

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2019-2021)**

FIFTY FOURTH REPORT
(Presented on 4th July, 2019)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM**

2019

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2019-2021)**

FIFTY FOURTH REPORT

On

**Paragraphs relating to Taxes Department contained in the Report
of the Comptroller and Auditor General of India for the
financial year ended 31st March 2013, 2014 &
2015 (Revenue Sector)**

CONTENTS

	<i>Page</i>
Composition of the Committee	: v
Introduction	: vii
Report	: 1
Appendices :	
I. Summary of main Conclusions/Recommendations	: 25
II. The Notes furnished by Government	: 26

COMMITTEE ON PUBLIC ACCOUNTS
(2019-2021)

Chairman:

Shri V. D. Satheesan.

Members:

Smt. P. Aisha Potty

Shri P. K. Basheer

Shri James Mathew

Shri K. Kunhiraman

Shri Mathew T. Thomas

Shri A. Pradeepkumar

Shri Mullakkara Retnakaran

Shri Roshy Augustine.

Legislature Secretariat:

Shri C. Jos, Secretary-in-charge

Smt. Manju Varghese, Joint Secretary

Shri Venugopal R., Deputy Secretary

Smt. Chitra K. I., Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the Fifty Fourth Report on paragraphs relating to Taxes Department contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2013, 2014 & 2015 (Revenue Sector).

The Report of the Comptroller and Auditor General of India for the year ended 31st March 2013, 2014 & 2015 (Revenue Sector) was laid on the Table of the House on 10th June 2014, 11th March 2015 and 24th February 2016 respectively.

The Committee considered and finalised this Report at the meeting held on 1st July 2019.

The Committee place on records their appreciation of the assistance rendered to them by the Accountant General by the examination of the Audit Report.

Thiruvananthapuram,
1st July, 2019.

V. D. SATHEESAN,
Chairman,
Committee on Public Accounts.

REPORT

COMMERCIAL TAXES DEPARTMENT

TAXES ON AGRICULTURAL INCOME

Tax administration

The levy and collection of taxes on agricultural income is governed by The Kerala Agricultural Income Taxes (KAIT) Act, 1991 and is administered by Commissioner of Commercial Tax (CCT). The assessment, levy and collection are looked after by Inspecting Assistant Commissioners (IAC), Agricultural Income Tax and Commercial Tax Officers (AIT & CTO). The Department of Commercial Taxes is under the control of the Secretary to Government (Taxes) at the Government level.

Companies and persons, who derive agricultural income within the State are liable to pay AIT. In respect of Companies, tax is chargeable at the rates prescribed in the Schedule to the KAIT Act, 1991. From April 2000, persons holding landed property upto 500 hectares may opt to pay tax at compounded rate. No tax is payable on first five hectares.

Trend of receipts

Actual Receipts from AIT during the last five years (2008-09 to 2012-13) along with the budget estimates during the same period are exhibited in the following table and graph:

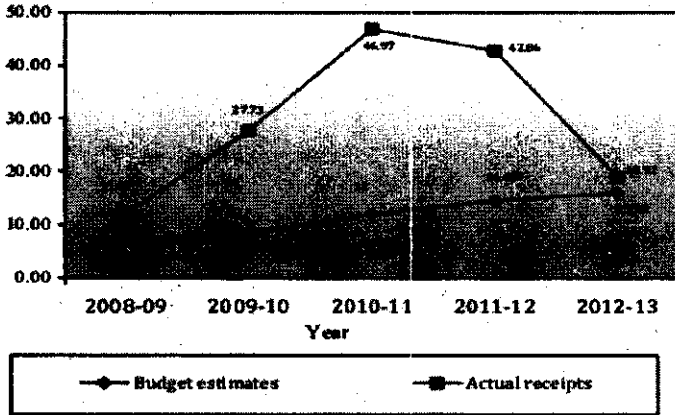
(₹ in crore)

Year	Budget Estimates	Actual Receipts	Variation	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts to total tax receipts	Percentage of growth over previous year
2008-09	7.39	11.97	(+) 4.58	(+) 61.98	15,990.18	0.07	(-) 45.71
2009-10	8.52	27.73	(+) 19.21	(+) 225.47	17,625.02	0.16	131.67
2010-11	12.00	46.97	(+) 34.97	(+)291.41	21,721.69	0.22	69.38
2011-12	14.49	42.86	(+) 28.37	(+)195.79	25,718.60	0.16	(-) 8.75
2012-13	15.98	18.92	(+) 2.94	(+)18.40	30,076.61	0.06	(-) 55.86

Source : Finance Accounts of relevant years

Budget estimates and Actual receipts

(₹ in crore)



Though the actual receipts showed an increase of 18.40 per cent over the budget estimates for the year 2012-13, there was a short fall of 55.86 per cent in the actual receipts for 2012-13 when compared to that in 2011-12. Reasons for variation called for have not been furnished (February 2014).

Arrears in AIT assessment

The Department furnished the position of arrears under AIT which is as shown below :

Opening balance	4,740
Addition during 2012-13 including remanded cases	2,755
Total	7,495
No. of assessments completed	3,022
Arrear cases – 2,129	
Current cases – 885	
Remanded cases – 8	
Closing balance	4,473

The above table shows that the Department completed 3,022 assessments which was 40.32 per cent of the arrears outstanding.

Audit recommends the Government to give direction to the Department to complete assessments which are in arrears in a time bound manner.

Impact of Audit

During the last four years, cases of inadmissible expenses, income escaping assessment, incorrect computation of income, underassessment due to assignment of incorrect status etc., with revenue implication of ₹ 76.28 crore in 178 paragraphs were pointed out. Of these, the Department/Government accepted audit observations involving ₹ 1.23 crore and had since recovered ₹ 0.29 crore. The details are shown in the following table:

Year	(₹ in crore)					
	Paragraphs included in the LARs		Paragraphs Accepted during the year		Recovery during the year	
	No.	Amount	No.	Amount	No.	Amount
2008-09	67	28.66	9	0.12	4	0.11
2009-10	39	5.57	19	0.95	11	0.12
2010-11	59	17.07	5	0.10	1	0
2011-12	13	24.98	7	0.06	7	0.06
Total	178	76.28	40	1.23	23	0.29
The amount of recovery against the amount accepted was negligible.						

Working of Internal Audit Wing

The internal audit wing (IAW) in the Commercial Taxes Department was constituted in May 2009 and commenced functioning from 1 June 2009. The wing headed by the Deputy Commissioner is assisted by three Assistant Commissioners and five Commercial Tax Officers. The Department has not prepared a separate internal audit manual. During the year 2012-13, only one unit was audited and the amount involved was not calculated.

As details of internal audit conducted were not made available by the Department, Audit could not comment on the performance of the IAW.

Results of audit

In 2012-13, Audit test checked the records of 31 units relating to AIT and noticed underassessment of tax and other irregularities involving ₹ 26.45 crore in 37 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	Income escaping assessment	16	3.40
2	Incorrect computation of tax	2	0.39
3	Inadmissible expenses	17	13.07
4	Others	2	9.59
	Total	37	26.45

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 0.55 crore in five cases out of which two cases involving ₹ 0.39 crore were pointed out in audit during the year 2012-13. No amount was realised by the Department during the year 2012-13.

A few illustrative audit observations involving 69.57 lakh are discussed in the following paragraphs:

Non-observance of provisions of Act/Rules

Scrutiny of the assessment records of AIT in Commercial Taxes Department 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 paragraph of this chapter. These cases are illustrative and are based on a test check carried out in audit. There is need for the Government to improve the internal control system including strengthening of the internal audit.

Under the KAIT Act and Rules made thereunder, for completing assessments the following aspects should be observed:

(i) tax shall be levied at the prescribed rate on the agricultural income derived by the assessee;

(ii) deductions shall be allowed on income derived subject to certain conditions; and

(iii) interest shall be levied on the balance tax payable.

It was noticed that while finalising the assessment, the Assessing Authorities did not observe certain provisions which resulted in short levy of tax and interest of ₹ 69.57 lakh as mentioned in the paragraphs 3.7.1 to 3.7.3.

Short levy of agricultural income tax due to mistake in computation of agricultural income

While computing total agricultural income, a mistake occurred in taking actual loss

• [IAC (AIT), Kottayam]

Under Section 4 of the KAIT Act, 1991, the total agricultural income of the previous years of any person comprises of all agricultural income derived from land situated within or outside the State. Under Section 12 of the Act, where any person sustain a loss as a result of computation of agricultural income for any year, the loss shall be carried forward to the following year and set off against the agricultural income of that year. Under Section 39(3) of the Act the Agricultural Income Tax Officer after taking into account all relevant information shall by an order in writing make an assessment of the assessee and determine the sum payable by him or refundable to him on the basis of such assessment.

M/s Kerala Forest Development Corporation Ltd., Kottayam filed annual return for the year 2009-10 disclosing a net agricultural loss of ₹ 7.39 lakh. The assessing authority rejected the return and finalised the assessment adding back the inadmissible expenses of ₹ 3.84 crore to the conceded loss and allowing ₹ 2 lakh towards contribution to seminar. But the conceded loss was erroneously reckoned as ₹ 73.93 lakh against the actual loss of ₹ 7.39 lakh. The mistake in computation resulted in income escaped from assessment amounting to ₹ 66.54 lakh and resulted short levy of AIT of ₹ 33.27 lakh.

The case was pointed out (November 2012) to the Department and reported to the Government in March 2013. Government stated (December 2013) that mistake was rectified (January 2013) creating additional demand of ₹ 33.27 lakh. Further report has not been received (February 2014).

- [IAC (AIT), Kottayam]

M/s Kailas Rubber Company, Kottayam filed annual return for 2009-10 disclosing net agricultural income of ₹ 12.27 lakh. The assessing authority rejected the return and finalised the assessment adding back inadmissible expenses of ₹35.44 lakh. The net agricultural income was allowed to set off against the carry forward losses of previous years. But while fixing the net agricultural income, the assessing authority omitted the income of ₹ 12.27 lakh conceded by the assessee and fixed the agricultural income as ₹ 35.44 lakh against the actual income of ₹ 47.71 lakh. The mistake in computation resulted in escape of income of ₹ 12.27 lakh from assessment and in short levy of AIT of ₹ 6.13 lakh. The case was pointed out (November 2012) to the Department and reported to the Government in March 2013. Government stated (December 2013) that mistake was rectified (January 2013) refixing the net agricultural income. Further report has not been received (February 2014).

Short levy of AIT due to excess deduction of replantation allowance

Assessing authority allowed replantation allowance more than what was admissible as per KAIT Rules.

• [IAC (AIT), Kottayam]

As per Section 5(m) of KAIT Act, 1991, agricultural income of a person shall be computed after deducting replantation allowance, subject to such limits, conditions or restrictions as may be prescribed. As per Rule 3 of KAIT Rules, 1991 replantation allowance for rubber and tea shall be limited to actual expenses incurred and not exceeding 2.5 per cent and 1.5 per cent respectively of the agricultural income of the previous year.

As per the P & L accounts of M/s Malankara Plantations, Kottayam, a domestic company, for the previous year 2008-09, the agricultural income derived from rubber and tea were ₹ 8.23 crore and ₹ 4.21 crore respectively. Hence as per rules, the admissible replantation allowances were ₹ 20.58 lakh (2.5 per cent of ₹ 8.23 crore) and ₹ 6.31 lakh (1.5 per cent of ₹ 4.21 crore) respectively for rubber and tea. They claimed deduction of ₹ 35.93 lakh and ₹ 80.27 lakh respectively in their annual returns towards replantation allowances for rubber and tea during 2009-10. The assessing authority finalised (December 2011) the assessment fixing the net agricultural income of ₹ 1.59 crore allowing the above deduction. The excess deduction of replantation allowance resulted in short levy of AIT of ₹ 27.18 lakh.

The case was pointed out (December 2012) to the Department and reported to the Government (May 2013). Their reply has not been received (February 2014).

Non-levy of interest on belated payment of agricultural income tax

Interest leviable under KAIT Act was not levied on belated payment of advance tax.

- [IAC (AIT), Kottayam]

As per Section 37(1) of KAIT Act, 1991 every person liable to furnish a return under the Act shall pay tax of previous year on or before the end of February of the previous year on the estimated total agricultural income which shall not be less than eighty per cent of the total agricultural income as per return. As per Section 37(4) of the Act, any person who fails to pay tax, under the Section is liable to pay interest at the rate of 12 percent per annum for every month of delay or part thereof, on the unpaid balance tax.

M/s Tropical Plantations Ltd., Kottayam, an assessee company conceded net taxable income of ₹ 74.78 lakh for the year 2006-07. The tax due amounting to ₹ 37.39 lakh was remitted on 1 January 2007. While completing the AIT assessments, the assessing authority did not levy interest on the advance tax due amounting to ₹ 29.91 lakh on the agricultural income of ₹ 59.83 lakh (80 per cent of ₹ 74.78 lakh) which had to be paid on or before 28 February 2006. Non-levy of interest for the period from 1 March 2006 to 31 December 2006 worked out to ₹ 2.99 lakh.

The case was pointed out (December 2009) to the Department and reported to the Government in March 2010. Government stated (March 2013) that interest due for the above period was demanded during December 2012. Further report has not been received (February 2014).

[Audit Paragraphs 3.1 to 3.7.3 contained in the report of the C & AG of India (Revenue Sector) for the year ended 31st March 2013.]

Notes received from the Government on the above audit paragraph is included as Appendix II.

(1) Senior Audit Officer, from State Goods and Services Taxes Department informed that 14 cases were being taken for consideration and in most cases action had already been taken to settle the issues, in certain cases appeals were filed and in some other cases amount had been adjusted.

(2) To a query from the committee regarding the errors in calculation and mistakes in the methods for assessment, the Secretary, Taxes Department replied that all mistakes had been rectified and the number of cases were decreasing and it was reduced to 287 from 446.

(3) The Committee opined that the department should give general direction regarding the internal audit in consultation with the Accountant General. The Committee appreciated the performance of Taxes Department for their more serious responses to the AG's observation than any other department.

(4) The Committee considered the audit paragraphs related to Tax Administration, Trend of receipts, Arrears in AIT assessment, Impact of Audit, Working of Internal Audit wing, Results of Audit and non observance of provision of Act/Rules. The Committee approved the Remedial Measures Taken statement furnished by the Government.

(5) While considering the audit paragraph about short levy of agricultural income tax due to mistake in computation of agricultural income, the Senior Audit Officer informed that Kerala Forest Development Corporation had filed annual return for the year 2009-10 showing a net agricultural loss of ₹ 7.39 lakh, but an error occurred while computing the agricultural income and the conceded loss was erroneously reckoned as ₹ 73.93 lakh against the actual loss of ₹ 7.39 lakh resulted in short levy of Agricultural Income Tax of ₹ 33.27 lakh. He added that the mistake had been rectified and the amount had been adjusted.

(6) The Committee queried about the second appeal filed by the Department. The witness, Joint Commissioner, State Goods and Services Taxes Department informed that the appeal was not against the AG's objection but against the

disallowing of certain exemptions availed in the self assessment return by the Appellate Authority. She also added that the issues of Kailas Rubber Company had been settled. The income had been re-fixed and adjusted to the loss carried forward from the previous year. The Committee approved the facts furnished by the Department.

(7) While considering short levy of AIT due to excess deduction of replantation allowance the committee approved the notes furnished by the Department.

(8) Regarding the audit observation about non-levy of interest on belated payment of agricultural income tax the witness, Joint Commissioner, State Goods and Service Tax Department informed that the amount had been adjusted from the excess payment at their credit.

Conclusion/Recommendation

No comments.

Audit Report March 2014

Tax administration

The levy and collection of taxes on agricultural income is governed by The Kerala Agricultural Income Tax (KAIT) Act, 1991 and is administered by Commissioner of Commercial Taxes (CCT). The assessment, levy and collection are done by Inspecting Assistant Commissioners (IAC), Agricultural Income Tax and Commercial Tax Officers (AIT & CTO). The Commercial Taxes Department is under the control of the Secretary to Government (Taxes) at the Government level.

The Companies and persons, who derive agricultural income within the State are liable to pay Agricultural Income Tax (AIT). In respect of Companies, tax is chargeable at the rates prescribed in the Schedule to the KAIT Act, 1991. From April 2000, persons holding landed property upto 500 hectares may opt to pay tax at compounded rate. No tax is payable on first five hectares.

Internal Audit

The details on working of internal audit wing, though called for (June 2014) have not been furnished by the Department (October 2014).

Results of Audit

In 2013-14, test check of the records of nine units relating to agricultural income tax assessments and other records showed underassessment of tax and other irregularities involving ₹ 6.65 crore in six cases which fall under the following categories given in Table.

Table

Sl. No.	Categories	(₹ in crore)	
		Number of Cases	Amount
1	Income escaped assesment	5	6.63
2	Inadmissible expenses	1	0.02
	Total	6	6.65

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 2.67 lakh in seven cases which were pointed out in audit during the earlier years. An amount of ₹ 2.61 lakh was realised in seven cases during the year 2013-14. A few illustrative cases involving ₹ 2.53 crore are discussed in the following paragraphs.

Compliance Audit observation

Short levy of AIT due to acceptance of claim for deduction from income twice

Claim of assessee for deduction of ₹ Four crore from net profit towards insurance under 'Group gratuity scheme' which has already been shown as expenditure in P&L account for computing net profit was accepted by assessing officer.

• [IAC (AIT) Kottayam]

As per Section 5(k) of KAIT Act, 1991 any sum paid during the previous year to an employee as gratuity in accordance with the provision of the Payment of Gratuity Act, 1972 less such amount if any claimed in any previous year towards provision for gratuity in respect of such employee, is an allowable deduction. Explanation II below Section 5 stipulates that in case of any deduction towards gratuity or bonus, the deduction shall be allowed in the year in which actual payment is made to the employee or to any fund recognised in this behalf by the Government, irrespective of the method of accounting less any deduction already allowed in the previous year or years in respect of the employee.

The Plantation Corporation of Kerala Limited, Kottayam, a public sector company, claimed ₹ Four crore paid against insurance premium under 'group gratuity scheme' as deduction from the net profit to arrive at the agricultural income for the previous year 2009-10 as per the statement of computation. Assessing officer accepted the claim as admissible deduction. Audit scrutiny of the accounts of the assessee revealed that the assessee had already accounted this amount as expenditure in the P&L account for arriving at the net profit along with annual insurance premium. Acceptance of the claim for deduction by the assessing officer resulted in short computation of agricultural income to the tune of ₹ Four crore and consequent short levy of AIT of ₹ two crore.

The case was pointed out in audit to the Department in December 2013 and reported to Government in February 2014. Their replies have not been received (October 2014).

Short levy of AIT due to non-reckoning of receipt of previous year against bad debt written off during preceding years.

The assessing officer did not reckon the receipt of the assessee during the previous year against the bad debt written off during preceding years.

- [IAC (AIT) Kottayam]

As per Section 4(2) (iii) of KAIT Act, 1991 any amount received in the previous year in respect of bad debts written off pertaining to any previous year, shall be deemed to be agricultural income received in the previous year.

As per the P&L account for 2009-10 of The Plantation Corporation of Kerala Limited, Kottayam, a public sector company, they received ₹ 1.38 crore as miscellaneous income which included ₹ 57.85 lakh being bad debt written off in earlier years. Though, any amount received in the previous year in respect of bad debts written off in earlier years should be deemed to be agricultural income of the year in which it is received, the assessing authority while finalising the assessment (October 2012) did not include the above income as agricultural income. This resulted in short levy of AIT of ₹ 28.92 lakh (50 per cent of ₹ 57.85 lakh).

The case was pointed out in audit to the Department in December 2013 and reported to Government in January 2014. Their replies have not been received (October 2014).

Short levy of AIT due to non-consideration of crop insurance received during the previous year

The assessing officer did not reckon the crop insurance claim received by the assessee during the previous year for computing agricultural income.

- [IAC (AIT) Kottayam]

As per Section 4(2) (ii) of KAIT Act, 1991 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 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.

The Plantation Corporation of Kerala Limited, Kottayam, a public sector company, received ₹ 1.38 crore as miscellaneous income as per their P&L account for 2009-10. Audit found that the miscellaneous income included receipt towards crop insurance of ₹ 48.35 lakh. However, while finalising the assessment for the year 2009-10 (October 2012), the assessing authority did not include ₹ 48.35 lakh as agricultural income for the year 2009-10. This resulted in short levy of AIT of ₹ 24.18 lakh.

The case was pointed out in audit to the Department in December 2013 and reported to Government in January 2014. Their replies have not been received (October 2014).

[Audit paragraph 3.1 to 3.6 contained in the report of the C & AG of India (Revenue Sector) for the financial year ended 31st March 2014]

Notes received from the Government on the above paragraphs are included as Appendix II.

(9) The committee considered and approved the notes furnished by the Government regarding the audit paragraphs relating to Tax Administration, Internal Audit, Results of Audit, short levy of AIT due to acceptance of claim for deduction from income tax, short levy of AIT due to non-reckoning of receipts of previous year against bad debt written off during preceding years, short levy of AIT due to non-consideration of crop insurance received during the previous year.

Conclusion/Recommendation

No comments.

Audit Report (March 2015)**Tax administration**

The levy and collection of taxes on agricultural income is governed by The Kerala Agricultural Income Tax (KAIT) Act, 1991 and is administered by Commissioner of Commercial Taxes (CCT). The assessment, levy and collection are done by Inspecting Assistant Commissioners (IAC), Agricultural Income Tax and Commercial Tax Officers (AIT & CTO). The Commercial Taxes Department is under the control of the Secretary to Government (Taxes) at the Government level.

The Companies and persons, who derive agricultural income within the State are liable to pay Agricultural Income Tax (AIT). In respect of Companies, tax is chargeable at the rates prescribed in the Schedule to the KAIT Act, 1991. From April 2000, persons holding landed property upto 500 hectares may opt to pay tax at compounded rate. No tax is payable on first five hectares.

Internal audit

The details on working of internal audit wing, though called for (June 2015) have not been furnished by the Department (January 2016).

Results of audit

In 2014-15, test check of the records of 32 Agricultural Income Tax and Commercial Tax Offices¹ relating to agricultural income tax assessments showed underassessment of tax and other irregularities involving ₹ 48 crore in 77 cases which fall under the following categories as given in Table

Table

Sl. No.	Categories	Number of cases	(₹ in crore)
			Amount
1	Income escaped assessment	34	15.55
2	Inadmissible expenses	36	19.86
3	Other irregularities	7	12.59
	Total	77	48.00

¹ This includes 10 offices of Inspecting Assistant Commissioner (AIT) where only AIT assessments are being done and 22 Agricultural Income Tax and Commercial Tax Offices where both sales tax and agricultural income tax assessments are being done.

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 54.21 lakh in three cases which were pointed out in audit during the earlier years. An amount of ₹ 3.69 lakh was realised in two cases during the year 2014-15, which were pointed out during previous years.

On being asked about the reason for non/short realisation of amounts even in accepted cases, the Department stated (December 2015) that the short realisation was due to the amount being adjusted towards loss which was carried forward from the previous year.

A few illustrative audit observations involving ₹ 4.93 crore are mentioned in the following paragraphs:

Loss of revenue due to non-finalisation of assessments in time

The non finalisation of assessment within the stipulated time resulted in escape of income from assessment and consequent loss of revenue.

Explanation II below Section 5 of KAIT, Act, 1991 stipulates that in case of any deduction towards gratuity or bonus, the deduction shall be allowed in the year in which the actual payment is made to the employee or to any fund recognised in this behalf by the Government irrespective of the method of accounting. As per Section 2(1) (a) of KAIT Act, 1991 any rent or revenue derived from land which is used for agricultural purposes is agricultural income. As per Section 39(6) of the KAIT Act, 1991 AIT assessment should be completed within a period of two years from the date of filing of returns.

• [IAC (AIT), Kattappana]

- M/s Kannan Devan Hills Plantations Company Private Limited, Munnar, conceded agricultural income of ₹15.35 crore and ₹ 5.28 crore for assessment years 2010-11 and 2011-12 respectively. As per Note 20 forming part of annual accounts ₹ 805.12 lakh and ₹ 845.90 lakh were charged to the P&L account of the respective years on account of Defined Contribution Benefits. Audit found that ₹ 2.48 crore and ₹ 1.57 crore being amount paid towards gratuity during 2009-10 and 2010-11 respectively were also deducted from total income in agricultural

income tax computation statement of respective years. Allowance of both expenditure as deduction in AIT computation is against the provisions of KAIT Act. This resulted in short computation of agricultural income of ₹ 2.43 crore and consequent short payment of AIT. As the assessing authority had not finalised the assessment within the stipulated time, the short levy could not be demanded from the assessee. The loss of revenue due to non-finalisation of assessment within the stipulated time worked out to ₹ 1.22 crore.

Government stated (September 2015) that as the assessing authorities failed to complete the provisional assessment within the time prescribed, the assessments became time barred by limitation and as such assessment of escaped income could not be possible. It was also stated that disciplinary action had already been initiated in respect of the delinquent officers in this case. Further report had not been received (January 2016).

- M/s Kannan Devan Hills Plantations Company Private Limited, Munnar, conceded agricultural income of ₹ 15.35 crore and ₹ 5.28 crore while filing annual return for assessment years 2010-11 and 2011-12 respectively. They received ₹ 242.72 lakh and ₹ 123.66 lakh towards income from lease of properties during the years which was credited to the P&L account. However, while computing agricultural income tax, only 60 per cent of the income from lease was reckoned as agricultural income. Hence 40 per cent of the above income amounting to ₹ 146.55 lakh escaped from assessment. As the assessing authority had not finalised the assessment within the stipulated time, the short levy could not be demanded from the assessee. The loss of revenue due to non-finalisation of assessment within the stipulated time worked out to ₹ 73.28 lakh.

Government stated (September 2015) that as the assessing authorities failed to complete the provisional assessment within the time prescribed, the assessments became barred by limitation and as such assessment of escaped income was not possible in this case and short levy could not be made good. It was also stated that disciplinary action had been initiated against the officers responsible in this case. Further report had not been received (January 2016).

There should be a mechanism in the Department to ensure that all the assessments are completed within a prescribed time period so that the assessments do not become time barred.

Short levy of AIT due to deduction of replantation allowance in excess

The assessing officer allowed replantation allowance in excess of admissibility as per the statute.

As per Section 5(m) of KAIT Act, 1991, agricultural income of a person shall be computed after deducting replantation allowance, subject to such limits, conditions or restrictions as may be prescribed. As per Rule 3 of KAIT Rules, 1991, replantation allowance for rubber and tea shall be limited to actual expenses incurred and not exceeding 2.5 per cent and 1.5 per cent respectively of the agricultural income of the previous year.

• [IAC (AIT), Mattancherry]

- M/s The Cochin Malabar Estates and Industries Ltd., Kochi, a domestic company claimed deduction of ₹ 1.23 crore and ₹ 1.24 crore towards replantation allowance for rubber and ₹ 99.58 lakh and ₹ 1.67 crore towards replantation allowance for tea during 2009-10 and 2010-11 respectively. The assessing authority finalised the assessments (December 2012 and December 2013) allowing the above deduction. Audit found that admissible replantation allowance during the years for rubber were ₹ 29.61 lakh and ₹ 40.41 lakh and that for tea were ₹ 4.63 lakh and ₹ 2.90 lakh respectively. Excess deduction of replantation allowance resulted in short levy of AIT of ₹ 1.35 crore.

Government stated (September 2015) that the Commissioner of Commercial Taxes had issued direction to the Deputy Commissioner, Mattancherry to revise the assessment based on the audit objection. Further report had not been received (January 2016).

Short payment of AIT due to inadmissible deductions allowed

The assessing authority allowed inadmissible deductions from total agricultural income.

Under Section 5(l) of the KAIT Act, 1991, the agricultural income of a person shall be computed after making deduction towards any expenditure wholly and exclusively for the purpose of deriving the agricultural income. The fee paid for RPG License will not come under the above category. As per proviso (1) to Section 39(6) of KAIT Act, 1991, in the case of assessment of agricultural income derived from rubber, coffee and manufactured tea, if the assessment under the Income Tax Act, 1961 (Central Act 43 of 1961), is not completed when the Agricultural Income Tax officer proceeds to complete the assessment, he may provisionally accept the agricultural income as per the return filed by him and revise such assessment in accordance with the order of the Income tax authority. Any sum paid to an employee as bonus and gratuity during the previous year are allowable deductions as per Section 5(i) and 5(k) of the Act. Provision for bonus and gratuity are not allowable deduction as per Section 5 of the Act. Employee's contribution towards provident fund is not an expenditure incurred by the company and hence not an allowable expenditure.

Audit noticed in December 2014 that in three cases, the assessee companies had claimed exemption/deduction from the taxable agricultural income, some expenses which were not admissible as per KAIT Act, 1991. The assessing authority while finalising assessments admitted these expenses. This resulted in short levy of AIT of ₹ 1.54 crore as given in following paragraphs.

- [IAC (AIT), Mattancherry]

- M/s Harrison's Malayalam Ltd., Cochin, an assessee company filed their annual return for the assessment year 2010-11 conceding a loss of ₹ 2.63 crore. In arriving at the taxable agricultural income, the assessee claimed exemption towards RPG license fee in respect of manufactured tea and rubber for ₹ 1.35 crore and ₹ 97.64 lakh respectively. The claim for exemption was allowed by the assessing authority while completing

the assessment. Though the income tax authorities disallowed these deductions while finalising income tax assessment, the assessing authority failed to revise the assessment based on the Income Tax assessment orders. This resulted in incorrect allowance of expenditure to the tune of ₹ 2.32 crore and consequent short levy of tax of ₹ 72.12 lakh.

The Commissioner of Commercial Taxes had issued direction to the Deputy Commissioner, Mattancherry to complete the final assessment immediately. Further report had not been received (January 2016).

• **[IAC (AIT), Kattappana]**

- M/s Hope Plantations, Peermade, an assessee company while furnishing their annual return for the assessment year 2010-11 claimed ₹ 35.14 lakh and ₹ 47.30 lakh towards provision for bonus and gratuity respectively, as deduction from total agricultural income in the income computation statement which were not allowable as per KAIT Act, 1991. Audit found that the net income arrived at was after charging the above expenditure in the P&L account. The IAC (AIT), Kattappana while completing the assessment (March 2013) allowed the above deductions, instead of adding back the same, being ineligible expenditure. Incorrect computation of income resulted in escape of agricultural income to the tune of ₹98.93 lakh and consequent short levy of tax of ₹ 49.46 lakh.

Government stated (September 2015) that assessment under Section 41(1) or KAIT Act, 1991 had been completed (August 2015) with total demand of ₹ 75.29 lakh incorporating other defects pointed out by Audit also and demand notice had been issued to the dealer. Further report had not been received (January 2016).

- M/s Hope Plantations, Peermade, an assessee company furnished their annual return for the assessment year 2010-11, claiming deductions of ₹ 54.69 lakh and ₹ 53.38 lakh towards employer's contribution to provident fund and employee's contribution to provident fund respectively from agricultural income. The assessing authority completed the assessment allowing the deductions claimed by the

assessee. Audit found that the P&L account of the assessee had already been debited with ₹ 59.55 lakh being expenditure incurred towards employer's contribution to provident fund. Hence the deduction of ₹ 54.69 lakh claimed from the net income towards employer's contribution was not admissible. Further, deduction of ₹ 53.38 lakh claimed by the assessee towards employee's contribution was not an expenditure incurred by the assessee and hence should have been disallowed. The failure of assessing authority to disallow above deductions resulted in escape of agricultural income to the tune of ₹ 64.84 lakh being 60 per cent of the above admissible deductions and consequent short levy of tax of ₹ 32.42 lakh.

Government stated (September 2015) that assessment under Section 41(1) of KAIT Act, 1991 had been completed (August 2015) with total demand of ₹ 75.29 lakh incorporating other defects pointed out by Audit also and demand notice had been issued to the dealer. Further report had not been received (January 2016).

Loss of interest on admitted tax

Interest for belated payment of advance tax was not levied and payment received were not appropriated first towards interest due.

- [IAC (AIT), Kattappana]

As per Section 37(1) of KAIT Act, 1991, every person liable to furnish a return under the Act shall pay tax of previous year on or before the end of February of the previous year on the estimated total agricultural income which shall not be less than eighty per cent of the total agricultural income as per return. As per Section 37(4) of the Act, any person who fails to pay tax, under the Section is liable to pay interest at the rate of 12 per cent per annum for every month of delay or part thereof, on the unpaid balance tax. As per Section 91 A of the Act, where any tax or any other amount due or demanded is paid by an assessee, the payment so made shall be appropriated first towards interest accrued on such tax or other amount on such date of payment and the balance available shall be appropriated towards principal outstanding.

- M/s Kannan Devan Hills Plantations Company Private Limited, Munnar, filed (February 2012) annual return for the year 2010-11 conceding total agricultural income of ₹ 15.35 crore and AIT due as ₹ 7.26 crore. Against the advance tax payable of ₹ 5.80 crore (being 80 per cent of admitted tax) the assessee paid ₹ 5.75 crore only. Non-payment of advance tax attracts levy of interest at 12 per cent per annum. Audit found that interest was not levied on unpaid advance tax. Further, payments made by the assessee amounting to ₹ 1.50 crore subsequently were not appropriated first towards interest. Non levy of interest and non appropriation of payments resulted in loss of revenue of ₹ 8.96 lakh.

Government stated (August 2015) that there was an excess payment of ₹ 44.06 lakh for the year 2009-10 and that amount could have been adjusted for the interest dues for the year 2010-11. It was also stated that the assessments for the years 2010-11 and 2011-12 had not been completed under Section 39(3) of the KAIT Act, 1991 and that became barred by limitation. Since the assessment is time barred the amount could not be realised. But Government did not inform as to why no action had been taken against the delinquent officer for allowing assessment to become time barred causing loss to Government.

Though similar observations were made in the previous Audit Reports, such lapses still recur. Government/Department had not evolved an effective system to ensure that the AIT assessments are completed in a timely manner.

[Audit paragraphs 3.1 to 3.7 contained in the report of the C & AG of India (Revenue Sector) for the year ended 31st March 2015]

Notes received from the Government on the above audit paragraph is included as Appendix II.

(10) The Committee considered the audit paragraphs about Tax Administration, Internal Audit, Results of Audit and Approved the notes furnished by the Government.

(11) Considering the para about, loss of revenue due to non-finalisation of assessment in time, the Committee observed that certain mistakes had been pointed out by the audit. The assessment should have been completed within the stipulated time of two years from the date of filing of returns. The assessing authority failed to complete even the provisional assessment which resulted in escape of income. The witness Joint Commissioner revealed that the Company, Kannan Devan Hills Plantations Company Private Ltd. was at loss at that period and the net loss had been worked out to be ₹ 2.88 crore that would cover up the short levy of ₹ 1.95 crore. Moreover there was an excess payment of ₹ 9 lakh by the Company. Hence there would not incur any revenue loss as the short levy could be adjusted against the above figures.

(12) The Committee enquired about the circumstances under which the disciplinary action against Shri Abdul Kareem had been dropped. The Joint Commissioner State Goods and Services Tax Department replied that the concerned official was not found to be incharge of duty during the particular period and hence the disciplinary action against him was dropped.

(13) Regarding the paragraph based on short payment of AIT due to inadmissible deductions allowed, the Senior Audit Officer informed that it was quite common to find mistakes and resultant short levy in almost all the cases of assessment. The Committee expressed its serious concern over the widely sustained mistakes that occurred while assessing agricultural income tax. The witness from the department replied that mistakes of such types were compiled and necessary circulars in this regard were issued to rectify the defects. In 2016-17 itself disciplinary action was taken in 25 cases. He added that there also existed deficiency in capacity as there were only a few number of offices for agricultural income tax. Besides inexperience of some officers also contributed to these contraventions. The Committee opined that not mere the inexperience cause mistakes but seemed susceptible to deliberate attempts for false assessments. The Committee directed the department that utmost care should be taken and strict adherence to the provisions should also be observed in the initial assessment itself.

(14) The Committee approved the RMT furnished by the department on the short levy of ₹ 72.12 lakh and ₹ 32.42 lakh pertaining to the AIT assessment M/s Harrison Malayalam Ltd. Cochin and M/s Hope Plantations, Peermade respectively.

(15) While considering Loss of interest on admitted Tax, the Committee remarked as it was vivid that M/s Kannan Devan Hills Plantations Company Private Limited, Munnar had not paid the advance tax in due time and that the interest was not levied on unpaid advance tax which resulted in loss of revenue of ₹ 8.96 lakh. The department officials clarified that the advance tax and the interest payable were adjusted from the excess tax paid by the assessee for the previous year. The Committee approved the reply furnished by the government on loss of interest on admitted tax. The Committee directs that the department should furnish the RMT statements in time.

Conclusion / Recommendation

(16) The Committee opined that finalisation of assessment of agricultural income tax must be completed within the stipulated time frame. The Committee express its concern over the fact that several mistakes were occurred deliberately during the assessment of agricultural income tax. The Committee suspects that not mere inexperience of some officers caused mistakes but there may be deliberate omissions. The Committee urges the department that utmost care should be taken and strict adherence of provisions should be observed while assessing the agricultural income tax.

(17) The committee direct the State Goods and Services Taxes Department to furnish all the Remedial measures taken statements within the stipulated time for AG to prepare Memo of Important Points.

Thiruvananthapuram,
1st July, 2019.

V. D. SATHEESAN,
Chairman,
Committee on Public Accounts.

APPENDIX I

SUMMARY OF MAIN CONCLUSIONS /RECOMMENDATIONS

Sl. No.	Para. No.	Department Concerned	Conclusions/Recommendations
1	16	Commercial Taxes	The Committee opined that finalisation of assessment of agricultural income tax must be completed within the stipulated time frame. The Committee express its concern over the fact that several mistakes were occurred deliberately during the assessment of agricultural income tax. The Committee suspects, that not mere inexperience of some officers caused mistakes but there may be deliberate omissions. The Committee urges the department that utmost care should be taken and strict adherence of provisions should be observed while assessing the agricultural income tax.
2	17	Commercial Taxes	The committee direct the State Goods and services taxes department to furnish all the Remedial measures taken statements within the stipulated time for AG to prepare Memo of Important Points.

APPENDIX II

THE NOTES FURNISHED BY GOVERNMENT

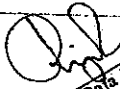
ACTION TAKEN NOTES ON C & AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Tax Administration
	(c)	Paragraph No.	3.1
	(d)	Report No. and Year	C & AG report for the year ended March 2015.
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	The companies and persons, who derive agricultural income within the state are liable to pay agricultural income tax (AIT). In respect of Companies, tax is chargeable at the rates prescribed in the Shedule to the KAIT Act, 1991. From April 2000, persons holding landed property upto 500 hectares may opt to pay tax at compounded rate. No tax is payable on first five hectares.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

VI

REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal controls.	No Remarks
Recovery of over payment pointed out by audit	
(c) Recovery of under assessment, short levy or other dues	
(d) Modification in the schemes and programmes including financing pattern	
(e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	


 R. Raja Gopal
 Additional Secretary
 Taxes Dept.

ACTION TAKEN NOTES ON C & AG'S REPORTS

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Internal Audit
	(c)	Paragraph No.	3.2
	(d)	Report No. and Year	C & AG report for the year ended March 2015.
I	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
II		Gist of Paragraph/Review	The details on internal audit wing, though called for (June 2015) have not been furnished by the Department (January 2016)
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

REMEDIAL ACTION TAKEN

VI

- (a) Improvement in system and procedures, including internal controls.

Internal Audit Wing was organized as per Order No.AI-21044/09/CT dated 18-05-2009 by the Commissioner, Commercial Taxes Department and the wing was started functioning with effect from 01-06-2009 with a staff strength of one Deputy Commissioner, 2 Assistant Commissioners and 5 Commercial Tax Officers.


In Para 230 of the Revised Budget Speech 2016, the Honourable Finance Minister announced about strengthening of the Internal Audit wing by including Audit Assessment Wing. Presently, the Internal Audit Wing of the department is headed by one Deputy Commissioner, comprising of 10 Assistant Commissioners and 17 Commercial Tax Officers along with sub-ordinate staff.

The result of Audit conducted in various offices from 2009-10 onwards is extracted here under:-

Office	From-To	No. of Paras	Settled	Balance
AIT & CTO Kalpetta	7-2-11 to 11-2-11	7	4	3
IAC (AIT) Idukki	12-3-12 to 17-3-12	2	0	2
AIT & CTO Kanjirappally	8-10-12 to 12-10-12	7	1	6
AIT & CTO Alappuzha	1-7-2013 to 6-7-2013	17	1	16
AIT & CTO Kalpetta	7-10-2013 to 11-10-2013	4	1	3
AIT & CTO Kuthiyathode, Alappuzha	6-1-2014 to 10-1-2014	10	6	4

AIT & CTO Alappuzha	6-4-2015 to 10-4-2015	10	2	8
AIT & CTO Sulthanbethery	15-02-2015 to 20-02-2016	42	1	41
AIT & CTO Devikulam	1-07-2016 to 8-7-2016	19	0	19
AIT & CTO Mananthavadi	13-03-2017 to 18-3-2017	15	0	15

- (b) Recovery of over payment pointed out by audit
- (c) Recovery of under assessment, short levy or other dues
- (d) Modification in the schemes and programmes including financing pattern
- (e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.


 R. Raja Gopal
 Additional Secretary
 Taxes

ACTION TAKEN NOTES ON C & AG'S REPORTS

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Results of Audit
	(c)	Paragraph No.	3.3
	(d)	Report No. and Year	C & AG report for the year ended March 2015.
I	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	In 2014-15, test check of the records of 32 Agricultural Income Tax and Commercial Tax Offices relating to agricultural income tax assessments showed underassessment of tax and other irregularities involving Rs.48 crore in 77 cases. During the course of the Year, the department accepted underassessment and other deficiencies of Rs.54.21 lakh in three cases which were pointed out in audit during the earlier years. An amount of Rs.3.69 lakh was realised in two cases during the year 2014-15, which were pointed out during previous years.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

VI

REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal controls.	Observation of Audit relates to the period of 2014-15. As far as the C&AG report ended 31-3-2015 concerned, the short levy involved is Rs.48 crore in 77 cases. With respect to the short levy pointed out by the Accountant General reports have been submitted. Action is being taken to collect the amount where the audit objections are accepted and assessments are completed/revised subsequently and created additional demand.
Recovery of over payment pointed out by audit	
(c) Recovery of under assessment, short levy or other dues	
(d) Modification in the schemes and programmes including financing pattern	
(e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	


 E. Raja Gopal
 Additional Secretary
 Taxes Deptt.

ACTION TAKEN NOTES ON C & AG'S REPORTS

	(a) Department	COMMERCIAL TAXES
	(b) Subject/Title of the Review Paragraph	Loss of Revenue due to non-finalisation of assessments in time
	(c) Paragraph No.	3.4(a)
	(d) Report No. and Year	C & AG report for the year ended March 2015.
	(a) Date of receipt of the Draft Para / Review in the Department	
	(b) Date of Department's Reply	
I	Gist of Paragraph/Review	<p>M/s Kannan Devan Hills Plantations Company Private Limited, Munnar, conceded Agricultural income of Rs.15.35 crore and Rs.5.28 crore for assessment years 2010-11 and 2011-12 respectively. As per Note 20 forming part of annual accounts Rs.805.12 lakh and 845.90 lakh were charged to the P&L Account of the respective years on account of Defined Contribution Benefits. Audit found that Rs.2.48 crore and Rs.1.57 crore being amount paid towards gratuity during 2009-10 and 2010-11 respectively were also deducted from total income in Agricultural Income Tax computation statement of respective years. Allowance of both expenditure as deduction in AIT Computation is against the provisions of KAIT Act. This resulted in short computation of agricultural income of Rs.2.43 crore and consequent short payment of AIT. As the assessing authority had not finalised the assessment within the stipulated time, the short levy could not be demanded from the assessee. The loss of revenue due to non-finalisation of assessment within the stipulated time worked out to Rs.1.22 crore. As the assessing authorities failed to complete</p>

			the provisional assessment within the time prescribed, assessments became time barred by limitation and as such assessment of escaped income could not be possible. Disciplinary action had already been initiated in respect of the delinquent officers in this case.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

VI

REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal controls.	Disciplinary Action has been initiated against Sri. Abdul Kareem DC (Rtd), Sri. V. Mohandas IAC (Rtd), Sri. N. Vasudéva Kammath DC, (Rtd) by issuing show cause notice by government as per letter No.Taxes-D1/217/2015 dated 23-12-2015. Action initiated against Sri.Abdul Kareem, DC (Rtd) was finalised as 'dropped' as per GO(Rt)No.36/2017/TAXES dated 17-1-2017 of the Taxes (D) Department. But the Disciplinary action initiated against Sri. V. Mohandas, IAC (Rtd), Sri. N. Vasudeva Kammath,DC (Rtd) in the same case is still pending with the Government. As required by the Government, the Commissioner has recommended for authorizing Sri.A.Nazarudeen Deputy Commissioner (Kottayam) as enquiry officer under KCS(CC&A)Rules, 1960. The matter is ^{being done} pending with Government. <i>(Handwritten signature)</i>
Recovery of over payment pointed out by audit	
(c) Recovery of under assessment, short levy or other dues	
(d) Modification in the schemes and programmes including financing pattern	
(e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

(Handwritten Signature)
 R. Raja Gopal
 Additional Secretary
 Taxes Dept

ACTION TAKEN NOTES ON C. & AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Loss of Revenue due to non-finalisation of assessments in time
	(c)	Paragraph No.	3.4(b)
	(d)	Report No. and Year	C & AG report for the year ended March 2015.
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>M/s Kannan Devan Hills Plantations Company Private Limited, Munnar, conceded Agricultural income of Rs.15.35 crore and Rs.5.28 crore while filing annual return for assessment years 2010-11 and 2011-12 respectively. They received Rs.242.72 lakh and Rs.123.66 lakh towards income from lease of properties during the years which was credited to the P&L Account. However, while computing Agricultural Income Tax, only 60% of the income from lease was reckoned as Agricultural income. Hence 40% of the above income amounting to Rs.146.55 lakh escaped from assessment. As the assessing authority had not finalised the assessment within the stipulated time the short levy could not be demanded from the assessee. The loss of revenue due to non-finalisation of the assessment within the stipulated time worked out to Rs.73.28 lakh.</p> <p>As the assessing authorities failed to complete the provisional assessment within the time prescribed, the assessments became barred by limitation and as such assessment of escaped</p>

			income was not possible in this case and short levy could not be made good. Disciplinary action had been initiated against the officers responsible in this case.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	


VI

REMEDIAL ACTION TAKEN

- (a) Improvement in system and procedures, including internal controls.
- Disciplinary Action has been initiated against Sri. Abdul Kareem DC (Rtd), Sri. V. Mohandas IAC (Rtd), Sri. N. Vasudev Kammath DC, (Rtd) by issuing show cause notice by government as per letter No.Taxes-D1/217/2015 dated 23-12-2015. Action initiated against Sri.Abdul Kareem, DC (Rtd) was finalised and 'dropped' as per GO(Rt)No.36/2017/TAXES dated 17-1-2017 of the Taxes (D) Department. But the Disciplinary action initiated against Sri. V. Mohandas, IAC (Rtd), Sri. N. Vasudev Kammath,DC (Rtd) in the same case is ^{being process-} still pending with the Government. As required by the Government, the Commissioner has recommended for authorizing Sri.A.Nazarudeen Deputy Commissioner (Kottayam) as enquiry officer under KCS(CC&A)Rules, 1960. The matter is ^{still} pending with Government.

Recovery of over payment pointed out by audit

- (c) Recovery of under assessment, short levy or other dues
- (d) Modification in the schemes and programmes including financing pattern
- (e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.


 Deputy Commissioner
 Kottayam District
 Taxes Dept.

ACTION TAKEN NOTES ON C & AG'S REPORTS

(a)	Department	COMMERCIAL TAXES
(b)	Subject/Title of the Review Paragraph	Short levy of AIT due to deduction of replantation allowance in excess
(c)	Paragraph No.	3.5
(d)	Report No. and Year	C & AG report for the year ended March 2015.
(a)	Date of receipt of the Draft Para / Review in the Department	
(b)	Date of Department's Reply	
	Gist of Paragraph/Review	M/s The Cochin Malabar Estates and Industries Ltd, Kochi a domestic company claimed deduction of Rs.1.23 crore and Rs.1.24 crore towards replantation allowance for Rubber and Rs.99.58 lakh and Rs.1.67 crore towards replantation allowance for tea during 2009-10 and 2010-11 respectively. The assessing authority finalised the assessments (December 2012 and December 2013) allowing the above deduction. Audit found that admissible replantation allowance during the years for rubber were Rs.29.61 lakh and Rs.40.41 lakh and that for tea were Rs.4.63 lakh and Rs.2.90 lakh respectively. Excess deduction of replantation allowance resulted in short levy of AIT of Rs.1.35 crore.
(a)	Does the Department agree with the facts and figures included in the paragraph?	
(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
(a)	Does the Department agree with the Audit conclusions?	
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal controls.

M/s. Cochin Malabar Estates & Industries Ltd., Kochi is a domestic Company who is an assessee under Agricultural Income Tax Act on the rolls of the Inspecting Assistant Commissioner, Mattancherry.


The assessee filed their annual return declaring an agricultural loss of Rs.93,01,839/- for the assessment year 2010-11. The audit objection is that the company claimed deduction of replantation expenditure of Rs.1,23,56,632/- for Rubber and Rs.99,58,204/- for Tea. As per rule 3 of KAIT Rules 1991, the assessee was eligible only for Rs.29,60,795/- (2.5% of Rs.11,84,31,822/-) for Rubber and Rs.4,63,481/- (1.5% of Rs.3,08,98,778/-) for Tea. This excess claim resulted in a short levy of AIT for Rs.59,02,063/- (Rs.3053647 + Rs.2848416/-) for the year 2010-11. Based on the audit objection, the amount was completed vide order No. 239000106/10-11 dated 30.01.2016 and the net income for the year was fixed as Rs.2,90,21,237/-. The net income was adjusted towards the net loss carried forwarded from previous years in accordance with section 12 of AIT act and after adjusting there is no taxable income exists for the period.

For the year 2011-12, the assessee filed Annual return declaring agricultural income of Rs.39,87,314 and the company claimed deduction of replantation expenditure of Rs.1,24,12,910/- for Rubber and Rs.1,66,59,300/- for Tea. As per rule 3 of KAIT Rules 1991, the assessee was eligible only for Rs.40,40,735/- (2.5% of Rs.16,16,29,425/-) for Rubber and Rs.2,90,346/- (1.5% of Rs.1,93,56,404/-) for Tea. This excess claim resulted in a short levy of AIT for Rs.76,31,642/- (Rs.2720956 + Rs.4910686/-) for the year

2011-12. Based on the audit objection the assessment was completed vide Order No. 239000106/11-12 dated 30.01.2016 and the net income for the year was fixed as Rs.3,12,60,529/-. The net income was adjusted towards the net loss carried forwarded from previous years in accordance with section 12 of AIT act and after adjusting there is no taxable income exists for the period.

Recovery of over payment pointed out by audit


- (c) Recovery of under assessment, short levy or other dues
- (d) Modification in the schemes and programmes including financing pattern
- (e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of


 R. Raja Gopal
 Additional Secretary
 Taxes Dept

ACTION TAKEN NOTES ON C & AG'S REPORTS

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short payment of AIT due to inadmissible deductions allowed.
	(c)	Paragraph No.	3.6(1)
	(d)	Report No. and Year	C & AG report for the year ended March 2015.
I	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	M/s Harrisons Malayalam Ltd., Cochin, an assessee company filed their annual return for the assessment year 2010-11 conceding a loss of Rs.2.63 crore. In arriving at the taxable agricultural income, the assessee claimed exemption towards RPG Licence fee in respect of manufactured tea and rubber for Rs.1.35 crore and Rs.97.64 lakh respectively. The claim for exemption was allowed by the assessing authority while completing the assessment. Though the income tax authorities disallowed these deductions while finalising income tax assessment, the assessing authority failed to revise the assessment based on the income tax assessment orders. This resulted in incorrect allowance of expenditure to the tune of Rs.2.32 crore and consequent short levy of tax of Rs.72.12 lakh.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal controls.	<p>Based on the audit objection, the assessment has been revised vide order No.23900055/2010-11 dated 8-01-2016. While revising the assessment the assessing authority has disallowed the following expenses claimed by the assessee company.</p> <p>1.Retainer fee from tea :Rs. 21,63,478/- 2.Retainer fee from rubber :Rs.16,99,662/- 3.Professional charges from tea :Rs.1,25,86,264/- 4.Professional charges from rubber :Rs.98,87,963/- 5.License fee received :Rs.1,02,98,417/- 6.Replantation allowance :Rs.6,86,67,077/- 7.RPG license fee in respect of tea :Rs.80,78,302/- 8.RPG license fee in respect of rubber :Rs.63,46,438/- Total :Rs.11,97,27,601/-</p> <p>The assessing authority determined the net income fixed Rs.9,33,99,773/- as against the net loss fixed by the assessee company of Rs.2,63,27,828/-. This net income was adjusted towards the carry forward loss of Rs.9,33,99,773/- from the previous year. After adjusting the loss carry forward, there was no taxable agricultural income. Hence there is no short levy of agricultural income tax in this case.</p>
(b) Recovery of over payment pointed out by audit	
(c) Recovery of under assessment, short levy or other dues	
(d) Modification in the schemes and programmes including financing pattern	
(e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

ACTION TAKEN NOTES ON C & AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short payment of AIT due to inadmissible deductions allowed.
	(c)	Paragraph No.	3.6(2)(a)
	(d)	Report No. and Year	C & AG report for the year ended March 2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	M/s Hope Plantations, Peermade, an assessee company while furnishing their annual return for the assessment year 2010-11 claimed Rs.35.14 lakh and Rs.47.30 lakh towards provision for Bonus and Gratuity respectively as deduction from total agricultural income in the income computation statement which were not allowable as per KAIT Act,1991. Audit found that the net income arrived at was after charging the above expenditure in the P&A Account. The IAC (AIT), Kattappana while completing the assessment (March 2011) allowed the above deductions, instead of adding back the same, being ineligible expenditure. Incorrect computation of income resulted in escape of agricultural income to tune of Rs.98.93 lakh and consequent short levy of tax of Rs.49.46 lakh.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

REMEDIAL ACTION TAKEN

VI

- (a) improvement in system and procedures, including internal controls.
- The original assessment in respect of M/s Hope Plantation for the year 2010-11 was completed on 30-03-2013. The turnover assessed was Rs.67,58,310/- as Net Loss. Based on the audit objection, the assessment modified under Section 41 of AIT dated 26-08-2015 with a demand of tax of Rs.75,28,936/-. The company filed writ petition before the Hon'ble High Court of Kerala against this order and as per WP(C) 1425 of 2016(C) dated 14-01-2016 the Hon'ble High Court quashed the order and directed the assessing authority to complete the assessment under the Kerala AIT Act for the assessment year 2010-2011 afresh after hearing the petitioner. Accordingly assessment was modified on 18-07-2016 with a net loss of Rs.1,47,78,024. Meanwhile the assessee produced copy of Central Income Tax assessment order for the year 2010-11. As per Income Tax Assessment order, Net income of the company for the year 2010-11 was Rs.1,01,65,272. In the Income Tax assessment order the expenses such as provision for Bonus and gratuity and employers and employees contribution to provident fund were added back in the computation of total income. On the basis of the Income Tax assessment order, the AIT assessment for the year 2010-11 was revised as follows:-
- | | |
|---|-----------------------------|
| Net Income Fixed for the year 2010-11 by the income tax authorities | : Rs.1,01,65,272.00 |
| Out of this 60% is the AIT income | :Rs.60,99,163.00 |
|
AIT income adjusted to loss
for the year 2008-09 (Rs. 89,36,125) |
<u>:Rs.60,99,163.00</u> |
| Taxable AIT income | NIL |
- (b) Recovery of over payment pointed out by audit

(c)	recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	--


R. Raja Gopal
Additional Secretary
Taxes Dept

ACTION TAKEN NOTES ON C & AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short payment of ATT due to inadmissible deductions allowed.
	(c)	Paragraph No.	3.6(2)(b)
	(d)	Report No. and Year	C & AG report for the year ended March 2015.
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>M/s Hope Plantations, Peermade, an assessee company while furnishing their annual return for the assessment year 2010-11, claiming deductions of Rs.54.69 lakh and Rs.53.38 lakh towards employer's contribution to provident fund and employees contribution to provident fund respectively from agricultural income. The assessing authority completed the assessment allowing the deductions claimed by the assessee. Audit found that the P&L Account of the assessee had already been debited with Rs.59.55 lakh being expenditure incurred towards employers contribution to provident fund. Hence the deduction of Rs.54.69 lakh claimed from the net income towards employer's contribution was not admissible. Further, deduction of Rs.53.38 lakh claimed by the assessee towards employees contribution was not an expenditure incurred by the assessee and hence should have been disallowed. The failure of assessing authority to disallow the above deduction resulted in escape of agricultural income to the tune of Rs.64.84 lakh being 60% of the above</p>


			inadmissible deductions and consequent short levy of tax of Rs.32.42 lakh.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

VI

REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal controls.	<p>The original assessment in respect of M/s Hope Plantation for the year 2010-11 was completed on 30-03-2013. The turnover assessed was Rs.67,58,310/- as Net Loss. Based on the audit objection, the assessment modified under Section 41 of AIT dated 26-08-2015 with a demand of tax of Rs.75,28,936/-. The company filed writ petition before the Honourable High Court of Kerala against this order and as per WP(C) 1425 of 2016(C) dated 14-01-2016 the Hon'ble High Court quashed the order and directed the assessing authority to complete the assessment under the Kerala AIT Act for the assessment year 2010-2011 afresh after hearing the petitioner. Accordingly assessment was modified on 18-07-2016 with a net loss of Rs.1,47,78,024. Meanwhile the assessee produced copy of Central Income Tax assessment order for the year 2010-11. As per Income Tax Assessment order, Net income of the company for the year 2010-11 was Rs.1,01,65,272. In the Income Tax assessment order the expenses such as provision for Bonus and gratuity and employers and employees contribution to provident fund were added back in the computation of total income. On the basis of the Income Tax assessment order, the AIT assessment for the year 2010-11 was revised as follows:-</p>
	<p>Net Income Fixed for the year 2010-11 by the income tax authorities Rs.1,01,65,272.00 Out of this 60% is the AIT income :Rs.60,99,163.00 AIT income adjusted to loss for the year 2008-09 (Rs. 89,36,125) :Rs.60,99,163.00 Taxable AIT income NIL</p>

	Recovery of over payment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	--


R. Raja Gopal
Additional Secretary
Tamil Nadu

ACTION TAKEN NOTES ON C & AG'S REPORTS


I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Loss of interest on admitted tax.
	(c)	Paragraph No.	3.7
	(d)	Report No. and Year	C & AG report for the year ended March 2015.
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>M/s Kannan Devan Hills Plantations Company Private Limited, Munnar, filed (February 2012) annual return for the year 2010-11 conceding total agricultural income of Rs.15.35 crore and AIT due as Rs.7.26 crore. Against the advance tax payable of Rs.5.80 crore (being 80% of admitted tax) the assessee paid Rs.5.75 crore only. Non payment of advance tax attracts levy of interest at 12% per annum. Audit found that interest was not levied on unpaid advance tax. Further, payments made by the assessee amounting to Rs.1.50 crore subsequently were not appropriated first towards interest. Non levy of interest and non appropriation of payments resulted in loss of revenue of Rs.8.96 lakh.</p> <p>There was an excess payment of Rs.44.06 lakh for the year 2009-10 and that amount could have been adjusted for the interest dues for the year 2010-11. It was also stated that the assessments for the years 2010-11 & 2011-12 had not been completed U/s 39(3) of the KAIT Act, 1991 and that became barred by limitation. Since the assessment is time barred the amount</p>

			could not be realised. But it is not informed as to why no action had been taken against the delinquent officer for allowing assessment to become time barred causing loss to Government.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

REMEDIAL ACTION TAKEN

<p>a) Improvement in system and procedures, including internal controls.</p>	<p>The Kannan Devan Hills Plantations Pvt Ltd a tea company filed annual return for the year 2010-11 conceding total agricultural income of Rs.15.35 crore and AIT due as Rs.7.26 crore. Against the advance tax payable of Rs.5.80 crores (being 80% of admitted tax) the assessee paid Rs.5.75 crore only. Non-payment of advance tax attracts levy of interest at 12% p.a. Audit found that interest was not levied on unpaid advance tax. Further payments made by the assessee amounting to Rs.1.50 crore subsequently were not appropriated first towards interest. Non-levy of interest and non appropriation of payments resulted in loss of revenue of Rs.8.96 lakhs.</p> <p>Hon'ble High Court of Kerala in Chandraprapha Charitable Trust V. State of Kerala (2008) held that "all situations where agricultural income chargeable to tax have escaped assessment, are covered by section 41(1) of the Act. So much so it is not a requirement that for making an assessment U/s 41 of the Act, there should be an earlier under assessment or wrong assessment. In short, an assessment U/s 41 of the Act can be made as a first assessment which only means that entire income would have escaped assessment, but for the income escaping assessment made under section 41 of the Act". Hence the assessment for the year 2010-11 can be finalised U/s 41, wherein the limitation available is 10 years from the end of the financial year for which tax is payable, I, e, up to March 2020.</p> <p>There was an excess payment of Rs.44,05,573 by the company for the year 2009-10 as per Order No.22091021/09-10 dated 22-2-2013 of the IAC(Idukki). Presently the balance tax and interest payable for the year</p>
--	---

	2010-11 is adjusted from the excess tax paid by the assessee for the year 2009-10 vide order No. 22091021/2010-11 dated 22-06-2015.
(b)	Recovery of over payment pointed out by audit
(c)	Recovery of under assessment, short levy or other dues
(d)	Modification in the schemes and programmes including financing pattern
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.


R. Raju Gopal
Additional Secretary
Taxes Dept


ACTION TAKEN NOTES ON C & AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Tax Administration
	(c)	Paragraph No.	3.1
	(d)	Report No. and Year	C & AG report for the year ended March 2014.
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	The companies and persons, who derive agricultural income within the state are liable to pay agricultural income tax (AIT). In respect of Companies, tax is chargeable at the rates prescribed in the Schedule to the KAIT Act, 1991. From April 2000, persons holding landed property upto 500 hectares may opt to pay tax at compounded rate. No tax is payable on first five hectares.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a)	Does the Department agree with the Audit conclusions?	Yes
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

VI

REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	No Remarks.
	Recovery of over payment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit	--


 R. Raja Gopal
 Additional Secretary
 Taxes Dept

ACTION TAKEN NOTES ON C & AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Working of Internal Audit Wing
	(c)	Paragraph No.	3.2
	(d)	Report No. and Year	C & AG report for the year ended March 2014.
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	As the department did not furnish detailed information on internal audit, audit was unable to comment on the performance of the internal audit wing.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	-
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	-
V	(a)	Does the Department agree with the Audit conclusions?	-
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	-

VI

REMEDIAL ACTION TAKEN

Office	From-To	No. of Paras	Settled	Balance
AIT & CTO Kalpetta	7-2-11 to 11-2-11	7	4	3
IAC (AIT) Idukki	12-3-12 to 17-3-12	12	0	12
AIT & CTO Kanjirappally	8-10-12 to 12-10-12	7	0	7
AIT & CTO Alappuzha	1-7-2013 to 6-7-2013	21	1	20
AIT & CTO Kalpetta	7-10-2013 to 11-10-2013	4	1	3
AIT & CTO Kuthiyathode Alappuzha	6-1-2014 to 10-1-2014	10	6	4
AIT & CTO Alappuzha	6-4-2015 to 10-4-2015	10	2	8

Recovery of over payment pointed out by audit

The Internal audit wing of the department started functioning w.e.f. 1-6-2009. The Internal Audit Wing has no office at district level or in the regional basis. The whole operation of audit inspection are being carried out from the headquarters at Thiruvananthapuram. Details of inspection from 09-10 onwards in the AIT offices are given below:-

- | | | |
|-----|--|----|
| (c) | Recovery of under assessment, short levy or other dues | -- |
| (d) | Modification in the schemes and programmes including financing pattern | -- |
| (e) | Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit. | -- |


R. Raja Gopal
Additional Secretary
Taxes Dept

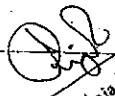
ACTION TAKEN NOTES ON C & AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Results of Audit
	(c)	Paragraph No.	3.3
	(d)	Report No. and Year	C & AG report for the year ended March 201
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	In 2013-14 audit test checked the records of nine units relating to agricultural income tax assessments and other records showed undue assessment of tax and other irregularities involving Rs.6.65 crore in six cases undue income escaped assessment and Inadmissible expenses.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

VI

REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	Observation of Audit relates to the period of 2013-14. As far as the C&AG report ended 31-3-2014 concerned, the short levy involved is Rs.6.65 crore in 6 cases. With respect to the short levy pointed out by the Accountant General reports have been submitted. Action is being taken to collect the amount where the audit objections are accepted and assessments are completed/ revised subsequently and created additional demand.
	Recovery of over payment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	


 R. Raja Gopal
 Additional Secretary
 Taxes Dept.


Action taken Notes on C & AG's Reports

I	(a) Department	COMMERCIAL TAXES
	(b) Subject / Title of the Review Paragraph	Short levy of tax due to application of claim for deduction from income twice.
	(c) Paragraph No	3.4
	(d) Report No. and Year	C & AG report for the year ended 31-03-2014
II	(a) Date of receipt of the Draft Para/ Review in the Department	18-07-2014
	(b) Date of Department's Reply	
III	Gist of Paragraph/ Review	The plantation Corporation of Kerala Limited, Kottayam, a public sector company, claimed ₹. four crore paid against insurance premium under 'group gratuity scheme' as deduction from the net profit to arrive at the agricultural income for the previous year 2009-10 as per the statement of computation. Assessing officer accepted the claim as admissible deduction. Audit scrutiny of the accounts of the assessee revealed that the assessee had already accounted this amount as expenditure in the P&L account for arriving at the net profit along with annual insurance premium. Acceptance of the claim for deduction by the assessing officer resulted in short computation of agricultural income to the tune of ₹. four crore and consequent short levy of AIT of ₹. two crore.
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
	(b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a) Does the Department agree with the Audit conclusions ?	Yes
	(b) If not, Please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

Remedial Action Taken

VI

VI	(a) Improvement in system and procedures including internal controls.	The assessment under the AIT Act 1991 in respect of M/s. Planation corporation of Kerala Ltd., Kottayam for the year 2010-11 was reopened and completed under section 41 of the AIT Act as per order No. 23900028/10-11 dated 31-12-2014. Total income was re-fixed as Rs. 21,10,54,280/- after adding back the irregular claim of gratuity of Rs. 4,00,00,000/-. The Company has remitted ₹ 2,00,00,000/- as tax vide chalan No. 937/13-03-2015.
	(b) Recovery of overpayment pointed out by audit	
	(c) Recovery of under assessment, short levy or other dues	
	(d) Modification in the schemes and programmes including financing pattern	
	(e) Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit.	


 R. Raju Gopal
 Additional Secretary
 Taxes Dept

ACTION TAKEN NOTES ON C & AG'S REPORTS

	(a) Department	COMMERCIAL TAXES
I	(b) Subject / Title of the Review	Short levy of AIT due to non-reckoning of receipt of previous year against bad debt written off
	(c) Paragraph No.	3.5
	(d) Report No. & Year	C & AG Report for the year ended 31.03.2014.
II	(a) Date of receipt of the Draft Para / Review in the Department	18.07.2014
	(b) Date of Department's reply	
III	Gist of the Paragraph / Review.	The plantation Corporation of Kerala Ltd., Kottayam a public sector company, received Rs. 1.38 crore as miscellaneous income which included Rs. 57.85 lakh being bad debts written off in earlier years. Though any amount received in the previous year in respect of bad debts written off in earlier years should be deemed to be agricultural income of the year in which it is received, the assessing authority while finalizing the assessment did not include the above income as agricultural income. This resulted in short levy of AIT of Rs.28.92 lakh.
IV	(a) Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a) Does the Department agree with the Audit Conclusions?	Yes
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

VI

REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal control	<p>Original assessment of M/s. Plantation Corporation for the year 2010-11 was completed U/Sec: 39 on 25.10.2012. Later on in audit the Accountant General had noted that bad debts written off received during the year 2009-10 was given exemption while completing the original assessment for the year 2010-11. Their finding was that the exemption given on such head is irregular and hence not allowable.</p> <p>As per Sec 4(2) (iii) of the KAIT Act 1991 any amount received in the previous year in respect of bad debts written off in any previous year shall be deemed to be agricultural income received in the previous year.</p> <p>Considering the audit objection revised proposal for reassessment was issued to the assessee on 09.09.2016, and a modified assessment order was passed as per Order No. 23900028/2010-11 dated 05.12.2016 and demand notice of Rs. 53,09,930/- was served on the assessee on 29.12.2016.</p> <p>(Single order for 3.5 & 3.6)</p>
(b) Recovery of overpayment pointed out by Audit	
(c) Recovery of under Assessment, short levy or other dues	
(d) Modification in the scheme and	

programmes including financing pattern

- (e) Review of similar cases / complete scheme/ project in the light of findings of sample check by Audit


R. Raja Gopal
Additional Secretary
Tanks, Pond


Action taken Notes on C & AG's Reports

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject / Title of the Review Paragraph	Short levy of AIT due to non-consideration of crop insurance received during the previous year
	(c)	Paragraph No	3.6
	(d)	Report No. and Year	C & AG report for the year ended 31-03-2014
II	(a)	Date of receipt of the Draft Para/ Review in the Department	18-07-2014
	(b)	Date of Department's Reply	
III		Gist of Paragraph/ Review	The plantation Corporation of Kerala Limited, Kottayam, a public sector company, received ₹. 1.38 crore as miscellaneous income as per their P & L account for 2009-10. Audit found that the miscellaneous income included receipt towards crop insurance of ₹. 48.35 lakh. However, while finalising the assessment for the year 2009-10 (October 2012). The assessing authority did not include ₹.48.35 lakh as agricultural income for the year 2009-10. This resulted in short levy of AIT of ₹. 24.18 lakh
IV	(a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a)	Does the Department agree with the Audit conclusions ?	Yes
	(b)	If not, Please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

VI
VIRemedial action taken

(a) Improvement in system and procedures including internal controls.	<p>Original assessment of M/s. Plantation Corporation for the year 2010-11 was completed under section 39 on 25-10-2012. Later on audit Accountant General had noted tht crop insurance of ₹. 48.35,300/- received during the yar 2009-10 was not taken into consideration while completing the assessment.</p> <p>As per Section 4(2)(ii) of the KAIT Act 1991 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 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 shall be deemed to be Agricultural income received in the previous year.</p> <p>Considering the audit objection a revised proposal for reassessment was issued to the assessee on 09/09/2016, and a modified assessment order was passed as per order No. 23900028/2010-11 dated 05-02-2016 and demand notice of ₹. 53,09,930/- was served on the assessee on 29-12-2016. (Single order for 3.5 & 3.6)</p>
(b) Recovery of overpayment pointed out b y audit	
(c) Recovery of under assessment, short levy or other dues	24.18 lakh
(d) Modification in the schemes	

	and programmes including financing pattern	
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit.	


R. Raja Gopal
Additional Secretary
Revenue Dept

ACTION TAKEN NOTES ON C & AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Tax Administration
	(c)	Paragraph No.	3.1
	(d)	Report No. and Year	C & AG-report for the year ended March 2013.
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	The companies and persons, who derive agricultural income within the state are liable to pay agricultural income tax (AIT). In respect of Companies, tax is chargeable at the rates prescribed in the Schedule to the Act. From April 2000, persons holding landed property upto 500 hectares may opt to pay tax at compounded rate. No tax is payable on first five hectares.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

REMEDIAL ACTION TAKEN

VI

(a)	Improvement in system and procedures, including internal controls.	No Remarks
	Recovery of over payment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	


 S. Raja Gopal
 Additional Secretary
 Taxes Dept

ACTION TAKEN NOTES ON C & AG'S REPORTS

a)	Department	COMMERCIAL TAXES																																																
b)	Subject/Title of the Review Paragraph	Trend of receipts																																																
c)	Paragraph No.	3.2																																																
d)	Report No. and Year	C & AG report for the year ended March 2013.																																																
(a)	Date of receipt of the Draft Para / Review in the Department																																																	
(b)	Date of Department's Reply																																																	
	Gist of Paragraph/Review	<p>Actual receipts from AIT during the last five years (2008-09 to 2012-13) along with the budget estimates during the same period are exhibited in the following table and graph.</p> <table border="1"> <thead> <tr> <th>Year</th> <th>Budget Estimates</th> <th>Actual Receipts</th> <th>Variation</th> <th>Percentage of variation</th> <th>Total tax receipts of the state</th> <th>Percentage of Actual receipts to total tax receipts</th> <th>Percentage of growth over previous year</th> </tr> </thead> <tbody> <tr> <td>2008-09</td> <td>7.39</td> <td>11.97</td> <td>(+) 4.58</td> <td>(+) 61.98</td> <td>15,990.18</td> <td>0.07</td> <td>(-) 45.71</td> </tr> <tr> <td>2009-10</td> <td>8.52</td> <td>27.73</td> <td>(+) 19.21</td> <td>(+) 225.47</td> <td>17,625.02</td> <td>0.16</td> <td>131.67</td> </tr> <tr> <td>2010-11</td> <td>12.00</td> <td>46.97</td> <td>(+) 34.97</td> <td>(+) 291.41</td> <td>21,721.69</td> <td>0.22</td> <td>69.38</td> </tr> <tr> <td>2011-12</td> <td>14.49</td> <td>42.86</td> <td>(+) 28.37</td> <td>(+) 195.79</td> <td>25,718.60</td> <td>0.16</td> <td>(-) 8.75</td> </tr> <tr> <td>2012-13</td> <td>15.98</td> <td>18.92</td> <td>(-) 2.94</td> <td>(-) 18.40</td> <td>30,076.61</td> <td>0.06</td> <td>(-) 55.86</td> </tr> </tbody> </table> <p>Though the actual receipts showed an increase of 18.40 per cent over the budget estimates for the year 2012-13, there was a short fall of 55.86 per cent in the actual receipts for 2012-13 when compared to that in 2011-12.</p>	Year	Budget Estimates	Actual Receipts	Variation	Percentage of variation	Total tax receipts of the state	Percentage of Actual receipts to total tax receipts	Percentage of growth over previous year	2008-09	7.39	11.97	(+) 4.58	(+) 61.98	15,990.18	0.07	(-) 45.71	2009-10	8.52	27.73	(+) 19.21	(+) 225.47	17,625.02	0.16	131.67	2010-11	12.00	46.97	(+) 34.97	(+) 291.41	21,721.69	0.22	69.38	2011-12	14.49	42.86	(+) 28.37	(+) 195.79	25,718.60	0.16	(-) 8.75	2012-13	15.98	18.92	(-) 2.94	(-) 18.40	30,076.61	0.06	(-) 55.86
Year	Budget Estimates	Actual Receipts	Variation	Percentage of variation	Total tax receipts of the state	Percentage of Actual receipts to total tax receipts	Percentage of growth over previous year																																											
2008-09	7.39	11.97	(+) 4.58	(+) 61.98	15,990.18	0.07	(-) 45.71																																											
2009-10	8.52	27.73	(+) 19.21	(+) 225.47	17,625.02	0.16	131.67																																											
2010-11	12.00	46.97	(+) 34.97	(+) 291.41	21,721.69	0.22	69.38																																											
2011-12	14.49	42.86	(+) 28.37	(+) 195.79	25,718.60	0.16	(-) 8.75																																											
2012-13	15.98	18.92	(-) 2.94	(-) 18.40	30,076.61	0.06	(-) 55.86																																											
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?																																																
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support																																																
V	(a)	Does the Department agree with the Audit conclusions?																																																
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant																																																


VI

REMEDIAL ACTION TAKEN

- (a) Improvement in system and procedures, including internal controls.
- The actual receipts showed an increase of 18.40% over the budget estimate for the year 2012-13. But there was a short fall of 55.86% in actual receipts for 2012-13 when compared to that in 2011-12. Agricultural income depends upon the production of crops, climatical changes, price variation in the world market etc. Sometimes production is increased but the price is decreased. The reason for variation is due to less production of major produces like cardamom, pepper and rubber.

Recovery of over payment pointed out by audit

- (c) Recovery of under assessment, short levy or other dues
- (d) Modification in the schemes and programmes including financing pattern
- (e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.


 R. Raja Gopal
 Additional Secretary
 Taxes Dept

ACTION-TAKEN NOTES ON C & AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES																
	(b)	Subject/Title of the Review Paragraph	Arrears in AIT assessment																
	(c)	Paragraph No.	3.3																
	(d)	Report No. and Year	C & AG report for the year ended March 2013.																
II	(a)	Date of receipt of the Draft Para / Review in the Department																	
	(b)	Date of Department's Reply																	
III		Gist of Paragraph/Review	<p>The department furnished the position of arrears under AIT which is as shown below:-</p> <table border="1"> <tbody> <tr> <td>Opening Balance</td> <td>4,740</td> </tr> <tr> <td>Addition during 2012-13 including remanded cases</td> <td>2,755</td> </tr> <tr> <td>Total</td> <td>7,495</td> </tr> <tr> <td>No. of assessments completed</td> <td>3,022</td> </tr> <tr> <td>Arrear cases - 2,129</td> <td></td> </tr> <tr> <td>Current cases - 885</td> <td></td> </tr> <tr> <td>Remanded cases - 8</td> <td></td> </tr> <tr> <td>Closing Balance</td> <td>4,473</td> </tr> </tbody> </table> <p>The above table shows that the department completed 3,022 assessments which was 40.32% of the arrears outstanding. Audit recommends the Government to give direction to the Department to complete assessments which are in arrears in a time bound manner.</p>	Opening Balance	4,740	Addition during 2012-13 including remanded cases	2,755	Total	7,495	No. of assessments completed	3,022	Arrear cases - 2,129		Current cases - 885		Remanded cases - 8		Closing Balance	4,473
Opening Balance	4,740																		
Addition during 2012-13 including remanded cases	2,755																		
Total	7,495																		
No. of assessments completed	3,022																		
Arrear cases - 2,129																			
Current cases - 885																			
Remanded cases - 8																			
Closing Balance	4,473																		
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?																	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support																	
V	(a)	Does the Department agree with the Audit conclusions?																	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary																	

VI

REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal controls.	<p>In obedience to the strict directions issued by the Commissioner of Commercial Taxes, the pendency of AIT assessments is now brought down to a lesser number.</p> <p>Present position of AIT assessment as on 31-3-2017 is given below:-</p> <table border="1" data-bbox="383 338 906 631"> <tr> <td>Opening Balance</td> <td>446</td> </tr> <tr> <td>Addition during 2016-17</td> <td>296</td> </tr> <tr> <td>Total</td> <td>742</td> </tr> <tr> <td>No. of assessments completed</td> <td>455</td> </tr> <tr> <td>Arrear cases</td> <td>-282</td> </tr> <tr> <td>Current cases</td> <td>- 173</td> </tr> <tr> <td>Remanded cases</td> <td>- 0</td> </tr> <tr> <td>Closing balance</td> <td>287</td> </tr> </table> <p>Directions were issued to the assessing authorities to complete the pending 287 assessments before 31-3-2018.</p>	Opening Balance	446	Addition during 2016-17	296	Total	742	No. of assessments completed	455	Arrear cases	-282	Current cases	- 173	Remanded cases	- 0	Closing balance	287
Opening Balance	446																
Addition during 2016-17	296																
Total	742																
No. of assessments completed	455																
Arrear cases	-282																
Current cases	- 173																
Remanded cases	- 0																
Closing balance	287																
Recovery of over payment pointed out by audit																	
(c) Recovery of under assessment, short levy or other dues																	
(d) Modification in the schemes and programmes including financing pattern																	
(e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.																	


 R. R. R. Gopal
 Additional Secretary
 Taxes Dept

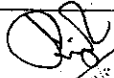
ACTION TAKEN NOTES ON C & AG'S REPORTS

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Impact of Audit
	(c)	Paragraph No.	3.4
	(d)	Report No. and Year	C & AG report for the year ended March 2013.
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	During the last four years, cases of inadmissible expenses, income escaping assessment, incorrect computation of income, underassessment due to assignment of incorrect status etc., with revenue implication of Rs.76.28 crore in 178 paragraphs were pointed out. Of these, the Department/Government accepted audit observations involving Rs.1.23 crore and had since recovered Rs. 0.29 crore. The amount of recovery against the amount accepted was negligible.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

REMEDIAL ACTION TAKEN

VI

(a)	Improvement in system and procedures, including internal controls.	<p>The short realisation of amounts in the accepted cases was due to the amount being adjusted towards loss which was carried forward from the previous year. All the amounts pending for realisation has been recommended for action under RR. Progress of collection under RR by the Revenue department and IAC's are reviewing every month. Details of AIT RR arrear collection from 2012-13 onwards are given below:-</p> <table border="1" data-bbox="422 369 751 639"> <thead> <tr> <th>YEAR</th> <th>Arrear Collection RR (in crore)</th> </tr> </thead> <tbody> <tr> <td>2011-12</td> <td>.06</td> </tr> <tr> <td>2012-13</td> <td>.11</td> </tr> <tr> <td>2013-14</td> <td>.74</td> </tr> <tr> <td>2014-15</td> <td>2.17</td> </tr> <tr> <td>2015-16</td> <td>.92</td> </tr> <tr> <td>2016-17</td> <td>.21</td> </tr> </tbody> </table>	YEAR	Arrear Collection RR (in crore)	2011-12	.06	2012-13	.11	2013-14	.74	2014-15	2.17	2015-16	.92	2016-17	.21
YEAR	Arrear Collection RR (in crore)															
2011-12	.06															
2012-13	.11															
2013-14	.74															
2014-15	2.17															
2015-16	.92															
2016-17	.21															
	Recovery of over payment pointed out by audit															
(c)	Recovery of under assessment, short levy or other dues															
(d)	Modification in the schemes and programmes including financing pattern															
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.															


 Deputy Commissioner
 Additional Secretary
 Revenue Dept.

ACTION TAKEN NOTES ON C & AG'S REPORTS

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Working of Internal Audit Wing
	(c)	Paragraph No.	3.5
	(d)	Report No. and Year	C & AG report for the year ended March 2013.
I	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	As details of internal audit conducted were not made available by the Department, Audit could not comment on the performance of the Internal Audit Wing
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal controls.


Internal Audit Wing was organized as per Order No.A1-21044/09/CT dated 18-05-2009 by the Commissioner, Commercial Taxes Department and the wing was started functioning with effect from 01-06-2009 with a staff strength of one Deputy Commissioner, 2 Assistant Commissioners and 5 Commercial Tax Officers.

In Para 230 of the Revised Budget Speech 2016, the Honourable Finance Minister announced about strengthening of the Internal Audit wing by including Audit Assessment Wing. Presently, the Internal Audit Wing of the department is headed by one Deputy Commissioner, comprising of 10 Assistant Commissioners and 17 Commercial Tax Officers along with sub-ordinate staff.

The result of Audit conducted in various offices from 2009-10 onwards is extracted here under:-

Office	From-To	No. of Paras	Settled	Balance
AIT & CTO Kalpetta	7-2-11 to 11-2-11	7	4	3
IAC (AIT) Idukki	12-3-12 to 17-3-12	2	0	2
AIT & CTO Kanjirappally	8-10-12 to 12-10-12	7	1	6
AIT & CTO Alappuzha	1-7-2013 to 6-7-2013	17	1	16

		AIT & CTO Kalpetta	7-10-2013 to 11-10-2013	4	1	3
		AIT & CTO Kuthiyathode, Alappuzha	6-1-2014 to 10-1-2014	10	6	4
		AIT & CTO Alappuzha	6-4-2015 to 10-4-2015	10	2	8
		AIT & CTO Sulthanbathery	15-02-2015 to 20-02-2016	42	1	41
		AIT & CTO Devikulam	1-07-2016 to 8-7-2016	19	0	19
		AIT & CTO Mananthavadi	13-03-2017 to 18-3-2017	15	0	15
	Recovery of over payment pointed out by audit.					
(c)	Recovery of under assessment, short levy or other dues					
(d)	Modification in the schemes and programmes including financing pattern					
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.					


 E. Raja Gopal
 Additional Secretary
 Taxes Dept


ACTION TAKEN NOTES ON C & AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES																								
	(b)	Subject/Title of the Review Paragraph	Results of Audit																								
	(c)	Paragraph No.	3.6																								
	(d)	Report No. and Year	C & AG report for the year ended March 2013.																								
II	(a)	Date of receipt of the Draft Para / Review in the Department																									
	(b)	Date of Department's Reply																									
III		Gist of Paragraph/Review	In 2012-13 audit test checked the records of 31 units relating to AIT and noticed underassessment of tax and other irregularities involving Rs.26.45 crore in 37 cases which fall under the following categories.																								
			<table border="1"> <thead> <tr> <th>Sl No</th> <th>Categories</th> <th>No.of cases</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Income escaping assessment</td> <td>16</td> <td>3.40</td> </tr> <tr> <td>2</td> <td>Incorrect computation of tax</td> <td>2</td> <td>0.39</td> </tr> <tr> <td>3</td> <td>Inadmissible expenses</td> <td>17</td> <td>13.07</td> </tr> <tr> <td>4</td> <td>Others</td> <td>2</td> <td>9.59</td> </tr> <tr> <td></td> <td>Total</td> <td>37</td> <td>26.45</td> </tr> </tbody> </table>	Sl No	Categories	No.of cases	Amount	1	Income escaping assessment	16	3.40	2	Incorrect computation of tax	2	0.39	3	Inadmissible expenses	17	13.07	4	Others	2	9.59		Total	37	26.45
	Sl No		Categories	No.of cases	Amount																						
	1		Income escaping assessment	16	3.40																						
	2		Incorrect computation of tax	2	0.39																						
	3		Inadmissible expenses	17	13.07																						
	4		Others	2	9.59																						
	Total	37	26.45																								
		During the course of the year, the department accepted underassessment and other deficiencies of Rs.0.55 crore in 5 cases out of which 2 cases involving Rs.0.39 crore where pointed out in audit during the year 2012-13. No amount was realised by the department during the year 2012-13.																									
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?																									
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support																									
V	(a)	Does the Department agree with the Audit conclusions?																									
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary																									

VI

REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	No Remarks
	Recovery of over payment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	--



K. Raj Gopal
 Additional Secretary
 Taxes Dept

ACTION TAKEN NOTES ON C & AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Non Observance of provisions of Act/Rules
	(c)	Paragraph No.	3.7
	(d)	Report No. and Year	C & AG report for the year ended March 2013.
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Scrutiny of the assessment records of AIT in Commercial Taxes Department revealed several cases of non-observance of provisions of Act/Rules, incorrect determination of income/interest, grant of inadmissible expenses/allowances and other cases.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V.	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

VI REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	No Remarks
	Recovery of over payment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	--


 R. Raja Gopal
 Additional Secretary
 Taxes Dept

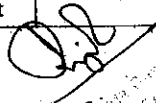
ACTION TAKEN NOTES ON C & AG'S REPORTS

	(a)	Department	COMMERCIAL TAXES
	b	Subject / Title of the Review Paragraph	Mistake in computation of Agricultural Income
	c	Paragraph No	3.7.1 (a)
	d	Report No. and year	C & AG Report for the year ended 31/03/2013.
II	a	Date of receipt of the Draft Para / Review in the Department	17/05/2013.
	b	Date of Department's reply	
III		Gist of Paragraph / Review	M/s. Kerala Forest Development Corporation Ltd., Kottayam filed annual return for the year 2009-10 disclosing a net agricultural loss of of Rs. 7.39 lakh. The assessing authority rejected the return and finalised the assessment adding back the inadmissible expenses of Rs. 3.84 crore to the conceded loss and allowing Rs. 2 lakh towards contribution to seminar. But the conceded loss was erroneously reckoned as Rs. 73.93 lakh against the actual loss of Rs. 7.39 lakh. The mistake in computation resulted in income escaped from assessment amounting to Rs. 66.54 lakh and resultant short levy of AIT of Rs. 33.27 lakh.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
	(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in supports	N.A.
V	(a)	Does the Department agree with the Audit conclusions	Yes
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and	N.A.

VI

REMEDIAL ACTION TAKEN

a	Improvement in system and procedures including internal controls	The mistake in completion of net agricultural income of M/s. Kerala Forest Development Corporation Ltd., for the year 2009-10 was rectified under Section 42 of the AIT Act on 02/01/2013 demanding an additional amount of Rs. 33,26,999/-. Also initiated action under Revenue Recovery Act for realization of the amount. The first appeal filed by the assessee against this order was partly allowed and the assessment was revised as per the order dated 29/07/2015. The Department has filed second appeal before the Honourable AIT Appellate Tribunal, Additional Bench, Kottayam as AITA No. 03/14. The appeal is still pending before the Tribunal.
b	Recovery of overpayment pointed out by audit	
c	Recovery of under assessment, short levy or other dues	
d	Modification in the schemes and programmes including financing pattern	
e	Review of similar cases / complete scheme / project in the light of findings of sample check by Audit	



 Deputy General
 Audit Section
 Kottayam

ACTION TAKEN NOTES ON C & AG'S REPORTS

	(a)	Department	COMMERCIAL TAXES
	b	Subject / Title of the Review Paragraph	Mistake in computation of Agricultural Income
	c	Paragraph No	3.7.1 (b)
	d	Report No. and year	C & AG Report for the year ended 31/03/2013.
II	a	Date of receipt of the Draft Para / Review in the Department	
	b	Date of Department's reply	
III		Gist of Paragraph / Review	M/s. Kailas Rubber company, Kottayam filed annual return for 2009-10 disclosing net income of Rs. 12.27 lakh. The assessing authority rejected the return and finalised the assessment adding back inadmissible expenses of Rs. 35.44 lakh. The net agricultural income was allowed to set off against the carry forward losses of previous year. But while fixing the net agricultural income, the assessing authority omitted the income of Rs. 12.27 lakh conceded by the assessee and fixed the agricultural income as Rs. 35.44 lakh against the actual income of Rs. 47.71 lakh. The mistake in computation resulted in escaped income of Rs. 12.27 lakh from assessment and short levy of AIT of Rs. 6.13 lakh.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
	(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in supports	N.A.
V	(a)	Does the Department agree with the Audit conclusions	Yes
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant	N.A.

REMEDIAL ACTION TAKEN

a	Improvement in system and procedures including internal controls	Agricultural income Tax assessment in respect of M/s. Kailas Rubber Company , Kottayam for the year 2009-10 was completed as per this office order dated 08/12/2011. But while completing the assessment a mistake has happened by omitting to add the income conceded by the assessee in their return. This was rectified by this office order dated 02/01/2013. The income re-fixed to Rs.47,71,103 and was adjusted to the loss carried forward from previous year.
b	Recovery of overpayment pointed out by audit	
c	Recovery of under assessment , short levy or other dues	
d	Modification in the schemes and programmes including financing pattern	
e	Review of similar cases / complete scheme / project in the light of findings of sample check by Audit findings of sample check by audit	


R. Raja Gopal
 Additional Secretary
 Taxes Dept

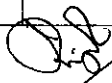
ACTION TAKEN NOTES ON C & AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy of AIT due to excess deduction of replantation allowances
	(c)	Paragraph No.	3.7.2
	(d)	Report No. and Year	C&AG Report for the year ended 31.03.2013
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	As per the P & L accounts of M/s Malankara Plantations, Kottayam a domestic company for the previous year 2008-09. the agricultural income derived from rubber and tea were Rs.8.23 crore and Rs.4.21 crore respectively. Hence as per rules, the admissible replantation allowances were Rs.20.58 lakh(2.5 per cent of Rs.8.23 crore) and Rs.6.31 lakh (1.5 per cent of Rs.4.21 crore) respectively for rubber and tea. They claimed deduction of Rs.35.93 lakh and Rs.80.27 lakh respectively in their annual returns towards replantation allowances for rubber and tea during 2009-10. The assessing authority finalised (December 2011) the assessment fixing the net agricultural income of Rs.1.59 crore allowing the above deduction. The excess deduction of replantation allowance resulted in short levy of AIT of Rs.27.18 lakh.
	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

IV

REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal control.	<p>M/s. Malankara Plantation Ltd. is engaged in the business of cultivation, manufacture and sale of Rubber & Tea in the State of Kerala. The Income Tax authorities have computed the income from Rubber and Tea as per Rules 7A and 8 of the Income Tax rules respectively for completing their assessment. 65% of the Rubber Income and 60% of the Tea income arrived by the Income Tax authorities were treated as the AIT income. The assessment for the year 2009-10 under Agricultural Income Tax Act was completed adopting the above said calculations. No further deductions by way of re-plantation allowance were allowed at the time of completing the assessment under Agricultural Income Tax Act.</p> <p>But while computing the income, the Income Tax authorities have allowed the entire claim of the assessee towards re-plantation allowance Rs.80,26,757.00 for Tea and Rs 35,22,225.00 for Rubber without considering the stipulations in the Agricultural Income Tax Act and Rules.</p> <p>According to Sec. 39 of the Act, the assessing authorities under the Agricultural Income Tax Act have no jurisdiction to make variations in the computation made by the Income Tax Officers. Therefore any allowances claimed by the assessee and allowed by the Income Tax Officials could not be disallowed, even if those were against the provision of the AIT Act while completing the assessment. Hence there is no excess deduction of replantation allowance in this case.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	


 R. Raja Gopal
 Additional Secretary
 Taxes Dept

ACTION TAKEN NOTES ON C & AG'S REPORTS

	(a)	Department	COMMERCIAL TAXES
	b	Subject / Title of the Review Paragraph	Non-levy of interest on belated payment of Agricultural Income
	c	Paragraph No	3.7.3
	d	Report No. and year	C & AG Report for the year ended 31/03/2013.
II	a	Date of receipt of the Draft Para / Review in the Department	29/05/2013.
	b	Date of Department's reply	
III		Gist of Paragraph / Review	M/s. Tropical Plantations Ltd., Kottayam an assessee company conceded net taxable income of Rs. 74.78 lakh for the year 2006-07. The tax due amounting to Rs. 37.39 lakh was remitted on 01 January 2007. While completing the AIT assessments, the assessing authority did not levy interest on the advance tax due amounting to Rs. 29.91 lakh on the agricultural income of Rs. 59.83 lakh (80 percent of Rs. 74.78 lakh) which had to be paid on or before 28 February 2006. Non levy of interest for the period from 01 March 2006 to 31 December 2006 worked out to Rs. 2.99 lakh
IV	(a)	Does the Department agree with the facts and figures included in the paragraph ?	
	(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in supports	
V	(a)	Does the Department agree with the Audit conclusions	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

REMEDIAL ACTION TAKEN

a	Improvement in system and procedures including internal controls	<p>M/s. Tropical Plantations Limited, Kottayam had to pay an advance tax Rs. 29,91,285.00 on or before 28/02/2006. But they remit the tax on 01/01/2007, the interest from 01/03/2006 to 01/01/2007 worked out to Rs.2,99,128.00. A notice was issued to the company intimating this fact on 01/11/2012 and the company has not filed any objection. Hence as per the order No. 23900031/06-07 dated 11/12/2012, an interest of Rs. 2,99,128.00 had been accrued for the period from 01/03/2006 to 01/01/2007 for the non payment of advance tax within the stipulated time.</p> <p>The assessee company had filed an application u/s 42 of the Act to rectify the order on the ground that their objections were not considered while passing the order. They have also filed a writ petition before the Hon'ble High Court as WP (C) No. 1991/2015. Hon'ble High Court has directed to dispose the rectification application filed by the assessee within a period of two months from the date of receipt of the order.</p> <p>Thereafter an opportunity was given to the assessee to produce evidence in support of their contentions in their rectification petition. On a perusal of the documents produced by the assessee it is seen that the company has filed reply to the notice proposed to levy interest for belated payment of tax and order was passed without considering their objection. Therefore, their rectification petition was allowed as per proceedings No. 23900031/06-07 dated 10/02/2016. The objection filed by the company was considered and a fresh order was issued on 11/02/2016 as No. 23900031/2006-07. Interest of Rs. 2,99,128/- was again demanded as per the demand notice dated 11/02/2016.</p>
---	--	---

		<p>On 18/05/2016, the company has filed an application raising the contention that they have made excess payment of Agricultural Income Tax of Rs. 7,26,535/- for the year 2006-07 and requested to refund the excess amount. On verification, it is seen that the assessee company's claim is correct.</p> <p>Hence the assessment of M/s. Tropical Plantation Ltd., Kottayam for the year 2006-07 was modified as per proceedings No. 23900031/2006-07 dated 24/05/2016. Rs. 2,99,128/- due from the company towards the interest for belated payment as per the demand notice dated 11/02/2016 was adjusted u/s 71 of the Act from the excess amount at their credit.</p>
b	Recovery of overpayment pointed out by audit	
c	Recovery of under assessment, short levy or other dues	
d	Modification in the schemes and programmes including financing pattern	
e	Review of similar cases / complete scheme / project in the light of findings of sample check by Audit findings of sample check by audit	

[Signature]
 Regional Secretary
 10/12/2016

©

**Kerala Legislature Secretariat
2020**

KERALA NIYAMASABHA PRINTING PRESS.