

**Chapter III**  
**Taxes on Agricultural Income**

## CHAPTER-III TAXES ON AGRICULTURAL INCOME

### 3.1 Tax administration

The levy and collection of taxes on agricultural income is governed by The Kerala Agricultural Income Tax (KAIT) Act, 1991 and is administered by Commissioner of Commercial Taxes (CCT). The assessment, levy and collection are done by Inspecting Assistant Commissioners (IAC), Agricultural Income Tax and Commercial Tax Officers (AIT & CTO). The Commercial Taxes Department is under the control of the Secretary to Government (Taxes) at the Government level.

The Companies and persons, who derive agricultural income within the State are liable to pay Agricultural Income Tax (AIT). In respect of Companies, tax is chargeable at the rates prescribed in the Schedule to the KAIT Act, 1991. From April 2000, persons holding landed property upto 500 hectares may opt to pay tax at compounded rate. No tax is payable on first five hectares.

### 3.2 Internal audit

The details on working of internal audit wing, though called for (June 2015) have not been furnished by the Department (January 2016).

### 3.3 Results of audit

In 2014-15, test check of the records of 32 Agricultural Income Tax and Commercial Tax Offices<sup>1</sup> relating to agricultural income tax assessments showed underassessment of tax and other irregularities involving ₹ 48 crore in 77 cases which fall under the following categories as given in **Table -3.1**.

**Table – 3.1**

(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
1.	Income escaped assessment	34	15.55
2.	Inadmissible expenses	36	19.86
3.	Other irregularities	7	12.59
	<b>Total</b>	<b>77</b>	<b>48.00</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 54.21 lakh in three cases which were pointed out in audit

<sup>1</sup> This includes 10 offices of Inspecting Assistant Commissioner (AIT) where only AIT assessments are being done and 22 Agricultural Income Tax and Commercial Tax Offices where both sales tax and agricultural income tax assessments are being done.

during the earlier years. An amount of ₹ 3.69 lakh was realised in two cases during the year 2014-15, which were pointed out during previous years.

On being asked about the reason for non/short realisation of amounts even in accepted cases, the Department stated (December 2015) that the short realisation was due to the amount being adjusted towards loss which was carried forward from the previous year.

A few illustrative audit observations involving ₹ 4.93 crore are mentioned in the following paragraphs.

### **3.4 Loss of revenue due to non-finalisation of assessments in time**

The non finalisation of assessment within the stipulated time resulted in escape of income from assessment and consequent loss of revenue.

**Explanation II below Section 5 of KAIT, Act, 1991 stipulates that in case of any deduction towards gratuity or bonus, the deduction shall be allowed in the year in which the actual payment is made to the employee or to any fund recognised in this behalf by the Government irrespective of the method of accounting. As per Section 2(1) (a) of KAIT Act, 1991 any rent or revenue derived from land which is used for agricultural purposes is agricultural income. As per Section 39(6) of the KAIT Act, 1991 AIT assessment should be completed within a period of two years from the date of filing of returns.**

- **IAC (AIT), Kattappana**

➤ M/s. Kannan Devan Hills Plantations Company Private Limited, Munnar, conceded agricultural income of ₹ 15.35 crore and ₹ 5.28 crore for assessment years 2010-11 and 2011-12 respectively. As per Note 20 forming part of annual accounts ₹ 805.12 lakh and ₹ 845.90 lakh were charged to the P&L account of the respective years on account of Defined Contribution Benefits. Audit found that ₹ 2.48 crore and ₹ 1.57 crore being amount paid towards gratuity during 2009-10 and 2010-11 respectively were also deducted from total income in agricultural income tax computation statement of respective years. Allowance of both expenditure as deduction in AIT computation is against the provisions of KAIT Act. This resulted in short computation of agricultural income of ₹ 2.43 crore and consequent short payment of AIT. As the assessing authority had not finalised the assessment within the stipulated time, the short levy could not be demanded from the assessee. The loss of revenue due to non-finalisation of assessment within the stipulated time worked out to ₹ 1.22 crore.

Government stated (September 2015) that as the assessing authorities failed to complete the provisional assessment within the time prescribed, the assessments became time barred by limitation and as such assessment of escaped income could not be possible. It was also stated that disciplinary action had already been

initiated in respect of the delinquent officers in this case. Further report had not been received (January 2016).

➤ M/s. Kannan Devan Hills Plantations Company Private Limited, Munnar, conceded agricultural income of ₹ 15.35 crore and ₹ 5.28 crore while filing annual return for assessment years 2010-11 and 2011-12 respectively. They received ₹ 242.72 lakh and ₹ 123.66 lakh towards income from lease of properties during the years which was credited to the P&L account. However, while computing agricultural income tax, only 60 *per cent* of the income from lease was reckoned as agricultural income. Hence 40 *per cent* of the above income amounting to ₹ 146.55 lakh escaped from assessment. As the assessing authority had not finalised the assessment within the stipulated time, the short levy could not be demanded from the assessee. The loss of revenue due to non-finalisation of assessment within the stipulated time worked out to ₹ 73.28 lakh.

Government stated (September 2015) that as the assessing authorities failed to complete the provisional assessment within the time prescribed, the assessments became barred by limitation and as such assessment of escaped income was not possible in this case and short levy could not be made good. It was also stated that disciplinary action had been initiated against the officers responsible in this case. Further report had not been received (January 2016).

There should be a mechanism in the Department to ensure that all the assessments are completed within a prescribed time period so that the assessments do not become time barred.

### 3.5 Short levy of AIT due to deduction of replantation allowance in excess

The assessing officer allowed replantation allowance in excess of admissibility as per the statute.

**As per Section 5(m) of KAIT Act, 1991, agricultural income of a person shall be computed after deducting replantation allowance, subject to such limits, conditions or restrictions as may be prescribed. As per Rule 3 of KAIT Rules, 1991, replantation allowance for rubber and tea shall be limited to actual expenses incurred and not exceeding 2.5 *per cent* and 1.5 *per cent* respectively of the agricultural income of the previous year.**

- **IAC (AIT), Mattanchery**

M/s The Cochin Malabar Estates and Industries Ltd., Kochi, a domestic company claimed deduction of ₹ 1.23 crore and ₹ 1.24 crore towards replantation allowance for rubber and ₹ 99.58 lakh and ₹ 1.67 crore towards replantation allowance for tea during 2009-10 and 2010-11 respectively. The assessing authority finalised

the assessments (December 2012 and December 2013) allowing the above deduction. Audit found that admissible replantation allowance during the years for rubber were ₹ 29.61 lakh and ₹ 40.41 lakh and that for tea were ₹ 4.63 lakh and ₹ 2.90 lakh respectively. Excess deduction of replantation allowance resulted in short levy of AIT of ₹ 1.35 crore.

Government stated (September 2015) that the Commissioner of Commercial Taxes had issued direction to the Deputy Commissioner, Mattancherry to revise the assessment based on the audit objection. Further report had not been received (January 2016).

### **3.6 Short payment of AIT due to inadmissible deductions allowed**

The assessing authority allowed inadmissible deductions from total agricultural income.

**Under Section 5(l) of the KAIT Act, 1991, the agricultural income of a person shall be computed after making deduction towards any expenditure wholly and exclusively for the purpose of deriving the agricultural income. The fee paid for RPG License will not come under the above category. As per proviso (1) to Section 39(6) of KAIT Act, 1991, in the case of assessment of agricultural income derived from rubber, coffee and manufactured tea, if the assessment under the Income Tax Act, 1961 (Central Act 43 of 1961), is not completed when the Agricultural Income Tax officer proceeds to complete the assessment, he may provisionally accept the agricultural income as per the return filed by him and revise such assessment in accordance with the order of the Income tax authority. Any sum paid to an employee as bonus and gratuity during the previous year are allowable deductions as per Section 5(i) and 5(k) of the Act. Provision for bonus and gratuity are not allowable deduction as per Section 5 of the Act. Employee's contribution towards provident fund is not an expenditure incurred by the company and hence not an allowable expenditure.**

Audit noticed in December 2014 that in three cases, the assessee companies had claimed exemption/deduction from the taxable agricultural income, some expenses which were not admissible as per KAIT Act, 1991. The assessing authority while finalising assessments admitted these expenses. This resulted in short levy of AIT of ₹ 1.54 crore as given in following paragraphs.

- **IAC (AIT), Mattancherry**

M/s. Harrisons Malayalam Ltd., Cochin, an assessee company filed their annual return for the assessment year 2010-11 conceding a loss of ₹ 2.63 crore. In arriving at the taxable agricultural income, the assessee claimed exemption towards RPG license fee in respect of manufactured tea and rubber for ₹ 1.35

crore and ₹ 97.64 lakh respectively. The claim for exemption was allowed by the assessing authority while completing the assessment. Though the income tax authorities disallowed these deductions while finalising income tax assessment, the assessing authority failed to revise the assessment based on the Income Tax assessment orders. This resulted in incorrect allowance of expenditure to the tune of ₹ 2.32 crore and consequent short levy of tax of ₹ 72.12 lakh.

The Commissioner of Commercial Taxes had issued direction to the Deputy Commissioner, Mattancherry to complete the final assessment immediately. Further report had not been received (January 2016).

- **IAC (AIT), Kattappana**

- M/s. Hope Plantations, Peermade, an assessee company while furnishing their annual return for the assessment year 2010-11 claimed ₹ 35.14 lakh and ₹ 47.30 lakh towards provision for bonus and gratuity respectively, as deduction from total agricultural income in the income computation statement which were not allowable as per KAIT Act, 1991. Audit found that the net income arrived at was after charging the above expenditure in the P&L account. The IAC (AIT), Kattappana while completing the assessment (March 2013) allowed the above deductions, instead of adding back the same, being ineligible expenditure. Incorrect computation of income resulted in escape of agricultural income to the tune of ₹ 98.93 lakh and consequent short levy of tax of ₹ 49.46 lakh.

Government stated (September 2015) that assessment under Section 41(1) of KAIT Act, 1991 had been completed (August 2015) with total demand of ₹ 75.29 lakh incorporating other defects pointed out by Audit also and demand notice had been issued to the dealer. Further report had not been received (January 2016).

- M/s. Hope Plantations, Peermade, an assessee company furnished their annual return for the assessment year 2010-11, claiming deductions of ₹ 54.69 lakh and ₹ 53.38 lakh towards employer's contribution to provident fund and employee's contribution to provident fund respectively from agricultural income. The assessing authority completed the assessment allowing the deductions claimed by the assessee. Audit found that the P&L account of the assessee had already been debited with ₹ 59.55 lakh being expenditure incurred towards employer's contribution to provident fund. Hence the deduction of ₹ 54.69 lakh claimed from the net income towards employer's contribution was not admissible. Further, deduction of ₹ 53.38 lakh claimed by the assessee towards employee's contribution was not an expenditure incurred by the assessee and hence should have been disallowed. The failure of assessing authority to disallow above deductions resulted in escape of agricultural income to the tune of ₹ 64.84 lakh being 60 *per cent* of the above inadmissible deductions and consequent short levy of tax of ₹ 32.42 lakh.

Government stated (September 2015) that assessment under Section 41(1) of the KAIT Act, 1991 had been completed (August 2015) with total demand of ₹ 75.29

lakh incorporating other defects pointed out by Audit also and demand notice had been issued to the dealer. Further report had not been received (January 2016).

### **3.7 Loss of interest on admitted tax**

Interest for belated payment of advance tax was not levied and payment received were not appropriated first towards interest due.

- **IAC (AIT), Kattappana**

**As per Section 37(1) of KAIT Act, 1991, every person liable to furnish a return under the Act shall pay tax of previous year on or before the end of February of the previous year on the estimated total agricultural income which shall not be less than eighty *per cent* of the total agricultural income as per return. As per Section 37(4) of the Act, any person who fails to pay tax, under the Section is liable to pay interest at the rate of 12 *per cent per annum* for every month of delay or part thereof, on the unpaid balance tax. As per Section 91 A of the Act, where any tax or any other amount due or demanded is paid by an assessee, the payment so made shall be appropriated first towards interest accrued on such tax or other amount on such date of payment and the balance available shall be appropriated towards principal outstanding.**

M/s. Kannan Devan Hills Plantations Company Private Limited, Munnar, filed (February 2012) annual return for the year 2010-11 conceding total agricultural income of ₹ 15.35 crore and AIT due as ₹ 7.26 crore. Against the advance tax payable of ₹ 5.80 crore (being 80 *per cent* of admitted tax) the assessee paid ₹ 5.75 crore only. Non-payment of advance tax attracts levy of interest at 12 *per cent per annum*. Audit found that interest was not levied on unpaid advance tax. Further, payments made by the assessee amounting to ₹ 1.50 crore subsequently were not appropriated first towards interest. Non levy of interest and non appropriation of payments resulted in loss of revenue of ₹ 8.96 lakh.

Government stated (August 2015) that there was an excess payment of ₹ 44.06 lakh for the year 2009-10 and that amount could have been adjusted for the interest dues for the year 2010-11. It was also stated that the assessments for the years 2010-11 and 2011-12 had not been completed under Section 39(3) of the KAIT Act, 1991 and that became barred by limitation. Since the assessment is time barred the amount could not be realised. But Government did not inform as to why no action had been taken against the delinquent officer for allowing assessment to become time barred causing loss to Government.

Though similar observations were made in the previous Audit Reports, such lapses still recur. Government/Department had not evolved an effective system to ensure that the AIT assessments are completed in a timely manner.