

CHAPTER-III: TAXES ON AGRICULTURAL INCOME

3.1 Tax administration

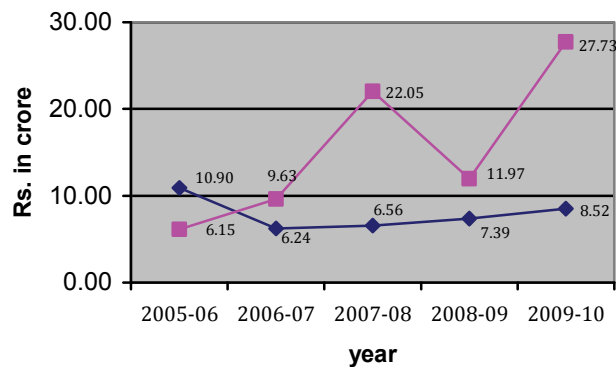
The Department of Commercial Taxes is under the control of Principal Secretary, Taxes at the Government level and collection of tax under Kerala Agricultural Income Tax (KAIT) Act is administered by the Commissioner of Commercial Taxes (CCT). The KAIT Act governs the levy and collection of tax on agricultural income.

3.2 Trend of receipts

Actual receipts from Agricultural income tax during the last five years (2005-06 to 2009-10) along with the budget estimates during the same period are exhibited in the following table and graph.

(Rupees in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	10.90	6.15	(-) 4.75	(-) 43.58	9,778.62	0.06
2006-07	6.24	9.63	(+) 3.39	(+) 54.33	11,941.82	0.08
2007-08	6.56	22.05	(+) 15.49	(+) 236.13	13,668.95	0.16
2008-09	7.39	11.97	(+) 4.58	(+) 61.98	15,990.18	0.07
2009-10	8.52	27.73	(+) 19.21	(+) 225.47	17,625.02	0.16

Budget estimates and Actual receipts



The large variations between budget estimates and actual receipts indicate the need for streamlining the budgeting process to make the budget estimates realistic.

3.3 Arrears in AIT assessment

The department furnished the position of arrears in assessment under agricultural income tax which is as shown below:

		(Number of cases)
Opening balance		6,998
Addition during 2009-10 including remanded cases		2,992
Total		9,990
No. of assessments completed		3,676
Arrear cases	2,346	
Current cases	1,330	
Closing balance		6,314

The above table shows that the department completed only 36.80 *per cent* of the assessment due for completion under agricultural income tax during 2009-10.

3.4 Impact of audit

Revenue impact

During the last three years, we pointed out inadmissible expenses, income escaping assessment, incorrect computation of income, underassessment due to assignment of incorrect status etc., with revenue implication of ₹ 36.96 crore in 160 paragraphs. Of these, the department/Government accepted audit observations involving ₹ 2.19 crore and had since recovered ₹ 35 lakh. The details are shown in the following table:

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2006-07	50	4.61	29	1.72	8	0.24
2007-08	43	3.69	17	0.35	10	-
2008-09 Vol. I	67	28.66	9	0.12	4	0.11
Total	160	36.96	55	2.19	22	0.35

We noticed that the Government failed to recover even the amount it has accepted.

We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.

3.5 Working of internal audit wing

The internal audit wing (IAW) in the Commercial Taxes department was constituted in May 2009. The wing is administered by a Deputy Commissioner and assisted by three Assistant Commissioners and four Commercial Tax Officers. The IAW commenced functioning from 1 June 2009. The department has not prepared a separate internal audit manual. IAW covered eight out of 14 districts during June 2009 to February 2010. However, as the reports were not finalised we are unable to make any comment about the effectiveness of their performance.

3.6 Results of audit

We test checked the records of 18 units relating to agricultural income tax. We noticed underassessment of tax and other irregularities involving ₹ 5.57 crore in 39 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Inadmissible expenses	15	2.80
2.	Income escaping assessment	13	1.79
3.	Other lapses	11	0.98
Total		39	5.57

During the course of the year, the department accepted underassessment and other deficiencies of ₹ 53.72 lakh in 16 cases, pointed out in earlier years. The department realised an amount of ₹ 11.92 lakh in 11 cases during the year 2009-10. A few illustrative audit observations involving ₹ 1.04 crore are mentioned in the succeeding paragraphs.

3.7 Audit observations

We scrutinised the assessment records of agricultural income tax in Commercial Taxes Department and it revealed several cases of non-observance of provisions of Act/Rules, incorrect determination of income/interest, grant of inadmissible expenses/allowances and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Assessing Authorities (AAs) are pointed out in audit each year but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of the internal audit.

3.8 Non-observance of provisions of Act/Rules

The KAIT Act and Rules made thereunder provide for completing assessments observing the following aspects:

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

We observed that the AAs while finalising the assessments, did not observe some of the provisions of the Act/Rules resulting in short levy of tax and interest of ₹ 1.04 crore as mentioned in the paragraphs 3.8.1 to 3.8.3.

3.8.1 Income escaped assessment

3.8.1.1 (IAC (CT), Kottayam; December 2008)

As per the Act, when an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure or liability incurred by the assessee; and where the assessee has obtained, either in cash or in any other manner any amount in respect of such loss, expenditure or some benefit in respect of such liability during the previous year, the amount obtained by him or the value of benefit accrued to him shall be deemed to be agricultural income received in the previous year.

We noticed that while finalising the assessment of a public limited company for the assessment year 2006-07, the department did not consider, for arriving at the taxable income, an amount of ₹ 82.36 lakh relating to reversal of the excess provision for gratuity which was credited to P & L account for 2005-06. The AA already allowed this amount as deduction during

the previous year and hence the amount should have been treated as deemed income. The omission to assess the amount as deemed income resulted in escape of income and consequent short levy of tax of ₹ 41.18 lakh.

After we pointed out the case in January 2010 the assessing authority stated that the short or excess provision of gratuity subsequently adjusted had no significance while computing the assessable income. The reply of department is not tenable in view of the provision in the Act.

We reported the matter to Government in March 2010. We have not received further information from them (December 2010).

3.8.1.2 (IAC (AIT & CT), Kottayam; January 2010)

Amount received by an assessee in respect of loss or liability for which the AA allowed deduction in previous year is agricultural income taxable under the Act.

The AA finalised the assessment of a public limited company for the year 2006-07 fixing net income of ₹ 4.28 crore without considering an amount of ₹ 43.75 lakh received by the assessee on account of excess tax paid in plantation tax assessment for the period from 1989-90 to 1997-98. The omission to consider the amount in assessment resulted in escape of income of ₹ 43.75 lakh and consequent short levy of tax of ₹ 21.88 lakh.

After we pointed out the omission in January 2010, the AA stated that notice has been issued under Section 41 in December 2009. The notice stated to be issued was not applicable to the case as the same related to disallowance of re-plantation allowance. The department stated that assessee had not received refund of excess payment of plantation tax but only decided to adjust the amount against future liability. The remarks of the department are not tenable as the assessee had found that the plantation tax claimed in earlier years was in excess of the actual and hence there was surplus fund available with the assessee to the extent of ₹ 43.75 lakh, which can be treated as deemed income.

We pointed out the matter to Government in March 2010; we have not received further information (December 2010).

3.8.1.3 (IAC (AIT & ST) Thiruvananthapuram; July 2009)

The Act stipulates that the total agricultural income of the previous year of any person comprises of all agricultural income derived from land situated within the State. As per Section 41 of the Act, if agricultural income chargeable to tax has escaped assessment in any financial year, the assessing officer may serve notice on the assessee and proceed to assess or reassess such income.

We noticed that the AA finalised the assessment of a charitable trust for the assessment years 2004-05 to 2007-08 recording the demand as nil accepting the loss of ₹ 11.80 lakh returned by the assessee. We found that the assessment was finalised without considering the net income of ₹ 21.64 lakh from sale of rubber even though the assessee filed the details of agricultural income along with the statement of computation of income. The omission to include the net income of ₹ 21.64 lakh in taxable income resulted in escape of

income from the assessment. After deducting the net loss of ₹ 11.80 lakh, the tax and surcharge (due on the escaped income of ₹ 9.84 lakh) works out to ₹ 2.39 lakh.

After we pointed out the matter in July 2009, the department stated that the assessment had been revised. We have not received a report on recovery from the department (December 2010).

We reported the matter to Government in March 2010. We have not received further information from them (December 2010).

3.8.2 Short levy due to inadmissible deductions

3.8.2.1 (Office of IAC, Kottayam; January 2010)

Agricultural income chargeable shall be computed in accordance with the method of accounting regularly employed as per the KAIT Act. Where the accounts are correct and complete to the satisfaction of the Agricultural Income Tax Officer (AITO) but the method employed is such that the income cannot be properly deducted therefrom, then the computation shall be made upon such basis and in such manner as the AITO may determine as per Section 40 of the Act.

The AA finalised the assessment of a domestic company for the assessment year 2006-07, without assessing to tax the income derived from pepper for ₹ 29.82 lakh in 2006-07. The omission to reckon the income from pepper had resulted in short levy of tax of ₹ 14.91 lakh.

After we pointed out the omission, the AA replied

that though there was income from pepper during the period, it was kept as closing stock and hence could not be taken into account owing to the fact that the assessee was following cash system of accounting wherein expense incurred would be allowed and receipts would be taken into account as and when it is realised. The remark of the AA was not tenable as the dealer had a closing stock of pepper for ₹ 12.18 lakh in 2004-05 and ₹ 29.82 lakh in 2005-06 and the accounts indicated that there had been no sale of pepper since 2003-04. The reasoning that the entire quantity is kept on stock lacks conviction as normally any 'hill produce' would perish after keeping it for long period.

Further, the closing stock of pepper had been increasing from 2003-04 onwards steadily and the assessee was showing loss in the accounts every year. If the value of closing stock was also considered, there would have been profit, which was assessable to tax.

After we pointed out the matter to Government in March 2010 we have not received any further information (December 2010).

3.8.2.2 (IAC (AIT & CTO), Thiruvananthapuram; July 2009)

The provisions of the Act stipulate that the agricultural income of an assessee shall be computed after allowing the deduction of any sum paid to the employees as bonus and such deductions shall be allowed in the year in which actual payment is made irrespective of the method of accounting employed.

We noticed that the AA assessed a public limited company for the assessment year 1999-2000, fixing a net income of ₹ 14.88 lakh. The AA disallowed an amount of ₹ 17.92 lakh as the amount of bonus was not actually paid. On the basis of an appellate

order assessment was revised by fixing net loss of ₹ 81.48 lakh. While revising the assessment (October 2008) on the basis of the appellate order, the AA allowed full amount of ₹ 30 lakh pertaining to bonus as deduction even though the assessee did not pay ₹ 17.92 lakh as bonus during the year as stated in the original assessment order. The inadmissible deduction allowed resulted in excess computation of loss of ₹ 17.92 lakh with potential tax of ₹ 10.75 lakh.

After we pointed out the matter in July 2009 the department revised the assessment (August 2009). We have not received further development on the matter (December 2010).

We reported the matter to Government in March 2010. We have not received further information from them (December 2010).

3.8.2.3 (IAC (CTO), Kottarakkara; March 2009)

The KAIT Act stipulates that 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 prescribed in the Act which includes gratuity actually paid or provisions made for it.

We noticed that the department finalised the assessment of a domestic company for the year 2000-01 allowing a claim of ₹ 21.50 lakh under gratuity. Our scrutiny revealed that the assessee had claimed exemption on a provision for gratuity of ₹ 15.85 lakh and actual payment of ₹ 5.65 lakh. As per the Act

either the amount incurred or provision made was allowable. As the assessee claimed the actual expenditure, the provision should have been disallowed. The allowance of expense in excess of the actual payment resulted in short levy of tax of ₹ 9.51 lakh.

After we pointed out the matter in March 2009 the assessing authority revised the assessment creating an additional demand of ₹ 9.51 lakh. We have not received a report on recovery (December 2010).

We reported the matter to the Government in March 2010. We have not received further information from them (December 2010).

3.8.3 Excess carry forward of loss

3.8.3.1 (IAC, (AIT&CTO), Thiruvananthapuram; July 2009)

Income derived from property held by trust and utilised for charitable purpose, is eligible for deduction while computing agricultural income as per the KAIT Act.

We noticed that the AA allowed inadmissible deductions in respect of charitable trust in excess of agricultural income derived in the assessments from 2006-07 to 2008-09 resulting in excess carry forward loss of ₹ 39.44 lakh having potential tax effect of ₹ 12.79 lakh.

After we pointed out the matter, the AA revised the assessments fixing the carry forward loss as nil as against the excess carry forward loss of ₹ 39.44 lakh pointed out.

We reported the matter to the Government in March 2010. We have not received any further information from them (December 2010).

3.8.3.2 (IAC (AIT&CTO), Thiruvananthapuram; July 2009)

The Act stipulates that in computing the total agricultural income of an assessee there shall be deducted any sum not exceeding 20 *per cent* of the total agricultural income deposited in the Investment Deposit Scheme. As per paragraph 14 of the scheme, any deposit made in any year shall be adjusted against the re-plantation allowance deductible for the year and if it cannot be so set off in that year the balance amount, along with any deposit made during the subsequent year or years shall be set off against the re-plantation allowance deductible for the subsequent year.

We noticed that while revising the original assessment of a domestic company for the year 1997-98, the AA allowed re-plantation allowance of ₹ 15.53 lakh. The AA overlooked the re-plantation allowance of ₹ 9.16 lakh granted in the revised assessment for 1996-97 and did not limit the allowance to ₹ 6.37 lakh (₹ 15.53 lakh – ₹ 9.16 lakh). The allowance of expense twice resulted in computation of loss to the extent of ₹ 9.16 lakh with

potential tax effect of ₹ 5.95 lakh.

After we pointed out the case in July 2009, the department stated that AA revised the assessment (August 2009) assessing the escaped income of ₹ 9.16 lakh. We have not received a report on recovery from the department (December 2010).

We reported the matter to Government in March 2010. We have not received further information from them (December 2010).