

## CHAPTER – 3

### AGRICULTURAL INCOME TAX

#### 3.1 Results of Audit

Test check of assessment records of the Agricultural Income Tax Office, Assam, Guwahati conducted during the year 2001-2002, revealed short/non-levy of interest, irregular allowance of loss etc. amounting to Rs. 0.80.crore in 8 cases under the following categories:

(Rupees in crore)

| Sl. No. | Particulars                     | No. of cases | Amount      |
|---------|---------------------------------|--------------|-------------|
| 1.      | Irregular exemption of interest | 1            | 0.61        |
| 2.      | Non-levy/short levy of interest | 2            | 0.03        |
| 3.      | Irregular allowance of loss     | 3            | 0.11        |
| 4.      | Deferment of advance tax        | 2            | 0.05        |
|         | <b>Total :</b>                  | <b>8</b>     | <b>0.80</b> |

Two draft audit paragraphs involving financial effect of Rs. 0.78 crore and bringing out major points noticed during 2001-2002 were issued to the department/Government for their comments. The department has accepted all the observations. The important audit observations made in those cases amounted to Rs. 0.78 crore are mentioned in the following paragraphs :

#### 3.2 Non-levy/short levy of interest

(I) Under the provision of Assam Agricultural Income Tax Act, 1995 (amended), where in any financial year an assessee has paid advance tax less than 75 per cent of tax determined on regular assessment, simple interest at the rate of 2 per cent for each English calendar month from the 1<sup>st</sup> day of April of succeeding financial year in which advance tax was payable upto to the month prior to the regular assessment shall be payable by the assessee on the amount by which the advance tax paid falls short of the tax determined on regular assessment. Prior to the amendment of the Act, interest was leviable at the rate

of 12 per cent per annum on the amount of shortfall from the 1st day of January of said assessment year upto the date of assessment or the date on which 75 percent of assessed tax was paid, whichever was earlier.

Test check of the records of Agricultural Income Tax Officer, Guwahati revealed (January – February 2002) that three dealers were assessed (between October 1999 and January 2001) to tax of Rs.1.73 crore for the period 1992-93 and 1998-99 paid advance tax of Rs.61.79 lakh instead of Rs.1.30 crore. However the Assessing Officer, while finalizing assessments failed to levy interest in one case and levied it short in other two cases. This resulted in short / non-levy of interest of Rs.64.45 lakh.

On this being pointed out (January – February 2002), the department accepted the audit observation in all the three cases and stated (February 2002) that notice for rectifications had been issued in two cases. Reports on further progress are awaited (December 2002).

The above matter was reported to the Government in March 2002. No reply has been received (December 2002)

**(II)** As per Section 35-H of Assam Agricultural Income Tax Act, 1999 (amended), where, in any financial year, the assessee who is liable to pay advance tax, has failed to pay 20 per cent, 45 per cent, 75per cent and 100 per cent on or before 30 June, 30 September, 15 December and 15 March respectively he shall be liable to pay simple interest at the rate of one and half per cent per month from 1 July to 31 March of the previous year or to the date of payment whichever is earlier.

Test check of the assessment records of the Agricultural Income Tax Officer, Guwahati revealed (January – February 2002) that in two cases, tax of Rs.2.07 crore was assessed (between August 2000 and March 2001). However, the assessee failed to deposit the advance tax on the due dates and were liable to pay an interest of Rs.5.11 lakh, which was not levied by the department.

On this being pointed out the department accepted the audit observation and stated (February 2002) that action was being initiated to rectify the assessments. Further progress on recovery in this regard is awaited.

The above matter was reported to the Government in March 2002. No reply has been received (December 2002).

### **3.3 Incorrect allowance of loss**

Under the provisions of Assam Agricultural Income Tax Act, 1998 (amended) the loss sustained by any assessee in agricultural income for any year is allowed to be carried forward for set off against the profits or gains of the following year. However, if any assessee fails to file his return of loss of profits or gains for any year in time i.e. on 31 December of the relevant assessment year, his claim for carry forward and set off of such loss against the future income shall not be entertained.

Test check of records revealed (January-February 2002) that a tea company filed the returns for the assessment years 1998-99 and 1999-2000 showing loss of Rs.5.83 lakh and Rs.13.59 lakh respectively after the due date, as such the assessee was not entitled to carry forward of the losses. However, the Assessing Officer, allowed the losses to be carried forward resulting in a loss of tax revenue of Rs.8.74 lakh.

On this being pointed out (January – February 2002) the department accepted the audit contention and stated (February 2002) that action was being initiated to rectify the assessments. Further progress on recovery in this regard is awaited (December 2002).

The above matter was reported to the Government in March 2002. No reply has been received (December 2002).