CHAPTER 3

AGRICULTURAL INCOME TAX

3.1 Results of Audit

Test check of records of departmental offices conducted during the period from April 2000 to March 2001 revealed arithmetical inaccuracy, income escaping assessment, incorrect allowance of expenditure/depreciation, non levy of interest and penalty, incorrect carry forward of losses, other categories etc. amounting to Rs.7115.21 lakh in 40 cases which broadly fall under the following categories.

Sl. No.	Categories	No. of cases	Amount (Rs. in lakh)
1	Arithmetical Inaccuracy	3	0.98
2	Income escaping assessment	3	77.64
3	Incorrect allowance of expenditure/ depreciation	8	51.35
4	Non-levy of interest and penalty	8	62.31
5	Incorrect carry forward of losses	2	0.57
6	Other categories	16	7.36
7	Review on "Assessment of plantation crops"	---	6915.00
	Total	**40**	**7115.21**

During the course of the year 2000-2001, the concerned department accepted under-assessments of Rs.4.62 lakh in 10 cases out of which an amount of Rs.4.16 lakh had been recovered.

A Review on "Assessment of Plantation crops" and an illustrative case involving a financial effect of Rs.69.32 crore are mentioned below:

3.2 REVIEW ON AGRICULTURAL INCOME TAX – ASSESSMENT OF PLANTATION CROPS

Highlights

Excess allowance of plucking charges over and above the permissible limit in 4 assessment circles involving 12 cases resulted in short levy of Agricultural Income Tax of Rs.65.14 crore.

[Paragraph 3.2.6]

In 2 assessment circles in respect of 3 cases, excess allowance of expenditure on account of bonus amounting to Rs.1.98 crore resulted in short levy of Agricultural Income Tax of Rs.1.14 crore.

[Paragraph 3.2.7]

3.2.1 Introduction

The Tamil Nadu Agricultural Income Tax Act, 1955 and rules framed thereunder regulate the levy of agricultural income tax on the plantation crops which cover Tea, coffee, rubber, clove, cardamom and pepper. The tax is levied on the agricultural income after allowing the deductions claimed and admissible under the Act.

3.2.2 Organisational set up

The Commissioner of Agricultural Income Tax, Chennai is the Head of the Department. He is assisted by two Assistant Commissioners of Agricultural Income Tax and Seven Agricultural Income Tax Officers. Assistants, Junior Assistants and Revenue Inspectors assist the Agricultural Income Tax Officers in finalisation of assessment, levy and collection of tax.

3.2.3 Scope of the review

The Agricultural Income Tax Assessments of Plantation Crops for the period from April 1995 to March 2000 were reviewed in audit during July 2000 to December 2000 covering all the seven Agricultural Income Tax Offices[3] to assess the adequacy of systems and procedures with reference to the existing Agricultural Income Tax laws and rules.

3.2.4 Trend of revenue receipts

Budget estimates, actuals, excess/short fall and estimated annual rate of growth are given in the table below.

(Rupees in crore)

Year	Budget Estimates	Receipts	(+) Excess/ (-) Shortfall	Percentage of Increase or Decrease
1995-96	14.70	19.47	(+) 4.77	(+) 32
1996-97	15.00	13.86	(-) 1.14	(-) 8
1997-98	18.00	39.36	(+)21.36	(+)119
1998-99	18.00	38.53	(+) 20.53	(+)114
1999-2000	38.00	17.78	(-) 20.22	(-) 53

The excess collection of tax during 1995-96 was due to intensive drive by the collection machinery and in 1997-98 and 1998-99 due to increase in price of tea and decrease during 1999-2000 was on account of increase in wages of labourers for tea plucking and fall in the price of tea.

3.2.5 Arrears of Agricultural Income Tax

The year-wise position of arrears in respect of Agricultural Income Tax as on March 2000 is as under:

[3] Coonoor, Dindigul, Gudalur, Nagercoil, Pollachi, Udagamandalam & Yercaud.

Year	Rupees in lakh
upto 1995-1996	135.82
1996-1997	5.09
1997-1998	7.53
1998-1999	34.95
1999-2000	32.90
Total	**216.29**

Out of the above, arrears of Rs.46.08 lakh has been stayed by the various courts pending final disposal.

3.2.6 Excess allowance of plucking charges

As per the guidelines issued in 1993 the Agricultural Income Tax Officers should be cautious in allowing the expenditure claimed by the assessee and to ensure that the total expenditure claimed by the assessee should not be allowed over and above the guidelines rate of expenditure at any cost.
According to these guidelines, the rate of plucking charges for tea was fixed at Rs.7000/- per hectare and was revised in October 1999 to Rs.12,350/- per hectare.

It was noticed in four[4] assessment circles in 12 cases, that while finalising the assessments (between April 1996 and March 2000) for the assessment year 1995-96 to 1999-2000 the assessing officers allowed plucking charges amounting to Rs.151.47 crore as against the permissible limit of Rs.49.72 crore resulting in excess allowance of Rs.101.75 crore and consequent short levy of Agricultural Income Tax of Rs.65.14 crore.

On this being pointed out the department had accepted the audit point. Further reply from the Government has not been received so far (October 2001).

3.2.7 Excess allowance of expenditure

As per the Tamil Nadu Agricultural Income Tax Act, 1955, any sum paid to employees as bonus is allowed as expenditure provided that no

[4] Coonoor, Dindigul, Pollachi & Udagamandalam.

deduction shall be made under the Act which has already been made in the assessments of Indian Income Tax Act. Payment of bonus (Amendment) Act 1980, provides for bonus as an allowable expenditure subject to a maximum of 20 per cent of such salary or wage during the accounting year.

While finalising the assessment of 3 cases in Gudalur and Nagercoil circles for the assessment years 1996-97 to 1999-2000 the assessing officers allowed a deduction of Rs.4.07 crore (39 per cent) as expenditure towards bonus on the basis of salary and wages amounting to Rs.10.43 crore paid to the workers against the admissible expenditure of Rs.2.09 crore. The excess allowance of expenditure on account of bonus amounting to Rs.1.98 crore resulted in short levy of Agricultural Income Tax of Rs.1.14 crore.

When this was pointed out the department has accepted the audit observation. Further reply of the Government has not been received so far (October 2001).

3.2.8 Incorrect allowance of depreciation

According the Tamil Nadu Agricultural Income Tax Act, 1955, the depreciation in respect of building, machinery, plant or furniture owned by the assessees and used by him for the purpose of deriving the agriculture income, a sum equivalent to such percentage on the written down value thereof as may be prescribed shall be allowed. As per Government Order dated December 1998, the rate of depreciation for electrical installations and plant and machinery was revised to 20 per cent and 10 per cent respectively to be applicable with effect from 1 April 1999.

During the review it was noticed that in two cases in Coonoor and Pollachi circles while finalising the assessments for the year 1999-2000 the assessing officer allowed depreciation at the rate of 25 per cent instead of at the rates prescribed. This resulted in short levy of tax amounting to Rs.32.86 lakh as detailed below:

(Rupees in lakh)

Item	**Written Down Vale**	**Depreciation allowed**	**Allowable**	**Excess**	**Short levy of tax**
Electrical installations	39.81	9.95	7.96	1.99	0.78
Plant and machinery	565.96	138.86	56.60	82.26	32.08
Total		**148.81**	**64.56**	**84.25**	**32.86**

On this being pointed (March 2001) the department replied (June 2001) that the State Government could not deviate from the assessment made under the Income Tax Act. The reply is not tenable since the Government order does not specify the class of assessee to whom the revision orders would apply and for the purpose of Agricultural Income Tax the depreciation at the rates prescribed by the Government should be allowed.

3.2.9 Internal audit

An internal audit party comprising of Assistant Director, Superintendent and Assistant of Agricultural Income Tax Department is conducting cent percent audit of the assessments in all the Agricultural Income Tax Offices. The audit of assessments finalised upto 31 March 2000 have been completed by the internal audit.

The pendency in number of internal audit objections for the years 1995-96 to 1999-2000 as on 31 March 2001 is as under

Year	**Number of objections**	**Amount (Rs. in lakh)**
upto 1995-1996	31	58.50
1996-1997	27	102.47
1997-1998	62	43.48
1998-1999	94	46.54
1999-2000	199	379.35
TOTAL	**413**	**630.34**

3.2.10 Other topics of interest

(i) Delay in finalisation of assessment

Under the Tamil Nadu Agricultural Income Tax Act, 1955, the Agricultural Income from Tea, grown and manufactured, is assessed on sixty per cent of the income worked out and left un-assessed under the Income Tax Act, 1961.

In Coonoor assessment circle, in five cases it was noticed that despite the assessment of Central Income Tax for the assessment year 1992-93 to 1997-98 were finalised between October 1998 and March 2000, Agricultural Income Tax assessments were not finalised, the delay ranging from 9 to 55 months reckoned from the date of Central Income Tax Assessment orders. The dates of Receipt of Income Tax Assessment orders or the reasons for the delay in completion of Agricultural Income Tax assessments were not recorded by the Agricultural Income Tax Officers.

On this being pointed out (March 2001), the department replied that the Income Tax department has been contacted and suitable arrangements have been made to minimize the lapses. Further report is awaited (October 2001).

(ii) Absence of provision to levy interest and penalty on short/ belated payment of advance tax

According to Tamil Nadu Agricultural Income Tax Act, 1955, every person liable to pay Agricultural Income Tax is required to pay advance tax before the end of February of the said previous year on estimated total agricultural income.

It was noticed in 37 cases in five[5] assessment circles, for assessment years 1995-96 to 1999-2000 advance tax has been paid (between the period from March 1996 to October 1999) belatedly the delay ranging from
1 month to 10 months with reference to the assessed income. As per Section 16-A(4) & (5) of the Tamil Nadu Agricultural Income Tax Act, 1955, interest/penalty is leviable for belated payments of advance tax with respect to estimated income.

However there is no provision in the Act to check the short payment of advance tax with reference to assessed income. Whereas as per Indian Income Tax Act and West Bengal Agricultural Income Tax Act, interest in respect of short payment of Advance tax is leviable with reference to assessed tax only. The replacement of the words "Estimated income" with "Assessed income" in the Tamil Nadu Agricultural Income Tax Act would check the gross under estimation of income.

Interest at 15 per cent per annum and penalty at 2 per cent per month (as in the case of regular Agricultural Income Tax) on the short/belated payment of Advance Agricultural Income Tax works out to Rs.2.54 crore.

On this being pointed out the department has proposed an amendment. Report on final action taken has not been received so far (October 2001).

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5 Coonoor, Gudalur, Pollachi, Nagercoil & Udagamandalam.

(iii) Amendment to rule 7 of Tamil Nadu Agricultural Income Tax Rules, 1955

As per Rule 7 of the Tamil Nadu Agricultural Income Tax Rules, 1955, in respect of Agricultural Income from tea grown and manufactured by the seller in the State of Tamil Nadu, the portion of the income worked out under the Income Tax Act and left unassessed as being agricultural income shall be assessed under the Agricultural Income Tax Act after allowing such deductions under the Act and the rules made thereunder. The assessee was assessed treating his agricultural income to be 60 per cent of the income from the Tea grown and manufactured in the State of Tamil Nadu.

Section 143(1) of Income Tax Act, 1961 enables the Income Tax Officers to make summary assessment of Income Tax returns without scrutinising the return in detail. Due to the summary assessments, the assessees have escaped from disallowance of excess claim, if any, which went unnoticed in Income Tax assessment as well as Agricultural Income Tax Assessments. Hence suitable amendment in Rule 7 is required to give powers to Agricultural Income Tax Officers to re-assess the assessments made under summary assessment by Income Tax Department which will be advantageous to the State revenue.

3.3 Incorrect apportion of income of the firm

According to the Tamil Nadu Agricultural Income Tax Act, 1955, when the assessee is a firm, whether owning the property of its own or holding the property on behalf of anyone of or all the partners of the firm or any other person, and the total income of the firm has been assessed under the Agricultural Income Tax shall be payable by the firm itself.

In Gudalur assessment circle, it was noticed that an assessee had filed the return of income showing a net income of Rs.35.70 lakh for the assessment years 1995-96 to 1999-2000 and the income was shared among its partners instead of being taxed in the hands of the firm.

This has resulted in loss of revenue to the tune of Rs.16.66 lakh.

On this being pointed out (March 2001), the department accepted the audit point (October 2001). Further reply has not been received so far (October 2001).