Seed Farm, 316, Amber Tower, Commercial Complex, Azadpur, <u>Delhi</u> - 110 033.	58.	Rallis India Limited, Agro-chemicals Division, Rallis House,P.O.Box 166, 21,D.S.Marg, <u>Mumbai</u> - 400 001.
59	Rasi Seeds.Ltd., Post Box No. 30,273 Kamarajanar Road, <u>Attur</u> 636102(Dist Salem)	60.	Sagar Agro Inputs, 73,Jagdevganj, <u>Alote</u> -457114, Distt.Ratlam(M.P.)
61	Sasya, 969,22nd Main,36th Cross, 4th T' Block Jayanagar, <u>Bangalore</u> - 560041	62.	Seed Works, 437,Avenue 4, Banjara Hills, <u>Hyderabad</u> 500 034
63	Seminis Vegetable Seeds(India) Limited 24,Chitegaon,Paithan Road, <u>Aurangabad</u> - 431105	64.	Sharda Phytogenetics(Pvt.)ltd., 124,Najeevan Complex, Station Road, <u>Jaipur</u> , 302006.
65	S.K. Seeds Pvt.Ltd., D.No.22-7-732, Mir Alam Mandi, <u>Hyderabad</u> - 500 002.	66.	Sri Ram Bioseed Genetics India Ltd., 108 & 109, 3rd Floor, Liberty Plaza, Basheer Bagh, <u>Hyderabad</u> - 500 029.
67	Sri Venkateswara Hybrid Seed Co. Gosha Hospital Road, <u>Adoni</u> 518301(A.P.)	68.	Sungro Seeds Limited, 3rd floor, Sungro Chamber, BN Block, Local Shopping Centre, Shalimar Bagh, <u>Delhi</u> 110052.
69	Suttind Seeds Pvt. Ltd., C-90-91 Behind Luxmi Dharamkantta, Badli Extn., <u>Delhi</u> - 110042	70.	Super Seeds Pvt.Ltd., 32, new Anaj Mandi, <u>Hissar</u>
71	Swagath Seeds Pvt.Ltd., 3-6-290/21 2nd floor, Sadhana Building, Hyderguda, <u>Hyderabad</u> - 500 029.	72.	Syngenta India Limited, Seed Division, Seed House,1170/27, Revenue Colony Shivaji Nagar, <u>Pune</u> - 411 005
73	The Consolidated Seeds Co. Post Box No. 1139, 186,Bashyagaralu Raod, R.S.Puram,	74.	Tokita Seed India(P) Ltd., 1174., Mandeep Estate Behrampur Road,Khandesa, <u>Gurgaon</u> 122 001.

	<u>Coimbatore</u> - 641 002		
75	Uricorn Agrotech Limited 1-7-139/3, Sarojini Devi Road, <u>Hyderabad</u> - 500 003.	76.	Vikram Seeds Ltd., 209,Ashwamegh Avenue Near Mithakhali Under Bridge, Mayur Colony, Navrangpura, <u>Ahmedabad</u> - 380 009.
77	Vishnu Seeds, 71,Old Dhan Mandi, <u>Sriganganagar</u> 335 001(Rajasthan)	78.	Zuari Seeds Limited, 1-10-77, Ist Floor, Y.S.Rao Chambers, Ashok nagar, <u>Hyderabad</u> - 500020
79.	Maharashtra Hybrid Seeds Co. Ltd., Resham Bhavan, 4 th Floor, 78, Veer Nariman Road, Mumbai-400020	80	Tropica Seeds Pvt. Ltd. 3, 11 th Main, 4 th Cross, Singasandhra, Offi. Hosur Road, Bangalore-560068.

MEMBERS OF ASSOCIATION OF SEED INDUSTRY

S. No.	Name of the Company	S. No.	Name of the Company
1.	Ankur Seeds Ltd. 27, New Cotton Market Lay - out. Opposite Bus Station, <u>Nagpur</u> 440018	2	Hindustan Agrigenetics Pvt. Ltd. 301, Central View Apartments, Domalguda, <u>Hyderabad</u> - 500 029.
3.	Indo-American Hybrid Seeds(India)Pvt.Ltd Post Box 7099, 2nd "A" Main 17th Cross, K.R.Road, Banashankari, 2nd Stage, <u>Bangalore</u> 560 070	4	Kanchan Ganga Seed Co.Pvt.Ltd 6-3-1089/G/15, 3rd Floor, Raj Bhavan Road Somajiguda, <u>Hyderabad</u> - 500 482
5.	Sungro Seeds Limited , 3rd floor, Sungro Chamber, BN Block, Local Shopping Centre, Shalimar Bagh, <u>Delhi</u> 110052.	6	Nath Seeds Limited , Nath House, Nath Road, Post Box No. 318, <u>Aurangabad</u> - 431 005.
7.	Hindustan Lever ltd., Agri-Business , "Hindustan House" 1-10-8/6, Begumpet, <u>Hyderabad</u> 500 016	8	Maharashtra Hybrid Seeds Co. Ltd., Resham Bhavan, 4 th Floor, 78, Veer Nariman Road, <u>Mumbai</u> -400020
9.	Uricorn Agrotech Limited 1-7-139/3, Sarojini Devi Road, <u>Hyderabad</u> - 500 003.	10	Rallis India Limited , Agro-chemicals Division, Rallis House,P.O.Box 166, 21,D.S.Marg, <u>Mumbai</u> - 400 001.
11.	J.K.Agri Genetics , A Division of J.K. Industries Ltd 20, Paigah Colony Behind Anand Theatre, S.P.Road, <u>Secunderabad</u> - 500 003.	12	Mahendra Hybrid Seeds Co.Ltd., A-10, Old MIDC Area, Post Box No.52, <u>Jalna</u> - 431203,
13.	Parry Monsanto Seeds Limited , No. 401, Sophia's Choice,7, St. Mark's Road, <u>Bangalore</u> - 560 001.	14	Rasi Seeds.Ltd., Post Box No. 30,273 Kamarajanar Road, <u>Attur</u> 636102(Dist Salem)
15.	Syngenta India Limited , Seed Division, Seed House,1170/27, Revenue Colony Shivaji Nagar, <u>Pune</u> - 411 005	16	Namdhari Seeds Pvt. Ltd , 119, 9th Main Road, Ideal Homes Township Raja Rajeshwari Nagar, <u>Bangalore</u> - 560 039

17.	PHI Seeds Limited, 3rd & 4th Floor, Babukhan's Millennium Centre No.6-3- 1099/1100, Somajiguda Hyderabad- 500 082.	18	Ganga Agro-tech Pvt. Ltd. 1406-07 Babukhan Estate, Bashir Bagh, Hyderabad-500 001
19.	Seminis Vegetable Seeds(India) Limited 24,Chitegaon,Paithan Road, Aurangabad- 431105	20	Advanta India Ltd 405, 4thFloor, "A" Wing, Carlton Towers, 1 Airport Road, Bangalore-560008.
21.	Uniroyal Chemical Crompton Specialties Pvt Ltd. Solitaire Corporate Park Mumbai	22	Messina Beej Private Ltd. Tejpur Road, Samstipur Bihar.
23.	Summex Chemicals Ltd. 306, Maker Chambers V, Nariman Point, Mumbai-400021	24	Monsanto Enterprises (P) Ltd., Ahura Centre, 5 th Floor, 96, Mahakali Caves Road, Andheri (East), Mumbai
25.	Mahyco Monsanto Biotech India Pvt. Ltd. 221-224 Sahar Plaza "MIDAS" M. Vasanji Raod, Andheri-Kurla Raod, Andher(E), Mumbai 400 059.	26	Avestha Gengrains Technologies P. Ltd. "Discoverer" 9 th Floor, Unit 3, International Tech Park, Whitefield Road, Bangalore 560 601.
27.	Indosem (P) Ltd. No. 400 New Diagonal Raod, 5 th main Road, 3 rd Block, Jayanagar, Bangalore-560 011.	28	Zuari Seeds Limited, 1-10-77, Ist Floor, Y.S.Rao Chambers, Ashok nagar, Hyderabad- 500020

ANNEXURE 5C: PUBLIC SECTOR SEED COMPANIES

S.No	Name & Address	Assessing officer	Turn over 2000-01	Net Profit 2000-01	Total Income 2000-01	Exempt u/s 10(1)	Turn over 2001-02	Net Profit 2001-02	Total Income 2001-02	Exempt u/s 10(1)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
1	The Andhra Pradesh State Seed Development Corporation Ltd, S-10-193, 2nd floor, Haca Bhavan, Hyderabad	Range-I Hyderabad	79.7	1.01	0.2	Nil	76.09	0.69	0.62		The company does not have its own R&D Division.
2	Maharashtra State Seed Corporation, Ltd, Akola, Maharashtra	ACIT Akola circle Akola	138.25	5.96	5.96	Nil	123.59	4.79	4.79	Nil	
3	Madhya Pradesh Rajay Beej Evam Farm Vikas Nigam, E-1/188-A, Arera Colony, Bhopal	CIT Bhopal charge	64.45				53.1				Income Tax returns for both the Asstt years 2000-01 & 2001-02 are yet to be filed by the company in response to notices u/s 142(1) of the I.T.Act, 1961.
4	National Seed Corporation Ltd, Beej Bhawan, Pusa Complex, New Delhi	DCIT Cir 13(1) New Delhi	66.38	0.79	1.84	Nil	64.23	(-)4.83	(-)4.00	Nil	The company does production, procurement, processing, storage testing and distribution/sale of agricultural seeds and also renders related services.
5	State Farms Corporation of India Ltd, Farm Bhawan, 14-15, Nehru place, New Delhi.	DCIT Circle 9(1) New Delhi	42.43	(-)9.13	0.32	Nil	38.54	(-)20.11	0.44	Nil	
6	U.P. Seeds & Tarai Development Corporation Ltd., Pant Nagar (Udham Singh Nagar) Pin. 263 146	Range Haldwani	91.58	2.87	2.75	Nil	104.23	(-)8.29	8.48	Nil	The company maintains details of figures of stocks and sales separately for foundation seeds & certified seeds. Year-wise sales are as under:
											Asstt year 2001-02
											Certified seeds : 99.29 cr
											Foundation Seeds: 4.94 cr
											Total : 104.23 cr.
											Asstt year 2000-01
											Certified seeds : 85.42 cr
											Foundation Seeds: 6.16 cr
											Total : 91.58 cr.
											Foundation Seeds: 4.94 cr
											Total : 104.23 cr.
											Asstt year 2000-01
											Certified seeds : 85.42 cr
											Foundation Seeds: 6.16 cr
											Total : 91.58 cr.

ANNEXURE 5C: PUBLIC SECTOR SEED COMPANIES

S.No	Name & Address	Assessing officer	Turn over 2000-01 (4)	Net Profit 2000-01 (5)	Total Income 2000-01 (6)	Exempt u/s 10(1) 2000-01 (7)	Turn over 2001-02 (8)	Net Profit 2001-02 (9)	Total Income 2001-02 (10)	Exempt u/s 10(1) 2001-02 (11)	Remarks
(1)	(2)	(3)									(12)
											Foundation Seeds: 6.16 cr
											Total : 91.58 cr.
7	West Bengal State Seed Corporation Ltd, 4 Gangadhar Babu Lane, Kolkata- 700 012	ITO ward 1(3) Kolkata	28.21	1.9	1.81	Nil	28.21	1.9	1.81	Nil	Return for the Asstt. year 2001-02 has not been filed so far by the assessee. Figures taken on estimate basis for
8	Gulrat State Seeds Corpn Ltd, Beej Bhavan, Sector 10/A Gandhi Nagar (Gujarat).	CIT, Gandhi nagar	34.61	5.47	5.52	Nil	33.61	3.24	4.23	Nil	A.Y. 2001-02 The company organises production programmes on the fields of farmers of farmers for more than 31 crops, consisting of approximately 120 varieties for oilseeds, cereals, pulses & spices.
9	Punjab Seeds Corporation Ltd 835-836, Sector 22 A, Chandigarh	ACIT Circle 3(1) Chandigarh	16.35	(-)18.02	0.42	Nil	14.89	(-)22.30	15.77	Nil	
10	Rajasthan State Seeds Corporation Ltd, Pant Krishi Bhawan, Bhagwan Dass Road Jaipur- 302 005.	DCIT Cir 6 Jaipur	40.42	1.61	2.14	0.45	36.69	1.02	0.56	0.45	Further bifurcation of the turnover Ay00-01 01-02 Certified Seeds 38.36 34.50 Foundation Breeder seeds 2.06 2.19 Total 40.42 36.69
11	Karnataka State Seeds Corporation Ltd, Beej Bhawan, Hebbal Bangalore- 560 024	In CIT-I Bangalore charge	32.65	0.43	0.25	Nil	33.92	0.5	0.37	Nil	
12	Orissa State Seeds Corporation Ltd, Asha Niwas, Lewis Road, Bhubaneswar (Orissa).	In CIT Bhubaneswar charge	39.31	0.6		Nil	38.46	1.29		Nil	Returns for these years are yet to be filed, since accounts are reportedly yet to be audited. Further break up of turnover is as under : A.Y.00-01 01-02 Certified seeds 34.94 36.94 Cr Foundation seeds 2.79 1.39 Cr Breeder seeds 0.16 0.11 Cr Hybrid seeds 1.42 0.02 Cr 39.31 Cr 38.46 Cr
	Grand total		676.34	20.64	21.21	0.45	645.56	13.43	37.07	0.45	

ANNEXURE- 5D PRIVATE SECTOR SEED COMPANIES

S.No	Name & Address	Assessing officer	Turn over 2000-01 (4)	Net Profit 2000-01 (5)	Total Income 2000-01 (6)	Exempt u/s 10(1) 2000-01 (7)	Turn over 2001-02 (8)	Net Profit 2001-02 (9)	Total Income 2001-02 (10)	Exempt u/s 10(1) 2001-02 (11)	Remarks
(1)	(2)	(3)									(12)
1	M/s Indo American Hybrid seeds Pvt Ltd P.Box No.7099,17th Cross,2nd 'A' Main K.R.Road, Banashankari 2nd Stage, Bangalore	Circle 11(3) Bangalore	50.49	(-).8.01	(-).5.50	yes 2.46	36.15	(-).0.24	(-).1.90	yes 2.38	
2	ECL Agrotech Ltd, 3rd floor,kalpak arcade No.19,Church Street, Bangalore	ITO ward4(1) Bangalore	3.07	0.14	0.02	yes 0.23	3.02	0.02	(-).0.01	yes 0.04	
3	Monsanto India Ltd. Wakefield House II, Sport Road Baillard Estate, P.O.Box No. 584, Mumbai	DCIT, Circle 8(2) Mumbai	32.46	7.46	0.27	yes 7.19	60.75	17.59	(-).0.14	17.17	Data for Asstt. Year 2000-01 relates to Monsanto Technologies India Ltd., which merged with Monsanto India Ltd, Mumbai in the year 2000.
4	Parry Monsanto Seeds Ltd,401,Sophia's choice No.7, St.Marks Road Bangalore		8.46	(-).3.59	(-).3.60	No Nil					Return for A.Y. 2001-02 not filed so far
5	Namdhari Seeds (P) Ltd Ungahalli,Bidadi, Bangalore		23.52	3.51	0.34	Yes 3.15					Return for A.Y. 2001-02 not filed so far
6	Amareswara Agri-Tech Ltd, 301,Durga Appis, Somajiguda,Hyderabad		42.57	1.46	0.82	Yes 0.67	42.78	(-).5.12	(-).5.83	Yes 0.75	
7	Advanta India Ltd, 31, Sarojini Devi Road, Secundrabad		34.27	6.81	3.25	No	36.83	3.88	1.91	No	The company has claimed relief under Rule 7 of I.T.Rules 1962 for A.Y. 2000-01 Rs. 3.50 crores & for A.Y. 2001-02 at Rs. 2.62 crores.
8	Seed Works India Pvt Ltd 437,Avenue-4,Banjara Hills , Hyderabad	DCIT 3(1) Hyderabad	0.41	0.92	1.38	Nil	2.16	(-).0.49	3.49	Nil	
9	Unicorn Agrotech Ltd 1-7-139/3,S.D.Road	Circle 3(4) Hyderabad	15.17	4.28	0.03	No	15.61	5.15	0.86	No	

ANNEXURE- 5D PRIVATE SECTOR SEED COMPANIES

S.No	Name & Address	Assessing officer	Turn over 2000-01	Net Profit 2000-01	Total Income 2000-01	Exempt u/s 10(1) 2000-01	Turn over 2001-02	Net Profit 2001-02	Total Income 2001-02	Exempt u/s 10(1) 2001-02	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
	Secunderabad										
10	Nunhems Proagro seeds Pvt Ltd, 10-1-127/1, Marb Tank, Hyderabad	Circle 2(4) Hyderabad	7.9	(-16.01	(-16.28	No	13.78	(-16.64	(-13.34	No	
11	Kanchanganga Seed Company Pvt Ltd 6-3-1085/D/202, Dega Towers, Rajbhavan Road Somajiguda, Hyderabad	Circle 2(1) Hyderabad	12.94	1.7	1.46	yes 0.19	12.89	0.93	0.73	Yes 0.15	
12	Ganga Kaveri Seeds Pvt Ltd, BF-5D,D.D.A Flats, Munirka, N.Delhi	Ward 12(1) N.Delhi	34.81	0.94	0.09	Yes 0.79	31.62	1.21	0.1	Yes 1.09	
13	Navbharat Seeds Pvt Ltd "Vasu-Kanan"1st floor,Near Lotus flats, Opp.Gujarat Vidyapith, Ashram Road, Ahmedabad - 380 014	ACIT circle 5 Ahmedabad	8.98	1.45	1.56	Nil	9.45	0.09	0.26	Nil	The company is a large producer of hybrid bejra seed and has its own R&D Wing
14	Nirmal Seeds Pvt Ltd Anturli Phata Bhadgaon Road, P.B.No.63,Pachora Distt Jalgaon-424 201	ACIT circle 2 Jalgaon	12.69	0.11	0.04	Nil	9.78	0.05	(-0.08	Nil	The company has its own R&D Wing, wherein research on hybrid bejra,chilli, Tom-ato,Bhindi & brinjal is being carried out
15	Nuziveedu Seeds Pvt Ltd Subeej House,6-12,Brod-Ipet, Guntur- 522 002.	DCIT circle 3 ,GUNTUR	20.00	0.7	0.19	yes 0.45	39.22	8.69	1.74	yes 0.63	The company is having its own R&D Wing, recognised by the Govt of India and it is a very big producer of cotton hybrid seeds apart from producing a number of other crop hybrid seeds viz, Jowar,caster,chillies,jute,sunflower, maize,onion,wheat,paddy,soyabean, blackgram etc
16	Eagle Seeds & Biotech Ltd 117,Silver Sanchora Castle 7, RNT Marg, Indore(M.P.)	ACIT Circle 1(2) Indore	27.23	0.44	0.3	Nil	24.85	0.27	0.16	Nil	The company is in the business of seed processing. It was previous known as Eagle Seeds & Agritech (P) Ltd.
17	P.H.I. Seeds Ltd (Formerly SPIC PHI SEEDS LTD) 401/402,Suneja Towers II, Distt Centre,Janakpuri, NEW DELHI- 58	DCIT Circle 14(1) New Delhi	40.55	12.07	12.07	yes 12.07	37.15	10.75	10.75	Yes 10.75	The assessee company has declared its business as "Agricultural business" in the I.T. return. It is engaged in the "business of cultivation,growing

ANNEXURE-5D PRIVATE SECTOR SEED COMPANIES

S.No	Name & Address	Assessing officer	Turn over 2000-01 (4)	Net Profit 2000-01 (5)	Total Income 2000-01 (6)	Exempt u/s 10(1) 2000-01 (7)	Turn over 2001-02 (8)	Net Profit 2001-02 (9)	Total Income 2001-02 (10)	Exempt u/s 10(1) 2001-02 (11)	Remarks
(1)	(2)	(3)									(12)
18	Pro agro Seed Company Ltd A-304, Ansal Chamber, 3, Bhikaji Cama place, New Delhi	DCIT Circle 14(1), New Delhi	67.93	0.78	0.8	(-0.44)	72.7	3.12	0.22	3.14	Total income from business, shown here, does not include figure of Rs 3.14 crores, claimed exempt u/s 10(1) for the A.Y. 2001-02. The company has shown agricultural loss of Rs. 0.44 crores.
19	Ankur Seeds Ltd 27, New Cotton Market Lay- out, opp. Bus Station, Nagpur 441018 (Maharashtra)	ACIT, Circle 4, Nagpur	62.28	20.64	7.56	10.5	69.79	21.91	8.76	13.34	
20	Nath Seeds Ltd., Palthan Road, M.I.D.C Aurangabad (Maharashtra)	DCIT, Circle I Aurangabad	44.42	(-1.81)	(-1.78)	Nil	52.49	(-19.54)	(-11.28)	Nil	The company claimed deduction u/s 35 of the I.T. Act amounting to Rs.0.43 cr for the Asstt. year 2000-01. No such claim of ded-uction for the Asstt. Year 2001-02
21	Mahendra Hybrid Seeds Ltd., A-10, Old MIDC Area, Post Box No.52, Jalna- 431203.	DCIT Circle I Aurangabad	43.74	38.41*	9.97	Nil	40.45	4.11	4.7*	Nil	The company claimed deduction u/s 35 of the I.T. Act amounting to Rs.0.05 cr for the Asstt year 2000-01 & of Rs. 0.008 crore for the Asstt year 2001-02.
22	Bejo Sheetal Seeds P.Ltd., Plot No. A-2, Old MIDC Area, Jalna- 431203.	ACIT, Jalna Maharashtra	4.03	0.16	0.13	Nil	6.71	0.91	(-0.28)	Nil	The company claimed deduction u/s 35 of the I.T. Act amounting to Rs.0.70 crore for the Asstt year 2000-01 & of Rs. 1.23 crores for the Asstt year 2001-02.
23	Maharashtra Hybrid Seed Com- pany(MAHYCO) Resham Bha- wan, 4th Floor, 78 Veer Nariman Road, Bombay	DCIT Circle 1(2) Mumbai	151.82	5.23	1.57	Nil	116.99	(-1.88)	0.37	Nil	The assessee company is in the business of "production, processing, research and marketing of hybrid/imp- roved variety seeds". The company does not claim its income to be agricultural income. Rather it claims, deduction u/s 80(1A) of the I.T. Act, claiming to be an industrial undertaking
24	Railis Hybrid Seeds Ltd. Railis House, D.S. Marg, Mumbai	DCIT Circle 1(3), Mumbai					7.45	(-0.46)	(-0.46)	Nil	The company is engaged in the busi-ness of "processing and trading in

ANNEXURE- 5D PRIVATE SECTOR SEED COMPANIES

S.No	Name & Address	Assessing officer	Turn over 2000-01 (4)	Net Profit 2000-01 (5)	Total Income 2000-01 (6)	Exempt u/s 10(1) 2000-01 (7)	Turn over 2001-02 (8)	Net Profit 2001-02 (9)	Total Income 2001-02 (10)	Exempt u/s 10(1) 2001-02 (11)	Remarks
(1)	(2)	(3)									
	400 001.										hybrid seeds"
25	J.K. Agri -Genetics (a unit of J.K. Industries) Kolkata	DCIT Central Circle VI, Kolkata	42.98			Nil	51.5			Nil	A combined return of Income of J.K. Industries is being filed with combined final accounts. Hence, separate figures of net profit and income relating to hybrid seed business done by a unit of the company namely J.K. Agri-Genetics are not available.
26	Hindustan Agrigenetics Ltd 806, Meghdoot, 94 Nehru place, New Delhi.	ITO Ward 12(4), New Delhi	3.18	0.59	(-).0.04	Nil					The company is in the business of development and production of hybrid seeds tissue culture & floriculture. It has its own R&D wing. Return for the Asstt. Year 2001-02 is yet to be received.
	Grand total		803.35	107.8	41.85	37.7	829.28	82.78	34.39	52.59	
<p>Note: i) Data for some companies has been received for one year only. For the other year, figures have been accounted for, on estimate basis.</p> <p>ii) Negative figures of net profit, total income etc. have been ignored, while making totals.</p> <p>iii)* This appears to include profit from other sources also.</p>											

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Rules relating to agricultural income, in Income Tax Rules, 1962.

7. Income which is partially agricultural and partially from business.

(1) In the case of income which is partially agricultural income as defined in section 2 and partially income chargeable to income-tax under the head "Profits and gains of business" in determining that part which is chargeable to income-tax the market value of any agricultural produce which has been raised by the assessee or received by him as rent-in-kind and which has been utilized as a raw material in such business or the sale receipts of which are included in the accounts of the business shall be deducted, and no further deduction shall be made in respect of any expenditure incurred by the assessee as a cultivator or receiver of rent-in-kind.

(2) For the purposes of sub-rule (1) "market value" shall be deemed to be:-

(a) where agricultural produce is ordinarily sold in the market in this raw state, or after application to it of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render it fit to be taken to market, the value calculated according to the average price at which it has been so sold during the relevant previous year;

(b) where agricultural produce is not ordinarily sold in the market in its raw state or after application to it of any process aforesaid, the aggregate of:

(i) the expenses of cultivation;

(ii) the land revenue or rent paid for the area in which it was grown; and

(iii) such amount as the Assessing Officer finds, having regard to all the circumstances in each case, to represent a reasonable profit.

7A. Income from the manufacture of rubber.

(1) Income derived from the sale of centrifuged latex or cenex manufactured from rubber plants grown by the seller in India shall be

computed as if it were income derived from business, and thirty-five per cent of such income shall be deemed to be income liable to tax.

(2) In computing such income, an allowance shall be made in respect of the cost of planting rubber plants in replacement of plants that have died or become permanently useless in an area already planted, if such area has not previously been abandoned, and for the purpose of determining such cost, no deduction shall be made in respect of the amount of any subsidy which, under the provisions of clause (31) of section 10, is not includible in the total income.

7B. Income from the manufacture of coffee.

(1) Income derived from the sale of coffee grown and manufactured by the seller in India, with or without mixing of chicory or other flavoring ingredients, shall be computed as if it were income derived from business, and forty per cent of such income shall be deemed to be income liable to tax.

(2) In computing such income, an allowance shall be made in respect of the cost of planting coffee plants in replacement of plants that have died or become permanently useless in an area already planted, if such area has not previously been abandoned, and for the purpose of determining such cost, no deduction shall be made in respect of the amount of any subsidy which, under the provisions of clause (31) of section 10, is not includible in the total income.

8. Income from the manufacture of tea.

(1) Income derived from the sale of tea grown and manufactured by the seller in India shall be computed as if it were income derived from business, and forty per cent of such income shall be deemed to be income liable to tax.

(2) In computing such income an allowance shall be made in respect of the cost of planting bushes in replacement of bushes that have died or become permanently useless in an area already planted, if such area has not previously been abandoned, and for the purpose of determining such cost, no deduction shall be made in respect of the amount of any subsidy which, under the provisions of clause (30) of section 10, is not includible in the total income.