Income from growing of mushrooms in residential area under controlled conditions isn't agricultural income

Summary – The Chandigarh ITAT in a recent case of Chander Mohan, (the Assessee) held that where assessee had carried on entire activity of growing mushroom in residential area under controlled conditions, as basic element of agricultural activity was missing, income from same could not be treated as his agricultural income.

Facts

- The assessee had filed his return declaring net taxable income at nil. In the computation of income, the assessee had shown an income from growing of mushroom which was claimed as agricultural income and was therefore exempt from tax.
- The appeal of the assessee was dismissed by the Commissioner (Appeals) and the assessee preferred an appeal before the Tribunal. The Tribunal remanded the issue back to the file of Assessing Officer. Subsequently, a fresh notice under section 143(2) was issued. In response, the assessee duly filed its reply.
- The Assessing Officer observed that for growing of mushrooms, wooden casing filled with compost is stacked in the rooms under controlled temperature. The activity performed by the assessee is no way in the nature of cultivation and hence not covered within the definition of 'agriculture'.
- Further, the Assessing Officer also referred to **circular No. 258, dated 14-6-1979** issued by CBDT in which income from mushrooms growing was directed not to be treated as agricultural income.
- The Assessing Officer also observed that circular was issued while dealing with the scope of section 80-JJA which had already been omitted but threw light with regard to definition of agricultural income. In this background the Assessing Officer held that the income from growing of mushrooms was not agricultural income and was held to be taxable income.
- The Commissioner (Appeals) after elaborate discussion observed that the assessee had admittedly grown mushrooms in residential area within the municipal limits. Therefore, the income could not be held to be agricultural income in view of the provisions of section 2(1A).
- On appeal:

Held

- Agricultural can be performed only on land and which involve basic operations like tilling of land, sowing of the seeds, planting and similar operations on the land. In instant case no tilling or planting has been done. Admittedly there is no land on which tilling operations etc. is carried out. As stated by the Assessing Officer the entire activity is carried on as a business in residential area and mushrooms are grown under controlled conditions. The basic operations which are required by an agriculturist on the land are missing in the assessee's case. Even if, growing of mushroom necessarily involve use of some soil, it could not by itself amount to carrying on a primary agricultural operation in the sense of cultivation of the soil. The assessee has failed to explain as to how it can be claimed

that basic agricultural operations were carried out in mushroom production and how expenditure is incurred on primary operations, i.e., planting of mushroom etc. and in the secondary operations for preserving it and making it marketable. In the light of these facts, the Assessing Officer has rightly treated the income from growing of mushroom as non-agricultural income.

- Apart from above there is a further condition that such land should be assessed to land revenue which has also not been fulfilled by the assessee. There is yet another condition that such land should not be situated within Municipal limits whereas the Assessing Officer has given a clear-cut finding that the shed in which mushrooms were grown by the assessee, is located within the residential area of Jagadhri which is situated within Municipal limits. Therefore in view of these facts also the income earned by the assessee from growing of mushrooms cannot be treated as agricultural income. The order of the Commissioner (Appeals) is upheld.