

**THIRTEENTH KERALA LEGISLATIVE ASSEMBLY**

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2011-2014)**

**SECOND REPORT**

(Presented on 20th March, 2012)



SECRETARIAT OF THE KERALA LEGISLATURE  
THIRUVANANTHAPURAM  
2012

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**SECOND REPORT**

**On**

**Paragraphs relating to Taxes, Transport and Power Departments contained  
in the Reports of the Comptroller and Auditor General of  
India for the year(s) ended 31st March, 2008 (RR),  
and 31st March, 2009 (RR)**

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## INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report on their behalf, present the Second Report on paragraphs relating to Taxes, Transport and Power Departments contained in the Reports of the Comptroller and Auditor General of India for the years ended 31st March, 2008 (RR) & 31st March, 2009 (RR).

The Reports of the Comptroller and Auditor General of India for the years ended 31st March, 2008 (RR) & 31st March, 2009 (RR) were laid on the Table of the House on 3rd March, 2009 and 1st March, 2010 respectively.

The Committee considered and finalised this Report at the meeting held on 23rd November, 2011.

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

Thiruvananthapuram,  
20th March, 2012.

DR. T. M. THOMAS ISAAC,  
*Chairman,*  
*Committee on Public Accounts.*

## REPORT

### TAXES, TRANSPORT AND POWER DEPARTMENTS

#### AUDIT PARAGRAPH

#### **Taxes on Agricultural Income**

##### *Results of audit*

Test check of the records of the agricultural income tax offices conducted during the year 2007-08 revealed under assessments of tax amounting to ₹ 3.69 crore in 43 cases which fall under the following categories:

*(Rupees in crore)*

<i>Sl. No.</i>	<i>Category</i>	<i>No. of cases</i>	<i>Amount</i>
1.	Inadmissible expenses	10	3.25
2	Income escaping assessment	11	0.15
3	Incorrect computation of income	5	0.12
4	Incorrect computation of tax	4	0.04
5	Incorrect status	1	0.01
6	Other lapses	12	0.12
	Total	43	3.69

During the year 2007-08, the department accepted under assessment and other deficiencies of ₹ 22.60 lakh involved in 15 cases. The department recovered ₹ 2.11 lakh in 10 cases of which one case involving ₹ 5,887 was pointed out during 2007-08 and the balance to the earlier years. A few illustrative cases involving ₹ 0.12 crore are mentioned in the succeeding paragraphs.

#### **Lack of internal control/monitoring mechanism**

The Government, vide its order of March 2005, abolished the office of the Inspecting Assistant Commissioner (Special), Agricultural Income Tax and Commercial Tax, Ernakulam effective from April 2005. The Agricultural Income Tax assessment files dealt with by the abolished office were transferred to various Commercial Tax offices in the State in July 2005.

The arrears of revenue on account of Agricultural Income Tax due for collection by the defunct Inspecting Assistant Commissioner (Special) as on 31st March, 2005 were ₹ 52.27 crore. Test check of the records of selected transferee

offices indicated that no arrangement was made for collection of the arrears of revenue of ₹ 52.27 crore. Year-wise breakup of arrears are give below:

*(Rupees in crore)*

<i>Year</i>	<i>Amount</i>
1998-99	16.60
1999-00	7.72
2000-01	6.02
2001-02	6.51
2002-03	6.38
2003-04	3.44
2004-05	5.60
Total	52.27

Stagewise arrears are not available with the department. The omission on the part of the department was due to the following system deficiencies:

- No adequate monitoring mechanism was planned at the time of abolishing an institution which had huge arrears of revenue pending collection.
- Though the work was distributed among various Commercial Tax Officers in the State, no transferee office could initiative any step, as they had not received the related files with the position of arrears.

After the cases were pointed out in April 2007, the department stated in September 2008 that arrear fixation was not made in individual cases and details of arrears were not transferred to transferee offices.

The matter was reported to the department and the Government in April 2007; their reply has not been received (December 2008).

#### **Short levy due to incorrect computation of depreciation**

Under the Kerala Agricultural Income Tax Act, 1991 (KAIT Act), depreciation is allowed at the prescribed rates on the written down value of the building, machinery, plant, furniture etc.

During scrutiny of the records in the office of the Inspecting Assistant Commissioner (Special), Ernakulam in August 2004, it was noticed that while finalising (April 2003) the assessment of a company for the year 2001-02, depreciation of ₹ 71.57 lakh was allowed on the original cost of assets instead of ₹ 59.35 lakh admissible on the written down value of assets as on 1st April 2001. This resulted in grant of excess depreciation of ₹ 12.22 lakh and consequent short levy of tax of ₹ 7.33 lakh.

After the case was pointed out to the department in August 2004 and reported to Government in February 2005, the Government stated in March 2008 that the assessment had been revised and the collection was pending. A report on recovery has not been received (December 2008).

#### **Omission to assess income**

Under the KAIT Act, the total agricultural income of any charitable trust does not include any agricultural income derived from property held under the trust wholly for charitable or religious purposes, to the extent to which such income is applied or set apart for application to such purposes in the State.

During scrutiny of the records in agricultural income tax and sales tax office Kottayam, in May 2007, it was noticed that while finalising the assessment of a charitable trust for the assessment year 2004-05 in October 2006, the assessing officer omitted to levy tax on income of ₹ 9.11 lakh not applied or set apart for charitable purpose. This resulted in short levy of tax and surcharge of ₹ 4.69 lakh.

After the case was pointed out in May 2007, the department revised (June 2008) the assessment. A report on recovery has not been received (December 2008).

The matter was reported to the Government in January 2008; their reply has not been received (December 2008).

[Paragraph 3.1 to 3.4 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2008 (RR)].

Government notes on the above paragraph is given as Appendix II of this report.

Based on the Accountant General's observation about the lack of proper control and monitoring of income tax assessments, the Committee understood that while abolishing the office of Inspecting Assistant Commissioner at Ernakulam, the files were transferred to different other offices and no action was taken regarding the collection of arrears during 1998-99 to 2004-05 which were included in the transferred files. An amount of ₹ 52.27 crore was pending collection and the Committee enquired about the present position of the case.



2. The Principal Secretary, Taxes Department replied that the Accountant General's observations regarding the issue was not completely correct because all the files of Agricultural Income Tax (AIT) office after 1-4-2005 were transferred to the respective Assistant Taxes Commissioners due to the introduction of VAT. The Committee responded that the data after 2004-05 could be avoided based on the Secretary's contentions. The amounts shown from 1998-99 to 2003-04 could be accepted and enquired about the position of the remaining amount (₹ 46.67 crore) after subtracting ₹ 5.60 crore from ₹ 52.27 crore. The Principal Secretary, Taxes Department told that they had fully verified the assessment register and as per that, only ₹ 51.77 crore was remaining to be collected. There was court stay for ₹ 38.48 crore and efforts were made to realise the remaining amount.

3. The Committee opined that the records were ranging from the year 1998 to 2005 and those files which were distributed to other offices while the Mattancherry office got abolished also needed to be collected from the respective offices and then verified. The Principal Secretary, Taxes Department told that when the office was abolished the exact data regarding the Departments were not taken but the statistics were collected and it was found out that ₹ 51.77 crore pending to be collected where as Accountant General's data showed ₹ 52.27 crore as arrears.

4. The Committee mentioned that out of the total amount collected as Tax, ₹ 5.60 crore was coming under VAT and was still pending. To an enquiry of the Committee, the Principal Secretary, Taxes Department replied that VAT was introduced in the year 2005 and the office of the Agricultural Income Tax was functioning before 2005. After the year 2005, no separate register was maintained in this office because the files were transferred to the VAT offices.

5. This time the Committee mentioned that VAT was not covered in agricultural income tax. The Principal Secretary, Taxes Department did not have another opinion about VAT but told that the files were distributed and it was difficult to trace out who exactly collected even though the amounts were same. Some parties had approached the Court, however other actions had not been taken.

6. The Committee asked about the amount collected so far. The Principal Secretary, Taxes Department answered that ₹ 38.48 crore was under stay. The Committee wanted the figures after the appeals and stay orders. Simultaneously the Committee read out the figures given by Accountant General such as ₹ 9.76 crore—stay by Court, ₹ 9.85 crore—stay by Government, ₹ 8.36 crore—stay by others and ₹ 18.86 crore—other actions. The Principal Secretary replied that barring the cases with stay orders, the amount would come to ₹ 13.29 crore. The Committee asked whether RR was initiated to those cases and also the methods

that would help to vacate the stays. The Principal Secretary answered that RR notices were issued in all the cases and meetings were convened every month for analysing the cases. Even a special Government Pleader had been appointed since there were lots of cases. The Principal Secretary also said that out of ₹ 13.29 crore, a small amount had been realised through Amnesty Scheme. The Committee urged that necessary actions should be taken in the remaining cases as well to collect the arrear amount. The Principal Secretary, Taxes Department agreed to it. The Commissioner of Commercial Taxes assured the Committee that the Kerala General Sales Tax assessments would be completed in the month of August.

7. The Committee mentioned that when Government gave stay orders there would be instruction to remit 25% or 30% of the amount in instalments where as in Court stays 50% should be remitted and the remaining after the disposal of the case. The Committee enquired whether the monthly instalments were remitted by the parties. The Principal Secretary, Taxes Department replied that when the Department issued stay orders, there would be a maximum of six instalments and if RR notices were issued, the party would approach the Minister through the Department in which case maximum instalments would be allowed.

8. The Committee retorted that even if maximum instalments were permitted, the monthly payments would be done and the Department should get the amounts. But as per records, out of ₹ 52.27 crore, nothing seemed to be realised, even the monthly instalments were not received for that matter. The Committee asked whether the Department possessed any data regarding this. The Principal Secretary replied that such a data was not available with them currently and that they would produce the same at the earliest.

9. The Committee opined that in reality, no monitoring was done and the Department was not checking whether the instalments of RR were remitted in time. Once stay orders were received, the Department is evading from taking further action in realising the tax. The Committee felt that this was a precarious situation and a matter of serious concern which needed to be sorted out. The Committee also felt that the Finance Department ought to have examined the matter and added that the District Collectors should pursue and follow-up the matter once RR notices were sent because after that the Government does not have a role to perform.

10. Regarding the audit observation of incorrect computation of depreciation, the Committee enquired the reason for the short levy of ₹ 7.33 lakh since depreciation of only ₹ 59.35 lakh was given instead of ₹ 71.57 lakh. The Principal Secretary, Taxes Department answered that the case was regarding Oil Palm Corporation and the amount had been collected.

11. Regarding the paragraph which mentioned about omission of income while levying tax from charitable societies, the Committee enquired the reason for omitting ₹ 9.11 lakh which was not applied for charitable societies. More over the Department had issued an order as on 23-6-2008 demanding ₹ 4,69,029 from the Society.

12. The Principal Secretary, Taxes Department replied that the case was reopened based on Accountant General's observations. However, the party filed an appeal stating that though they had not deposited the amount, 75% of the income was expended in the same year. If the money or income was spent in the same year, they are not bound to pay any tax as per the provisions in the Act.

#### **Conclusion/Recommendation**

13. **The Committee understands that lack of proper planning and inadequate monitoring mechanism resulted in the failure of collection of Agricultural Income Tax arrears during 1998-99 to 2004-05 at the time of abolishing major institutions eventually making loss to public exchequer by ₹ 52.2 crore. When enquired about any records or accounts regarding the details of realisation of the amount, the Department seemed to possess nothing which underlines the indolent attitude and shoddy handling of financial matters by the Taxes Department. Though the Department heads agreed to submit the required details at the earliest, it was not complied with. Treating this as a further dampener to the situation the Committee directs to take action against all officials who failed to keep up the promise. The Committee also insists that District Collectors should pursue and follow-up the matter once RR notices were sent because after the issuance of RR notices, Govt. does not have a direct role to perform.**

14. **The Committee feels that the inability of the Department to take any earnest efforts to realise tax and check whether the RR instalments were remitted on time, was a matter of serious concern which needed to be straightened. The Finance Department is also equally responsible in matters regarding realisation of revenue and arrear collection.**

#### TAXES ON VEHICLES

##### AUDIT PARAGRAPH

##### **Short demand of composite tax**

Two axled goods carriage vehicles registered in other States or Union Territories in India can ply in Kerala Under National Permit after remitting composite tax of ₹ 3,000 per annum up to 16th July, 2006 and ₹ 5,000 per annum thereafter. Under the Kerala Motor Vehicles Taxation Act, composite tax on such

vehicles with multi axle shall be 25 per cent less than the rate applicable to two axled vehicles. But this concession is restricted to vehicles of those states which allow similar concession on multi axled vehicles of other states or union territories.

Test check of the records of the Transport Commissioner's (TC) Office, Thiruvananthapuram revealed that 1955 goods carriages and 3125 multi axled vehicles registered in Karnataka, Tamil Nadu and Nagaland and authorised to ply in Kerala under the National Permit during the year 2006-07 plied in the State on payment of pre-revised composite tax of ₹ 3,000 per annum and ₹ 2,250 per annum respectively instead of paying the tax at the rate of ₹ 5,000 per annum and ₹ 3,750 per annum. However, the department did not take any action to demand and collect the differential tax through the concerned regional/State Transport Authorities (STAs). This resulted in short levy of composite tax of ₹ 70.43 lakh.

After the cases were pointed out in January 2008, the department stated that TC's and Secretaries of other states were requested to collect the differential tax. A report on recovery has not been received (December 2008).

The matter was reported to the Government in April 2008; their reply has not been received (December 2008).

[Paragraph 5.4 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2008 (RR)].

Government notes on the above paragraph is given as Appendix—II of this Report.

15. Regarding the audit observation on short demand of tax, the Committee understood that double axled/multi axled vehicles of other states plied in Kerala by paying only pre-revised composite tax of ₹ 3,000 per annum instead of ₹ 5,000 there by incurring a short levy of ₹ 70,43,000. The Committee enquired the reason for this and also for not taking any action to recover the differential tax. The Senior Deputy Transport Commissioner, Transport Department replied that the Composite Tax was being collected by the respective States and same would be transferred to our State.

16. The Committee then asked whether our State Transport Department had claimed for any short payment if the other States paid less than that of the actual amount, if so when the claim was given. The Committee also wanted to know whether any action like taking the matter with higher authorities of other states happened instead of giving instruction to our vehicle inspectors. The Senior Deputy Transport Commissioner, Transport Department told that letters had been sent to the Transport Commissioners of the concerned States.

17. The Committee also enquired whether the internal audit wing noticed the issue first or it was after Accountant General's Audit. The Committee also wanted whether the Department noticed the issue during the Draft stage of AG's report or while the Report was laid on the House. The Senior Deputy Transport Commissioner, Transport Department told that the matter was brought to the notice through Accountant General's draft report. This time the Committee asked when the department communicated with the Transport Commissioners of other States. The Senior Deputy Transport Commissioner answered that the communication was sent on 3-3-2008 i.e. before laying of the Report on the House (22-5-2008).

18. The Committee enquired the latest position of the case and the amount collected. The Senior Deputy Transport Commissioner, Transport Department told that out of the total amount of ₹ 70.43 lakh, ₹ 7.25 lakh had been collected. He added that it was the responsibility of the respective Transport Authorities to collect the amount. Even though communications were sent intimating them about collection of composite tax, there wasn't any response from them. Hence a meeting of Transport Secretaries and Commissioners were convened in the year 2009.

19. When the Committee expressed its concern over finding a proper solution for this issue, the Principal Secretary, Taxes Department opined that after convening a meeting as mentioned by the Senior Deputy Transport Commissioner, the matter should have been followed-up with them and later Revenue Recovery could have been done through District Collectors. The Committee agreeing to the views of the Principal Secretary, Taxes Department added that these vehicles which did not pay the full amount should be barred from service inside the State and then only the transport authorities of the respective States come up with paying all the dues. When the Committee enquired about the action taken by the Motor Vehicle Inspectors against such vehicles, the Senior Deputy Transport Commissioner, Transport Department told that no such vehicles were caught.

20. The Committee pointed out a contradiction in the reply given by the Department for the audit paragraph that the duty for collecting the tax was vested with other States and later it was told that it was Motor Vehicle Inspectors who were responsible for the tax collection. Hence Committee wanted to know as to who exactly was responsible for collecting the tax. The Senior Deputy Transport Commissioner, Transport Department told that the taxes of Karnataka State Vehicles should be collected by Karnataka State Transport Authority and our State could request them for doing the same. At the same time if the Karnataka State vehicles enter our State we could levy taxes and collect directly.

21. The Committee mentioned that the Department was not taking any action to collect tax of inter-State vehicles once they cross over to our State. Though a meeting was convened in the previous month, only 10% of the total revenue was collected, apart from that nothing seemed to be done by the Department. The Senior Deputy Transport Commissioner, Transport Department apprised that the inter-state vehicles could be stopped at the check-posts and tax be levied on the spot. Letters could also be sent to the respective authorities of other States asking them to collect the same.

22. The Committee enquired the present position of arrear collection. The Senior Deputy Transport Commissioner, Transport Department informed that regular collections of tax in the revised rate of ₹ 5,000/3,750 was effected after the Accountant General's observation, i.e., from the year 2008 onwards. However there was still short collection from certain authorities due to the lack of communication between them. When enquired about the action taken by the Department to overcome such delays, the Senior Deputy Transport Commissioner, Transport Department told that communications were being sent to the respective Transport Secretaries and Commissioners.

23. The Committee concluded that when answering queries to similar cases, the details should be given to the Secretary with a copy to the Committee, as the Secretary was the witness. The Committee wanted the correct and up-to-date details of the action taken in realising the composite tax of vehicles, copy of the notices and communications sent, details of collections, reasons for delay, follow-up action taken, details of arrears, present positions, details of monthly reviews, etc. in writing along with relevant documents for support to be sent to them. Since Secretary is the Drawing and Disbursing Officer, the detailed report should be sent to the Finance Department because the Kerala Financial Code and the Budget Manual demands that. The views of the Committee were endorsed by the Secretary, Finance (Expenditure) Department.

24. The Committee deciphered that proper monitoring was not done by the Department because there was no internal auditing done and the monthly reports were not sent. This shows the breach of the provisions of the Kerala Financial Code and the Kerala Budget Manual. The Committee expressed displeasure in the inconclusive and unsatisfactory replies given by the officials. The Committee viewed the situation as very serious and urges the Finance Inspection Wing to conduct an enquiry into the matter. The Committee wanted the Department to fix responsibility against those who failed to collect tax on time and take action against all those who were found guilty.

### Conclusion/Recommendation

25. The Committee is disappointed to note that the Department exhibited a very lethargic attitude with respect to collection of tax from two/multi axled inter-state vehicles plying in Kerala. The Departments' 'pass the back' attitude and ineffective methodologies in realising composite tax as per the Kerala Motor Vehicles Taxation Act resulted in a loss of around ₹ 70.43 lakh to the exchequer.

26. The Committee strongly feels that those vehicles which did not pay the full amount of tax should be barred from service inside the State. Meanwhile the Committee finds a contradiction in the reply given by Department for the audit paragraphs and the one at the witness examination about the authority whom the tax collection is vested with. In the former instance, it was the respective State which was responsible while, the State Motor Vehicle Inspector was having the onus in the latter. Totally disappointed at the wavered approach of the Department, the Committee demands that a clear cut plan should be formulated for realising the tax amount.

27. The Committee scornfully notes that the Department failed to produce the up-to-date details of action taken in realising the composite tax of vehicles, copy of notices and communications sent, reasons for delay, details of arrears, present position, etc. as agreed during witness examination. Viewing the situation as very serious, the Committee urges the Finance Inspection Wing to conduct an enquiry into the whole matter and wants the Department to fix responsibility against those who failed to initiate timely action in collection of tax.

### STAMP DUTY AND REGISTRATION FEES

#### AUDIT PARAGRAPH

#### Short levy due to undervaluation

Under the Kerala Stamp Act 1959, if the Registering Officer is of the opinion that the consideration conceded in the instrument for registration has not been truly set forth, he may, after registering the document, refer the document to the District Collector for determining the value or consideration and the duty payable thereon. The Collector may, *suo motu*, within two years from the date of registration of any instrument not already referred to him, call for and examine the instrument and determine its value or consideration and the duty payable thereon. Government in October 1986, appointed District Registrars (DRs) as Collectors for this purpose.

During scrutiny of the records in three sub registry offices\* between June 2007 and January 2008, it was noticed that three documents registered in favour of different parties at various survey numbers were undervalued. The total difference in consideration in all the three cases works out to ₹ 1.40 crore resulting in short levy of stamp duty and registration fees of ₹ 19.73 lakh.

After the cases were pointed out between June 2007 and January 2008, the department stated between January 2008 and July 2008, that notice was issued in one case† and in another case‡ there is an agreement executed between the transferor and transferee and accordingly the buildings which were transferred through the subsequent documents by the transferee does not belong to the transferor. The reply is not tenable as the first document was executed on 6th February 2006 without any mention of the buildings in the land sold. The buildings in the above mentioned land were sold on various dates by the transferee, starting from 10th February 2006. A building cannot be constructed by the transferee within four days, indicating that the building was also transferred in the previous document. Further report has not been received (December 2008).

The matter was reported to the Government between December 2007 and April 2008. The Government stated in August 2008 that in one case§ *suo motu* action initiated against the Sub Registrar and notice issued to the party. Further report has not been received (December 2008).

[Paragraph 5.5 contained in the Report of Comptroller and Auditor General of India for the year ended 31st March, 2008 (RR).]

Government notes on the above paragraph is given as Appendix II of this Report.

28. The Committee sought explanation regarding the undervaluation noticed at various survey numbers in three Registrar Offices between June 2007 and January 2008 resulting in short levy of stamp duty and registration fee of ₹ 19.73 lakh. The Principal Secretary, Taxes Department told that there were three cases one each in West Hill, Mavoor and Mattannoor. During documentation in Mattannoor, it was written as ‘transfer of land alone to the party’. There was no mention about the building situated in that land. When a document is brought to the Sub-Registrar Office, the Department could not go beyond that document as per the Stamp Act and the Registration Act. The Committee did not object to the views regarding documentation, however pointed out that there were two

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\* Mattannur, Mavoor and West Hill

† SRO, Mavoor

‡ SRO, Mattannur

§ SRO, West Hill.



documentation, one on 6th February 2006 transferring the land and the other in 10th of February 2006 transferring the building. This clearly indicated that the building was shown as transferred after the registration of land just for escaping from paying the full value of the property. The Committee understood that there was malpractice done with the knowledge of the concerned officials.

29. The Commissioner, Commercial Taxes apprised that a Chit Finance Company had done the registration of the document. This Finance Company had given the land in the name of another person. But before the documentation of this land which was on the year 2006, there was an agreement between the Chit Company and the person such that permission was allowed to construct a building. The construction cost of the building was borne by this person and the whole details were described in the document as well. The Committee retorted that the Chit Company made the initial agreement long before the building was constructed and registration was done later. However, for constructing a building, the permission needed to be obtained and enquired on whose name it was issued. The Commissioner replied that they had not verified that aspect.

30. The Committee wanted the Department to verify whether any permission was given for the construction because if the land was given on lease, the permission could not be obtained since there was no such provision for leased property. Only if it was an own-property could the construction be done. The Principal Secretary, Taxes Department told that the permission was obtained in the year 2004. Then the Committee retorted that in such a situation, the property was not with the person. This time Inspector General, Registration told that in certain occasions, the property would be transferred with the permission for construction of the building and added that the permission was given for the buyer along with the transfer of land. However the Committee strongly objected to the fact that a building cannot be constructed in a property owned by a different person. In this case, the documentation and agreement had been manipulated to bring about a favourable situation. The Committee opined that if consulted with the concerned Panchayat, the details of granting the permission could be obtained.

31. The Inspector General, Registration apprised that the matter was verified and they could not trace out any sort of problems or issues connected with this.

32. The Committee put forth a few other queries to bring out the facts such as the date on which the one time revenue tax was remitted once the building works were over, date on which the fee for the Panchayat was paid at the time of starting the construction of building, when the completion certificate of the building was issued and on whose name the same was given etc. The Committee wanted the above details to be furnished to them within one month after clearly verifying things which was agreed upon by the Inspector General, Registration.

### Conclusion/Recommendation

33. The Committee understands that undervaluation of documents were explicitly evident in Mattannoor, Mavoor and West Hill Sub Registry Offices between June 2007 and January 2008 as the registration process and documentations were carried out under dubious, distorted and disputed circumstances. The scam exposed that influential culprits alongwith corrupted officials at the helm of affairs were able to scoop away ₹ 19.73 lakh by tax evasion usurping the money which would have otherwise gone to Government coffers impoverishing the State. Though the officials came up with details and stories regarding constructions and transference of building in the disputed property repudiating their stand, the Committee confutes the same by stating that a building cannot be constructed in a property owned by a different person. The Committee simultaneously remarks that the documentation and agreement had been manipulated to bring about a favourable situation.

34. Even though the officials of Registration Department agreed to furnish the details such as date on which one-time revenue tax was remitted once the building works were over, date on which the fee for Panchayat was paid at the time of construction, date of issuance of completion certificate, details of the beneficiary with respect to the disputed deal before the Committee, it was not obliged with till date. Acrimoniously viewing such irresponsible acts of the Department, the Committee feels that charges of malpractice involved in similar cases is too palpable to be overlooked. The Committee wants the erring officials to be brought to book and necessary action be taken against those who did malpractice in the whole deal.

### TAXES AND DUTIES ON ELECTRICITY

#### AUDIT PARAGRAPH

#### Short levy of electricity duty

Under the Kerala Electricity Duty Act, 1963, electricity duty is chargeable at the rate of 10 per cent of the energy charges from consumers other than industrial consumers having high tension load of 11 KV or above. The licensees shall collect the duty from the consumers and remit it to the Government.

During scrutiny of the records in Chief Electrical Inspectorate, Thiruvananthapuram, in February 2007, it was noticed that ₹ 165.02 lakh units of energy were supplied by a licensee to six non-industrial consumers having high tension load of 11 KV or above and paid electricity duty of ₹ 16.50 lakh at the rate of 10 paise per unit instead of ₹ 22.49 lakh at the rate of 10 per cent of the

energy charges of ₹ 224.93 lakh. However, the department did not initiate action to recover the differential duty. This resulted in short realisation of electricity duty of ₹ 5.99 lakh.

After the case was pointed out in February 2007, the department stated in February 2008 and June 2008 that the matter had been referred to the Government for further direction. Further report has not been received (December 2008).

[Paragraph 5.6 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2008 (RR).]

Government notes on the above audit paragraph is given as Appendix II of this Report.

35. From the audit observation, the Committee understood that under the Kerala Electricity Act, 1963, electricity duty is payable at 10% of energy charges by the consumers. This surcharge should be remitted along with the electricity bill. The Department, instead of collecting ₹ 22.48 lakh as surcharge (10%) for energy charges of ₹ 224.93 lakh, collected only ₹ 16.50 lakh thereby incurring a short levy of ₹ 5.99 lakh. The Committee sought reasons for such a short levy and also for not collecting the full amount.

36. The Secretary-in-charge, Power Department began by tendering his unqualified apology for the belated submissions of RMT statements of the said audit paragraph. As an explanation for the issue, the Secretary-in-charge apprised that an amendment was brought in the year 1989 in item 4(b) of the schedule such that the Industrial consumers under High Tension tariff need pay only 10 paise on load of 11KV or above instead of 10% mainly for industrial facilitation and to encourage industrial growth. The problem was that, this benefit was unintendedly extended to non-industrial consumers under High Tension also. The Secretary-in-charge added that unfortunately this was practised throughout the State since 1999 and had become a matter of serious concern for the Department. To a query from the Committee whether the directions of the department was with retrospective effect, the Secretary-in-charge replied that the changes were effected from the year 1989 onwards.

37. The Committee expressed its doubt and reservation over the contention of the Department officials that the benefit was unintendedly extended to non-industrial customers and opined that instead it would have been deliberate and purposeful. The Committee also checked whether the amendment was applicable to

High Tension or extra High Tension in Industrial consumer category. The Secretary-in-charge, Power Department apprised that the rates were all the same though it was intended mainly to High Tension Industrial consumers at 11 KV and above.

38. The Committee still had doubts over the amendments that “electricity duty is chargeable at the rate of 10% of energy charges from consumers other than Industrial consumers” which meant that Industrial consumers were not eligible and entitled for the benefit. The Secretary-in-charge clarified that Industrial Consumers need pay only at the rate of 10 paise. He also said that their Department did not have a Commercial Tariff at that time and this tariff came much later on 15-5-1999 and this caused all the confusion. The Committee strongly felt whether there was a purposeful intention behind the amendment which was applicable to non-industrial customers because this was made effective for industrial customers as well.

39. At this juncture the Committee pointed out a case with Kannan Devan Tea Ltd. where the Board supplied electricity to the company and the company in turn became a distributor of power and performed as an agent. Being the seller of power, and the sale not for industrial purpose, money should have been collected from them. The Secretary-in-charge, Power Department stated that no action had been taken against Kannan Devan Ltd. The Committee opined that since no case was pending before the Court regarding the issue with Kannan Devan Ltd., it was easy to collect the amount.

40. The Committee mentioned that similar to the above case, Thrissur Corporation, Shipyard, Kerala Infrastructure Development Authority, SEPS, etc. are acting as licensees for distribution of electricity. The Committee asked whether the same tariff was levied from all of them. The Secretary-in-charge, Power Department clarified again that if the High Tension Power was used for Industrial purpose, then the tariff would be 10 paise per unit and if it was commercial/domestic purpose, it would be 10%. In the case of Kerala Infrastructure Development Authority, the power was used for industrial purpose.

41. The Committee still had queries regarding Thrissur Corporation such as the consumption of individual customers would not come above 11 KV but if taken as a single consumer/licensee, Thrissur Corporation would be liable to pay

10% of the total consumption as duty. The Committee wanted to know how the recovery was made in the above case. The Secretary-in-charge, Power Department told that the charges applicable to consumers were same even if electricity is supplied by the Board or through any licensee. He apprised that all licensees in the State including KSEB, when supplying High Tension to non-industrial consumers, instead of collecting duty at 10%, had been collecting at 10 paise and this was being followed since the year 1989.

42. The Committee opined that this method was against the spirit of the amendment because two interpretations of the same amendments was followed in different cases. Apart from licensees, actions should be taken to collect amounts from industrial firms and persons.

43. To a query from the Committee regarding the pending amounts to be collected from Thrissur Corporation, the Secretary-in-charge, Power Department told that all arrears had been settled.

44. The Committee viewed the laxity on the part of the Internal Audit Wing regarding the arrears collection as very serious and urged that all amounts as per the Act should be collected. The Committee however has a favourable attitude towards KSEB considering its financial weakness. Also the tariff from KSEB could be realised even otherwise because it was covered under Central Act. The bill amount includes this tariff and KSEB in turn remitted it in the Chief Electrical Inspectorate.

#### **Conclusion/Recommendation**

**45. The Committee is very much disappointed to see that the Department, instead of collecting electricity duty at 10% of energy charges, collected 10 paise on high tension load of 11 KV or above from consumers leading to a short levy of ₹ 5.99 lakh during February 2007. The Committee cannot accept the contention of the officials that such an amendment made in the Kerala Electricity Duty Act 1963, was to encourage industrial growth and that non-industrial consumers got unintended benefit out of this move. The Committee instead feels that this is a travesty of the Rule and spirit behind the Act, which was done deliberate and purposeful since two interpretations of the same amendments were followed in different cases; one with Kannan Devan Tea Ltd., and other with Thrissur Corporation. Seriously criticising the laxity on the part of the internal audit wing of the Department regarding arrear collection, Committee recommends that all amounts as per the Act should be collected as early as possible.**

## TAXES ON AGRICULTURAL INCOME

## AUDIT PARAGRAPH

**Results of audit**

Test check of the records of Agricultural Income Tax Offices conducted during the year 2008-09 revealed underassessments of tax amounting to ₹ 28.66 crore in 67 cases which fall under the following categories:

(Rupees in crore)

<i>Sl. No.</i>	<i>Category</i>	<i>No. of cases</i>	<i>Amount</i>
1	Income escaping assessment	4	8.07
2	Underassessment due to grant of inadmissible expenses	22	6.77
3	Incorrect computation of tax	9	3.56
4	Incorrect computation of income	8	2.16
5	Underassessment due assignment of incorrect status	1	0.30
6	Other lapses	23	7.80
	Total	67	28.66

During the year 2008-09, the department accepted under assessments and other deficiencies of ₹ 12.09 lakh involved in nine cases of which five cases involving ₹ 1.10 lakh were pointed out during 2008-09 and the rest in earlier years. The department recovered ₹ 10.99 lakh in four cases relating to the earlier years.

A few audit observation involving ₹ 10.75 crore are mentioned in the succeeding paragraphs.

**Audit observations**

Scrutiny of assessment records of Agricultural Income Tax 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 paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Assessing Authorities (AAs) are pointed

out in audit each year but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for Government to improve the internal control system including strengthening of internal audit.

#### **Non-observance of provisions of Acts/Rules**

The Kerala Agricultural Income Tax (KAIT) Act, 1991 and Rules made thereunder provide for completing assessments observing the following aspects:

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

It was observed that the AAs while finalising the assessments, didnot observe some of the provisions of the Act/Rules resulting in short levy of tax and interest of ₹ 10.75 crore as mentioned in the paragraphs 3.3.1 to 3.3.5.

#### **Income escaping assessment**

Under the provisions of the KAIT Act, the agricultural income shall be computed after making the prescribed deductions. The deductions include the rent actually paid/provision for payment of rent for the land from which the agricultural income is derived. The Act further stipulates that where an allowance or deduction is made in the assessment for any year in respect of loss or expenditure and if the assessee obtained any amount in lieu of such loss, the amount so obtained shall be deemed to be agricultural income.

During scrutiny of records in the office of the inspecting Assistant Commissioner (Commercial Taxes), Kottayam in July 2008, it was noticed that while finalising the assessment of a public limited company for the assessment year 2004-05, an amount of ₹ 10.85 crore received as value of rubber trees was adjusted against lease rent outstanding. As the company had provided for payment of lease rent which was already allowed as a deduction in the agricultural income tax assessments, the receipt of ₹ 10.85 crore adjusted against reserve created by the company for payment of lease rent, should have been deemed as income. The omission to assess the deemed income of ₹ 10.85 crore resulted in non-levy of tax of ₹ 6.51 crore.

After the case was pointed out, the AA stated (July 2008) that the case would be examined. Further report has not been received (September 2009). The matter was reported to Government in December 2008; their reply has not been received (September 2009).

Under the KAIT Act, where any person sustains 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 and if it cannot be wholly set off, shall be carried forward to the following year and so on, but no loss shall be carried forward for more than eight years.

During scrutiny of records in the office of the Inspecting Assistant Commissioner (Commercial Taxes), Mattancherry in September 2008, it was noticed that while finalising the assessment for the year 2005-06 in December 2007 of a public limited company, the net income returned for the year was incorrectly reckoned as loss and was recorded as nil demand. The reckoning of income as loss had resulted in irregular carry forward of loss of ₹ 3.12 crore and short levy of tax of ₹ 1.56 crore calculated at the prevailing rate of 50 per cent, when the loss is set off.

After the case was pointed out, the AA stated (September 2008) that the carry forward of loss was in order and there was no revenue loss involved. However, the fact remains that reckoning of income as loss had doubled the loss carried forward which would ultimately result in short levy of tax. Further reply has not been received (September 2009).

The matter was reported to Government in April 2009; their reply has not been received (September 2009).

Under the proviso below subsection (6) of Section 39 of the KAIT Act, the assessment of agricultural income derived from manufactured tea may be provisionally completed on the basis of the return filed and revised on the basis of the Central Income Tax (CIT) assessment as and when completed. As per the second proviso below the said subsection, an assessee who fails to submit a copy of the CIT assessment order or appellate order within 30 days of receipt of the same shall be liable to pay interest as provided under subsection (4) or Section 37.

During scrutiny of records in the office of the Inspecting Assistant Commissioner (Commercial Taxes), Mattancherry in September 2008, it was noticed that the agricultural income tax assessment of a company for the year 1997-98 was completed in December 2000. The total agricultural income of ₹ 10.20 crore including income from manufactured tea was provisionally determined at ₹ 8.43 crore on the basis of the return furnished by the company. However, as per the CIT assessment completed in February 2011, income attributable to agricultural income in respect of manufactured tea was computed at ₹ 9.22 crore. The Inspecting Assistant Commissioner did not revise the assessment, taking into account income computed by the CIT, though the information



regarding CIT assessment was available with the department as evident from a notice issued in May 2002 under Section 37(4) of the Act. It was further noticed that, though the assessment was revised in February 2008 to allow certain expenses allowed in appeal, the income escaped from manufactured tea was not considered for assessment. This resulted in turnover of ₹ 78.83 lakh escaping assessment leading to short levy of tax of ₹ 47.30 lakh.

After the case was pointed out, the AA stated (September 2008) that the matter would be examined. Further development has not been reported (September 2009).

The matter was reported to Government in December 2008; their reply has not been received (September 2009).

#### **Incorrect computation of income**

Under the KAIT Act, the total agricultural income of the previous year 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 persons sustains 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 and if it cannot be wholly set off, shall be carried forward to the following year and so on but no loss shall be carried forward for more than eight years.

During scrutiny of records in the office of the Inspecting Assistant Commissioner (Commercial Tax), Kottayam in July 2008, it was noticed that while finalising the assessment for the year 2004-05 of a company (which returned net income of ₹ 4.18 crore), after adjusting the carry forward loss of ₹ 2.37 crore from the previous year, the balance income of ₹ 1.81 crore was reckoned as net loss instead of net income exigible to tax. This resulted in short levy of tax of ₹ 1.09 crore being 60 per cent of ₹ 1.81 crore. The assessee was also liable to pay interest of ₹ 20.63 lakh from January 2007 to July 2008.

After the case was pointed out, the AA stated (July 2009) that the case would be examined. Further development has not been reported (September 2009).

The case was reported to Government in March 2009; their remarks have not been received (September 2009).

#### **Non-levy of interest**

Under the KAIT Act, any person who fails to pay tax under section 37(1) and (3) of the Act or in pursuance of a demand notice issued under Section 45, shall pay simple interest at the prescribed rates for every month of delay or part thereof, on the unpaid balance of tax.

During scrutiny of records in the office of the Inspecting Assistant Commissioner (Commercial Tax), Mattancherry in September 2008, it was noticed that the assessment of a domestic company for the assessment year 1998-99 completed in December 2000 levying tax of ₹ 6.63 crore was revised in February 2008 based on an appellate order, reducing the tax to ₹ 6.07 crore. After adjusting the excess credit available on revision of assessments for the assessment years 1995-96 to 1997-98 and remittance of ₹ 5 crore, the balance tax payable worked out to ₹ 1.02 crore as on 1 January 2001, of which, the assessee had remitted ₹ 40.68 lakh in March 2001. Hence the balance tax payable was ₹ 60.98 lakh of which interest of ₹ 65.40 lakh for the period from January 2001 to August 2008 though leviable, was not levied. This resulted in non-levy of interest of ₹ 65.40 lakh. Besides, balance tax of ₹ 60.98 lakh is also recoverable (September 2009).

After the case was pointed out, the assessing officer stated in September 2008 that the case would be examined. Further reply has not been received (September 2009).

The matter was reported to Government in January 2009; their reply has not been received (September 2009).

During scrutiny of records in the office of the Inspecting Assistant Commissioner (Commercial Tax), Mattancherry in September 2008, it was noticed that the assessment of a domestic company for the year 1993-94 was finalised in March 1995 fixing the net income at ₹ 1.82 crore levying tax of ₹ 1.18 crore. After affording credit for ₹ 80 lakh, balance tax of ₹ 38.02 lakh was demanded in December 1995. The assessment was later revised in March 2008, based on an appellate order (March 2002), in which the net income and tax due were fixed at ₹ 1.66 crore and ₹ 1.08 crore respectively. After giving credit as in the original order as well as remittance of ₹ 17.30 lakh made in March 1999, the balance tax was ₹ 10.53 lakh. Interest on the balance tax for the period from 1 January 1996 to 31 August 2008 worked out to ₹ 27.15 lakh.

After the case was pointed out, the AA stated (September 2008) that interest was not leviable since the assessment was remanded by the Commissioner of Commercial Taxes. The fact remains that the order referred to was not an open remand but only a modification of the earlier order as the revised order relied on the turnover already fixed and there was only minor alterations from the original order. Further replies have not been received (September 2009).

The case was reported to Government in January 2009; their replies have not been received (September 2009).

### **Grant of inadmissible expense/allowance**

Under the KAIT Act, the agricultural income of a person shall be computed after making the prescribed deductions. Under Section 5(k), 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 as claimed in any previous year towards provision for gratuity in respect of such employee can be allowed as deduction. Instructions issued (March 1970 and June 1989) by the erstwhile Board of Revenue lay down departmental procedure for verifying and checking of all calculations of turnover, tax and credits in the assessment order.

During scrutiny of records in the office of the Inspecting Assistant Commissioner (Commercial Taxes), Kottayam in July 2008, it was noticed that while finalising the assessment for the year 2004-05 of a domestic company in December 2006, gratuity of ₹ 26.55 lakh payable for the period from March 1980 to March 1991 and claimed on the basis of actuarial certificate produced by the assessee during the year was ordered to be disallowed and was agreed to by the assessee. But while computing the income, deduction in respect of gratuity was not disallowed. This resulted in short levy of tax of ₹ 15.93 lakh.

After the case was pointed out, the AA stated (July 2008) that the case would be examined. Further development has not been received (September 2009).

The matter was reported to Government in March 2009; their reply has not been received (September 2009).

### **Short levy of tax due to grant of excess re-plantation allowance/investment deposit scheme**

Under the KAIT Act, an assessee shall be entitled to a deduction on account of deposit under Investment Deposit Scheme, 1993 from his agricultural income, any sum not exceeding 20 per cent of the total agricultural income. Under paragraph 3(i) of the Investment Deposit Scheme, deduction not exceeding eight per cent of the agricultural income from tea liable to tax under the Act alongwith the share of deduction under Central Scheme shall not exceed 20 per cent of the income computed under Rule 8(1) of the Income Tax Rules, 1962.

During scrutiny of records in the office of the Inspecting Assistant Commissioner (Commercial Taxes), Mattancherry in September 2008, it was noticed that the assessment of a domestic company for the year 1999-2000 was completed in December 2001 and the net income from tea as well as other crops was fixed at ₹ 85.27 lakh after allowing deduction of ₹ 13.28 lakh towards deposit under Investment Deposit Scheme. The assessment was revised in August 2005 and the net income was fixed at ₹ 56.46 lakh. However, the corresponding

modification in the deduction allowed under Investment Deposit Scheme was not made. The deduction allowable as per the revised income was ₹ 8.63 lakh instead of ₹ 13.28 lakh allowed. The excess deduction allowed had resulted in short levy of tax of ₹ 2.79 lakh.

After the case was pointed out, the AA stated (September 2008) that the case would be examined. Further development has not been reported (September 2009).

The matter was reported to Government in January 2009; their reply has not been received (September 2009).

[Paragraph 3.1 to 3.3 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2009 (RR).]

Govt. notes on the above paragraph is given as Appendix II of this Report.

46. Based on the Audit paragraph which mentioned about irregular computation of agricultural income and subsequent short levy of tax, the Committee enquired about the reason for irregular carry forwarding of ₹ 3.12 crore resulting in loss of tax of ₹ 1.56 crore. The Principal Secretary, Taxes Department told that the case was checked and only a provisional assessment could be done. Hence the Department was awaiting final assessment of Income Tax Department, after which the assessment could be revised. At present ₹ 8 crore was linked to the Income Tax. The Committee accepted the explanation.

47. Regarding the Audit findings in paras 3.3.1.3, a sum of ₹ 47.30 lakh was deducted as short levy of tax due to escaping of assessment for agricultural income amounting to ₹ 78.83 lakh. In the case of audit para 3.3.2 it was noticed that for assessment year 2007-08 there occurred a short levy of commercial tax of ₹ 1.09 crore. The assessee was also liable to pay interest on tax of ₹ 20.63 lakh during 2007 to 2008. The Committee duly agreed to the Principal Secretary's explanation on Audit findings that final assessment could only be done after the assessment of the Central Income Tax Department is over. As of now provisional assessment could only be performed and it has already been done.

48. Based on the audit observation about Non-Levy of interest the Committee understood that there was ₹ 65.40 lakh pending to be collected from a domestic company due to a revised assessment done in February 2008 based on an appellate order. The Committee enquired the reason for this and the actions taken for recovering the amount. Accepting the Accountant General's observations, the Principal Secretary, Taxes Department told the Committee that ₹ 55 lakh had been collected and RR notices had been issued for the remaining amount. The Committee opined that since the case was with regard to Harrison's Malayalam Plantations, the remaining amount could be realised quickly. The Committee also

enquired the reason for not realising the interest in the beginning. The Principal Secretary, Taxes Department informed that when RRC was being issued, the actual amount of interest could not be calculated. However when RRC was issued the Department had kept a condition such that 15% interest should be given. He also said that through Amnesty Scheme the amount would be less.

49. Regarding the short realisation of interest on balance tax of re-assessment done on March 2008, the Committee sought explanation towards the collection of balance tax of ₹ 10.53 lakh and interest on balance tax amounting to ₹ 27.15 lakh, the Committee directed the Department to authorise the local Agricultural Income Tax Officers to convene meetings for taking speedy actions for collecting the amount. The Principal Secretary, Taxes Department deposed that RR had been filed for this as well. The Committee remarked that by just filing an RR would not serve the purpose instead urged that proper follow ups should be done. This was agreed upon by the Principal Secretary.

50. Regarding the short levy of tax due to grant of excess re-plantation allowance/investment deposit scheme the Committee said that a reduction of ₹ 13.28 lakh was allowed instead of the permissible amount of ₹ 8.63 lakh when the Committee enquired the reason for this, the Principal Secretary, Taxes Department apprised that the error was rectified.

#### **Conclusion/Recommendation**

**51. The Committee directs the Department to take urgent necessary action in order to collect the balance amount with interest amounting to ₹ 27.15 lakh which resulted due to the incorrect computation of agricultural income tax during March 2008. The Committee urges the Local Agriculture Income Tax Officers to convene meetings for taking speedy actions for the realisation of the amount.**

Thiruvananthapuram,  
20th March , 2012.

DR. T. M. THOMAS ISAAC,  
*Chairman,*  
*Committee on Public Accounts.*

## APPENDIX I

## SUMMARY OF MAIN CONCLUSION/RECOMMENDATION

<i>Sl.No.</i>	<i>Para No.</i>	<i>Department Concerned</i>	<i>Conclusion/Recommendation</i>
(1)	(2)	(3)	(4)
1	13	Taxes	The Committee understands that lack of proper planning and inadequate monitoring mechanism resulted in the failure of collection of Agricultural Income tax arrears during 1998-99 to 2004-05 at the time of abolishing major institutions eventually making loss to public exchequer by ₹ 52.2 crore. When enquired about any records or accounts regarding the details of realisation of the amount, the Department seemed to possess nothing which underlines the indolent attitude and shoddy handling of financial matters by the Taxes Department. Though the Department heads agreed to submit the required details at the earliest, it was not complied with. Treating this as a further dampener to the situation the Committee directs to take action against all officials who failed to keep up the promise. The Committee also insists that District Collectors should pursue and follow-up the matter once RR notices were sent because after the issuance of RR notices, Govt. does not have a direct role to perform.
2	14	Taxes, Finance	The Committee feels that the inability of the Department to take any earnest efforts to realise tax and check whether the RR instalments were remitted on time was a matter of serious concern which needed to be straightened. The Finance Department

(1)	(2)	(3)	(4)
			is also equally responsible in matters regarding realisation of revenue and arrear collection.
3	25	Transport	The Committee is disappointed to note that the Department exhibited a very lethargic attitude with respect to collection of tax from two/multi axled inter-state vehicles plying in Kerala. The Departments' 'pass the back' attitude and ineffective methodologies in realising composite tax as per the Kerala Motor Vehicles Taxation Act resulted in a loss of around ₹ 70.43 lakh to the exchequer.
4	26	„	The Committee strongly feels that those vehicles which did not pay the full amount of tax should be barred from service inside the State. Meanwhile the Committee finds a contradiction in the reply given by the Department for the audit paragraphs and the one at the witness examination about the authority to whom the tax collection is vested with. In the former instance, it was the respective State which was responsible while, the State Motor Vehicle Inspector was having the onus in the latter. Totally disappointed at the wavered approach of the Department, the Committee demands that a clear cut plan should be formulated for realising the tax amount.
5	27	Transport, Finance	The Committee scornfully notes that the Department failed to produce the up-to-date details of action taken in realising the composite tax of vehicles, copy of notices and communications sent, reasons for delay, details of arrears, present

(1)	(2)	(3)	(4)
			position etc., as agreed during witness examination. Viewing the situation as very serious, the Committee urges the Finance Inspection Wing to conduct an enquiry into the whole matter and wants the Department to fix responsibility against those who failed to initiate timely action in collection of tax.
6	33	Taxes	The Committee understands that undervaluation of documents were explicitly evident in Mattannoor, Mavoor and West Hill Sub-registry offices between June 2007 and January 2008 as the registration process and documentations were carried out under dubious, distorted and disputed circumstances. The scam exposed that influential culprits alongwith corrupted officials at the helm of affairs were able to scoop away ₹ 19.73 lakh by tax evasion usurping the money which would have otherwise gone to Govt. coffers impoverishing the State. Though the officials came up with details and stories regarding constructions and transference of building in the disputed property repudiating their stand, the Committee confutes the same by stating that a building cannot be constructed in a property owned by a different person. The Committee simultaneously remarks that the documentation and agreement had been manipulated to bring about a favourable situation.
7	34	„	Even though the officials of Registration Department agreed to furnish the details such as date on which one-time revenue tax was remitted once the building works



(1)	(2)	(3)	(4)
			<p>were over, date on which the fee for Panchayat was paid at the time of construction, date of issuance of completion certificate, details of the beneficiary with respect to the disputed deal before the Committee, it was not obliged with till date. Acrimoniously viewing such irresponsible act of the Department, the Committee feels that charges of malpractice involved in similar cases is too palpable to be overlooked. The Committee wants the erring officials to be brought to book and necessary action be taken against those who did malpractice in the whole deal.</p>
8	45	Power	<p>The Committee is very much disappointed to see that the Department, instead of collecting electricity duty at 10% of energy charges, collected 10 paise on high tension load of 11 KV or above from consumers leading to a short levy of ₹ 5.99 lakh during February 2007. The Committee cannot accept the contention of the officials that such an amendment made in the Kerala Electricity Duty Act 1963, was to encourage industrial growth and that non-industrial consumers got unintended benefit out of this move. The Committee instead feels that this is a travesty of the Rule and spirit behind the Act, which was done deliberate and purposeful since two interpretations of the same amendments were followed in different cases; one with Kannan Devan Tea Ltd. and other with Thrissur Corporation. Seriously criticising the laxity on the part of the internal audit wing of the Department regarding arrear</p>

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(1)	(2)	(3)	(4)
			collection, the Committee recommends that all amounts as per the Act should be collected as early as possible.
9	51	Taxes	The Committee directs the Department to take urgent necessary action in order to collect the balance amount with interest amounting to ₹ 27.15 lakh which resulted due to the incorrect computation of agricultural income tax during March 2008. The Committee urges the Local Agriculture Income Tax Officers to convene meetings for taking speedy action for the realisation of the amount.

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## APPENDIX II

## ACTION TAKEN NOTES ON C &amp; AG's REPORT

- I. (a) Department : Commercial Taxes
- (b) Subject/Title of the Review : Results of audit  
Paragraph
- (c) Paragraph No. : 3.1
- (d) Report No. and year : C & AG Report ended 31-3-2008
- II. (a) Date of receipt of the Draft  
Para/Review in the  
Department
- (b) Date of Department's reply
- III. Gist of Paragraph/Review : General Para
- IV. (a) Does the department agree : Yes  
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 : The paras refers to the results of audit  
procedures, including internal controls during 2007-08 in various offices in this  
Department resulting in loss of revenue  
due to inadmissible expenses, income  
escaping assessment, incorrect

computation of income, incorrect computation of tax, incorrect status, etc. which resulted in short levy of ₹ 3.69 crore in 43 cases. Separate files for each irregularities as well as for each case are maintained in the respective offices and action pursued in all paras.

- (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

## ACTION TAKEN NOTES ON C &amp; AG's REPORT

- I. (a) Department : Commercial Taxes  
 (b) Subject/Title of the Review : Results of audit  
 Paragraph  
 (c) Paragraph No. : 3.1  
 (d) Report No. and year : C & AG Report ended 31-3-2009
- II. (a) Date of receipt of the Draft  
 Para/Review in the  
 Department  
 (b) Date of Department's reply
- III. Gist of Paragraph/Review : General Para
- IV. (a) Does the department agree : Yes  
 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 : The paras refers to the results of audit  
 procedures, including internal controls during 2008-09 in various offices in this  
 Department resulting in loss of revenue  
 due to income escaping assessment,  
 under assessment due to grant of  
 inadmissible expenses, incorrect

computation of income, under assessment due to assignment of incorrect statutes etc. which resulted in short levy of ₹ 28.66 crore in 67 cases. Separate files for each irregularities as well as for each cases are maintained in the respective offices and action pursued in all paras

- (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

## ACTION TAKEN NOTES ON C &amp; AG's REPORT

- I. (a) Department : Commercial Taxes
- (b) Subject/Title of the Review : Audit observations  
Paragraph
- (c) Paragraph No. : 3.2
- (d) Report No. and year : C & AG Report ended 31-3-2009
- 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 assessment records of agricultural income tax in Commercial Taxes Department revealed several cases of non-observance of provisions of Act/Rules, incorrect determination of income/interest, grant of inadmissible expenses/allowance and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Assessing Authorities (AAs) are pointed out in audit each year but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for Government to improve the internal control system including strengthening of internal audit.
- IV. (a) Does the department agree : Yes  
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 : At present the internal audit wing of the Commercial Taxes Department is functioning with 4 Asst. Commissioners and 5 Commercial Tax Officers under the supervision of Deputy Commissioners (Internal Audit). From time to time Commercial Tax Offices in different districts were selected for audit work, constituting teams headed by an Asst. Commissioner assisted by one or two Commercial Tax Officers.

(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



## ACTION TAKEN NOTES ON C &amp; AG's REPORT

- I. (a) Department : Commercial Taxes
- (b) Subject/Title of the Review : Income escaping assessment  
Paragraph
- (c) Paragraph No. : 3.3.1.1
- (d) Report No. and year : C & AG Report ended 31-3-2009
- II. (a) Date of receipt of the Draft : 4-3-2009  
Para/Review in the  
Department
- (b) Date of Department's reply : 24-8-2009
- III. Gist of Paragraph/Review : During scrutiny of records in the Office of the Inspecting Assistant Commissioner (Commercial Taxes), Kottayam in July 2008, it was noticed that while finalising the assessment of a public limited company for the assessment year 2004-05, an amount of ₹ 10.85 crore received as value of rubber trees was adjusted against lease rent outstanding. As the company had provided for payment of lease rent which was already allowed as a deduction in the agricultural income tax assessment, the receipt of ₹ 10.85 crore adjusted against reserve created by the company for payment of lease rent, should have been deemed as income. The omission to assess the deemed income of ₹ 10.85 crore resulted in non-levy of tax of ₹ 6.51 crore.
- IV. (a) Does the department agree : No  
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 : The observation that the compensation was intended to meet the revenue expenditure is clearly capital receipt. Sec. 2(1) of the AIT Act is clearly not applicable as this is neither rent nor revenue derived from land. Sec.4(2) (ii) is also not applicable since there is no reduction towards lease rent has been paid to the Government by way of adjustments from capital receipts due from the Government to the Corporation.

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 : The observation that the compensation was intended to meet the revenue expenditure is clearly capital receipt. Sec. 2(1) of the AIT Act is clearly not applicable as this is neither rent nor revenue derived from land. Sec. 4(2) (ii) is also not applicable since there is no reduction towards lease rent has been paid to the Government by way of adjustments from capital receipts due from the Government to the Corporation.

(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

## ACTION TAKEN NOTES ON C &amp; AG's REPORT

- I. (a) Department : Commercial Taxes
- (b) Subject/Title of the Review : Income escaping assessment  
Paragraph
- (c) Paragraph No. : 3.3.1.2
- (d) Report No. and year : C & AG Report ended 31-3-2009
- II. (a) Date of receipt of the Draft : 20-4-2009  
Para/Review in the  
Department
- (b) Date of Department's reply : 1-7-2009
- III. Gist of Paragraph/Review : During scrutiny of records in the Office of the Inspecting Assistant Commissioner (Commercial Taxes), Mattancherry in September 2008, it was noticed that while finalising the assessment for the year 2005-06, in December 2007 of a Public Limited Company, the net income returned for the year was incorrectly reckoned as loss and was recorded as nil demand. The reckoning of income as loss had resulted in irregular carry forward loss of ₹ 3.12 crore and short levy of tax ₹ 1.56 crore calculated at the prevailing rate of 50 per cent, when the loss is set off.
- IV. (a) Does the department agree : Yes  
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 : The objection in audit para is a clerical error. This will automatically be revised on revision of assessment order based on the assessment order passed by the Income tax Authorities. Since all the assessment under KAIT Act relating to the income from Tea and Rubber are governed by Rule 8, Rule 7A of the Income tax Rules, 1962 any income or loss determined before completion of the assessment under Income tax Act would automatically be reversed on completion of such assessment by the income tax authorities. The assessment completed is only provisional in the absence of the assessment order of Central Income Tax Authorities. The assessment will be revised on receiving CIT Order. The carrying forward was started in the year 1999-2000. As such the carrying forward of 8 years will end up to 2006-07.
- (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

## ACTION TAKEN NOTES ON C &amp; AG's REPORT

- I. (a) Department : Commercial Taxes
- (b) Subject/Title of the Review : Income escaping assessment  
Paragraph
- (c) Paragraph No. : 3.3.1.3
- (d) Report No. and year : C & AG Report ended 31-3-2009
- II. (a) Date of receipt of the Draft : 4-3-2009  
Para/Review in the  
Department
- (b) Date of Department's reply : 17-9-2009
- III. Gist of Paragraph/Review : During scrutiny of records in the office of the Inspg. Asst. Commissioner (Commercial Taxes), Mattancherry in September 2008, it was noticed that the agricultural income tax assessment of a company for the year 1997-98 was completed in December 2000. The total agricultural income of ₹ 10.20 crore including income from manufactured tea was provisionally determined at ₹ 8.43 crore on the basis of the return furnished by the company. However, as per the CIT assessment completed in February 2001, income attributable to agricultural income in respect of manufactured tea was computed at ₹ 9.22 crore. The Inspecting Assistant Commissioner did not revise the assessment, taking into account income computed by the CIT, though the information regarding CIT amount was available with the department as evident from a notice issued in May 2002 under Section 37(4) of the Act. It was further noticed that, though the

assessment was revised in February 2008 to allow certain expenses allowed in appeal, the income escaped from manufactured tea was not considered for assessment. This resulted in turnover of ₹ 78.831akh escaping assessment leading to short levy of tax of ₹ 47.30 lakh.

- IV. (a) Does the department agree with the facts and figures included in the paragraph ? : No
- (b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support : The original CIT assessment order dated 16-2-2001 referred in the audit had been modified by the CIT Authority on 18-5-2006 in the light of the Appellate Order No. 36/JC/C/CIT-11/2001-02 dated 3-1-2005. In view of the above, it may be noted that there could not be any recoverable loss on account of interest.
- 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 : The original CIT assessment order dated 16-2-2001 referred in the audit had been modified by the CIT Authority on 18-5-2006 in the light of the Appellate Order No. 36/JC/C/CIT-11/2001-02 dated 3-1-2005. In view of the above, it may be noted that there could not be any recoverable loss on account of interest.



- (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

## ACTION TAKEN NOTES ON C &amp; AG's REPORT

- I. (a) Department : Commercial Taxes
- (b) Subject/Title of the Review : Incorrect computation of income Paragraph
- (c) Paragraph No. : 3.3.2
- (d) Report No. and year : C & AG Report ended 31-3-2009
- II. (a) Date of receipt of the Draft : 25-3-2009  
Para/Review in the Department
- (b) Date of Department's reply : 17-8-2009
- III. Gist of Paragraph/Review : During scrutiny of records in the Office of the Inspecting Assistant Commissioner (Commercial Taxes), Kottayam in July 2008, it was noticed that while finalising the assessment for the year 2004-05 of a company (which returned net income of ₹ 4.18 crore), after adjusting the carry forward loss of ₹ 2.37crore from the previous year, the balance income of ₹ 1.81 crore was reckoned as net loss instead of net income eligible to tax. This resulted in short levy of tax of ₹ 1.09 crore being 60 per cent of ₹ 1.81 crore. The assessee was also liable to pay interest of ₹ 20.63 lakh from January 2007 to July 2008.
- IV. (a) Does the department agree : Yes  
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 : Based on the audit the assessment for the year 2004-05 has been revised under Section 42 of the AIT Act, 1991 on 10-7-2009 as follows:
- Net income re-fixed : ₹ 4,44,29,056
- Net loss carry forward : ₹ 5,93,93,643 from 1997-98
- Balance loss carry forward to 2005-06 : ₹ 1,49,64,587
- (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

## ACTION TAKEN NOTES ON C &amp; AG's REPORT

- I. (a) Department : Commercial Taxes
- (b) Subject/Title of the Review : Non-levy of interest  
Paragraph
- (c) Paragraph No. : 3.3.3.1
- (d) Report No. and year : C & AG Report ended 31-3-2009
- II. (a) Date of receipt of the Draft : 31-1-2009  
Para/Review in the  
Department
- (b) Date of Department's reply : 17-9-2009
- III. Gist of Paragraph/Review : During scrutiny of records in the Office of the Inspecting Assistant Commissioner (Commercial Taxes), Mattancherry in September 2008, it was noticed that the assessment of a domestic company for the assessment year 1998-99 completed in December 2000 levying tax of ₹ 6.63 crore was revised in February 2008 based on an appellate order, reducing the tax to ₹ 6.07 crore. After adjusting the excess credit available on revision of assessments for the assessment years 1995-96 to 1997-98 and remittance of ₹ 5 crore, the balance tax payable worked out to ₹ 1.02 crore as on 1st January 2001, of which, the assessee had remitted ₹ 40.68 lakh in March 2001. Hence the balance tax payable was ₹ 60.98 lakh on which interest of ₹ 65.40 lakh for the period from January 2001 to August 2008 though leviable, was not levied. This resulted in non-levy of interest of ₹ 65.40 lakh. Besides, balance tax of ₹ 60.98 lakh is also recoverable (September 2009.)

- IV. (a) Does the department agree with the facts and figures included in the paragraph : No
- (b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support : The balance amount of ₹ 1,07,39,337 for the year 1998-99 as such is under RR action to collect along with interest.
- 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 : On examination the calculation of excess amount Vis-a-vis the balance/Short levy, arrear demand would be as follows :

Year	Balance + Short Levy	Excess	Balance after adusting excess	Excess after adjusting balance, if any
1995-96	..	12,46,351	0	0
1996-97	22,87,532 (Bal. ₹ 8,51,992 + short levy ₹ 14,35,540)	12,46,351	10,41,181	0
1997-98	short levy ₹ 27,20,594	43,35,714	0	53,73,939 (43,35,714- 10,41,181 + 27,20,594)
1998-99	66,71,527	5,73,939	60,97,588	0

In this juncture it may be noted that the balance amount of ₹ 1,07,39,337 for the year 1998-99 as such is under RR action to collect along with interest. Hence the audit objection is not sustainable.

- (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

## ACTION TAKEN NOTES ON C &amp; AG's REPORTS

- I. (a) Department : Commercial Taxes
- (b) Subject/Title of the Review/  
Paragraph : Non levy of interest
- (c) Paragraph No. : 3.3.3.2
- (d) Report No. and year : C&AG Report ended 31-3-2009
- II. (a) Date of receipt of the Draft  
Para/Review in the Department : 31-1-2009
- (b) Date of Department's reply : 17-9-2009
- III. Gist of Paragraph/Review : During scrutiny of records in the office of the Inspecting Assistant Commissioner (Commercial Taxes), Mattancherry in September 2008, it was noticed that the assessment of a domestic company for the year 1993-94 was finalized in March 1995 fixing the net income at ₹ 1.82 crore levying tax of ₹ 1.18 crore. After affording credit for ₹ 80 lakh, balance tax of ₹ 38.02 lakh was demanded in December 1995. The assessment was later revised in March 2008, based on an appellate order (March 2002) in which the net income and tax due were fixed at ₹ 1.66 crore and ₹ 1.08 crore respectively. After giving credit as in the original order as well as remittance of ₹ 17.30 lakh made in March 1999 the balance tax was ₹ 10.53 lakh. Interest on the balance tax for the period from 1st January, 1996 to 31st August, 2008 worked out to ₹ 27.15 lakh.

- IV (a) Does the department agree with the facts and figures included in the paragraph : No
- (b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support : The Commissioner of Commercial Taxes has remanded the aspect of levying the interest in the assessment order No. 23900055/93-94, dated 23-11-1998 as per order No. R4-43189/2000/CT, dated 4-1-2007. Hence as per revised assessment order dated 4-3-2008 the net income fixed is ₹ 1,65,89,990 and the AIT due at the rate 65% thereon is ₹ 1,07,83,493 and as AIT paid is ₹ 97,30,204 the balance AIT due is ₹ 10,53,289.
- The demand of interest has already been raised under Revenue Recovery in RRC. No. 84/96-97, dated 1-3-1997. Therefore the audit objection is not sustainable.
- 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 : The Commissioner of Commercial Taxes has remanded the aspect of levying the interest in the assessment order No. 23900055/93-94, dated 23-11-1998 as per order No. R4-43189/2000/CT, dated 4-1-2007. Hence as per revised assessment order dated 4-3-2008 the net income fixed is ₹ 1,65,89,990 and the AIT due at the



rate 65% thereon is ₹ 1,07,83,493 and as AIT paid is ₹ 97,30,204 the balance AIT due is ₹ 10,53,289.

The demand of interest has already been raised under Revenue Recovery in RRC. No. 84/96-97, dated 1-3-1997. Therefore the audit objection is not sustainable.

- (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

## ACTION TAKEN NOTES ON C &amp; AG's REPORT

- I. (a) Department : Commercial Taxes
- (b) Subject/Title of the Review : Grant of inadmissible expense/Allowance Paragraph
- (c) Paragraph No. : 3.3.4
- (d) Report No. and year : C&AG Report ended 31-3-2009
- II. (a) Date of receipt of the Draft Para/Review in the Department : 25-3-2009
- (b) Date of Department's reply : 17-9-2009
- III. Gist of Paragraph/Review : During scrutiny of records in the office of the Inspecting Assistant Commissioner (Commercial Taxes), Kottayam in July 2008, it was noticed that while finalizing the assessment for the year 2004-05 of a domestic company in December 2006, gratuity of ₹ 26.55 lakh payable for the period from March 1980 to March 1991 and claimed on the basis of actuarial certificate produced by the assessee during the year was ordered to be disallowed and was agreed to by the assessee. But while computing the Income, deduction in respect of gratuity was not disallowed. This resulted in short levy of tax of ₹ 15.93 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

- 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 : The assessment for the year 2004-05 has been revised under Section 42 of the AIT Act 1991 on 10-7-2009 as follows :
- Net Income : ₹ 4,44,29,056.00  
refixed
- Net loss carry : ₹ 5,93,93,643.00  
forwarded from  
1997-98
- Balance loss carry : ₹ 1,49,64,587.00  
forwarded to  
2005-06
- (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.

## ACTION TAKEN NOTES ON C &amp; AG's REPORTS

- I. (a) Department : Commercial Taxes
- (b) Subject/Title of the Review Paragraph : Short levy of tax due to grant of excess re-plantation allowance/investment deposit scheme
- (c) Paragraph No. : 3.3.5
- (d) Report No. and year : C&AG Report ended 31-3-2009
- II. (a) Date of receipt of the Draft Para/Review in the Department : 12-1-2009
- (b) Date of Department's reply : 17-9-2009
- III. Gist of Paragraph/Review : During scrutiny of records in the office of the Inspecting Assistant Commissioner (Commercial Taxes), Mattancherry in September 2008, it was noticed that the assessment of a domestic company for the year 1999-2000 was completed in December 2001 and the net income from tea as well as other crops was fixed at ₹ 85.27 lakh after allowing deduction of ₹ 13.28 lakh towards deposit under Investment Deposit Scheme. The assessment was revised in August 2005 and the net income was fixed at ₹ 56.46 lakh. However, the corresponding modification in the deduction allowed under Investment Deposit Scheme was not made. The deduction allowable as per the revised income was ₹ 8.63 lakh instead of ₹ 13.28 lakh allowed. The excess deduction allowed had resulted in short levy of tax of ₹ 2.79 lakh.

IV. (a) Does the department agree : Yes  
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 : Action has been taken to bring the  
procedures, including internal escaped Income of ₹ 4.65 lakh to  
controls assessment under Section 41(1) of the  
KAIT Act 1991.

(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

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