

## **Karnataka Agricultural Income Tax Act, 1957**

**22 of 1957**

**[17 June 1957]**

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## **SCHEDULE 1 :- SCHEDULE I**

### **Karnataka Agricultural Income Tax Act, 1957**

**22 of 1957**

**[17 June 1957]**

An Act to consolidate and amend the laws providing for the levy of a tax on agricultural income in the State of Karnataka. WHEREAS it is expedient to consolidate and amend the laws providing for the levy of a tax on agricultural income in the State of Karnataka; Be it enacted by the Karnataka State Legislature in the Eighth Year of the Republic of India as follows :

## **CHAPTER 1 Preliminary**

### **1. Short title, extent and commencement :-**

(1) This Act may be called the Karnataka Agricultural Income-tax Act, 1957.

(2) It extends to the whole of the State of Karnataka.

(3) This section shall come into force at once, and the remaining sections of this Act shall come into force 1 on such date as the State Government may by notification in the Official Gazette appoint.

1. w.e.f. 1-10-1957.

## **2. Definitions :-**

(1) In this Act, unless the context otherwise requires,

(a) "Agricultural income" means 1[

(1) any rent or revenue derived from land situated in the State of Karnataka and used for growingplantation crops;

(2) any income derived from such land by

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received him fit to be taken to market, or

(iii) the sale by cultivator or receiver of rent-in-kind of the produce raised or received by him in respect of which no process has been performed other than a process of the nature described in paragraph (ii);

(3) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in paragraphs (ii) and (iii) of sub-clause (2) is carried on:

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land requires as a dwelling house or as a store-house or other out-building;

Explanation. Income derived from any building means the receipts by way of rent from the building or portion thereof let out for rent.

(b) "Agricultural income-tax" means the tax payable 2[under Section 3;]

(c) 3["Assistant Commissioner of Agricultural Income-tax"] means a person appointed to be an 4[Assistant Commissioner of Agricultural Income-tax] under Section 17; 5[

(cc) "Appellate Tribunal" means the Tribunal appointed under Section 4 of the Kamataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957);

(d) "Assessee" means a person by whom agricultural income-tax is payable; 6[

(d1) 7["Agricultural Income-tax Officer"] means a person appointed to be an 8[Agricultural Income-tax Officer] under Section 17;

9[(d2)] 10["Deputy Commissioner"] means a person appointed to be an 11[Deputy Commissioner] of Agricultural Income-tax under Section 17;

(e)12[x x x x x];

Explanation 1.[x x x x x]

Explanation 2.[x x x x x]

( f ) "Commissioner" means a person appointed to be the Commissioner of Agricultural Income-tax under Section 17;

(g) "Company" means a company as defined in the Companies Act, 1956 (Central Act 1 of 1956) and includes any foreign association, whether incorporated or not, which the State Government may, by general or special order, declare to be a company for the purposes of this Act;

(h)13["Joint Commissioner"] means a person appointed to be a 14[Joint Commissioner] of Agricultural Income-tax under Section 17;

(i) "Dividend" includes

(i) any distribution by a company of accumulated profits, whether capitalized or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company;

(ii) any distribution by a company of debentures or debenture stock to the extent to which the company possesses accumulated profits, whether capitalised or not;

(iii) any distribution made to the shareholders of a company out of accumulated profits, of the company on the liquidation of the compan:

Provided that only the accumulated profits so distributed which arose during the six previous years of the company preceding the date of liquidation shall be so included; and

(iv) any distribution by a company on the reduction of its capital to the extent to which the company possesses accumulated profits whether such accumulated profits have been capitalised or not:

Provided that "dividend" does not include a distribution in respect of any share issued for full cash consideration which is not entitled

in the event of liquidation to participate in the surplus assets, when such distribution is made in accordance with sub-clause (iii) or (iv); Explanation. The words "accumulated profits" wherever they occur in this clause shall not include "capital profit";

15[

(j) "Earned agricultural income" x x x x x

(k) "Financial year" means the year beginning on the 1st April and ending on the 31st March next following;

(l) "Firm", "partner" and "partnership" have the same meanings, respectively, as in the Indian Partnership Act, 1932 (Central Act IX of 1932) but the expression "partner" shall include any person who being a minor has been admitted to the benefits of partnership;

(m) "Hindu undivided family" includes a family governed by, (i) the Coorg customary law or usage; or (ii) the Madras Nambudri Act, 1932 (Madras Act XXI of 1933); 16[

(m1) 17["Additional Commissioner"] means a person appointed to be the 18[Additional Commissioner] of Agricultural Income-tax under Section 17;

(n) "Landlord" means any individual who receives rent for land either in cash or kind from a tenant;

(o) "Marumakkattayam tarwad or tavazhi" means a tarwad or tavazhi governed by the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1933), or the Mapilla Marumakkattayam Act, 1939 (Madras Act XVII of 1939), and in the case of tavazhi possessing separate properties, the provisions of this Act shall apply as if the tavazhi were a tarwad;

(p) "Person" means any individual or association of individuals, owing or holding property for himself or for any other, or partly for his own benefit and partly for another, either as owner, trustee, receiver, common manager, administrator or executor or in any capacity recognised by law, and includes an undivided Hindu Mitakshara family, an Aliyasanthana family or branch, a Marumakkattayam tarwad or a tavazhi possessing separate properties, or a Nambudri or other family to which the rule of impartibility applies, a firm or company, an association of individuals, whether a recipient of income from a firm or association of persons which is dissolved or which has discontinued the business through which agricultural income is received and any institution capable of holding property.

(q) "Plantation crop" means cardamom, coffee, linaloe, orange, pepper, rubber or tea; 19[

Explanation. For the purpose of this clause "Plantation crop" shall

not include pepper and cardamom grown as subsidiary crops in land used for growing non-plantation crops like Arecanuts and Coconuts;  
(r) "Prescribed" x x x x x;

(s) "Previous year" save as otherwise provided in this clause, means the financial year immediately preceding the assessment year:

Provided that in the case of the source of agricultural income newly coming into existence, in the said financial year, the previous year shall be the period beginning with the date on which the source of agricultural income newly comes into existence and ending with the said financial year:

Provided further that "Previous year", in relation to the assessment year commencing on the 1st day of April, 1989, means the period which begins with the date immediately following the last date of previous year relevant to the assessment year commencing on the 1st day of April, 1988, and ends on the 31st day of March, 1989:  
22[

Provided also that where the previous year in relation to the assessment year commencing on the first day of April, 1989, referred to in the second proviso exceeds a period of twelve months, the provisions of this Act shall apply subject to the modifications specified in the rules in Schedule A;

(t) "Principal officer" used with reference to any Company or association means:

(i) the secretary, treasurer, manager or agent of the company or association, or

(ii) any person connected with the company or association upon whom the 23[Assistant Commissioner of Agricultural Income-tax] has served notice of his intention of treating him as principal officer thereof;

(u) "Registered firm" means a firm registered under the provisions of Section 29;

24[(v) "State" or "State of Karnataka" means the State of Karnataka comprising the territories specified in clauses (a), (b), (c), (d) and

(e) of sub-section (1) of Section 7 of the States Reorganisation Act, 1956 (Central Act 37 of 1956);] 25[(vi) "Special crop" x x x x x;]

26[(vv) "Super-tax" x x x x x;]

(w) "Total agricultural income" means the aggregate of all agricultural income derived by a person from land situated in the State of Karnataka whether received by him within or without the State computed in accordance with the provisions of Section 5 and includes all income of the description specified in Section 11 and all

receipts of the description specified in clause (a), (c) and (d) of Section 12 and any sum which is exempt from tax 27 [under Section 5-A or under clause (g) of Section 12] or under Section 13;]

(2) The Mysore General Clauses Act, 1899 (Mysore Act III of 1899) shall apply for the interpretation of this Act as it applies for the interpretation of a Karnataka Act.

Held: Since petitioners carried on agricultural operations in order to harvest and realise the income, the said income was agricultural income within Section 2(1)(a), (2) of the Act. Since petitioners had carried on agricultural operations they were entitled to earned income relief under Section 13 of the Act. *Karachi A.S. v Commissioner of Agricultural Income-tax*, ILR 1978 Kar. 554 : (1978)1 Kar. LJ. 217. S. 2(1)(a) and (2) *Coffee estates Sale of rosewood shade trees If income liable to tax. Govinda Bhat and Venkataswami, JJ.* In order to constitute agricultural income two conditions have to be satisfied, viz., (i) the land must be used for growing all or any of the commercial crops and (ii) the income should be derived from such land by agriculture. Unless both the conditions are satisfied, the receipts do not constitute agricultural income. Assessee owned coffee estates, part of the lands was jungle land (described as abandoned coffee area) which was not cultivated under any crop. Assessee sold rosewood timber from both the jungle land and cultivated land. The trees were more than 150 years old and the coffee estates were opened within 100 years. The trees were not found in regular rows. (Shade trees when planted are planted in a systematic manner). The income-tax authorities found that the trees were planted by human agency on the view that rosewood trees are not native to Indian soil but have been imported from Brazil and that they must have been planted after the estates were opened. Held: (1) That the income from sale of timber of rosewood trees from jungle land cannot be regarded as agricultural income, since the condition that the land must be actually used for agricultural purposes in the accounting year had not been satisfied. (2) The finding that the rosewood trees were not of spontaneous growth would ordinarily be a question of fact. But the question was one on which the jurisdiction of the authorities under the Act depended. This being a jurisdictional fact the High Court was entitled to examine the material on the basis of which the inference was drawn. (3) That rosewood was not a native of India was erroneous. (4) The proper inference to be drawn was that the trees were in existence even before the estates were



opened and there was no material at all for the Agricultural Income-tax Officer and Commissioner to hold that the trees were planted by human agency. (5) If the trees were of spontaneous growth and were retained as shade trees, the receipt from the sale of timber of such trees would not constitute agricultural income, as the income was not derived from such land by agriculture. (6) Shade trees were absolutely essential for protection of coffee bushes and rosewood was one of the trees recommended therefor. (7) Shade trees in a coffee estate are part of the fixed assets and hence proceeds of sale of timber of shade trees were capital receipts and not taxable as income, irrespective of whether they were planted or were of spontaneous growth. (8) That the assessee received the proceeds of sale not in one lump sum in one year but in the course of more than one year was immaterial, for determining its nature. Consolidated Coffee Estates (1943) Limited v Commissioner of Agricultural Income-tax, Mysore, 76 ITR 29. Ss. 2(I)(a) and 3 Land converted to non-agricultural purpose Raising crops on Income, if liable to tax - Constitution, Article 366 Income-tax Act, 1961. Govinda Bhat C.J. and Venkatachaliah, J. Income derived by employing the land for agricultural purposes, although the land is allowed to be converted into non-agricultural allowed to be converted into non-agricultural purposes, is chargeable to tax under Section 3 of the Agricultural Income-tax Act, where the assessee has not produced any material to show that the land was revenue free in fact or in law. 41 ITR 340 (SC), rel. on. Hiranyakeshi Sahakare Sakhare Karkhana Niyamit, Sankeshwar v State of Karnataka, ILR 1976 Kar. 1140 : (1976)1 Kar. L.J. 238. Ss. 2(I)(a) and 10(2)(a) Income of minor son When taken into account Agricultural Income What is taxable. Hegde and Mir Iqbal Husain, JJ. Where land is said to be in the ownership of the assessee's minor son, the Income-tax Officer has first to see whether the land in question had been transferred directly or indirectly in the name of the minor by the assessee otherwise than for adequate consideration. If he comes to the conclusion that it has been so done, then he could take into consideration the income of that land in determining the total income of the assessee. If on the other hand he comes to the conclusion that the land belongs to the minor son and is not in any manner hit by Section 11(2), then the provision that has to be applied is Section 10(2)(b). It is only income derived from land which is used for growing all or any of the commercial crops that comes within the ambit of "agricultural income". The Income-tax Officer must take the predominant

characteristic of the land the income of which is taken into consideration. The fact that in that land some other crops are subsidiarily grown either as a measure of interspacing or for the purpose of giving rest to the soil is not relevant. Where both commercial and non-commercial crops are grown and a consolidated rent is fixed, the Income-tax Officer has to apportion the rent between the portion used for commercial crops and the portion used for non-commercial crops. *Kallappa v Agricultural Income-tax Officer, Belgaum*, 1962 Mys. L.J. Jr. 75. Ss. 2(1)(e), (q), 66 and 67 Land used for growing commercial crops other than plantation crops in Section 66 Meaning of. *Somnath Iyer and Ahmed AH Khan, JJ.* Petitioner grew pepper and cardamom in his land in addition to areca. Areca was a commercial crop and pepper and cardamom were plantation crops. The main crop was areca and pepper and cardamom crops were subsidiary crops. Held: The land was used for growing commercial crops within Section 66 and composition could be sought under Section 67 in respect of the agricultural income derived from such land. The fact that he also grew subsidiary crops like pepper and cardamom, would not disentitle assessee to composition. In the context of the purpose and scheme of Sections 66 and 67, it must be held that the land is used for the purpose to which the section refers, when it is mainly or primarily used for that purpose although subsidiary use of the land was also made. In respect of such a land, classification could be made under Section 66 and composition could be sought under Section 67. The amendment made to the definition of plantation crop with effect from April 1, 1963, makes no difference to the question whether the land on which subsidiary crops such as pepper and cardamom are grown and the main crop grown is areca, is or is not within the second class in Part II. *Venkataraman Annayya Hegde v Agricultural Income-tax Officer, Sirsi*, 64 ITR 555 : 1966 Kar. L.J. 99 : (1966) 2 Mys. L.J. 327. S. 2(1)(p) Association of Persons Inference. *Srinivasa Iyengar and Rama Jois, JJ.* The assessees were two brothers, their mother and sister had purchased lands in their individual names and they were being enjoyed and cultivated separately and separate khatha and ledger accounts had been maintained for supply of sugarcane and areca, and purchase of manure etc., was also in the individual names. They had taken a joint agricultural loan to meet the consideration payable for the purchase of the property and for raising crops and purchasing a tractor which was registered in the name of one only. Held, the mere fact of the loan being taken jointly by four persons

would not ipso facto lead to the conclusion that acquisition of properties would be also the persons jointly; and would not also lead to an inference that it must be managed by them all as a joint property. This would not outweigh the other material facts which clearly indicated that the properties were held and enjoyed separately by four persons. 80 ITR 173 (SC), foll. Bhagirathi Bai v Commissioner of Agricultural Income-tax, 1980(1) Kar. L.J. 290 (DB). Section 2(l)(p) "Person" Definition of It covers individual, association of individuals, whether incorporated or not, Hindu undivided family, etc., any institution capable of holding property Where co-owners hold property jointly though share of each is stated, benefit of levy of tax on share of each, in absence of actual division of property, cannot be given, and they are to be assessed as one unit as association of persons. HELD: The facts of the case show that, the property is owned by the co-owners as the property was jointly purchased and though shares are stated, there is no actual division. Agricultural income-tax is tax on the total agricultural income of the previous year of every person as defined in Section 2(l)(p) of Act. Therefore, the benefit of levy of tax on the shares of each is not available. Therefore, the status of tenants-in-common continues to be that of Association of Persons. Therefore, making assessment of the petitioner as association of persons is not unlawful or illegal and it is in accordance with the provisions of the Act. M/s. Palanjee Estate, Chettalli Post, Kodagu District v Additional Commissioner of Commercial Taxes, Mysore Zone, Mysore and Others, 1998(45) Kar. LJ. 129A (HC) (DB). Ss. 2(l)(p), 3(3) and 10(l)(a) Legatees under Will Management by common manager Assessment. Somnath Iyer and Ahmed Ali Khan, JJ. The testator under the Will divided his properties into 10 shares. To his two sons he gave  $2\frac{1}{2}$  shares each, to his wife and two daughters one share each and the remaining two shares he disposed of for charity. There was a direction in the Will that the properties shall be managed in a particular way and that so long as that management continued, the income from the properties should be divided into ten equal shares. Out of that income the two sons became entitled to two shares each, the testator's wife and two daughters became entitled to a share each, his two sons-in-law became entitled to a half share each, one share had to be applied for charity and the remaining one share had to be the source of a reserve fund to be utilised for the expenses of management. After the death of the testator, one of the sons of the testator was, under an agreement between the legatees, appointed manager to

manage the properties. Held: That the income in the hands of the legatees was assessable as income derived by tenants in common under Section 3(3) of the Act or the income of each one of the persons should be assessed under Section 10(l)(a). The legatees were not assessable as an association of individuals under Section 2(l)(p). The legatees, on the death of the testator, became tenants-in-common and it did not make any difference that a share was given for charitable purposes nor that bequests of the part of the income were made to the sons-in-law. Sections 3(3) and 10(l)(a) are special provisions and if the assessment falls under either of them no further question whether the income is derived by an association of individuals could arise. 59 ITR 728 foll. R.T.N. Punja v Commissioner of Agricultural Income-tax, 1966 Kar. L.J. 85 : 63 ITR 442 : (1966)2 Mys. L.J. 275. Ss. 2(l)(s) and (w) and 3(1) Taxability Requisites. Somnath Iyer and Mir Iqbal Husain, JJ. The taluk of Mudhol originally formed part of the State of Bombay and became part of the new State of Mysore on and from November 1, 1956. The Karnataka Agricultural Income-tax Act came into force on October 1, 1957. Petitioner who owned lands in the taluk was required to file a return of agricultural income for the assessment year 1957-58; and the previous year was April 1, 1956 to March 31, 1957. Held, (1) Section 2(l)(w) and Section 3 require that during the entire period constituting the previous year of the assessee, the land forming the source of his agricultural income should have been situate in the State of Karnataka. (2) Under Section 2(l)(s), (w) and Section 3(1) what was taxable was the income derived by the assessee during the entire period of twelve months. If part of that income was not taxable, there being no total agricultural income taxable under the Act, no part of that entire income was taxable either. 28 ITR 386, foll. H.H. Bhairao Rao Maloji Rao Ghorpade v Agricultural Income-tax Officer, Bagalkot, 46 ITR 778 : 1962 Mys. L.J. 406. Ss. 2(l)(w) and 3(1) amended by Mysore Act 25 of 1962 Land in Belgaum District Assessment of income for 1956-57 Appeal from 1962 Mys. L.J. 406 J.C. Shah, S.M. Sikri and V. Ramaswami, JJ. The effect of the retrospective amendment in the definition of State or State of Mysore made by Amending Act 25 of 1962, is that agricultural income derived from lands situated in Belgaum, Bijapur, Dharwar and Kanara Districts is liable to tax under the principal Act as amended. Whether the Act contemplates assessing income arising during the previous year 1956-57? Whether the Act in assessing that income is inira vires? Order of High Court in W.P. No. 224 of

1959, dated 6-9-1961 and 30-10-1961 set aside. State of Karnataka H.H. Bhairao Malojirao Ghorpade, C.A. Nos. 1176 to 1178 and 1180 of 1965, dated 3-5-1967.

1. Sub-clause (1) substituted by Act No. 14 of 1983, s.3(1), shall be deemed to have come into force w.e.f. 1-12-1982.
2. Substituted for the words "under this Act" by Act No. 31 of 1962, s. 2(1) and shall be deemed to have come into force w.e.f. 1-4-1962.
3. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.
4. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.
5. Clause (cc) inserted by Act No. 29 of 1963, s. 2(1), w.e.f. 1-1-1964.
6. Clause (d-1) inserted by Act No. 29 of 1976, s. 5(2) and shall be deemed to have come into force w.e.f. 1-4-1975.
7. Substituted for the expression "Assistant Agricultural Income-tax Officer" by Act No. 5 of 1993, s.5, w.e.f. 4-2-1993.
8. Substituted for the expression "Assistant Agricultural Income-tax Officer" by Act No. 5 of 1993, s.5, w.e.f. 4-2-1993.
9. Clause (dd) inserted by Act No. 29 of 1963, s. 2(2) and relettered as clause (d-2) by Act No. 29 of 1976, s. 5(2) and shall be deemed to have come into force w.e.f. 1-4-1975.
10. Substituted for the expression "Assistant Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.
11. Substituted for the expression "Assistant Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.
12. Clause (e) with explanations omitted by Act No. 29 of 1976, s. 5(3) and shall be deemed to have come into force w.e.f. 1-4-1975.
13. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.
14. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.
15. Clause (j) omitted by Act No. 14 of 1983, s. 3(2) and shall be deemed to have come into force w.e.f. 1-4-1975.
16. Clause (m1) inserted by Act No. 14 of 1983, s. 3(3) and shall be deemed to have come into force w.e.f. 1-12-1982.
17. Substituted for the expression "Joint Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.
18. Substituted for the expression "Joint Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.
19. Explanation inserted by Act No. 8 of 1989, s. 4(1) and shall be

- and shall be deemed to have been come into force w.e.f. 1-4-1982.
20. Clause (r) omitted by Act No. 29 of 1976, s. 5(4) and shall be deemed to have come into force w.e.f. 1-4-1975.
21. Clause (s) substituted by Act No. 16 of 1988, s. 2, w.e.f. 1-4-1989.
22. Third proviso substituted by Act No. 19 of 1989, s. 2, w.e.f. 1-4-1989.
23. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.
24. Clause (v) shall be and shall always be deemed to have been substituted by Act No. 25 of 1962, s. 2.
25. Clause (vi) inserted by Act No. 29 of 1976, s. 5(5) and omitted by Act No. 14 of 1983, s. 3(4) and shall be deemed to have come into force w.e.f. 1-12-1982.
26. Clause (vv) inserted by Act No. 31 of 1962, s. 2(2) and omitted by Act No. 29 of 1976, s. 5(6) and shall be deemed to have come into force w.e.f. 1-4-1975.
27. Substituted for the words, brackets, letters and figures "under clause (e) or clause (g) of Section 12" by Act No. 29 of 1976, s. 5(7) and shall be deemed to have come into force w.e.f. 1-4-1975.

## **CHAPTER 2** Charge of Agricultural Income-tax

### **3. Charge of Agricultural Income-tax :-**

- (1) Agricultural Income-tax at the rate or rates specified in 1[x x x x x] the Schedule to this Act shall be charged for each financial year commencing from the first April 1957 in accordance with and subject to the provisions of the Act, on the total agricultural income of the previous year of every person. 2[Provided that where by virtue of any provision of this Act, agricultural income-tax is to be charged in respect of the income of a period other than the previous year, agricultural income-tax shall be charged accordingly]
- (2) Where there is included in the total agricultural income of an assessee any income exempted from agricultural income-tax by or under the provisions of this Act, the agricultural income-tax payable by the assessee shall be an amount bearing to the total amount of the agricultural income-tax which would have been payable on the total agricultural income had no part of it been exempted, the same proportion as the unexempted portion of the total agricultural income bears to the total agricultural income.

3 [(3) x x x x x.]

S.3 Retroactive operation of the section Act is applicable for

assessment year 1957-58 Hence company can forward loss under proviso to Section 15. M/s. Ugar Sugar Works Limited v State of Karnataka, 1985(2) Kar. L.J. 53 (DB). Ss. 3, 5(k), 7, 15 and 55 Accounts accepted Allowable deduction If can be reduced or spread over Scope of revisional powers. Sadasivayya and Honniah, JJ. Where the method of accounting regularly employed by the assessee was the cash basis method, and it was not the case of the tax authorities that the agricultural income cannot properly be deducted from the method of accounting regularly employed by the assessee, the agricultural income must be deduced in accordance with the method of accounting and no resort to the proviso to Section 7 of the Act can be had by the officer. In computing the agricultural income, the tax authorities have to give deduction in the accounting year for admissible expenditure. There is no provision in the Act or the Rules which authorises the authorities to spread over a number of years the expenditure incurred in the accounting year and for which the assessee is entitled to deduction under Section 5(k) of the Act. The benefit given to the assessee to carry forward loss and set it off in the following years would be impaired by such unauthorised apportionment. The powers of revision by the High Court under Section 55 of the Act are wide enough to either reverse, affirm or amend the order against which the revision is preferred. A.C, Shive Gowda v State of Mysore, 1966(1) Mys. L.J. 488 : 1966 Kar. L.J. 35. Ss. 3 and 7 Mysore Act, 1955, Section 64 Coffee Planter Compounding for one year Assessment next year Coffee dividend If can be included. Hegde and Mir Iqbal Husain, JJ. The marketing of coffee was controlled by the Coffee Act. The growers had to deliver their produce to the Board and were entitled to receive "dividends" representing the price of coffee delivered to the Board and this was received in dribblets spread over two or three years. Assessee owned coffee plantations in Old Mysore area and maintained their accounts according to the mercantile system. For the assessment year 1957-58, they compounded their tax liability under Section 64 of the old Mysore Act of 1955. For the next assessment year they submitted a return on the basis of the estimated value of their coffee marketed during the previous year and did not include the dividends received in the previous year. Held, that the dividends received in the previous year in respect of coffee delivered to the Board in prior years cannot be considered for the purpose of agricultural income-tax as their agricultural income of the year in which their dividends were received. In view of the composition under Section 64 of the

previous Act, the State had no right to claim a tax in respect of the income derived in the years to which the composition related. If the assessee maintains accounts in accordance with the mercantile system his cash receipts in respect of prior years dealings are irrelevant, in determining the facts for the assessment year. *Narasimhiah Setty v Income-tax Officer, Chickmagalur*, 55 ITR 619. Ss. 3 and 37 Income liable to charge Rectification of mistake. *Hegde and Ahmed AH Khan, JJ.* Section 3 of the Karnataka Act 22 of 1957 imposes a charge on all agricultural income accruing on or after 1-10-1957. To the extent that Section 3 covers, the operation of the Coorg Agricultural Income-tax Act is excluded. Section 37 empowers the Commissioner to correct any mistake which is apparent from the records of revision. *Cotacadu and Jeynacadu Estates, Santicoppa v Commissioner of Agricultural Income-tax*, 47 ITR 958 : ILR 1962 Mys. 640 : 1962 My.L.J. 920. Ss. 3(1) and 69 Assessment year 1957-58 Old Mysore area Assessment under 1957 Act. *Hegde and Ahmed Ali Khan, JJ/.* Income which arose in the old Mysore area for the assessment year 1957-58 (accounting year ending March 31, 1957) is liable to tax under the 1957 Mysore Act, though that Act came into force in October, 1957. There is no conflict between Section 3(1) and Section 69 which deals with repeal and savings. Section 69 is a general section which will have to be read subject to the special Section 3(1). *Mallikarjunappa v Agricultural Income-tax Officer, Chickmagalur*, 52 ITR 778. Ss. 3(2), 12(e) and (g) and 53-C Super-tax assessment Exemption applicable. *Govinda Bhat and Jagannatha Shetty, JJ.* The provisions of Section 3(2) and Section 12 apply to the assessment of super-tax under Chapter VII-A. Provisions relating to exemption and grant of rebate on the sums exempted are provisions relating to assessment. Therefore an assessee is entitled to rebate on income-tax as well as super-tax on the life insurance premia paid and donations made, under Section 3(2) read with Section 12(e) and (g). *K.S. Estaran v State of Karnataka*, 1971 Kar. L.J. 9 : (1971) 2 Mys. L.J. 239. Section 3(3) As amended by Act No. 14 of 1983 Tenants-in-common Return for previous year ending 31-3-1982 filed in July 1983, declaring status as change of law effected on 1-12-1983 deleting Section 3(3) of Act and dispensing with assessment in status of "tenants-in-common" and altered position in law made applicable retrospectively to previous year ending 31-3-1982 Assessing Authority proceeding to assess assessee in status as "association of persons" without affording him opportunity to file revised return and to declare his status in light of change in law



Authority cannot suo motu determine status of assessee in absence of assessee's declaration regarding his status and assessment made on basis of such presumed status of assessee is liable to be set aside. HELD: Petitioner had filed its return before 31st of July, 1983. Section 3(3) was deleted by Act No. 14 of 1983 on 1-12-1983 retrospectively making it applicable to the previous year ending 31st March, 1982. At the time when the petitioner filed its returns in the status of tenants-in-common the same was perfectly in order and he could not have imagined that the law would be changed retrospectively. Once the law was changed retrospectively an opportunity in all fairness should have been granted to the petitioner to file a fresh return declaring the status in which he wanted himself to be subjected to. Thereafter it was for the Assessing Authority to arrive at its own conclusion in the given facts and circumstances of the case. The earlier return filed by the petitioner because of the retrospective amendment of the law by Act No. 14 of 1983 could not be treated as a return filed as tenants-in-common. Without a declaration by the petitioner of its status by filing a fresh return, the authorities under the Act could not proceed to determine the status of the return as association of persons specially so because the incidence of tax on association of persons would be more as it is treated as a single unit whereas in tenants in common the incidence of tax was on the individual assessee. ... In spite of request made by the assessee he was not permitted to file the fresh return, which amounts to denial of opportunity to file the fresh return in the changed circumstances because of the retrospective amendment of law by the legislature at a later date. The status of the petitioner could not be changed unilaterally by converting the status of tenants-in-common to that of association of persons. K.A. Chinnappa and Another v State of Karnataka, 1999(46) Kar. L.J. 364 (HC) (DB). S. 3(3) Legatees of separate shares under a Will are assessable as tenants-in-common under and not as association of persons. R.T.N. Punja v Commissioner of Agricultural Income-tax, (1966)2 Mys. L.J. 275. Ss. 3(3) and 10(I)(a) Coheirs Management through common manager Assessment. Srinivasa lyengar, J. The petitioners were heirs of one R who died and had definite shares in the properties. For convenience they had appointed a manager to manage the property and that the profits from the properties were being divided equally. Held, the income of each individual would be brought to tax in the hands of the manager, but only to the extent to which the owner of the property would have been liable. Even on

the basis that the petitioners were tenants-in-common the provisions of Section 3(3) of the Act would be attracted and the tax would be assessed at the rate applicable to the agricultural income of each tenant-in-common. In a case of tenants-in-common where a manager is appointed, the tax would have to be assessed on a combined reading of Section 3(3) and Section 10(l)(a) of the Act. Hence to proceed on the basis that the entire income from all the lands managed by the power of attorney holder should be the basis for the purposes of assessment and or composition, is erroneous.

*Puttamma and Others v Agricultural Income-tax Officer, Bangalore and Another*, 1980(1) Kar. L.J. 293. S. 3(3) and Sch. Part I Tenants-in-common Assessment. *Govinda Bhat and Venkataswami, JJ.* Where under a partition in a HUF, Schedule F properties were not divided by metes and bounds, but the rights of the four brothers was defined as equal and the total extent of areca garden was 13.27 acres and by virtue of the proviso to Part I of the Schedule to the Act income from 5 acres or less or areca garden was not chargeable to tax. Held: (1) F Schedule properties did not remain as family properties but as properties of four brothers, petitioner and his three brothers as tenants-in-common, and petitioner could not be assessed in the status of a HUF. The assessment should be under Section 3(3) of the Act. (2) As the areca garden had not been divided by metes and bounds, petitioner who had a one fourth share therein cannot say that he derives income from 3.31 acres only; but derived income from 3.27 acres, though his share was 1/4th. Petitioner cannot hence claim his share fell below taxable limits under Part I, Schedule P.

*Cheradappa Pai v Agricultural Income-tax Officer, Puttur*, 77 ITR 313. S. 3(3) and Sch. Part I, proviso Members of Joint Hindu family partitioning and holding property as tenants in common Assessment. *Govinda Bhat and Venkataswami, JJ.* All the properties of the joint-family except areca gardens were partitioned by metes and bounds. As the areca gardens had been granted on long-term leases, they were not divided by metes and bounds but were allotted to the petitioner and his three brothers each being entitled to a fourth share. The total extent of the areca gardens was 13.27 acres. Held: (1) There was a complete partition and not partial partition; the areca gardens did not remain as family properties but became the properties of the four allottees as tenants in common and they should be assessed under Section 3(3) of the Act as tenants-in-common and not in the status of an undivided family. (2) Since the areca gardens had not been divided by metes and

bounds, petitioner cannot say that he derived his agricultural income from 3.31 acres only; he derived his income from the 13.27 acres though his interest was 1/4th. Hence he cannot claim that his share if partitioned by metes and bounds would fall below the taxable limit of 5 acres within the proviso to Part I of the Sch. P. *Cheradappa Pai v Agricultural Income-tax Officer, Puttur*, AIR 1970 Mys. 168 : (1970)1 Mys. L.J. 260.

1. The words "Part I of omitted by Act No. 14 of 1983, s. 4(1) and shall be deemed to have come into force w.e.f. 1-12-1982.
2. Proviso inserted by Act No. 10 of 1987, s. 2, w.e.f. 1-4-1987.
3. Sub-section (3) omitted by Act No. 14 of 1983, s. 4(2) and shall be deemed to have come into force w.e.f. 1-12-1982.

#### **4. Application of the Act :-**

Save as hereinafter provided, this Act shall apply to all agricultural income derived 1 [x x x x x] in the State of Karnataka by any person whether resident in the State or not.

1. The words "from land situated" omitted by Act No. 14 of 1983, s. 5 and shall be deemed to have come into force w.e.f. 1-12-1982.

#### **5. Computation of agricultural income :-**

1[(1)] The agricultural income of a person shall be computed after making the following deductions, namely:

- (a) any sums paid in the previous year on account of
  - (i) land revenue, local rates and cesses and municipal taxes in respect of the land from which the agricultural income is derived; and
  - (ii) any excise duty or tax as may be prescribed in respect of the agricultural produce from such land;
- (b) any rent paid in the previous year to the landlord, or superior landlord as the case may be, in respect of the land from which the agricultural income is derived;
- (c) any expenses incurred in the previous year on the maintenance of any irrigation or protective work constructed for the benefit of the land from which the agricultural income is derived;
- (d) any expenses incurred in the previous year, on repairs, in respect of any capital asset which was purchased or constructed for the benefit of the land from which the agricultural income is derived;
- (e) in respect of depreciation of buildings, machinery, plant, fencing materials, hose pipes and furniture which are the property of the

assessee and which are required for the purpose of deriving the agricultural income, a sum equivalent to such percentage on the written down value thereof as may in any case or class of cases be prescribed and where the buildings have been newly erected, or the machinery or plant being new has been installed, a further sum subject to such conditions as may be prescribed:

Provided that

- (1) the prescribed particulars have been duly furnished;
- (2) where full effect cannot be given to any such allowance in any year owing to there being no agricultural income chargeable for that year, or owing to the agricultural income chargeable being less than the allowance, then subject to the provisions of the second proviso to Section 15, the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance or depreciation for the following year and deemed to be part of that allowance, or if there is no such allowance for that year, be deemed to be the allowance for the next year, and so on for succeeding years; and
- (3) the aggregate of all such allowances made under this Act shall, in no case, exceed the original cost to the assessee of the buildings, machinery, plant, or furniture as the case may be;

[Explanation. For the purpose of this clause the property acquired by the assessee on hire purchase basis shall be deemed to be the property of the assessee;]

(f) in respect of any such building, machinery or plant which has been sold or discarded or demolished or destroyed, the amount by which the written down value thereof exceeds the amount for which the building, machinery or plant, as the case may be, is actually sold for its scrap value:

Provided that such amount is actually written off in the books of the assessee:

Provided further that where the amount for which any such building, machinery or plant is sold, whether during the continuance of the agricultural operations or after the cessation thereof, exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be profits of the previous year in which the sale took place:

Provided further that for the purposes of this clause, the original cost of a building, the written down value of which is determined in accordance with the Explanation to this section, shall be deemed to be the written down value so determined as at the date of its being

brought into use for the purposes of deriving the agricultural income;

(g) any interest paid in the previous year on any amount borrowed and actually spent on any capital expenditure incurred for the benefit of the land from which the agricultural income is derived;

2[Provided that the interest allowable under clauses (g), (h) and (i) shall be the actual interest paid on such loans or the amount calculated at the rate of interest charged by the scheduled banks on such loans whichever is less:] 3[Provided that any interest paid in the previous year on any amount borrowed and actually spent on any capital expenditure of purchase of motor car.

(a) in case of an assessee where the total extent of land under plantation crop is less than fifty acres, such interest shall be restricted to purchase of one motor car; and

(b) in case of other assesseees, to purchase of two motor cars.]

(h) where the land from which the agricultural income is derived is subject to a mortgage or other capital charge, any interest paid in the previous year in respect of such mortgage or charge;

4[Provided that the interest allowable under clauses (g), (h) and (i) shall be the actual interest paid on such loans or the amount calculated at the rate of interest charged by the scheduled banks on such loans whichever is less;]

(i) any interest paid in the previous year on any debt, whether secured or not, incurred for the purpose of acquiring the land from which the agricultural income is derived: 5[Provided that the interest allowable under clauses (g), (h) and (i) shall be the actual interest paid on such loans or the amount calculated at the rate of interest charged by the scheduled banks on such loans whichever is less;]

(j) any interest paid in the previous year on any amount borrowed and actually spent on the land on which the agricultural income is derived:

Provided that the need for borrowing was bona fide having regard to the assets of the assessee at the time: 6[Provided further that the interest allowable under this clause shall be the actual interest paid on such loan or the amount calculated at the rate of interest charged by the scheduled banks on such loan whichever is less;]

(k) any expenditure (not being in the nature of capital expenditure) laid out or expended in the previous year wholly and exclusively for the purpose of deriving the agricultural income; 7[Provided that the following amounts shall not be deemed to be expenditure laid out or expended for the purpose of deriving the agricultural income,

- (i) in the case of any firm, any payment of interest, salary, bonus, commission or remuneration made by the firm to any partner of the firm;
- (ii) in the case of any company, any expenditure which results directly or indirectly in the provision of any remuneration or benefit or amenity to a director or to a person who has a substantial interest in the company or to a relative of the director or of such person, as the case may be, if in the opinion of the 8[Assistant Commissioner of Agricultural Income-tax] any such expenditure is excessive or unreasonable having regard to the legitimate business needs of the company and the benefit derived by or accruing to it therefrom;]
- 9[(iii) any sum paid on account of wealth tax under the Wealth Tax Act, 1957 (Central Act XXVII of 1957);]
- 10[Explanation. For the removal of doubts it is hereby declared that deductions under this clause shall not include deductions, specifically provided for or allowed under other clauses of this section or rules made under this section;]
- (l) such other deductions as may be prescribed generally or in particular cases;
- (m) in the case of agricultural income under the head rent or revenue derived from land referred to in sub-clause (1) of clause (a) of Section 2,
  - (i) any expenses actually incurred in the previous year in the collection of agricultural income;
  - (ii) any expenses incurred in the previous year on repairs in respect of any capital asset used in connection with the collection of rents due in respect of the land from which the agricultural income is derived;
- (n) in the case of agricultural income referred to in sub-clause (2) of clause (a) of Section 2
  - (i) the expenses other than capital expenditure incurred in the previous year of raising the crop from which agricultural income is derived and of transporting such crop to market, including the maintenance of agricultural implements and cattle required for such cultivation and transport or both;
  - (ii) the cost incurred in the previous year in the purchase or replacement of cattle or implements, which are necessary for cultivation, to such extent as may be prescribed, less the amount realised by sale of the cattle or implements replaced or their estimated value;
  - (iii) any sum paid in the previous year in order to effect an

insurance against loss or damage of crops or property from which the agricultural income is derived:

Provided that any amount received in respect of such insurance in any year shall be deemed to be agricultural income for the purposes of this Act, and shall be liable to agricultural income-tax after deducting the portion thereof, if any, which has been assessed to income-tax under the 11[Income-tax Act, 1961 (Central Act 43 of 1961);]

(iv) any expenses incurred in the previous year on the maintenance of any capital asset if such maintenance is required for the purpose of deriving the agricultural income;

Provided that no deduction shall be made under this section if it has already been made in the assessment under the 12[Income-tax Act, 1961 (Central Act 43 of 1961).] 13[Explanation 14[1.] For the purposes of this sub-section 15["building" includes all structures constructed with a view to provide amenities to workers as defined in the Plantations Labour Act, 1951 (Central Act 69 of 1951), employed in plantations] for the purpose of deriving the agricultural income; 16["relative" in relation to an individual means the husband, wife, brother or sister or any lineal ascendant or descendant, of that individual] "written down value" means

(i) in the case of assets acquired in the previous year the actual cost to the assessee; and

(ii) in the case of assets acquired before the previous year, the actual cost to the assessee less such sum as may be prescribed.]

17[Explanation 2. Nothing contained in this section shall be deemed to entitle a person deriving agricultural income to the deduction of any expenditure laid out or expended for the cultivation, upkeep or maintenance of immature plants (other than tea plants) from which no agricultural income has been derived during the previous year:] 18[Provided that if in any year expenditure is incurred exclusive on new cultivation of land for growing areca, cardamom, coconut, coffee, orange or rubber plants and also on maintenance of immature plants of areca, cardamom, coconut, coffee, orange or rubber, ten per cent of such expenditure may be deducted from the agricultural income of such person.]

Provided 19[further] that if in any year any expenditure is incurred for replanting of cardamom, coffee, orange or rubber plants in any plantation or of areca plants in any areca garden, such expenditure not exceeding the amount necessary for replanting two and a half per cent of the acreage of plantation held by the person concerned in the case of coffee or rubber plants;

Provided further that if the replanting expenditure allowance under the preceding proviso is not incurred in one year, the allowance for the year or years may be carried forward for a period of three years in the case of areca, coffee, orange and rubber and one year in the case of cardamom, beyond the year of assessment.]

20[(2)

(a) Nothing contained in sub-section (1) shall be deemed to entitle a person deriving agricultural income, to the deduction of any expenditure laid out or expended, for the cultivation, upkeep or maintenance of immature plants (other than tea plants) from which no agricultural income has been derived during the previous year.

(b) Notwithstanding anything contained in clause (a),

(i) if in any year expenditure is incurred by a person exclusively on new cultivation of land for growing 21[x x x x x] cardamom, 22[x x x x x] coffee, orange or rubber plants and also on maintenance of immature plants of 23[x x x x x] cardamom, 24[x x x x x] coffee, orange or rubber, ten per cent of such expenditure may be deducted from the agricultural income of such person;

(ii) if in any year expenditure is incurred by a person for replanting of cardamom, coffee, orange or rubber plants in any plantation, 25[x x x x x] such expenditure not exceeding the amount necessary for replanting

(a) two and half per cent of the acreage of plantation held by the person concerned in the case of coffee or rubber plants;

(b) one and two-thirds per cent of the acreage of 26[x x x x x] plantation held by the person concerned in the case of 27[x x x x x] orange plants; and

(c) eight and one-third per cent of the acreage of plantation held by the person concerned in the case of cardamom plants, may be deducted from the agricultural income of such person:

Provided that if the replanting expenditure allowance under item (ii) is not incurred in one year, the allowance for the year or years may be carried forward for a period of three years in the case of 28[x x x x x] coffee, orange and rubber and one year in the case of cardamom, beyond the year of assessment;

29[(iii) a person deriving agricultural income from land on which coffee is grown may, in lieu of the deductions referred to in items (i) and (ii), at his option exercised in writing, deduct from his agricultural income a sum of 30[nine hundred rupees for every standard ton of coffee produced by him] subject to a maximum of fifteen per cent of the 31[average total agricultural income] during the previous year and three years immediately preceding it towards



expenditure for new cultivation, replanting and maintenance of immature plants and if the said expenditure is not incurred in that year the same may be carried forward for a period of five years beyond the year of assessment and any such sum which is spent for purpose other than those specified above or which remains unspent for five years shall be treated as income of the year succeeding the fifth year:

Provided that subject to the conditions and restrictions specified in this clause, where the coffee produced and delivered by him to the Coffee Board is in excess of six hundred kilograms per acre, he may deduct from his agricultural income a sum of thirty rupees for every fifty kilograms of coffee produced and delivered to the Coffee Board:

Provided further that the option once exercised shall be final and the said expenditure allowance shall be calculated on the same basis for purposes of future assessments:]

Provided also that if at any time during the said period of five years, there is a change of ownership of such land either by sale or otherwise, the amount referred to in item (iii) and remaining unspent on the date of such change of ownership shall be treated as income of the transferor for the year in which such change of ownership takes place.

Explanation 32[I.] For the removal of doubts it is hereby declared that where deduction is allowed under this clause, no further deduction shall be allowed towards expenditure for filling the vacancies of diseased or dead plants in a coffee plantation.]

33[Explanation II. For the purpose of item (iii) of this clause, "standard ton" coffee produced shall be arrived at in the following manner: One standard ton of coffee is equal to

- (i) 1,225 Kilograms of uncured Arabica Parchment or
- (ii) 1,904 Kilograms of uncured Arabica Cherry or
- (iii) 1,194 Kilograms of uncured Robusta Parchment or
- (iv) 1,962 Kilograms of uncured Robusta Cherry or
- (v) 2,430 Kilograms of uncured Liberia Coffee or
- (vi) 2,373 Kilograms of uncured Excelsia Coffee.]

34 [(3) (1) In respect of a machinery or plant specified by the State Government by Notification in the Official Gazette which is owned by the assessee and is wholly used for the purpose of deriving agricultural income by him, there shall be allowed a deduction, in respect of the previous year, in which the machinery or plant is first put to use of a sum by way of investment allowance equal to ten per cent of the actual cost to the assessee of the

machinery or plant:

Provided that

(a) the machinery or plant is a new machinery or plant acquired by the assessee;

(b) the particulars specified in the notification by the State Government have been duly furnished by the assessee: Provided further that no deduction shall be allowed under this sub-section in respect of

(a) any machinery or plant installed in any office premises or any residential accommodation including any accommodation in the nature of a Guest House;

(b) any office appliances or road transport vehicles other than the tractors.

(2) If the machinery or plant in respect of which investment allowance is made under clause (1) of this sub-section is sold or otherwise transferred by the assessee to any person at any time before the expiry of five years from the end of the previous year in which it was first put to use whether during the continuation of agricultural operation or after the cessation thereof, the investment allowance made in respect of such machinery or plant shall be treated as the income of the assessee for the previous year in which such machinery or plant is sold or otherwise transferred.]

1. Section 5 renumbered as sub-section (1) by Act No. 29 of 1976, s. 6 and shall be deemed to have come into force w.e.f. 1-4-1975.

2. Proviso inserted by Act No. 23 of 1985, s. 2(1)(b) and shall be deemed to have come into force w.e.f 1-4-1985.

3. Second proviso inserted by Act No. 7 of 1997, w.e.f. 1-4-1997

4. Proviso substituted by Act No. 23 of 1985, s. 2(l)(b) and shall be deemed to have come into force w.e.f. 1-4-1985.

5. Proviso substituted by Act No. 23 of 1985, s. 2(lXb) and shall be deemed to have come into force w.e.f. 1-4-1985.

6. Proviso substituted by Act No. 23 of 1985, s. 2(lXc) and shall be deemed to have come into force w.e.f. 1-4-1985.

7. Proviso substituted by Act No. 28 of 1964, s. 2(1) and shall be deemed to have come into force w.e.f 1-4-1964.

8. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

9. Item (iii) shall be and shall be deemed always to have been inserted by Act No. 14 of 1983, s. 6(1).

10. Explanation inserted by Act No. 23 of 1985, s. 2(1)(d) and shall be deemed to have come into force w.e.f. 1-4-1985.

11. Substituted for the words, figures and brackets "Indian

- Income-tax Act, 1922 (Central Act XI of 1922) by Act No. 29 of 1976, s. 6(i)(b) and shall be deemed to have come into force w.e.f. 1-4-1975.
12. Substituted for the words, figures and brackets "Indian Income-tax Act, 1922 (Central Act XI of 1922) by Act No. 29 of 1976, s. 6(i)(b).
13. Explanation substituted by Act No. 29 of 1976, s. 6(i)(c) and shall be deemed to have come into force w.e.f. 1-4-1975.
14. Explanation shall be and shall be deemed to have been renumbered as Explanation 1 by Act No. 29 of 1963, s. 3(2), w.e.f. 1-4-1963.
15. Inserted by Act No. 28 of 1964, s. 2(2)(i) and shall be deemed to have come into force w.e.f. 1-4-1964.
16. Inserted by Act No. 28 of 1964, s. 2(2)(ii) and shall be deemed to have come into force w.e.f. 1-4-1964.
17. Explanation 2 shall be and shall be deemed to have been added by Act No. 29 of 1963, s. 3(2), w.e.f. 1-4-1963.
18. Proviso inserted by Act No. 28 of 1964, s. 2(3) and shall be deemed to have come into force w.e.f. 1-4-1964.
19. The word "further" inserted by Act No. 28 of 1964, s. 2(3) and shall be deemed to have come into force w.e.f. 1-4-1964.
20. Sub-section (2) inserted by Act No. 29 of 1976, s. 6(ii) and shall be deemed to have come into force w.e.f. 1-4-1975.
21. The word "areca" omitted by Act No. 18 of 1994, s. 7(1)(i), w.e.f. 1-4-1994.
22. The word "coconut" omitted by Act No. 18 of 1994, s. 7(1)(i), w.e.f. 1-4-1994.
23. The word "areca" omitted by Act No. 18 of 1994, s. 7(1)(i), w.e.f. 1-4-1994.
24. The word "coconut" omitted by Act No. 18 of 1994, s. 7(1)(i), w.e.f. 1-4-1994.
25. The words "or of areca plants in any areca garden" omitted by Act No. 18 of 1994, s. 7(1)(ii)(a), w.e.f. 1-4-1994.
26. The words "garden or" omitted by Act No. 18 of 1994, s. 7(1)(ii)(b), w.e.f. 1-4-1994.
27. The words "areca or" omitted by Act No. 18 of 1994, s. 7(1)(ii)(b), w.e.f. 1-4-1994.
28. The word "areca" omitted by Act No. 18 of 1994, s. 7(1)(ii)(c), w.e.f. 1-4-1994.
29. Item (iii) substituted by Act No. 23 of 1985, s. 2(2) and shall be deemed to have come into force w.e.f. 1-4-1985.
30. Substituted for the words "twenty-five rupees for every fifty

kilograms of coffee produced and delivered by them to the Coffee Board" by Act No. 18 of 1994, s. 7(l)(iii)(a), w.e.f. 1-4-1994.

31. Substituted for the words "average total of agricultural income" by Act No. 18 of 1994, s. 7(l)(iii)(b) and shall be and shall be deemed to have come into force w.e.f. 1-4-1985.

32. The Explanation renumbered as Explanation I by Act No. 18 of 1994, s. 7( I Xiii)(c), w.e.f. 1 -4-1994.

33. Explanation II inserted by Act No. 18 of 1994, s. 7(l)(iii)(c), w.e.f. 1-4-1994.

34. Sub-section (3) inserted by Act No. 23 of 1985, s.2(3) and shall be deemed to have come into force w.e.f. 1-4-1985.

**5A.** Exemption In Respect Of Insurance Premia, Contribution To Provident Fund Etc :-

1(1) From the total agricultural income of the assessee computed under Section 5, there shall be deducted, in accordance with and subject to the provisions of this section, an amount calculated with reference to the aggregate of the sums specified in sub-section (2), at the following rates, namely:

(a)	Where such aggregate does not exceed Rs. 6,000.	The whole of such aggregate.
(b)	Where such aggregate exceeds Rs. 6,000 but does not exceed Rs. 12,000.	Rs. 6,000 plus 50 per cent of the amount by which such aggregate exceeds Rs. 6,000.

(c)	<p>Where such aggregate exceeds Rs. 12,000.</p>	<p>Rs. 9,000 plus 40 per cent of the amount by which such aggregate exceeds Rs. 12,000.</p>
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(2) The sums referred to in sub-section (1) shall be the following, namely:

(a) where the assessee is an individual, any sum paid in the previous year by the assessee out of his agricultural income chargeable to tax,

(i) to effect or to keep in force an insurance on the life of the assessee or on the life of the wife or husband or any child of the assessee; or

(ii) to effect or to keep in force a contract for a deferred annuity on the life of the assessee or on the life of the wife or husband or any child of the assessee; or

(iii) as a contribution to any provident fund to which the Provident Fund Act, 1925 (Central Act 19 of 1925) applies; or

(iv) as a contribution for participation in the Unit Linked Insurance Plan, 1971 made under Section 19(l)(cc) of the Unit Trust of India Act, 1963 (Central Act 52 of 1963); or

(v) any sum deposited in a ten year account of fifteen year account under the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959, as amended from time to time; or

2[(vi) as a subscription to the National Savings Certificate (VI Issue), the National Savings Certificate (VII Issue) and the National Savings Certificate (VIII Issue);]

(b) where the assessee is a Hindu undivided family any sums paid in the previous year by the assessee out of its income chargeable to tax,

(i) to effect or to keep in force an insurance on the life of any member of the family; or

(ii) as a contribution to any provident fund referred to in sub-clause (iii) of the clause

(a) where such contribution is to an account standing in the name of any member of the family; or

(iii) any sums deposited in a ten year account or a fifteen year account under the Post Office Savings Bank (Cumulative Time Deposit) Rules, 1959 as amended from time to time where such sums are deposited in an account standing in the name of any member of the family; or

3[(iv) as a subscription to the National Savings Certificate VI issue, VII issue and VIII issue:] 4 [Provided that the amount deducted under this sub-section shall not exceed forty thousand rupees:]

Provided further that the provisions of this sub-section shall apply only to so much of any premium or other payments made on a policy other than a contract for a deferred annuity as it is not in excess of ten per cent of the actual sum assured.

Explanation. In calculating any such actual sum no account shall be taken,

(i) of the value of any premiums agreed to be returned; or

(ii) of any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

(3) Notwithstanding anything in sub-sections (1) and (2), no deduction under this section shall be allowed unless the claim is supported by proof to the effect that the assessee is not liable to tax under the Income-tax Act, 1961 (Central Act 43 of 1961), or that similar deduction under the provisions of the said Act has not been

claimed or allowed in respect of the sums on account of which the deduction is claimed.]

1. Section 5-A inserted by Act No. 29 of 1976, s. 7 and again substituted by Act No. 23 of 1985, s. 3 and shall be deemed to have come into force w.e.f. 1-4-1985.

2. Sub-clause (vi) of clause (a) substituted by Act No. 6 of 1990, s. 2, w.e.f. 1-4-1990.

3. Sub-clause (iv) of clause (b) substituted by Act No. 4 of 1999 and shall be deemed to have been substituted w.e.f. 8-5-1989.

4. Proviso substituted by Act No. 10 of 1987, s. 3, w.e.f. 1-4-1987.

5B Section 5B

1 [omitted]

1. Section 5-B omitted by Act No 7 of 1997, w.e.t". 1-4-1997.

## **6. Assessment of income derived from lands partly within the State and partly without :-**

Where agricultural income is derived from land situated partly within the State and partly without the State, agricultural income-tax shall be levied under this Act

(i) where the portion of such income attributable to the lands situated within the State can be determined from the accounts maintained by the assessee, on the portion so determined.

(ii) where the portion of the income so attributable cannot be determined by the method specified in clause (i) on such portion as may be determined in the prescribed manner.

## **7. Method of accounting :-**

Agricultural income shall be computed for the purpose of Sections 5 and 6 in accordance with the method of accounting regularly employed by the assessee:

Provided that, if no method of accounting has been regularly employed by the assessee, or if the method employed is such that, in the opinion of the 1 [Assistant Commissioner of Agricultural Income-tax], then the agricultural income cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as he may determine:

Provided further that in the case of coffee crop of an assessee, the agricultural income therefrom may be computed on the basis of valuation on points declared by the Indian Coffee Board in respect of such crop.

1. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.t". 4-2-1993.

## **7A. Accounts To Be Maintained By Certain Assesseees :-**

Every assessee other than an assessee permitted to pay amount by way of composition under Section 66, shall keep and maintain true and complete accounts and such other records, registers and documents relating to his agricultural activities including activities incidental and ancillary thereto as may be prescribed.

## **8. Assessment of agricultural income in regard to tea :-**

In the case of cultivation and manufacture of tea, the agricultural income for the purpose of this Act shall be deemed to be that portion of the income from cultivation, manufacture and sale computed under the 1[Income-tax Act, 1961 (Central Act 43 of 1961)] which is excluded from taxation under that Act as being agricultural income, after deducting from the said portion any allowance authorised by this Act in so far as the same has not been allowed in the computation of the income for the purposes of the 2 [Income-tax Act, 1961 (Central Act 43 of 1961).]

1. Substituted for the words, figures and brackets "Indian Income-tax Act, 1922 (Central Act XI of 1922)" by Act No. 29 of 1976, s. 8 and shall be deemed to have come into force w.e.f. 1-4-1975.

2. Substituted for the words, figures and brackets "Indian Income-tax Act, 1922 (Central Act XI of 1922)" by Act No. 29 of 1976, s. 8 and shall be deemed to have come into force w.e.f. 1-4-1975.

## **9. Assessment of a Hindu Undivided Family :-**

(1) The total agricultural income of a Hindu Undivided Family shall be treated as the income of one individual and assessed as such.

(2) In the case of a Marumakkattayam tarwad or Aliyasantana family, the total agricultural income of the tarwad or family shall be assessed on the karnavan of the tarwad or the manager of the family and treated as the income of one individual for the purpose of levy of agricultural income-tax:

Provided that in cases where properties have been set apart for each lavazhi in the tarwad or branch of the family for maintenance under any family arrangement, the kamavan, manager or other person in management of the tavazhi or branch shall be assessed separately.

(3) In the case of a family governed by the Coorg Customary Law, or a family owning jama properties, where a division for

maintenance has taken place tax shall be levied on the income of each share of the family.

**10. Liability of Court of Wards, Administrator-General, etc :-**

(1)

(a) In the case of agricultural income taxable under this Act, which the Court of Wards, Administrator-General or Official Trustee or any receiver, administrator, executor, trustee, guardian or manager appointed by or under any law or by an order of Court or by written agreement, is entitled to receive on behalf of any person, the tax shall be levied upon and recoverable from the Court of Wards, Administrator-General, official trustee, or from such receiver, administrator, executor, trustee, guardian or manager, as the case may be, in the like manner and to the same amount as it would be leviable upon and recoverable from the person on whose behalf such agricultural income is receivable and all the provisions of this Act shall apply accordingly.

(b) Where the agricultural income received on behalf of any person by the Court of Wards, Administrator-General, official trustee, receiver, administrator, executor, trustee, guardian or manager referred to in clause (a) is part only of the total agricultural income of such person, the agricultural income-tax payable under this Act shall be assessed on the total agricultural income of such person and the amount of tax as so assessed shall be levied upon and recoverable from the Court of Wards, Administrator-General, official trustee, receiver, administrator, executor, trustee, guardian or manager, as the case may be, and from such person rateably according to the portion of the total agricultural income of such person received by the Court of Wards, Administrator-General, official trustee, receiver, administrator, executor, trustee, guardian or manager, as the case may be, and the portion received by such person.

(c) Nothing contained in this sub-section shall prevent either the direct assessment of the person on whose behalf the agricultural income is receivable or the recovery from such person of the tax payable in respect of such income.

(2)(a) Save as provided in sub-section (1), if a person holds land from which agricultural income is derived partly for his own benefit and partly for the benefit of others or wholly for the benefit of others, agricultural income-tax shall be assessed on the total



agricultural income derived from such land at the rate which would be applicable if such person had held the land exclusively for his own benefit.

(b) Any person holding such land shall be entitled, before paying to any beneficiary the amount of agricultural income which such beneficiary is entitled to receive, to deduct the amount of agricultural income-tax at the rate at which such income is or will be assessed under clause (a).

### **11. Income from settlement, disposition, etc :-**

(1) All agricultural income arising to any person by virtue of a settlement or disposition, whether revocable or not, and whether effected before or after the commencement of this Act, from assets remaining out of the property of the Settlor or disponent shall be deemed to be the agricultural income of the settlor or disponent, and all agricultural income arising to any person by virtue of a revocable transfer of assets shall be deemed to be the agricultural income of the transferor:

Provided that, for the purposes of this sub-section, a settlement, disposition or transfer shall be deemed to be revocable if it contains any provisions of the re-transfer directly or indirectly of the agricultural income or assets to the settlor, disponent or transferor or in any way gives the settlor, disponent or transferor a right to re-assume power directly or indirectly over the agricultural income or assets:

Provided further that the expression "settlement or disposition" shall, for the purposes of this sub-section, include any disposition, trust, covenant, agreement or arrangement and the expression "settlor or disponent" in relation to a settlement or disposition shall include any person by whom the settlement or disposition was made:

Provided also that this sub-section shall not apply to any agricultural income arising to any person by virtue of a settlement or disposition which is not revocable for a period exceeding six years or during the life time of the person and from which agricultural income the settlor or disponent derives no direct or indirect benefit but that the settlor shall be liable to be assessed on the said agricultural income as and when the power to revoke arises to him.

1[(2) In computing the total agricultural income of any individual, there shall be included all such agricultural income as arises directly

or indirectly,

(a) to the spouse of such individual,

(i) from the membership of the spouse in a firm in which such individual is a partner;

(ii) from assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart;

(b) to a minor child (not being a married daughter) of such individual,

(i) from the admission of the minor to the benefits of partnership in a firm in which such individual is a partner;

(ii) from assets transferred directly or indirectly to the minor child by such individual otherwise than for adequate consideration; and

(c) to any person or association of persons from assets transferred directly or indirectly otherwise than for adequate consideration to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefits of his or her spouse or minor child (not being a married daughter) or both.

2[Explanation (1)]. For the purpose of clause (a), the individual, in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater, and for the purpose of clause (b), the income of the minor child of the partnership shall be included in the income of that parent whose total income (excluding the income referred to in that clause) is greater, and where any such income is once included in the total income of the either spouse or parent any such income arising in any succeeding year shall not be included in the total income of the other spouse or parent unless the 3[Assistant Commissioner of Agricultural 4[Agricultural Income-tax Officer], as the case may be, is satisfied, after giving that spouse or parent an opportunity of being heard, that it is necessary so to do.]

5 [Explanation (2). For the purposes of clause (a), where the spouse of an individual is a beneficiary under a trust, the income arising to the trustee from the membership of the trustee in a firm in which such individual is a partner shall, to the extent such income is for the immediate or deferred benefit of the spouse of such individual, be deemed to be income arising indirectly to the spouse of such individual from the membership of the spouse in a firm in which such individual is a partner.

Explanation (3). For the purposes of clause (b), where the minor

child of an individual is a beneficiary under a trust, the income arising to the trustee from the membership of the trustee in a firm in which such individual is a partner shall, to the extent such income is for the immediate or deferred benefit of the minor child, be deemed to be income arising indirectly to the minor child from the admission of the minor to the benefits of partnership in a firm in which such individual is a partner.

Explanation (4). Where, in the case of an individual being a member of a Hindu undivided family, any property having been the separate property of the individual has been converted by the individual into property belonging to the family through the act of impressing such separate property with the character of property belonging to the family or throwing it into the common stock of the family or been transferred by the individual, directly or indirectly to the family otherwise than for adequate consideration (the property so converted or transferred being hereunder referred to as the converted property) then, notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, for the purpose of computation of the total income of the individual under this Act,

(a) the individual shall be deemed to have transferred the converted property, through the family, to the members of the family for being held by them jointly;

(b) the income derived from the converted property or any part thereof shall be deemed to arise to the individual and not to the family;

(c) where the converted property has been the subject-matter of a partition (whether partial or total) amongst the members of the family, the income derived from such converted property as is received by the spouse or minor child on partition shall be deemed to arise to the spouse or minor child from assets transferred indirectly by the individual to the spouse or minor

Provided that the income referred to in clause (b) or clause (c) shall, on being included in the total income of the individual, be excluded from the total income of the family, or, as the case may be, the spouse or minor child of the individual.]

1. Sub-section (2) substituted by Act No. 14 of 1983, s. 7 and shall be deemed to have come into force w.e.f. 1-12-1982.

2. Explanation renumbered as Explanation (1) by Act No. 38 of 1986, s. 2, w.e.f. 10-10-1986.

3. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

4. Substituted for the expression "Assistant Agricultural Income-tax Officer" by Act No. 5 of 1993, s.5, w.e.f. 4-2-1993.
5. Explanations (2), (3) and (4) with proviso inserted by Act No. 38 of 1986, s. 2, w.e.f. 10-10-1986.

## **12. Exemption from assessment of income-tax :-**

Agricultural income-tax shall not be payable on that part of the total agricultural income of a person which is

(a) any sum which he receives out of the agricultural income of a Hindu undivided family, Marumakkattayam tarwad or aliyasanthana family if he receives such sum as a member of the family or tarwad and tax under this Act has been levied on the agricultural income;

(b) any dividend which he receives as a shareholder out of the agricultural income of a company which has certified that it has paid or will pay the tax under this Act in respect of the agricultural income of such company;

1[(c) any sum which he receives as his share out of the agricultural income of a firm or association of persons, if the tax under this Act, has been levied on the agricultural income of such firm or association] [x x x x x;]

(d) any sum which he receives out of the agricultural income in respect of which tax under this Act has already been levied under Section 10;

[(e) x x x x x;]

(f) any sum derived from land held under a trust or other legal obligation wholly or partly for public purposes of a charitable or religious nature and actually spent for the said purposes;

[ [(g) any sums paid by such person in the previous years as donations to,

(i) Karnataka Chief Ministers Relief Fund;

(ii) Karnataka Chief Ministers Drought Relief Fund;

(iii) any other fund or institution which, is established for charitable purposes and subject to such restrictions and conditions as may be prescribed is approved by the State Government for the purpose of this section;

(iv) the Government or any local authority to be utilised for any charitable purpose other than the purpose of promoting family planning; and

(v) the Government or any local authority, or institutions as may be approved in this behalf by the State Government to be utilised for the purpose of promoting family planning:] Provided that the

institution or fund fulfils the following conditions, namely:

(i) the institution or fund is either constituted as a public charitable trust or is registered under the Karnataka Societies Registration Act, 1960 (Karnataka Act 21 of 1960), or under Section 25 of the Companies Act, 1956 (Central Act 1 of 1956), or is a University established by law, or is any other educational institution recognised by the State Government or by University established by law or affiliated to any University established by law or is an institution financed wholly or in part by the State Government or a local authority, whether owned by the State Government or a local authority;

(ii) the institution or fund is not expressed to be for the benefit of any particular religious community or caste;

(iii) each such sum is not less than two hundred and fifty rupees;

(iv) any other restrictions or conditions as may be prescribed.]

2 [Explanation. For the purposes of this section,

(1) "charitable purpose" includes relief to the poor, medical relief and advancement of education or any other object of general public utility not involving the carrying on of any activity for profit so, however, it does not include any purpose the whole or the substantially the whole of which is of a religious nature;

(2) an institution or fund established for the benefit of Scheduled Castes and Scheduled Tribes shall not be deemed to be an institution or fund expressed to be for the benefit of a religious community or caste, within the meaning of clause (ii) of the proviso.]

1. Explanation substituted by Act No. 38 of 1986, s. 3(2), w.e.f. 10-10-1986.

2. Section 12-A inserted by Act No. 14 of 1983, s. 9 and shall be deemed to have come into force w.e.f. 1-12-1982.

**12A.** Power Of State Government To Reduce, Exempt Or Remit Tax :-

1. (1) The State Government may, if satisfied that it is necessary so to do in the public interest, by notification in the Official Gazette, exempt, remit or reduce, whether prospectively or retrospectively, the tax payable under this Act or the lumpsum referred to in 2 [sub-section (1) of Section 66], in such areas, for such crops, during such period and subject to such conditions as may be specified in the notification.

(2) Every notification under sub-section (1) shall be laid, as soon as may be, after it is issued, before each House of the State

Legislature while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the notification, or both Houses agree that the notification should not be made, it shall, thereafter, have effect only in such modified form or be of no effect, as the case may

1. Section 13 omitted by Act No. 29 of 1976, s. 10 and shall be deemed to have come into force w.e.f.1-4-1975.

2. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

### **13. 1Exemption of portion of earned agricultural income :-**

### **14. Non-residents :-**

(1) In the case of any person residing outside the State, his total agricultural income shall be chargeable to agricultural income-tax either in his name or in the name of his agent and in the latter case, such agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such tax.

(2) Any person employed by or on behalf of a person residing out of the State, or through whom the non-resident person is in receipt of any agricultural income, upon whom the 1[Assistant Commissioner of Agricultural Income-tax] has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for all the purposes of this Act, be deemed to be such agent:

Provided that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the 2 [Assistant Commissioner of Agricultural Income-tax] as to his liability.

(3) Where a notice under this Act has to be served on a non-resident person, it shall be served in the prescribed manner.

1. Substituted for the word "further" by Act No. 14 of 1983, s. 10 and shall be deemed to have come into force w.e.f. 1-12-1982.

2. Clause (aa) inserted by Act No. 14 of 1983, s. 11 and shall be deemed to have come into force w.e.f.1-12-1982.

### **15. Carrying forward of loss :-**

Where any person sustains a loss in agricultural income in any year, the loss shall be carried forward to the following year and set off against the agricultural income for that year and if it cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following year and so on, but no loss shall be carried forward for more than six years 1[subject to the condition that the return of loss in the prescribed form and verified in the prescribed manner and containing such other particulars as may be prescribed is filed well within the period specified in sub-section (1) of Section 18 or within the such extended time granted by the Assistant Commissioner of Agricultural Income Tax or the Deputy Commissioner of Agricultural Income Tax as the case may be is filed and nothing contained in sub-section (3) of Section 18 shall apply in this regard:]:

Provided that, in the case of loss sustained before the commencement of this Act, this section shall apply only to such loss as was sustained in the previous year immediately before such commencement:

2[Provided further that no loss, which has not been determined in pursuance of a return filed under Section 18 shall be carried forward and set off under this section:]

Provided 3 [also] that where depreciation allowance is also to be carried forward under proviso (2) to clause (e) of Section 5, effect shall first be given to the provisions of this section.

1. Substituted for the expression "Joint Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

2. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

3. Clause (bb) inserted by Act No. 29 of 1963, s. 5(1), w.e.f. 1-4-1964.

### **16. Certificate in respect of payment of tax by companies :-**

The principal officer of every company shall, at the time of the distribution of dividends, furnish to every person receiving a dividend a certificate to the effect that the company has paid or will pay agricultural income-tax on the profits which are being distributed, and specifying such other particulars as may be prescribed.

## **CHAPTER 3 Income-tax Authorities**

## **17. Income-tax Authorities :-**

(1) There shall be the following classes of income-tax authorities for the purposes of this Act, namely:

(a) Commissioner of Agricultural Income-tax; 1[(aa) 2[Additional Commissioner] of Agricultural Income-tax;]

(b) 3[Joint Commissioner] of Agricultural Income-tax; 4[(bb) 5[Deputy Commissioner] of Agricultural Income-tax;]

(c) 2[Assistant Commissioner of Agricultural Income-tax;]

7[(d) 8[Agricultural Income-tax Officers].]

(2) The authorities specified in sub-section (1) shall be appointed by the State Government and shall exercise such powers and perform such functions and duties under this Act in respect of such classes of persons or classes of income and in such areas, as the State Government may, by notification in the Official Gazette, direct. [Provided that the [Assistant Commissioner of Agricultural Income-tax] and the [Agricultural Income-tax Officers] shall, subject to the directions issued by the State Government, exercise such powers and perform such functions and duties under the Act in respect of such classes of persons or income and in such areas as the Commissioner may, direct.]

[(2-A) (a) The Commissioner may, by general or special order in writing, direct that the powers conferred on the [Assistant Commissioner of Agricultural Income-tax] by or under this Act, shall, in respect of any specified case or classes of cases or of any specified persons or classes of persons, be exercised by the [Deputy Commissioner] of Agricultural Income-tax. (b) Where an order under clause (a) is issued, then for the purposes of any case or person in respect of which any such order applies, reference in this Act or in any rule made thereunder to the [Assistant Commissioner of Agricultural Income-tax] shall be deemed to be reference to the [Deputy Commissioner] of Agricultural Income-tax.]

9[(2-B)

(a) The Commissioner may, by general or special order in writing, direct that the powers conferred on the 4[Assistant Commissioner of Agricultural Income-tax] by or under this Act, shall, in respect of any specified case or classes of cases or of any specified persons or classes or persons, be exercised by the 11[Agricultural Income-tax Officer;]

(b) Where an order under clause (a) is issued, then for the purpose of any case or person in respect of which or whom any such order



applies, reference in this Act or in any rule made thereunder to the 12[Assistant Commissioner of Agricultural Income-tax] shall be deemed to be reference to the 13[Agricultural Income-tax Officer].]

(3) The State Government may, by notification in the Official Gazette, empower any officers other than the authorities specified in sub-section (1) to exercise such powers and perform such functions and duties under this Act in respect of such classes of persons or classes of income and in such areas, as may be specified in the notification.

(4) The authorities specified in sub-section (1) and the officers specified in sub-section (3) shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (Central) Act XLV of 1860).

(5) All Officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of 14 [the State Government and the Commissioner:]

Provided that no such order, direction or instruction shall be given so as to interfere with the discretion of any appellate authority in the exercise of its appellate functions.

1. Substituted for the expression "Assistant Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.
2. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.
3. Sub-section (2-B) inserted by Act No. 29 of 1976, s. 11(3) and shall be deemed to have come into force w.e.f. 1-4-1975.
4. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.
5. Substituted for the expression "Assistant Agricultural Income-tax Officer" by Act No. 5 of 1993, s.5, w.e.f. 4-2-1993.
7. Substituted for the expression "Assistant Agricultural Income-tax Officer" by Act No. 5 of 1993, s.5, w.e.f. 4-2-1993.
8. Substituted for the words "the Commissioner" by Act No. 29 of 1963, s. 5(3), w.e.f. 1-4-1964.
9. Section 17-A inserted by Act No. 38 of 1986, s. 4, w.e.f. 10-10-1986.
11. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.
12. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.
13. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.
14. Inserted by Act No. 6 of 1995, s. 3(3), w.e.f. 1-4-1995.

**17A.** Powers Of Commissioner To Transfer Cases :-

1. The Commissioner may, by an order in writing, transfer any case or classes of cases, or cases or classes of cases relating to any area or any specified persons or classes of persons, from

(a) an 2[Assistant Commissioner of Agricultural Income-tax] to any other 3[Assistant Commissioner of Agricultural Income-tax], or

(b) a 4[Joint Commissioner] to any other 5 [Joint Commissioner.]]

1. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

2. Substituted for the words "serve in that year" by Act No. 29 of 1963, s. 6, w.e.f. 19-10-1963.

3. Sub-section (2-A) inserted by Act No. 29 of 1976, s. 12(1) and shall be deemed to have come into force w.e.f. 1-4-1975.

4. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

5. Substituted for the words "ten per cent" by Act No. 18 of 1994, s. 7(3Xi), w.e.f. 1-4-1994.

**CHAPTER 4** Return of Income, Assessment, etc.

**18.** Return of income :-

(1) Every person whose total agricultural income during the previous year exceeded the maximum amount which is not chargeable to agricultural income-tax 1[or every person who holds land under plantation crop the total extent of which is not less than 2[fifteen acres]] shall furnish to the 3[Assistant Commissioner of Agricultural Income-tax] so as to reach him before the 4[expiry of four months from the end of the previous year] a return in the prescribed form and verified in the prescribed manner, setting forth his total agricultural income during the previous year.

[Provided that the return of agricultural income for the previous year ending on or after the 31st March, 1982, but before the date of commencement of the Karnataka Agricultural Income-tax (Amendment) Act, 1983 shall be filed within four months from the date of commencement of the said Act.]

(2) In the case of any person whose total agricultural income is, in the opinion of the 5[Assistant Commissioner of Agricultural Income-tax], of such amount as to render such person liable to payment of agricultural income-tax for any financial year, he may 6[before the end of the relevant financial year, serve] a notice in the prescribed

form requiring such person to furnish within such period not being less than thirty days as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total agricultural income during the previous year.

7[(2-A)

(a) Before any person submits any return under sub-section (1) or sub-section (2), he shall, in the prescribed manner, pay in advance the full amount of tax payable by him on the basis of such return and shall furnish along with the return satisfactory proof of the payment of such tax. After the assessment is made under Section 19 the amount of tax so paid shall be deemed to have been paid towards the tax so assessed and excess amount, if any, paid shall be refunded to such person.

(b) If after the assessment under Section 19 it is found that the tax paid under clause (a) was less than the tax payable by more than twenty-five per cent, the 8[Assistant Commissioner of Agricultural Income-tax] may direct such person to pay in addition to the tax, by way of penalty, a sum calculated at [twenty-four per cent per annum] of the amount of tax so paid short:

[Provided that in the case of a person whose total agricultural income as determined by the [Assistant Commissioner of Agricultural Income-tax] is less than twenty thousand rupees, the penalty imposed shall not exceed one hundred rupees:]] [Provided further that no penalty under this sub-section shall be imposed unless the assessee affected has had a reasonable opportunity of showing cause against such imposition.]

[(2-B) If any person who has not been served with a notice under sub-section (2) has sustained a loss in any previous year and claims that 5[Assistant Commissioner of Agricultural Income-tax] may, in his discretion a return of loss in the prescribed form and verified in the prescribed manner and containing such other particulars as may be prescribed, and all the provisions of the Act, shall apply as if it were a return under sub-section (1).]

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2) or, having furnished a return under any of those sub-sections discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

10[(3-A) Where a return under sub-section (1) or sub-section (2) or sub-section (3) for any assessment year is furnished after the

date specified under sub-section (1) or is not furnished then, in cases where the Agricultural Income-tax Officer has not extended the date of furnishing the return under Section 61, the assessee shall be liable to pay in addition to the tax payable, interest at the rate of twenty-four per cent per annum reckoned from the day immediately following the date specified in sub-section (1) to the date of the furnishing the return or where no return has been furnished the date of completion of the assessment, on the amount of the tax payable on the total agricultural income as determined on regular assessment as reduced by the tax paid, if any.]

(4) The 7[Assistant Commissioner of Agricultural Income-tax] may serve on any person who has made a return under sub-section (1) or upon whom a notice has been served under sub-section (2) a notice requiring him, on a date to be therein specified, to produce, or cause to be produced, such accounts or documents as such officer may require 12 [for the purposes of this Act:]

Provided that such officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

1. Proviso substituted by Act No. 10 of 1987, s. 4(1), w.e.f. 1-4-1987.
2. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.
3. Second proviso inserted by Act No. 38 of 1986, s. 5, w.e.f. 10-10-1986.
4. Sub-section (2-B) inserted by Act No. 10 of 1987, s. 4(2), W.e.f. 1-4-1987.
5. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.
6. Sub-section (3-A) inserted by Act No. 18 of 1994, s. 7(3Xii), w.e.f. 1-4-1994.
7. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.
8. Inserted by Act No. 29 of 1976, s. 12(2) and shall be deemed to have come into force w.e. f. 1 -4-1975.
10. Substituted for the expression "Agricultural Income- tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.
12. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

## **19. Assessment of income :-**

(1) If the 1[Assistant Commissioner of Agricultural Income-tax] is satisfied that a return made under Section 18 is correct and complete, he shall, by order in writing, assess the total agricultural income of the assessee and determine the sum payable by him on the basis of such return.

(2) If the 2[Assistant Commissioner of Agricultural Income-tax] is not satisfied without requiring the presence of the person who made the return or the production of evidence, that the return is correct and complete, he shall serve on the person who made the return a notice requiring him on the date specified therein, either to attend at the office of the 3[Assistant Commissioner of Agricultural Income-tax] or to produce or to cause to be produced, any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice under sub-section (2) or as soon afterwards as may be, the 4[Assistant Commissioner of Agricultural determine the sum payable by the assessee on the basis of such assessmentIncome-tax], after considering such evidence as such person may produce and such other evidence as that officer may require on specified points, shall, by an order in writing assess the total agricultural income of the assessee and determine the sum payable by him on the basis of such assessment.

(4) If any person fails to make a return under sub-section (1) or sub-section (2) of Section 18, as the case may be, or fails to comply with all the terms of a notice issued under sub-section (4) of that section or under sub-section (2) of this section, the [Assistant Commissioner of Agricultural Income-tax] shall make the assessment to the best of his judgment and 5 [x x x x x:]

[Proviso x x x x x.]

[Provided further that before making an assessment to the best of his judgment, the [Assistant Commissioner of Agricultural Income-tax] shall give to the assessee a reasonable opportunity of being heard.]

[(5) x x x x x.

(6) x x x x x.]

(7) When in the course of the assessment of the total agricultural income of the assessee it is found that a loss has been sustained which he is entitled to have set off under Section 15, the [Assistant Commissioner of Agricultural Income-tax] shall notify to the assessee by order in writing the amount of the loss as computed by him.

1. Sections 19-A, 19-B, 19-C and 19-D inserted by Act No. 10 of

1987, w.e.f. 1-4-1987.

2. Sections 19-A, 19-B and 19-C omitted by Act No. 18 of 1994, s. 7(5), w.e.f. 1-4-1994.

3. Substituted for the words "two years" by Act No. 18 of 1999

4. Proviso inserted by Act No. 7 of 1997, w.e.f. 1-4-1997

5. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

**19A.** Assessment Of Registered Firm :-

**19B.** Assessment Of Unregistered Firm :-

**19C.** Method Of Computing A Partners Share In The Income Of The Firm :-

**19D.** Time Limit For Completion Of Assessments And Re-Assessment :-

(1) No assessment under Sections 19, 19-A, 19-B, and 19-C for any year shall be made after a period of [three years] from the date on which the return under Section 18, for that year is submitted by an assessee. [Provided that the assessment proceedings relating to any year ending before the commencement of the Karnataka Taxation Laws (Amendment) Act, 1997, in respect of which a return under sub-section (1) has been submitted before such commencement, shall be, completed within a period of two years from such commencement.]

(2) In computing the period of limitation for assessment under Sections 19, 19-A, 19-B and 19-C

(a) the time during which the proceedings for assessment in question have been deferred on account of any stay order granted by any Court or any other authority shall be excluded;

(b) the time during which the assessment has been deferred in any case or class of cases by the Commissioner for reasons to be recorded in writing shall be excluded:

Provided that nothing contained in this section limiting the time within which assessment may be made, shall apply to an assessment made on the assessee or any person in consequence of, or to give effect to any finding,

Provided further that nothing in this section shall apply to any assessment proceeding which is pending prior to the

commencement of the Karnataka Agricultural Income-tax (Amendment) Act, 1987.

(3) Where an assessment under this section is not concluded within the time specified in sub-section (1), the total and taxable income declared by an assessee in the annual return shall be deemed to have been assessed for that year on the basis of the said return 1 [and the provisions of this Act relating to agricultural income escaping assessment, payment, recovery, appeal and revision shall mutatis mutandis apply to such deemed assessment] and the tax so assessed shall be payable by the assessee.]

1. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f,4-2-1993.

## **20. Powers to make provisional assessment in advance of regular assessment :-**

(1) The [Assistant Commissioner of Agricultural Income-tax] may, at any time after the receipt of a return made under Section 18, proceed to make in a summary manner, a provisional assessment of the tax payable by the assessee, on the basis of his return and the accounts and documents, if any, accompanying it, after giving due effect to (i) the allowance referred to in paragraph (2) of the proviso to clause (c) of Section 5, and (ii) any loss carried forward under Section 15.

(2) A partner of a firm may be provisionally assessed under sub-section (1) in respect of his share in the firms income, profits and gains, if its return has been received, although the return of the partner himself may not have been received.

(3) There shall be no right of appeal against a provisional assessment made under sub-section (1).

(4) After a regular assessment has been made under Section 19, any amount paid or deemed to have been paid towards a provisional assessment made under sub-section (1), shall be deemed to have been paid towards the regular assessment, and where the amount paid or deemed to have been paid towards the provisional assessment, exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee.

(5) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the

determination on the merits of any issue which may arise in the course of the regular assessment under Section 19.

## **21. Cancellation of assessment in certain cases :-**

Where an assessee within one month from the service of a notice of demand issued as hereinafter provided satisfies the 1[Assistant Commissioner of Agricultural Income-tax] that he was prevented by sufficient cause from making the return required by Section 18 or that he did not receive the notice issued under sub-section (2) or sub-section (4) of that Section or sub-section (2) of Section 19 or that he had not a reasonable opportunity to comply, or prevented by sufficient cause from complying with the terms of any such notice, the 2 [Assistant Commissioner of Agricultural Income-tax] shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of Section 19.

1. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

2. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.c.f.4-2-1993.

## **22. Penalty for concealment of income :-**

(1) If the 1[Assistant Commissioner of Agricultural Income-tax] or the 2[Joint Commissioner] or the Commissioner is satisfied that any person.

(a) has without reasonable cause failed to furnish the return of his total agricultural income which he was required to furnish under sub-section (2) of Section 18; or

(b) has without reasonable cause failed to furnish such return within the time allowed and in the manner required by sub-section (1) of Section 18 or by a notice served under sub-section (2) of that Section; or

(c) has, without reasonable cause, failed to comply with a notice issued under sub-section (4) of Section 18 or under sub-section (2) of Section 19; or

(d) has concealed the particulars of his agricultural income or has deliberately furnished inaccurate particulars of such income;

Provided that:

(a) no penalty shall be imposed under this sub-section upon a person who has failed to furnish a return under sub-section (1) of Section 18, if he proves that he has no income liable to tax;

(b) where a person has failed to comply with a notice under sub-



section (2) or sub-section (4) of Section 18 or under sub-section (2) of Section 19 and proves that he has no income liable to tax, the penalty imposable under this sub-section shall not exceed ten rupees;

(c) no penalty shall be imposed under this sub-section upon any person assessable as the agent of any person not resident in the State of Karnataka for failure to furnish the return required under Section 18 unless a notice under sub-section (2) thereof or under Section 35 has been served on him.

(2) No order under sub-section (1) shall be made unless the assessee has been heard or has been given a reasonable opportunity of being heard.

(3) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under sub-section (1).

(4) If the Commissioner or 1[Joint Commissioner] makes an order under sub-section (1) he shall forthwith send a copy of the same to the 2 [Assistant Commissioner of Agricultural Income-tax] concerned.

1. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

2. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

### **23. Power to assess individual members of certain associations :-**

(1) Where the 1[Assistant Commissioner of Agricultural Income-tax] is satisfied that any association of individuals other than a Hindu undivided family, and Aliyasanthana family or branch, Marumakkattayam tarwad or tavazhi or a company is under the control of one member thereof, and that such association has been formed or is being used for the purpose of evading or reducing the liability to agricultural income-tax of any member thereof, he may, with the previous approval of the 2[Joint Commissioner] of Agricultural Income-tax, pass an order that the sum payable as agricultural income-tax, by the association shall not be determined, and thereupon the share of each member in the agricultural income of the association shall be included in his total agricultural income for the purpose of his assessment thereon.

Explanation. (1) A member of an association who owns the whole or the major portion of the capital of the association shall not by

reason only of that fact be deemed to control the firm or association.

(2) The 3[Joint Commissioner] of Agricultural Income-tax shall not give his approval to any order proposed to be passed by the 4 [Assistant Commissioner of Agricultural Income-tax], under this section until he has given the firm or association concerned an opportunity of being heard.

(3) Where any member of an association of individuals makes default in the payment of tax on his share of income which has been included in his total agricultural income under the provisions of sub-section (1), such tax may be recovered from the association.

(4) Where the agricultural income-tax is recoverable from an association under this section, a notice of demand shall be served upon it in the prescribed showing the sum so payable, and such association shall be deemed to be the assessee in respect of such sum, for the purposes of Chapter V.

1. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

2. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

3. Section 26 substituted by Act No. 10 of 1987, s. 7, w.e.f. 1-4-1987.

4. Inserted by Act No. 7 of 1997, w.e.f. 1-4-1997

#### **24. Tax of deceased person payable by representative :-**

(1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person, to the extent to which the estate is capable of meeting the charge of the agricultural income-tax assessed as payable by such person or any agricultural income-tax which would have been payable by him under this Act if he had not died.

(2) Where a person dies before the 1st June in any year or before he is served with a notice under sub-section (2) of Section 18 or under Section 36, as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub-section (2) of Section 18 or under Section 36, as the case may be, comply therewith, and the 1[Assistant Commissioner of Agricultural Income-tax] may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee.

(3) Where a person dies without having furnished a return which he

has been required to furnish under Section 18, or having furnished a return which the 2 [Assistant Commissioner of Agricultural Income-tax] has reason to believe to be incorrect or incomplete such Officer may make an assessment of the total agricultural income of such person and determine the agricultural income-tax payable by him on the basis of such assessment and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived, require from the

1. Sub-sections (1) and (2) substituted by Act No. 18 of 1997 and shall be deemed to have been substituted w.e.f. 1-4-1975

2. Substituted for the words "Agricultural Income-tax Officer" by Act No. 18 of 1997 and shall be deemed to have been substituted w.e.f. 4-2-1993

## **25. Effect of transfer of land :-**

Where a person in receipt of agricultural income for any previous year from any land in the State is found to have transferred his interest in such land to any other person, the transferor and the transferee shall, each, be assessed in respect of his actual share, if any, of the agricultural income for the previous year:

Provided that where the transferor cannot be found, the assessment of such agricultural income of the previous year in which the transfer took place up to the date of the transfer and for the year preceding that year shall be made on the transferee in the like manner as to the like extent as it would have been made on the transferor or where the tax in respect of the assessment made for any or all of such years on the transferor cannot be recovered from him, it shall be payable by and recoverable from the transferee, and the transferee shall be entitled to recover from the transferor the amount so paid by him.

## **26. Assessment incase of discontinued company, firm or association :-**

1[or dissolved firm]. 2[(1) Notwithstanding anything contained in Section 3, where agricultural income is received by a company, firm or association of persons and the business through which such income is received is discontinued or any such firm or association of persons is dissolved in any assessment year, the income for the period from the expiry of the previous year for that assessment year upto the date of such discontinuance or dissolution may, at

the discretion of the [Assistant Commissioner of Agricultural Income-tax] be charged to tax in that assessment year.

(2) The total income of each completed previous year or part of the previous year included in such period shall be chargeable to tax at the rate or rates in force in that assessment year, and separate assessments shall be made in respect of each such completed previous year or part of any previous year.]

3[(3) Any person discontinuing any such business or every member of a firm or association dissolved shall give to the Assistant Commissioner of Agricultural Income-tax notice of such discontinuance or dissolution within thirty days thereof and where any such person or member, as the case may be, fails to give the notice required by this sub-section, such officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of agricultural income-tax subsequently assessed on him in respect of any agricultural income of the company, firm or association of persons upto the date of the discontinuance or dissolution.]

4 [(4) Where any business through which agricultural income is received by a company, firm or association of persons is discontinued or any such firm or association is dissolved in any year, any sum received after the discontinuance or dissolution shall be deemed to be income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the person who carried on the business had such sum been received before such discontinuance or dissolution.

Explanation. For the removal of doubts, it is hereby declared that where before the discontinuance of such business or dissolution of a firm or association hitherto assessed as a firm or association, or as the case may be, on the company, the crop is harvested and disposed of, but full payment has not been received for such crop, or the crop is harvested and not disposed of, the income from such crop shall, notwithstanding the discontinuance or dissolution be deemed to be the income of the company, firm or association for the year or years in which it is received or receivable and the firm or association shall be deemed to be in existence, for such year or years and such income shall be assessed as the income of the company, firm or association according to the method of accounting regularly employed by it immediately before such discontinuance or dissolution.

(5) Where an assessment is to be made under sub-section (1) or

subsection (4) the [Assistant Commissioner of Agricultural Income-tax] may serve on the person whose agricultural income is to be assessed or in the case of a firm or association, on any person who was a member of such firm or association at the time of its discontinuance or dissolution or in the case of a company on the principal officer thereof, or on the recipient as the case may be, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of Section 18 and the provisions of the Act shall, so far as may be, apply accordingly, as if the notice were a notice issued under that sub-section.

(6) Where such an order has not been passed in respect of a company, firm or association hitherto assessed as the business not discontinued or in respect of a firm or association hitherto assessed as not dissolved, such firm or association shall not be deemed to have been dissolved or the business of such company, firm or association shall not be deemed to have been discontinued, for the purpose of this Act.

(7) Notwithstanding anything contained in Sections 32-A, 34, 35, 36, 37 or 55, in cases where before the discontinuance of business or dissolution of the firm or association, hitherto assessed as firm or association or on such company the crop is harvested and disposed of but full payment has not been received for such crop, or the crop is harvested and not disposed of proceedings to assess or reassess the income from such crop or to revise any assessment or reassessment of such income may be commenced within the period of limitation specified under the provisions of the Act in respect of assessment, reassessment or revision or within two years from the date of commencement of the Karnataka Taxation Laws (Second Amendment) Act, 1997 whichever is later.]

1. Sub-sections (4) to (7) substituted for sub-sections (4) and (5) including the proviso by Act No. 18 of 1997 and shall be deemed to have been substituted w.e.f, 1-4-1975

2. Substituted for the words "Agricultural Income- tax Officer" by Act No. 18 of 1997 and shall be deemed to have been substituted w.e.f. 4-2-1993

3. Section 27 shall be and shall be deemed always to have been substituted by Act No. 14 of 1983, s.13.

4. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

## **27. Liability in case of discontinued firm or association :-**

1.

(1) Where the business of a firm or association of persons is discontinued or such firm or association is dissolved, the 2 [Assistant Commissioner of Agricultural Income-tax] shall make the assessment of the agricultural income of the firm or association of persons as if no such discontinuance or dissolution has taken place and all the provisions relating to the levy of penalty or any other sum chargeable under any provisions of this Act shall apply, so far as may be, to such assessment.

(2) Every person who was at the time of such discontinuance or dissolution, a partner of such firm or a member of such association and the legal representative of any such person who is deceased, shall be jointly and severally liable to the assessment on such agricultural income and also to pay the amount of agricultural income-tax, penalty or other sum payable and all the provisions of this Act, so far as may be shall apply to any such assessment or imposition of penalty or other sum.]

1. Explanation inserted by Act No. 38 of 1986, s. 6, w.e.f. 10-10-1986.

2. Sections 29, 29-A and 29-B omitted by Act No. 18 of 1994, s. 7(5), w.e.f. 1-4-1994.

## **28. Change in constitution of a firm and succession to business :-**

(1) Where at the time of making an assessment under Section 19, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessment shall be made on the firm as constituted at the time of making the assessment. If the agricultural income-tax cannot be recovered from the firm as so constituted, such tax shall be recoverable from the persons who were members of the firm during the previous year.

(2) Where a person carrying on any business in the course of which agricultural income is received has been succeeded in such capacity by another person, such person and such other person shall each be assessed in respect of his actual share of the agricultural income of the previous year: Provided that, when the person succeeded in the business cannot be found, the assessment of the agricultural income of the year in which the succession took place up to the date of succession, and for the year preceding that year shall be made on the person succeeding him in the like manner and to the

same amount as it would have been made on the person succeeded or when the tax in respect of the assessment made for either of such years assessed on the person succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid.

1 [Explanation. For the purposes of this section, there is a change in the constitution of the firm,

(a) if one or more of the partners cease to be partners or one or more new partners are admitted, in such circumstances that one or more of the persons who were partners of the firm before the change continue as partner or partners after the change; or

(b) where all the partners continue with a change in their respective shares or in the shares of some of them.]

1. Explanation inserted by Act No. 23 of 1985, s. 6 and shall be and shall be deemed always to have been substituted by Act No. 19 of 1989, s. 3.

## **29. Application for registration :-**

1 . [Omitted].

1. Shall be and shall be deemed always to have been inserted by Act No. 18 of 1994, s. 7(6)(i).

## **29A. Procedure On Receipt Of Application :-**

## **29B. Cancellation Of Registration :-**

## **30. Assessment after partition of a Hindu undivided family :-**

(1) Where at the time of making an assessment under Section 19, it is claimed by or on behalf of any member of Hindu Undivided Family, or branch, an Aliyasanthana family or a Marumakkattayam tarwad or tavazhi hitherto assessed as undivided that a partition or maintenance division has taken place among the members or groups of members of such family, branch, tarwad or tavazhi, the 1[Assistant Commissioner of Agricultural Income-tax] shall make such Inquiry thereinto as he may think fit, and if he is satisfied that there has been a partition or maintenance division of the property

by metes and bounds among the various members or groups of members and separate enjoyment by them he shall record an order to that effect: Provided that no such order shall be recorded until notice of the inquiry has been served on all the adult members of the family, branch, tarwad or tavazhi entitled to the property as far as may be practicable or in such other manner as may be prescribed.

(2) Where such an order has been passed, the [Assistant Commissioner of Agricultural Income-tax] shall make an assessment of the total agricultural income received by or on behalf of the family, branch, tarwad or tavazhi as such, as if no partition or maintenance division had taken place and each member or group of members shall, in addition to any agricultural income-tax for which he or it may be separately liable, and notwithstanding anything contained in clause (a) of Section 12, be liable for a share of the tax on the income so assessed according to the portion of the family, branch, tarwad or tavazhi property allotted to him or it and the [Assistant

Provided that all the members and groups of members whose family, branch, tarwad or tavazhi property has been partitioned or divided for maintenance shall be liable jointly and severally for the tax on the total agricultural income received by or on behalf of the family, branch, tarwad or tavazhi as such up to the date of the partition.

2[Explanation. For the removal of doubts, it is hereby declared that where before the partition of a Hindu undivided family or branch or an Aliyasanthana family or Marumakkattayam tarwad or Tavazhi hitherto assessed as undivided the crop is harvested and disposed off, but full payment has not been received for such crop or the crop is harvested and not disposed off, the income from such crop, shall, notwithstanding the partition, be deemed to be the income of the Hindu undivided family or branch or the Aliyasanthana family or the Marumakkattayam tarwad or the Tavazhi for the year or years in which it is received or is receivable, and 3[the Hindu Undivided Family or branch or the Aliyasanthana Family or the Marumakkattayam tarwad or tavazhi shall be deemed to be in existence for such year or years, as such income] shall be assessed as the income of such family or branch or Aliyasanthana family or Marumakkattayam tarwad or Tavazhi according to the method of accounting regularly employed by it immediately before such partition.]

(3) Where such an order has not been passed in respect of a Hindu



family, an Aliyasanthana family or branch or a Marumakkattayam, tarwad or tavazhi hitherto assessed as undivided, such family, branch, tarwad or tavazhi shall be deemed for the purpose of this Act to continue to be an undivided family, branch, tarwad or tavazhi.

4 [(4) Notwithstanding anything contained in Sections 32-A, 34, 35, 36, 37 or 55, in cases where before the partition of a Hindu Undivided Family or branch or the Aliyasanthana Family or the Marumakkattayam tarwad or tavazhi, hitherto assessed as undivided, the crop is harvested and disposed of, but full payment has not been received for such crop, or the crop is harvested and not disposed of, proceedings to assess or reassess the income from such crop or to revise any assessment for re-assessment of such income may be commenced within the period of limitation specified under the provisions of this Act in respect of assessment, re-assessment or revisions or within one year from the date of the commencement of the Karnataka Taxation Laws (Amendment) Act, 1994 whichever is later.

(5) Where an assessment is to be made under sub-section (4), the Agricultural Income-tax Officer may serve on the person whose agricultural

1. Sub-sections (4) and (5) inserted by Act No. 18 of 1994, s. 7(6) (ii), w.e.f 1-4-1994.

2. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

3. Sub-section (1) substituted by Act No. 8 of 1989, s. 4(3) and shall be deemed to have come into force w.e.f. 8-9-1988.

4. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

### **31. Notice of demand :-**

Where any tax or penalty is due in consequence of any order passed under or in pursuance of this Act, the 1 [Assistant Commissioner of Agricultural Income-tax] shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable.

1. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

### **32. Appeal against assessment :-**

1[(1) Any assessee aggrieved by any of the following orders of an

2[Assistant Commissioner of Agricultural Income-tax] may appeal to the 3[Joint Commissioner] (Appeals) against such orders:

(a) imposing penalty under clause (b) of sub-section (2-A) of Section 18;

(b) rejecting the plea of denial of the liability to be assessed under the Act;

(c) assessing the amount of income or determining the amount of tax or computing the amount of loss under sub-sections (3) or (4) of Section 19.

(d) refusing to reopen an assessment made under sub-section (4) of Section 19 in pursuance of Section 21.]

(2) The appeal shall be presented within a period of sixty days from the date of service of the order, but the appellate authority may admit an appeal presented after the expiration of the said period, if the authority is satisfied that the appellant had sufficient cause for not presenting it within the said period.

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(4) The appellate authority shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing and make or cause to be made such further inquiry as it thinks fit.

(5) In disposing of an appeal, the appellate authority may

(a) in the case of an order of assessment

(i) confirm, reduce, enhance or annul the assessment;

(ii) set aside the assessment and direct the 4[Assistant Commissioner of Agricultural Income-tax] to make a fresh assessment after such further inquiry as may be directed; or

(b) in the case of any other order, confirm, cancel or vary such order:

Provided that no enhancement of an assessment or penalty shall be made under this section unless the appellant has had a reasonable opportunity.

5 [(6) Notwithstanding that an appeal has been preferred under sub-section (1), tax shall be paid in accordance with the assessment made in the case:

Provided that the appellate authority may in its discretion give such directions as it thinks fit, in regard to the payment of tax, if the appellant furnishes sufficient security to its satisfaction in such manner as may be prescribed.]

1. Sub-section (6) added by Act No. 29 of 1963, s. 8(2), w.e.f. 1-1-1964.

2. Section 32-A inserted by Act No. 14 of 1983, s. 14 and shall be

deemed to have come into force w.e.f.1-12-1982.

3. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

4. Substituted for the expression "Assistant Agricultural Income-tax Officer" by Act No. 5 of 1993, s.5, w.e.f. 4-2-1993.

5. Substituted for the words "three years" by Act No. 12 of 1991, s. 3, w.e.f. 1-4-1991.

**32A. Revisional Powers Of The Joint Commissioner :-**

(1) The 3[Joint Commissioner] may, of his own motion, call for and examine the record of any order passed or proceeding recorded under the provision of this Act by an [Assistant Commissioner of Agricultural Income-tax] or an 4[Agricultural Income-tax Officer] or any other officer subordinate to him and against which no appeal has been preferred under Section 32, for the purpose of satisfying himself as to the legality or propriety of such order or as to the regularity of such proceeding in so far as it is prejudicial to the interests of revenue and pass such orders with respect thereto as he thinks fit.

(2) In relation to an order of assessment passed under this Act, the power under sub-section (1) shall be exercisable only within a period of 5[four years) from the date on which the order was passed.

(3) No order shall be passed under sub-section (1) enhancing any assessment, unless an opportunity has been given to the assessee to show cause against the proposed enhancement.]

6[Explanation. For the removal of doubts, it is hereby declared that subject to the provisions of sub-section (2), the revisional power conferred on the 7[Joint Commissioner] by sub-section (1) shall be exercisable in respect of an order passed under this Act by any authority subordinate to him before or after the conferment of revisional power on him.]

8 [(4) The power under this section shall not be exercisable in respect of issues which are the subject-matter in appeal under Section 32 or Section 34 or in a revision before the High Court.]

1. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

2. Explanation shall be and shall be deemed always to have been inserted by Act No. 23 of 1985, s. 7.

3. Sub-section (4) inserted by Act No. 18 of 1994, s. 7(8)(ii), w.e.f 1-4-1994.

4. Section 34 substituted by Act No. 29 of 1963, s. 9, w.e.f. 1-1-

1964.

5. Sub-section (1) substituted by Act No. 14 of 1983, s. 15 and shall be deemed to have come into force w.e.f. 1-12-1982.

6. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

7. Substituted for the expression "Assistant Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

8. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5. w.e.f. 4-2-1993

### **33. Appeal against order of refusal to refund :-**

The provisions of the foregoing section shall, so far as may be, apply to any order of refusal or any refund admissible under this Act or the rules made thereunder:

### **34. Appeal to the Appellate Tribunal :-**

1.

2[(1) Any officer empowered by the State Government in this behalf or any assessee objecting to an order of the 3[Assistant Commissioner of Agricultural Income-tax] or an [Agricultural Income-tax Officer] under Section 23, or an order passed by the [Joint Commissioner] under Section 22 or Section 32 or Section 32-A, may appeal to the Appellate Tribunal within sixty days from the date on which the notice of such order was communicated to the assessee.]

(2) The Appellate Tribunal may admit an appeal preferred after the period of sixty days referred to in sub-section (1), if it is satisfied that the assessee had sufficient cause for not preferring the appeal within that period.

(3) The appeal shall be in the prescribed form, shall be verified in the prescribed manner, and shall be accompanied by a fee equal to two per

(4) The Appellate Tribunal shall, after giving both parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it thinks fit:

Provided that, if the appeal involves a question of law on which the Appellate Tribunal has previously given its decision in another appeal and either a revision petition in the High Court against such decision or an appeal in the Supreme Court against the order of the

High Court thereon is pending, the Appellate Tribunal may defer the hearing of the appeal before it till such revision petition in the High Court or the appeal in the Supreme Court is disposed of.

(5) Notwithstanding that an appeal has been preferred under sub-section (1), tax shall be paid in accordance with the assessment made in the case: Provided that the Appellate Tribunal may, in its discretion, give such directions as it thinks fit, in regard to the payment of tax, if the appellant furnishes sufficient security to its satisfaction in such form and manner as may be prescribed:

Provided further that if as a result of the appeal any change becomes necessary in such assessment, the Appellate Tribunal may authorise the 4[Assistant Commissioner of Agricultural Income-tax] to amend the assessment, and the 5[Assistant Commissioner of Agricultural Income-tax] shall amend the assessment accordingly, and thereupon, the amount overpaid by the assessee shall be refunded to him without interest, or the additional amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(6)

(a) The Appellate Tribunal may, on the application either of the assessee or of the [Joint Commissioner] review any order passed by it under sub-section (4) on the basis of facts which were not before it when it passed the order: Provided that no such application shall be preferred more than once in respect of the same order.

(b) The application for review shall be preferred in the prescribed manner within six months from the date on which the order to which the application relates was communicated to the applicant; and where the application is preferred by the assessee, it shall be accompanied by a fee equal to that which had been paid in respect of the appeal:

Provided that if the application for review is preferred within ninety days from the date on which the order to which the application relates is communicated to the applicant, the application shall be accompanied by half the fee which had been paid in respect of the appeal.

(7) The Appellate Tribunal may, at any time within four years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under this section, and shall make such amendment if the mistake is brought to its notice by the assessee or the 6[Assistant Commissioner of Agricultural Income-tax:]

Provided that an amendment which has the effect of enhancing the

assessment or reducing the refund or otherwise increasing the liability of the assessee, shall not be made under this sub-section unless the Appellate Tribunal has given notice to the assessee of its intention to do so and has allowed the assessee a reasonable opportunity of being heard.

(8) Except as provided in the rules made under this Act, the Appellate Tribunal shall not have power to award costs to either of the parties to the appeal or review.

(9) Every order passed by the Appellate Tribunal under sub-section (4), sub-section (6) or sub-section (7) shall be communicated to the assessee, the 7 [Joint Commissioner] and the Commissioner.

(10) Every order passed by the Appellate Tribunal under sub-section (4) shall, subject to the provisions of sub-sections (6) and (7), and Section 55, be final and every order passed by it under sub-section (6) shall, subject to the provisions of Section 55, be final.]

1. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

2. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

3. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

4. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s, 5, w.e.f.4-2-1993.

5. Substituted for the expression "Deputy Commissioner" by Act No 5 of 1993, v 5, w.e. f 4-2-1993

6. Section 35 substituted by Act No. 29 of 1963. s. 10, w.e.f. 1-1-1964.

7. Inserted by Act No. 14 of 1983, s. 16 and shall be deemed to have come into force w.e.f. 1-12-1982.

### **35. Revision by Commissioner or the Additional Commissioner of orders prejudicial to revenue :-**

12 (1) The Commissioner or Additional Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by any authority subordinate to him is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or

modifying the assessment, or cancelling the assessment and directing a fresh assessment.

[(2) No power shall be exercisable under sub-section (1) after the expiry of four years from the date of the order sought to be revised.]

(3) Any order passed by the Commissioner [or [Additional Commissioner]] under this section shall, subject to revision by the High Court under Section 55, be final.]

[Explanation. For the removal of doubts, it is hereby declared that subject to the provisions of sub-section (2), the revisional power conferred on the [Additional Commissioner] by sub-section (1) shall be exercisable in respect of an order passed under this Act, by any authority subordinate to him before or after the conferment of revisional power on him.]

1. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

2. Substituted for the words "in cases falling under sub-section (3) of Section 40, at any time within five years and in any other cases at any time within three years" by Act No. 10 of 1987, s. 9, w.e.f 1-4-1987.

### **36. Income escaping assessment :-**

If for any reason any agricultural income chargeable to tax under this Act has escaped assessment in any financial year or has been assessed at too low a rate, the [Assistant Commissioner of Agricultural Income-tax], may, [at any time within five years], of the end of that year serve on the person liable to pay the tax or in the case of a company on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of Section 18 and may proceed to assess or re-assess such income and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section:

Provided that the tax shall be charged at the rate at which it would have been charged if such income had not escaped assessment or full assessment, as the case may be:

1 [Provided further that in computing the period of limitation for assessment or re-assessment under this section, the time during which the assessment has been deferred on account of any stay order granted by any Court or other authority in any case or by reason of the fact that an appeal or other proceeding is pending

before the High Court or the Supreme Court, shall be excluded: Provided also that nothing contained in this section limiting the time within which any action may be taken or any order, assessment or re-assessment may be made, shall apply to an assessment or re-assessment made on the assessee or any person in consequence of, or to give effect to, any finding, direction or order made under Section 32, [32-A], 33, [34], 35 or 55 or any judgment, or order made by the Supreme Court, the High Court or any other Court.]

1. Section 37 substituted by Act No. 38 of 1986, s. 8, w.e.f. 10-10-1986.

### **37. Rectification of mistakes :-**

1 (1) With a view to rectifying any mistake apparent from the record, the assessing authority, appellate authority or revising authority may, at any time within five years from the date of an order passed by it, amend such order:

Provided that an amendment which has the effect of enhancing an assessment or otherwise increasing the liability of the assessee shall not be made unless the assessing authority, appellate authority or revising authority, as the case may be, has given notice to the assessee of its intention to do so and has allowed the assessee a reasonable opportunity of being heard.

(2) Where an order has been considered and decided in any proceedings by way of appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

(3) An order passed under sub-section (1), shall be deemed to be an order under the same provision of law under which the original order, the mistake in which was rectified, had been passed.]

1. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993. s 5, w.e.f. 4-2-1993.

### **38. Power to take evidence on oath, etc :-**

The Commissioner, the 1[Joint Commissioner] and the 2[Assistant Commissioner of Agricultural Income-tax] shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (Central Act V of 1908), when



trying a suit, in respect of the following matters, namely:

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) compelling the production of documents; and

(c) issuing commissions for the examination of witnesses; and any proceeding before the Commissioner, 3[ 4[Additional Commissioner]], 5[Joint Commissioner] or 6 [Assistant Commissioner of Agricultural Income-tax] shall be deemed to be a "Judicial proceeding" within the meaning of Sections 193 and 228 and for the purposes of Section 196 of the Indian Penal Code, 1860 (Central Act XLV of 1860).

1. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1903, s. 5, w.e.f.4-2-1993.
2. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993. s. 5, w.e.f. 4-2-1993.
3. Clause (iii) inserted by Act No. 38 of 1986, s. 9, w.e.f. 10-10-1986.
4. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5. w.e.f.4-2-1993.
5. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.
6. Inserted by Act No. 14 of 1983, s. 20 and shall be deemed to have come into force w.e.f. 1-12-1982.

### **39. Power to call for information :-**

The 1[Assistant Commissioner of Agricultural Income-tax] or the 2[Joint Commissioner] may for the purposes of this Act

(i) require any firm to furnish a return of the names of all the members of the firm, their addresses and such other particulars as may be required for the purposes of assessment;

(ii) require any person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent and of their addresses.

3 [(iii) require any coffee curing works to furnish such particulars as he may require in respect of the transaction of any assessee with such coffee curing works.]

1. Proviso omitted by Act No. 29 of 1976, s. 14( 1) and shall he deemed to have come into force w.e.f.1-4-1975.
2. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f 4-2-1993.

3. Substituted for the words "at twelve per cent or as may be prescribed" by Act No. 23 of 1985, s. 9 and shall be deemed to have come into force w.e.f. 1-4-1985.

**40. Assessee not to recover rent in excess of that mentioned in rent-roll, etc :-**

(1) If for the purpose of calculating or verifying the agricultural income specified in a return under Section 18, the assessee produces before any Agricultural Income-tax Authority any rent-roll or other document showing the amount of rent due to him, he shall not be entitled to recover by suit or otherwise rent in respect of any tenure or holding included in his return at a rate higher than that mentioned in such rent-roll or document in respect of such tenure or holding, unless the rent thereof has, since the date of the return, been lawfully enhanced.

(2) Any person who has produced a rent-roll or other document referred to in sub-section (1) may, within one year of producing such rent-roll or document, apply to the 1[Assistant Commissioner of Agricultural Income-tax] to make any correction therein and such officer may, if he is satisfied that there has been a bona fide mistake, pass an order correcting such rent-roll or document.

(3) Where the 2 [Assistant Commissioner of Agricultural Income-tax] passes an order under sub-section (2), he may assess under Section 36 any income escaping assessment by reason of the original incorrectness of the entry corrected.

1. Proviso omitted by Act No. 29 of 1976, s. 14(2)(b) and shall be deemed to have come into force w.e.f 1-4-1975.

2. The word "further" omitted by Act No. 29 of 1976, s. 14(2)(c) and shall be deemed to have come into force w.e.f. 1-4-1975.

**CHAPTER 5 Recovery of Tax and Penalties**

**41. Tax when payable :-**

(1) Any amount specified as payable in a notice of demand under Section 31 or an order under Section 32, [Section 32-A],

1[Proviso x x x x x.]

(2) If an assessee makes an application within the time mentioned in the notice of demand in Section 31, for being allowed to pay the tax due, the 2 [Assistant Commissioner of Agricultural Income-tax] may in his discretion, by order in writing, allow the assessee to pay the tax due, in instalments not exceeding four in number at such

intervals as the said Officer may fix in his discretion or extend the time for the payment of the entire tax due for such reasonable period as he may fix, if the assessee undertakes in writing to pay interest [at the rate charged by the Scheduled Banks for unsecured loans:] [Proviso x x x x x:] Provided [x x x x x] that if, on being allowed to pay the tax due by instalments, the assessee defaults in the payment of any one instalment, he shall be deemed to be a defaulter in respect of the total remaining amount of tax due.

1. Section 41-A inserted by Act No. 10 of 1987, s. 10, w.e.f. 1-4-1987.

2. Substituted for the expression "Assistant Agricultural Income-tax Officer" by Act No. 5 of 1993, s.5, w.e.f. 4-2-1993.

**41A.** Payment Of Interest :-

1 Where any amount refundable to any person under an order made under any provisions of this Act is not refunded to him within ninety days

(a) of the date of such order, if that order is made by the refunding authority; or

(b) of the date of receipt of such order by the refunding authority, if that order is made by an authority other than the refunding authority, the refunding authority shall pay such person simple interest at the rate of twelve per cent per annum on the said amount from the day immediately following the expiry of the said ninety days to the day of the refund:

Provided that the interest calculable shall be on the balance of the amount remaining after adjusting out of the refundable amount any tax, penalty or other amount due under this Act, for any year by the person on the date from which such interest is calculable.

Explanation I. If the delay or any part thereof in granting the refund within the aforesaid period of ninety days is attributable to the person to whom the refund is payable the period of such delay shall be excluded for the purpose of calculation of interest.

Explanation II. The expression "refunding authority" means an 2 [Agricultural Income-tax Officer] or [Assistant Commissioner of

1. Section 42 substituted by Act No. 38 of 1986, s. 10, w.e.f. 10-10-1986.

2. Clause (aa) inserted by Act No. 7 of 1997, w.e.f. 1-4-1997

**42.** Mode and time of recovery :-

1(1) Where any assessee is in default in making payment of the tax or any other amount due under this Act,

(i) the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the properties of the person or persons liable to pay the tax or any other amount due under this Act, and

(ii) the person or persons liable to pay the tax or any other amount due under this Act shall pay a penalty equal to

(a) one and one half per cent of the tax remaining unpaid for each month for the first three months after the expiry of the time specified under sub-section (1) or allowed under sub-section (2), of Section 41; and

2 [(aa) by attachment and sale or by sale without attachment of any property of such assessee or any other person by such authority, in such manner, as may be prescribed.]

(b) two and one half per cent of such tax for each month subsequent to the first three months as aforesaid. Explanation. For the purposes of clause (ii), the penalty payable for a part of a month shall be proportionately determined.

(2) Any tax assessed or any amount due under this Act from any assessee or any other person may, without prejudice to any other mode of collection, be recovered

(a) as if it were an arrear of land revenue; or

(b) notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), on an application to any Magistrate, by such Magistrate, as if it were a fine imposed by him: Provided that where an assessee or other person who has appealed or applied for revision of any order made under this Act and has complied with an order made by the appellate or the revising authority in regard to the payment of tax or other amount, no proceedings for recovery under this sub-section shall be taken or continued until the disposal of such appeal or application for revision.

(3) The High Court may either suo motu or on an application made by the Commissioner or any person aggrieved by the order revise an order made by a Magistrate under clause (b) of sub-section (2).]

1. Section 43-A inserted by Act No. 29 of 1976, s. 15 and shall be deemed to have come into force w.e.f 1-4-1975.

2. Substituted for the expression "Agricultural Income-tax Officer" by Act No, 5 of 1993, s. 5, w.e.f.4-2-1993.

### **43. Right, title and interest in property sold for arrears of**

## **tax in certain cases :-**

(1) Where any property of a Hindu undivided family, an Aliyasanthana family or branch, or a Marumakkattayam tarwad, tavazhi, is sold for the realisation of arrears of agricultural income-tax, the right, title and interest of all the members of such family, branch, tarwad to tavazhi in the property shall pass to the purchaser.

(2) Where any person has been assessed to agricultural income-tax on the agricultural income derived from a land held by him wholly or partly for the benefit of other persons and the tax payable by him is in arrears, the land so held by him may be attached and sold for the realisation of such arrears and on such sale, the right, title and interest of such person in the said land shall pass to the purchaser.

### **43A. Recovery Of Tax From Certain Other Persons :-**

(1) The 2[Assistant Commissioner of Agricultural Income-tax] may at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the assessee at his last address known to the 3[Assistant Commissioner of Agricultural Income-tax]) require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee, to pay to the 4[Assistant Commissioner of Agricultural Income-tax], either forthwith or upon the money becoming due or being held at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the assessee in respect of the arrears of tax or any other moneys or the whole of the money when it is equal to or less than that amount.

(2) The [Assistant Commissioner of Agricultural Income-tax] may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the assessee and the receipt of the Treasury or of the 5[Assistant

(4) Any person discharging any liability to the assessee after receipt of the notice referred to in this section shall be personally

liable to the 6[Assistant Commissioner of Agricultural Income-tax] to the extent of the liability discharged or to the extent of the liability of the assessee for the amount due under this Act, whichever is less.

(5) Where any person to whom a notice under this section is sent objects to it on the ground that the sum demanded or any part thereof is not due by him to the assessee or that he does not hold any money for or on account of the assessee, then, nothing contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof, to the 7[Assistant Commissioner of Agricultural Income-tax.]

(6) Any amount which a person is required to pay to the 8[Assistant Commissioner of Agricultural Income-tax] or for which he is personally liable to the 9 [Assistant Commissioner of Agricultural Income-tax] under this section shall, if it remains unpaid, be a charge on the properties of the said person and may be recovered as if it were an arrear of land revenue.

Explanation. For the purpose of this section the amount due to an assessee or money held for or on account of an assessee by any person shall be computed after taking into account such claims, if any, as may have fallen due for payment by such assessee to such person and as may be lawfully subsisting.]

1. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

2. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

3. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

4. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

5. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

6. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

7. Inserted by Act No. 14 of 1983, s. 22 and shall be deemed to have come into force w.e.f. 1-12-1982.

8. Substituted for the expression "Joint Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

9. The words "appellate or" omitted by Act No. 29 of 1963, s. 13, w.e.f. 1-1-1964.

#### **44. Recovery of penalties :-**

Any sum imposed by way of penalty under the provisions of 1 [clause (b) of sub-section (2-A) of Section 18], Section 22, Section 26 or Section 42 shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax.

1. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

#### **CHAPTER 6 Refunds**

#### **45. Refunds :-**

(1) If any person satisfies the 1[Assistant Commissioner of Agricultural Income-tax] that the amount of agricultural income-tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds

(2) The 2[Joint Commissioner] in the exercise of his appellate powers, the Commissioner 3[or the 4[Additional Commissioner]] in the exercise of his 5[x x x x x] revisional powers, if satisfied to the like effect, shall cause a refund to be made by the 6 [Assistant Commissioner of Agricultural Income-tax] of any amount found to have been wrongly paid or paid in excess.

(3) Where agricultural income of one person is included under any provision of this Act in the total agricultural income of any other person, such other person only shall be entitled to a refund under this Section in respect of such income.

(4) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive or the review by any officer of a decision of his own which is subject to appeal or revision, or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other than or greater than that relief.

1. Section 45-A inserted by Act No. 29 of 1963, s. 14, w.e.f. 19-10-1963.

2. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

3. Substituted for the words "Deputy Commissioner" by Act No. 14 of 1983, s. 23 and shall be deemed to have come into force w.e.f. 1-12-1982.

4. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5, w.e.f 4-2-1993.

5. Substituted for the expression "Joint Commissioner" by Act No. 5 of 1993, s 5, w.e.f. 4-2-1993.

6. Substituted for the words, figures and brackets "or sub-section 2 of Section 34" by Act No. 29 of 1963, s. 15, w.e.f. 1-1-1964.

**45A.** Power To Withhold Refund In Certain Cases :-

(1) Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceeding under this Act is pending, and the [Assistant Commissioner of Agricultural Income-tax] is of the opinion that the grant of the refund is likely to adversely affect the revenue, the [Assistant Commissioner of Agricultural Income-tax] may, with the previous approval of the [Joint Commissioner], withhold the refund till such time as the [Joint Commissioner] may determine.

(2) Where a refund is withheld under the provisions of sub-section (1), the State Government shall pay to the assessee simple interest at [twelve per cent] per annum on the amount of refund ultimately determined to be due as a result of the appeal or further proceedings for the period commencing after the expiry of six months from the date of the order referred to in sub-section (1) to the date the refund is granted.

**46.** Refunds admissible under the Rules :-

Refunds shall also be admissible under this Act in such cases, and to such extent as may be prescribed.

**47.** Power to set off amount of refund against tax remaining payable :-

Where under any of the provisions of this Act, refund is found to be due to any, person, the 1[Assistant Commissioner of Agricultural Income-tax], the 2[ 3 [Joint Commissioner], the [Additional Commissioner]] or the Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded, or any part of the amount against the agricultural income-tax, if any, remaining payable by the person to whom the refund is due.

1. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

2. Substituted for the expression "Deputy Commissioner" by Act



No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

3. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

**48. Power of representative of deceased person or persons disabled to make claim on his behalf :-**

Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under Section 45, is unable to receive such refund or to make such claim, his executor, administrator or other legal representative or the trustee or receiver, as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate.

**49. Limitation of claims for refund :-**

No claim to any refund of agricultural income-tax under this Chapter shall be allowed, unless it is made within three years from the last day of the financial year commencing next after the expiry of the previous year in which the agricultural income was received or one year from the date on which the assessment is completed, whichever is later.

**CHAPTER 7 Offences and Penalties**

**50. False statements in declaration :-**

If any person makes statement in a verification mentioned in Section 18 or sub-section (3) of Section 32 [or sub-section (3) of Section 34] or in any application under Section 67 which is false and which he either knows or believes to be false or does not believe to be true, he shall be deemed to have committed the offence described in Section 177 of the Indian Penal Code, 1860 (Central Act XLV of 1860).

**51. Failure to furnish return or to supply information :-**

If any person fails without reasonable cause or excuse

- (a) to furnish in due time any of the returns specified in sub-section (1) or sub-section (2) of Section 18 or in Section 39; or
- (b) to furnish a certificate required by Section 16; or
- (c) to grant inspection or allow copies to be taken in accordance

with the provision of Section 62; or

(d) to produce or cause to be produced on or before the date mentioned in any notice under sub-section (4) of Section 18, such accounts or documents as are referred to in the notice, he shall be punishable with fine which may extend to five rupees for every day during which the default continues.

**52. Prosecution to be at the instance of the 1[Joint Commissioner] :-**

(1) A person shall not be proceeded against for an offence under Section 50 or Section 51 except at the instance of the 1[Joint Commissioner.]

(2) Before instituting proceedings against any person under sub-section (1), the 2 [Joint Commissioner] shall call upon such person to show cause why proceedings should not be instituted against him.

(3) The [Joint Commissioner] may either before or after the institution of proceedings compound any such offences.

1. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

2. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

**53. Disclosure of information respecting assessee :-**

(1)(a) The Commissioner may furnish or cause to be furnished to

(i) any officer, authority or body performing any functions under any other law relating to the imposition of any tax, duty, cess or fee; or

(ii) such officer, authority or body performing any functions under any other law as the State Government, if in its opinion it is necessary so to do in the public interest, may, by notification, specify in this behalf, any such information relating to any assessee in respect of any assessment made under this Act as may, in the opinion of the Commissioner, be necessary for the purpose of enabling such officer, authority or body to perform his or its functions under that law.

(b) Where a person makes an application to the Commissioner for any information relating to any assessee in respect of any assessment made under this Act, the Commissioner may, if he is satisfied that it is in the public interest so to do, furnish or cause to

be furnished the information asked

(2) Notwithstanding anything contained in sub-section (1) or any other law for the time being in force, the State Government may, having regard to the practices and usages, customary or any other relevant factors, by order notified in the official Gazette, direct that no information or document shall be furnished or produced by a public servant in respect of such matters relating to such classes of assesseees or except to such authorities as may be specified in the order.]

CHAPTER 7A Super Tax
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**53A.** Charge Of Super-Tax :-

**53B.** Total Agricultural Income For Purposes Of Super-Tax :-

**53C.** Application Of Act To Super-Tax :-

**CHAPTER 8** Miscellaneous

**54.** Place of assessment :-

(1) Subject to any orders passed under sub-section (1) the agricultural income of a person shall be assessed by the 1[Assistant Commissioner of Agricultural Income-tax] of the area in which is situated the land from which the greater part of the agricultural income is derived:

Provided that where an assessee has made a return under sub-section (1) of Section 18 to the 2[Assistant Commissioner of Agricultural Income-tax] having jurisdiction over the assessee's place of residence or the place where any of his lands is situated or where his accounts are maintained, he shall be deemed to have elected such place as his place of assessment and it shall be accepted by the Officer concerned unless for reasons to be recorded in writing he passes an order that the assessment shall be made in any other place.

(2)

(a) An assessee who has not made a return under Section 18 may, before the expiry of the time allowed for the submission of the

return, apply to the 3[Assistant Commissioner of Agricultural Income-tax] of the area in which is situated the land from which the greater part of the agricultural income of the assessee is derived, to be assessed at his usual place of residence or at the place where the accounts relating to his agricultural income are kept, if either of such places is situated in the State and the 4[Assistant Commissioner of Agricultural Income-tax] shall refer the matter to the 5[Joint Commissioner] whose decision thereon shall be final.

(b) Where an order is passed under clause (a), the assessee shall not be entitled to make any further application to change his place of assessment:

Provided that the 6[Assistant Commissioner of Agricultural Income-tax] may allow the assessee to be assessed at any other place upon such conditions as he thinks fit.

(3) Notwithstanding anything contained in this section, every 7[Assistant Commissioner of Agricultural Income-tax] shall have all the powers conferred by or under this Act on an 8 [Assistant Commissioner of Agricultural Income-tax] in respect of any agricultural income derived from land situated within the area for which he is appointed.

1. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5. w.e.f. 4-2-1993.

2. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

3. Inserted by Act No.14 of 1983, s. 24 and shall be deemed to have come into force w.e.f. 1-12-1982.

4. Substituted for the expression "Joint Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

5. Inserted by Act No.14 of 1983, s. 24 and shall be deemed to have come into force w.e.f. 1-12-1982.

6. Substituted for the expression "Joint Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

7. Inserted by Act No.14 of 1983, s. 24 and shall be deemed to have come into force w.e.f. 1-12-1982.

8. Substituted for the expression "Joint Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

## **55. Revision by High Court :-**

(1) Within sixty days from the date on which he is served with the order, the assessee or the 1[Joint Commissioner], in the case of an

order under sub-section (4) or sub-section (6) of Section 34, and the assessee, in the case of an order under Section 35, may prefer a petition to the High Court against the order on the ground that the Appellate Tribunal or the Commissioner [or the [Additional Commissioner]], as the case may be, has either failed to decide or decided erroneously any question of law:

Provided that the High Court may admit an application preferred after the period of sixty days aforesaid if it is satisfied that the petitioner had sufficient cause for not preferring the petition within that period.

(2) The petition shall be in the prescribed form, shall be verified in the prescribed manner, and shall, when it is preferred by the assessee, be accompanied by a fee of one hundred rupees.

(3) If the High Court, on perusing the petition, considers that there is no sufficient ground for interfering, it may dismiss the petition summarily:

Provided that no petition shall be dismissed unless the petitioner has had a reasonable opportunity of being heard in support thereof.

(4)

(a) If the High Court does not dismiss the petition summarily it shall, after giving both parties to the petition a reasonable opportunity of being heard, determine the question or questions of law raised and either reverse, affirm, or amend the order against which the petition was preferred or remit the matter to the Appellate Tribunal or the Commissioner, 2[or the 3[Additional Commissioner]], as the case may be, with the opinion of the High Court on the question or questions of law raised or pass such other order in relation to the matter as the High Court thinks fit.

(b) Where the High Court remits the matter to the Appellate Tribunal or the Commissioner [or the 4[Additional Commissioner]], as the case may be, its opinion on the question or questions of law raised, the Appellate Tribunal or the Commissioner [or the [Additional Commissioner]], as the case may be, shall amend the order passed by it or him in conformity with such opinion.

(5) Before passing an order under sub-section (4), the High Court may, if it considers necessary so to do remit the petition to the Appellate Tribunal or the Commissioner [or the [Additional Commissioner]], as the case may be, and direct it or him to return the petition with its or his finding on any specific question or issue.

(6) Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the assessment made in the case:

Provided that if as a result of the petition any change becomes necessary in such assessment, the High Court may authorise the 5[Assistant Commissioner of Agricultural Income-tax] to amend the assessment, and on such amendment being made, the amount overpaid by the assessee shall be refunded to him without interest, or the additional amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(7)(a) The High Court may on the application either of the assessee or of the 6 [Joint Commissioner], review any order passed by it under sub-section (4) on the basis of facts which were not before it when it passed the order.

(b) The application for review shall be preferred in the prescribed manner within ninety days from the date of communication of the order sought to be reviewed; and where the application is preferred by the assessee, it shall be accompanied by a fee of one hundred rupees.

(8) In respect of every petition preferred under sub-section (1) or sub-section (7), the costs shall be in the discretion of the High Court.]

1. Substituted for the expression "Joint Commissioner" by Act No. 5 of 1993, s. 5, w.e.f 4-2-1993.

2. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

3. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, s. 5, w.e.f. 4-2-1993.

4. Inserted by Act No. 14 of 1983, s. 25(1) and shall be deemed to have come into force w.e.f. 1-12-1982.

5. Substituted for the words, figures and brackets "Indian Income-tax Act, 1922 (Central Act XI of 1922)" by Act No. 29 of 1976, s. 8 and shall be deemed to have come into force w.e.f. 1-4-1975.

6. Substituted for the words, figures and brackets "Indian Income-tax Act, 1922 (Central Act XI of 1922)" by Act No. 29 of 1976, s. 8.

## **56. Petitions and applications to be heard by a Bench of the High Court :-**

1 Every petition or application preferred to the High Court under Section 55 shall be heard by a Bench of not less than two judges, and in respect of such petition or application, the provisions of Section 98 of the Code of Civil Procedure, 1908 (Central Act V of 1908), shall, so far as may be, apply.]

1. Clause (v) inserted by Act No. 14 of 1983, s. 25(2) and shall be

deemed to have come into force w.e.f.1-12-1982.

**57. Appearance by authorised representative :-**

(1) Any assessee who is entitled or required to attend before any Agricultural Income-tax Authority in connection with any proceeding under this Act otherwise than when required under Section 38 to attend personally for examination on oath or affirmation, may attend either in person or by any person duly authorised by him in writing in this behalf being a relative or a person wholly or principally employed in the service of the assessee or a lawyer or an accountant or an Income-tax Practitioner [or a Sales Tax Practitioner] and not being disqualified on the ground of misconduct by or under any law or under any order of Government.

(2) No person who has been dismissed from Government service shall be qualified to represent an assessee under sub-section (1), and if any lawyer or accountant or an income-tax practitioner is found guilty of misconduct in connection with any proceeding under the 1[Income-tax Act, 1961 (Central Act 43 of 1961)], or this Act by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner, the Commissioner may direct that he shall be thence forward disqualified to represent an assessee under sub-section (1): Provided that

(a) no such direction shall be made in respect of any person, unless he is given a reasonable opportunity of being heard;

(b) any person against whom such direction is made may within one month of the making of the direction, appeal to the prescribed authority to have the direction cancelled; and

(c) no such direction shall take effect until one month from the making thereof, or, when an appeal is preferred, until the disposal of the appeal.

(3) In this section

(i) a person regularly employed by the assessee shall include any officer of a Scheduled Bank as defined in the Reserve Bank of India Act, 1934 (Central Act II of 1934), with which the assessee maintains a current account or has other regular dealings;

(ii) "Accountant" means a member of an association of accountants recognised in this behalf by the Government;

(iii) "Income-tax Practitioner" means an Income-tax Practitioner as defined in the 2[Income-tax Act, 1961 (Central Act 43 of 1961);]

(iv) "Lawyer" means any person entitled to plead in any Court of law in the State.

3 [(v) "Sales Tax Practitioner" means any person enrolled in the prescribed manner as Sales Tax Practitioner under clause (c) of Section 36 of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957).]

1. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

2. Proviso substituted by Act No. 23 of 1985, s. 10 and shall be deemed to have come into force w.e.f.1-4-1985.

3. Substituted for the words "charged by Scheduled Banks for unsecured loans" by Act No. 12 of 1991,s. 4, w.e.f. 1-4-1991.

### **58. Receipt to be given :-**

A receipt shall be given for any money paid or recovered under this Act.

### **59. Indemnity :-**

Every person deducting, retaining or paying any tax in pursuance of this Act in respect of any agricultural income belonging to any other person is hereby indemnified for the deduction, retention or payment thereof.

### **60. Manner of service of notices :-**

(1) A notice or requisition under this Act may be served on the person therein named either by registered post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908 (Central Act V of 1908).

(2) Any such notice or requisition may, in the case of a firm, Hindu undivided family, an Aliyasanthana family or branch or a Marumakkathayam tarwad or tavazhi be addressed to any member of the firm or to the manager, yajaman or karnavan, or any adult male member of the family branch, tarwad or tavazhi and in the case of any other association of persons be addressed to the principal officer thereof.

### **61. Power to grant extension of time for returns, etc :-**

The [Assistant Commissioner of Agricultural Income-tax] may in his discretion, in the case of any person or class of persons extend the



date before which the return under sub-section (1) of Section 18 has to be furnished or, on application by an assessee, allow him such extension or extensions of time as the officer thinks fit to furnish the return or comply with the terms of a notice under this Act. [Provided that no such extension shall be granted unless the assessee undertakes to pay in addition to the tax payable, interest at the rate [of twenty-four per cent] on the tax due as per the return from the due date specified in sub-section (1) of Section 18 upto the date of actual payment of such tax.]

## **62. Powers to inspect registers of members of company, etc** :-

The Agricultural Income-tax Authority or any person authorised by him in writing in that behalf may inspect and, if necessary, take copies or cause copies to be taken of any register of the members, debenture holders or mortgagees of any company or of any entry in such register.

### **62A. Offences By Companies :-**

(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, managing agent or any other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. For the purpose of this section,

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to firm, means a partner in the firm.

### **63. Power to make rules :-**

(1) The State Government may, subject to the condition of previous publication, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules

(a) as to the manner in which and the procedure by which agricultural income of a person shall be computed;

(b) as to the deductions to be made in the computation of agricultural income;

(c) as to the special deductions and allowances where expenditure has to be incurred for a number of years before income is derived therefrom;

(d) as to the form of returns under Section 18 and the manner in which they should be verified;

(e) as to the form of the notice of demand mentioned in Section 31;

(f) as to the form in which appeals under Sections 32 and 34 shall be presented and the manner in which they shall be verified;

(g) as to the form of the notice of demand mentioned in sub-section (3) of Section 37;

1[(h) as to the form in which the petitions and applications under Section 55 shall be presented and the manner in which they shall be verified;]

(i) as to the manner in which and the authority to whom applications for refunds shall be made and the procedure to be followed in respect of such applications;

j) as to the authority by whom and the manner in which refunds shall be made; and

(k) as to all other matters expressly required or allowed by this Act to be prescribed.

2[(2-A) Any rule under this Act may be made to have effect retrospectively and when any such rule is made, a statement specifying the reasons for making such a rule shall be laid before both Houses of the State Legislature along with the rule under sub-section (3). All rules made under this Act shall, subject to any modification made under sub-section (3), have effect as if enacted in this Act.]

3 [(3) Every rule made under this Act shall be laid as soon as may

be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. Sub-section (2-A) inserted by Act No. 29 of 1963, s. 19(2), w.e.f. 1-1-1964.

2. Substituted for the word "twenty-five" by Act No. 18 of 1994, s. 7(9)(i)(a), w.e.f. 1-4-1994.

3. The words "and where the whole of such extent is used for deriving agricultural income by growing coffee either exclusively or interplanted with banana, coconut, cardamom, pepper or orange" omitted by Act No. 10 of 1987, s. 11, w.e.f. 1-4-1987.

#### **64. Bar of suits in Civil Courts :-**

No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act and no prosecution, suit or other proceeding shall lie against any Officer of the State Government for anything in good faith done or intended to be done under this Act.

#### **65. Computation of period of limitation :-**

In computing the period of limitation prescribed for any appeal under this Act or for an application under Section 55 the date on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

#### **66. Composition of Agricultural Income-tax :-**

1.

(1) Where the total extent of land under plantation crop held by any person does not exceed 2[fifty acres] 3[x x x x x] such person may [subject to such rules as may be prescribed], apply to the prescribed Officer for permission to compound the agricultural income-tax payable by him and to pay in lieu thereof a lumpsum at the rate specified in [the table below: ]

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<b>TABLE</b>		
<b>SI. No.</b>	<b>Extent of land</b>	<b>Rate of lumpsum payable</b>
1.	Where the extent of land does not exceed 15 acres	Nil
2.	Where the extent of land exceeds 15 acres but does not exceed 20 acres	Rs. 750 per acre after 15 acres
3.	Where the extent of land exceeds 20 acres but does not exceed 25 acres	Rs. 3,750 plus Rs. 1,000/- per acre after 20 acres.
4.	Where the extent of land exceeds 25 acres but does not exceed 30 acres	Rs. 8,750/- plus Rs. 1,400/- per acre after 25 acres.
5.	Where the extent of land exceeds 30 acres but does not exceed 40 acres	Rs. 15,750/- plus Rs. 1,750/- per acre after 30 acres.
6.	Where the extent of land exceeds 40 acres but does not exceed 50 acres	Rs. 33,250/- plus Rs. 2,250/- per acre after 40 acres.

[(2) x x x x x.]

[Provided that where the average yield of coffee in respect of such land exceeds 600 kilograms per acre, the holder of such land shall, in addition to the lumpsum payable under sub-section (1), pay an additional lumpsum at the rate of rupees 400 per tonne of such excess yield.]

(3) Every application under sub-section (1) shall be submitted in such form, in such manner and within such time as may be prescribed.

(4) The prescribed Officer shall, after satisfying himself that the particulars specified in the application are correct, by order in writing grant the permission.

4 [(5) The permission granted under sub-section (4) shall be in force for the year for which it is granted and shall continue to be in force for the next two years immediately following or until such time the extent of land holding exceeds the maximum specified in sub-section (1) whichever is earlier, and in respect of that period the provisions of this Act relating to the submission of returns, accounts or other documents or the assessment to agricultural income-tax shall not apply to the grantee.]]

[(6) Where any person permitted to pay tax under sub-section (1) re-opts to pay tax in accordance with Section 3 after the expiry of the period of three years for which permission was granted under sub-section (4), then notwithstanding anything contained in the Act. Such person shall be assessed as if it were a new assessment and shall not be eligible to carry forward any loss or unabsorbed depreciation of any of the previous years";

(7) The assessment of tax under this section on the fraction of an acre shall be made proportionately and tax payable shall be rounded off to the nearest rupee;

(8) When there is any change in the extent of land during the previous year the maximum extent of land held for not less than one hundred and eighty days during the later period of the previous year shall be deemed to be the extent of land held during the previous year for the purpose of assessment of tax under this section.

(9) If for any reasons, extent of land in respect of which composition is permissible under this section, has escaped composition or composition has been permitted at a lower rate, the provisions of Section 36 shall apply as if it were an escape of agricultural income under the Act.]

1. Inserted by Act No. 18 of 1994, s. 7(9)(i)(b), w.e.f. 1-4-1994.

2. Sub-section (5) substituted by Act No. 18 of 1994, s. 7(9)(iv), w.e.f. 1-4-1994.

3. Sub-sections (6), (7), (8) and (9) inserted by Act No. 18 of 1994, s. 7(9)(v), w.e.f. 1-4-1994.

4. Section 67 omitted by Act No. 14 of 1983, s. 27 and shall be deemed to have come into force w.e.f. 1-12-1982.

## **67. Composition of Agricultural Income Tax :-**

1 [x x x x x.]

1. Sub-section (3) shall be and shall always be deemed to have been inserted by Act No. 25 of 1962. s. 4.

## **68. Amendment of Madras Act XIX of 1954 :-**

In Section 3 of the Madras Land Revenue (Surcharge) Act, 1954 (Madras Act XIX of 1954), Explanation II shall be omitted.

## **69. Repeal and savings :-**

(1) The Coorg Agricultural Income-tax Act, 1951 (Coorg Act 1 of 1951) as in force in the Coorg District, the Hyderabad Agricultural Income-tax Act, 1950 (Hyderabad Act XIII of 1950) as in force in the Hyderabad Area, the Madras Plantations Agricultural Income-tax Act, 1955 (Madras Act V of 1955) as in force in the Madras Area and the Mysore Agricultural Income-tax Act, 1955 (Mysore Act 4 of 1955), as in force in the Mysore Area, are hereby repealed:

Provided that such repeal shall not affect

(a) the previous operation of the said enactments or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said enactments; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactments; or

(d) any investigation, legal proceeding (including assessment proceeding) or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid;

(2) Notwithstanding anything contained in sub-section (1), for the purpose of giving effect to the preceding proviso to the said sub-section

(1), the State Government may by notification, in the Official Gazette, make such provision as appears to it necessary or expedient

(a) for making omissions from, additions to and adaptations and modifications of the rules, notifications and orders issued under the repealed enactments;

(b) for specifying the authority, officer or person who shall be competent to exercise such functions exercisable under any of the repealed enactments or any rules, notifications or orders issued thereunder as may be mentioned in the said notification.

1 [(3) Notwithstanding anything contained in sub-section (1), nothing contained in any of the repealed enactments limiting the time within which any action may be taken or any order, assessment or re-assessment may be made shall apply to an assessment or re-assessment made on the assessee or any person (i) in consequence of, or to give effect to, any finding, direction or order made under any provision of the relevant repealed enactment or any judgment, or order made by the Supreme Court, High Court or any other Court whether before or after the commencement of this Act;

(ii) to rectify any error on account of the assessment of such assessee or person under this Act, instead of under the relevant repealed enactment, provided such assessment or re-assessment under the repealed enactment is made within a period of two years from the date of commencement of the Karnataka Agricultural Income-tax (Amendment) Act, 1962.]

1. Schedule substituted by Act No. 7 of 1997, w.e.f. 1-4-1997.

## **70. Power to remove difficulties :-**

(1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government may, by order published in the Official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) If any difficulty arises in giving effect to the provisions of this Act (otherwise than in relation to the transition from the provisions of the Acts in force before the commencement of this Act), the State Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

## **SCHEDULE 1**

### **SCHEDULE I**

(See section 3)

(Rate of Agricultural Income Tax)

[Part-I xxx]

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006. PART II

In the case of a firm:

On whole of the total agricultural [thirty percent] income

1. Substituted by Act 5 of 2006 w.e.f. 1.4.2006.

### PART III

In the case of Company:

On whole of the total agricultural Income thirty five percent]

1. Substituted by Act 5 of 2006 w.e.f. 1.4.2006.

[SCHEDULE-A

[See section 2(1) (s)]

Modifications subject to which the provisions of this Act shall apply in cases where the previous year in relation to the assessment year commencing on the first day of April, 1989, referred to in the second proviso to clause (s) of sub-section (1) of section 2, exceeds twelve months.

1. Definitions.-In this Schedule, "transitional previous year" means the period reckoned as the previous year for the assessment year commencing on the First day of April, 1989, in the manner specified in the second proviso to clause (s) of sub-section (1) of section 2.

2. Special provisions in case where the transitional previous year is longer than twelve months.-In a case where the transitional previous year is longer than twelve months, the provisions of this Act shall apply subject to the modifications provided in rules 3, 4 and 5 of this Schedule.

3. Modifications pertaining to monetary limits, etc.,-The provisions of this Act specified in column (1) of the Table below, shall be subject to the modification that the reference therein to the amount or amounts specified in the corresponding entry in column (2) of the said Table shall be construed as a reference to the amount or amounts as increased by multiplying each such amount by a fraction of which the numerator is the number of months in the transitional previous year and the denominator is twelve:

Provided that for the purpose of this rule and rules 4 and 5, where the transitional previous year includes a part of a month, then, if such part is fifteen days or more, it shall be increased to one complete month and if such part is less than fifteen days, it shall be ignored.

#### TABLE

Provision of the Act Amount

Section 5 (A) (1) 6,000-00 9,000-00 & 12,000-00

4 . Modification in respect of depreciation allowance.-Where the assessee's agricultural income for a period of thirteen months or more is included in his total income for the transitional previous year, the allowance under clause (e) of sub-section (1) of section 5 in respect of depreciation of buildings, machinery, plant, fencing materials, hose-pipes and furniture, calculated in the manner stated therein, shall be increased by multiplying it by a fraction of which the numerator is the number of months in the transitional previous year and the denominator is twelve.

5. Modification in respect of rate of tax.-The tax chargeable on the total agricultural income of the transitional previous year shall be calculated at the average rate of tax on the amount obtained by multiplying such total agricultural income by a fraction of which the numerator is twelve and the denominator is the number of months in transitional previous year, as if the resultant amount were the total income.

6. Power of Government to grant relief in case of hardship.-The Government may, if it considers it desirable or expedient so to do for avoiding genuine hardship, by general or special order, grant appropriate relief in any case or class of cases where the transitional previous year is longer than twelve months.]

1. Inserted by Act 19 of 89 w.e.f. 1.4.1989.

