

**CHAPTER III**  
**TAXES ON AGRICULTURAL INCOME**

**3.1. Results of Audit**

Test check of the records of the Agricultural Income Tax Offices conducted in audit during the year 2002-03 revealed underassessment of tax amounting to Rs 9.44 crore in 209 cases which may broadly be categorised as under.

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Inadmissible expenses allowed	49	2.86
2.	Income escaping assessment	38	1.94
3.	Incorrect computation of tax	13	0.34
4.	Incorrect computation of income	5	0.20
5.	Failure to club income	3	0.07
6.	Assignment of incorrect status	3	0.06
7.	Other irregularities	98	3.97
	<b>Total</b>	<b>209</b>	<b>9.44</b>

During 2002-03, the Department accepted underassessments, etc., of Rs 1.35 crore involved in 64 cases which were pointed out during earlier years. At the instance of audit, the Department collected Rs 7.77 lakh in 9 cases during 2002-03. A few illustrative cases involving Rs 1.28 crore are given in the following paragraphs.

**3.2. Exclusion of income/deduction of inadmissible expenditure from income**

Under the Kerala Agricultural Income Tax (KAIT) Act, 1991, the total agricultural income comprises of all agricultural income received by an assessee from land situated within the State. Such income is computed after allowing deductions as prescribed in the Act. Expenditure incurred on immature plants and depreciation on plantation crops are not allowable deductions for computing the taxable income.

In Agricultural Income Tax and Sales Tax Office, Taliparamba, while finalising in August 2001 and January 2002 the assessments of a company for the assessment years 1998-99 and 1999-2000, the Assessing Officer allowed inadmissible depreciation of Rs 1.02 crore on plantation crops, inadmissible expense of Rs 44.43 lakh on immature plants and excess depreciation of

Rs 6.55 lakh claimed on fixed assets and omitted to include in income Rs 9.79 lakh relating to cost of seeds produced and consumed for own purpose. This resulted in fixing loss of Rs 75.18 lakh against the assessable income of Rs 87.59 lakh and consequent short levy of tax of Rs 52.55 lakh.

On this being pointed out, the Department stated in September 2002 that it had issued notice to revise the assessments incorporating the cost of seeds consumed and disallowing the excess depreciation. It was also stated that expenditure on immature plants was allowable as it was incurred for immature plants and crops damaged due to various reasons and that plantation crops could be classified under 'other assets' and hence depreciation thereof was allowable. The reply of the Department is not tenable as such expenditure is not allowable under the Act/Rules. Further report has not been received (October 2003).

The case was reported to Government in June 2003; their reply has not been received (October 2003).

### **3.3. Incorrect computation of income**

Under the KAIT Act, 1991 the agricultural income of a person shall be computed in accordance with the provisions of the Act.

In Agricultural Income Tax and Sales Tax Office, Vythiri, while finalising in October 2001 the assessment of a firm for the assessment year 1999-2000, the Assessing Officer reckoned the net income of Rs 18.79 lakh as net loss and allowed the same to be carried forward. This resulted in agricultural income tax not levied on the profit during 1999-2000 with a tax effect of Rs 16.53 lakh.

On this being pointed out, the Department revised the assessment in November 2002. Further report has not been received (October 2003).

The case was reported to Government in April 2003; their reply has not been received (October 2003).

### **3.4. Short levy of tax due to incorrect carry forward of loss**

Under the KAIT Act, 1991, loss sustained by an assessee as a result of computation of agricultural income of any year, shall be carried forward up to eight years. Under the KAIT Rules, 1991, carry forward of loss is admissible in any year when the return is filed for all the years on the due dates or within such time as may be allowed by the Agricultural Income Tax Officer.

- In the Office of the Inspecting Assistant Commissioner (Special), Ernakulam, a company had neither filed the returns for the assessment years 1992-93 and 1993-94 by the due dates nor applied for extension of time for filing the returns. While finalising in March 2001 the assessment for the assessment year 1998-99, the Assessing Officer carried forward loss of Rs 23.31 lakh pertaining to the above years and set it off against the income for 1998-99. This resulted in short levy of tax and surcharge of Rs 13.99 lakh.

On this being pointed out, the Department revised in June 2002 the assessment raising additional demand for Rs 13.99 lakh. Further report has not been received (October 2003).

On bringing this in March 2003 to notice, the Government stated in August 2003 that the revised assessment was annulled in appeal against which second appeal was filed by the Department. Further report has not been received (October 2003).

- In Agricultural Income Tax and Sales Tax Office, Vythiri, while finalising the assessment in January 2001 for the assessment year 2000-01 of a firm, although the assessee had not filed the return for the assessment year 2000-01 on the due date or applied for extension of time for filing the return, the Assessing Officer carried forward earlier years' loss of Rs 4.18 lakh and set it off against the income for 2000-01. This resulted in exclusion of income of Rs 4.18 lakh and consequent short levy of tax and surcharge of Rs 1.84 lakh.

On this being pointed, the Department revised the assessment in January 2002. Further report has not been received (October 2003).

The case was reported to Government in March 2003; their reply has not been received (October 2003).

### **3.5. Underassessment of income**

**3.5.1.** As per the KAIT Act, 1991, if any person fails to comply with the notice issued under the Act, the Assessing Officer shall make the assessment to the best of his judgement after taking into account all relevant information he has gathered. As per the guidelines issued by the Department in 1985, the yield from rubber trees during 5<sup>th</sup> year to 13<sup>th</sup> year of tapping could be estimated at 3 kilogram per tree.

In Agricultural Income Tax and Sales Tax Office, Kozhikode, while finalising in April 2001 the assessments for the assessment years 1996-97 and 1997-98 of an individual who had failed to comply with the notice issued to produce the accounts, the Assessing Officer reckoned the yield of latex from 5,950 rubber trees at one kilogram per tree instead of three kilogram per tree. This

resulted in underassessment of income by Rs 10.03 lakh and consequent short levy of tax and surcharge of Rs 5.51 lakh.

On this being pointed out, the Department stated in August 2002 that it would examine the case. Further report has not been received (October 2003).

The case was reported to Government in February 2003; their reply has not been received (October 2003).

**3.5.2.** Under the KAIT Act, 1991, agricultural income shall be computed in accordance with the method of accounting adopted by the assessee. In respect of an assessee adopting mercantile system of accounting, the entire amount receivable shall be considered for assessment on accrual basis irrespective of the year of receipt.

In Agricultural Income Tax and Sales Tax Office, Nedumkandam, while finalising the assessment for the assessment year 1999-2000 in February 2000 of a firm following mercantile system of accounting, the Assessing Officer omitted to include closing stock value of cardamom of Rs 10.34 lakh. This resulted in short assessment of tax of Rs 4.55 lakh.

On this being pointed out, the Department stated in September 2002 that the case would be examined. Further report has not been received (October 2003).

The case was reported to Government in June 2003; their reply has not been received (October 2003).

**3.5.3.** Under the KAIT Act, 1991, the total agricultural income of the previous year of any person shall comprise of all agricultural income derived from land situated within the state.

- In Agricultural Income Tax and Sales Tax Office, Kottarakkara, while finalising in February 2000 the assessments of an individual for the assessment years 1997-98 and 1998-99, the Assessing Officer computed income received from slaughter tapping as Rs 9.18 lakh instead of Rs 15.60 lakh. This resulted in underassessment of income of Rs 6.42 lakh and short levy of tax and surcharge of Rs 3.53 lakh.

On this being pointed, by the Department stated in April 2002 that the case would be examined. Further report has not been received (October 2003).

The case was reported to Government in March 2003; their reply has not been received (October 2003).

- In Agricultural Income Tax and Sales Tax Office, Chittur, while finalising in November 2000 the assessment of a firm for the assessment year 1996-97, the Assessing Officer did not reckon the opening stock of Rs 6.03 lakh although he did not consider the closing stock in the assessment for the preceding assessment year. This resulted in underassessment of income of Rs 6.03 lakh and consequent short levy of tax and surcharge of Rs 2.24 lakh.

On this being pointed out, the Department stated in May 2002 that it had revised in May 2002 the assessment raising additional demand of Rs 2.24 lakh.

The case was reported to Government in February 2003. Government confirming the Department's reply stated in August 2003 that the Department had advised the amount for revenue recovery.

### **3.6. Short levy of tax due to allowance of inadmissible expense**

**3.6.1.** Under the KAIT Rules, 1991, with effect from 1 April 1993 expenditure called 'infilling expenses' incurred for planting seedlings in the vacant areas of yielding perennial crops, is not an admissible deduction in computing income.

In the Offices of the Inspecting Assistant Commissioner (Special), Commercial Taxes, Ernakulam and Kozhikode, while finalising in December 2001 and January 2002 the assessments for the assessment year 1999-2000 of two companies, infilling expenses aggregating Rs 14.66 lakh were incorrectly deducted resulting in short levy of tax of Rs 8.80 lakh.

On these being pointed out, the Assessing Officer of Ernakulam stated in January 2003 that it had issued notice for revising the assessment. The Assessing Officer of Kozhikode stated in November 2002 that the expenditure was an admissible deduction. This reply is not tenable as the Rules do not provide for allowing such expenses with effect from 1 April 1993. Further report has not been received (October 2003).

The cases were reported to Government in April 2003. Government stated in September 2003 that the Assessing Officer of Kozhikode had since revised the assessment and served the demand notice in June 2003. Reply in respect of the case in Ernakulam and report regarding collection of the demand in Kozhikode have not been received (October 2003).

**3.6.2.** Under the KAIT Act, 1991, any expenditure, not incurred wholly and exclusively for the purpose of deriving the agricultural income is an inadmissible deduction in computing income.

In the Office of the Inspecting Assistant Commissioner (Special), Commercial Taxes, Ernakulam, while finalising in November 2001 the assessment of a company for the assessment year 1999-2000, the Assessing Officer allowed expenditure of Rs 1.75 lakh incurred on a World Bank Project which was not for the purpose of deriving agricultural income. This resulted in short levy of tax of Rs 1.05 lakh.

On this being pointed out, the Assessing Officer stated in January 2003 that the assessee was a company owned by Government and implementation of World Bank Projects was one of the functions of the company. The reply is not tenable as the above expenditure was not incurred for deriving agricultural income. Further report has not been received (October 2003).

The case was reported to Government in June 2003; their final reply has not been received (October 2003).

### **3.7. Short/non-realisation of interest**

**3.7.1.** The KAIT Act, 1991, requires every assessee to pay advance tax, on the estimated total agricultural income, which shall not be less than eighty *per cent* of the total agricultural income as per return, before the end of February of the previous year. Every assessee shall pay before furnishing the return, the tax due on the total agricultural income after deducting the advance tax paid by him. The assessee shall pay simple interest at the prescribed rate, on the unpaid balance.

In the Office of the Inspecting Assistant Commissioner (Special), Commercial Taxes, Ernakulam, while finalising in November 2001 the assessments for the assessment years 1998-99 and 1999-2000 of an individual and for the assessment year 1999-2000 of a company where they did not make full payments of advance tax and tax on the total income by the due dates, the Assessing Officer did not levy interest of Rs 6.55 lakh.

On these being pointed out, the Department stated in January 2003 that it had issued notices to the assessees.

The cases were reported to Government in March and June 2003. Government stated in August 2003 that the Department levied interest of Rs 2.24 lakh in

one case and adjusted the amount against excess tax paid by the company. Report in respect of the other case has not been received (October 2003).

**3.7.2.** Under the KAIT Act, 1991, in the case of any person who fails to pay the tax demanded within the prescribed time, the Assessing Authority may forward to the Collector a certificate specifying the arrears due from the assessee for realisation as arrears of land revenue. In this certificate, the Assessing Authority shall indicate the amount of interest to be realised on the defaulted amount up to the date of reporting and the rate at which interest should be realised up to the month in which the amount is recovered.

In Agricultural Income Tax and Sales Tax Office, Vythiri, in a case reported in January 2000 for revenue recovery, interest due till the date of reporting was incorrectly shown as Rs 1.25 lakh instead of Rs 2.15 lakh resulting in short demand of interest of Rs 0.90 lakh. As per the certificate, interest was to be recovered up to the date of realisation. On realisation of the arrears reported, which included the interest of Rs 1.25 lakh, the case was closed in February 2001. Interest of Rs 0.71 lakh due from the date of reporting till the date of realisation was also not recovered. These omissions resulted in short realisation of interest aggregating Rs 1.61 lakh.

On this being pointed out, the Department stated in December 2002 that the case would be examined. Further report has not been received (October 2003).

The case was reported to Government in April 2003; their reply has not been received (October 2003).

**3.7.3.** Under the KAIT Act, 1991, every person opting for composition of agricultural income tax shall pay tax, for the previous year calculated at the rates specified in the Act, on the extent of landed properties held by him, before the end of February of the previous year. For delay in payment, simple interest shall be payable at the prescribed rates.

In the Agricultural Income Tax and Sales Tax Office, Kottarakkara, a firm which opted to pay compounded tax for the assessment years 1996-97 to 1998-99 failed to pay the tax in full by the due dates. However, the Assessing Officer omitted to levy interest of Rs 1.48 lakh for the period of delay.

On this being pointed out, the Assessing Officer demanded in June 2002 interest of Rs 1.34 lakh after adjusting excess tax remitted for assessment year 1997-98.

The case was reported to Government in June 2003; their reply has not been received (October 2003).

### **3.8. Loss of revenue due to time-barred assessment**

Under the KAIT Act, 1991, all assessments shall be completed within a period of two years from the date of filing of return of income.

In Agricultural Income Tax and Sales Tax Office, Kottarakkara, a religious and charitable institution filed its return of income for the assessment year 1996-97 on 31 October 1996. However, the assessment was finalised in October 2001 after the expiry of prescribed period for completion. The assessment was later revised in January 2002 creating final demand of tax of Rs 1.73 lakh. In both these assessments, the Assessing Officer did not include income of Rs 2.21 lakh derived from slaughter tapping of rubber trees resulting in short demand of tax and surcharge of Rs 1.22 lakh. The assessment was set aside (January 2002) in appeal as it was time barred. Thus, non-finalisation of the assessment within the time limit prescribed resulted in loss of revenue aggregating Rs 2.95 lakh.

On this being pointed out, the Assessing Officer stated in April 2002 that he would examine the case. Further report has not been received (October 2003).

The case was reported to Government in June 2003; their reply has not been received (October 2003).

### **3.9. Short levy of surcharge**

Under the Kerala Surcharge on Taxes Act, 1957, the agricultural income tax assessed as payable by any person (other than a company) under the KAIT Act, 1991, shall be increased by a surcharge at the rate of ten *per cent*.

In Agricultural Income Tax and Sales Tax Office, Vythiri, while finalising in December 2001 the assessment of a trust, the Assessing Officer computed surcharge on tax of Rs 15.78 lakh as Rs 0.16 lakh against the correct amount of Rs 1.58 lakh calculated at ten *per cent*. This resulted in short levy of surcharge of Rs 1.42 lakh.

On this being pointed out, the Department stated in November 2002 that the case would be examined. Further report has not been received (October 2003).

The case was reported to Government in March 2003; their reply has not been received (October 2003).



### **3.10. Omission to assess income**

Under the KAIT Act, 1991, the total agricultural income of any charitable trust does not include any agricultural income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied or set apart for application to such purposes in the state.

In Agricultural Income Tax and Sales Tax Office, Sulthan Bathery, while finalising in February 2000 the assessment for the assessment year 1997-98 of a charitable trust, the Assessing Officer omitted to levy tax on income of Rs 2.86 lakh not applied or set apart for charitable purposes. This resulted in short levy of tax and surcharge of Rs 1.25 lakh.

The case was reported to Government in August 2001; they stated in September 2002 that the Department had revised the assessment raising additional demand of Rs 1.25 lakh. Further report has not been received (October 2003).

### **3.11. Short levy due to application of incorrect rate of tax/exemption**

Under the KAIT Act, 1991, any person holding not more than 500 hectares of land and deriving agricultural income may compound the tax and pay in a lumpsum at the rates specified in the Act. For cardamom, the State is divided into zones 'A', 'B' & 'C' and the rates of tax for each zone are different. Government exempted in March 2000 income from rubber and coffee from levy of tax for the assessment year 2001-02 provided the total extent of landed property did not exceed 20 hectares.

In Agricultural Income Tax and Sales Tax Office, Kottayam, while finalising in January 2002 the assessments for the assessment years 2000-01 and 2001-02 of a firm holding 20 hectares of cardamom plantations in zone 'A' and 16 hectares of coffee plantations, the Assessing Officer assessed the tax on cardamom at the rates applicable to zone 'C' and also exempted income from coffee for the year 2001-02 though the total extent of plantations exceeded 20 hectares. This resulted in short levy of tax and surcharge of Rs 1.16 lakh.

On this being pointed out, the Assessing Officer stated in September 2002 that the case would be examined. Further report has not been received (October 2003).

The case was reported to Government in February 2003; their reply has not been received (October 2003).

### **3.12. Short levy due to grant of inadmissible deduction**

Under the KAIT Act, 1991, the agricultural income of an assessee shall be computed after allowing deduction of any sum paid to employees as bonus and such deduction shall be allowed in the year in which actual payment is made irrespective of the method of accounting employed. Bonus paid before the due date for the submission of return will be allowed as deduction in the previous year to which the return relates.

In Agricultural Income Tax and Sales Tax Office, Vythiri, while finalising in January 2001 the assessment of a firm for the assessment year 2000-01, the Assessing Authority allowed deduction of Rs 2.55 lakh claimed by the assessee towards provision for bonus though the assessee had not produced any document to establish that the same was paid before the due date for filing of return. This resulted in excess allowance of deduction of Rs 2.55 lakh and consequent short levy of tax of Rs 1.12 lakh.

On this being pointed out, the Department stated that it had revised in January 2002 the assessment raising additional demand of Rs 1.12 lakh. Further report has not been received (October 2003).

The case was reported to Government in February 2003; their reply has not been received (October 2003).