

Chapter III
Taxes on Agricultural Income

EXECUTIVE SUMMARY – CHAPTER - III

Trend of receipts	During 2012-13 the Department collected tax of ₹ 18.92 crore which registered a decrease of 55.86 <i>per cent</i> over the previous year.
Very low recovery by the Department	During the period from 2008-09 to 2011-12, inadmissible expenses, income escaping assessment, incorrect computation of income were pointed out in 178 paras with revenue implication of ₹ 76.28 crore. Of these, the Department accepted ₹ 1.23 crore in 40 cases but recovered only ₹ 0.29 crore in 23 cases.
Results of audit	<p>During 2012-13, records of 31 units relating to agricultural income tax were test checked and noticed underassessments of tax etc., involving ₹ 26.45 crore in 37 cases.</p> <p>The Department accepted five cases involving ₹ 0.55 crore. No amount was realised by the Department during the year.</p>
What is highlighted in this Chapter	In this Chapter illustrative cases of selected observations involving ₹ 69.57 lakh noticed during test check of records relating to Agricultural Income Tax Offices are brought out. It was found that the provisions of the Act/Rules were not observed.
Conclusion	<p>It is recommended that working of Internal Audit Wing may be strengthened. The Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.</p> <p>It also needs to initiate immediate action to recover the inadmissible expenses, income escaping assessment, incorrect computation of income etc. pointed out in audit, more so in those cases where it has accepted the contention of audit.</p>

CHAPTER - III : TAXES ON AGRICULTURAL INCOME

3.1 Tax administration

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

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

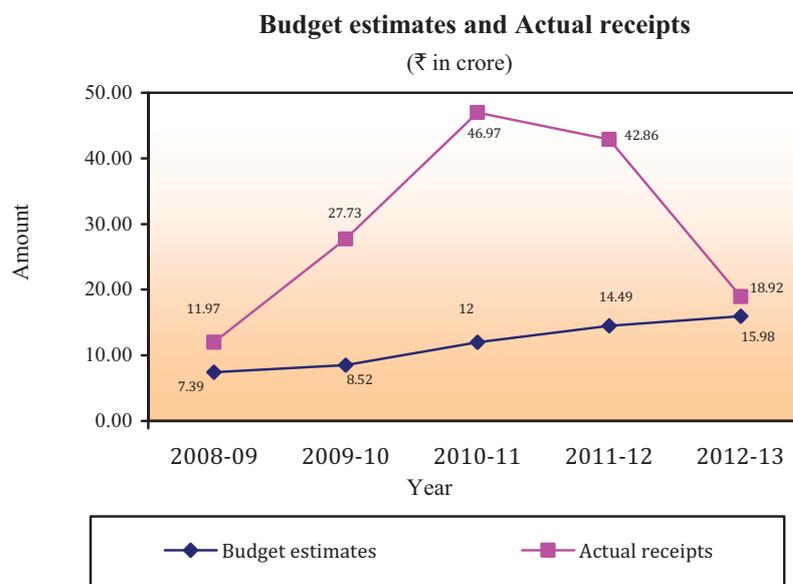
3.2 Trend of receipts

Actual Receipts from AIT during the last five years (2008-09 to 2012-13) along with the budget estimates during the same period are exhibited in the following table and graph.

(₹ in crore)

Year	Budget Estimates	Actual Receipts	Variation	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts to total tax receipts	Percentage of growth over previous year
2008-09	7.39	11.97	(+) 4.58	(+) 61.98	15,990.18	0.07	(-) 45.71
2009-10	8.52	27.73	(+) 19.21	(+) 225.47	17,625.02	0.16	131.67
2010-11	12.00	46.97	(+) 34.97	(+) 291.41	21,721.69	0.22	69.38
2011-12	14.49	42.86	(+) 28.37	(+) 195.79	25,718.60	0.16	(-) 8.75
2012-13	15.98	18.92	(+) 2.94	(+) 18.40	30,076.61	0.06	(-) 55.86

Source : Finance Accounts of relevant years



Though the actual receipts showed an increase of 18.40 *per cent* over the budget estimates for the year 2012-13, there was a short fall of 55.86 *per cent* in the actual receipts for 2012-13 when compared to that in 2011-12. Reasons for variation called for have not been furnished (February 2014).

3.3 Arrears in AIT assessment

The Department furnished the position of arrears under AIT which is as shown below :

Opening balance	4,740
Addition during 2012-13 including remanded cases	2,755
Total	7,495
No. of assessments completed	3,022
Arrear cases – 2,129	
Current cases – 885	
Remanded cases – 8	
Closing balance	4,473

The above table shows that the Department completed 3,022 assessments which was 40.32 *per cent* of the arrears outstanding.

Audit recommends the Government to give direction to the Department to complete assessments which are in arrears in a time bound manner.

3.4 Impact of Audit

During the last four years, cases of inadmissible expenses, income escaping assessment, incorrect computation of income, underassessment due to assignment

of incorrect status etc., with revenue implication of ₹ 76.28 crore in 178 paragraphs were pointed out. Of these, the Department/Government accepted audit observations involving ₹ 1.23 crore and had since recovered ₹ 0.29 crore. The details are shown in the following table:

(₹ in crore)

Year	Paragraphs included in the LARs		Paragraphs accepted during the year		Recovery during the year	
	No.	Amount	No.	Amount	No.	Amount
2008-09	67	28.66	9	0.12	4	0.11
2009-10	39	5.57	19	0.95	11	0.12
2010-11	59	17.07	5	0.10	1	0
2011-12	13	24.98	7	0.06	7	0.06
Total	178	76.28	40	1.23	23	0.29

The amount of recovery against the amount accepted was negligible.

3.5 Working of Internal Audit Wing

The internal audit wing (IAW) in the Commercial Taxes Department was constituted in May 2009 and commenced functioning from 1 June 2009. The wing headed by the Deputy Commissioner is assisted by three Assistant Commissioners and five Commercial Tax Officers. The Department has not prepared a separate internal audit manual. During the year 2012-13, only one unit was audited and the amount involved was not calculated.

As details of internal audit conducted were not made available by the Department, Audit could not comment on the performance of the IAW.

3.6 Results of audit

In 2012-13, Audit test checked the records of 31 units relating to AIT and noticed underassessment of tax and other irregularities involving ₹ 26.45 crore in 37 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Income escaping assessment	16	3.40
2.	Incorrect computation of tax	2	0.39
3.	Inadmissible expenses	17	13.07
4.	Others	2	9.59
Total		37	26.45

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 0.55 crore in five cases out of which two cases involving ₹ 0.39 crore were pointed out in audit during the year 2012-13. No amount was realised by the Department during the year 2012-13.

A few illustrative audit observations involving ₹ 69.57 lakh are discussed in the following paragraphs.

3.7 Non-observance of provisions of Act/Rules

Scrutiny of the assessment records of AIT in Commercial Taxes Department revealed several cases of non-observance of provisions of Act/Rules, incorrect determination of income/interest, grant of inadmissible expenses/allowances and other cases as mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test check carried out in audit. There is need for the Government to improve the internal control system including strengthening of the internal audit.

Under the KAIT Act and Rules made thereunder, for completing assessments the following aspects should be observed:

- i) tax shall be levied at the prescribed rate on the agricultural income derived by the assessee;*
- ii) deductions shall be allowed on income derived subject to certain conditions; and*
- iii) interest shall be levied on the balance tax payable.*

It was noticed that while finalising the assessment, the Assessing Authorities did not observe certain provisions which resulted in short levy of tax and interest of ₹ 69.57 lakh as mentioned in the paragraphs 3.7.1 to 3.7.3.

3.7.1 Short levy of agricultural income tax due to mistake in computation of agricultural income

While computing total agricultural income, a mistake occurred in taking actual loss

- (IAC (AIT), Kottayam)

Under Section 4 of the KAIT Act, 1991, the total agricultural income of the previous years of any person comprises of all agricultural income derived from land situated within or outside the State. Under Section 12 of the Act, where any person sustains a loss as a result of computation of agricultural income for any year, the loss shall be carried forward to the following year and set off against the agricultural income of that year. Under Section 39(3) of the Act the Agricultural Income Tax Officer after taking into account all relevant information shall by an order in writing make an assessment of the assessee and determine the sum payable by him or refundable to him on the basis of such assessment.

M/s Kerala Forest Development Corporation Ltd., Kottayam filed annual return for the year 2009-10 disclosing a net agricultural loss of ₹ 7.39 lakh. The assessing authority rejected the return and finalised the assessment adding back the inadmissible expenses of ₹ 3.84 crore to the conceded loss and allowing ₹ 2 lakh towards contribution to seminar. But the conceded loss was erroneously

reckoned as ₹ 73.93 lakh against the actual loss of ₹ 7.39 lakh. The mistake in computation resulted in income escaped from assessment amounting to ₹ 66.54 lakh and resultant short levy of AIT of ₹ 33.27 lakh.

The case was pointed out (November 2012) to the Department and reported to the Government in March 2013. Government stated (December 2013) that mistake was rectified (January 2013) creating additional demand of ₹ 33.27 lakh. Further report has not been received (February 2014).

- (IAC (AIT), Kottayam)

M/s Kailas Rubber Company, Kottayam filed annual return for 2009-10 disclosing net agricultural income of ₹ 12.27 lakh. The assessing authority rejected the return and finalised the assessment adding back inadmissible expenses of ₹ 35.44 lakh. The net agricultural income was allowed to set off against the carry forward losses of previous years. But while fixing the net agricultural income, the assessing authority omitted the income of ₹ 12.27 lakh conceded by the assessee and fixed the agricultural income as ₹ 35.44 lakh against the actual income of ₹ 47.71 lakh. The mistake in computation resulted in escape of income of ₹ 12.27 lakh from assessment and in short levy of AIT of ₹ 6.13 lakh.

The case was pointed out (November 2012) to the Department and reported to the Government in March 2013. Government stated (December 2013) that mistake was rectified (January 2013) re-fixing the net agricultural income. Further report has not been received (February 2014).

3.7.2 Short levy of AIT due to excess deduction of replantation allowance

Assessing authority allowed replantation allowance more than what was admissible as per KAIT Rules.

- (IAC (AIT), Kottayam)

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

As per the P & L accounts of M/s Malankara Plantations, Kottayam, a domestic company, for the previous year 2008-09, the agricultural income derived from rubber and tea were ₹ 8.23 crore and ₹ 4.21 crore respectively. Hence as per rules, the admissible replantation allowances were ₹ 20.58 lakh (2.5 per cent of ₹ 8.23 crore) and ₹ 6.31 lakh (1.5

per cent of ₹ 4.21 crore) respectively for rubber and tea. They claimed deduction of ₹ 35.93 lakh and ₹ 80.27 lakh respectively in their annual returns towards replantation allowances for rubber and tea during 2009-10. The assessing authority finalised (December 2011) the assessment fixing the net agricultural income of ₹ 1.59 crore allowing the above deduction. The excess deduction of replantation allowance resulted in short levy of AIT of ₹ 27.18 lakh.

The case was pointed out (December 2012) to the Department and reported to the Government (May 2013). Their reply has not been received (February 2014).

3.7.3 Non-levy of interest on belated payment of agricultural income tax

Interest leviable under KAIT Act was not levied on belated payment of advance tax.

- (IAC (AIT), Kottayam)

As per Section 37(1) of KAIT Act, 1991 every person liable to furnish a return under the Act shall pay tax of previous year on or before the end of February of the previous year on the estimated total agricultural income which shall not be less than eighty *per cent* of the total agricultural income as per return. As per Section 37(4) of the Act, any person who fails to pay tax, under the Section is liable to pay interest at the rate of 12 *per cent per annum* for every month of delay or part thereof, on the unpaid balance tax.

M/s Tropical Plantations Ltd., Kottayam, an assessee company conceded net taxable income of ₹ 74.78 lakh for the year 2006-07. The tax due amounting to ₹ 37.39 lakh was remitted on 01 January 2007. While completing the AIT assessments, the assessing authority did not levy interest on the advance tax due amounting to ₹ 29.91 lakh on the agricultural

income of ₹ 59.83 lakh (80 *per cent* of ₹ 74.78 lakh) which had to be paid on or before 28 February 2006. Non-levy of interest for the period from 01 March 2006 to 31 December 2006 worked out to ₹ 2.99 lakh.

The case was pointed out (December 2009) to the Department and reported to the Government in March 2010. Government stated (March 2013) that interest due for the above period was demanded during December 2012. Further report has not been received (February 2014).