

AGRICULTURAL INCOME

It is important to understand the meaning of the word 'exemption' with regard to taxation. This term denotes the 'exclusion' of the income from taxation. The exempted income is, thus, not a part of the total income. It is not counted as income for taxation purposes.

Chapter III of the Indian Income-tax Act details the income which do not form part of total income. Section 10 of the Act specifies the incomes not included in total income, and Sections 10A to 13B provides for certain specific instances such as incomes of newly established undertakings, trusts, political parties, etc.

Section 10(1) of the Act states that while computing the total income of a person, the agricultural income would not be included.

This is because in the Indian Constitution, under entry 82 of the Union List, the Parliament has been conferred with the exclusive power to make laws with respect to "taxes on income other than agricultural income". Thus, the Parliament of India cannot tax the agricultural income of a person. The same may be done by the state legislatures that have the exclusive power to make laws with respect to "taxes on agricultural income", under entry 46 of the state list.

The Income-tax Act, 1961 defines the agricultural income in section 2(1A) as: (1A) 4] "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

Hence, it includes any 'rent' or 'revenue' derived from land situated in India & used for agricultural purposes, or, any income derived from such land by agriculture/agricultural operations including processing, or, income from farm houses subject to certain conditions.

But the Act does not define the words 'agriculture' or 'agricultural processes'. The Supreme Court in its seminal judgment *CIT vs Raja Benoy Kumar Sahas Roy*, defined them.

It said that certain basic and subsequent operations are required for an act to be classified as relating to agriculture. Agriculture could include activities other than those meant for man and animals. And not all activities related to land constitute agriculture.

The basic operations referred to above include works done prior to seed germination that involve human skill and efforts. They include tilling, sowing, transplantation of saplings, etc. Subsequent operations include weeding, spraying of pesticides, application of manure, pruning, etc.

What if the two operations are performed by different persons? Would that constitute agricultural income?

The Supreme Court in *CAIT vs. New Ambadi Estates Ltd.* stated that it would not constitute agricultural income.

Income from the processes 'ordinarily employed' that render the produce fit for the market also constitute agricultural income. Thus, winnowing, cleaning, drying, boiling, decanting etc. are agricultural processes. The income from these operations are exempted from taxation. But extraction of oil from eucalyptus trees do not constitute agricultural operation (*CIT vs. Stanes Amalgamated Estates Ltd.*).

References:

1. CIT vs. Raja Benoy Kumar Sahas Roy [1957] 32 ITR 466 (SC)
2. CAIT vs. New Ambadi Estates Ltd. [1967] 63 ITR 325 (SC)
3. CIT vs. Stanes Amalgamated Estates Ltd. [1997] 232 ITR 443 (Mad)