

## CHAPTER V

### Taxes on Agricultural Income

#### 5.1 Results of audit

Test check of records of the Agricultural Income-tax Offices, conducted in audit during the year 2002-2003, disclosed under-assessments of tax, non-levy of penalty, etc. amounting to Rs.0.57 crore in 34 cases, under the following broad categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1	Non-levy/short levy of tax	30	0.54
2	Non-levy of penalty	4	0.03
	<b>Total</b>	<b>34</b>	<b>0.57</b>

During the course of the year 2002-2003, the Department accepted under-assessments of tax amounting to Rs.0.19 crore involved in 36 cases which had been pointed out in audit in earlier years and recovered the entire amount.

A few illustrative cases involving Rs.44.07 lakh are given in the following Paragraphs. Of this, Rs.4.65 lakh had been recovered.

#### 5.2 Short levy of tax due to incorrect computation of agricultural income

According to the Karnataka Agricultural Income-tax (KAIT) Act 1957, as amended from time to time, 'agricultural income' includes any rent or revenue derived from land situated in the State and used for growing plantation crops. Under the Act, the 'total agricultural income' of a person in a 'previous year' is computed after allowing revenue expenditure laid out or expended wholly and exclusively for the purpose of deriving agricultural income.

It was noticed in three<sup>a</sup> districts that in nine assessments of nine assessees, for the years 1994-95 to 2001-2002 finalised between September 1996 and March 2002, the assessing officers allowed inadmissible expenditure of Rs.38.91 lakh while arriving at the taxable agricultural income. The short computation of income resulted in short levy of tax of Rs.15.82 lakh. A few illustrative cases are detailed below:

(Rupees in lakh)					
Sl. No.	Name of the assessee	Assessment year/ Date of assessment	Nature of irregularity	Short computation of income	Short levy of tax
<b>Deputy Commissioner of Agricultural Income-tax (Assessments), Chickmagalur</b>					
1	M/s Ivor Rebellow Foundations (Doddannagudda Estate) (Trust up to 1994-95; reconstituted as Firm from 1995-96)	1994-95 10.09.1996 Recomputation order dated 17.07.2001 of the firm for AY 1995-96	As per the Act, income received in respect of a firm or association after discontinuance of its business or dissolution should be assessed as if no such discontinuance or dissolution had taken place. The status of the Trust was changed to a Firm from 1995-96. However, Rs.10.96 lakh received for the period 1994-95 was omitted to be brought to tax as Trust's income.	6.47	2.08
The Department accepted in October 2003 the omission and stated that revised assessment order had been passed.					
2	M/s Kalasa Estate (Firm)	1995-96 13.07.2001 Recomputation order dated 24.06.2002	Unabsorbed depreciation allowance of Rs.2.84 lakh for the years 1989-90 to 1991-92 was incorrectly adjusted twice, once in the assessment year 1992-93 and again in the assessment year 1995-96.	2.84	1.14
The Department accepted the short levy and intimated in October 2003 that Rs.1 lakh had been recovered.					
<b>Deputy Commissioner of Agricultural Income-tax (Assessments), Hassan</b>					
3	The Spices Valley Estate Ltd. Sakaleshapura (Company)	1998-99 31.05.1999	Only actual interest paid is allowable as deduction. However, expenditure of Rs.5.22 lakh towards 'Interest' was allowed without obtaining proof of actual payment.	5.22	1.25
The Department accepted the short levy and intimated in October 2003 that revised orders had been passed.					

<sup>a</sup> Chickmagalur, Hassan, Kodagu

(Rupees in lakh)					
Sl. No.	Name of the assessee	Assessment year/ Date of assessment	Nature of irregularity	Short computation of income	Short levy of tax
4	M/s Ossoor Estates Limited (Company)	2000-2001 27.02.2002	The assessee incurred an expenditure of Rs.12.01 lakh for purchasing coffee. However, it claimed this as expenditure from its agricultural income. Since income derived from sale of such coffee would constitute trading income and not agricultural income, expenditure on purchase was not allowable but was allowed. This resulted in short computation of agricultural income by Rs.12.01 lakh.	12.01	6.00
The Department stated in October 2003 that analysis of quantitative details of coffee purchased, sold and held in closing stock revealed that no coffee income had escaped assessment. The reply is not tenable as the expenditure allowed was inadmissible under the Act.					
<b>Assistant Commissioner of Agricultural Income-tax, Madikeri</b>					
5	Sri M. Nachaiah Chettiappa (Karadi Koppal Estate) (Individual)	1999-2000 21.05.2001	Expenditure on depreciation was allowed twice, once while allowing total admissible expenditure and again separately as depreciation allowance.	2.49	1.00
The Department intimated passing of revised orders in October 2003 and stated that the assessee had gone on appeal after depositing 50 per cent of the tax due.					
6	M/s D.V. Vishwanath (Hindu Undivided Family)	2001-2002 19.03.2002	Additional depreciation of Rs.2.23 lakh on newly acquired pulper machine was allowed twice.	2.23	0.89
The Department intimated in October 2003 that the short levy of tax had since been recovered.					

On these cases being pointed out, Government reported creation of additional demand of Rs.8.83 lakh in seven cases and recovered Rs.3.84 lakh in three of them. Final replies for the remaining cases have not been received (January 2004).

### 5.3 Non-levy of interest

Under the KAIT Act 1957, where a 'person' having taxable agricultural income in a 'previous year' does not furnish the prescribed annual return along with proof of payment of tax due on that basis (advance tax) to the

Assessing Authority within four months from the end of the previous year, interest is leviable at prescribed rates.

In Chickmagalur district, in respect of four assessments of four assesseees for the years 1995-96, 1996-97, 1998-99 and 1999-2000 finalised between May 2000 and February 2002, interest of Rs.8.12 lakh due for delay in furnishing returns ranging from 7 to 33 months had not been levied by two Assessing Authorities on tax of Rs.14.32 lakh.

On these cases being pointed out, Government reported creation of demand of Rs.1.16 lakh in two cases and recovered Rs.0.81 lakh in one of them. Final replies for the remaining cases have not been received (January 2004).

#### **5.4 Non-levy of penalty**

Under the KAIT Act 1957, if an assessee fails to pay the tax demanded from him within the time mentioned in the demand notice and if a time is not so mentioned, then on or before the first day of the second month following the date of serving notice, he is liable to pay penalty at the rates prescribed from time to time.

In three<sup>β</sup> districts, seven assesseees were due to pay tax of Rs.83.21 lakh for the years 1987-88 to 2000-2001 assessments of which were finalised between April 1997 and July 2001 by three Assessing Authorities. The taxes were to be paid between May 1997 and August 2001. However, the amounts were paid only between December 1997 and August 2002, i.e., after delays ranging from three days to over 136 months. For the delay in payments, the assesseees were liable to pay penalty of Rs.20.13 lakh which had not been levied by the Assessing Authorities.

On these cases being pointed out, Government reported in respect of one case involving Rs.9.86 lakh that the Estate was discontinued from February 1987 and hence penalty could not be levied. The reply is not tenable as the penalty was payable for belated payment of tax under the Act. In respect of the remaining cases, final replies have not been received (January 2004).

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<sup>β</sup> Chickmagalur, Hassan, Kodagu