

PUBLIC ACCOUNTS COMMITTEE

P.A.C-65

(1991-93)



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SIXTY-FIFTH REPORT
(NINTH ASSEMBLY)

REPORT OF THE COMMITTEE ON PUBLIC
ACCOUNTS ON THE REPORTS OF THE
COMPTROLLER AND AUDITOR GENERAL OF INDIA FOR THE YEARS 1983-84
1984-85 & 1986-87 (REVENUE RECEIPTS)
ON FINANCE (AGRICULTURAL
INCOME TAX) DEPARTMENT
GOVERNMENT OF ASSAM

Presented to the Assembly on 24th December, 1992.

ASSAM LEGISLATIVE ASSEMBLY, DISPUR
GUWAHATI—781006

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Composition of the Committee.
(1991-93)

CHAIRMAN :

1. Shri Sasha Kamal Handique.

MEMBERS :

2. Shri Upendra Nath Sanatan.
3. Shri Rameswar Dhanowar.
4. Shri Alauddin Sarkar.
5. Shri Zoi Nath Sarma.
6. Shri Nurjamal Sarkar.
7. Shri Debendra Nath Baruah.
8. Shri Lakshmi Prasad Borgohain.
9. Shri Koshe^Swar_A Baruah.
10. Shri Kali Ranjan Deb.
11. Shri Derhagra Mochahary.

SECRETARIAT :

1. Shri D. Talukdar, Secretary.
2. Shri A.R. Chetia, Under Secretary.
3. Shri Subimal Kr. Das, Committee Officer.

PREFATORY REMARKS.

1. I, Shri Sasha Kamal Handique, Chairman of the Committee on Public Accounts having been authorised to submit this Report of the Committee on their behalf do present the Sixty fifth Report of the Committee on Public Accounts on the Audit paragraphs contained in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the years 1983-84, 1984-85 and 1986-87 pertaining to the Finance (Agricultural Income Tax) Department of the Government of Assam.
2. The Report of the Comptroller & Auditor General of India (Revenue Receipts) for the years 1983-84, 1984-85 and 1986-87 were presented to the House on 18th July 1985, 10th December, 1986 and 16th March, 1989 respectively.
3. The Report as mentioned above relating to the Finance (Agricultural Income Tax) Department were considered by the out going Committee of Eighth Assembly. (Annexure-I) headed by Shri A.F. Golam Osmani MLA as well as the present Committee in their sittings held on 4th January, 1989, 5th June, 1990 and 20th May, 1992. The out going Committee could not submit their report to the House owing to expiry of their terms. The present Committee pursued all the relevant records and prepared the Report covering the years as mentioned above.
4. The Committee considered the Draft Report as drafted by the Sub-Committee constituted for the purpose (Annexure-II) and finalised the same in their sitting held on 25th November, 1992.
5. The places on records their appreciation to the staineous work done by the outgoing Committee in obtaining various records information, clarification etc. pertaining to the chapters by them. The Committee also appreciates the valuable assistance rendered to the Committee by the Accountant General (Audit) Assam and his Junior Officers and Staff. The Committee also express their thanks to the Finance Department for their co-operation with the Committee.

Dated Dispur
The 25th November, 1992

S. K. HANDIQUE,
Chairman,
Public Accounts Committee
Assam Legislative Assembly.

AGRICULTURAL INCOME TAX

CHAPTER—I

General

A. Analysis of receipt from Agricultural Income.

Ref. Comptroller & Auditor General of India (Revenue Receipts), 1983-84, 1984-85 and 1986-87.

1.1. An analysis of Tax revenue receipts raised from agricultural income tax for the years 1983-84, 1984-85, 1985-86, 1986-87, as reported by Audit is given below.—

Year	Amount, in Crores	(+) Increase (-) decrease with ref to preceding year.
1982-83	8.00	Base year
1983-84	11.29	(+) 3.29
1984-85	36.28	(+) 24.99
1985-86	65.19	(+) 28.91
1986-87	62.00	(-) 3.19

From the above table it is seen that the trend of receipts from Agricultural income is in increase except for the year 1986-87. The reasons for such decrease in the year 1986-87, it is not on record. The Committee would like to know the reasons for decrease of receipt in that particular year.

B Cost of Collection.

1.2. The Committee has also considered the question of cost of collection of tax revenue raised from agricultural income, the percentage of expenditure on collection on the gross collection which are given below yearwise.

Year	Gross Collection (In Crores of Rupees)	Expenditure (In Crores)	Percentage of expenditure on gross Collection
1983-84	11.29	0.03	Negligible
1984-85	36.28	0.05	do—
1985-86	65.19	0.14	—do—
1986-87	62.00	0.06	—do—

The Committee express their happiness that the cost of collection all along the years under Report was negligible.

C. Variation between Actuals & Estimates.

1.3.1. As reported by Audit the variation between Budget estimates and Actuals under the head Tax revenue raised from Agricultural income during the years under report are as follows:—

Year	Budget Estimates (In Crores of Rupees)	Actuals (In Crores)	Variations Excess (+) Shortfall (—)	Percentage of Variation
1983-84	12.00	11.29	(—) 6.71	6
1984-85	14.00	36.28	(+) 22.28	159
1985-86	14.70	65.19	(+) 50.49	343
1986-87	15.44	62.00	(+) 46.56	302

From the above chart it would appear that the variation between the Budget estimates and Actuals for the year 1983-84 is in decrease, whereas the variation for the remaining years is in increase in the percentage raised from 154 to 343. The increase of Rs. 22.28 crores for the year 1984-85 was mainly due to raised in the price of Tea. Again the sharp rise receipt under taxation Agricultural income for the year 1985-86 and 1986-87 was mainly due to boom. Condition prevailing in the Tea Market rate too high profitability as stated by Audit.

1.3.2. The increase of Actuals over estimates is always encouraging. But, we observe that at the time of preparation of Budget estimates the Department failed to anticipate correctly the volume of Actuals receipts from this important source.

D. Arrears of Assessment.

1.4.1. The number of cases of Agricultural Income Tax due for assessment and actually assessed during the years 1981-82, 1982-83, & 1983-84 and the number of cases pending at the end of each year as stated by Audit are indicated below:—

Year	Total number of cases due for assessment.	Number of cases assessed	Number of cases Pending at the end of the year.
1981-82	2,301	1,775	526
1982-83	2,104	1,648	456
1983-84	2,445	802	1,643
1984-85	2,563	895	1,668
1985-86	2,588	173	2,415
1986-87	2,359	975	1,384

1.4.2. The Committee express their unhappiness after having seen the figure of assessments at the end of each year shown in the chart. The Committee feels that the department should take adequate measure in this regard.

E: Results of Audit:

1.5. It has been reported in Audit that Test Check of the records of the Agricultural Income Tax Officers, Conducted in Audit during the years 1984-85 and 1986-87 revealed under assessment of tax losses of revenue at shown below:-

	1984-85		1986-87	
	No. of cases	Amount (in lakhs)	No. of cases	Amount (in lakhs)
1. Under assessment of Tax	18	35.22	1	20.84
2. Short levy of interest	1	0.72	4	2.15
3. Miscellaneous	1	31.82	2	170.24
Total	20	67.76	20	193.23

The Audit has reported only few important cases which are discussed in the subsequent paragraphs. Hence, the Committee feels concern about the number of cases of under assessment of tax and loss of revenue amounting to Rs.67.76 lakhs during 1986-87. The Committee would be happy if such cases of under assessment and loss of revenue raised from Agricultural Income Tax could be set-right.

1.6.1. The Public Accounts Committee in course of discussion wanted to know the number of assesses ten gardenwise. The Department however furnished a list of 184 assesses and stated that assessment of Agricultural Income Tax is not made garden-wise. In Assam there are as many as 846 gardens.

1.6.2. From the list furnished by the Department it would appeared that out of 184 assesses only 55 assesses are paying Agricultural Income Tax regularly during the years 1987-88, 1988-89, 1989-90, 1990-91 and 1991-92. These irregular assesses with their amount of Tax paid is produced below :—

1. Maund Tea & Seed Co. Ltd. 138, Biplahi Rash-behari Basu Rd.	1987-88	Rs.	10,484
	1988-89	Rs.	4,41,350
	1989-90	Rs.	59,560
	1990-91	Rs.	9,23,382
	1991-92	Rs.	12,68,618
2. Eriabari Tea Co. Pvt. Ltd. 2/7. Sarat Bose Road, Calcutta—20.	1987-88	Rs.	5,43,535
	1988-89	Rs.	3,19,020
	1989-90	Rs.	4,12,521
	1990-91	Rs.	27,00,000
	1991-92	Rs.	24,55,913
3. M/s Dinjoy Tea Estate (P) Ltd. Jalannagar, Dibrugarh-786005.	1987-88	Rs.	12,04,283
	1988-89	Rs.	22,34,606
	1989-90	Rs.	32,46,506
	1990-91	Rs.	47,00,000
	1991-92	Rs.	59,71,362
4. M/s Chotatingrai Tea Estate Pvt. Ltd., Jalannagar, Dib.	1987-88	Rs.	5,06,096
	1988-89	Rs.	13,55,677
	1989-90	Rs.	9,43,062
	1990-91	Rs.	21,25,000
	1991-92	Rs.	27,05,771

5. M/s Sree Jaya Tea & Industries (P) Ltd., Gillapukhuri Road, Tinsukia.	1987-88	Rs.	10,000
	1988-89	Rs.	8,139
	1989-90	Rs.	12,220
	1990-91	Rs.	10,867
	1991-92	Rs.	8,606
6. M/s Malbhog Baruah Estate (P) Ltd., P.O. Dibrugarh.	1987-88	Rs.	6,70,171
	1988-89	Rs.	1,82,162
	1989-90	Rs.	5,67,977
	1990-91	Rs.	23,67,666
	1991-92	Rs.	20,72,595
7. M/s Upper Ganges Sugar & Industries Ltd. 9/1, R.N. Mukharjee Road, Calcutta-70001.	1987-88	Rs.	22,86,305
	1988-89	Rs.	28,41,600
	1989-90	Rs.	21,64,400
	1990-91	Rs.	74,34,400
	1991-92	Rs.	62,21,600
8. M/s Hoograjuli (Assam) Co.Ltd.,	1987-88	Rs.	8,52,292
	1988-89	Rs.	7,75,770
	1989-90	Rs.	7,08,266
	1990-91	Rs.	11,48,504
	1991-92	Rs.	5,24,805
9. M/s Panbari Tea Co. Ltd.	1987-88	Rs.	4,06,500
	1988-89	Rs.	50,000
	1989-90	Rs.	2,54,182
	1990-91	Rs.	3,67,134
	1991-92	Rs.	1,74,914
10. M/s Hanuman Tea Co. Ltd.,	1987-88	Rs.	8,18,775
	1988-89	Rs.	8,04,600
	1989-90	Rs.	8,00,910
	1990-91	Rs.	28,65,716
	1991-92	Rs.	52,00,000
11. M/s Dhunseri Tea Co. and Industries Ltd.	1987-88	Rs.	23,70,313
	1988-89	Rs.	31,82,443
	1989-90	Rs.	55,40,824
	1990-91	Rs.	1,13,69,912
	1991-92	Rs.	81,00,000
12. M/s Mazbat Tea Estate Ltd.,	1987-88	Rs.	11,72,012
	1988-89	Rs.	11,03,696
	1989-90	Rs.	5,23,594
	1990-91	Rs.	16,45,161
	1991-92	Rs.	49,61,245

13. M/s Gour Nitya Tea & Industries Ltd.	1987-88	Rs.	4,90,000
	1988-89	Rs.	3,15,647
	1989-90	Rs.	2,90,000
	1990-91	Rs.	16,12,054
	1991-92	Rs.	23,35,000
14. M/s C.W.S. (India) Ltd.	1987-88	Rs.	26,02,162
	1988-89	Rs.	30,36,660
	1989-90	Rs.	27,24,268
	1990-91	Rs.	52,63,107
	1991-92	Rs.	60,00,000
15. M/s Laxmi Tea Co. Ltd.	1987-88	Rs.	6,66,900
	1988-89	Rs.	20,09,000
	1989-90	Rs.	26,91,680
	1990-91	Rs.	50,00,000
	1991-92	Rs.	10,00,000
16. M/s Indian Tea & Provisions Ltd.	1987-88	Rs.	15,23,334
	1988-89	Rs.	12,21,920
	1989-90	Rs.	8,54,260
	1990-91	Rs.	18,00,000
	1991-92	Rs.	3,00,000
17. M/s Sorojini Tea Co. (P) Ltd.	1987-88	Rs.	2,35,000
	1988-89	Rs.	3,44,343
	1989-90	Rs.	2,78,763
	1990-91	Rs.	14,80,014
	1991-92	Rs.	6,54,024
18. M/s Moran Tea Co. (L) Ltd.	1987-88	Rs.	15,75,202
	1988-89	Rs.	4,59,930
	1989-90	Rs.	2,55,000
	1990-91	Rs.	64,15,000
	1991-92	Rs.	36,71,909
19. M/s Tengpani Tea Co. Ltd.	1987-88	Rs.	10,81,132
	1988-89	Rs.	2,00,000
	1989-90	Rs.	8,35,000
	1990-91	Rs.	38,90,000
	1991-92	Rs.	42,50,000

20	M/s Namdong Tea Co. Ltd.	1987-88	Rs. 80,32,425
		1988-89	Rs. 82,89,792
		1989-90	Rs. 70,40,387
		1990-91	Rs. 64,49,446
		1991-92	Rs. 89,16,975
21	M/s Russele Industries Ltd.	1987-88	Rs. 48,88,400
		1988-89	Rs. 1,68,49,010
		1989-90	Rs. 1,61,24,555
		1990-91	Rs. 4,72,00,753
		1991-92	Rs. 4,63,67,987
22	M/s Singlo (I) Tea Co. Ltd.	1987-88	Rs. 2,66,088
		1988-89	Rs. 28,30,000
		1989-90	Rs. 50,51,26,2
		1990-91	Rs. 1,40,53,000
		1991-92	Rs. 1,57,56,654
23	M/s Jutlibari Tea Co. Ltd.	1987-88	Rs. 16,56,707
		1988-89	Rs. 9,82,302
		1989-90	Rs. 12,69,000
		1990-91	Rs. 45,40,000
		1991-92	Rs. 48,50,000
24	M/s Stewart Holl (India) Ltd.	1987-88	Rs. 73,30,068
		1988-89	Rs. 94,56,045
		1989-90	Rs. 1,35,29,684
		1990-91	Rs. 2,43,18,295
		1991-92	Rs. 2,91,49,833
25	M/s Gillanders Arbutnot U Co. Ltd.	1987-88	Rs. 31,23,117
		1988-89	Rs. 18,20,000
		1989-90	Rs. 9,19,000
		1990-91	Rs. 51,70,000
		1991-92	Rs. 54,50,000
26	M/s Ledo Tea Co. Ltd.	1987-88	Rs. 1,00,792
		1988-89	Rs. 5,39,710
		1989-90	Rs. 6,29,261
		1990-91	Rs. 19,70,715
		1991-92	Rs. 14,27,072

27. M/s The Pathemar Tea Co. Ltd.	1987-88	Rs.	3,26,247
	1988-89	Rs.	1,64,965
	1989-90	Rs.	7,52,822
	1990-91	Rs.	30,43,842
	1991-92	Rs.	23,28,904
28. M/s Dholai Tea Co. P. Ltd.	1987-88	Rs.	19,028
	1988-89	Rs.	11,37,992
	1989-90	Rs.	12,32,486
	1990-91	Rs.	27,00,000
	1991-92	Rs.	27,47,160
29. M/s Narsingpore Tea Co. (P) Ltd.	1987-88	Rs.	4,64,552
	1988-89	Rs.	3,21,005
	1989-90	Rs.	2,46,946
	1990-91	Rs.	17,00,000
	1991-92	Rs.	15,00,000
30. M/s Koomber Tea Co. (P) Ltd.	1987-88	Rs.	71,297
	1988-89	Rs.	17,09,921
	1989-90	Rs.	42,28,135
	1990-91	Rs.	1,12,82,127
	1991-92	Rs.	85,80,098
31. M/s Lukwah Tea Co. Ltd.	1987-88	Rs.	4,02,508
	1988-89	Rs.	5,39,883
	1989-90	Rs.	9,67,005
	1990-91	Rs.	11,62,803
	1991-92	Rs.	12,92,037
32. M/s Krishna Behari Tea Co. Ltd.	1987-88	Rs.	52,783
	1988-89	Rs.	30,970
	1989-90	Rs.	2,63,438
	1990-91	Rs.	6,37,766
	1991-92	Rs.	11,80,850
33. M/s Radhabari Tea Co. (P) Ltd.	1987-88	Rs.	77,096
	1988-89	Rs.	2,04,850
	1989-90	Rs.	2,78,800
	1990-91	Rs.	7,91,032
	1991-92	Rs.	8,78,748

34. M/S Choibari Tea Co. (P) Ltd.	1987--88	Rs.	10,86,081
	1988-89	Rs.	11,64,742
	1989-90	Rs.	13,24,594
	1990-91	Rs.	23,85,914
	1991-92	Rs.	38,10,443
35. M/s Baruakhat Tea Co. (P) Ltd.	1987-88	Rs.	1,21,730
	1988-89	Rs.	56,432
	1989-90	Rs.	39,529
	1990-91	Rs.	88,086
	1991-92	Rs.	1,16,936
36. M/s Baruahagar Tea Estate	1987-88	Rs.	1,06,078
	1988-89	Rs.	3,45,171
	1989-90	Rs.	3,80,992
	1990-91	Rs.	9,36,725
	1991-92	Rs.	14,55,291
37. M/s Bezbaruah Tea Co. (P) Ltd.	1987-88	Rs.	1,45,628
	1988-89	Rs.	4,18,370
	1989-90	Rs.	1,63,134
	1990-91	Rs.	9,30,230
	1991-92	Rs.	3,72,950
38. M/s Chamong Tea Co. Ltd.	1987-88	Rs.	4,37,146
	1988-89	Rs.	2,89,659
	1989-90	Rs.	2,94,154
	1990-91	Rs.	23,54,776
	1991-92	Rs.	6,42,094
39. M/s Snakar Tea Co. Ltd.	1987-88	Rs.	2,64,412
	1988-89	Rs.	5,71,170
	1989-90	Rs.	2,34,126
	1990-91	Rs.	17,40,372
	1991-92	Rs.	19,13,994
40. M/s Empire Plantations (India) Ltd.	1987-88	Rs.	10,28,265
	1988-89	Rs.	40,70,500
	1989-90	Rs.	36,34,047
	1990-91	Rs.	1,81,05,753
	1991-92	Rs.	2,04,83,151

41. M/s. Doom India Ltd.	Doomta Tea	1987-88	Rs. 1,61,04,239
		1988-89	Rs. 80,45,824
		1989-90	Rs. 1,69,07,321
		1990-91	Rs. 4,15,56,242
		1991-92	Rs. 3,33,34,953
42. M/s Probhat Ltd.	Tea Co. (P)	1987-88	Rs. 44,403
		1988-89	Rs. 52,364
		1989-90	Rs. 78,218
		1990-91	Rs. 1,07,277
		1991-92	Rs. 1,17,948
43. M/s Daga & Co. (P) Ltd.		1987-88	Rs. 6,19,670
		1988-89	Rs. 3,90,053
		1989-90	Rs. 5,93,452
		1990-91	Rs. 28,10,716
		1991-92	Rs. 17,00,000
44. M/s Badlipara Ltd.		1987-88	Rs. 1,25,515
		1988-89	Rs. 3,52,884
		1989-90	Rs. 1,28,812
		1990-91	Rs. 8,30,749
		1991-92	Rs. 9,96,000
45. M/s Bajantoni Group Ltd.		1987-88	Rs. 18,74,706
		1988-89	Rs. 26,15,625
		1989-90	Rs. 12,22,269
		1990-91	Rs. 47,06,267
		1991-92	Rs. 32,72,115
46. M/s Assam Co Ltd.	Frontier Tea	1987-88	Rs. 42,45,886
		1988-89	Rs. 2,20,88,400
		1989-90	Rs. 3,28,31,000
		1990-91	Rs. 6,15,47,492
		1991-92	Rs. 6,50,592
47. M/s Amgurie India Ltd.		1987-88	Rs. 5,38,607
		1988-89	Rs. 11,79,559
		1989-90	Rs. 12,96,152
		1990-91	Rs. 1,17,84,480
		1991-92	Rs. 1,41,98,670

48. M/s Tezpure Tea Co. Ltd.	1987-88	Rs.	20,15,646
	1988-89	Rs.	34,19,091
	1989-90	Rs.	99,15,256
	1990-91	Rs.	1,60,00,000
	1991-92	Rs.	45,00,000
49. M/s Marangi Ltd.	1987-88	Rs.	1,81,626
	1988-89	Rs.	1,24,000
	1989-90	Rs.	51,636
	1990-91	Rs.	3,89,100
	1991-92	Rs.	1,78,292
50. M/s Kanoi Estate (P) Ltd.	1987-88	Rs.	7,65,874
	1988-89	Rs.	5,87,442
	1989-90	Rs.	5,43,343
	1990-91	Rs.	23,50,972
	1991-92	Rs.	23,59,699
51. M/s Dibrugarh Co. Ltd.	1987-88	Rs.	4,42,195
	1988-89	Rs.	6,29,071
	1989-90	Rs.	10,61,719
	1990-91	Rs.	29,72,550
	1991-92	Rs.	10,00,000
52. M/s The Bahadur Tea Co. (P) Ltd.	1987-88	Rs.	11,36,000
	1988-89	Rs.	4,70,179
	1989-90	Rs.	7,64,492
	1990-91	Rs.	28,69,826
	1991-92	Rs.	22,13,575
53. M/s Annanda Tea Co. (P) Ltd.	1987-88	Rs.	8,37,019
	1988-89	Rs.	3,86,608
	1989-90	Rs.	6,31,294
	1990-91	Rs.	16,63,577
	1991-92	Rs.	5,142
54. M/s Hanuman Plantation Ltd	1987-88	Rs.	52,735
	1988-89	Rs.	46,977
	1989-90	Rs.	42,327
	1990-91	Rs.	7,11,124
	1991-92	Rs.	2,00,000

55. M/s Tata Tea Ltd.	1987-88	Rs. 1,92,77,806
	1988-89	Rs. 2,81,04,541
	1989-90	Rs. 1,88,11,039
	1990-91	Rs. 8,25,21,729
	1991-92	Rs. 8,94,22,636
56. M/s The Methoni Tea Co. Ltd.	1987-88	Rs. 13,90,480
	1988-89	Rs. 10,60,250
	1989-90	Rs. 12,61,600
	1990-91	Rs. 73,77,877
	1991-92	Rs. 91,56,734
57. M/s George Williamson (Assam) Ltd.	1987-88	Rs. 97,69,631
	1988-89	Rs. 1,23,37,581
	1989-90	Rs. 2,80,00,000
	1990-91	Rs. 2,77,75,000
	1991-92	Rs. 5,45,15,382
58. M/s Teloijan Tea Co. Ltd.	1987-88	Rs. 1,87,880
	1988-89	Rs. 3,25,550
	1989-90	Rs. 1,86,563
	1990-91	Rs. 12,83,879
	1991-92	Rs. 7,91,200
59. M/s Rydak Syndicate Ltd.	1987-88	Rs. 3,473,053
	1988-89	Rs. 32,53,167
	1989-90	Rs. 50,78,175
	1990-91	Rs. 1,50,78,337
	1991-92	Rs. 1,25,949
60. M/s Joonktollee Tea & Industries Ltd.	1987-88	Rs. 4,71,760
	1988-89	Rs. 8,72,549
	1989-90	Rs. 3,00,000
	1990-91	Rs. 31,01,317
	1991-92	Rs. 19,35,783

1.6.2. Unlike the above assesseees, the following have paid no Agricultural Income Tax during the years under Report :

1. M/s Mokalbari Kanoi Tea Estate (P) Ltd. 12/2 Ball-llyagange Park Road, Culcutta. -29.
2. M/s Balimara Tea Co. Pvt. Ltd P.O. Dibrugarh Pin-786001.
3. M/s Behufor Tea Co. (P) Ltd. R. K. Bordoloi Path, Dibrugarh, -786001.

4. M/s Rafiulla Tea & Industrices Ltd. Rafiulla House, Dibrugarh.
5. M/s Tarajan Tea Co. (P) Ltd. P.O. Dibrugarh,-786001.
6. M/s Nilpur Tea Co. (P) Ltd.
7. M/s Kettela Tea Co. (P) Ltd.
8. M/s Jalinga Tea Co. (I) Ltd.
9. M/s All India Tea & Treading Co. Ltd.
10. M/s Bhubrighat Tea Co Ltd. (P)
11. M/s Barak Tea Co. Ltd
12. M/s Suodia & Co. (P) Ltd.
13. M/s Sonai River Tea Co. Ltd.
14. M/s Ruttonpore Plantation (P) Ltd.
15. M/s Bishnupur Tea Co. (P) Ltd.
16. M/s Rukmuni Tea & Industries Ltd.
17. M/s West Bengal Mfg. Co. (P) Ltd.
18. M/s Nambarnadi Tea Co. Ltd.
19. M/s Umabari Tea Co. (P) Ltd.
20. M/s Moheema Ltd.
21. M/s Bokajan Tea Co. Pvt. Ltd.
22. M/s Melta Plantation & Industries Ltd.
23. M/s Panaichakua Tea & (I) (P) Ltd.
24. M/s Tea Beverayes & Allies Industries. Ltd.
25. M/s Sockiating Tea Co. (P) Ltd.
26. M/s Abhoyjan Tea Co. (P) Ltd.
27. M/s Bokahala Tea Co. (P) Ltd.
28. M/s Thengalbari Tea Estate.
29. M/s Bogidhola Tea Trading Co. (P) Ltd.
30. M/s General Fiber & Dealers (P) Ltd.
31. M/s Gohain Borbora Tea Co. (P) Ltd.
32. M/s Green View Tea Co. (P) Ltd.
33. M/s Ghillidhari Tea Co. Ltd.
34. M/s Goenka Tea & Treading Co. (P) Ltd.
35. M/s Sonapure Tea Co. (P) Ltd.
36. M/s Derby Tea & Industries Ltd.
37. M/s Rungajan Tea & Plantation (I) ((P) Ltd.

1.6.3. The Committee feels that, the cases of the above assesseees who paid no tax and those who are irregular in paying A.I.T. due to their loss or otherwise need some investigation and accordingly recommends that a high power Committee will be constituted to go into details of their books of accounts locating their malodies and to suggest remedial measures. The study report will be furnished to the Committee within 3 months from the date of submission of this Report to the House.

CHAPTER—II

Short levy due to incorrect computation of income

(Audit Para 4-9/CAG 1986-87)

2.1.1. Under Rule 8 of the Income Tax Rules, 1962 40 per cent of income of tea manufacturers is taxable under Income Tax Act and the balance 60 per cent income as agricultural income. However, the Calcutta High Court had held that money paid by the insurance company in respect of the growing crops damaged by hail storm being agricultural income is exempt from tax under Income Tax Act. Assessment of assessee cultivating and manufacturing tea is generally made after the completion of assessment by Income Tax Authorities.

2.1.2. The Audit has reported two cases of departure from the established law which are as under :—

- (a) In the case of an assessee of Lakhimpur district, agricultural income tax assessment was completed on the basis of Central Income Tax assessment order, wherein 40 per cent of total insurance claim amounting to Rs. 62,202 received by him during the accounting years 1979-80 and 1981-82 was treated as business income. Thereby, agricultural income tax was assessed only on the 60 per cent portion of the total insurance claim received. The omission to include this 40 per cent income also under total agricultural income of the assessee in the assessment years 1980-81 and 1982-83 resulted in agricultural income tax being levied short by Rs. 28,040/-. On this being pointed out in audit (October, 1986) the department stated (July 1987) that the assessment had been rectified.
- (b) In yet another case of Dibrugarh district agricultural income, amounting to Rs. 42,797/— was derived by an assessee in the accounting years 1975 and 1977 on account of insurance claim, this was left out of Central Income-Tax Assessments for being assessed under the Assam Agricultural Income-Tax Act, 1939 in the assessment years 1976-77 and 1978-79. This was, however not taken into account

by the Agricultural Income-Tax Officer while computing the agricultural income of the assessee. The mistake resulted in tax being levied short by Rs. 28,134/—. On this being pointed out in audit (October, 1986), the Department stated (July 1987) that assessment for the year 1976-77 had become time-barred and the matter had been under examination by the Commissioner of Taxes and in respect of the assessment year 1978-79 assessment had been rectified.

2.2.1. The Department in their written memorandum against the Audit objection at (b) have stated that in the instant case the original assessment was rectified in the light of the Audit observations and an additional demand amounting to Rs. 14,202/— was raised. The demanded tax was realised and deposited vide Challan No. 42 dated 13-3-87.

2.2.2. As there was no written reply against the Audit objection as at para 3.1, 2. (a) of this part the Committee enquired of it in course of oral deposition. The Departmental witness has admitted it as a case of mistake. He stated that except this, there is one observation to be made in regard to second case. One particular order was barred by limitation and no action can be taken. This is a very old case. We cannot take any action against the officer because he has retired. The amount involved is not very large. Of course, it is a loss.

OBSERVATION/RECOMMENDATION

2.3.1 In respect of the other case the Committee is quite unhappy for the loss sustained due to lack of adequate checking of the concerned officer who has by now retired.

CHAPTER—III

Omission to take Agricultural Income into computation.
(Audit paras 3.3/CAG 1984-85 and 4.2/CAG 1986-87)

3.1.1 Under the Assam Agricultural Income Tax Act, 1939, any income derived by a cultivator or receiver of rent-in-kind by the sale of the produce raised or received by him from land used for agricultural purposes is agricultural income, provided no process has been performed in respect of the produce other than the process ordinarily employed to render the produce fit to be taken to market. Income from such agricultural operation is, therefore, wholly chargeable to agricultural income tax.

3.1.2. It has been reported in Audit that in the case of a tea company of Dibrugarh district, exclusive agricultural income amounting to Rs. 5,30,892 derived by the assessee by sale of green tea leaves was omitted from the assessment year 1981-82. This resulted in tax being levied short by Rs. 2,97,998.-.

3.1.3. The Audit has further reported that in the following cases part of agricultural income of the assessee was omitted to be taken into account by the Agricultural Income Tax Officers for purposes of agricultural income tax assessment, resulting in the short levy of tax by Rs. 2,34,639/-

Name of Assessee	Year	Nature of income omitted to be included in the total agricultural income	Amount omitted to be included in the total agricultural income	Tax levied short	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
A) Tea Company in Darrang District	Accounting year 1987 relevant to assessment 1979-year 80	Income derived from the sale of Citronela	92,183	69,137	The income was excluded from Central income tax assessment, as being agricultural income but was omitted to be taken into account for computation of agricultural income tax.

(1)	(2)	(3)	(4)	(5)	(6)
B) A Hindu undivided Family	Accounting year 1977 relevant to assessment year 1973-74	Income from of green tea leaves and lease rent.	60,000 30,000	45,000	Do
C) A Registered Firm	Assessment year 1976-77 and 1977-78	Income from sale of sugar cane and fruits.	39,980 47,709	43,844	Do
D) A Company	Assessment year 1980-81	Income from hail damage insurance claim.	47,000	35,251	The income was omitted to be taken into account for computation of agricultural income tax.
E) A Company	Assessment year 1977-78	Income from farm.	39,555	27,689	Do
F) A Company	Assessment year 1978-79	Income from sale of green leaves.	19,597	13,718	The assessee had, in his returns, indicated agricultural income from sale of green leaves as Rs. 19,597 and Rs. 5,860. Income of Rs. 19,597 was omitted to be taken into account.

3.2.4. The Department in the reply to the Audit objection as in para 2.1.2 has stated that in the light of the advice of the Accountant General (Audit) in the course of the discussion held with him on the 16th and the 17th December, 1987 in his office the case was re-examined. The facts that emerged are as follows:— (1) In the relevant year the assessee company suffered total loss of Rs. 13,46,149 (as stated by the Company there were some dislocation in the production because of the break-down of the machinery

which compelled the Company to resort to sale of green tea leaf purely as an ad-hoc measure). (2) While the Company was assessed to tax under the Assam Agricultural Income Tax Act, 1939, 60% of the said loss (of Rs.13,46,149/-) i.e. Rs. 8,07,689/- was duly considered. (3) While the agricultural income of Rs. 5,30,892/- originating from sale of green tea leaf was adjusted against the aforesaid loss, a net loss of Rs. 2,76,195 remained against the agricultural loss for the year 1981-82. (4) Before applying rule 8 of Indian Income Tax Rule the concerned Income Tax Officer had deducted an amount of Rs. 1,39,979 being the agricultural part of the loss and arrived at the total loss of Rs. 13,46,149 as mentioned at (2) above. (5) In the light of the above it appears that it is correct on the part of the Assessing Officer to and back the agricultural part of the loss i.e. Rs. 1,39,979/- and also to make allowance for the agricultural part of the business loss amounting to Rs. 2,76,195/- (corrected subsequently to Rs. 2,74,142/-) and thus it did not result in the loss of any revenue.

3.2.2 The Finance Department, against the Audit objection as in para 2.1.2 has stated that in this paragraph, six cases have been mentioned in which agricultural income of the assessee was, according to audit, omitted to be taken into account at the time of agricultural income tax assessment. Following audit, all the six cases were re-examined. It was found that in two cases there was no mistake and it was, therefore, not necessary to re-open the assessments in the instant two cases. The first of these two cases is mentioned at audit para (B). In this case, the assessee had three tea estates, namely, one in Assam, one in Himachal Pradesh and the third in West Bengal. The income from sale of green tea leaf amounting to Rs. 60,000/ pointed out by audit was derived from the tea estate in Himachal Pradesh. Similarly, the lease rent amounting to Rs. 30,000/- was derived from the tea estate in West Bengal. The assessee was, therefore, not liable to pay tax, in Assam in respect of these two amounts. The second case is mentioned at para (F) above. It has been stated in audit that there were two times of agricultural income from the sale of green leaves according to the assessee's returns. As a matter of fact there was only one item of income on this account amounting to Rs. 5,860/- derived from sale proceeds of green leaves amounting to Rs. 19,597/-. The figures of Rs. 19,597/- mentioned in audit represents sale proceeds of green leaf and not income therefrom.

In the remaining four cases the original assessments were re-open following audit and additional demands raised as indicated below :—

Case mention at	Additional demand raised
Para 3.3A	Rs. 69,137
Para 2.3C	Rs. 43,844
Para 3.3D	Rs. 35,250
Para 3.3E	Rs. 27,652

Total Rs. 1,75,883

All the demands raised in these four cases have since been realised from the assesses.

OBSERVATION/RECOMMENDATION

3.3.1 The Audit objection as raised in the first case relates to income derived by an assessee (a tea company) by sale of green tea leaves omitted from assessment of agricultural income which resulted short levy of tax of Rs. 2.38 lakhs. In face of the objection, the Committee naturally expressed concern as to (a) the reasons for such omission resulting in heavy loss of revenue; (b) realization of the loss by additional demand after necessary rectification. (c) ensure non-occurrence of such mistakes in future.

3.3.2. At the time of oral deposition, the departmental witness, keeping in view the apprehension of the Hon'ble members, attempted to clarify all the points raised. For proper appraisal, the proceedings are quoted below :—

Chairman:—After consultation with the Accountant General the reply is given. Now the point is whether the amount now found has been realised?

Consultant:—In the relevant year the total loss on account of mixed operation was 13.46 lakhs. Under the provision of the Indian Constitution Agricultural income is

subject to the State Agricultural Income Tax while non-agricultural Income Tax is subject to the Union income tax.

In case of tea, income derived from tea is not purely agricultural income, there are two types of operation involved. One is agricultural operation and the other is manufacturing operation. Income derived has so far bifurcated into agricultural income and non-agricultural income for the purpose of Central and State taxation. The Constitution of India lays the definition of agricultural income under Article 366. With regard to income derived from the cultivation 60 per cent of the income is treated as agricultural income and 40 per cent of the income is treated as non-agricultural income.

Shri R. De :—It is not our subject. You have admitted the loss of revenue. What are the main reasons for such loss of revenue? What action your Department has taken to rectify such loss?

Consultant ;—There are three points. One is if there is a loss in any business operation Government cannot do anything to rectify the loss.

Shri R. De :—It is whose subject to rectify the loss? What is the reason for such omission? Is it just to give benefit to the industrialists?

Consultant :—We cannot do anything to rectify the loss. The person who is earning loss he is to rectify. Second question is whether there was a loss in 1980-81? The Tea Industry was admittedly passing through a serious crisis. There were many meetings at the level of Government of India and it was decided at the Level of Government of India that some concession would be given to them in the matter of taxation and therefore the State Government had to reduce the rate of tax marginally. Thirdly, as far as assessment of agricultural income in case of manufacturing of tea is concerned, the entire process is done by the Central Income Tax Authority. The total loss was Rs. 13.46 lakhs Agricultural loss from the mixed operation was 60 per cent.

Sr. D. A. G. :—40 per cent loss?

Consultant ;—40 per cent of the loss would be on account of business. Then again from the sale of green tea

leaf there was a loss of Rs. 10,30,000/- in 1980-81. Agricultural loss was Rs. 5,31,049/-. Total agricultural loss was Rs. 2,74,000/-.

Shri R. De :—Total loss amounts to some crores of rupees.

Chairman :—What you say Mr. Choudhury ?

Consultant :—Our revenue from Agricultural Income Tax in 1980-81 was Rs. 15.60 crores. In 1981-82 it was Rs. 14.64 crores. In 1982-83 it came down to only Rs. 8 crores. From 1983 it started rising. The revenue was Rs. 11.29 crores. In 1984-85 it was Rs. 26.28 crores. In 1985-86 revenue was Rs. 61 crores. In 1986-87 it was Rs. 62 crores. In 1987-88 revenue was Rs. 27 crores. Question was put by Hon'ble Member, how the revenue from agricultural income tax has fallen from Rs. 62 crores to Rs. 27 crores. It is due to fluctuation of prices. Current prices is Rs. 40 to 45 per k.g. Average price for Assam Tea in 1977 (Auction price, Guwahati) was Rs. 13/- per k.g. In 1983 it rose to Rs. 24/- per k.g. and then in 1984-85 it rose to another Rs. 4/- i.e. Rs. 28/- per k.g. Then in 1985 there was a fall in the prices of tea by Rs. 4/- per k.g. It was Rs. 20/- in 1986. It came to level of Rs. 24/- per k.g. in 1987. The prices have been fluctuation in profit.

Chairman :—But such a huge difference.

Consultant :—In 1982-83 to 1984 the price of tea raises by Rs. 4/- a k.g. and our revenue increased by Rs. 26 crores to Rs. 60 crores. When prices fallen by Rs.3/- a k.g. revenue decreased by Rs. 24 crores. The basic point is that this assessment was made initially by the Central Assessment Authority and we are bound by that.

Chairman :—At the audit the lacuna has been found. An explanation is needed.

Consultant :—One is why it was not pointed out at the time of audit and for this I beg apology. I agree that there has been a lapse. As far as this particular thing is concerned, in the first paragraph of memorandum it was

stated that in the light of the advice of the Accountant General (Audit) in the course of the discussion held with him on the 16th and 17th December, 1987 in his office was re-examined. Moreover, our people is sitting in the A. G. Office.

Chairman ;—It should have been informed to D. A. G.

Sr. D. A. G. ;—At the time of taking the objection why you did not point out ?

Consultant ;—I am not quoting outside the record. We may sit again with the A. G. or D. A. G. and re-examine this. We do not want to hide anything.

3. 3. 3. In the other case relating to omission to take agricultural income for the purpose of agricultural income tax assessment involving reports short levy of tax by Rs. 2.35 lakhs, the Department clarified that out of 6 cases, as brought out by Audit, two cases are not really correct. In respect of remaining four cases, the original assessments have been verified and additional demand was raised and the amount realised from the concerned assesses.

3. 3. 4. The Committee feels that the Finance Department could have adduce the clarifications to Audit at the initial stage of raising the objections. Similarly, the Department should have initiate necessary process of rectification of their mistakes immediately on receipt of preliminary audit objections. The Audit paras as discussed in this part would not have come-up in this from had the Department issued necessary clarification initiate rectification at the initial stage.

3. 3. 5. The Committee therefore, recommends that apart from their statutory obligations, all Departments of Government of Assam should promptly attend to the Audit paras of the A. G., Assam. The A. G. (Audit) may be treated as helping the administration by pointing out errors in spending money from the public exchequer by the drawing and disbursing officer who is responsible for any irregularity committed by him. Such a attitude will enable the A. G. to exercise his responsibilities under healthy atmosphere with full co-operation and co-ordination of the Department.

CHAPTER—IV

Ommission to assess agricultural income
(Audit para 4.3/CAG 1986-87)

4.1.1. Under the Assam Agricultural Income Tax Act, 1939, and the Rules made thereunder, the agricultural income of an assessee is determined after deducting allowable deductions therefrom.

4.1.2. Contravention of the above practice has been brought-out by Audit under para 4.3 of the Report of the C.A.G. of India (R/R) for 1986-87. The para reads that in Sibsagar District, the agricultural income of an assessee (a tea Company) was assessed (July 1984) at a net loss of Rs. 78,183 for the accounting year 1981-82, relevant to the assessment year 1982-83. In the assessment, the agricultural income amounting to Rs. 3,53,751 (Rs. 3,28,769 of insurance claim under "Hail Damage Insurance Scheme"; Rs. 2,784 from "Grow-More-Food Scheme" and Rs. 22,198 for sale of Citronella oil) were not included in the assessment inspite of the fact that 100 per cent of insurance claim and income under "Grow-More-Food Scheme" and 50 per cent of sale of citronella oil were to be treated as agricultural income. The ommission resulted in tax being levied short by Rs. 1.85 lakhs. On the ommission being pointed-out in audit, the Department stated that the assessment has since been rectified.

4.2.1. The Department in their written memorandum have stated that in the instant case the objection relates to assessment year 1982-83. In the light of audit observation the assessment was rectified on 9-10-86 by taking into account the entire agricultural income of Rs. 3,42,652-00 derived from Hail Insurance, grow more food and Citronella Oil as detailed below:—

Loss due to mistake was Rs.78,000/-. After receipt of the Audit observation the mistake was rectified. This Rs. 3,42,000/- was the additional income. But over then no tax was payable by the party becasue there was carry forward loss.

4.3.3. The Public Accounts Committee would like to know the action the Department usually take against the officer who commits such mistakes in such vital issues. The Committee would also like to know the subsequent assessment of agricultural income tax of this assessee with reference to the amount of tax assessed and realised.

CHAPTER—V

Short Levy of interest

(Audit para 4.4/CAG/86-87 & para 3.7/CAG/1984-85)

5.1.1. Under the Assam Agricultural Income-Tax Act, 1939, an assessee is required to submit his return by 31st day of December, of the relevant financial year. However, on an application made by the assessee, the Agricultural Income Tax Officer may, in his discretion, extend the date for furnishing the return up to a period not beyond 28th/29th day of February of the relevant financial year. In case of submission of return beyond the due date, irrespective of whether the period of submission of return was extended or not, simple interest at 6 per cent shall be payable by the assessee from the first day of January upto the date of filling the return of the 28th/29th day of February of the relevant financial year, whichever is earlier, on the amount of agricultural income tax payable on the total agricultural income as finally assessed, reduced by the advance tax, if any paid. Again under section 20C(3) of the Assam Agricultural Income Tax (Amendment) Act, 1984, where the amount of tax paid on or before the 31st day of March 1984 by or on behalf of any assessee under the Act in respect of any financial year falling during the period 1st April 1967 to 31st March 1984 falls short of the amount of tax due from him in respect of such financial year, whether or not such tax has been assessed, the assessee shall be liable to pay simple interest on the amount of short fall at the rate of twelve per cent per annum until the tax is paid in full.

5.1.2. It has been reported in Audit vide Para 3.7/CAG/84-85 that in twelve cases, where the assesses submitted returns beyond the due date (31st December) interest amounting to Rs.84.747 was chargeable from the first day of January of the relevant financial years during 1975-76 to 1982-83, but was not charged.

5.1.3. The Audit has again brought out vide para 4.4/CAG/86-87 that in 7 cases the assesses did not pay within the prescribed time limit, tax dues in full, relating to the

assessment years 1976-77 to 1984-85. The tax dues were paid by the assesseees between 1st April, 1984 and 19th September, 1986. The delayed payment of tax attracted interest amounting to Rs. 1,42,815 which was chargeable but was not charged. On this being pointed out in audit the Department stated that the assessment in all the cases had been rectified.

5.2.1. The Department in their written memorandum have stated that all the cases mentioned in paragraph 5.1.2. were re-examined following audit. In six of these 12 cases it was observed that audit had not accepted as tenable the carry-forward of loss allowed by the Agricultural Income tax Officer at the time of assessment. On this basis, audit had stated that in these six cases, if carry-forward was not permissible, the assesseees would be liable to tax/additional tax in the relevant years and, therefore, to interest/additional interest. However, it now appears on further examination in consultation with the Judicial Department that carry-forward of loss in similar circumstances in other cases was in order. In the instant cases also, therefore, carry-forward of loss has to be regarded as justified. In five of the six cases, therefore, no interest was found payable. The total amount of interest involved in these five cases, according to audit, was Rs. 19,829. In the sixth case interest had been charged by the assessing officer to the extent of Rs. 573 which has already been paid. But according to audit, for reasons stated above, further interest payable in this case was Rs. 2,223. However, as explained earlier, the interest, as calculated by audit was not due from the assessee if the carry-forward of loss is permissible in view of the opinion expressed by the Judicial Department. In another case involving an assessee who had two tea estates one in Assam and other in Tripura, audit had made an apportionment of the income in the ratio of 80 : 20 as between the two estates and on that basis, calculated interest payable at Rs. 2,437. But this apportionment was not necessary in the manner done by audit since in the central assessment order itself the apportionment of income as between two estates was clearly indicated. The Agricultural income tax assessment having been made on the basis of the central assessment, levy of interest, as pointed out by audit, in the said case would not be justified. In the remaining 5 cases interest as pointed out by audit has been levied and also realised.

5.2.2. The Department in respect of para 5.1.3 of this part have stated that in the case of one assessee referred to in the light of the Audit observation the assessment was revised on 10th February 1987 and interest amounting to Rs. 44,574.00 was levied. The original assessment was made summarily on 7th June 1985. Subsequently the assessment was again revised on 19th July 1989 on the basis of the Central Assessment Order dated 31st January 1989 passed u/s 143(3) of the Income Tax Act. It appears from the central assessment order that in the relevant assessment year the assessee incurred loss and did not have any income. On the basis of the Central Assessment Order the assessee's agricultural loss for the relevant year was finally determined of Rs. 8,43,318.00. In the case of another the assessee, in the light of audit observation the assessments were rectified on 20-2-87 and interest amounting to Rs. 4,563.00 and Rs. 13,046.00 were levied for the assessment year 1976-77 and 1977-78 respectively. The amount of interest for both the years were adjusted out of the excess payment made in the assessment year 1981-82 (assessed on 8-9-86). In the case of the 3rd assessee, as per audit observation the assessment was revised on 16-2-87 and interest amount to Rs. 772/- was levied. The assessment was again revised u/s 31 of the Act on 27-6-87 on the basis of central assessment order passed u/s 143(3)/251/154 of the Income Tax Act and total tax including interest of Rs. 19.00 was determined at Rs. 18,340.00. The assessee paid the tax and interest in full vide challan No. 9 dated 19-11-77 and No. 1 dated 8-9-74. In the case of the 4th assessee, in the light of the audit observation interest amounting to Rs. 3,714.00 was levied. The interest was paid vide challan No. 9 dated 24-7-87. In the case of the 5th assessee, in the light of the audit observation the assessment was rectified and total interest amount to Rs. 12,802.00 was levied. The amount is under process of realisation. In the case of the 6th assessee the original assessment was made summarily on 30-9-85 and total tax was assessed at Rs. 4,50,000.00. Subsequently the assessment was revised on 8-6-88 u/s 31 of the Act on the basis of C.A.O. furnished and total tax including interest of Rs. 14,828.00 was determined at Rs. 3,23,833.00. The tax and interest were paid vide challan No. 137 dated 29-12-84, No. 2 dated 27-7-85, No. 42 dated 5-9-85, No. 1 dated 26-10-85 and No. 7 dated 7-11-85. In the case of the 7th

assessee the assessments were rectified and interest as pointed out by audit were charged as below :—

Year	Amount of interest charged
1976-77	Rs. 672.00
1977-78	Rs. 650.00
1978-79	Rs. 4,756.00
1979-80	Rs. 1,599.00
1980-81	Rs. 14,289.00
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Total— Rs. 21,289.00	

The amount of interest is under process of realisation.

OBSERVATION/RECOMMENDATIONS

5.3.1. The first part of the Audit objection refers to 12 cases, where interest chargeable against the assesseees for their delayed submission of return was not charged. The second part of the objection relates to interest leviable (in 7 cases) for delayed payment of tax amounting to Rs. 1.42 lakhs was not charged.

5.3.2. In respect of all the assessments held under objection by Audit, it appears that the interest leviable in respect of the tenable cases had since been realised or under process of realization. The Committee therefore experts that the Department would take prompt action to realise the amount.

CHAPTER—VI

Agricultural income escaping assessment

(Audit para 4.5/CAG/1987—88)

6. 1. 1. The Assam Agricultural Income Tax Act, 1939, lays down that where an assessee himself grows and manufactures tea, agricultural income derived from such land by cultivation of tea means that portion of income derived from cultivation, manufacture and sale of tea, as is defined to be agricultural income within the meaning of the Income Tax Act, 1961. Rule 8 of the Income Tax Rules, 1962 specially prescribes that 40 per cent of the income in such cases is taxable as business income under the Income Tax Act, while the balance 60 per cent is to be treated as agricultural income.

6. 1. 2. The Audit has brought out that a tea company of Dibrugarh, engaged in cultivation, manufacture and sale of tea received rebate on central excise duty amounting to Rs. 1,92,675/- in the accounting year, relevant to the assessment year 1979-80. Instead of apportioning this rebate between agricultural income and business income in the ratio of 60 and 40 per cent, the whole amount of rebate was treated as business income and assessed to tax by the Income Tax Officer. The mistake was not even noticed by the Agricultural Income Tax Officer while computing income of the assessee for the purpose of assessment agricultural income tax. As a result, assessee's income of Rs. 1,15,605 being 60 per cent of the total amount of rebate on central excise duty (Rs. 1,92,675), escaped assessment to agricultural income tax. This resulted in short levy of tax by Rs. 94,812/-. On the mistake being pointed out in audit (October, 1986), the department stated (July, 1987) that the assessment had been rectified and demand raised.

6. 2. 1. The Department in their written memorandum have stated that in the instant case, as per the observation of the audit the assessment was revised and an additional demand of Rs. 1,30,408/- was raised. The assessee, however preferred an appeal against the revised assessment order. The appellate authority after having heard the appeal set-a-side the revised assessment order. The copy of the judgement of the appellate order is enclosed as Annexure.

6. 2. 2. In course of oral deposition, the Committee enquire of the grounds] on which the assessment was set-aside, by the appeal authority. The Department clarified that the Agricultural Income Tax Officer has made the assessment on the basis of the Central Income Tax Order. On that order the rebate on Central Excise duty has been treated as business income. The appellate authority was bound by the Central Income Tax order. He cannot take the rebate as agricultural income. The Appellate Authority has basically in support of his judgement quoted the Judgement of Supreme Court in the case of Anglo American Direct Tea Trading Co. Ltd. Vs. Commissioner of Agricultural Income Tax, Kerala. The Appellate Authority was of the opinion that it cannot be said that Agricultural Income Tax Officer making an assessment of agricultural income of a Tea Estate could ignore the assessment under the Central Income Tax Act and make an assessment of his own. And this is the basis of the Judgement.

OBSERVATIONS/RECOMMENDATIONS

6. 3. 1. Under the Central Income Tax Act, 60% of income from manufacture and sale of Tea is to be assessed as agricultural income and balance 40% as business income. Accordingly, an assessee (A Tea Co.) received rebate which was not assessed resulting in short levy of Tax of Rs. 0.95 Lakhs. The Department attempted to realise the same, but due to setting aside the assessment by appellate Authority, the Department had to stop realisation process.

6. 3. 2. Under the Act and the Rules, the Central Excise rebate is treated as part of business income. As far as the Agricultural income is concerned the Department have only told that while computing the total income they have taken only the percentage of income. The Department does not appear to have taken the Central Excise rebate into account. The Central Excise rebate might be a kind of intensive. At this stage the Committee would refrain from making any comment of the merit and demerit of the verdict of the Appellate Authority. One thing is as certain that the Department can challenge the verdict before the higher judicial authority, after consultation with legal expert.

6.3.3 The Committee therefore, recommends that the Department will refer this case to the Legal Remembrancer with all necessary papers., if the case has not been barred by limitation.

CHAPTER-VII

IRREGULAR ALLOWANCE OF DEDUCTION ON
ACCOUNT OF DONATION.

(Audit Para 4.6/CAG/1986-87 and Audit Para
3.4/CAG/1984-85)

7.1.1 Under the Assam Agricultural Income Tax Act, 1939 and the rules made thereunder, a sum actually donated for charitable purposes is an allowable deduction. If such deduction of the total agricultural income, whichever is less. Donation beyond these limits are to be disallowed and treated as taxable income. Rule 2 (1) (i) of the Assam Agricultural Income Tax Rules, 1939 defines charitable purposes as relief to the poor, education, medical relief and advancement of any other object of general public utility.

7.1.2. The Audit had brought out the following cases of departure from the provision:—

(a) In a case, the taxable agricultural income of a tea company for the assessment year 1978-79 was determined at Rs. 2,62,402 and assessed to tax by the Agricultural Income Tax Officer after allowing deduction of Rs. 61,419 against permissible maximum deduction of Rs. 32,382 (viz 10 per cent of Income at Rs. 3,23,821) on account of donation for charitable purpose. The excess deduction allowed resulted in short levy of tax amounting to Rs. 20,326. On this being pointed out in Audit (October, 1986), the department stated (July 1987) that the assessment had been revised.

(b) In three other cases, similar deductions of Rs.15,468, Rs.26,258 and Rs. 40,948 from the agricultural income of 3 assesses of Darrang and Dibrugarh districts during the assessment years 1978-79 and 1982-83 were allowed in excess of the permissible limit of Rs. 1,00,000 or 10 per cent of the total agricultural income in assessment. This resulted in short levy of tax aggregating Rs. 51,097. On this being pointed out in Audit the department stated that the assessments had been rectified.

(c) At Gauhati, in the case of eight assessee companies engaged in cultivation, manufacture and sale of tea, deductions on accounts of donations for charitable purposes were allowed in excess of the aforesaid limits in the assessment years 1978-79, 1980-81 and 1981-82, which was not correct. The mistakes resulted in short levy of tax amounting to Rs. 2,01,494.

7.2.1. The Department in their written Memorandum have stated against (a), (b) and (c) at the foregoing Para 7.1.2 of this part as follow:—

(a) In the light of the Audit observation the original assessment was rectified on 4-3-87 and the tax was re-assessed at Rs. 2,03,693.00. In addition, interest of Rs. 31,573.00 was also levied thereby raising the total demand to Rs. 2,35,266.00. The assessee paid the entire demanded tax and interest vide challan No. 13 dated 7-5-87 No. 16. dated 25-9-87 No. 26 dated 25-3-88. No. 31 dated 23-5-88 and No. 16 dated 2-8-88

(b) In the case of one assessee referred to at (b) the assessment was rectified on 20-2-87 in the light of the Audit observation and additional demand of Rs. 13,791.10 (tax Rs. 13,654.00 and interest Rs. 137.00) was raised. The demand was realised vide challan No. 31 dated 23-4-87. In case of another assessee referred to at (b) the assessment was rectified in the light of the Audit observation and additional demand of Rs. 10,940.00 (Tax 10,827.00 and interest of Rs. 113.00) was raised. The demand was realised vide Challan No. 12 dated 7-5-87.

In another case referred to at (b) the assessment was revised on 19-5-89 in the light of the Audit observation and net assessable income was determined at Rs. 1,72,388.00 and tax including interest of Rs. 1,121.00 was determined at Rs. 1,13,173. The entire tax and interest was paid vide Challan No. 2076 dated 24-8-83 and No. 1354, dated 12-6-89.

(c) Following Audit, all the eight cases were re-examined. It was found on re-examination that in all these case the deductions allowed were in excess of the admissible limit a

pointed out by audit. The original assessments, in all these cases were, therefore, revised. In two of these eight cases, however, no additional demand was raised following revision of the original assessment orders. In the first of these two cases the revised income determined was below the minimum taxable limit even after disallowance of the excess deduction allowed earlier. No tax was payable, therefore, in the instant case. In the second case, no additional demand was raised since the original demand itself was found to be high. In the remaining six cases, the aggregate additional demand raised following revision of the original assessment orders was Rs. 1,73,463.00. Out of it, demand of Rs. 1,01,008.00 involved in appeal which has not been challenged in appeal which has not been disposed of. In the remaining five cases, the additional demand raised amounting to Rs. 72,455.00 has been realised in full.

OBSERVATION/RECOMMENDATION

7.3.1 In all the cases at (a), (b) & (c) of Para 7.1.2 of this part, deductions on account of donations for charitable purposes were allowed in excess of the permissible limit of 10% resulting in short levy of tax. Only on being pointed out in Audit the Department rectified the original assessment.

7.3.2 The Committee after having seen the dismal picture expressed their dismay in course of oral examination of the Department which would be evident from the proceedings quoted below :—

Shri R. De :— How such excess deduction could be allowed by the Assessing Officer?

Consultant :— 100 of cases are examined by audit and in few cases there may be mistakes.

Shri R. De :— Somebody in Dibrugarh and Darrang has made some sort of mistake, some sort of ill thing for which you are simply saying that this is a mistake. But people of the State has suffered financial crisis. These

series of cases happened in 1978. Your department was trying to give some exemption to the tea industrialists, (From 1978 to 1988). Tea Planters are getting some sort of relief from the Taxation Department. What is your assessment of such thousand number of mistakes in Dibrugarh and Darrang? Some officers are trying to give relief to the Tea Planters.

- Consultant :— I do not want to make any comment.
- Shri R. De :— Only the tea planters are getting benefit and you are committing mistakes only in favour of the planters and the benefit goes in favour of the tea planters. If say, it is not a mistakes, it is gift.
- Consultant :— This omission was not through influence.
- Shri R. De :— What mistake goes in favour of Dibrugarh and Darrang? Whether the tea planters were involved in the student agitation.
- Chairman :— Now it is to be seen as to how the mistake can be avoided. Let us just say you are going to avoid such mistakes.
- Consultant :— We have set up an Internal Audit Cell. This cell will detect the mistake.
- Chairman :— Whether the department has examined that mistakes are bonafide or malafide?
- Consultant :— Such aspects have not been taken into account.
- Chairman :— Whatever might be the reason, how you are going to rectify the mistakes? Whether the department at all examined as to why such mistakes took place? Whether it is due to bonafide mistake or prima facio, there are some malafide transactions? You said that a cell has been instituted in case of such mistakes. Therefore, certain study

should be made and some observation should be noted.

7.3.3 The Committee would, further like to know the position of the appeal case involving tax effect of Rs. 1,01,008; whether the appeal has been disposed of and the amount could be realised.

7.3.4 Committee recommends that the Department should also examine the nature of mistakes, whether mistakes committed by responsible Assessing Officers with certain length of experience had acted malafide or those mistakes are bonafide as per their knowledge and belief and guilty officers should be punished.

CHAPTER—VIII

Excess adjustment of carry forward loss

(Audit para 4.7/CAG—1986-87)

8.1.1 Under the Assam Agricultural Income Tax Act, 1939, if an assessee sustains loss in any year he is entitled to have the amount of loss set off against his income profit or gain under any other item in the same year. If the loss cannot be set in the same year it may be carried forward and set off against the profits or gains from the agricultural income of the following year (s) for a maximum period of six years.

8.1.2 The Audit has pointed out that an assessee company of Darrang district sustained loss of Agricultural income of Rs. 9,86,226 during the assessment year 1972-73. While assessing the agricultural income of the assessee for the year 1974-75, the Agricultural Income Tax Officer set off loss amounting to Rs. 2,93,900 leaving a balance amount of loss of Rs. 6,92,326 to be set off in the subsequent year or years. In the assessment year 1975-76, the Agricultural Income Tax Officer wrongly allowed a deduction of Rs. 7,92,326 on this account. Thus excess set off of loss amounting to Rs. 1,00,000 resulted in tax being levied short by Rs. 62,000 in the assessment year 1975-76. On this being pointed out in audit the department stated that the assessment had been rectified.

8.2.1 The Department in their written memorandum have stated that in the light of audit observation the assessment was rectified under section 31 of the Act on 29th June 1987 and the carry forward loss for the assessment year 1972-73 was allowed at Rs. 6,92,366 against Rs. 7,92,366 allowed in the original assessment. As per rectified assessment the assessable income was determined at Rs. 29,86,174 after allowing the carry forward loss for the assessment year 1972-73 (Rs. 6,92,366) and 1973-74 (Rs. 76,764). Total tax was assessed at Rs. 18,51,428 and in addition interest amounting to Rs. 40,693 was levied. The assessee paid the tax and interest in full.

OBSERVATION/RECOMMENDATION

8.3.1 The text of the Audit para, in brief, is that while adjusting the loss incurred by an assessee from his subsequent in-come as per provision of the Act, the Assessing Officer allowed Rs. 1.00 lakh more than the actual loss which resulted in short levy of tax. This is definitely an act of carelessness on the part of Assessing Officer.

8.3.2 The Committee, once again, wants to impress upon the Department that such careless mistake effecting the revenue of the State may not re-occur.

8.3.3 The Committee, therefore, recommends that stern action should be taken against the officer who has committed such a careless mistake. In respect of all other similar cases of careless mistakes/malafide acts, the Department should take suo-moto decision and inflict punishment and Public Accounts Committee should be intimated within a period of three months from the date of presentation of this Report before the House.

CHAPTER—IX

Short levy of tax due to excess deduction

(Audit Para. 4.8/CAG-1986-87)

9.1.1 Under the Assam Agricultural Income Tax Rules, 1939, any sum paid as bonus or commission to any employee for services rendered in connection with cultivation is an allowable deduction provided the amount of bonus or commission is reasonable, inter alia, with reference to; (i) the pay of the employee and the condition of his service and (ii) the assessee's income for the year in question. As per Section 10 of the Payment of Bonus Act, 1965 the maximum limit of payment of bonus is 20 percent of wages and salaries paid.

9.1.2 The Andit has pointed out that in Jorhat District, a tea company selling tea leaves, paid bonus amounting to Rs. 65,506 and Rs. 99,632 in previous years relevant to assessment years 1985-86 and 1986-87 respectively. The amount were allowed in full as deduction while making (in September 1985 and September 1986) the agricultural income tax assessment instead of limiting it to the permissible amounts of Rs. 17,814 and Rs. 27,309 respectively based on the maximum of 20 percent of the wages and salaries paid. The excess allowance of bonus resulted in less computation of income by Rs. 47,692 and Rs. 62,323 and short levy of tax amounting to Rs. 57,207 (Rs. 24,799 in 1985-86 and Rs. 32,408 in 1986-87).

9.2.1. The Department in their written reply have stated that the assessee preferred appeal before the Asstt. Commissioner of Taxes, (Appeals) Jorhat against the orders of assessment for both the assessment years. The Asstt. Commissioner of Taxes (Appeals) vide his order dated 4th May, 1987 disposed of appeal in respect of the assessment year 1985-86 by way of setting aside the order of assessment and directing the agricultural Income Tax Officer, to make a fresh assessment on the basis of income Returned by the assessee. As per return agricultural income of the assessee for the assessment year 1985-86 was Rs. 11,153.00 and that being below the minimum taxable limit no tax is payable by the assessee. However, the matter

including order of the Asstt. Commissioner of Taxes (Appeals) is being revised in the light of the Audit observation. The appeal against the assessment year 1986-87 is not yet disposed by the Asstt. Commissioner of Taxes, (Appeals).

9.2.2. In course of oral deposition, the departmental witness made some points clear vide proceedings quoted below :—

Chairman :— Mr. Choudhary, what about this para ?

Consultant :— Actually the assessment order to which audit has taken exception have been challenged by the assessee and the Appellate Authority passed some orders. As a matter of fact, both the appeals have being disposed of. The Appellate Authority had no opportunity to examine whether the amount of bonus was deducted by the Authority. The point was raised before the Appellate Authority. In the meantime the question of bonus was also examined. It has been stated in audit that the amount of bonus exceeded 20%. That is based on a circular issued by the Central Board of Direct Taxes. That was in the observation. It said that payment exceeded 20%. This is a case in which Central Income Tax is not involved. Our State Act does not specify any ceiling. It is on the basis of certain figures the audit has made observation and I have got the figures. In the profit and loss account of the Company they have shown one item and two years were involved i.e. 1985-86 and 1986-87. In the profit and loss account under salaries and wages the amount shown for 1985-86 was Rs. 89,000/-. For 1986-87 Rs. 1,36,000/-. On that basis audit said that the amount of bonus should not have exceeded the limit specified in the audit observation. On examination it was found that wages were paid and accounted for in another Head. That was cultivation and plucking expenses. On that account the total expenditure for 1985-86 was Rs. 7,08,000/- and for 1986-87 Rs. 9,04,000/-. Out of these two amounts wages for labour accounted for Rs. 5,47,000/- in 1985-86 and Rs. 6,04,000/- in 1986-87. The payment of bonus has not exceeded 20%. That is the position. These facts have come to the notice after submission of memorandum.

Sr. D.A.G. ;— Your act really did not provide any ceiling. In the absence of any norm you are to go by Central norm. You have raised demand and that has been set aside.

Consultant:—No. There were some assessments made. Audit took exception to those assessments. Those assessments were challenged by the assessee and the Appellate Authority set aside those assessments. It did not have any opportunity to examine whether bonus has been correctly allowed or not. The bonus that was allowed has not exceeded 20%.

OBSERVATION/RECOMMENDATION

9.3.1 The Committee observe that the clarifications now adduced before us by the Department could have been given to Audit at the initial stage in which case the para might not have come-up at all. The Committee however, express their desire that the Department will, even now, reconcile the difference with audit through discussion and the result achieved will be intimated.

CHAPTER—X

MISC. CASES

(Audit para 3.2, 3.5, & 3.6 of CAG-1984-85)

10.1.1. The cases brought-out by Audit are :—

(a) In a case at Gauhati, where a company engaged in the cultivation, manufacture and sale of tea, failed to submit its returns within the prescribed time, the Agricultural Income Tax Officer determined (July 1983), to the best of his judgement, the agricultural income of the company for the assessment year 1980-81, at Rs. 3,50,000. A cross-check in audit of the records of the Central Income Tax Department, however, showed that the net income of the assessee for the year had been determined (October 1983) by the department at Rs. 16,11,375. Based on this net income agricultural income of the company amounted to Rs. 9,66,825 (i. e. 60 percent of Rs. 16,11,375) and not Rs. 3,50,000 as assessed. The agricultural income of the company had thus been assessed short by Rs. 6,16,825, resulting in short levy of tax amounting to Rs. 4,62,619.

(b) In Gauhati, an assessee company, which grew and manufactured tea, received rebates and drawbacks of Central Excise and custom duties amounting to Rs. 4,86,167 and Rs. 17,615 respectively during the accounting years 1976 and 1977, relevant to the assessment years 1977-78 and 1978-79. Sixty percent of these receipts were to be treated as agricultural income and added to other agricultural income of the assessee for purposes of assessment, but this was not done. The commission resulted in short assessment of agricultural income by Rs. 3,02,269 and consequent short levy of tax by Rs. 2,11,588.

(c) In Gauhati, although the agricultural income of a company engaged in cultivation, manufacture and sale of tea for the year 1977-78 was computed at Rs. 26,42,435, tax was levied at the rate of 62 paise per rupee. Instead of at the correct rate of 70 paise per rupee. The mistake resulted in tax being levied short by Rs. 2,11,395.

(d) In Gauhati, an assessee tea company submitted its return for the assessment year 1980-81, showing its net profits from sale of green tea leaves as Rs. 2,31,889. The return

being not acceptable to the Agricultural Income Tax Officer, he made the assessment on best judgement basis, determining the assessee's income for the assessment year as Rs. 1,90,000. This assessment was incorrect, as the assessee company itself had returned its income as Rs. 2,31,889 i.e. Rs. 41,889 more. The mistake resulted in tax being levied short by Rs. 38,093.

10.2.1. The Department vide their written reply have stated :

(a) In the instant case, the original assessment order was reopened following audit and a revised assessment made. According to the revised assessment order, an additional amount Rs. 4,28,231, on account of agricultural income tax and interest has become payable by the assessee and a demand has been raised accordingly. Out of it, the assessee has since paid Rs. 2,78,231. Steps for the realisation of the balance including interest are in progress.

(b) In the instant case, the agricultural income tax assessment in respect of 1977-78 and 1978-79 were made on the basis of the Central assessment orders as required by law. It may be stated that even in the Central assessment orders in respect of the assessment years 1977-78 and 1978-79 the rebate on excise duty and drawback on customs amounting to Rs. 4,86,167/- and Rs. 17,651/- respectively were mentioned. But these amounts were not included in the central assessments as they had not accrued in the years under assessment. As the rebate and drawback related to some past years, the matter has been taken up with the Central Income-Tax Authorities. The agricultural income tax assessments for the relevant assessment years will be re-opened and revision of central income-tax assessment is received.

(c) In the instant case, the mistake pointed out in audit has since been rectified. The original assessment has been revised. As a result of revision, an additional demand of Rs. 2,13,509/- (against Rs. 2,01,494/- pointed out in audit) has been raised on accounts of agricultural income tax and interest. The additional demand has since been realised.

(d) In the instants case, the original assessment order in respect of 1980-81 has been challenged by the assessee in appeal which has not been disposed of. After disposal of the appeal, the mistake pointed out in audit will be examined and steps taken for rectification if necessary.

OBSERVATION / RECOMMENDATION

10.3.1. The Committee expresses happiness for rectification of the original assessment at the instance of Audit and realisation of the full amount in respect of the case at (c) and part realisation against the case at (a) of this chapter.

10.3.2. The Committee is also interested to know (i) the latest position of realization of outstanding dues as pointed out in Audit; (ii) present position of the appeal case, and (iii) working of the Audit cell established under the Department in sorting-out audit objections as well as internal check since inception of the cell. The information may be furnished to the Committee within a period of three months from the date of presentation of this Report before the House.

SUMMARY OF OBSERVATIONS/RECOMMENDATIONS

Sl. No.	Reference to Para No.	Observations/Recommendations
1	1.6.3	The Committee feels that, the cases of the above assesseees who paid no tax and those who are irregular in playing A. I. T. due to their loss or otherwise need some investigation and accordingly recommends that a high power Committee will be constituted to go into details of their books of accounts locating their malodies and to suggest remedial measures. The study report will be furnished to the Committee within 3 months from the date of submission of this report to the House.
2	2.3.1	The Public Accounts Committee expresses its hapiness that the Department could at least raised an additional amount of Rs.14,202 only after rectification, in so far as the case under para 3.1.2 (a) is concerned.
3	2.3.2	In respect of the other case the Committee is quite unhappy for the lost sustained due to lack of adequate checking of the concerned officer who has by now retired.
4	3.3.1	The Audit objection as raised in the first case relates to income derived by an assessee (a tea company) by sale of green tea leaves omitted from assessment of agricultural income which resulted short levy of tax of Rs.2.38 lakhs. In face of the objection, the Committee naturally expressed concern as to (a) the reasons for such ommission resulting in heavy loss of revenue; (b) realization of the loss by additional demand after necessary rectification, (c) ensure non-occurance of such mistakes in future.

5 3.3.3 In the other case relating to omission to take agricultural income for the purpose of agricultural income tax assessment involving reports short levy of tax by Rs.2.35 lakhs, the Department clarified that out of 6 cases, as brought out by Audit, two cases are not really correct. In respect of remaining four cases, the original assessments have been varified and additional demand raised and the amount realised from the concerned assessees.

6 3.3.4 The Committee feels that the Finance Department could have adduce the clarifications to Audit at the initial stage of raising the objections. Similarly, the Department should have initiate necessary process of rectification of their mistakes immediately on receipt of preliminary audit objections.

The Audit paras as discussed in this part would not have come-up in this from had the Department issued necessary clarification initiate rectification at the initial stage.

7 3.3.5. The Committee therefore, recommends that from their statutory obligations, all Departments of Government of Assam should promptly attend to the Audit paras of the A. G., Assam. The A. G. (Audit) may be treated as helping the administration by pointing out errors in spending by the drawing and disbursing officers who is responsible for any irregularity committed by him. Such an attitude will enable the A. G. to exercise his responsibilities under healthy athrosphere with full co-operation and co-ordination of the Department.

8 4.3.1. The Audit objected that agricultural income from insurance claim under Hail damage insurance scheme and sale of citronella oil of an assessee (tea company) was

not taken into account for assessment of agricultural income tax resulting short levy by Rs. 1.85 lakhs. Finance Department have state that they rectified that assessment and the amount whatever become due has been adjusted against the carry forward loss. The Department could not realise any amount.

- 9 4.3.2. The Department witness, in course of oral deposition, admitted that there was a mistake in the assessment which has been rectified. The deposition reads as follow :-

“The Agricultural income was Rs.3,42,652-. Difference is on account of citronella A.G. said that our Officer threatred 50% of the income from the sale of citronella as agricultural income. The entire thing cannot be treated as Agricultural income. In this case there are two assessments. In 1984 income was Rs.4,80,000/-. Thereafter they submitted the return on the basis of the whole assessment. The Central Assessment Order was revised on 19th July, 1984. In this case the loss due to mistake was Rs.78,000/-. After receipt of the Audit observation the mistake was rectified. This Rs.3,42,000/- was the additional income. But even then no tax was payable by the party because there was carry forward loss.”

- 10 4.3.3. The Public Accounts Committee would like to know the action the Department usually take against the officer who commits such mistakes in such vital issues. The Committee would also like to know subsequent assessment of agricultural income tax of this assessee with reference to the amount of tax assessed and realised.

- 11 5.3.1. The first part of the Audit objection refers to 12 cases, where interest chargeable against the assesseees for their delayed

submission of return was not charged. The Second part of the objection relates to interest leviable (in 7 cases) for delayed payment of tax amounting to Rs.1.42 lakhs was not charged.

12 5.3.2.

In respect of all the assessments held under objection by Audit, it appears that interest leviable in respect of the taxable cases had since been realised or under process of realisation. The Committee therefore, expresses their happiness that the Department have taken action though it was delayed.

13 6.3.1.

Under the Central Income Tax Act, 60% of income from manufacture and sale of Tea is to be assessed as Agricultural income and balance 40% as business income. Accordingly, an assessee (A Tea-Company) received rebate which was not assessed resulting in short levy of Tax of Rs.0.95 lakhs. The Department attempted to realise the same, but due to setting aside the assessment by appealed authority, the Department had to stop realisation process.

14 6.3.2.

Under the Act and the Rules, the Central Excise rebate is treated as part of business income. As far as the Agricultural income is concerned the Department have only told that while computing the total income they have taken only the percentage of income. The Department does not appear to have taken the Central Excise rebate into account. The Central Excise rebate might be a kind of intensive. At this stage the Committee would refrain from making any comment of the merit and demerit of the verdict of the appellate authority. One thing is certain that the Department can challenge the verdict before the higher judicial authority, after consultation with legal expert.

- 15 6.3.3. The Committee therefore, recommends that the Department will refer this case to the Legal Remembrancer with all necessary papers, if the case has not been barred by limitation.
- 16 7.3.1. In all the cases at (a), (b) & (c) of para 7.1.2 of this part, deductions on accounts of donations for charitable purposes were allowed in excess of the permissible limit of 10% resulting in short levy of tax. Only on being pointed out in Audit, the Department rectified the original assessment.
- 17 7.3.3. The Committee would further like to know the position of the appeal case involving tax effect of Rs. 1,01,008/- whether the appeal has been disposed of and the amount could be realised.
- 18 7.3.4. The Committee recommends that the Department should also examine the nature of mistakes, whether mistakes committed by responsible Assessing Officers with certain length of experience had acted mala-fide or those mistakes are bonafide as per their knowledge and belief and guilty officers should be punished.
- 19 8.3.1. The text of the Audit para, in brief, is that while adjusting the loss incurred by an assessee from his subsequent income as per provision of the Act, the Assessing officer allowed Rs. 1.00 lakh more than the actual loss which resulted in short levy of tax. This is definitely an act of carelessness on the part of Assessing Officer.
- 20 8.3.2. The Committee, once again, wants to impress upon the Department that such careless mistake effecting the revenue of the state may not re-occur.
- 21 8.3.3. The Committee therefore, recommends that stern action should be taken against

the officer who has committed such a careless mistake. In respect of all other similar cases careless melafide acts, the Department should take Suamota decision and inflict punishment and Public Accounts Committee should be intimated within a period of three months from the date of presentation of this Report before the House.

22 9.3.1. The Committee observe that the clarifications now adduced before us by the Department could have been given to Audit at the initial stage in which case the para might not have come-up at all. The Committee however, express their desire that the Department will, even now, reconcile the difference with audit through discussion and the result achieved will be intimated.

23 10.3.1 The Committee expresses happiness for rectification of the original assessment at the instance of Audit and realisation of the full amount in respect of the case at (c) and part realisation against the case at (a) of this chapter.

24 10.3.2 The Committee is also interested to know (i) the latest position of realisation of outstanding dues as point-out in Audit, (ii) present position of the appeal case and (iii) working of the Audit cell established under the Department in sorting out audit objections as well as internal check since inception of the cell. The information may be furnished to the Committee within a period of three months from the date of presentation of this Report before the House.

ANNEXURE—I

COMPOSITION OF THE OUT GOING COMMITTEE
(1988—91)

CHAIRMAN :

1. Shri A. F. Golam Osmani.

MEMBERS :

2. Shri Kamala Kalita.
3. Shri Pradip Hazarika.
4. Shri Joy Prakash Tewari.
5. Shri Silvius Condpan.
6. Shri Shiekh Abdul Hamid.
7. Shri Ramendra De.
8. Shri Chandra Mohan Patowary.
9. Shri Abdul Rob Laskar.
10. Shri Abhijit Sarma.

ANNEXURE—II

COMPOSITION OF SUB-COMMITTEE—I
FOR DRAFTING OF REPCRTS ETC.

A—SUB-COMMITTEE NO—1.

- | | |
|-----------------------------------|-----------|
| 1. Shri Derhagra Mochahary, MLA | Convenor. |
| 2. Shri Kali Ranjan Deb, MLA | Member. |
| 3. Shri Upendra Nath Sanatan, MLA | Member. |
| 4. Shri Kosheswar Barua, MLA | Member |
| 5. Shri Debendra Nath Barua, MLA | Member. |

ANNEXURE—III

Copy of the order passed by the Assistant Commissioner Taxes, (Appeals), Tinsukia, on appeal petition filed by M/s Lankashi Tea & Seed Estates (p) Ltd. Dibrugarh, in respect of assessment year 1979-80 under the Assam Agricultural Income Tax Act., 1939.

ORDER

Dated Tinsukia, the 20th July, 1988

This is an appeal petition filed by M/S. Lankashi Tea & Seed Estates (P) Ltd. Dibrugarh, against the assessment orders passed under section 20 (3) read with section 21 of the Assam Agricultural Income Tax Act, 1939 for assessment year 1979-80 by Asstt. Agricultural Income Tax Officer, Guwahati.

The history of the case in brief is that the appellant/owner of Lankashi T.E. was assessed by the Income Tax Officer, 40% of the composite income as income from the business and the balance to be assessed as Agricultural Income under the Assam Agricultural Income Tax Act'39. Agricultural Income Tax Officer assessed the appellant on the balance 60% by an order such 60% was Rs. 1,62,158.00. This assessment was revise by Agricultural Income Tax

Officer under section 20 (3) read with section 21 of the Assam Agricultural Income Tax Act, by an order dt. 28-5-87 as the appellant received from Central Excise Department a refund of Rs. 1,92,675.00. In the revised assessment order the total Agricultural Income was determined at Rs. 2,77,763.00 (Rs. 1,62,158.00 + 60% of Rs. 1,92,675.00 i.e. Rs. 1,15,605.00) being aggrieved, the appellant filed appeal against order of assessment dated 28-5-87.

Shri J.P. Konoj, F.C.A. appeared on behalf of the appellant at the time of hearing.

It is seen that assessment order under appeal has been passed under section 20 (3) read with section 21 of the Act. section 21 deals with cancellation of assessment in certain case and fresh assessment thereof. Section 21 of the Assam Agricultural Income Tax Act' 39 reads as below :—

“Where an assessee, or in the case of a Company principal officer thereof, within one month from the serviced notice of demand issued as hereinafter provided satisfies that Superintendent of Taxes, or Agricultural Income Tax Officer though he was prevented by sufficient cause from making the return by section 19 or then he did not receive the notice issued under sub-section (2) of section 19 or sub-section 2 of section 20 that he had not a reasonable opportunity to comply or was prevented by sufficient cause from complying with the terms of last mentioned notices, the Superintendent of Taxes or Agricultural Income Tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with provisions of section 20”.

It is clear from above that the present case is not one covered by section 21 of the Act. The re-assessment should have been done under section 20 of the Act. i.e. Income escaping assessment.

I, now, proceed to examine is the rebate from Excise Department can be assessed under section 30.

It is submitted by the learned counsel for the appellant that in respect of Tea Income, the assessment under the Assam Agricultural Income Tax Act is to be made as provided in Rule 5 of the Assam Agricultural Income Tax Rule, 1939 which reads as below :—

“Rule 5. In respect of Agricultural Income from Tea Grown and manufactured by the seller in the province of Assam, the portion of net income worked out under the Indian Income Tax Act and left unassessed as being agricultural shall be assessed under this Act after allowing such deductions under the Act and the rules made thereunder so far as they have not been allowed under Indian Income Tax Act in computing the net income from entire operation.

Provided that the computation made by the India Income Tax Officer shall ordinarily be accepted by the Agricultural Income Tax Officer”

I have gone through the assessment order passed by the Agricultural Income Tax Officer and found that the original assessment was made under section 20 (3) of the Act on the basis of the certified copy issued by Central Income Tax Officer who has assessed the entire Rebate of Excise Duty as 100% taxable under the India Income Tax Act as it did not relate to the production and manufacture of tea. The appellants disputed this inclusion and filed appeal before the Commissioner of Income Tax (Appeals) who, in his order dated 1st March 1984 decided the issue in favour of the Income Tax Department.

It is submitted by the learned counsel that adding 60% of rebate amount to Agricultural Income, would amount to double taxation.

It is quite clear that in case of income derived from tea the total income is to be determined in the assessment under Central Income Tax Act and thereafter it is apportioned as to the Agricultural income and business income and only that part which is apportioned as Agricultural Income is to be taken for the purpose of.

Reliance is placed by the counsel in the following cases—

1. Anglo American Direct Tea Trading Co. Ltd. Vs.—
Commissioner of Agricultural Income Tax Kerala
(Supreme Court) (1968) 69 ITR 667 (Supreme Court).
2. Om Prakash Agarwalla, Vs. Agricultural Income Tax
Officer and others (1972) 84 ITR 340 (Calcutta High
Court).

3. Stanmore (Anamallay) Estates Ltd. Vs. Govt. of Madras, (1973) 92 ITR 168 (Madras High Court .

After considering the relevant provisions of the Assam Agricultural Income Tax Act '39 and Rules made thereunder and also the relevant provisions of the Kerala Act (Which is similar to Assam Act) considered by the Supreme Court in the case of Anglo American Direct Tea Trading Co. Ltd. Vs. Commissioner of Agricultural Income Tax, Kerala. I am of the opinion that it can not be said that Agricultural Income Tax Officer making an assessment of Agricultural Income of a Tea Estate could ignore the assessment under the Central Income Tax Act and make an assessment of his own.

I annual the assessment order dated 28th May 1987 made under section 20 (3) read with section 21 passed by the Agricultural Income Tax Officer, Original assessment order dated 18th August 1984 will stand.

Sd/ R. C. PAL,

Assistant Commissioner of Taxes (Appeals)
Tinsukia.

Memo No. ACT (A)/ISK/Dib/Ait-179/88/312-314, Dated 28th July 1988

Copy forwarded to :—

1. The Commissioner of Taxes, Assam Panbazar, Guwahati for favour of his information.
2. The Agricultural Income Tax Officer, Red Cross Road, Chandmari, Guwahati-3 for information and necessary action.
3. M/S Lankashi Tea & Seed Estates (P) Ltd. P. O. Dibrugarh, for information.

By direction,

Sd/—

Head Assit.

Office of the Asstt. Commr. of
Taxes (Appeals) Tinsukia.