

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

**3.1 Results of audit**

Test check of the records of the agricultural income tax offices conducted during 2006-07 revealed underassessment of tax amounting to Rs. 4.61 crore in 50 cases which fall under the following categories:

| (Rupees in crore) |                                 |              |             |
|-------------------|---------------------------------|--------------|-------------|
| Sl. No.           | Category                        | No. of cases | Amount      |
| 1.                | Inadmissible expenses allowed   | 14           | 1.56        |
| 2.                | Incorrect computation of income | 3            | 0.74        |
| 3.                | Other lapses                    | 33           | 2.31        |
| <b>Total</b>      |                                 | <b>50</b>    | <b>4.61</b> |

During 2006-07, the department accepted underassessment and other deficiencies of Rs. 97.67 lakh involved in 26 cases of which 16 cases involving Rs. 83.25 lakh were pointed out during 2006-07 and the rest in the earlier years. The department recovered Rs. 1.10 lakh in seven cases pertaining to the earlier years.

After the issue of draft paragraphs, the department recovered Rs. 12.05 lakh in two cases pointed out during 2004-05.

A few illustrative cases involving Rs. 74.68 lakh are mentioned in the succeeding paragraphs.

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

Under the Kerala Agricultural Income Tax Act, 1991 (KAIT Act), where any person sustains a loss as a result of computation of agricultural income in any year, the loss shall be carried forward to the following year and set off against the agricultural income of that year. If the loss cannot be wholly set off, the amount of loss not so set off shall be carried forward to the following year and so on, but no loss shall be carried forward to more than eight years.

In commercial tax office, special circle, Kollam while finalising the assessment of a domestic company, for the year 2003-04 in December 2005, the loss to be carried forward for the previous year 2002-03, was incorrectly taken as Rs. 1.51 crore instead of Rs. 66.33 lakh. The excess adjustment of loss resulted in understatement of income of Rs. 84.57 lakh and consequent short levy of tax of Rs. 50.74 lakh.

After the case was pointed out in July 2006, the assessing authority revised the assessment in July 2006, creating an additional demand of Rs. 50.74 lakh. A report on recovery has not been received (December 2007).

The matter was reported to the Government in January 2007; their reply has not been received (December 2007).

### **3.3 Short levy due to grant of inadmissible deduction**

**3.3.1** Under the KAIT Act, in computing agricultural income, any interest paid in the previous year or any amount borrowed and actually spent on any capital expenditure incurred for the benefit of land from which agricultural income is derived is an allowable deduction. It has judicially been held<sup>1</sup> that when the unpaid interest is capitalised, it would not amount to payment of interest and hence is not eligible for exemption.

In the office of the Inspecting Assistant Commissioner (Special), Ernakulam, while computing the agricultural income of a domestic company for the year 2000-01 in December 2002, which was revised in February 2004, the assessing authority allowed deduction of Rs. 21.98 lakh towards interest accrued and due on term loan which was capitalised under “secured loans”. Unpaid interest capitalised was not an admissible deduction under the Act. The grant of inadmissible deduction resulted in short levy of tax of Rs. 13.19 lakh.

After the case was pointed out to the department in August 2004 and reported to the Government in February 2005, the Government stated in April 2007 that the assessment was revised in January 2007 and tax on capitalised amount of unpaid interest of Rs. 21.98 lakh was levied. A report on recovery has not been received (December 2007).

**3.3.2** Under the KAIT Act, the agricultural income of a person shall be computed after making deductions specified therein. Payment of production incentive is not an allowable deduction.

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<sup>1</sup> Sulaiman Rawther Vs.State of Kerala –KLJ (Tax Cases) 8

In the office of the Assistant Commissioner (Assessment), special circle, Kottayam, while finalising the assessment of a domestic company for 2003-04 in December 2005, payment of production incentive amounting to Rs. 10.92 lakh was also deducted from the total income to determine the taxable income. The inadmissible deduction resulted in short levy of tax of Rs. 6.55 lakh.

After the case was pointed out to the department in July 2006 and reported to the Government in January 2007, the Government stated in April 2007 that the assessment was revised disallowing the production incentive of Rs. 10.92 lakh. A report on recovery has not been received (December 2007).

#### **3.4 Non- levy of interest in requisition for revenue recovery**

Under the KAIT Act, any person who fails to pay tax in pursuance of a demand notice, shall pay simple interest at the rate of 15 *per cent* per annum for every month of delay or part thereof, on the unpaid balance tax. The Act further provides that the assessing officer may forward to the Collector a certificate under his signature, specifying the arrears due from an assessee who has not remitted the tax demanded. The Collector on receipt of such certificate shall proceed to recover from such assessee the amount specified therein as if it were arrears of land revenue.

In agricultural income tax and commercial tax office Nedumkandam, the AA had forwarded the revenue recovery certificate (RRC) to the Collector for recovery of arrears of tax of Rs. 2.49 lakh relating to the period from 1980-81 to 1990-91 of two assesseees, in June and July 2003. The AA, however, failed to compute and include interest of Rs. 4.20 lakh for the period up to June 2003 due on the unpaid tax. This resulted in non-demand of interest of Rs. 4.20 lakh.

After the cases were pointed out to the department in March 2006 and reported to the Government in January 2007, the Government stated in August 2007 that revised RRC has been issued in both the cases. A report on recovery has not been received (December 2007).