

Chapter V: Assessments relating to Agricultural income

5.1 Introduction

Article 366(1) of the Constitution provides that the expression 'agricultural income' in the Constitution means agricultural income as defined for the purpose of enactments relating to Indian Income Tax. As per section 2(1A) of the Income Tax Act, 1961 (the Act) 'agricultural income' means (a) Any rent or revenue derived from land which is situated in India and is used for agricultural purposes; (b) Any income derived from such land by agricultural operations including processing of agricultural produce so as to render it fit for market or sale of such produce; (c) Any income attributable to a farm house subject to fulfillment of conditions specified in the Act; and (d) Any income derived from saplings or seedlings grown in a nursery. As per section 10(1) of the Income Tax Act, 1961, agricultural income is exempted from tax. Taxes on agricultural income falls under Entry 46 in "State List" under the Constitution of India. Thus, only the State Governments are competent to enact legislations for taxation of agricultural income. The Central Government cannot levy income tax on agricultural income. However, agricultural income is considered for rate purposes while determining the income tax liability viz. the rate⁹¹ of tax applicable to other taxable income of Individuals, Hindu Undivided Families (HUF), Association of Persons (AOP), Bodies of individuals (BOI) and artificial juridical persons. Exemption under the Income Tax law may be claimed as agricultural income, income from sale of agriculture land, income earned as compensation received from government for acquiring the agriculture land etc.

5.2 Legal framework

Section 2(1A) of the Act defines agricultural income. Sections 2(2) and 2(13) and Part IV of the First Schedule to the Finance Act deal with computation of net agricultural income for the purposes of determining the rate of Income Tax applicable to certain non-corporate assesseees. Section 10(1) provides for the exemption of agricultural income in the computation of the total income of any person. Rules 7, 7A, 7B and 8 of Income Tax Rules, 1962 deal with Income which is partly agricultural and partly from business.

⁹¹ provided net agricultural income exceeds ₹ 5,000 for previous year, and total income, excluding net agricultural income, exceeds the basic exemption limit {post amendment by Finance (No. 2) Act, 2014}.

5.3 Why we chose this topic

5.3.1 The third Tax Administration Reform Commission Report (2014) noted that agricultural income of non-agriculturists is being increasingly used as a conduit to avoid tax and for laundering funds, resulting in leakage to the tune of crore in revenue annually. Report on white paper on black money (2012) issued by Ministry of Finance cited that Agriculture contributes around 14 *per cent* of the country's GDP.

5.3.2 As agricultural income is exempt under the provisions of the Income Tax Act, giving credit to agricultural income for income tax purposes without adequate verification of claim may involve risk of allowance of exemption on ineligible incomes resulting in loss of revenue to the Government. To ensure allowance of exemption on eligible incomes only, it is imperative for the ITD to institute a robust mechanism for verification of claims for exemption on account of agricultural income.

5.4 Audit objective

The objective of the Audit was to ascertain that the Department, through its AOs, satisfied itself concerning the *genuineness* and correctness of the exemptions claimed in respect of agricultural income in cases selected for scrutiny assessments.

5.5 Audit coverage

The audit covered scrutiny assessments of a sample of the assessees who had claimed exemption on agricultural income, completed during the FY 2014-15 to FY 2016-17. Coverage in audit was limited to exemptions claimed under section 10(1) read with definition of agricultural income in section 2(1A) of the Act.

5.6 Sample size

ITD furnished the AO (assessment unit) wise aggregate data on scrutiny assessments having agriculture income-claims greater than ₹ 5 Lakhs that were processed between FY 2014-15 and FY 2016-17. The distribution of 22,195 cases in respect of which aggregate data was furnished by DGIT (Systems) is as follows:

State/Region	Total number of assessments involving agricultural income claims greater than ₹ 5 lakh
Andhra Pradesh & Telangana	1,470
Bihar	145
Chhattisgarh	207
Delhi	719
Gujarat	3,196
Jharkhand	44
Karnataka	2,886
Kerala	1,418
Madhya Pradesh	683
Maharashtra	4,077
North Eastern Region	174
North Western Region ⁹²	2,405
Odisha	97
Rajasthan	680
Tamil Nadu	2,892
Uttar Pradesh & Uttarakhand	666
West Bengal	436
Total	22,195

Audit selected 136 Commissionerates with relatively high number of claimants (aggregating the number of claimants in assessment units for each commissionerate) based on DGIT(Systems)⁹³ data. The Director General of Income Tax (Systems), New Delhi furnished the list of assesseees who had claimed exemption under section 10(1) for Agricultural income of ₹ 5 lakh and above and whose scrutiny assessments were completed during the FY 2014-15 to FY 2016-17 for selected Commissionerates. Accordingly, 7,082 cases from 835 units⁹⁴ were selected in Audit from the 136 Commissionerates.

5.7 Non-production of records

Out of the 7,082 cases requisitioned, 6,778 cases were produced to Audit. Records not furnished comprised 4.3 *per cent* of the requisitioned records. The non-production of the records was a constraint in complete coverage of the selected sample.

⁹² North Western Region comprises states/union territory of Punjab, Haryana, Chandigarh, Himachal Pradesh and Jammu and Kashmir.

⁹³ Director General of Income Tax (Systems), New Delhi

⁹⁴ 266 Circles and 569 Wards

5.8 Study results

During audit basic information, like the returned income, assessed income, agricultural income claimed and allowed, along with the nature of assessee as per their returns were also collected, in respect of the cases reviewed. An analysis of the information collected is discussed as below.

5.8.1 Distribution of agricultural income

The distribution of agricultural income was studied on the two measures, the agricultural income claimed and agricultural income allowed. The same was studied for its distribution across the states.

The distribution of 6,778 cases checked by audit is as follows:

States	Number of cases checked
Andhra Pradesh & Telangana	506
Bihar	122
Chandigarh	129
Chhattisgarh	170
Delhi	462
Gujarat	425
Haryana	592
Himachal Pradesh	223
Jammu and Kashmir	42
Jharkhand	46
Karnataka	502
Kerala	503
Madhya Pradesh	418
Maharashtra	484
North Eastern Region	171
Odisha	102
Punjab	383
Rajasthan	200
Tamil Nadu	565
Uttar Pradesh & Uttarakhand	337
West Bengal	396
Total	6,778

The distribution of returned income and assessed income along with agricultural income claimed and allowed in respect of cases audited is as follows:

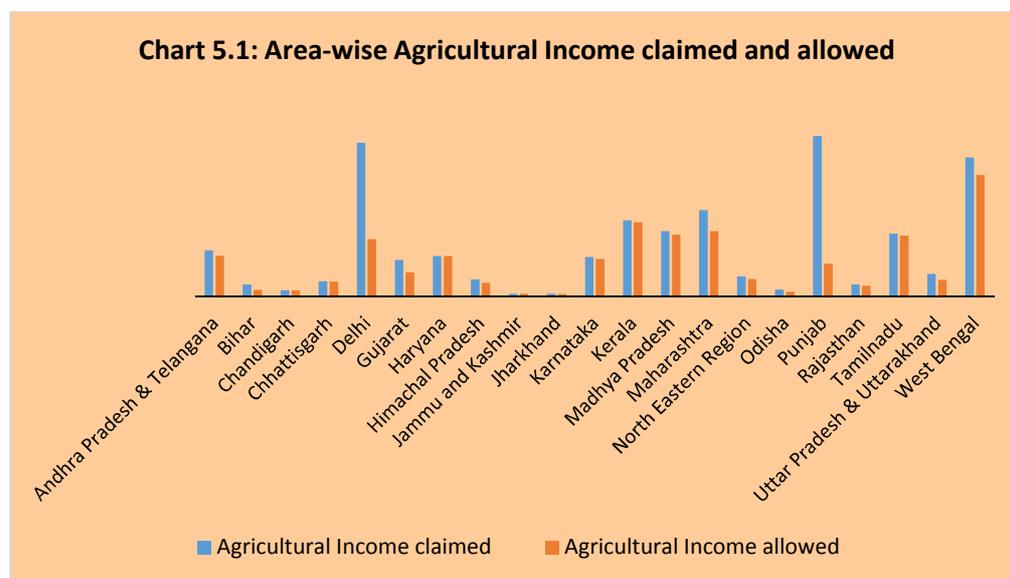
State	Returned income	Assessed income	Agricultural income claimed	Agricultural income allowed
(₹ in crore)				
Andhra Pradesh & Telangana	340.67	402.80	164.95	145.76
Bihar	43.71	58.36	42.91	23.84
Chandigarh	29.46	42.97	23.04	22.93
Chhattisgarh	59.47	129.25	54.73	53.39
Delhi	642.62	1139.43	548.70	205.12
Gujarat	145.14	509.65	131.14	86.13
Haryana	157.83	232.12	144.49	143.78
Himachal Pradesh	24.66	53.39	61.41	48.82
Jammu & Kashmir	4.16	10.39	9.71	9.71
Jharkhand	47.42	76.96	9.72	9.44
Karnataka	115.36	138.07	141.32	134.37
Kerala	180.04	233.12	271.91	264.32
Madhya Pradesh	198.97	443.24	232.50	220.46
Maharashtra	560.21	723.76	307.94	233.11
North Eastern Region	32.70	70.84	71.90	62.02
Odisha	34.64	59.38	24.79	17.03
Punjab	67.82	716.20	571.63	116.79
Rajasthan	106.93	185.85	43.04	38.02
Tamil Nadu	734.15	876.78	224.15	217.13
Uttar Pradesh & Uttarakhand	141.18	342.99	80.10	59.14
West Bengal	80.22	518.45	496.17	432.89
Grand Total	3747.36	6,964.00	3,656.25	2544.20

5.8.2 The PAN category-wise distribution of agricultural income claimed and allowed by the AOs in respect of cases audited is as below:

Type of Assessee	Number of Assesseees	Agricultural income claimed	Agricultural income allowed
(₹ in crore)			
AOP	13	4.32	4.32
BOI	1	0.15	0.15
Company	729	2,093.82	1,161.47
Firm	160	69.18	68.24
HUF	365	111.73	99.50
Artificial Juridical Person	1	14.63	14.63
Local Authority	1	0.15	0.15
Individual	5,410	1,349.39	1,185.82
Trust	10	6.55	3.63
Non-PAN cases ⁹⁵	88	6.33	6.30
Grand Total	6,778	3,656.25	2,544.21

⁹⁵ PAN details not available in the assessment records in Haryana-52, Himachal Pradesh-1, Madhya Pradesh - 1, Punjab-33, Uttar Pradesh and Uttarakhand -1.

The distribution of agricultural income claimed and allowed by the AOs in respect of cases audited was shown below in Chart 5.1.



5.9 Audit Findings

5.9.1 Verification of claims relating to agricultural income

The AOs are required to satisfy themselves that the assessee was eligible for allowance of the exemption claimed under section 10(1) read with section 2(1A) of the Act. Section 2(1A)(b) provides that the agricultural income includes, *inter alia*, any income derived from land in India by agricultural operations including processing of agricultural produce, raised or received as rent in kind or any process ordinarily employed by cultivator or receiver of rent in kind so as to render it fit for the market, or sale of such produce. Agricultural income of this nature will broadly be computed as if it were chargeable to tax under the head “Profit and gains of business or profession”. This exemption claimed is indicated under Schedule EI of the ITR filed by the assessee.

Section 143(3) of the Act dealing with detailed scrutiny envisages that after hearing the evidence produced by the assessee and such other evidence as the AO may require and after taking into account all relevant material which he has gathered, the AO shall, by an order in writing, make an assessment of the total income of the assessee, and determine the sum payable by him or refund of any amount due to him on the basis of such assessment. Thus, AOs are mandated by law to assess the income of the assessee and determine the tax payable by/refundable on the basis of such assessment. Different types of claims together with accounts, records and documents enclosed with the return are required to be examined in detail in scrutiny assessments. For the purposes of computing the net agricultural income of the assessee, the AO

shall have the same powers as he has under the Income Tax Act for the purposes of assessment of the total income.

Further, as per the Manual of Office Procedure⁹⁶, the Minutes of a case posted for hearing by issuing a notice during assessment proceedings under section 143(2) or 142(1) or 131 etc. must be entered with date, in the order-sheet. The entry should cover, *inter alia*, the names of the persons attending the hearing on behalf of the assessee and their occupations, documents produced, (specifying documents examined and returned and documents filed), documents called for, Issues discussed and re-posting, if any⁹⁷. Documents produced by the assessee (except those to be returned) must be filed in the MR⁹⁸. Thus, detailed scrutiny as prescribed in law involves not only a detailed examination of records but also the maintenance of proper record of the documents etc. scrutinized in arriving at the assessment order.

Audit observed that there are no instructions from CBDT specific to scrutiny of agricultural income exemption claims. It has been held by the Apex Court in CIT Vs R. Venkataswamy Naidu⁹⁹ that the onus lies on the assessee who claims exemption to establish it. While determining the taxable income and tax payable, the AO should insist upon production of material evidence for the exemption claimed on account of Agricultural income. Failure to adopt a system of establishing the veracity of the claim would result in excess allowance of exemptions and under-assessment of taxable income.

5.9.2 Exemption without verification of supporting documents

A review of the scrutiny assessments in the selected cases indicated that in 1,527 (22.5 per cent) out of 6,778 scrutiny assessments as tabulated below the claim of exemption on account of agricultural income was allowed without verification of supporting documents such as the land records, income and expenditure statements, crop information, proof of agricultural income and expenditure such as ledger account, bills, invoices etc. or no documentary proof in support of agricultural income claimed by the assessee was available in the assessment records as tabulated below (*Table 5.1*) to establish the veracity of the claim.

⁹⁶ Manual of Office Procedure Vol. II (Technical), February 2003, Para 3.4.5 Ministry of Finance, Department of Revenue, CBDT

⁹⁷ to be initialled by the AO, the assessee and/or his authorised representative.

⁹⁸ MR - Miscellaneous Record

⁹⁹ (1956) 29 ITR 529(SC)

Table 5.1: Documentation and verification of agricultural income claims				
State/Region	Total number of cases checked in Audit	Number of cases where documentation and verification by AO was inadequate	Number of cases out of col. 3 where land records were not available	Number of cases out of col. 3 where records for proof of agricultural income and expenditure such as ledger account, bills, invoices etc. were not attached
Col. 1	Col. 2	Col. 3	Col. 4	Col. 5
Andhra Pradesh & Telangana	506	164	0	164
Bihar	122	14	7	7
Chhattisgarh	170	28	28	28
Delhi	462	52	28	36
Gujarat	425	44	40	39
Jharkhand	46	13	13	13
Karnataka	502	229	104	157
Kerala	503	57	43	40
Madhya Pradesh	418	47	47	45
Maharashtra	484	303	97	281
North Western Region	1,369	126	49	66
North Eastern Region	171	8	2	6
Odisha	102	35	23	30
Rajasthan	200	56	39	50
Tamil Nadu	565	286	152	264
West Bengal	396	26	13	5
Uttar Pradesh & Uttarakhand	337	39	31	39
Total	6,778	1,527	716	1,270

Source: Assessment records of ITD

It was noticed that out of 1,527 cases where documentation and verification by AO was inadequate, land records were not available in 716 cases (10.6 per cent) and proof of agricultural income and expenditure such as ledger account, bills, invoices etc. were not available in 1,270 cases (18.7 per cent). It was therefore not clear as to how AOs were ensuring that the exemption was provided only to eligible assesseees, and that the claims of assesseees are genuine.

Audit noticed instances where exemption on account of agricultural income was allowed without taking into account/verifying the expenditure incurred to earn the agricultural income, which could also be a potential undesirable avenue for bringing unaccounted income/black money into the financial

system in the garb of agricultural income. Audit noticed cases where rent or revenue derived from agricultural land was allowed as exemption without proper verification of records. Audit also noticed cases where exemption was allowed inconsistently with respect to different assessment years. Thus, assesseees were allowed exemption for agricultural income without verifying the ownership/rights over the agricultural land, cost of cultivation, Cash book and/or Bank statements of the assessee, details of receipts and expenditure claimed by assessee. Notwithstanding the provisions envisaged in Section 143(3) of the Act and Para 3.4.5 of the Manual of Office Procedure, Volume II, neither the assessment order nor the Order sheet indicated that adequate reliance had been placed on such documents/data referred to above or other documents which could have provided assurance about the satisfaction reached by the AO in each instance. Twelve instances where exemption was allowed involving such discrepancies are discussed below:

**(a) Charge: Pr. CIT, Kottayam; AY: 2012-13;
Agricultural Income allowed: ₹ 39 lakh**

The AO allowed (February 2015) exemption of ₹ 39 lakh to the assessee for AY 2012-13 towards agricultural income earned from Rubber, Cardamom, Coffee and Pepper cultivated in 60 acres of land which included 15 acres of coffee and 20 acres of pepper. As per the income statement for the year 2011-12 furnished by the assessee, the assessee had 60 acres of land against which assessee claimed agricultural income. However, as per the property details furnished by the assessee, the assessee had only 8.88 acres of land for coffee and 9.17 acres of land for pepper which had to be reconciled before allowing exemption. In the scrutiny assessment order, the discrepancy in property details or justification for considering the details as per the income statement was not mentioned. In absence of such details, audit could not confirm the correctness of allowance of exemption. ITD replied that it would look into this matter (March 2018).

**(b) Charge: Pr. CIT-1, Madurai, Tamil Nadu: AY: 2012-13;
Agricultural Income allowed: ₹ 68.16 lakh;**

The assessee claimed and was allowed (March 2015) exemption of ₹ 68.16 lakh for AY 2012-13 towards agricultural income earned from Coconut, Drumstick, Chilli, Maize and Kanvalli seeds. As per the scrutiny assessment order, the books of accounts of agricultural income was verified and examined. The details were called for, discussed and agricultural income returned by the assessee was accepted. Audit examination revealed that though the assessee derived more than 85 *per cent* of income from the cultivation of Kanvalli seeds, yet the details such as total area of land from which Kanvalli Seeds were produced, yield per acre etc. were not available on

records. Further documents/information such as *Adangal account*, *Patta*, etc. were also not available on records. As the details of records examined was not mentioned in the assessment order, whether the agricultural income on account of sale of Kanvalli seeds was verified by the AO could not be ascertained. In absence of such details, audit could not confirm the correctness of allowance of exemption. Reply from ITD was awaited (December 2018).

(c) Charge: Pr.CIT-1, Madurai, Tamil Nadu:

AYs: 2012-13, 2013-14 and 2014-15;

Agricultural Income allowed: ₹ 25.38 lakh, ₹ 25.38 lakh, ₹ 25.48 lakh

The assessee claimed and was allowed (March 2015, March 2016 and December 2016) exemption of ₹ 25.38 lakh ₹ 25.38 lakh and ₹ 25.48 lakh, for AYs 2012-13, 2013-14 and 2014-15 respectively towards agricultural income without obtaining and verifying the supporting documents such as sales invoices, agricultural expenses, land ownership/ rights to use the land and data such as crops cultivated, cultivated area, etc. As per the scrutiny assessment order for AYs 2012-13 and 2013-14, the details of agricultural activities and land holds were verified and examined and the agricultural income claims were accepted as returned. However, detailed documentation viz. land documents, *Adangal*, *Patta*, sales invoice etc. was not found available in the assessment records of both the years. Further, in the scrutiny assessment order for AY 2014-15, the AO has mentioned that the details were called for and verified, however, documentary evidence was not found available in the assessment records. In absence of such details, audit could not confirm the correctness of allowance of exemption. ITD replied that it would look into this matter (May 2018).

(d) Charge: Pr. CIT-4, Kolkata, West Bengal; AY: 2012-13;

Agricultural Income allowed: ₹ 1.90 crore

AO allowed (March 2015) exemption of ₹ 1.90 crore towards agricultural income without obtaining any records from the assessee except a statement of Agricultural income and expenses and without verifying the correctness and genuineness of the agricultural income. Although the details of various deductions and exemptions claimed by the assessee along with justification and evidence was called for vide notice issued under section 142(1) (November 2014), the scrutiny assessment order did not contain any reference to the claim allowed on account of agricultural income. Further there were no supporting documents available in the records to substantiate the claim allowed in the ITNS-150 to the assessee.

Audit scrutiny further revealed that the assessee's claim of exemption of ₹ 2.19 crore for AY 2013-14 (March 2016) and ₹ 7.20 crore for AY 2014-15 (December 2016) was disallowed as the assessee failed to produce any evidence for agricultural land holdings, details of sales of agricultural produce and agricultural expenses. In absence of such details for AY 2012-13, audit could not confirm the correctness of allowance of exemption.

**(e) Charge: Pr. CIT, Muzaffarpur, Bihar; AY 2014-15;
Agricultural Income allowed: ₹ 1.60 crore**

The AO allowed (August 2016) exemption of ₹ 1.60 crore towards agricultural income accepting the claim on account of agricultural income made by the assessee. As per the notes in the assessment order, "Assessee derived a large amount of agricultural income during the financial year 2013-14 relevant to AY 2014-15. The genuineness of agricultural income was not examined during the assessment proceeding as in the past year the case of assessee for AY 2006-07 to 2011-12 was reopened under section 147 to examine the genuineness of agricultural income and the reason to believe that an income chargeable to tax has escaped assessment. The assessment under section 147 for different years was completed after proper enquiry and the agricultural income of the assessee was accepted". The AO concluded that the assessee had verifiable source to derive such large agricultural income based on revised assessment of earlier years. As such, the exemption for AY 2014-15 was allowed without obtaining and verifying the details such as land usage, transaction details of agricultural produce, purchase of seeds, fertilizers, labour/machinery use in agricultural activity. In absence of such details in respect of AY 2014-15, audit could not confirm the correctness of allowance of exemption.

**(f) Charge: Pr. CIT, Cuttack, Odisha; AY 2008-09;
Agricultural Income allowed: ₹ 1.47 crore**

The assessee's case was re-opened (March 2016) based on the report of ITO, Kullu Ward that no agricultural activities were carried out by the assessee during the previous year relevant to AY 2008-09. During the reassessment proceedings, the assessee claimed that he had acquired six acres of land on lease in Kullu district where apple was grown and another 32 acres at Solan District where tomatoes, onions, potatoes and capsicum were grown. Assessee further stated that no evidence could be produced by him about agricultural produce and expenses incurred on purchase of seeds, pesticides, fertilizers etc. However, the AO allowed exemption of ₹ 147.10 lakh as against the assessee's claim of ₹ 163.10 lakh for AY 2008-09 towards agricultural income after disallowing a portion of agricultural income to the extent of ₹ 16 lakh as bogus income stating as reason the following (a) the

assessee had not produced any substantiating evidence other than Mandi Receipts of HP Agriculture Board, Shimla (b) while confirming the adhoc disallowance of ₹ 5 lakh made during the assessment proceedings for AY 2009-10, CIT (Appeal) mentioned the fact that assessee had submitted copies of lease agreement along with certificate issued by Mandi Samiti regarding sale of agricultural products like apples.

As per the assessment order the assessee had produced Mandi receipts for previous AY viz. AY 2007-08. It was further revealed that the assessee had not claimed any agricultural income during AY 2007-08 and the entire claim of agricultural income of ₹ 40 lakh for AY 2009-10 was disallowed during the assessment proceedings under section 143(3). Subsequently, CIT (Appeal) disallowed only ₹ 5 lakh from the agricultural income of AY 2009-10. Further, the assessee's claims of exemption for agricultural income for AYs 2010-11 to 2014-15 (₹ 37.05 lakh, ₹ 76.77 lakh, ₹ 57.26 lakh, ₹ 36.96 lakh and ₹ 40.26 lakh respectively) were disallowed as the assessee failed to produce any evidence to substantiate his claim. In absence of such details for AY 2008-09, audit could not confirm the correctness of allowance of exemption.

**(g) Charge: Pr. CIT, Kozhikode, Kerala; AYs: 2012-13 to 2015-16;
Agricultural Income allowed: ₹ 23.50 lakh, ₹ 22.03 lakh, ₹ 22.51 lakh
and ₹ 23.01 lakh**

The assessee offered revised claim of exemption of ₹ 23.50 lakh, ₹ 22.03 lakh and ₹ 22.51 lakh on account of agricultural income in the returns filed against the notice under section 148 issued after the survey under section 133A as against the earlier claim of ₹ 0.48 lakh, ₹ 4.03 lakh and ₹ 15.51 lakh respectively in the original returns for AY2012-13, 2013-14 and 2014-15. Also, the assessee claimed exemption of ₹ 23.01 lakh for AY 2015-16. Thus, additional income was offered during the course of survey which was not considered by the assessee at the time of filing of return. Audit scrutiny revealed that the exemption was allowed (December 2015- 3 AYs and December 2016) in all the four Assessment years as claimed by assessee for which no documentary evidence was available in the assessment records. In absence of such details, audit could not confirm the correctness of allowance of exemption. ITD replied that it would look into the matter (April 2018).

**(h) Charge: Pr. CIT, Hyderabad, Andhra Pradesh and Telangana;
AY 2014-15; Agricultural Income allowed: ₹ 32.46 lakh**

The assessee claimed and was allowed exemption (December 2016) of ₹ 32.46 lakh towards agricultural income earned from Banana Plantation based on the copies of land records and certificate issued by the jurisdictional

Tahsildar on a plain paper that the assessee was in possession of the land and was in cultivation of Banana plantation, which would yield an annual income between ₹ 1.25 lakh to ₹ 1.50 lakh per acre. Despite the assessee's case having been taken up for limited scrutiny to verify agricultural income, even the statement of agricultural income indicating how the net agricultural income of ₹ 32.46 lakh was arrived at, was not found available. As per the Notes in the assessment order, the assessee was basically an agriculturist and was growing bananas. The assessee had furnished pattadar pass book in support of agricultural income. All the information was placed on record. However the detailed documentation in support of agricultural income claimed was not available on records. In absence of such details, audit could not confirm the correctness of allowance of exemption. ITD replied (March 2018) that care would be taken in future to obtain the documents.

**(i) Charge: Pr. CIT-6, Bengaluru, Karnataka; AY: 2013-14;
Agricultural Income allowed: ₹ 85.60 lakh**

AO allowed (March 2016) exemption of ₹ 85.60 lakh towards agricultural income without verifying the cash deposits made in bank by the assessee out of the sale proceeds of agricultural produce. During the assessment proceedings, a sum of ₹ 9.45 lakh being the difference between the assessee's claim of agricultural income in cash flow statement (i.e.) ₹ 95.05 lakh and in the statement of computation of income (i.e.) ₹ 85.60 lakh was treated as unexplained income. As per the assessee's submission (March 2016) made in response to notice issued under section 143(2) of the Act (March 2016), the cash deposits in bank on account of sale of agricultural produce amounted to ₹ 2.56 crore which was substantially higher than the declared agricultural income of ₹ 85.60 lakh. However, the details of cash deposits as per submission of assessee was neither considered nor discussed in the scrutiny assessment order. Omission to verify the bank deposits as per assessee's submission, agricultural income and expenditure statement had resulted not only in inaccurate allowance of exemption but also underassessment of 'income from other sources'.

**(j) Charge: Pr. CIT-6, Bengaluru, Karnataka; AY: 2014-15;
Agricultural Income allowed: ₹ 63.43 lakh**

In this case the scrutiny assessment was concluded by determining income of ₹ 36.48 lakh and Agricultural Income of ₹ 63.43 lakh after disallowing eight *per cent* of agricultural income for non-production of vouchers/invoices. It was observed that as per computation, assessee had received agricultural income of ₹ 68.95 lakh whereas agricultural income as per cash book was ₹ 4.50 lakh only during the period 01 April 2013 to 31 March 2014, which indicated that the differential amount of ₹ 64.45 lakh relates to income from

other sources. Failure to tax the same as income from other sources resulted in short computation of income by ₹ 58.93 lakh {₹ 64.45 lakh - ₹ 5.52 lakh disallowed in 143(3) order}, having tax effect of ₹ 24.22 lakh.

**(k) Charge: Pr. CIT, Mysuru, Karnataka, AY 2014-15;
Agricultural Income allowed: ₹ 9.99 lakh**

Assessee claimed and was allowed (August 2016) exemption of ₹ 9.99 lakh towards agricultural income. It was observed from the capital account of assessee that he had received ₹ 116.27 lakh on transfer of agricultural land while the asset schedule did not disclose any agricultural land having been sold thereby suggesting that income from other activities was considered as agricultural income and exemption wrongfully allowed. The income should have been treated as income from other sources and taxed. Omission to do so had resulted in short computation of income with a tax effect of ₹ 35.93 lakh.

**(l) Charge: Pr.CIT-1, Raipur, Chhattisgarh, AY: 2012-13;
Agricultural Income allowed: ₹ 109.06 lakh**

Assessee claimed and was allowed (March 2015) exemption of ₹ 109.06 lakh (sale consideration of ₹ 110.65 lakh minus cost of acquisition of ₹ 1.59 lakh) towards the profit earned on transfer of an agricultural land. Neither the documents in support of fulfilment of conditions stipulated in Explanation 1 under section 2(1A) were available in the assessment records nor was it discussed in the in the assessment order. In absence of such details, audit could not confirm the correctness of allowance of exemption.

While allowance of exemption of agricultural income claims based on inadequate verification or incomplete documentation has been pointed out in 1,527 cases (22.5 per cent) on the basis of test check of 6,778 cases in sample, ITD needs to get all cases, where agricultural income is above a certain threshold, say ₹ 10 lakh or more, examined internally in all Commissionerates to ensure that exemption is allowed only to eligible assesseees based on verification of appropriate documents.

5.9.2.1 Further analysis of the distribution of agricultural income claimed and allowed in respect of 1,527 cases where verification was inadequate/ documentation was non-satisfactory, state wise, is as below:

State/ Region	Number of cases in which verification was inadequate	Agriculture income claimed- (₹ in crore)	Agriculture income allowed- (₹ in crore)
Andhra Pradesh & Telangana	164	18.09	17.85
Bihar	14	3.20	3.11
Chandigarh	1	0.20	0.20
Chhattisgarh	28	8.50	8.44
Delhi	52	39.10	39.11
Gujarat	44	7.73	7.66
Haryana	63	19.18	18.80
Himachal Pradesh	18	10.05	7.15
Jammu and Kashmir	21	6.14	6.14
Jharkhand	13	2.08	1.79
Karnataka	229	65.75	62.03
Kerala	57	30.11	29.51
Madhya Pradesh	47	7.49	7.43
Maharashtra	303	194.44	156.01
North Eastern Region	8	1.87	1.87
Odisha	35	8.26	7.95
Punjab	23	212.77	4.64
Rajasthan	56	11.29	11.28
Tamil Nadu	286	90.81	88.16
Uttar Pradesh & Uttarakhand	39	3.37	3.35
West Bengal	26	17.62	17.50
Grand Total	1,527	758.06	499.99

Further, the type of assessee-wise agricultural income claimed and allowed in respect of 1,527 cases is as below:

Type of Assessee	Agriculture income claimed (₹ in crore)	Agriculture income allowed (₹ in crore)	Number of cases
AOP	1.44	1.44	4
Company	434.28	194.24	142
Firm	12.75	12.63	28
HUF	16.31	15.98	56
Individual	292.05	274.51	1,292
Trust	0.73	0.73	1
Non-PAN	0.50	0.47	4
Grand Total	758.06	499.99	1,527

It was further noticed that of 1,527 cases, in 1,046 cases (68.5 per cent) the agricultural income claim was made in Form ITR-4¹⁰⁰ wherein exemption of ₹ 210.19 crore on account of agricultural income was allowed as against claim of ₹ 222.91 crore made¹⁰¹. The predominant use of ITR-4 indicates that

¹⁰⁰ ITR-4 is return of Income applicable for presumptive income from Business & Profession

¹⁰¹ ITR-4 was used predominantly to file return for claim of exemption in respect of agricultural income as 3,643 assesseees (agricultural income allowed- ₹ 695.44 crore and agriculture income claimed - ₹ 787.01 crore) out of 6780 cases (agricultural income allowed - ₹ 2545.16 crore and agriculture income claimed- ₹ 3657.30 crore) in the sample had filed their return of income in ITR-4 form.

agricultural income is also largely claimed and allowed where presumptive income from business and profession is involved. ITD may ensure thorough verification of claims made through ITR-4 specifically in cases selected under scrutiny.

5.9.3 Incorrect reflection of agricultural income in ITD Database

Audit observed instances where there was a mismatch between the exemptions allowed in the assessment order vis-à-vis that reflected in the ITD database. Exemption allowed for agricultural income during scrutiny assessments had not been reflected correctly in the ITD database. The agricultural income in the ITD database continued to reflect the agricultural income as returned by the assessee or depicted irrelevant figures in cases where agricultural income allowed was different from that claimed by the assessee. Out of 3,133 cases¹⁰² checked in audit across nine states in 48 cases [Bihar (02), Jharkhand (02) Karnataka (12), Kerala (07) Rajasthan (01), West Bengal (06), Tamil Nadu (09), Uttar Pradesh (04), New Delhi (05)], such mistakes were noticed as given in Table 5.2 below:

Sl. No.	State	PCIT Charge with full unit details	AY	Returned Agri. Income	Agri. Income after assessment	Agri. Income reflected in database
1	Bihar	PCCIT, Patna/ ITO Ward 2(1) Muzaffarpur	2012-13	14.49	0	14.49
2	Bihar	PCCIT, Patna/ ACIT Circle -1 Muzaffarpur	2014-15	22.03	6.14	22.03
3	Jharkhand	PCCIT – Patna, Circle-I, Ranchi	2015-16	23.62	0	23.62
4	Jharkhand	PCCIT – Patna, ITO ward 3(1), Ranchi	2015-16	48.2	0	20.9
5	Karnataka	PCCIT -6-CIT -6-ITO Ward 6(3)(4)	2014-15	24.51	22.05	24.51
6	Karnataka	PCCIT -6-CIT -6-DCIT Circle 6(3)(1)	2014-15	8.74	4.37	8.74
7	Karnataka	PCCIT -6-CIT -6-ITO Ward 6(2)(1)	2013-14	9.7	6.7	9.7
8	Karnataka	PCCIT -6-CIT -6-ITO Ward 6(2)(1)	2013-14	25.96	20.77	23.95
9	Karnataka	PCCIT -6-CIT -6-ITO Ward 6(2)(1)	2014-15	21.74	19.24	21.74
10	Karnataka	PCCIT -6-CIT -6-ITO Ward 6(2)(1)	2014-15	13	11	13

¹⁰² Bihar-122, Jharkhand-46, Karnataka-502, Kerala-503, Rajasthan-200, West Bengal-396, Tamil Nadu-565, Uttar Pradesh-337, New Delhi-462,

Sl. No.	State	PCIT Charge with full unit details	AY	Returned Agri. Income	Agri. Income after assessment	Agri. Income reflected in database
11	Karnataka	PCCIT -6-CIT -6-ITO Ward 6(2)(1)	2014-15	8	6.4	8
12	Karnataka	PCCIT -6-CIT -6-ITO Ward 6(2)(1)	2014-15	27.78	22.22	27.78
13	Karnataka	PCCIT -6-CIT -6-ITO Ward 6(2)(1)	2014-15	20.16	18.14	20.16
14	Karnataka	PCCIT -6-CIT -6-ITO Ward 6(2)(1)	2014-15	34.63	33.13	34.63
15	Karnataka	PCCIT -6-CIT -6-DCIT Circle 6(2)(1)	2014-15	159.4	144.4	159.4
16	Karnataka	PCCIT -6-CIT -6-ITO Ward 6(3)(2)	2014-15	32.96	32.96	11.02
17	Kerala	PCIT , Kozhikode, ITO Ward 2, Kalpetta	2014-15	450.60	435.60	450.60
18	Kerala	PCIT, Kochi, ACIT Non Corp Cir 1(1), Kochi	2014-15	21.35	16.00	21.35
19	Kerala	PCIT, Kozhikode, ACIT, Circle 1(1), Kozhikode	2013-14	20.83	18.20	20.83
20	Kerala	PCIT, Kozhikode, ACIT, circle 1(1), Kozhikode	2012-13	25.91	20.91	25.91
21	Kerala	PCIT, Kozhikode, ACIT, Circle 1(1), Kozhikode	2012-13	38.37	13.37	38.37
22	Kerala	PCIT, Kozhikode, ACIT, Circle 1, Kannur	2012-13	21.80	11.80	21.80
23	Kerala	PCIT, Kozhikode, ITO Ward 2, Kalpetta	2014-15	59.46	54.46	59.46
24	New Delhi	New Delhi, PCCIT-7, Ward 61(1)	2014-15	23	0	23
25	New Delhi	New Delhi, PCCIT-4, Ward 33(2)	2013-14	15.63	0	15.63
26	New Delhi	New Delhi, PCCIT-7, Ward 61(1)	2014-15	35.09	0	35.09
27	New Delhi	New Delhi, Circle 27(1)	2014-15	20.65	0	20.65
28	New Delhi	PCIT 14, Delhi, Ward 40(3)	2013-14	78.39	78.39	0
29	Rajasthan	PCIT-1, Jaipur, ITO Ward 3(1), Jaipur	2009-10	5.88	4.54	0
30	Tamil Nadu	PCIT-3, Coimbatore, DCIT, NCC-1, CBE	2013-14	36.05	0	36.05
31	Tamil Nadu	PCIT-3, Coimbatore, DCIT, NCC-1, CBE	2013-14	7.92	4.88	7.92
32	Tamil Nadu	PCIT-3, Coimbatore, DCIT, NCC-1, CBE	2013-14	43.8	27.27	43.8
33	Tamil Nadu	PCIT-1 Trichy, Circle-1, Trichy	2012-13	38.41	34.57	38.41

Sl. No.	State	PCIT Charge with full unit details	AY	Returned Agri. Income	Agri. Income after assessment	Agri. Income reflected in database
34	Tamil Nadu	PCIT-3, Coimbatore, Ward 2(1), Tirupur	2014-15	44.33	43.06	44.33
35	Tamil Nadu	PCIT 1, Trichy, Circle 1, Trichy	2013-14	25	21.26	28.74
36	Tamil Nadu	PCIT/CIT 1 Madurai, Ward 1, Dindigul	2013-14	21.2	19.21	21.2
37	Tamil Nadu	CCIT 1, Trichy, Circle 2, Trichy	2013-14	19.77	9.77	19.77
38	Tamil Nadu	PCIT-3, Coimbatore, Circle-1, Tirupur	2014-15	74.88	68.32	74.88
39	Uttar Pradesh	PCIT, Aligarh	2014-15	40.44	38.44	78.88
40	Uttar Pradesh	PCIT, Aligarh	2014-15	27.37	26.37	53.74
41	Uttar Pradesh	PCIT, Aligarh	2013-14	20.99	12.48	20.99
42	Uttar Pradesh	PCIT, Lucknow	2014-15	5.32	3.99	5.32
43	West Bengal	PCIT-2, DCIT, Circle 4(1), Kolkata	2013-14	136.68	138.23	136.68
44	West Bengal	PCIT-2, DCIT, Circle 4(1), Kolkata	2012-13	132.65	143.65	132.65
45	West Bengal	PCIT-2, DCIT, Circle 4(1), Kolkata	2014-15	138.98	142.22	141.24
46	West Bengal	PCIT-2,DCIT, Circle 4(1), Kolkata	2013-14	166.89	163.89	166.89
47	West Bengal	PCIT-2,DCIT, Circle 4(1), Kolkata	2012-13	196.42	187.42	196.42
48	West Bengal	PCIT-2, AC Circle 4(1) Kolkata	2014-15	55.76	55.76	57.99

Audit noticed that out of 48 cases the amount of agricultural income reflected in database was auto-populated through AST in 42 cases and manually in six cases¹⁰³. The agricultural income allowed during assessment was not captured in the ITD database. As such, there is a risk of incorrect reporting of agricultural income and rebate allowed to the assessee for MIS purposes due to non-updation of database.

Although the ITD is seized of discrepancies caused due to data entry errors as discussed in para 5.9.4 below such errors continue to occur.

¹⁰³ West Bengal

5.9.4 Status of Verification by the department

Based on a Public Interest Litigation (PIL) filed in the Hon'ble Patna High Court wherein concerns were raised that certain assesseees may be engaged in routing their unaccounted/illegal money in the garb of Agriculture not only for claiming exemption but also engaged in the money laundering activities, the ITD had initiated action of verification of returns in cases where assesseees had returned income of more than ₹ 1 crore from Agriculture. In order to furnish the factual statistics to Hon'ble Patna High Court, the Directorate of Income Tax (Systems) instructed all PCCITs/CCIT(CCA) to send a Status Report to DGIT after examination of aspects such as whether tax payer may have made a data entry error while filling up the return. In cases where scrutiny assessment is completed, AO was to provide feedback based on assessment records. Where proceedings under section 143(3) were pending, the AO was to verify the claim thoroughly. DGIT(Systems) identified 2,746 cases showing agricultural income above ₹ 1 crore in the ITRs of the assessment years 2007-08 to 2014-15 and directed¹⁰⁴ the AOs to verify the claims of exemption on agricultural income in such ITRs and sought Status Report of such cases.

Of 136 PCsIT selected by audit where status reports furnished to DGIT(systems) were sought, only 26 PCsIT in ten states furnished status reports to audit. As per the Status Report furnished to audit by the PCsIT in respect of 327 cases in Bihar & Jharkhand, Gujarat, Rajasthan, Kerala, North Eastern Region, Tamil Nadu, Uttar Pradesh & Uttarakhand, West Bengal & Sikkim as forwarded to the DGIT(Systems), there was a difference in amount of agricultural income as per the ITR filed by the assessee and the amount entered in AST system due to errors at data entry level in 36 cases as detailed below in *Table 5.3*. As per field verification (January 2019) the data entry errors remained to be corrected in 12 cases¹⁰⁵ out of 36 cases. Audit noticed that the status reports are yet to be furnished by the selected Pr. CITs in Andhra Pradesh & Telangana, Karnataka & Goa, Madhya Pradesh & Chhattisgarh, Maharashtra, New Delhi, North Western Region and Odisha (November 2018).

¹⁰⁴ Instruction issued vide F. No. DGIT(S)/DIT(S)-3/AST/PIL/2015-16 dtd. 10 March 2016

¹⁰⁵ Uttar Pradesh & Uttarakhand -6, Rajasthan-2, West Bengal-2 and North Eastern Region-2

Table 5.3 : Data Entry errors reported in Status Reports furnished to the DGIT(Systems)							
Sl. No.	PCIT Charge	AY	Agricultural Income returned as reported by AO to DGIT(S) (in ₹)	Agricultural Income as per AST System (in ₹)	Whether Data Entry Error	Whether assessment completed under section 143(3)/147	Agricultural Income determined if assessment completed u/s 143(3)/147
1	PCIT, Allahabad	2010-11	45000	45000450	Yes	No	NA
2	PCIT, Allahabad	2010-11	58500	58500585	Yes	No	NA
3	PCIT, Allahabad	2010-11	30000	3000030000	Yes	No	NA
4	PCIT, Allahabad	2008-09	NIL	10274780	Yes	No	NA
5	PCIT, Allahabad	2008-09	NIL	1640700	Yes	No	NA
6	PCIT, Allahabad	2008-09	NIL	10274175	Yes	No	NA
7	PCCIT, Bihar & Jharkhand	2010-11	22500	2250026594	Yes	No	NA
8	PCCIT, Bihar & Jharkhand	2009-10	26300	2630096170	Yes	No	NA
9	PCCIT, Bihar & Jharkhand	2008-09	125000	12500033600	Yes	No	NA
10	PCCIT, Bihar & Jharkhand	2010-11	65000	80000262	Yes	NA	NA
11	PCCIT, Bihar & Jharkhand	2009-10	450000	45000023100	Yes	NA	NA
12	PCCIT, Bihar & Jharkhand	2010-11	43400	434000262	Yes	No	NA
13	PCCIT, Bihar & Jharkhand	2010-11	60000	6000015060	Yes	No	NA
14	PCCIT, Bihar & Jharkhand	2010-11	174900	174900121000	Yes	No	NA
15	PCCIT, Bihar & Jharkhand	2010-11	180000	18000060000	Yes	No	NA
16	PCCIT, Bihar & Jharkhand	2010-11	105000	105000155	Yes	No	NA
17	PCCIT, Bihar & Jharkhand	2011-12	34000	34000151	Yes	No	NA
18	PCCIT, Bihar & Jharkhand	2011-12	32400	324007708	Yes	NA	NA
19	PCCIT, Bihar & Jharkhand	2011-12	42000	42000520	Yes	No	NA
20	PCCIT, Bihar & Jharkhand	2011-12	50200	50200154093	Yes	NA	NA
21	PCIT-3, Jaipur	2013-14	268632	23027645	Yes	Yes	268632
22	PCIT-1, Jaipur	2012-13	NIL	82619934	Yes	Yes	Nil
23	PCIT-1, Jaipur	2012-13	NIL	18924521	Yes	Yes	Nil
24	PCIT-1, Jaipur	2009-10	145000	14500000	Yes	Yes	145000
25	PCIT-1, Jaipur	2010-11	NA	57206210912	Yes ¹⁰⁶	Yes	Nil

¹⁰⁶ As per ITR for AYs 2008-09 and 2009-10 agriculture income is shown as ₹ 48,415 and ₹ 50,264. Thus data entry error is evident.

Sl. No.	PCIT Charge	AY	Agricultural Income returned as reported by AO to DGIT(S) (in ₹)	Agricultural Income as per AST System (in ₹)	Whether Data Entry Error	Whether assessment completed under section 143(3)/147	Agricultural Income determined if assessment completed u/s 143(3)/147
26	PCIT-1, Jodhpur	2009-10	149860	149860149860	Yes	No	--
27	PCIT-2, Jodhpur	2008-09	4371122	43711220	Yes	NA	NA
28	PCIT(C)-2, Kolkata	2010-11	28769720	NIL	Yes	Yes	24962330
29	PCIT(C)-2, Kolkata	2007-08	26114750	NIL	Yes	Yes	23103850
30	PCIT(C)-2, Kolkata	2008-09	NIL	39104354	Yes	Yes	Nil
31	PCIT-17, Kolkata	2015-16	NIL	17393270	Yes ¹⁰⁷	No	--
32	PCIT, Burdwan	2008-09	5000	5000105700	Yes	No	--
33	PCIT(C)-1, Kolkata	2011-12	NIL	14644701	Yes	Yes	Nil
34	PCIT-9, Kolkata	2008-09	20000	20000137697	Yes	No	--
35	Pr. CIT, Shillong	2012-13	0	29152800	Yes	No	0
36	PCIT, Dibrugarh	2013-14	16825686	20677808	Yes	Yes	16825686

As the data entry errors reported above are based on information furnished by only few selected Commissionerates in ten states and compliance to furnishing of status reports to DsGIT(System) could not be ascertained in all the Commissionerates selected for audit, the status of corrections in respect of data entry errors in agricultural income in AST database for agricultural income claims greater than ₹ one crore could not be verified.

As observed in audit, out of 36 cases data entry errors in 12 cases were yet to be corrected despite having been identified by the Department. As such, the correctness of AST database vis-à-vis agricultural income returned by the assessee could not be considered reliable. Errors in the database imply a dual risk: of loss of tax on one hand, and of harassment of tax payer on the other hand. The Department, therefore, needs to attend to similar cases for all Commissionerates to ensure without exception that data entry errors are corrected in all cases.

CBDT may initiate action to institute checks for ensuring the correctness of data entered vis-à-vis the data furnished by the assessee to avoid such errors.

¹⁰⁷ Amount received as compensation by assessee on account of acquisition of agricultural land by Government of India was wrongly shown as agricultural income in return of income for AY 2015-16.

5.9.5 Compliance issues - Mistakes in Assessments

Audit noticed non-compliance to provisions of the Act in 20 cases involving incorrect exemption granted for income derived from agricultural land, incorrect allowance of exemption for partial agricultural income, excess allowance of replantation expenditure/due to adoption of incorrect export turnover and exemption granted to non-agricultural income on account of sale of fish, sale of goat, sale of dry grapes, sale of milk etc. Nine such cases are illustrated below:

**(a) Charge: Pr. CIT-1, Coimbatore, Tamil Nadu; AY: 2013-14;
Agricultural Income allowed: ₹ 734.04 lakh**

Section 2(1A)(a) of the Act provides that agricultural income includes any rent or revenue derived from land situated in India and used for agricultural purpose. Explanation 1 under Section 2(1A) envisages that revenue derived from land shall not include any income arising from the transfer of land which forms part of the definition of capital asset.

In case of a company, the AO completed the assessment under section 143(3) in February 2016 at an income of ₹ 2.82 lakh. Audit examination revealed that the assessee sold agricultural lands at Vilpatti Village, Kodaikanal Taluk, Dindigul District for a sale consideration of ₹ 8.74 crore which comprises of ₹ 5.32 crore being the sale consideration shown in the registered sale deeds and a premium of ₹ 3.42 crore which was not disclosed in the registered sale deeds and thereby no stamp duty was paid for the premium payment. The assessee claimed and was allowed exemption of ₹ 7.34 crore under section 2(1A)(a) towards the profit earned on transfer of agricultural lands. As the sale consideration for transfer of immovable property had to be taken as per the registered sale deeds, the premium received by the seller over and above the registered sale consideration had to be treated as 'income from other sources'. Omission to do so had resulted in inadmissible allowance of exemption of ₹ 3.42 crore with a short levy of tax of ₹ 1.11 crore. ITD agreed to look into the matter (October 2018).

**(b) Charge: Pr. CIT-2, Pune, Maharashtra ; AY: 2012-13;
Agricultural Income allowed: ₹ 23.50 lakh**

The AO completed the assessment for AY under section 143(3) in March 2015 at an income of ₹ 3.49 crore. Audit examination revealed that the assessee sold an agricultural land at Deolali and claimed exemption of ₹ 172.74 lakh under section 2(1A)(a) for the profit earned therefrom. As the land sold was situated within the eight kilometers from the Deolali Cantonment Board, the land had to be treated as capital asset. Omission to do so had resulted in inadmissible allowance of exemption of ₹ 172.74 lakh with short levy of tax of ₹ 35.58 lakh.

(c) Charge: Pr. CIT-1, Coimbatore, Tamil Nadu: AY 2012-13, 2013-14 and 2014-15; Agricultural Income allowed: ₹ 246.68 lakh, ₹ 291.85 lakh and ₹ 436.50 lakh

The AO allowed exemption of ₹ 2.47 crore, ₹ 2.92 crore and a sum of ₹ 4.37 crore to the assessee for AYs 2012-13, 2013-14 and 2014-15 in March 2015, December 2015 and December 2016 respectively towards agricultural income from the sale of tea grown and manufactured. *Income derived from the sale of Tea grown and manufactured by the seller in India will be computed as if it were income derived from business and forty per cent of such income will be deemed to be income liable to tax. The word 'derived from' cannot have a wide import so as to include any income which can in some manner be attributed to the business. The derivation of the income must be directly connected with the business and generated therefrom. It has been judicially¹⁰⁸ held that interest income, duty drawback receipts and DEPB benefits, freight subsidy/transport subsidy received from Government, insurance claim etc. are not considered to be directly derived from eligible business.*

While computing the taxable profit of the business, Duty Drawback and DEPB license income to the tune of ₹ 80.30 lakh, ₹ 60.44 lakh and ₹ 70.75 lakh for AYs 2012-13, 2013-14 and 2014-15 respectively were incorrectly taken into account as income derived from the business and exemption allowed for 60 per cent of such income. Due to non-exclusion of such income, there was an excess allowance of exemption of ₹ 126.89 lakh involving tax effect of ₹ 41.17 lakh.

(d) Charge: Pr. CIT, Dibrugarh, Assam; AY: 2014-15; Agricultural Income allowed: ₹ 11.01 lakh

The AO allowed (December 2016) exemption of ₹ 11.01 lakh towards agricultural income derived from the sale of tea grown and manufactured. While computing the taxable profit of the business income derived from manufacturing of tea out of bought leaves, cultivation expenses of ₹ 39.54 lakh was allowed erroneously. Due to non-exclusion of such expenses, the business income was under assessed to the extent of ₹ 23.48 lakh resulting in short levy of tax of ₹ 7.25 lakh.

¹⁰⁸ Liberty India-[2009] 317 ITR 218 (SC); Pandian Chemicals Ltd., 262 ITR 278(SC); Sterling Foods 237 ITR 53(SC); Cambay Electrical Supply Co. Ltd. 113 ITR 84(SC)

**(e) Charge: Pr. CIT-6, Bengaluru, Karnataka; AY 2013-14;
Agricultural Income allowed: ₹ 353.37 lakh**

The AO allowed (March 2016) exemption to the assessee towards agricultural income of ₹ 3.53 crore which included the income of ₹ 26.86 lakh derived from the sale of shade trees (i.e.) Silver Oak trees and Nilgiri Woods. *It was judicially held¹⁰⁹ that the owners of tea/ coffee estates plant grevelia trees not for the purpose of deriving any income therefrom but solely for the purpose of providing shade for the tea/coffee plants and that such shade is essential for the proper cultivation of tea/coffee. The trees were cut down and sold after they had become useless by efflux of time. The Silver Oak trees in the tea/ coffee estate constituted capital assets and the proceeds derived therefrom by sale would not constitute agricultural income under the Act.*

Failure to treat the sale of shade trees as capital in nature had resulted in excess allowance of exemption of ₹ 26.86 lakh and short levy of capital gain tax of ₹ 5.53 lakh besides interest.

**(f) Charge - PCIT-3, Pune, Maharashtra; AY-2012-13;
Agricultural Income allowed: ₹ 1,294.76 lakh**

The AO completed the assessment for AY 2012-13 under section 143(3) in November 2014 at an income of ₹ 95.15 lakh. While computing total income, the income earned from export of floral and ornamental plants was treated as business income and accordingly a sum of ₹ 43.45 lakh out of assessee's claim of agricultural income of ₹ 1338.22 lakh was disallowed. Audit examination revealed that while computing the above business income, the export turnover was incorrectly taken as ₹ 218.80 lakh as against the actual export turnover of ₹ 322.12 lakh. This had resulted in excess allowance of exemption of ₹ 103.32 lakh involving tax effect of ₹ 33.52 lakh.

**(g) Charge: Pr.CIT-1, Coimbatore, Tamil Nadu: AY 2014-15;
Agricultural Income allowed: ₹ 23.61 lakh**

The AO allowed (August 2016) exemption of ₹ 23.61 lakh to the assessee for AY 2014-15 towards agricultural income which included the sale of Goats to the extent of ₹ 7 lakh, that could not be considered as income derived from the agricultural land. It has judicially been held¹¹⁰ by the Madras High Court the goats held by the assessee cannot be said to be personal effects of the assessee and accordingly the income derived from sale of goats is assessable to income-tax. Incorrect allowance of exemption had resulted in short levy of tax of ₹ 2.16 lakh besides interest.

¹⁰⁹ (1966) 60 ITR 275(SC) and (1995) 222 ITR 799 (Kar.)

¹¹⁰ V. Kalirajan vs. ITO, 2001 77 ITD 31 Mad

**(h) Charge: Pr. CIT-Burdwan, Kolkata, West Bengal; AY 2012-13;
Agricultural Income allowed: ₹ 30 lakh**

The AO allowed (March 2015) exemption to the assessee towards agricultural income of ₹ 30 lakh which included the income from sale of fish to the extent of ₹ 16.66 lakh that could not be considered as income derived from the agricultural land. It has been held¹¹¹ that income derived from fishing over land covered by water and which is not used for any agricultural purposes cannot be treated as income from agriculture in as much as fish cannot be treated as the produce of the land, since their element is water and therefore, their cultivation and welfare depend, in no sense upon agriculture. Incorrect allowance of exemption for non-agricultural income had resulted in undercharge of tax of ₹ 6.63 lakh.

**(i) Charge: Pr.CIT-1, Pune, Maharashtra; AY 2014-15;
Agricultural Income allowed: ₹ 117.21 lakh**

The AO allowed (December 2016) exemption of ₹ 117.21 lakh to the assessee for AY 2014-15 towards agricultural income which included the sale of dry grapes of ₹ 93.31 lakh and sale of milk of ₹ 0.37 lakh. As dry grapes (kismis) is an agro-based industrial product and milk is a dairy product, the income therefrom could not be considered as income derived from the agricultural land. The Apex Court held¹¹² that the regularity of the sale of milk was effected and the quantity of milk sold showed that what the assessee carried on was a regular business of producing milk and selling it as a commercial proposition. Omission to disallow the claim had resulted in excess allowance of exemption of ₹ 93.68 lakh involving tax effect of ₹ 28.95 lakh.

5.10 Conclusion

Exemption for agricultural income was allowed without verification of supporting documents such as the land records, proof of agricultural receipts and expenses and cross examination of documentary evidence where available, in 22.5 *per cent* of cases examined in audit. Audit could not ascertain the correctness of claims of exemption on account of agricultural income in absence of detailed records in assessment folders/discussions and reference in the assessment orders by the AOs. As such, it was not possible to determine whether the system in place was robust enough to ensure that assesseees were being allowed exemption for agricultural income only after adequate examination in the process of assessment.

While allowance of exemption of agricultural income claims based on inadequate verification or incomplete documentation has been pointed out

¹¹¹ Karra Jayabhyarathi vs Income Tax Officer, ITAT, Hyderabad, 2005

¹¹² CIT vs. R. Venkataswamy Naidu [1956] 29 ITR 529 (SC)

on the basis of test check of 6,778 cases, in a sample drawn from 22,195 scrutiny cases, ITD needs to re-examine not only the remaining scrutiny cases, but also all cases where income has been allowed as agricultural income, as recommended subsequently, to ensure that exemption has been allowed only to eligible assesseees, and is based on appropriate documents and their verification.

DGIT(Systems) had sought status reports regarding data entry errors while filling up the return in respect of 2,746 cases, where returned agricultural income was more than ₹ one crore. Only 26 Commissionerates provided the information in respect of 327 cases. The position with respect to remaining 110 Commissionerates is not known. Even in this small sample, data entry errors were seen in 36, i.e., 11 *per cent* of the cases. Even these had not been corrected in toto and the errors remained in one third of these cases.

Thus, there is a cause for concern that the remaining cases where status reports were not provided as well as those cases with returned agricultural income less than ₹ one crore carry similar errors. This would render the AST data unreliable. Reasons for such persistent data entry errors is a matter of inquiry.

It is recommended that:

- i) ITD carry out a 100 *per cent* check of all cases, in all Commissionerates, where agricultural income claimed is above a certain threshold, say ₹ 10 lakh or more and examine and ensure that the exemption has been allowed only to eligible assesseees, and is based on appropriate documents and verification.
- ii) ITD needs to tighten its system to allow exemption of income as agricultural income, as currently the system is porous and open to misuse, as brought out by audit in its test audit. Due diligence in verification of records and appropriate documents needs to be ensured.
- iii) ITD needs to inquire into the reasons for mismatch between assessment amount, and amounts as recorded in AST to rule out mala fide. If the errors are bona-fide, then the weakness in the system needs to be eliminated, as the two records must, under all circumstances, match. In fact, ITD needs to examine why, when returns are filed electronically, assessments are not carried out on the same electronic system/ returns, and why a manual process is allowed to co-exist with an IT system. ITD should work towards elimination of actual interface with the assessee or his/her representative altogether.