

□□□ □□□□ □□□□ □□□□□□□□□□ □□□□-□□□□□□



□□□□□□ □□□□□□□□□□□□ □□□□-□□□□□□

□□□ □□□□ □□□□



□□□□□□□□□□ (□□□□□□□□□□□□) □□ □□□□□□□□, □□□□



**REVENUE AUDIT MANUAL  
ASSAM AGRICULTURAL INCOME TAX**



**OFFICE OF THE ACCOUNTANT GENERAL (AUDIT)  
ASSAM**

অসম অসমীয়া অসম অসমীয়া

অসম অসম অসম অসম অসম অসমীয়া অসম অসমীয়া অসম অসমীয়া অসম  
অসম অসম 1973 অসম অসমীয়া অসম অসম অসম

অসম অসম-অসমীয়া অসম অসম অসম অসমীয়া, 1939 অসম অসম অসমীয়া অসম  
অসমীয়া অসম অসমীয়া অসম অসম অসমীয়া অসমীয়া অসম অসম অসমীয়া অসম  
অসমীয়া অসম অসম অসম অসম-অসমীয়া অসম অসম অসম অসমীয়া, অসম- অসমীয়া অসম  
অসমীয়া অসম অসমীয়া অসম অসম অসম অসমীয়া অসম অসম অসম অসম অসম অসম  
অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম  
অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম

অসম-অসমীয়া অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম  
অসমীয়া অসমীয়া অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম  
অসমীয়া অসম (অসমীয়া) অসম-অসমীয়া অসম অসম অসম অসম অসম অসম অসম

অসম অসম-অসমীয়া অসম অসম অসম-অসম অসম অসমীয়া অসম (অসমীয়া) অসম অসম  
অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম  
অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম অসম

অসমীয়া  
অসমীয়া 1982

অসমীয়া  
অসমীয়া (অসমীয়া)

অসম, অসমীয়া, অসমীয়া অসম অসমীয়া অসমীয়া

**PREFACE TO THE FIRST EDITION**

The audit of receipts and refunds of Agricultural Income tax in Assam was first taken up in the year 1973.

This Manual is intended for the guidance of the members of Receipt Audit Wing auditing receipts and refunds under the Assam Agricultural Income Tax Act, 1939. The relevant provisions of the law, the procedure for assessment and collection of tax have been set out in the Manual. In the course of audit, if any reference has to be made a particular provision of the law,

such a reference has to be made to the Sections of the Assam Agricultural Income Tax Act, 1939, and the Rules of the Assam Agricultural Income-tax Rules, 1939 and not to the paragraphs of this Manual.

The Manual should be treated only as a guide, and the audit checks indicated should not be taken as exhaustive. Revenue Audit Wing (Headquarters) will be responsible for keeping the Manual up to date.

Errors and omissions in the Manual may be brought to the notice of the Account General (Audit), Assam, to whom suggestions for improvement may also be sent.

**Shillong,  
Dated. 1989**

**Sd/-  
Accountant General (Audit),  
Assam, Meghalaya, Mizoram and Arunachal Pradesh.**



## **PREFACE TO THE SECOND EDITION**

In this edition of revenue audit Manual on Assam Agricultural Income Tax the material contained in the First Edition has been updated/modification on the basis of Notification/ Amendment/ Instructions issued by the State Government.

2. All out efforts have been made to include all the available fresh materials to make the manual truly useful to all concerned.

3. The important points to be seen during audit have also been set out in this manual. These are, however, in the nature of guidelines and do not profess to be an exhaustive list.

4. While preparing Audit and Inspection Note a particular reference to the provisions of the Acts and Rules framed thereunder should be given and not to the paras of this Manual.

5. Though the instructions contained in this Manual need full compliance, but these do not debar audit staff for looking out for any other point of interest during the course of audit.

6. Receipt Audit Wing (State) headquarters will be responsible for keeping the manual up-to-date.

7. An error/omission noticed in the Manual and suggestion for its improvement may be brought to the notice of the Pr. Account General (Audit), Assam, Guwahati.

**GUWAHATI**

**Dated the 10<sup>th</sup> January, 2008**

**Sd/-  
SWORD VASHUM  
Pr. Accountant General (Audit)  
Assam, Guwahati**



*This manual has been prepared for the guidance of the members of the State Receipt Audit Parties, auditing the receipts and refunds relating to the Assam Agricultural Income Tax. The manual should be treated as a guide only and the audit checks indicated therein are only illustrative and not exhaustive.*

*In this Manual, the relevant provisions of the law and procedure for the levy, assessment and collection of Income Tax relating to Agricultural Income have been set out in general. In the course of audit, if any reference has to be made to a particular provision of the law, such a reference should be made to the sections of the relevant Acts or the Rules framed there under and not the paragraphs of this Manual.*

*Errors or omissions in the manual may be brought to the notice of the State Receipt Audit Sector of the office of the Accountant General (Audit), Assam, Guwahati.*

*The material contained in this manual needs to be updated regularly on account of amendment to the Acts/Rules and on account of notifications, orders and instructions issued by the State/ Central Government and instructions issued by the Office of the Comptroller & Auditor General of India.*

*I hope that this publication will be a useful guide to the staff and officers of the Office of the Accountant General (Audit) Assam, Guwahati in the efficient functioning and discharge of their duties. Suggestions for improvement are welcome.*

*Guwahati*

*Dated 4 May 2018*

*Sd/-  
(RASHMI AGGARWAL)*

*Accountant General (Audit)*



□□□□□□ □□□□□□	□□□□□□ □□ □□□	□□□□□ □□□□□□
<b>i.</b>	□□□□□□□□□□/ □□□□□□□□ □□□□ □□ □□□□□□□□□□ □□□□□□	<b>01 □□ 02</b>
<b>ii.</b>	□□□□□□□□□□	<b>03 □□ 05</b>
<b>iii.</b>	□□□□ □□□□ □□ □□□□□□□□ □□ □□□□ □□□□ □□ □□□□□□□□□□	<b>06 □□ 16</b>
<b>iv.</b>	□□□□□□ □□□□□□ □□□ □□ □□ □□□□□□ □□ □□□□□□□□	<b>17 □□ 20</b>
<b>v.</b>	□□□□□□□□□□, □□□□□□□□□□, □□□□□□□□□□, □□□□□□□□□□ □□ □□□□□	<b>21 □□ 25</b>
<b>vi.</b>	□□, □□□□, □□□□□□□□□□ □□ □□□□□□□□ □□ □□□□□□	<b>26 □□ 32</b>
<b>vii.</b>	□□□□□□ □□ □□□□	<b>33 □□ 34</b>
<b>viii.</b>	□□□□□□□□□□□□□□ □□□□ □□ □□□□ □□□□ □□□□ □□□□ □□□□ □□□□□□□□□□	<b>35 □□ 43</b>
	□□□□□□□□□□	<b>44</b>

## Table of Contents

<b>Chapter No.</b>	<b>Name of Chapter</b>	<b>Page Nos.</b>
I	Constitutional/ Statutory Provisions and Organisational set up	01 to 02
II	Definitions	03 to 05
III	Charge of agricultural Income Tax and determination of agricultural income	06 to 16
IV	Liability for payment of Tax in special cases	17 to 20
V	Returns, Assessments, Rectification, revision and Appeal	21 to 25
VI	Recovery of tax, interest, penalties and fines	26 to 32
VII	Refund and Remission	33 to 34
VIII	Audit checks and records to be checked	35 to 43
	Schedule	44



## CHAPTER I

# CONSTITUTIONAL/ STATUTORY PROVISIONS & ORGANISATIONAL SET UP

### 1.1 Constitutional/Statutory Provisions

Agricultural income was included in the Seventh Schedule (Entry) 41) to the Government of India Act, 1935. As a result, a separate provincial levy on agricultural income became possible for the first time. The system of allocation of agricultural income tax to the States remained unchanged under the Constitution of India which incorporated the same provisions in list II (i.e. State List) in its Seventh Schedule (Entry 46, Taxes on Agricultural Income).

After Agricultural Income was transferred to the provincial list, the Government of Assam enacted the Assam Agricultural Income-tax Act and Rules in the year 1939. Levy of agricultural Income-tax in Assam is based on and regulated by the aforesaid Act and the Rules framed there under. The Act came into effect from the 1st of April, 1939 and it shall apply to all agricultural income derived from land situated in the State of Assam.

### 1.2 Constitutional/Statutory Provisions regarding Audit

The audit of receipts is inherent in the powers vested in the Comptroller & Auditor General of India by Articles 151 of the Constitution of India.

Article 151 of the Constitution lays down that the Reports of the Comptroller & Auditor General of India relating to the accounts of the Union and the States shall be submitted to the President or the Governor of a state, as the case may be, who shall cause them to be laid before each House of Parliament or Legislature. Thus the Audit Reports must relate to the totality of the accounts of the Union or a State and consequently cover not only the expenditure but the receipts as well.

Section 16 of the Comptroller and Auditor General's (Duties Powers and Conditions of Service) Act, 1971 (Central Act 56 of 1971) specifically enjoins upon the Comptroller and Auditor General to audit all receipts which are payable into the Consolidated Fund of India and of each State and each Union Territory having a legislative assembly and to satisfy himself that the rules and procedures in that behalf are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are duly observed. For that purpose, the Comptroller and Auditor General is authorised to undertake such examination of the accounts as he thinks fit and to report thereon.



### **1.3 Audit Objectives**

The most important functions of audit in relation to assessment and refunds is to satisfy itself, by such test checks as it may consider necessary, that the internal procedure adequately provides for and actually ensures:

- (i) the collection and utilisation of data necessary for the computation of the demand or refund under law,
- (ii) the prompt raising of demands on taxpayers in the manner required by law,
- (iii) the regular accounting of demands, collections and refunds,
- (iv) the correct accounting and allocation of collections and their credit to the Consolidated Fund,
- (v) that proper safeguards exist to ensure that there is no omission or negligence of levy or collect taxes or to issue refunds,
- (vi) that claims of tax are pursued with due diligence and not abandoned or reduced except with adequate justification and proper authority, and
- (vii) that double refunds, fraudulent or forged refund orders or other losses of revenue through fraud, default or mistake are promptly brought to light and investigated.

**(Para 2.3.13 of C&AG's M.S.O. Audit)**

### **1.4 Organisational Set up of the Department**

The Government of Assam in the Finance (Taxation) Department administers the provisions of the Acts and the Rules through the Commissioner of Taxes, Assam who is the head of the Department. Under the Commissioner of Taxes, there are Joint Commissioner, Deputy Commissioner, Assistant Commissioner, Assistant Commissioner (Appeals), and Superintendent of Taxes/ Agricultural Income-Tax Officer, last of whom are the assessing authorities.



## CHAPTER II

### DEFINITIONS

#### 2.1 Meaning of Agricultural Income

The term Agricultural Income has been defined in Article 366 (1) of the Constitution of India as “Agricultural Income as defined for the purposes of enactments relating to Indian Income Tax”. The State Legislation has accordingly defined agricultural income on the same term as the Indian Income Tax Act.

#### 2.2 Important definitions

All definitions are included in Section 2 of the Assam Agricultural Income Tax Act, 1939 as follows:

(a) “*agricultural income*” means-

- (1) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land revenue in Assam or subject to a local rate assessed and collected by officers of the Government as such;
- (2) 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 on received by him fit to be taken to market; or
  - (iii) the sale by a cultivator or receiver or 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 sub-clause (ii);

*Explanation-* “Agricultural income derived from such land by the cultivation of tea” means that portion of the income derived from the cultivation, manufacture and sale of tea as is defined to be agricultural income for the purposes of the enactments relating to Indian Income Tax.





- (b) “*agricultural income tax*” means the tax payable under this Act:
- (bb) “*Inspector of Taxes or Agricultural Income Tax Inspector*” means a person appointed to be an Inspector of Taxes or Agricultural Income Tax Inspector under sub-section (2) of Section 18;
- (c) “*Superintendent of Taxes*” or “*Agricultural Income Tax officer*” means a person appointed to be a Superintendent of Taxes or Agricultural Income Tax officer under sub-section 2 of Section 18;

- (d) (1) Save as otherwise provided in this section, “previous year” for the purpose of this Act means the financial year immediately preceding assessment year:

Provided that in the case of agricultural income derived from a source newly coming into existence in the said financial year, the previous year shall be the period beginning with the date on which the source of income newly comes into existence and ending with the said financial year;

(2) “*Previous Year*” in relation to the assessment year commencing on the 1<sup>st</sup> day of April, 1989, means the period which begins with the date immediately following the last day of the previous year relevant to the assessment year commencing on the 1<sup>st</sup> day of April 1988 and ends on the 31<sup>st</sup> day of March 1989:

(3) Where the previous year in relation to the assessment year commencing on the 1<sup>st</sup> day of April 1989 referred to in sub-clause (2) above, exceeds a periods of twelve months, hereinafter referred to as the “transitional previous year”.

(4) Where the assessee’s agricultural income for a period of thirteen months or more is included in his total agricultural income for the transitional previous year the allowance in respect of depreciation admissible under the provisions of the Act be increased by multiplying it by a fraction of which the numerator is the number of months in the transitional previous year and the denominator is twelve.

(5) The tax chargeable on the total agricultural income of the transitional previous year shall be calculated at the average rate on the amount obtained by multiplying such total agricultural income by a fraction of which the numeration is twelve and the denominator is the number of months in the transitional previous year as if the resultant amount were the total agricultural income;

(6) The State government may if it considers it desirable or expedient so to do for avoiding genuine hardship, by general or special order, grant appropriate relief in any case or class of cases where the transitional previous year is longer than twelve months.



- (e) “*assessee*” means a person by whom agricultural income tax is payable;
- (f) “*Assistant Commissioner of Taxes*” means a person appointed to be an Assistant Commissioner of Taxes under sub-section (2) of Section 18;
- (ff) “*Assistant Commissioner of Taxes (Appeals)*” means a person appointed to be an Assistant Commissioner of Taxes (Appeals) under sub-section (2) of Section 18;
- (g) “*Board*” means the Assam Board of Revenue constituted under Section 3 of the Assam Board of Revenue Act, 1959 or under any statutory modification or re-enactment thereof;
- (h) “*Commissioner*” means a person appointed to be a Commissioner of Taxes under sub-section (2) of Section 18;
- (i) “*Company*” means a company as defined in the Indian Companies Act.
- (j) “*Assessment year*” means and shall be deemed always to have meant the period of twelve months commencing on the 1<sup>st</sup> April every year.
- (k) “*Firm*”, “*Partner*” and “*Partnership*” have the same meaning respectively as in the Indian Partnership Act, 1932. Provided that the expression “*Partner*” includes any person who being a minor has been admitted to the benefits of partnership.
- (l) “*landlord*” has the same meaning as in the Assam (Temporarily Settled Districts) Tenancy Act, 1935, the Sylhet Tenancy Act, 1936, the Goalpara tenancy Act, 1929
- (m) “*Person*” includes-
  - (i) an individual,
  - (ii) a Hindu undivided family,
  - (iii) a Company,
  - (iv) a firm,
  - (v) an association of persons or a body of individuals, whether incorporated or not,
  - (vi) a local authority, and
  - (vii) every artificial judicial person, not falling within any of the preceding sub-clauses
- (n) “*prescribed*” means prescribed by Rules made under this Act
- (o) “*Schedule*” means the Schedule to this Act
- (p) “*total agricultural income*” means the aggregate of amounts of agricultural income referred to in clause (a) of section 2 and determined in the manner laid down in or under this Act



## CHAPTER III

### CHARGE OF AGRICULTURAL INCOME TAX AND DETERMINATION OF AGRICULTURAL INCOME

#### 3.1 Charge of Agricultural Income Tax

(1) Agricultural Income-tax at the rate or rates specified in the Schedule shall be charged for each assessment year in accordance with and subject to the provisions of the Act on the total Agricultural income of the previous year of every person.

Provided that the State Government may, by Notification in Official Gazette, vary the rates of tax under this Act and on such notification being issued, the rate of tax shall be deemed to have been amended accordingly.

Provided further that rate of tax to be specified or varied by the state Government shall not exceed fifty per centum.<sup>1</sup>

[Section 3 of AAIT Act, 1939]

(2) The tea garden owned by the Assam Tea Corporation Limited shall not be liable to pay tax under this Act on the total agricultural income of the previous year. Provided that this shall be effective on and from 1<sup>st</sup> April 2005 for a period of five years only.

[Section 3A of AAIT Act, 1939]

#### 3.2 Exemption

(1) Agricultural Income Tax shall not be assessed on, and be payable by an assessee in respect of-

(i) any income which he receives as a member of a Hindu joint or undivided family where agricultural income of such family has been assessed to agricultural income tax under this Act;

(ii) any sum which he receives by way of dividend as a share holder in any company where the agricultural income of the company has been assessed to agricultural income tax under this Act;

---

<sup>1</sup> Inserted vide notification no. LGL.61/2009/31 dated 07.09.2010.



- (iii) such an amount of the agricultural income of any firm which has been assessed to agricultural income tax under this Act as is proportionate to his share in the firm at the time of such assessment as is received by him;
- (iv) any sum which he receives as his share of the agricultural income of an association of individuals other than a Hindu joint or undivided family, company or firm where such agricultural income has been assessed to agricultural income tax under this Act
- (v) any sum which he receives after the tax in respect thereof has been assessed under sections 9 to 14 and realised
- (vi) any income which he derives from an agricultural activity other than income derived from cultivation of tea<sup>2</sup>

**[Section 4 of AAIT Act, 1939]**

- (2) The State Government may, if it is necessary so to do in the public interest, by notification in Official Gazette, grant exemption from payment of the whole or any part of tax payable under the provisions of this Act. Provided that the State Government may grant such exemption retrospectively.<sup>3</sup>

**[Section 4A of AAIT Act, 1939]**

### **3.3 Determination of agricultural income u/s 2(a) (1) of AAIT Act, 1939**

- (1) The Agricultural income mentioned in sub-clause (1) of clause (a) of section 2 of the Act shall be deemed to be the sum realised in the previous year on account of agricultural income mentioned in the said sub-clause (1), after making the following deductions:-
  - (a) The sum actually paid in the previous agricultural year as revenue to the Government or as rent to superior landlord in respect of the land from which such agricultural income is derived;
  - (b) The sum actually paid in the previous year, in respect of such land as any local rate collected under enactment in force in Assam;
  - (c) a sum equal to 15 per cent of the total amount of the rent which accrued due in the previous year, in respect of the charges for collecting the same;

---

<sup>2</sup> Inserted vide Notification No. LGL.61/2009/65 dated 17.06.2015 (effective from 01.04.2015)

<sup>3</sup> Inserted vide Notification No. LGL.61/2009/87 dated 01.04.2017





- (d) any rate under the Village Chowkidari Act, 1970, in respect of any building used by the assessee as an office for the collection of the rents due in respect of land from which such agricultural income is derived;
- (e) any expenses incurred on the maintenance of any irrigation or protective work constructed for the benefit of the land from which such agricultural income is derived;
- (f) in respect of the current repairs to any capital asset used in connection with the collection of rents due in respect of the land from which agricultural income is derived, the amount paid on account thereof;
- (g) interest actually paid on any amount borrowed and actually spent on any capital expenditure incurred after the first April 1937 for the benefit of the land from which such agricultural income is derived;
- (h) depreciation in respect of any capital asset purchased or constructed after the First April 1937 for the benefit of the land from which such agricultural income is derived, or for the purpose of deriving such agricultural income from such land at such rates as may be prescribed by the Central Government for computing profits or gains of any business for the purpose of assessment of income-tax thereon and in default of such prescription prescribed by rules framed under Section 50;
- (i) any interest actually paid on any mortgage or any other kind of debt or any interest actually paid on any other capital charge incurred for the purpose of acquiring the property from which such agricultural income is derived;
- (j) when the property from which such agricultural income is derived is subject to a mortgage created before the first day of January 1939, the amount of any interest actually paid on such mortgage;
- (k) any malikana or similar levy actually paid by the assessee in respect of the land from which such agricultural income is derived;
- (l) any sum actually paid as interest in respect of loans taken under the Agricultural Loans Act, 1884, and the Land Improvement Loans Act 1883;
- (m) any sum actually donated for charitable purposes, if aggregate of such donation is not more than Rs. 5 lakh or 10 *per cent* of the total agricultural income, whichever is less provided that such sum is actually spent for such purposes in the State of Assam;
- (n) such other deduction on account of depreciation or any other cause as may be prescribed by rules framed under Section 50 of the Act.

**[Section 7 of AAIT Act, 1939]**

- (2) 1939年7月1日起，本公司所有資產均應按1939年7月1日之價值重估，(1)2024年7月1日之資產價值應按此重估價值計算。
- (1) 本公司所有資產均應按1939年7月1日之價值重估，(1)2024年7月1日之資產價值應按此重估價值計算。
- i. 本公司所有資產均應按1939年7月1日之價值重估，(1)2024年7月1日之資產價值應按此重估價值計算。
  - ii. 本公司所有資產均應按1939年7月1日之價值重估，(1)2024年7月1日之資產價值應按此重估價值計算。
  - iii. 本公司所有資產均應按1939年7月1日之價值重估，(1)2024年7月1日之資產價值應按此重估價值計算。
  - iv. 本公司所有資產均應按1939年7月1日之價值重估，(1)2024年7月1日之資產價值應按此重估價值計算。
  - v. 本公司所有資產均應按1939年7月1日之價值重估，(1)2024年7月1日之資產價值應按此重估價值計算。
  - vi. 本公司所有資產均應按1939年7月1日之價值重估，(1)2024年7月1日之資產價值應按此重估價值計算。
  - vii. 本公司所有資產均應按1939年7月1日之價值重估，(1)2024年7月1日之資產價值應按此重估價值計算。
  - viii. 本公司所有資產均應按1939年7月1日之價值重估，(1)2024年7月1日之資產價值應按此重估價值計算。
- (3) 本公司所有資產均應按1939年7月1日之價值重估，(1)2024年7月1日之資產價值應按此重估價值計算。

本公司所有資產均應按1939年7月1日之價值重估，(1)2024年7月1日之資產價值應按此重估價值計算。

0	本公司所有資產均應按1939年7月1日之價值重估，(1)2024年7月1日之資產價值應按此重估價值計算。	5.00
1	本公司所有資產均應按1939年7月1日之價值重估，(1)2024年7月1日之資產價值應按此重估價值計算。	2.50
2	本公司所有資產均應按1939年7月1日之價值重估，(1)2024年7月1日之資產價值應按此重估價值計算。	6.25

(2) The relevant rules framed under section 7 of the Act are Rules 2 (1), 6 and 7 of the Assam Agricultural Income Tax Rules, 1939. The provisions of these rules are set out below.

(1) In addition to the aforesaid deductions specifically allowed under Section 7 of the Act, the following deductions shall be allowed.

(i) Any sum actually donated for charitable purposes if such donation in aggregate is not more than Rupees five lakh or ten percentum of total agricultural income, whichever is less. “Charitable purposes” in this rule includes relief of the poor, education, medical relief and the advancement of any other object of general public utility not involving the carrying on of any activity for profit.

(ii) Sums actually paid as interest on bonafide loan proved to be taken exclusively for payment of land revenue or local rate; provided that in the case of an assessee in whose case deduction on account is made in assessment, any amount realised by him as interest on arrears of rent from tenants in any year shall be deemed to be agricultural income of that year and assessed accordingly.

(iii) Municipal taxes paid in respect of kutcheries used for collection of rent.

(iv) Survey and settlement expenditure.

(v) Maintenance allowances paid to widow forming charges on the estate.

(vi) Monthly allowance paid to junior members of a family owning an impartible estate.

(vii) A sum equal to 15 *per cent* of the total amount of income (not amounting to rent) recovered in respect of rights of pasturage thatch or other forest produce in the previous year, in respect of charges for collecting the same;

(viii) Any expenditure (not being in the nature of capital expenditure on personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of deriving such agricultural income.

(3) Allowance on account of depreciation under clauses (h) and (n) of Section 7 and sub-clause (iv) (a) of clause (f) of Section 6 of the Act shall be allowed at the rates prescribed by the Central Government in respect of the asset for which no rates have been prescribed it shall be allowed in accordance with the following statement

**Statement of rates of depreciation for capital asset in respect of which rates have not been prescribed under the Indian Income Tax Act**

<b>Sl. No.</b>	<b>Class of machinery, implements, Plants and other capital assets</b>	<b>Percentage on written down value or Prime Cost</b>
1.	Fencing of substantial material	5.00
2.	Pucca Wells	2.50
3.	Tube Wells	6.25



4.	Bullock drawn wooden or leather implement and other small hand implements	25.00
5.	Bullock drawn iron implements	10.00
6.	Tractors and oil engines and their implement	12.50
7.	Weighing Machines	5.00
8.	Power Pumping Machines	12.50
9.	Country Cart	15.00
10.	Factory made cart of iron material with rubber tyred wheels (Dunlop cart)	10.00
11.	General (machines, implements, plants and other assets) not provided for above specifically	5.00

Provided that in respect of assets which do not suffer wear and tear and also in respect of other petty items, renewals and replacement shall be allowed in place of depreciation allowance.

[Rule 6 of AAIT Rules, 1939]

### **3.4 Determination of agricultural income u/s 2(a) (2) of AAIT Act, 1939**

- (1) The agricultural income mentioned in sub clause (2) of Clause (a) of Section 2 of the Act shall be assessed on the net amount of such income determined in the prescribed manner.
- (2) The following deductions shall be made from the gross amounts of such income:-
  - (a) the sum actually paid in the previous year as revenue to the Government or as rent to a superior landlord in respect of the land from which such agricultural income is derived;
  - (b) the sum actually paid in the previous year, in respect of such land, as any local rate collected under any enactment in force in Assam;
  - (c) any rate paid under the village Chowkidari Act, 1970, in respect of any building used for the purposes of the cultivation of the land from which such agricultural income is derived;
  - (d) the expenses of cultivating the crop from which such agricultural income is derived and of transporting such crop to market, including the maintenance of agricultural implements and cattle required for the purpose of such cultivation and for transporting of the crop to market;
  - (e) any tax or rate paid under any enactment in force in Assam on the cultivation or sale of the crop from which such agricultural income is derived.
  - (f)
    - (i) any expenses incurred on the maintenance of any irrigation or protective works constructed for the benefit of the land from which such agricultural income is derived;
    - (ii) any expenses incurred on the maintenance of any capital asset, if such maintenance is deemed to be required for the purpose of deriving such agricultural income from such land;



(iii) interest actually paid on any amount borrowed and actually spent on any capital expenditure incurred for the benefit of the land from which such agricultural income is derived, or for the purpose of deriving such agricultural income from such land;

(iv) (a) depreciation of any asset required for the benefit of the land from such agricultural income is derived or from the purpose of deriving such agricultural income from such land, subject to the provision of the Act in the manner allowed and at the rates prescribed for the purposes of Indian Income Tax Act or in default of such prescription as prescribed by rules under the Act.

(b) in respect of any such machinery or plant which is consequence of its having become obsolete has been sold or discarded, the difference between the written down value as defined for the purpose of Indian Income Tax and the amount for which the machinery or plant is actually sold or its scrap value;

(v) any sum paid in order to effect on insurance against loss or damage of crop or property from which agricultural income is derived;

Provided that in the case of an assessee, in whose case deduction on the account is made in assessment, any amount received by him from the insurance company in any year shall be deemed to be for the purpose of the agricultural income after deducting the share or portion thereof assessed to the Indian Income Tax Act;

(vi) any interest paid on any mortgage or other capital incurred for the purpose of acquiring the property from which such agricultural income is derived or for the purposes of cultivation of the property;

(vii) any expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of earning or deriving the agricultural income;

(g) any sum actually donated for charitable purposes, if any such donation is not more than Rs. 5 lakh or ten per centum of the total agricultural income, whichever is less, provided that such sum is actually spent for such purposes in the State.

(h) Such other deductions as may be prescribed by rules made under the Act:

Provided that-

(i) no deduction shall be made under this clause, if it has already been made under Section 7 of this Act or in the assessment under the Indian Income Tax Act;

(ii) as regards agricultural income from cultivation and manufacture of tea the agricultural income for the purposes of this Act shall be deemed to be that portion of the income from cultivation, manufacture and sale of tea which is agricultural income within the meaning





of the Indian income tax Act shall be deemed to be the agricultural income for the purposes of this Act, and from that portion of the income treated as agricultural income, any allowance authorised by this Act shall be deducted, in so far as it has not been allowed in the computation of the income for the purposes of the Income Tax Act.

- (3) In determining the net agricultural income, such percentage of total agricultural income of the assessee as may be notified by the State Government from time to time and deposited with the Assam Financial Corporation in the previous year in an account (hereinafter referred to as the Plantation Development Account) maintained by the assessee with the Assam Financial Corporation for utilisation for the purpose specified below shall be allowed as deduction to the assessee from the agricultural income
- (a) extension of planting, replanting, replacement, rejuvenation or consolidation of areas of plantation or inter-planting of planted areas including preparation of land care and maintenance of such areas and provision of nurseries and shade trees;
  - (b) extension of factories and godowns;
  - (c) purchase of tractors, trailer, power trailers for expansion of plantation;
  - (d) purchase of spraying equipment for weed control and plant protection measures;
  - (e) measures for controlling floods, soil erosion and water logging including drainage;
  - (f) construction of houses for labourers.
- (4) (a) In determining the net agricultural income, any amount invested in setting up of power generation units and industrial units within the State of Assam other than tea plantation and manufacturing shall be allowed as deduction to the assessee for his agricultural income;
- (b) the State Government shall have the power to formulate a scheme by notification, specifying the industries which shall be eligible for the benefits of the scheme and may specify the conditions;
  - (c) the State Government may, from time to time and in the public interest, modify, amend or alter the scheme in such manner and to such extent as the State Government may deem fit.
  - (d) any scheme formulated in this regard may be laid before the House of State Legislature.
  - (e) any scheme formulated and modified or any modification, amendment, alteration or re-enactment thereof shall be deemed to form a part of Assam Agricultural Income Tax Act, 1939.

(5)<sup>4</sup> 〇〇〇〇 〇〇〇〇〇〇 〇〇 〇〇〇〇〇〇〇〇〇 〇〇 〇〇〇〇〇〇 〇〇〇〇 〇〇 〇〇〇〇 〇〇〇〇 ,〇〇〇〇〇 〇〇〇〇〇 〇〇〇〇〇〇 〇〇〇〇〇〇〇 〇〇〇 〇〇〇〇〇〇〇〇 〇〇〇〇〇〇〇〇〇 〇〇〇〇〇〇〇〇〇 〇〇〇〇〇〇 〇〇〇〇) 〇〇 〇〇 〇〇 (〇〇〇〇〇〇〇〇〇 〇〇 〇〇〇〇 〇〇〇〇〇〇〇〇〇〇〇〇 〇〇 〇〇〇〇 〇〇〇〇 〇〇 〇〇 〇〇〇 〇〇 〇〇 〇〇〇 〇〇〇 〇〇〇 〇〇〇 〇〇〇 〇〇〇〇 〇〇 〇〇〇 ,〇〇〇〇〇 〇〇 〇〇〇〇 〇〇〇〇〇〇〇〇〇〇 〇〇〇 〇〇〇〇〇〇〇 〇〇〇〇 〇〇〇 〇〇〇〇〇〇〇〇〇 〇〇〇 〇〇 〇〇〇〇〇〇〇〇 〇〇〇〇〇〇〇〇〇 〇〇〇〇 〇〇〇 〇〇〇〇〇〇〇 〇〇 〇〇〇〇 〇〇〇<sup>5</sup>

〇〇〇〇〇 〇〇〇〇〇 〇〇〇〇〇 〇〇〇 〇〇〇 〇〇〇 〇〇〇〇〇〇〇〇〇 〇〇〇〇 〇〇〇〇 〇〇 〇〇〇〇 〇〇〇 〇〇〇〇〇〇〇〇 〇〇〇〇〇〇〇 〇〇〇〇 〇〇〇〇 〇〇〇〇

[〇〇〇 〇〇〇〇 〇〇 〇〇 〇〇〇〇〇〇〇 1939 〇〇 〇〇〇〇8 ]

**3.5** 〇〇〇〇〇〇 〇〇〇〇 〇〇〇〇〇〇〇 〇〇〇〇〇〇 〇〇 〇〇 〇〇〇〇 〇〇〇 〇〇〇〇 〇〇〇〇 〇〇〇〇 〇〇 〇〇〇〇〇〇:

〇〇〇〇 〇〇〇〇〇〇〇〇 〇〇 〇〇〇 〇〇〇〇 〇〇 〇〇〇 〇〇〇〇〇〇〇〇 〇〇 〇〇〇〇〇〇〇〇〇〇〇〇 〇〇〇〇〇 〇〇〇〇〇〇 〇〇〇〇-

〇) 〇〇〇〇〇) 〇〇 〇〇〇〇 〇〇〇 〇〇〇 〇〇〇〇 〇〇 〇〇〇 〇〇 (〇〇〇〇 〇〇〇 〇〇〇〇〇〇〇〇 〇〇 〇〇〇〇〇〇 〇〇〇〇〇 〇〇 〇〇〇〇〇〇〇〇 〇〇〇 〇〇〇〇 〇〇 ,〇〇 〇〇〇〇〇〇〇〇〇〇 〇〇〇〇 〇〇〇〇〇〇〇〇〇〇〇 〇〇〇 〇〇 〇〇〇〇〇〇〇〇〇〇〇 〇〇 〇〇〇〇〇〇〇 〇〇〇〇 〇〇-

i. 〇〇〇〇〇 〇〇〇〇 〇〇〇〇〇〇〇 〇〇 〇〇〇〇〇 ,〇〇〇〇〇〇〇〇〇〇 ,〇〇〇〇〇〇〇〇〇 〇〇〇〇 〇〇〇〇〇〇〇 〇〇 〇〇〇〇〇〇〇〇〇 〇〇 , 〇〇〇〇〇 ,〇〇〇 〇〇〇〇 〇〇〇〇 ,〇〇〇〇 〇〇 〇〇〇〇〇 〇〇 ,〇〇 〇〇〇〇〇〇〇 〇〇〇〇〇 〇〇〇

ii. 〇〇〇〇〇〇〇〇〇 〇〇〇〇 〇〇〇〇〇〇〇〇〇〇 〇〇〇 〇〇 〇〇〇 〇〇〇〇〇〇〇〇〇 〇〇〇〇〇 〇〇〇〇〇 〇〇 〇〇〇〇〇〇〇〇〇〇 〇〇〇〇〇〇〇〇〇 〇〇, 〇〇 〇〇〇〇〇〇 〇〇〇〇〇〇〇〇 〇〇〇〇〇〇〇 〇〇 〇〇〇〇〇 〇〇 〇〇〇〇 〇〇〇〇〇〇〇〇〇〇 〇〇〇〇 〇〇 〇〇〇〇〇〇〇〇 〇〇〇〇〇 〇〇〇〇〇 〇〇〇〇〇 〇〇〇〇 〇〇〇〇

iii) 〇〇〇〇〇〇〇〇 〇〇 〇〇 〇〇 〇〇〇〇〇〇〇 〇〇〇〇〇〇 〇〇〇〇 〇〇, 〇〇〇 〇〇〇〇〇〇〇〇〇〇〇 〇〇〇〇〇〇 〇〇〇〇〇〇〇〇〇 〇〇〇〇 〇〇〇〇〇〇〇〇〇〇〇 〇〇〇 〇〇 〇〇〇〇〇〇〇〇〇〇〇 〇〇〇〇〇〇〇〇 〇〇, 〇〇 〇〇〇〇〇〇〇〇 〇〇〇〇〇〇〇 〇〇 〇〇〇〇〇〇 〇〇〇〇〇 〇〇〇〇 〇〇,

〇) 〇〇〇〇 〇〇〇〇〇〇〇 〇〇〇〇 〇〇〇〇〇〇〇〇〇〇 〇〇 〇〇〇〇〇 〇〇 〇〇〇〇〇〇 〇〇〇 〇〇〇〇 〇〇 ,〇〇 〇〇〇〇〇〇 〇〇〇 〇〇〇〇〇〇〇〇 〇〇〇〇〇〇 〇〇〇〇 〇〇〇〇〇 〇〇〇〇 〇〇〇〇〇〇〇 〇〇〇〇 〇〇〇〇〇〇〇 〇〇〇〇 〇〇〇〇〇〇 〇〇〇〇 〇〇〇〇 〇〇 〇〇〇 〇〇 〇〇〇 〇〇〇〇〇〇〇 〇〇〇〇 〇〇 〇〇〇〇〇〇〇〇〇 〇〇〇〇〇〇〇 〇〇 〇〇〇〇〇 〇〇〇〇〇〇〇〇〇〇〇 〇〇〇〇〇〇〇〇 〇〇 〇〇〇〇〇〇〇

[〇〇〇 〇〇〇〇 〇〇 〇〇 〇〇〇〇〇〇〇 1939 ,〇〇 〇〇〇〇 8 〇]

---

4. 〇〇〇〇〇〇〇〇〇 〇〇〇 〇〇 〇〇 〇〇 61/2009/65, 〇〇〇〇〇〇 17-06-2015 〇〇 〇〇〇 〇〇〇〇〇〇〇〇〇〇〇〇 (01-04-2015 〇〇 〇〇〇〇)〇

5. 〇〇〇 〇〇 〇〇 01-04-2015 〇〇 〇〇〇〇〇 3 〇〇〇〇 〇〇 〇〇〇〇 〇〇 〇〇〇 〇〇〇〇〇〇〇〇〇 〇〇〇〇 〇〇〇 6 〇〇 (〇〇〇〇〇〇〇〇 〇〇. 〇〇 〇〇 〇〇〇〇 90/2010/ 〇〇〇/ 3 〇〇〇〇〇〇 26-06-2015)〇

(5) <sup>4</sup>Subject to such conditions and restrictions as it may impose, the State Government may, by notification in the Official Gazette, allow a deduction<sup>5</sup> for every kilogram of tea exported through Inland Container Depot (ICD), Amingaon to the assessee from his agricultural income at such rate and for such a period as it may specify in the said notification.

Provided that the State Government may allow such deduction retrospectively in order to maintain continuity of such deduction.

[Section 8 of AAIT Act, 1939]

### **3.5 Liability of the husband or father for income of the wife or minor child**

The total agricultural income of any individual shall for the purpose of assessment include-

- (a) So much of the total agricultural income of wife (not living separately) or minor child of such individual as arises directly or indirectly-
  - (i) From the ownership of the wife or of the minor child in an estate, tenure, tenancy or holding of which the husband or the father, as the case may be, is a joint owner;
  - (ii) From assets transferred directly or indirectly to the wife by such individuals otherwise than for adequate consideration or in connection with an agreement to live apart;
  - (iii) From assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual otherwise than for adequate consideration;
- (b) so much of the total agricultural income of any person or association of persons as arisen from assets transferred otherwise than for adequate consideration to the person or association of persons by such individual for the benefit of his wife or minor child or both.

[Section 8A of AAIT Act, 1939]

---

<sup>4</sup> Substituted vide Notification No. LGL.61/2009/65 dated 17.06.2015 (effective from 01.04.2015)

<sup>5</sup> Rate of deduction is Rs.6 for every kilogram with effect from 01.04.2015 for the period of 3 years only (Notification No.FTX.90/2010/Pt/3 dated 26.06.2015)



### **3.6 Determination of agricultural income in relation to book profit of the assessee for the purpose of levy of agricultural income tax**

<sup>6</sup>In case of an assessee, being a company, which derives income from cultivation, manufacture and sale of tea, if the agricultural income tax payable under Act on sixty *per cent* portion of agricultural income computed as per provisions of the Income Tax Act, 1961 is less than ten *per cent* of the sixty per cent of the book profit computed in the manner as referred to in section 115 JB of the Income Tax Act, 1961, sixty *per cent* of such book profit shall be deemed to be the agricultural income for the purpose of levy of agricultural income tax under this Act of such assessee and the assessee shall be liable to pay agricultural income tax at the rate of eighteen<sup>7</sup> *per cent* of such agricultural income.

[Section 8B of AAIT Act, 1939]

### **3.7 Tax credit in respect of tax paid under section 8B<sup>8</sup>**

- (1) Where any amount of tax is paid as per provision of section 8B by an assessee, being a company which derives income from cultivation, manufacture and sale of tea, for any assessment year, then credit in respect of tax so paid shall be allowed to him in accordance with the other provisions of section.
- (2) The tax credit to be allowed under this section shall be the difference of the tax paid for any assessment year under section 8B and the amount of tax payable by the assessee on his agricultural income from the activity of cultivation, manufacture and sale of tea computed in accordance with the other provision of this Act;  
Provided that no interest shall be payable on the tax credit allowed.
- (3) The amount of tax credit determined shall be carried forward and set off in accordance with the provisions, but such carry forward shall not be allowed beyond the three assessment year in which tax credit becomes allowable.
- (4) The tax credit shall be allowed set off in a year when tax becomes payable on the agricultural income from the activity of cultivation, manufacture and sale of tea computed in accordance with the provisions of the Act other than section 8B.

---

<sup>6</sup> Inserted vide Notification No. LGL. 22/2002/124 dated 12.02.2009 effective from 01.04.2009.

<sup>7</sup> Substituted eighteen in place of ten *per cent* vide Notification No.LGL.61/2009/31 dated 07.09.2010

<sup>8</sup> Substituted Section 8C vide Notification No. LGL.61/2009/4 dated 01.09.2009 with effect from 01.04.2009

- (5) ... [rest of text]
- (6) ... [rest of text]

[... 1935 ... 8 ...]

3.8 ... :

- ) ...
- ) ...
- ) ...
- ) ...
- ) ...
- ) ...
- ) ...
- ) ...
- ) ...
- ) ...
- i) ...
- ii) ...
- iii) ...
- iv) ...
- v) ...
- ) ...
- ) ...
- ) ...
- ) ...
- ) ...
- ) ...
- ) ...
- ) ...
- ) ...
- ) ...
- ) ...
- ) ...

- (5) Set off in respect of brought forward tax credit shall be allowed for any assessment year to the extent of the difference between the tax on his agricultural income from the activity of cultivation, manufacture and sale of tea and the tax that would have been payable under the provision of section 8B for that assessment year.
- (6) Whereas as a result of any proceeding, the amount of tax payable under this Act is reduced or increased, as the case may be, the amount of tax credit allowed under this section shall also be increased or reduced accordingly.

[Section 8C of AAIT Act, 1939]

### **3.8 Deduction admissible in respect of expenses in respect of items**

- (a) Cultivation expenses.
- (b) Cost of labour amenities.
- (c) Gratuity to staff.
- (d) Any charged annuity.
- (e) Bonus and commission to Employees.
- (f) Subscription to agricultural association.
- (g) Provident Fund Contribution.
- (h) Expenditure wholly and exclusively for the purpose of deriving agricultural income which includes.
- (i) Obstructing encroachment into the lands used for agriculture.
  - (ii) Protecting the plants and trees from destruction.
  - (iii) Preventing theft and pilferage of the produce.
  - (iv) Resisting exorbitant demands of labour and maintaining discipline.
  - (v) Complying with the requirements of law relation to welfare of the labour force.
- (i) Payment to a trust for earning interest and a share of profit.
- (j) Expenditure on upkeep and maintenance of immature plants.
- (k) Maintenance of protective work.
- (l) Maintenance and repair of capital assets.
- (m) Expenses for rendering the produce marketable.
- (n) Expenses for transport of produces.
- (o) Interest actually paid on any amount borrowed and actually spent for the purpose of deriving agricultural income from land.
- (p) Interest paid on mortgage.



- )     □□□ □□□□ □□□□□□□□ □□ □□□□ /□□□□□ □□ □□□□□□□□□□ □□□□ □□□□ □□□ □□ □□ □□□□ ,□□□□□□ □□□□ □□ □□□□□□□□ □□ □□ □□□□
- )     □□□□ □□□□ □□□□ □□ □□ □□□□□□ □□ □□□ □□□□ □□□□ □□□□
- )     □□□□□□□ □□□□□□ □□ □□□□□□ □□ □□□□□□
- )     □□□□□□□□□□ □□ □□□□□□□□□ □□□□□□□□
- )     □□□□□□□□ □□□□□□□□ □□ □□□□□□ □□□ □□□□ □□ □□ □□□□□□
- )     □□□□ □□□□
- )     □□□□□□ □□ □□ ,□□□□□ □□□□□□□ □□□□ □□□□ □□□□ □□□□ □□□□ □□□□ □□□□ □□□□ □□□□

- (q) Sums paid to insure against loss, damage of crops or property from which the agricultural income is derived.
- (r) Tax paid on cultivation or sale of crops.
- (s) Expenses on maintenance of Irrigation work.
- (t) Depreciation and obsolescence allowance.
- (u) Amount actually spent on charitable purposes.
- (v) Municipal Taxes.
- (w) Bad debt actually written off.



## CHAPTER IV

### LIABILITY FOR PAYMENT OF TAX IN SPECIAL CASES

#### 4.1 Exclusion of agricultural income of certain waqf

All agricultural income of Muslim Trusts referred to in Section 3 of the Musalman Waqf Validating Act, 1913, created before the commencement of this Act, shall be excluded from the operation of this Act:

Provided that the share of a beneficiary under a trust under the aforesaid Act, of description commonly known as Wakf-alal-aulad shall not be exempted and the basis of the taxation shall be the share of each beneficiary;

Provided further that if a beneficiary's income is assessable under the above mentioned proviso, the Superintendent of Taxes or Agricultural Income Tax Officer may require the Mutawalli to deduct the amount of tax from payment to be made the beneficiary and pay the same to the Superintendent of Taxes or Agricultural Income Tax Officer. On such requisition the Mutawalli shall be liable to pay the same.

[Section 10 of AAIT Act, 1939]

#### 4.2 Tax on agricultural income from land held for the benefit of several persons

(1) Except in cases covered by sections 10, 13 and 14 of the Act where a person holds land from which agricultural income is derived partly for his own benefit and partly for the benefit of beneficiaries or wholly for the benefit of the beneficiary or beneficiaries, tax shall be assessed on the total agricultural income derived from such land at the rates which would be applicable if such person had held the land exclusively for his own benefit, and the tax so payable shall be assessed on and paid by the person holding such land.

(2) Any person holding such land shall be entitled before paying to any beneficial the amount of agricultural income which such beneficiary is entitled to receive from the agricultural income derived from such land, to deduct the amount of agricultural income tax at the rate at which the agricultural income is or will be assessed under subsection (1).

*Explanation:* - "Beneficiary" means a person entitled to a portion of the agricultural income derived from the land.

[Section 12 of AAIT Act, 1939]



#### **4.3 Assessment of tax on common manager, receiver, etc.**

Where any person holds land, wherefrom agricultural income is derived, as a common manager appointed under any law or under any agreement, or as a receiver, administrator, or the like on behalf of persons jointly interested in such land or in the agricultural income derived there from, the aggregate of sums payable as tax by each person or the agricultural income derived from such land and received or receivable by his shall be assessed on such common manager, receiver, administrator or the like and he shall be deemed to be the assessee in respect of the tax so payable by each person and shall be liable to pay the same.

[Section 13 of AAIT Act, 1939]

#### **4.4 Assessment of tax on Court of Wards, etc.**

Tax on agricultural income received by the Court of Wards, the Administrator general, or the Official Trustee shall be levied upon and recoverable from such Court of Wards, Administrator general or official trustee in the like manner and to the same amount as it would be leviable upon and recoverable from any person on whose behalf such agricultural income is received.

[Section 14 of AAIT Act, 1939]

#### **4.5 Residuary provision for computation and recovery of tax in certain cases**

In any case covered by Sections 13 and 14 of the Act where any agricultural income or part thereof is not specifically received on behalf of any one person, or where the individual shares or the persons are indeterminate or unknown, the tax shall be levied and recoverable at the rate applicable to the total amount of such of such income.

Nothing contained in Sections 13 and 14 shall prevent direct assessment and recovery of tax from the person on whose behalf the income is received.

[Section 14A of AAIT Act, 1939]

#### **4.6 Assessment in cases of discontinued firm or association**

Liability of assessment and payment of tax in the case of discontinued firms or association of individuals shall be jointly and severally borne by every person who was a partner of such



firm or member of such association at the time of such association at the time of such discontinuance.

Where there has been a change in the Constitution of a firm or other association of individuals, assessment shall be made on the firm or the association of individuals as constituted at the time of making the assessment.

[Section 20A of AAIT Act, 1939 & Rule 23 (4)]

#### **4.7 Liability in cases of transfer of property**

In a case of succession of agricultural land the predecessor and the successor shall be assessed in respect of their actual share of agricultural income of the previous year. Where, however, the predecessor cannot be found and the tax cannot be recovered from him, the assessment for the previous year upto the date of succession and for the previous years preceding that year shall be made on the successor and the amount of tax levied in such assessment be recoverable from him who, in turn, will be entitled to recover the same from the predecessor.

Provided that the successor shall not be made so liable to pay sum without giving him an opportunity of being heard.

[Section 20B of AAIT Act, 1939]

#### **4.8 Liability on partition of Hindu undivided or joint family**

If any member of a Hindu undivided or joint family claims, after the family has been assessed but before the assessed tax has been realised, that the family has been partitioned, the Agricultural Income-tax Officer shall enquire there into in order to satisfy himself that the joint family property has been partitioned in definite shares. On being satisfied he shall record an order to the effect that each member shall in addition to the tax for which he may be separately liable [notwithstanding anything contained in Section 4(I) of the Act] be liable for proportionate share of the tax levied on the total agricultural income of the Hindu undivided or joint family.

Provided that all the members or group of members of the partitioned joint family shall be jointly and severally liable for the tax already assessed on the total agricultural income of the joint family.





Where no other apportioning the liability to the tax on the basis of a partition has been passed by the Agricultural Income- tax Officer, the family shall be deemed to continue to be a Hindu undivided or joint family.

[Section 22 of AAIT Rules]

#### **4.9 Liability of agent of non-resident**

All agricultural income of an assessee not resident in the State of Assam or who though ordinary resident is temporarily absent therefrom shall be chargeable to tax under this Act either in the name of the non-resident or in the name of the agent of such the non-resident and in the latter case the agent may retain, out of the any money payable by him to such non-resident person a sum equal to his estimated liability.

Provided that any arrears of tax may be recovered from any assets of the nonresident person which are within the State of Assam.

[Section 20 of AAIT Rules]

#### **4.10 Liability in case of death of assessee**

In case of death of an assessee, his executor, administrator or other legal representative shall be liable to pay agricultural income-tax and other dues under the Act to the extent to which he is capable of meeting the charge out of the assets of the deceased assessee.

[Section 23 of AAIT Rules]



## CHAPTER V

### Returns, Assessments, Rectification, Revision and Appeal

#### 5.1 Return of income

(1) Every person whose total agricultural income or the total agricultural income in respect of which he is assessable under the Act during the previous year exceeded the limit of the taxable income prescribed in Section 6 of the Act shall furnish before the 30<sup>th</sup> day of September of the relevant assessment year, a return of such income during the previous year in the prescribed form.

(2) If, in the opinion of the Agricultural Income-tax officer, a person is liable to pay tax under this Act, whether on his own total agricultural income or on total agricultural income of any other person during the previous year, he may, before the end of the relevant assessment year, serve a notice upon such person requiring him to file, within thirty days from the date of service of the notice, a return of such income in the prescribed form etc. The Agricultural Income-tax Officer has, however, the discretion to extend the date for filling the return on receipt of an application made by the assessee in the prescribed manner.

(3) If any person, which has not been served with a notice under (b) above, has sustained a loss of profits or gains in any previous year and claims that the loss or any part thereof should be carried forward for setting off against the profits or gains of the following year or years under section 16 (2) of the Act, he may furnish within the time allowed under (a) above, a return of loss in the prescribed form etc.

(4) Any person who has not furnished a return within the time allowed to him under (a) or (b) above or having furnished a return discovers any omission or any wrong statement therein, he may furnish a return or revised return ay any time before the assessment.

Provided that no return shall be valid unless it is accompanied by a treasury receipt showing payment of tax due from him on the basis of such return.

[Section 19 of AAIT Act, 1939 & Rule11]

#### 5.2 Return by whom to be sign

The return shall be signed and verified-

(a) In the case of an individual by the individual himself; where the individual is absent from India, by the individual concerned or by a person duly authorized by him; and where the



Individual is mentally incapacitated from attending to his affairs, by his guardian or by a person competent to act on his behalf;

(b) In the case of a Hindu undivided family, by the Karta; where the Karta is absent from India or is mentally incapacitated from attending to his affairs by any other adult member of such family;

(c) In the case of a company or local authority by the principal officer thereof;

(d) In the case of a firm, by any partner (other than a minor) thereof;

(e) In the case of any other association, by any member of the principal officer of the association; and

(f) In the case of any other person that person or by some other person competent to act on his behalf.

[Section 19A of AAIT Act, 1939]

### **5.3 Documents to be filed**

An assessee receiving agricultural income from the cultivation and manufacture of tea, shall file before the Agricultural Income Tax Officer/the Superintendent of Taxes-

- (i) A copy of first copy of any assessment order of the Income Tax Officer passed under Income Tax Act, 1961 within thirty days from the date of order
- (ii) A certified copy of such order within ninety days from the date of the order
- (iii) A copy of the balance sheet, profit and loss account of the previous year relevant to the assessment year duly certified by a practicing Chartered Accountant along with a copy of Income Tax computation submitted to the Indian Income Tax Authority
- (iv) A declaration by the assessee just after the expiry of twelve months from the end of the month in which return of the relevant assessment year is furnished under the Income Tax Act, 1961.
- (v) A copy of the report of a Chartered Accountant required to be furnished by an assessee under section 115 JB of the Income Tax Act, 1961, where the assessee is required to calculate its agricultural income under section 8B.

[Rule 13 of AAIT Rules]

### **5.4 Assessment**

On receipt of a return if the Agricultural Income-Tax Officer is satisfied that it is correct and complete, he shall assessee the total agricultural income of the assessee and determines the tax payable on the basis of such return. If, however, he has reason to believe that the return filed by the assessee is incorrect or incomplete, he shall issue a notice directing

....., .....

.....

( ) .....  
.....

[....., 1939 ..... 20]

5.5 .....

.....

- ) .....
  - ) .....
  - ) .....
- .....
- ..... (2) 19 .....
- .....

.....

[....., 1939 ..... 30]

5.6 ..... :

..... 23 .....

(a) the assessee to attend at his office, or to produce or to cause to be produced there, on the date to be specified in the notice, any evidence on which the said assessee may rely in support of the return. After hearing such evidence as the assessee may produce and such other evidence as may be required on specified points, the A.I. Tax Officer shall complete the assessment.

Provided that the A.I. Tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

(b) If an assessee fails to file a return or, having filed the return, fails to comply with the terms of notice referred to in sub-para (a) above or to produce any evidence required by the A.I. tax Officer, the latter shall make the assessment to the best of his judgment and determine the sum payable by the former. The A.I. tax Officer has, however, got the discretion of allowing the assessee such further time as he thinks fit to file the return.

[Section 20 of AAIT Act, 1939]

## **5.5 Income escaping assessment**

If is found in any particular case that for any reason-

- (a) Any agricultural income chargeable to tax has escaped assessment, or
- (b) Has been assessed at too low a rate, or
- (c) Has been subject of undue relief under the Act.

The Agricultural Income Tax Officer may, at any time within eight years of the end of the financial year, serve on the assessee a notice containing all or any of the requirements that may be included in a notice under section 19 (2) of the Act and may proceed to assess or re-assess such income tax in such cases shall be charged at the rate at which it would have been charged if such income had not escaped assessment or full assessment, as the case may be.

Provided that in the case of assessment made or to be made on a person deemed to be the agent of a non-resident person, the notice referred to above shall be served at any time within one year of the end of the relevant financial year.

[Section 30 of AAIT Act, 1939]

## **5.6 Cancellation of assessment in certain cases and fresh assessment**

Where an assessee satisfied the Agricultural .Income Tax Officer within one month from the service of the demand notice issued under Section 23 of the Act that he was prevented by sufficient cause from complying with the terms of the last mentioned notices, the A.I. Tax





Officer shall cancel the assessment and make a fresh assessment in accordance with the provisions of Section 20 of the Act.

[Section 21 of AAIT Act, 1939]

### **5.7 Rectification of mistakes**

The Agricultural Income Tax Officer may, at any time within three years from the date of any assessment order passed by him of his own motion, rectify any mistake apparent from the record of assessment, and shall within the like periods rectify any such mistake as has been brought to his notice by the assessee.

This power of rectification of mistake has also been extended to the appellate and revisional authorities. Each of these authorities may, of its own motion, and shall when brought to its notice by the assessee, rectify mistakes apparent from the records of appeal or revision, as the case may be, within the aforesaid period of three years from the date of orders passed by him.

No such rectification having the effect of enhancing the assessment or reducing the refund shall, however, be made by the Agricultural Income Tax officer or the appellate or revisional authority unless the assessee had been given a notice of the intention of such rectification and has been allowed a reasonable opportunity of being heard.

[Section 31 of AAIT Act, 1939]

### **5.8 Appeals to the Assistant Commissioner of Taxes (Appeals)**

Any assessee aggrieved by an order (not being an order passed in Appeal under section 24 of the Act) passed under the Act by any authority appointed under Section 18 of the Act, other than the Commissioner or Deputy Commissioner of Taxes, has the right to appeal in the prescribed manner to the Assistant Commissioner of Taxes (Appeals) against such orders within 30 days from the service of such order. The appellate authority may, however, admit an appeal after expiry of 30 days if he is satisfied that for reasons beyond the control of the appellant or for any other sufficient cause it could not be filed within the time.

The manner in which and the fees on payment of which an appeal can be preferred have been set out in rules 16, 17 and 19 of the A.A.I.T. Rules.

[Section 24 of AAIT Act, 1939]

### **5.9 Appeals to the Assam Board of Revenue**

Any assessee objecting to an order passed in appeal by the Assistant Commissioner of Taxes (Appeals), or passed in revision by the Commissioner of Taxes under Section 27 of the



(set out in the next para of this Manual) may prefer an appeal to the Assam Board of Revenue within sixty days of the date on which such order is communicated to him with a fee of Rs. 25. The Board may, however, admit an appeal after the expiry of sixty days if it is satisfied that for reasons beyond the control of the appellant or for any other sufficient cause it could not be preferred in time.

**[Section 26 of AAIT Act, 1939]**

## **5.10 Revision by Commissioner**

If the Commissioner of Taxes considers that any order passed by any authority subordinate to him is erroneous in so far as it is prejudicial to the interest of revenue he may call for and examine the records of any proceedings under the Act and after given the assessee an opportunity of being heard and after such enquiry as deemed necessary pass such orders as the circumstances justify, including an order enhancing or modifying the assessment or canceling assessment and directing a fresh assessment.

In the case of any other order passed by his sub-ordinate authorities, the Commissioner may of his own motion, and in the case of an order passed in appeal by the Assistant Commissioner of Taxes (Appeals) on a petition by an assessee for revision, call for the records by an assessee for revision, call for the records of any proceedings under the Act in which the orders were passed and pass such orders, not being an order Prejudicial to the assessee, as he thinks fit.

The manner in which a petition for revision is to be made by an assessee and fees payable in this respect have been laid down in rules 18 and 19 of the A.A.I.T. Rules.

**[Section 27 of AAIT Act, 1939]**



## CHAPTER VI

### RECOVERY OF TAX, INTEREST, PENALTIES AND FINES

#### 6.1 Advance Tax

An assessee shall pay to the credit of the State Government, as advance tax, an amount equal to the agricultural income tax calculated in his total agricultural income derived during the latest previous year in respect of which he has been assessed in such number of equal installments not exceeding four and on such dates as may be prescribed.

Provided that if the assessee is a partner of a firm and the assessment of the firm has been completed for a previous year later than that for which the assessee's last assessment has been completed his share in the profits from the agricultural income of the firm shall, for the purpose of this subsection, be included in his total agricultural income on the basis by latest assessment of the firm.

[Section 35 of AAIT Act, 1939]

#### 6.2 Estimate by assessee

(1) If an assessee, who is required to pay advance tax under section 35, estimates at any time before the last instalment of the advance tax is due in his case find that by reason of his income of the year, for which he is liable to pay advance tax being likely to be more or less than the income on which the advance tax payable by him under section 35 or for any other reason, the advance tax payable by him would be more or less than the amount which he is so required to pay, he shall furnish to the Agricultural Income tax Officer, an estimate of

- (i) The current total agricultural income and
- (ii) The advance tax payable by him under this Act and shall pay such amount of advance tax as accords with his estimates in equal instalments on such sates as may be prescribed.

(2) The assessee may send a revised estimate of the advance tax payable by him on or before the date prescribed under section 35 and adjust excess or deficiency in respect of any instalment or instalments.

[Section 35A of AAIT Act, 1939]



## **6.3 Levy of Interest**

### **6.3.1 Short payment of advance tax**

(1) Where in any financial year, an assessee has paid advance tax is less than seventy five per centum of the tax determined on regular assessment under section 20, simple interest at the rate of two per centum for each English Calendar month from the first day of April of succeeding financial year in which the advance tax was payable up to the month prior to the month of regular assessment shall be payable by the assessee upon the amount by which the advance tax paid falls short of the tax determined on regular assessment.

(2) Where before the date of completion of a regular assessment, tax is paid by the assessee in accordance with the provisions of the Act, interest shall be calculated in accordance with the foregoing provision up to the month prior to the months in which tax is so paid and thereafter shall be calculated under sub-section (1) on the amount by which the tax so paid falls short of the tax determined on regular assessment.

**[Section 35B of AIT Act, 1939]**

### **6.3.2 Interest payable by assessee**

(1) Where on making the regular assessment under section 20, the Agricultural Income Tax Officer finds that no payment of advance tax has been made in accordance with the provisions of section 35 or section 35A, interest at the rate of two per centum for each English Calendar month from the first day of April succeeding the financial year in which the advance tax was payable up to the month prior to the month of such regular assessment shall be payable by the assessee.

(2) Where as a result of an order under section 21, section 24, section 26, section 27, section 31, section 28 or section 29 the amount on which interest was payable under this section or section 35 B has been reduced, the interest shall be reduced proportionately and the excess interest paid, if any, shall be refunded.

**[Section 35C of AIT Act, 1939]**

### **6.3.3 Interest for non-payment of tax demanded**

(1) Where an assessee does not pay the amount of tax demanded from him after an assessment made under any provision of this Act within the date specified in the notice of





demand served on him in this behalf, he shall be liable to pay simple interest from the 1st day of the month following the said date up to the date of full payment at the rate of two per centum for each English Calendar month on the amount of tax as finally assessed, reduced by the amount of tax paid on or before the said first day until the tax is fully paid.

(2) In calculating the interest payable under this Act, the amount of advance tax or tax determined on regular assessment under section 20 in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees where such amount contains a part of one hundred rupees; if such part is fifty rupees or more, it shall be increased to hundred rupees, and if such part is less than fifty rupees it shall be ignored.

**[Section 35D of AAIT Act, 1939]**

**Explanation 1** – In this section where an assessee pays any part of the tax after the commencement of interest under sub-section (1) interest shall be payable up to the date of part payment on the entire amount as specified in the said sub-section thereafter on the balance of such payment.

Explanation 2 – Where in any case any interest becomes payable under this section, the authority competent to assess the tax in that case under this Act shall record an order to that effect specifying the amount of interest payable and the amount of tax on which and the period for which the interest is payable. Notwithstanding anything contained in this Act an order under this sub-section can be passed at any time when interest under this section is found to be due.

Explanation 3 – The provisions of this Act relating to payment and recovery of tax shall, so far as may be, be applicable to payment of interest under this section as if such interest were tax under this Act:

Provided that where any order is passed under sub-section (3) of section 36 of this Act in respect of any dues, any interest relatable to the same dues and accrued under this section up to the date of such order and any further interest accruing after such date shall be recovered in the course of proceeding initiated in accordance with the aforesaid sub-section in respect of the said dues and for that purpose no order under sub-section (1) of this section or notice of demand under this Act shall be necessary in respect of such interest.

**[Section 35D of AAIT Act, 1939]**

(3) The provisions for interest as made in section 35C, section 35D and section 39 (2) shall not be applicable in case of an assessee whose agricultural income tax does not exceed two thousand five hundred rupees.

**[Section 35E of AAIT Act, 1939]**



### **6.3.4 When assessee deemed to be in default**

If an assessee-

- (a) does not pay any instalment or instalments of advance tax payable by him under section 35 on the date or dates prescribed, or
- (b) after filing an estimate or a revised estimate of the advance tax payable by him under section 35A does not pay any instalment in accordance therewith on the date or dates prescribed, or
- (c) fails without reasonable cause to file an estimate or a revised estimate as required under section 35A; He shall be deemed to be default, in the case referred to in clause (a) and (b) in respect of such instalment or instalments and in the case referred to in clause (c), in respect of the amount that falls short the last instalment of advance tax that would have been payable by him had he submitted an estimate or a revised estimate as required under section 35A and all the provisions of section 36 shall apply in relating to any advance tax payable in pursuance of section 35 and section 35A as if it were an order for payment of tax on regular assessment under section 20:

Provided that if any interest is payable by an assessee under section 35 B or section 35 C or section 35 D in respect of any period and penalty is imposed under section 36 read with this section, the aggregate of such interest and penalty shall not exceed the amount for which such assessee is deemed to be in default.

[Section 35F of AAIT Act, 1939]

### **6.3.5 Submission of evidence of payment with return**

An assessee shall except when taxes have been paid in advance in full, submit alongwith the annual return a receipt from a Government Treasury or crossed Cheque or crossed demand draft in favour of the Agricultural Income tax Officer for the full amount of tax payable for the year on the basis of the return after deducting therefrom the advance taxes if any already paid for the year.

[Section 35G of AAIT Act, 1939]

### **6.3.6 Interest for deferment of advance tax**

Where, in any financial year, the assessee who is liable to pay advance tax under section 35 or 35A, has failed to pay such tax by the prescribed date, he shall be liable to pay simple



interest at the rate of one and half percent per month with effect from the immediate next day of the day as prescribed for payment of advance tax for the respective quarter, on the unpaid amount by which the tax to be paid for that quarter falls short, till the date of full payment of such short fall:

Provided, however that the provisions of this section shall apply only upto the end of the financial year, after which the provisions of section 35C as renumbered, shall apply.

[Section 35H of AAIT Act, 1939]

### **6.3.7 Mode of recovery**

(a) If the demand of any dues is not paid on or before the date mentioned in section 35 G and 35H, the assessee shall be deemed to be in default by any date as extended by the Agricultural Income tax Officer, the Agricultural Income Tax Officer has the discretion to levy, in addition to the amount due, a penalty not exceeding that amount on the assessee defaulting payment. The Agricultural Income tax Officer has the power to order recovery of dues as arrear land revenue.

(b) If a trustee or a mutawali of a Musalman Wakf is in default in payment of dues the Agricultural Income-tax officer may under his signature, forward to the collector a certificate specifying the amount of arrear due from the trustee or the mutawali and the collector, on receipt of such certificate, shall recover the amount as arrear land revenue.

[Section 36 of AAIT Act, 1939]

(c) Penalty imposed under Sections 22 and 36 of the Act shall be recoverable in the manner of recovery of arrear land revenue.

[Section 37 of AAIT Act, 1939]

### **6.3.8 Penalty for not giving notice of discontinuing business of a firm or association**

If any person fails to give to the Agricultural Income – tax officer notice of discontinuing business of a firm of association of individuals receiving agricultural income within 15 days of such discontinuance, the Agricultural Income-tax officer may impose on him a penalty not exceeding the amount of agricultural income-tax subsequently assessed on him in respect of any agricultural income of the firm or association of a individuals up to the date of discontinuance of its business.

[Section 20A (2) of AAIT Act, 1939]

6.3.9 □□ □□□□□□ □□ □□□□□□ :



### **6.3.9 Penalty for concealment of income**

If the Agricultural Income-tax officer or the assistant Commissioner of Taxes or the Deputy Commissioner of Taxes or the Commissioner of Taxes is satisfied that an assessee-

- (a) has without reasonable cause failed to furnish the return of his total income; or
- (b) has without reasonable cause failed to furnish it within the time allowed and in the prescribed manner; or
- (c) has concealed that particulars of his income or has deliberately furnished inaccurate particulars of such income and has thereby returned it below its real amount, he may impose on such assessee, after giving him a reasonable opportunity of being heard, penalty, in addition to the amount of tax which would have been avoided if the income so returned by him had been accepted as the correct income.

No penalty shall, however, be imposed-

- (i) for failure to furnish a return by an assessee whose total agricultural income is less than Rs.5,000, unless he has been served within a notice for filing return under section 19 (2) of the Act;
- (ii) for failure to comply with a notice for filing return under Section 19 (2) or under Section 30 of the Act if the assessee proves that he has not income liable to be tax;
- (iii) upon any person assessable as an agent of any person not resident in Assam for failure to furnish return, unless a notice for filing return under Section 19 (2) of the Act has been served on him.

[Section 22 of AAIT Act, 1939]

### **6.3.10 Fines for failure to furnish a return or to supply information**

A person who fails, without reasonable cause or excuse, to furnish in due time any return or any information mentioned in Sections 19 and 34 of Act shall be punishable with fine which may extend to Rs. 5 for every day during which the default continues.

[Section 41 of AAIT Act, 1939]

### **6.3.11 False statement in declaration constitutes an offence**

If any person makes a false statement in a verification mentioned in section 19, 24,26 or 27 [i.e. Return, Appeal to Asstt. Commissioner of Taxes (Appeals), Revision petition to the



၀၀ ၀၀၀၀ ၀၀၀] ၀၀ ၀၀၀ ၀၀၀၀၀၀ ၀၀၀ ၀၀၀၀၀၀ ၀၀ ၀၀၀၀ 177 ၀၀၀ ၀၀၀၀၀၀ ၀၀၀၀၀ ၀၀ ၀၀၀၀  
၀၀၀၀ ၀၀၀၀၀ ၀၀၀ ၀၀ ၀၀ ၀၀၀၀၀၀၀ ၀၀၀၀၀ ၀၀၀၀၀၀

[၀၀၀၀ ၀၀၀၀ ၀၀ ၀၀ ၀၀၀၀၀၀၀,1939 ၀၀ ၀၀၀၀ 40]

6.3.12 ၀၀၀၀၀၀၀ ၀၀၀ ၀၀၀၀၀ ၀၀၀ :-

၀၀၀၀ 40 ၀၀၀၀ 41 ၀၀ ၀၀၀ ၀၀၀၀၀၀၀ ၀၀၀၀၀ ၀၀၀၀၀၀၀၀၀ ၀၀ ၀၀ ၀၀၀၀ ၀၀ ၀၀၀၀ ၀၀၀၀ ၀၀ ၀၀၀၀ ၀၀  
၀၀၀၀ ၀၀၀၀ ၀၀ ၀၀၀၀၀၀ ၀ ၀၀, ၀၀၀၀ ၀၀၀၀၀ ၀၀၀၀၀၀ ၀၀ ၀၀ ၀၀၀၀၀၀ ၀၀ ၀၀၀၀၀၀၀ ၀၀၀၀ ၀၀ ၀၀ ၀၀၀၀၀၀  
၀၀၀၀ ၀၀၀၀ ၀၀ ၀၀ ၀၀၀၀ ၀၀၀ ၀၀၀၀၀၀၀၀ ၀၀ ၀၀၀၀၀၀၀၀ ၀၀၀၀၀၀၀၀၀ ၀၀၀၀ ၀၀၀၀ ၀၀ ၀၀၀၀ ၀၀၀ ၀၀ ၀၀၀၀  
၀၀၀၀ ၀၀၀၀၀ ၀၀၀၀ ၀၀၀၀ ၀၀၀၀ ၀၀၀၀၀

၀၀၀၀၀, ၀၀၀၀၀၀၀၀, ၀၀ ၀၀၀၀ ၀၀၀၀၀ ၀၀၀၀၀၀ ၀၀, ၀၀၀၀ ၀၀ ၀၀၀၀၀ ၀၀, ၀၀၀၀ ၀၀၀ ၀၀၀၀၀၀၀၀၀  
၀၀ ၀၀၀ ၀၀၀၀ ၀၀ ၀၀၀၀ ၀၀၀ ၀၀၀၀ ၀၀၀၀၀၀၀၀ ၀၀ ၀၀၀၀ ၀၀၀၀၀ ၀၀ ၀၀၀၀ ၀၀၀

[၀၀၀၀ ၀၀၀၀ ၀၀ ၀၀ ၀၀၀၀၀၀၀,1939 ၀၀ ၀၀၀၀ 42]

Commissioner or Appeal to Assam Board of Revenue] he shall be deemed to have committed the offence described in Section 177 of the Indian penal Code and be liable to prosecution.

**[Section 40 of AAIT Act, 1939]**

### **6.3.12 Prosecution and compounding**

Prosecution under Section 40 or 41 can be instituted only at the instance of the Deputy Commissioner of taxes, or where there is no Deputy Commissioner, the Assistant Commissioner of Taxes empowered by the Commissioner of Taxes in this behalf, and before instituting proceedings against any such person a show cause notice shall have to be issued to him.

Provided that the Deputy Commissioner of Taxes or the Assistant Commissioner of Taxes, as the case may be may stay any such proceedings or compound any such officer.

**[Section 42 of AAIT Act, 1939]**



## CHAPTER VII

### REFUND AND REMISSION

#### 7.1 Refund

(1) An assessee is entitled to a refund of any sum paid by him in excess of the sum due from him under the Act. The refund shall be made by the Superintendent of Taxes or the Agricultural Income tax officer by cash payment, or at the option of the assessee by set off against the sum due from the assessee in respect of any other assessment year.

Provided that if the assessee is in default in payment of tax under the Assam Taxation (on Specified Land) Act, 1990, The Superintendent of Taxes or Agricultural Income Tax Officer shall, after giving the assessee an opportunity of being heard, adjust such refund including interest, if any, under sub-section (2) below, in the manner as prescribed, against the sum to the extent due from him under the said Act.<sup>9</sup>

(2) In for reason of delay a refund due to an assessee is not made within ninety days of such refund being due, the State Government shall pay to such assessee simple interest at the rate of twelve per centum per annum of the amount refundable.

(3) Refund shall be deemed to be due:-

(a) in cases where the tax assessed has been reduced on appeal or revision, etc from the date the order of the appellate or revisional authority comes to the knowledge of the assessing authority;

(b) in other cases on the date an application for refund is made by the party claiming the refund or the date on which assessment is made, whichever is later<sup>10</sup>.

If a refund due to an assessee is not made within ninety days of such refund being due, the State Government shall pay to such assessee simple interest at the rate of 12 *per cent* per annum on the amount refundable.

**[Section 39 of AAIT Act, 1939]**

---

<sup>9</sup> Inserted vide Notification No. LGL.22/2002/57 dated 19.01.2007

<sup>10</sup> Inserted vide Notification No. LGL.61/2009/20 dated 04.01.2010



## **7.2 Manner of claiming refund**

The manner of claiming refund and the procedure of making such refund have been laid down in rules 24 (2) and 28 of the Assam Agricultural Income Tax Rules, 1939.

## **7.3 Remission**

The State Government, for reasons to be recorded in writing, may remit the whole or part of the amount of the tax, interest or penalty payable in respect of any year by an assessee who has suffered heavy loss due to any calamity.

**[Section 39A of AAIT Act, 1939]**



## CHAPTER VIII

### AUDIT CHECK AND RECORDS TO BE CHECKED

#### 8.1 Records and Registers maintained by the Department

The following registers are maintained by the Agricultural Income-tax officer.

- (i) Demand register;
- (ii) Collection Register;
- (iii) Challan entry register;
- (iv) Arrear Certificate register;
- (v) Appeal register;
- (vi) Bakijai certificate issue register;
- (vii) Issue register;
- (viii) Docket Register; and
- (ix) Stamp Register.
- (x) Register of irrecoverable Demands.
- (xi) Register of Refund applications.
- (xii) Register of Refunds.
- (xiii) Arrear certificate register.

#### 8.2 Audit Checks

##### 8.2.1 Return

- (a) If the assessee has filed a voluntary return of income under Section 19 (1) of the AIT Act.
  - (i) Whether he has declared all the sources from the accounting year and has furnished full particulars of the income derived by him.
  - (ii) In case when the assessee had concealed the particulars of his agricultural income or has deliberately furnished inaccurate particulars whether penalty under Section 22 of the Act has been levied.
- (b) If a return of income was called for by the assessing authority under Section 19 (2) of the Act:





- (i) Whether the relevant notice under Section 19 (2) requiring the assessee to file the return of income was served on the assessee before the end of that financial year of assessment and
- (ii) If not whether a notice under Section 30 of the Act was served on the assessee within the time limit prescribed under section 30 of the Act.
- (iii) In case where the assessee has failed without reasonable cause to furnish the return within the time allowed, or has concealed the particulars of his agricultural income with the return filed or has deliberately furnished inaccurate particulars, whether penalty under Section 22 has been levied.

### **8.2.2 Procedure of assessment**

(a) If the assessment is made under Section 20 (1) of the Act, the return and accounts filed by the assessee should be analysed thoroughly and critically examined to ensure that:

- (i) The returns and accounts are correct and complete and do not contain factual inaccuracies and contradictions;
- (ii) All items of receipts/income assessable to tax have been considered for assessment and
- (iii) Deductions allowed are in conformity with the provisions of the Act and rules made thereunder.

(b) If the assessment is made under section 20(3) of the Act:

- (i) Whether the accounts of the assessee were obtained for scrutiny and whether a hearing was conducted before finalizing the proposals for assessment and communicating the basis on which the assessment is proposed to be made to the assessee in the form of pre-assessment notice.
- (ii) Whether the facts disclosed by the accounts maintained by assessee and those recorded at the time of hearing were taken into account for finalizing the proposals for assessment.

### **8.2.3 Best Judgement assessment under section 20 (4) of the Act**

If the assessment is made to the best of judgement of the assessing officer under Section 20 (4), whether:-

- (i) The assessing officer has considered all the data available on record regarding the agricultural holding of the assessee and the income derived by him therefrom;



- (ii) The estimate of the yield is based on some reliable date (e.g. date gathered on spot inspection etc);
- (iii) Value of the commodities adopted does not vary appreciably in the case of different assesses in a particular locality unless there is some satisfactory reasons for such verification.
- (iv) If the assessee has communicated his objections to the proposals contained in the pre-assessment notice and if the assessing officer has reduced the income on the basis of the objections, whether such objections are reasonable and are supported by facts on record.
- (v) If the assessee has not objected to the proposals, whether the assessment completed in accordance with the proposals communicated to the assessee in the pre-assessment notice.

#### **8.2.4 Computation of income and assessment of tax**

- (1) Whether there is any arithmetical mistake in the computation of income and assessment of tax, in the assessment order.
- (2) In case, where the total agricultural income of the assessee includes income from firm/association of individuals/property held in tenants-in-common whether the total agricultural income of the firm/association of individuals/tenants-in-common been computed and apportioned correctly.
- (3) Whether the deductions allowed in computing the income on account of expenses incurred by the assessee are supported by provisions of section 8 of the A.I.T. Act.
- (4) if it is a case where depreciation allowance has been claimed by the assessee.
  - (a) Whether the assessee has properly furnished the particulars in accordance with the Agricultural Income Tax Rules relating to the claim of depreciation allowances.
  - (b) Whether the assets are the property of the assessee and are required for the purpose of deriving agricultural income.
  - (c) Whether the assessing authority has worked out the written down value correctly and allowed the depreciation at the prescribed rates.
- (5) Whether the deductions allowed include any item of capital expenditure.
- (6) In cases when deductions from total agricultural income, exclusion from certain properties has been allowed to the assessee for the reasons that the properties in question were alienated/transferred whether the income from such property is assessed in the hand of the transferee. (Details of settlements, dispositions received from RAW Parties auditing registration), if any, may be utilized profitably to exercise these checks.



In case of transfer of property by the assessee to his wife/minor child or purchase of property in the name of his wife/minor child, whether the transaction is hit by section 8A of the AIT Act and if so, whether the income from such property is included in the total income of the assessee for purpose of assessment to tax.

(8) Whether the share income received by the wife/minor child of the assessee from membership in the firm in which the assessee is a partner is included in the total income of the assessee, and assessed to tax in his hands.

(9) Whether agricultural income tax have been demanded at the prescribe rates.

(10) Whether the assessment of income has been made within the time limit prescribed under section 30 of the Act.

### **8.2.5 Data gathered during inspection by the Department**

(1) Whether the local inspection covered the entire agricultural holdings of the assessee and if not, whether the income from the area not inspected has been Estimated by making local enquiries and recorded in the notes of inspection/taken into account at the time of making the assessment.

(2) Whether the date of inspection have been applied correctly in the assessment completed.

(3) Whether the income from any of the plantations which were immature and at the time of inspection but reported as likely to yield in the future years has escaped assessment in the subsequent assessments completed.

(4) Whether the signature of the assessee/representative of the assessee present at the time of inspection, has been obtained in the notes of inspection.

### **8.2.6 Completion of assessment after the death of assessee**

1) When a person dies before the assessment of his agricultural income is made/action for assessment is initiated, whether the requirement of Section 20B of the AIT have been properly complied with:

(2) Whether notice to all legal representative has been served.

(3) Whether income accrued to the person for the part of the accounting year till the date of his death has been considered for assessment in the hand of the deceased person.

(4) Whether income derived by the legal heirs/representative for the remaining part of the accounting year after the date of death of the persons has been assessed to tax in the hands of the legal heirs/representatives assigning the appropriate status according to the personal laws governing the succession



### **8.2.7 Agricultural income derived by Court of wards**

(1) In the case of agricultural income received by court of wards Administrator General or any receiver appointed by the court to receive such income on behalf of any person, whether notices under different sections required to be issued under the provisions of the AIT Act before proceeding to assess such income in the hand of the court of wards, Administrator general or receiver, were issued and served on the court of wards, Administrator General or the receiver.

(2) When the income received by the court of wards, Administrator General, etc. is part only of the total agricultural income of the person whether tax payable has been determined on the total agricultural income of the person and demanded from the court of words, Administrator General etc. and from the person according to the income received by each.

### **8.2.8 Carrying forward of losses**

(1) Whether the loss carried forward under section 16 of the Act is the loss determined by the assessing officer in the previous assessments.

(2) Whether any loss has been carried forward for more than six years.

### **8.2.9 Method of accounting**

In the case of assesses, who maintain proper accounts of their agricultural income:

(1) Whether the assessee is maintaining accounts on 'cash basis or 'Mercantile basis'

(2) In the case of assesses who maintain accounts on 'cash basis' whether any deduction was allowed in respect of any liability for payment incurred by the assessee during the previous year, but not actually paid.

(3) In the case of assessee who maintains accounts on 'Mercantile basis'

(a) Whether any item of payment made by the assessee during the previous year for which provision was made in the earlier years and allowed as deductions in the relevant years assessments has been allowed as deduction again.

(b) Whether all items of provisions made in excess over requirement and written back to the Profit and Loss account of the assessee as receipt have been included in the total agricultural income assessed to tax.





© whether provisions made in the accounts and charged off to the profit of the year are only for payment for which liability has actually been incurred by the assessee.

(d) Whether any provisions for future payment of liability already incurred are not excessive; and

(e) In the case of change to the method of accounting whether items of expenditure which have been allowed on cash basis are not allowed on accrual basis and vice versa.

### **8.2.10 Cases of cancellation of best judgement assessment**

Whether there is any indication in the assessment records, to show that the assessing officer was satisfied within the time limit of one month from the service of notice of demand on the assessee that the assessee was prevented by sufficient cause for moving a return required by Section 19 or that he did not receive the notice issued under subsection (2) or Section 19 or sub-section (2) of Section 20 or that he had not reasonable opportunity to comply with the terms of such notice, before cancelling the assessment made under Section 20 (4).

### **8.2.11 Revision of assessments**

(1) If the revision is based on any appellate decision or orders, whether the changes or modification effected in the income of the assessee, already computed are in accordance with the directions contained in the appellate order.

(2) Whether any reduction in the agricultural income already computed and assessed ordered by the Appellate authority was due to any omission/failure on the part of the assessing authority in presenting the true facts of the case or producing the relevant documents before the appellate authority.

(3) If any revision is made under Section 31 of the Act for rectifying any mistake apparent from records, whether the revision is made within the time limit of three years from the date of original assessment order.

### **8.2.12 Demand and collection of tax**

(1) Whether a valid demand notice under Section 23 of the Act was served on all persons from whom tax or penalty is due.

(2) Whether the assessee has remitted the tax before last date prescribed in the demand notice.



- (3) Whether the classification of tax etc. furnished in the challans of remittance is correct.
- (4) Whether penalty for belated/non-payment of tax has been imposed in deserving cases under Section 3 of the Act.
- (5) Whether action to recover the tax etc. due from the defaulter has been initiated under the Revenue Recovery Act under Section 36 of the Act, and whether action for recovery is being pursued properly.
- (6) Whether any amount has become unrecoverable due to failure on the part of the assessing authority in initiating action for recovery.

### **8.2.13 Refunds**

- (1) Whether the raised assessment based on which refunds are ordered, are made according to the provisions of the Act.
- (2) Whether the assessee had actually remitted amounts in excess of the tax fixed in the revised assessments and the amount to be refunded has been worked out correctly.
- (3) Whether the fact of refund has been noted in the original challans of remittance and also against the relevant entries in the register of Daily Collections.
- (4) Whether any refund has been granted there were dues outstanding against the assessee.

## **8.3 Maintenance of registers**

### **8.3.1 Trial or New Case Register**

The register may be reviewed to see:

- (a) Whether trial cases being booked promptly on receipt of report from the officer conducting field survey or information from the records of the officers regarding the agricultural holdings of the assessee and notices under Section 19 (2) or 30 as the case may be issued without delay.
- (b) Whether all cases found as assessable have been carried over to the General Index register and whether General Index Register numbers of the cases are entered in the Trial cases.
- (c) Whether there is any delay in taking follow-up action to finalise the case.



### **8.3.2**

### **General Index Register**

The register may test checked to see-

- (a) Whether entries regarding the issue of notices under Section 19 (2) have been made.
- (b) Whether cases of arrears in assessments are carried over each year to the current register and completion of assessment watched.

### **8.3.3**

### **Register to watch the timely completion of assessments**

Test check to see-

- (a) Whether all names in the General Index Register are entered in the register and completion of assessment watched properly.
- (b) Whether cases of arrears in assessments are carried over each year to the current register and completion of assessment watched.
- (c) Whether any assessment is based by limitation of time under Section 30.

### **8.3.4**

### **Register of Demand and Collection**

Test check to see:-

- (a) Whether the demand figures are attested by the assessing officer.
- (b) Whether the columns have been properly filled up.
- (c) Whether the collections have been posted and relevant challans placed in the assessment files.
- (d) Whether the Revenue Recovery Certificates are issued under Section 36 of the Act.
- (e) Whether the arrears of collections has been correctly worked out in each case and brought forward from the previous registers.

### **8.3.5**

### **Daily Collection Register**

The register may be test checked to see:-

- (a) Whether the total collections has been reconciled with treasury figures.
- (b) Whether the collections have been posted in the Demand and Collection register correctly.
- (c) The details of remittances for two selected months may be collected from the register and verified with the records of the treasury



## 8.4 Audit of Internal controls

Audit will see that the internal procedures adequately secure correct and regular accounting of demands, collection and refunds, that no amounts due to Government remain outstanding in its books without sufficient reason and that the claims are pursued with due diligence and are not abandoned or reduced except with adequate justification with proper authority.

The most important function of Audit and the area of audit concern in relation to assessment and refunds is to satisfy itself, by such test check as it may consider necessary, that internal procedures adequately provide for and actually ensure-

- (i) the collection and utilisation of data necessary for the computation of the demand or refund under law.
- (ii) That the computation and realization of tax are in accordance with the applicable tax laws.
- (iii) The prompt raising of demands on tax payers in the manner required by law.
- (iv) The regular accounting of demands, collections and refunds.
- (v) The correct accounting and allocation of collections and their credit to the consolidated Fund.
- (vi) That adequate control and monitoring mechanisms have been devised to prevent loss or leakage of revenue.
- (vii) That there has not been any loss or leakage of revenue on account of lacunae or loopholes in the rules framed for the purpose or an account of avoidable delays in the issue of the necessary notifications and orders.
- (viii) That double refunds, fraudulent or forged refund orders or other losses of revenue through fraud, default or errors are promptly brought to light and investigated.
- (ix) That claims of tax payers are pursued with due diligence and are not abandoned or reduced except with adequate justification and proper authority.
- (x) that cases pending in courts of law or before appellate authorities have been pursued adequately ad appeals, whenever justified or considered necessary, have been filed within the period of limitation.



□□□□□□

**(□□□□ 2 (□ □), 3 □□ 6 □□□□□)**

□□□□ □□ □□ □□ □□□□

□. □□□□□□□□ □□□□ □□ □□□□ □□□ <sup>11</sup>	
□) □□□□□□□ □□□ □□ □□ □□□□□ □□□ □□ 1,00,000.00 (□□ □□□) □□□□□ □□ □□□□ □ □□	□□□□□ □□□ 20 □□□□
□) □□□□□□□ □□□ □□ □□, □□□□□ □□□ □□ 1,00,000.00 (□□ □□□) □□□□□ □□ □□□□ □□	□□□□□ □□□ 30 □□□□
□. <u>□□□□□□□□ □□ □□□□□ □□□□□□□□□□ □□ □□□□□ □□□</u> <sup>12</sup>	
□. □□□ □□□□ □□ □□ □□□□□ 2 □□□ □□□□ □□□□ □□□□ □□	□□□□□
□) □□□ □□□□ □□ □□ □□□□ □□ □□□ □□□□□ □□	□□□□□ □□□ 10 □□□□
□) □□□ □□□□ □□ □□ □□□□ □□ □□□ □□□□ □□□□ □□□□ □□	□□□□□ □□□ 20 □□□□
□) □□□ □□□□ □□ □□ □□□ □□□ □□	□□□□□ □□□ 30 □□□□

11. □□□□□□□□□□, □□□□□ □□□□□□□□ □□. □□ □□ □□ 22/2002/90 □□□□□ 07.12.2007 (01.04.2007 □□ □□□□□□□) □

12. □□□□□□□□□□ □□□□□ □□□□□□□□ □□. □□ □□ □□□□ 90/2010/82 □□□□□ 10.08.2016 (□□□□□□□□ □□□□ 2017-18 □□ □□□□□□□)

**“SCHEDULE”**  
**(See Sections 2 (oa), 3 and 6)**

**Rates of Agricultural Income Tax**

<b>A. In the case of every company<sup>-11</sup></b>	
(a) The total income of which does not exceed Rs.1,00,000 (one lakh) on the whole of total income	Twenty paise in the rupee
(b) The total income of which exceeds Rs. 1,00,000.00 (one lakh) on whole of total income	Thirty paise in the rupee
<b>B. In the case of persons other than companies<sup>12</sup> -</b>	
(a) on the first two lakh fifty thousand rupees of total agricultural income	Nil
(b) on the next one lakh rupees of total agricultural income	Ten paise in the rupee
(c) on the next one lakh fifty thousand rupees of the total agricultural income	Twenty paise in the rupee
(d) on the balance of the total agricultural income.	Thirty paise in the rupee

<sup>11</sup> Inserted vide Notification no. LGL.22/2002/90 dated 07.12.2007 (effective from 01.04.2007)

<sup>12</sup> Inserted vide Notification No.FTX.90/2010/82 dated 10.08.2016 (effective from assessment year 2017-18)



