

Karnataka Agricultural Income Tax Rules, 1957

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Karnataka Agricultural Income Tax Rules, 1957

In exercise of the powers conferred by sub-sections (1) and (2) of Section 63 of the Karnataka Agricultural Income-tax Act, 1957 (Karnataka Act No. 22 of 1957), the Government of Karnataka hereby makes the following rules, the draft of the same having been previously published as required by sub-section (1) of the said section.

CHAPTER 1 Preliminary

1. Title :-

- (a) These rules may be called the Karnataka Agricultural Income-tax Rules, 1957.
- (b) These rules shall be deemed to have come into force from the first day of October, 1957.

2. Definitions :-

In these rules, unless the context otherwise requires:

- (a) "Act" means the Karnataka Agricultural Income Tax Act, 1957;
- (b) "Form" means a form appended to these rules;
- (c) "Section" means a section of the Act;
- (d) "Tax" means the agricultural income-tax payable under the Act.

CHAPTER 2 Charge of Agricultural Income-tax

3. Deductions on account of depreciation of capital assets :-

(1) The deductions under Section 5 of the Act, in respect of depreciation of buildings, machinery, plant, fencing materials, hose pipes and furniture which are required for the purpose of deriving the agricultural income shall be made in accordance with the following rates:

TABLE		
SI. No.	Block of Assets	Depreciation allowable on the written-down value
(1)	(2)	(3)
I. BUILDINGS:		
1.	General rate	5%
2.	Factory buildings (excluding offices, god owns /offieers and employees quarters, roads	10%

3.	and bridges) Purely temporary erections	100%
4.	Tanks for irrigation purposes	10%
5.	Irrigation channels-pucca	10%
6.	Irrigation wells-pucca	10%
II. MOTOR CARS:		10%
III. MACHINERY AND PLANTS		
1.	Motor cycles and jeeps	25%
2	Lorries	25%
3.	Tractors, Power-tillers,	
	Tractor-Trailers, Power Tiller	
	trailers, Water-carriers, etc.	20%
4.	Irrigation equipments such as sprinklers and sprayers	20%
IV. FURNITURE AND FITTINGS:		10%
V. General machinery, implements, plant and other assets not specified in items I, II, III and IV above		20%
VI. Energy Producing and Saving Devices-Non- Conventional		30%

Provided that if any asset falling within a block of assets is acquired by the assessee during the previous year and is put to use for the purpose of deriving agricultural income for a period of less than one hundred and eighty days in the previous year, depreciation on such assets will be allowed at fifty per cent of the depreciation allowable according to the percentage prescribed in respect of any of the assets falling within the block of assets specified above.

3(2) In respect of buildings newly erected or new machinery (including car) or new plant installed, after 31st day of March, 1956, a further sum equivalent to twenty per cent of the value of such buildings, [machinery (including car)] or plant shall be deducted under clause (e) of Section 5 in respect of the year in which erection or installation was made.

(3) For the purpose of obtaining an allowance for depreciation under clause (e) of Section 5, the assessee shall furnish particulars to the [Assistant Commissioner of Agricultural Income-tax in Part V of Form 3.

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

3. Sub-rules (3) and (4) omitted by GSR 182, dated 2-7-1973, w.e.f 26-7-1973

4. Inserted by GSR 389, dated 22-11-1976 and shall be and shall be deemed to have been substituted w.c.f. 1-4-1972

4. Mode of determination of capital assets for depreciation allowance :-

(1) In the case of assets acquired before the previous year but after the commencement of the Act, the written down value shall be the actual cost of the assets so acquired less all depreciation actually allowed under rule 3.

(2) In the case of assets acquired before the commencement of the Act,

(i) in any area in which the agricultural income was liable to tax prior to such commencement, the written down value shall be the actual cost to the assessee less the depreciation allowed under the Agricultural Income-tax Law in force in such area prior to such commencement; and

(ii) in any other area, the written down value shall be the actual cost to the assessee less for each financial year since the acquisition, the amount of depreciation applicable to the assets being at the rate prescribed for the purposes of Indian Income-tax for each year since the first April, 1922 and at the Indian Income-tax rates in force on the first April, 1922 for each such year prior to the date:

Provided that if no deduction has been made in respect of an asset after it is purchased in any year or years either because it was then not used for the purpose of deriving agricultural income or because no agricultural income-tax was then payable, the 1[Assistant Commissioner of Agricultural Income-tax] or any other superior officer in passing or revising an order of assessment shall inspect the asset and determine the deterioration, if any, in the asset during the year or years aforesaid and reduce the written down value accordingly.

2 [(3) x x x x x.

(4) x x x x x.]

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

2. Sub-rules (3) and (4) omitted by GSR 182, dated 2-7-1973, w.e.f 26-7-1973

5. Computation of agricultural income under Section 5(1) and (m) :-

For arriving at the net assessable amount of agricultural income, deductions in respect of the following items under clauses (1) and (m) of Section 5 shall also be made:

(a) the expenses incurred by the cultivator or receiver of rent in kind in performing any process contemplated under Section 5(c) and (d);

(b) the customary annuities paid in cash or kind to artisans and other persons whose services are required in connection with cultivation;

(c) cost of amenities provided to labour force under any law for the time being in force:

Provided that no expenses of a capital nature on any payments of charitable or religious nature shall be permissible save in the manner provided under clause (f) and (g) of Section 12;

(d) any sums paid a gratuity to the retiring staff 1[or as contribution payable in respect of periods subsequent to 1st April, 1972 to the Group Gratuity Life Assurance Scheme of the Life Insurance Corporation of India or any other Scheme or fund approved by the Commissioner for payment of gratuity under the "Payment of Gratuity Act, 1972:]

Provided such payments do not ordinarily exceed one months pay for every completed year of service in each case and are not in the nature of solatium or compensation granted for loss of employment or other consideration other than past services of the employees.

2[Explanation.-Except as provided under this clause no other provision (whether called as such or by any other name) made by the assessee for payment of gratuity to his employees on their retirement or on termination of their employment for any reason shall be allowed;]

(e) any sum paid as annuity provided it is secured by a charge on the lands from which the agricultural income is derived;

(f) any sum paid to an employee as bonus or commission for services rendered where such sums would not have been payable to him as profits or dividends, if it had not been paid as bonus or commission, provided that the amount of bonus or commission is reasonable with reference to (1) the pay of the employee and the conditions of his service, (2) the income of the assessee for the year in question and (3) the general practice;

(g) any sum paid by the assessee as subscriptions to any agricultural association in India;

(h) any contribution to a provident fund 3[x x x x x] which is maintained in accordance with the conditions detailed in Appendix II (d) and 4 [is recognised for the purpose of the Act, or any contribution made to the Provident Fund established under a scheme framed under the Employees Provident Fund Act, 1952 (Central Act XIX of 1952);]

(i) for the purpose of sub-clause (ii) of clause (n) of Section 5 the deduction in respect of purchase or replacement of cattle or implements which are necessary for cultivation shall be one half of the cost incurred for such purchase or replacement.

1. Inserted by GSR 389, dated 22-11-1976 and shall be and shall be deemed to have been substituted w.c.f. 1-4-1972

2. Explanation inserted by GSR 146, dated 18-6-1981 and shall be

and shall be deemed always to have been inserted

3. The words "or superannuation fund" omitted by GSR 182, dated 2-7-1973, w.e.f. 26-7-1973.

4. Substituted for the words "is recognised for the purpose of the Act" by Notification No. RD 11 CAX 60, dated 24-11-1960.

5A. Restrictions And Conditions For The Purpose Of Section 12(G)
:-

1The approval under Section 12(g) to any sum paid as donations to any institution or fund shall be subject to the following restrictions and conditions, namely:

(i) any sum paid as such donation shall not exceed 2[five per cent] of the total agricultural income as reduced by any [x x x x x];

(ii) the surplus funds of the institution or fund as the case may be which are not utilised for charitable purpose shall not be invested otherwise than in one or more of the forms or modes specified below,

(a)invesrment in savings certificates as defined in clause (c) of Section 2 of the Government Savings Certificates Act, 1959 (Central Act XLVI of 1959) and in any other securities or certificates issued by the Central Government under the small savings schemes of Central Government;

(b)deposit in any account with the Post Office Savings Bank;

(c)deposit in any Nationalised or Co-operative Banks;

(d)investment in units in the Unit Trust of India established under the Unit Trust of India Act, 1963 (Central Act LII of 1963);

(e)investment in any security for money created and issued by the Central Government or the State Government;

(f)investment in debentures issued by or on behalf of any company or corporation located in Karnataka, both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or the State Government;

(g)investment or deposit in any Government Company as defined in Section 617 of the Companies Act, 1956 (Central Act 1 of 1956), which is located in Karnataka;

(iii) the approval under this rule shall not be granted for a period exceeding three years at a time;

(iv) every approved institution or fund shall furnish its annual report together with the audited statement of accounts before the 3[Assistant Commissioner of Agricultural Income-tax] or 4 [Agricultural Income-tax Officer] having jurisdiction over the area concerned every year, within six months after the completion of its

accounting year or within such further time

(v) such further conditions as may be considered necessary to impose at the time of grant of approval by the State Government:

Provided that in case of violation of any conditions or restrictions of approval or mis-utilisation of the funds donated for any purpose other than a charitable purpose as defined in the Act the approval granted to the institution or fund shall be liable to be cancelled by the State Government after affording an opportunity to the party affected.]

1. Rule 5-A inserted by GSR 267, dated 13-1-1984, w.e.f. 13-1-1984.
2. Substituted for the words "ten per cent" by GSR 90, dated 21-7-1995 and shall be deemed to have come into force w.e.f. 1-4-1995.
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.

6. Computation of income in regard to tea :-

In respect of agricultural income from tea grown and manufactured in the State the portion of the income worked out under the Indian Income-tax Act, 1922, and left unassessed as being agricultural income shall be assessed under this Act after allowing such deductions provided for in the Act.

7. Computation of deduction on mixed income :-

Where a deduction in respect of any item, admissible under Section 5 or under Rule 5, is a common charge incurred for the purpose of deriving agricultural income assessable under the Act and income chargeable under the Indian Income-tax Act, 1922, the deduction admissible under the Act shall be the actual amount relating to the income derived from agricultural operations and proved by accounts or other conclusive evidence. Where no such accounts or evidence is produced the 1 [Assistant Commissioner of Agricultural Income-tax] shall proceed to assess the income to the best of his judgment.

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

8. Computation of income derived from lands situated partly within the State and partly without under Section 6(ii). :-

For the purpose of clause (ii) of Section 6 where an agricultural income is derived from lands situated partly within the State and partly outside the State and the income attributable to the land situated within the State cannot be determined from the accounts maintained by the assessee and where no accounts or other conclusive evidence is produced by him to prove the actual income derived from lands situated within the State separately the 1 [Assistant Commissioner of Agricultural Income-tax] shall compute such income to the best of his judgment as provided in the proviso to clause (b) of Rule 9.

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

9. Method of accounting :-

Where no method of accounting has been regularly employed by the assessee or where the method employed is such that in the opinion of the Agricultural Income-tax Officer the agricultural income cannot be properly deduced therefrom, the 1[Assistant Commissioner of Agricultural Income-tax] shall, after making such enquiry, as he considers necessary, compute the agricultural income of the assessee as under:

(a) if the agricultural produce of the land has been sold, the actual price for which such produce was sold;

(b) if the agricultural produce of the land has not been sold, or if such produce has been utilised only as raw material for any manufacturing business or for distribution to labourers by way of wages in kind, the value of such produce at the average market rate prevailing for the previous year concerned shall be taken to represent the value of the crop: Provided that if no details are available relating to quantity of crops raised on the land or the cultivation expenditure incurred in raising such crops, the 2[Assistant Commissioner of Agricultural Income-tax] or any other superior officer in passing or revising an order of assessment 3[may, if considered necessary, inspect the land and shall determine] the agricultural income to the best of his judgment, taking into view the nature of the crop, extent of the land cultivated, method of cultivation employed, seasonal conditions and the comparative data from neighbouring assesseees maintaining

regular accounts;

(c) in case of coffee crop of the previous year, the cash amount received within the accounting period in respect of the crop grown and consigned by the assessee to the Coffee Board or the estimated value of such crop shall be taken into account as the income of the year according to the method of accounts regularly employed by the assessee: 4[Provided that if the estimated value declared by the assessee is less than the average of the rates declared by the Coffee Board for three immediate previous years the 5[Assistant Commissioner of 6 [Agricultural Income-tax Office] shall take into consideration the average rates for the purpose of assessment:] Provided further any receipt in respect of the earlier seasons coffee crop received during the accounting period in excess of the amount already taken into consideration in the assessments of preceding years shall be considered as the income of the previous year.

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 words "shall inspect the land and determine" by Notification No. RD 77 CAX 59, dated 11-1-1960.

4. Proviso substituted by GSR 267, dated 13-1-1984, w.c.f. 13-1-1984.

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

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

9A. Maintenance Of Accounts :-

(1) 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 together with supporting documents such as invoices, vouchers, way bills, lorry receipts and documents of similar nature, showing details of.

(i) purchases of assets employed directly or indirectly towards deriving agricultural income and their cost of maintenance;

(ii) purchases of inputs such as fertilisers, insecticides, pesticides, weedicides, copper sulphate, etc.;

(iii) expenditure incurred on all items specified in Section 5;

(iv) day-do-day stock account of raw coffee and cured coffee with particulars of opening balance, receipts, disposals and closing

balance, in terms of quantity;

(v) expenditure incurred towards curing of raw coffee, manufacture/processing of coffee into coffee powder, instant coffee, blended coffee, etc.;

(vi) expenditure on transportation of goods;

(vii) details of income derived from:

(a) sale of cardamom, coffee, linoloe (sic), orange, pepper, rubber or tea;

(b) sale of manufactured/processed goods of coffee powder, instant coffee, blended coffee, tea, processed fruit, fruit juice, etc.; and

(c) sale of standing trees and any assets.

(2) Every assessee shall within fifteen days of the publication of these intimate his Assistant Commissioner of Agricultural Income-tax

(3) Every assessee who intends to change the location/premises wherein he keeps the books of accounts, shall intimate his Assistant Commissioner of Agricultural Income-tax about such change with relevant details, fifteen days before effecting such a change.]

1. Rule 9-A inserted by Notification No. FD 29 CAX 97, dated 25-9-1997 and shall be deemed to have come into force, w.e.f. 1-4-1997

CHAPTER 3 RETURN AND ASSESSMENT

10. Submission of return by a Company under Section 16 :-

(1) A return shall be furnished by the principal officer of a company who furnishes certificates under Section 16 in respect of a dividend or aggregate dividends if the amount thereof exceeds one rupee in the case of a shareholder which is a company and in respect of a dividend or aggregate dividends if the amount thereof exceeds Rs. 5,000 in the case of any other shareholder.

(2) The return by the principal officer of the company under sub-rule (1) shall be in Form 1 and shall be delivered to the 1 [Assistant Commissioner of agricultural ncome-tex who assesses the Company.

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

11. Froms of notices :-

.-

(1) The notice referred to in sub-section (2) of Section 18 and the

notice calling for. the returns mentioned in sub-section (1) of Section 39 shall be in Form 2.

(2) The notice referred to in sub-section (4) of Section 18 shall be in Form 4.

(3) The notice referred to in sub-section (2) of Section 19 shall be in Form 5.

(4) The notice of demand under sub-section (4) of Section 23 shall be in Form 10-A.

1 [(5) Notice of demand under Section 31 shall be in Form 12-A.]

1. Sub-rule (5) inserted by GSR 182, dated 2-7-1973, w.e.f. 26-7-1973.

12. Form of return and assessment :-

.-

(1) The return of total agricultural income required under sub-sections (1) and (2) of Section 18 shall be in Form 3 and shall be verified in the manner indicated therein.

(2) The assessment order under 1 [x x x x x] Section 19 shall be in Form 6.

1. The words, brackets and figure "sub-section (3) of omitted by Notification No. RD 9 CAX 59, dated 16-6-1959.

13. Application for registration of a firm :-

1. Application for registration of a firm under Section 29, shall be made to the 2 [Assistant Commissioner of Agricultural Income-tax] in Form 7.]

1. Rule 13 substituted by GSR 160, dated 9-6-1986, w.e.f. 11-6-1986.

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

14. Form of Application for registration of Firms under Section 29 :-

1 . [x x x x x.]

1. Rule 14 omitted by GSR 160, dated 9-6-1986, w.e.f. 11-6-1986.

15. Declaration under Section 79 :-

1 . The declaration to be furnished under sub-section (7) of Section 29 shall be in Form 8.]

1. Rule 15 substituted by GSR 160, dated 9-6-1986, w.e.f. 11-6-

1986.

16. Communication regarding partner who is a Benamidar :-

1 . The Communication required to be made by any partner of a firm under clause (b) of the explanation below sub-section (1) of Section 29-A shall be in Form 8-A.]

1. Rule 16 substituted by GSR 160, dated 9-6-1986, w.e.f. 11-6-1986.

17. Application for renewal of Registration of Firm :-

1 . [x x x x x]

1. Rules 17 to 19 omitted by GSR 160, dated 9-6-1986, w.e.f. 11-6-1986.

18. Renewal of registration of Firm :-

[x x x x x].

19. Certificate of cancellation of registration of Firms :-

[x x x x x]

20. Notice of enquiry on members of Hindu Undivided Family claiming partition :-

. The notice of enquiry under the proviso to sub-section (1) of Section 30 shall be in Form 9.

21. Forms of Notices of Demands :-

(1) The notice of demand under Section 31 for payment of tax provisionally assessed under Section 20 shall be in Form 11.

(2) The notice of demand under Section 31 other than the notice specified in sub-rule (1) or Rule 22 shall be in Form 10 and shall be accompanied by the order of assessment appended thereto except in cases where a penalty has been levied subsequent to the assessment order and it is not practicable to include the amount of penalty in the assessment form.

22. Notice of demand on levy of interest under Section 41(2) :-

The notice of demand under Section 31 for payment of interest levied under sub-section (2) of Section 41 on tax payable shall be in Form 12.

22A. Furnishing Of Security :-

1 . For purposes of proviso to sub-section (6) of Section 32 or proviso to sub-section (5) of Section 31, the appellant may furnish security in the form of cash or Bank guarantee of any scheduled Bank].

1. Rule 22-A inserted by GSR 182, dated 2-7-1973, w.e.f 26-7-1973.

22B. Notice Of Demand For Payment Of Interest Under Section 61 :-

1 . The notice of demand under Section 31 for payment of interest payable under Section 61 shall be in Form No. 12-B.]

1. Rule 22-B inserted by GSR 267, dated 13-1-1984, w.e.f. 13-1-1984.

23. Appeal under Section 32 to the Joint Commissioner :-

1. An appeal under Section 32, shall,

(a) in the case of an appeal against the order of the 2[Assistant Commissioner of Agricultural Income-tax] under Section 19, be in Form 13;

(b) in the case of an appeal against the order of the 3[Assistant Commissioner of Agricultural Income-tax] under sub-section (2) of Section 26, be in Form 14;

(c) in the case of an appeal under Section 42, be in Form 15;

(d) in the case of an appeal under Section 30, be in Form 16;

(e) in the case of an appeal under Section 22, be in Form 17; and

4 [(f) in the case of an order under Section 29, be in Form 28-A.]

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.

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

4. Clause (f) inserted by GSR 274, dated 10-8-1964.

24. Appeal and review under Section 34, to the Appellate Tribunal :-

- (1) An appeal under Section 34, in the case of an appeal against
- (a) an order under clause (a) of sub-section (5) of Section 32 1[or 32-A] shall be in Form 18;
 - (b) an order under Section 22 imposing a penalty, or an order under clause (b) of sub-section (5) of Section 32, confirming, cancelling, varying a penalty imposed under Section 22, shall be in Form 19;
 - (c) an order under Section 23, shall be in Form 17-A;
 - (d) an order under clause (b) of sub-section (5) of Section 32, confirming, cancelling or varying a penalty imposed under Section 42, shall be in Form 20;
 - (e) an order under clause (b) of sub-section (5) of Section 32, confirming, cancelling or varying an order under Section 29 shall be in Form 21;
 - (f) an order under clause (b) of sub-section (5) of Section 32 confirming, cancelling or varying an order under Section 30, shall be in Form 18-A.

(2)

(a) Every appeal preferred under sub-rule (1) shall be in quadruplicate and accompanied by four copies (one of which shall be the original or an authenticated copy) of the order appealed against and also four copies of the order of the 2 [Assistant Commissioner of Agricultural Income-tax] in case the appeal is a second appeal.

(b) It shall also be accompanied by a Treasury Receipt in support of having paid the fee calculated at the rate of two per cent of the amount of assessment objected to and shall in no case be less than five rupees or more than two hundred rupees.

(3)

(a) Every application for review under clause (a) of sub-section (6) of Section 34 to the Appellate Tribunal shall be preferred in Form 21-A and shall be verified in the manner specified therein.

(b) It shall be in quadruplicate and shall be accompanied by four copies of the original order of the Appellate Tribunal.

(c) It shall also, where it is preferred by the assessee, be accompanied by treasury receipt in support of having paid the fee equal to that which had been paid in respect of the appeal:

Provided that if the application is preferred within ninety days from the date on which order of the Appellate Tribunal was

communicated to the applicant, the fee payable shall be half the amount which had been paid in respect of the appeal.

(4) If the Appellate Tribunal allows an appeal or application for review preferred by an assessee under Section 34, it may, in its discretion, by order, refund either wholly or partly the fee paid by the assessee under sub-section (3) or clause (b) of sub-section (6) of Section 34.]

1. Inserted by GSR 267, dated 13-1-1984, w.e.f. 13-1-1984.

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

25. Submission of Memorandum of Appeal :-

The forms of appeal prescribed in Rules 23 and 24 and the forms of verification appended thereto shall be signed

(a) in the case of an individual by the individual himself;

(b) in the case of a Hindu undivided family Marumakka-ttayam tarwad or Aliyasanthana family, by the manager of the family or the Kamavan of the tarwad;

(c) in the case of a Company, by the principal officer of the company;

(d) in case of a firm, by a partner of the firm; and

(e) in the case of any other association of individuals, by a member of the association duly authorised in that behalf.

26. Manner of submission of memorandum of appeal :-

Every appeal under Sections 32 and 34 shall be duly stamped and shall be presented by the appellant in person or through a duly authorised representative specified in Section 57, 1 [together with a copy of the order appealed against] to the Appellate Authority concerned or to be sent to him by registered post.

1. Inserted by Notification No. RD 13 A1X 58, dated 5-6-1958.

27. Revision petition to High Court :-

1 .

(1) Every petition under sub-section (1) of Section 55 to the High Court shall be in Form 2b and shall be verified in the manner specified therein. It shall be accompanied by a certified copy of the order of the Appellate Tribunal or the Commissioner, as the case may be.

(2) Every application for review under clause (a) of sub-section (7)

of Section 55 shall be in Form 26-A and shall be verified in the manner specified therein. It shall be accompanied by a copy of the order of the High Court sought to be reviewed.]

1. Rule 27 substituted by GSR 274, dated 10-8-1964.

CHAPTER 4 REFUNDS

28. Application for refund under Section 45 :-

(1) An application for refund under Section 45 shall be in Form 22, and may be presented by the applicant to the 1[Assistant Commissioner of Agricultural Income-tax] in person or through a duly authorised representative or may be sent by registered post.

(2) An application preferred under Section 45 shall be accompanied by a return of total agricultural income in the form prescribed under Section 18 unless the applicant has already made such a return to the 2 [Assistant Commissioner of Agricultural Income-tax:]

Provided that no refund is admissible in respect of a claim on income not subject to assessment under the Act.

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 "for growing coffee" by GSR No. 148, dated 13-7-1988. w.e.f.15-7-1988.

29. Extent of amount to be refunded in case of double taxation :-

Where the agricultural income of a person is subjected to double taxation in the same year under the provisions of the Act, he shall be entitled to a refund of the amount which has been paid in excess of the amount with which such person is chargeable under the Act in that year.

30. Hearing of reference application by the Commissioner :-

1 . [x x x x x.]

1. Rule 30 omitted by GSR 274, dated 10-8-1964.

31. Appellate Authority for purposes of proviso to Section 57(2) :-

The authority, to which an appeal against the direction of the Commissioner under clause (b) of the proviso to sub-section (2) of Section 57, may be made, shall be the State Government.

32. Application for composition of Agricultural Income Tax

:-

1.

(1) For the purpose of sub-section (1) of Section 66, the prescribed officer shall be the 2[Assistant Commissioner of Agricultural Income-tax] of the area in which the land held by the assessee used 3[for growing plantation crops] either exclusively or interplanted with Banana, Coconut, Cardamom, Pepper or Orange is situated from which the greater part of his agricultural income is derived.

(2) The application under Section 66 shall be made in Form 23. The application shall be made before the expiry of the time allowed under sub-section (1) of Section 18 for furnishing the return of income for the assessment year for which permission to compound the agricultural income tax is required:

4[Provided that in respect of the assessment years commencing from 1st April, 1985 and 1st April, 1986, the application for the relevant assessment year may be made within thirty days from the commencement of the Karnataka Agricultural Income Tax (Amendment) Rules, 1987.]

5[(2-A) Notwithstanding anything contained in sub-rule (2) the assessing authority may, in respect of the assessment year commencing from the first day of April, 1985 and the subsequent assessment years, entertain an application made by any person beyond the period specified in that sub-rule, if the extent of land held by such person does not exceed fifteen acres.]

6[(2-A) (i) The application referred to in sub-rule (2) shall be accompanied by satisfactory proof of payment of the amount payable under Section 66 on the extent of land mentioned in the application made in Form 23.

(ii) If the amount sent by an assessee along with the application is less than the amount of tax payable by him, the Assessing Authority shall serve upon the assessee a notice in Form 10-A and the assessee shall pay the sum demanded within the time specified in the notice.]

(3) The 7[Assistant Commissioner of Agricultural Income-tax], shall, as soon as possible after the receipt of an application under sub-rule (1) make such enquiry as he deems fit to satisfy himself about the correctness of the particulars furnished in the application and if the particulars are correct, he shall pass orders in writing granting the permission. If the particulars furnished in the

application are not correct, the 8[Assistant Commissioner of Agricultural Income-tax] shall require the applicant to furnish the correct particulars within such time as may be specified by him. If the correct particulars are furnished by the applicant within the time so specified, the 9 [Assistant Commissioner of Agricultural Income-tax] shall pass orders in writing granting the permission, and if the correct particulars are not furnished within the said time he shall pass orders in writing refusing the grant of permission indicating the reasons for such refusal.]

1. Rule 32 inserted by GSR 160, dated 9-6-1986, w.e.f. 11-6-1986.
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 "tor growing coffee" by GSR No. 148, dated 13-7-1988. w.e.f.15-7-1988.
4. Substituted by GSR 148, dated 13-7-1988, w.e.f. 15-7-1988.
5. Inserted by GSR 176, dated 20-7-1988, w.e.t. 22-7-1988.
6. Sub-rule (2-A) inserted by GSR 89, dated 26-5-1994 and shall be deemed to have come into force 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. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.
9. Substituted for the expression "Agricultural Income-tax Officer" by Act No. 5 of 1993, s. 5, w.e.f.4-2-1993.

33. Special deductions or allowance on new cultivation, etc.
:-

1 [XXXX]

1. Rule 33 omitted by GSR 274, dated 10-8-1964.

34. Refund payment order :-

(a) For the purpose of clause (i) of sub-section (2) of Section 63, the 1 [Assistant Commissioner of Agricultural Income-tax] shall be the authority by whom refunds of tax collected shall be made in all cases under the provisions of the Act. Such refund order shall be in Form 24.

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

35. Certificate by Company under Section 16 :-

The certificate to be furnished by the principal officer of a company under Section 16 shall be in Form 25.

36. Collection of information for assessment of tax :-

The 1 [Assistant Commissioner of Agricultural Income-tax] or any person deputed by him on his behalf may inspect the land of the assessee and collect information relevant to assessment proceedings under the Act and record the particulars, in Form 27, in triplicate, and where the assessee or his representative is available in his presence.

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

36A. Collection Of Information For Composition Of Tax :-

1 . [x x x x x.]

1. Rule 36-A omitted by GSR 267, dated 13-1-1984, w.e.f. 13-1-984.

CHAPTER 5 Procedure for recovery of tax General Provisions

37. Manner of service of notice on non-resident person :-

The notice under sub-section (3) of Section 14 shall be served in the manner laid down in Section 60.

37A. Form Of Summons :-

1 . The summons requiring the attendance of any person or the production of any document for the purposes of Section 38 of the Karnataka Agricultural Income-tax Act, 1957, shall be in Form 28-B.1

1. Rule 37-A inserted by GSR 89, dated 8-6-1982 and GSR 181, dated 18-9-1982

37B. Manner Of Payment Of Tax Etc :-

1 (1) The tax or any other amount payable by any person under the Act shall be paid:

(i) by a crossed cheque, crossed demand draft or Indian Postal Order in favour of the Assessing Authority; or

(ii) in a Government Treasury by challans specified in Appendix I-A in the case of tax payable in advance under sub-section (2-A) of

Section 18 and by challans specified in Appendix-I, in other cases.

(2) Blank challan forms may be obtained from any Treasury or from the Office of the Assessing Authority.

(3) Payment by cheque under sub-rule (1) shall be subject to the provisions of the Karnataka Financial Code.]

1. Rule 38 renumbered as Rule 37-B by Notification No. FD 29 CAX 97, dated 25-9-1997 and shall be deemed to have come into force w.e.f 1-4-1997

37C. Definitions :-

In this part, unless the context otherwise requires.

(a) "certificate" means a certificate received by the Tax Recovery Officer under Rule 37-D;

(b) "defaulter" means the assessee of any other person mentioned in the certificate;

(c) "execution" in relation to a certificate, means recovery of arrears in pursuance of the certificate;

(d) "movable property" includes growing crops; and

(e) "share in a corporation" includes stock, debentures or bonds;

(f) "Tax Recovery Officer" means the Assistant Commissioner of Agricultural Income-tax or any other officer exercising powers under clause (aa) of sub-section (2) of Section 42 or under clause (aa) of sub-section (3) of Section 13 of the Karnataka Sales Tax Act, 1957.

37D. Issue Of Certificate :-

(1) Where an assessee or any other person is in default or is deemed to be in default in making a payment of tax or any other amount due under the Act, the Assistant Commissioner of Agricultural Income-tax may forward to the Tax Recovery Officer a certificate in Form 40 under his signature specifying the amount due from the assessee or any other person and the Tax Recovery Officer on receipt of such certificate, shall proceed to recover from such assessee or any other person the amount specified therein in accordance with the provision in this part.

(2) The Assistant Commissioner of Agricultural Income-tax may issue a certificate under sub-rule (1) notwithstanding that proceedings for recovery of the amount by any other mode has been taken.

37E. Issue Of Notice :-

When a certificate has been received by the Tax Recovery Officer from the Assistant Commissioner of Agricultural Income-tax for the recovery of arrears, the Tax Recovery Officer shall cause to be served upon the defaulter a notice in Form 41 requiring the defaulter to pay the amount specified in the certificate within fifteen days from the date of service of the notice and intimating that in default, steps would be taken to realise the amount under this part.

37F. When Certificate May Be Executed :-

No step in execution of a certificate shall be taken until the period of fifteen days has elapsed since the date of the service of the notice required by the preceding rule:

Provided that, if the Tax Recovery Officer is satisfied that the defaulter is likely to conceal, remove or dispose of the whole or any part of such of his movable property as would be liable to attachment or distraint in execution of a decree of a Civil Court and that the realisation of the amount of the certificate would in consequence be delayed or obstructed, he may at any time for reasons to be recorded in writing, attach or distraint the whole or any part of such property:

Provided further that, if the defaulter whose property has been so attached or distrained furnishes security to the satisfaction of the Tax Recovery Officer, such attachment or distraint shall be cancelled from the date on which such security is accepted by the Tax Recovery Officer.

37G. Mode Of Recovery :-

If the amount mentioned in the notice is not paid within the time specified therein or within such further time as the Tax Recovery Officer may grant in his discretion, the Tax Recovery Officer shall proceed to realise the amount by one or more of the following modes.

- (a) by attachment or distraint and sale of the defaulters movable property;
- (b) by attachment and sale of the defaulters immovable property.

37H. Interest, Costs And Charges Recoverable :-

There shall be recoverable in the proceedings in execution of every certificate.

(a) interest at the rate of seven per cent per annum from the day commencing after the end of the period specified in Rule 37-E;

(b) all charges incurred in respect of.

(i) the service of notice upon the defaulter to pay the arrears, and/or warrants and other processes, and

(ii) all other proceedings taken for realising the arrears.

37I. Purchasers Title :-

(1) Where property is sold in execution of a certificate, there shall vest in the purchaser merely the right, title and interest of the defaulter at the time of the sale, even though the property itself be specified.

(2) Where immovable property is sold in execution of a certificate, and such sale has become absolute, the purchaser's right, title and interest shall be deemed to have vested in him from the time when the property is sold and not from the time when the sale becomes absolute.

37J. Suit Against Purchaser Not Maintainable On Ground Of Purchase Being Made On Behalf Of Plaintiff :-

(1) No suit shall be maintained against any person claiming title under a purchase certified by the Tax Recovery Officer in the manner laid down in this part on the ground that the purchase was made on behalf of the plaintiff or on behalf of someone through whom the plaintiff claims.

(2) Nothing in this rule shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third persons against the real owner.

37O. Not Printed :-

37P. Removal Of Attachment Or Dstraint On Satisfaction Or Cancellation Of Certificate :-

Where.

(a) the amount due, with costs and all charges and expenses resulting from attachment or dstraint of any property or incurred in order to hold a sale, are paid to the Tax Recovery Officer; or

(b) the certificate is cancelled, the attachment or dstraint shall be deemed to be withdrawn and in the case of immovable property, the withdrawal shall, if the defaulter so desires, be proclaimed at his expense, and a copy of the proclamation shall be affixed in the manner provided by this Part for a proclamation of sale of immovable property.

37Q. Officer Entitled To Attach, Dstraint And Sell :-

The attachment or dstraint and sale of movable property and the attachment and sale of immovable property shall be made by the Tax Recovery Officer.

37R. Defaulting Purchaser Answerable For Loss On Resale :-

Any deficiency of price which may happen on a resale by reason of the purchasers default, and all expenses attending such resale, shall be certified by the Tax Recovery Officer and shall, at the instance of either the Assistant Commissioner of Agricultural Income-tax or the defaulter, be recoverable from the defaulting purchaser under the procedure provided by this Part:

Provided that no such application shall be entertained unless filed within fifteen days from the date of resale.

37S. Adjournment Or Stoppage Of Sale :-

(1) The Tax Recovery Officer may, in his discretion, adjourn any sale hereunder to a specified day and hour.

(2) Where a sale of immovable property is adjourned under sub-rule (1) for a longer period than one calendar month, a fresh proclamation of the sale under this Part shall be made unless the defaulter consents to waive it.

(3) Every sale shall be stopped if, before the lot is knocked down, the arrears and costs (including the costs of the sale) are tendered to the Tax Recovery Officer.

37T. Private Alienation To Be Void To Certain Cases :-

(1) Where a notice has been served on a defaulter under Rule 37-E, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him except with the permission of the Tax Recovery Officer, nor shall any Civil Court issue any process against such property in execution of a decree for the payment of money.

(2) Where an attachment has been made under this Part, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other moneys contrary to such attachment, shall be void as against all claims enforceable under the attachment.

37U. Prohibition Against Bidding Or Purchase By Officer :-

No officer or other person having any duty to perform in connection with any sale under this Part shall, either directly or indirectly bid for, acquire or attempt to acquire any interest in the property sold.

37V. Prohibition Against Sale On Holidays :-

No sale under this Part shall take place on a Sunday or other general holidays recognised by the State Government or any day which has been notified by the State Government to be a local holiday for the area in which the sale is to take place.

37W. Assistance By Police :-

The Tax Recovery Officer may apply to the officer-in-charge of the nearest police station for such assistance as may be necessary in the discharge of his duties, and the authority to whom such application is made shall depute a sufficient number of Police Officers for furnishing such assistance.

37X. Warrant :-

When any movable property is to be attached or distrained, the Tax Recovery Officer shall prepare a warrant under his signature in Form 42 specifying the name of the defaulter and the amount to be realised and cause a copy of the warrant to be served on the

defaulter.

37Y. Attachment :-

If, after service of the copy of the warrant, the amount is not paid forthwith, the Tax Recovery Officer shall proceed to attach or distrain the movable property of the defaulter.

37Z. Property In Defaulters Possession :-

Where the property proceeded against is movable property (other than agricultural produce) in the possession of the defaulter, it shall be distrained by actual seizure, and the officer shall keep the property in his own custody or the custody of one of his subordinates and shall be responsible for due custody thereof:

Provided that when the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, the officer may sell it at once.

37AA. Agricultural Produce :-

Where the property proceeded against is agricultural produce, it shall be attached by affixing a copy of the warrant.

(a) where such produce is growing crop-on the land on which such crop has grown; or

(b) where such produce has been cut or gathered on threshing floor or place for treading out grain or the like, or fodder stack, on or in which it is deposited, and another copy on the outer door or on some other conspicuous part of the house in which the defaulter ordinarily resides, or on some other conspicuous part of the house in which he carries on business or personally works for gain, or in which he is known to have last resided or carried on business or personally worked for gain. The produce shall, thereupon, be deemed to have passed into the possession of the Tax Recovery Officer.

37AB. Provision As To Agricultural Produce Under Attachment :-

(1) Where agricultural produce is distrained, the Tax Recovery Officer shall make such arrangements for the custody, watching, tending, cutting and gathering thereof as he may, deem sufficient; and the Assistant Commissioner of Agricultural Income-tax, shall

bear such amount as the Tax Recovery Officer shall require in order to defray the cost of such arrangements.

(2) Subject to such conditions as may be imposed by the Tax Recovery Officer in this behalf, either in the order of attachment or in any subsequent order, the defaulter may tend, cut, gather and store the produce and do any other act necessary for manuring or preserving it and, if the defaulter fails to do all or any such acts, any person appointed by the Tax Recovery Officer in this behalf may, subject to the like conditions, do all or any of such acts, and the costs incurred by such person shall be recoverable from the defaulter as if they were included in the certificate.

(3) Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require reattachment merely because it has been severed from the soil.

(4) Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Tax Recovery Officer may suspend the execution of the order for such time as he thinks fit, and may, in his discretion, make a further order prohibiting the removal of the crop pending execution of the order of attachment.

(5) A growing crop which from its nature does not admit of being stored shall not be attached under this rule at any time less than twenty days before the time at which it is likely to be fit to be cut or gathered.

37AC. Debts And Shares, Etc :-

(1) In the case of.

(a) a debt not secured by a negotiable instrument;

(b) a share in a corporation; or

(c) other movable property not in the possession of the defaulter except property deposited in, or in the custody of, any Court, it shall be attached and the attachment shall be made by a written order in Form 43 prohibiting.

(i) in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Tax Recovery Officer;

(ii) in the case of a share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;

(iii) in the case of any other movable property (except as

aforesaid), the person in possession of the same from giving it over to the defaulter.

(2) A copy of such order shall be affixed on some conspicuous part of the office of the Tax Recovery Officer and another copy shall be sent in the case of the debt, to the debtor, in the case of the share, to the proper officer of the corporation and in the case of the other movable property (except as aforesaid), to the person in possession of the same.

(3) A debtor prohibited under clause (i) of sub-rule (1) may pay the amount of his debt to the Tax Recovery Officer and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

37AD. Attachment Of Decrees :-

(1) Where the property proceeded against is a decree of a Civil Court for the payment of money or for sale in enforcement of a mortgage or charge it shall be attached and attachment shall be made by the issue to the Civil Court of a notice in Form 44 requesting the Civil Court to stay the execution of the decree unless and until.

(i) the Tax Recovery Officer cancels the notice; or

(ii) the Assistant Commissioner of Agricultural Income-tax or the defaulter applies to the Court receiving such notice to execute the decree.

(2) Where a Civil Court receives an application under clause (ii) of sub-rule (1), it shall, on the application of the Assistant Commissioner of Agricultural Income-tax or the defaulter and subject to the provisions of the Code of Civil Procedure, 1908 (5 of 1908), proceed to execute the attached decree, and apply the net proceeds in satisfaction of the certificate.

(3) The Assistant Commissioner of Agricultural Income-tax shall be deemed to be the representative of the holder of the attached decree, and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

37AE. Share In Movable Property :-

Where the property proceeded against consists of the share or interest of the defaulter in movable property belonging to him and another as co-owner, it shall be attached and the attachment shall

be made by a notice in Form 45 to the defaulter prohibiting him from transferring these share or interest or charging it in any way.

37AF. Attachment Of Negotiable Instrument :-

Where the property is a negotiable instrument not deposited in a Court nor in the custody of a Public Officer, it shall be distrained by the Tax Recovery Officer.

37AG. Attachment Of Property In Custody Of Courts Or Public Officer :-

Where the property proceeded against is in the custody of any Court or Public Officer, it shall be attached and the attachment shall be made by a notice in Form 46 to such Court or Officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Tax Recovery Officer by whom the notice is issued: Provided that, where such property is in the custody of a Court, any question of title or priority arising between the Assessing Authority and any other person, not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise shall be determined by such Court.

37AH. Attachment Of Partnership Property :-

(1) Where the property proceeded against consists of an interest of defaulter being a partner, in the partnership property, the Tax Recovery Officer may make an order charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared or accruing and of any other money which may become due to him in respect of the partnership, and direct accounts and enquiries and make an order for the sale of such interest or such other order as the circumstances of the case may require.

(2) The other persons shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.

37AI. Value Of Property :-

In the case of distraint, the seizure shall not be excessive, that is to say, the property seized shall be as nearly as possible proportionate to the amount specified in the warrant.

37AJ. Inventory :-

In the case of distraint of movable property by actual seizure, the Tax Recovery Officer shall, after seizure of the property, prepare an inventory of all the property attached, specifying in it the place where it is lodged or kept, and a copy of the inventory shall be delivered to the defaulter.

37AK. Seizure Between Sunrise And Sunset :-

Attachment by seizure shall be made after sunrise and before sunset and not otherwise.

37AL. Power To Break Open Door, Etc :-

The Tax Recovery Officer may break open any inner or outer door of any building and enter any building in order to seize any movable property if he has reasonable grounds to believe that such building contains movable property liable to seizure under the warrant and he has notified his authority and intention of breaking open if admission is not given. He shall however, give all reasonable opportunity to women to withdraw.

37AM. Sale :-

The Tax Recovery Officer may direct that any movable property attached or distrained under this Part or such portion thereof as may seem necessary to satisfy the certificate shall be sold.

37AN. Issue Of Proclamation :-

When any sale of movable property is ordered by the Tax Recovery Officer, the Tax Recovery Officer shall issue a proclamation in Form 47 in the language of the district, of the intended sale, specifying the time and place of sale and whether the sale is subject to confirmation or not.

37AO. Not Printed :-

37AP. Proclamation How Made :-

(1) Such proclamation shall be made by beat of drum or other customary mode.

(a) in the case of property distrained.

(i) in the village in which the property was seized or if the property was seized in a town or city, then in the locality in which it was seized; and

(ii) at such other places as the Tax Recovery Officer may direct;

(b) in the case of property attached otherwise than distraint in such places, if any, as the Tax Recovery Officer may direct.

(2) A copy of the proclamation shall also be affixed in a conspicuous part of the office of the Tax Recovery Officer.

37AQ. Sale After Fifteen Days :-

Except where the property is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, no sale of movable property under this Part shall, without the consent in writing of the defaulter, take place until after the expiry of at least fifteen days calculated from the date on which a copy of the sale proclamation was affixed in the office of the Tax Recovery Officer.

37AR. Sale Of Agricultural Produce :-

(1) Where the property to be sold is agricultural produce, the sale shall be held.

(a) if such produce is a growing crop on or near the land on which such crop has grown; or

(b) if such produce has been cut or gathered at or near the threshing floor or place of treading out grain or like, or fodder stack, on or in which it is deposited:

Provided that the Tax Recovery Officer may direct that the sale to be held at the nearest place of public resort, if he is of opinion that the produce is thereby likely to sell to greater advantage.

(2) Where, on the produce being put up for sale.

(a) a fair price, in the estimation of the Tax Recovery Officer is not offered for it; and

(b) the owner of the produce, or a person authorised to act on his behalf, applies to have the sale postponed till the next day or, if a market is held at the place of sale, the next market day, the sale shall be postponed accordingly, and shall be then completed, whatever price may be offered for the produce.

37AS. Special Provisions Relating To Growing Crops :-

(1) Where the property to be sold is a growing crop and the crop from its nature admits of being stored but has not yet been stored, the day of the sale shall be so fixed as to admit of the crop being made ready for storing before the arrival of such day, and the sale shall not be held until the crop has been cut or gathered and is ready for storing.

(2) Where the crop from its nature does not admit of being stored or can be sold to a greater advantage in an unripe stage (e.g., as green wheat), it may be sold before it is cut and gathered, and the purchaser shall be entitled to enter on the land, and to do all that is necessary for the purpose of tending or cutting or gathering the crop.

37AT. Sale To Be By Auction :-

The property shall be sold by public auction in one or more lots as the Tax Recovery Officer may consider advisable and if the amount to be realised by sale is satisfied by the sale of a portion of the property the sale shall be immediately stopped with respect to the remainder of the lots.

37AU. Sale By Public Auction :-

(1) Where movable property is sold by public auction, the price of each lot shall be paid at the time of sale or as soon as after the Tax Recovery Officer directs and in default of payment, the property shall forthwith be resold.

(2) On payment of the purchase money, the Tax Recovery Officer shall grant a certificate specifying the property purchased, the price paid and the name of the purchaser and the sale shall become absolute.

(3) Where the movable property to be sold is a share in goods belonging to the defaulter and a co-owner, and two or more

persons, of whom one is such co-owner, respectively bid the same sum for such property or for any lot, the bidding shall be deemed to be the bidding of the co-owner.

37AV. Irregularity Not To Vitate Sale, But Any Person Injured May Sue :-

No irregularity in publishing or conducting the sale of movable property shall vitiate the sale, but any person sustaining substantial injury by reason of such irregularity at the hands of any other person may institute a suit in a Civil Court against him for compensation, or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

37AW. Negotiable Instruments And Shares In A Corporation :-

Notwithstanding anything contained in this Part, where the property to be sold is a negotiable instrument or a share in a Corporation the Tax Recovery Officer may, instead of selling it by public auction, sell such instrument or share through a broker.

37AX. Order For Payment Of Coin Or Currency Notes To The Tax Recovery Officer :-

Where the property attached or distrained is currency coin or currency notes, the Tax Recovery Officer may, at any time during the continuance of the attachment or distraint direct that such coin or notes, or a part thereof sufficient to satisfy the certificate, be paid over to the Assistant Commissioner of Agricultural Income-tax. Attachment and sale of immovable property

37AY. Attachment :-

Attachment of the immovable property of the defaulter shall be made by an order in Form 48 prohibiting the defaulter from transferring or charging the property in any way and prohibiting all persons from taking any benefit under such transfer or charge.

37AZ. Service Of Notice Of Attachment :-

A copy of the order of attachment shall be served on the defaulter.

37BA. Proclamation Of Attachment :-

The order of attachment shall be proclaimed at some place on or adjacent to the property attached by beat of drum or other customary mode and a copy of the order shall be affixed on a conspicuous part of the property and on the Notice Board of the Office of the Tax Recovery Officer.

37BB. Attachment To Relate Back From The Date Of Service Of Notice :-

Where any immovable property is attached under this Part, the attachment shall relate back to, and take effect from, the date on which the notice to pay the arrears, issued under this Part, was served upon the defaulter.

37BC. Sale And Proclamation Of Sale :-

(1) The Tax Recovery Officer may direct that any immovable property which has been attached or such portion thereof as may seem necessary to satisfy the certificate, shall be sold.

(2) Where any immovable property is ordered to be sold, the Tax Recovery Officer shall cause a proclamation in Form 47 of the intended sale to be made in the language of the district.

37BD. Contents Of Proclamation :-

A proclamation of sale of immovable property shall be drawn after notice to the defaulter, and shall state the time and place of sale and shall specify, as fairly and accurately as possible.

(a) the property to be sold;

(b) the revenue, if any, assessed upon the property or any part thereof;

(c) the amount for the recovery of which the sale is ordered; and

(d) any other thing which the Tax Recovery Officer considers it material for a purchaser to know, in order to judge the nature and value of property.

37BE. Mode Of Making Proclamation :-

(1) Every proclamation for the sale of immovable property shall be

made at some place on or near such property by beat of drum or other customary mode, and a copy of proclamation shall be affixed on a conspicuous part of the property and also upon a conspicuous part of the office of the Tax Recovery Officer.

(2) Where the Tax Recovery Officer so directs, such proclamation shall also be published in the Official Gazette or in a local newspaper, or in both and the cost of such publication shall be deemed to be costs of the sale.

(3) Where the property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Tax Recovery Officer, otherwise be given.

37BF. Time Of Sale :-

No sale of immovable property under this Schedule shall, without the consent in writing of the defaulter, take place until after the expiration of at least thirty days calculated from the date on which a copy of the proclamation of sale has been affixed on the property or in the office of the Tax Recovery Officer, whichever is later.

37BG. Sale To Be By Auction :-

The sale shall be by public auction to the highest bidder and shall be subject to confirmation by the Tax Recovery Officer.

37BH. Deposit By Purchaser And Resale In Default :-

(1) On every sale of immovable property, the person declared to be the purchaser shall pay, immediately after such declaration, a deposit of twenty-five per cent of the amount of his purchase money, to the Tax Recovery Officer and in default of such deposit, the property shall forthwith be resold.

(2) The full amount of purchase money payable shall be paid by the purchaser to the Tax Recovery Officer on or before the fifteenth day from the date of the sale of the property.

37BI. Procedure In Default Of Payment :-

In default of payment within the period mentioned in the preceding rule, the deposit may, if the Tax Recovery Officer thinks fit, after defraying the expenses of the sale, be forfeited to the Government

and the property shall be resold and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

37BJ. Authority To Bid :-

All persons bidding at the sale shall be required to declare if they are bidding on their own behalf or on behalf of their principals. In the latter case, they shall be required to deposit their authority, and in default their bids shall be rejected.

37BK. Application To Set Aside Sale Of Immovable Property On Deposit :-

(1) Where immovable property has been sold in execution of a certificate, the defaulter, or any person whose interests are affected by the sale, may at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale, on his depositing.

(a) for payment to the Assistant Commissioner of Agricultural Income-tax, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, with interest thereon at the rate of six per cent per annum calculated from the date of the proclamation of sale to the date when the deposit is made; and

(b) for payment to the purchaser, as penalty, a sum equal to five per cent of the purchase money but not less than one rupee.

(2) Where a person makes an application under Rule 37-BL for setting aside the sale of his immovable property, he shall not, unless he withdraws application, be entitled to make or prosecute an application under this rule.

37BL. Application To Set Aside Sale Of Immovable Property On Ground Of Non-Service Of Notice Or Irregularity :-

Where immoveable property has been sold in execution of a certificate, the Assistant Commissioner of Agricultural Income-tax the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale of the immovable property on the ground that notice was not served on

the defaulter to pay the arrears as required by this Part or on the ground of a material irregularity in publishing or conducting the sale:

Provided that.

(a) no sale shall be set aside on any such ground unless the Tax Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of the non-service or irregularity; and

(b) an application made by a defaulter under this rule shall be disallowed unless the applicant deposits the amount recoverable from him in execution of the certificate.

37BM. Setting Aside Sale Where Defaulter Has No Saleable Interest :-

At any time within thirty days of the sale, the purchaser may apply to the Tax Recovery Officer to set aside the sale on the ground that the defaulter had no saleable interest in the property sold.

37BN. Confirmation Of Sale :-

(1) Where no application is made for setting aside the sale under the foregoing rules or where such an application is made and disallowed by the Tax Recovery Officer, the Tax Recovery Officer shall (if the full amount of the purchase money has been paid) make an order confirming the sale and thereupon the sale shall become absolute.

(2) Where such application is made and allowed and where, in the case of an application made to set aside the sale on deposit of the amount and penalty and charges, the deposit is made within thirty days from the date of the sale, the Tax Recovery Officer shall make an order setting aside the sale:

Provided that no order shall be made unless notice of the application has been given to the person affected thereby.

37BO. Return Of Purchase Money In Certain Cases :-

When a sale of immovable property is set aside, any money paid or deposited by the purchaser on account of the purchase, together with the penalty, if any, deposited for payment to the purchaser, and such interest as the Tax Recovery Officer may allow, shall be paid to the purchaser.

37BP. Sale Certificate :-

(1) Where a sale of immovable property has become absolute, the Tax Recovery Officer shall grant a certificate in Form 49 specifying the property sold, and the name of the person who at the time of sale is declared to be the purchaser.

(2) Such certificate shall state the date on which the sale became absolute.

37BQ. Postponement Of Sale To Enable Defaulter To Raise Amount Due Under Certificate :-

(1) Where an order for the sale of immovable property has been made, if the defaulter can satisfy the Tax Recovery Officer that there is reason to believe that the amount of the certificate may be raised by the mortgage or lease or private sale of such property, or some part thereof, or of any other immovable property of the defaulter, the Tax Recovery Officer may, on his application, postpone the sale of the property comprised in the order for sale, on such terms and for such period as he thinks proper, to enable him to raise the amount.

(2) In such case, the Tax Recovery Officer shall grant a certificate to the defaulter, authorising him, within a period to be mentioned therein, and notwithstanding anything contained in this part, to make the proposed mortgage, lease or sale:

Provided that all moneys payable under such mortgage, lease or sale shall be paid, not to the defaulter, but to the Tax Recovery Officer:

Provided also that no mortgage, lease or sale under this rule shall become absolute until it has been confirmed by the Tax Recovery Officer.

37BR. Fresh Proclamation Before Resale :-

Every resale of immovable property, in default of payment of the purchase money within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore provided for the sale.

37BS. Bid Of Co-Sharer To Have Preference :-

When the property sold is a share of undivided immovable property and two or more persons, of whom one is a co-sharer, respectively bid the same sum of such property or for any lot, the bid shall be deemed to be the bid of the co-sharer.

37BT. Power To Take Evidence :-

Every Tax Recovery Officer or other acting under this Part shall have the powers of Civil Court while trying a suit for the purpose of receiving evidence, administering oaths, enforcing the attendance of witness and compelling the production of documents.

37BU. Appeals :-

(1) An appeal from any original order passed by the Tax Recovery Officer under this Part not being an order which is conclusive, shall lie.

(a) in the case of a Tax Recovery Officer, being the Assistant Commissioner of Agricultural Income-tax to the authority to which appeals lie against the orders of the Assistant Commissioner of Agricultural Income-tax under Section 32; and

(b) in any other case, to the Assistant Commissioner of Agricultural Income-tax.

(2) Every appeal under this Rule must be presented within thirty days from the date of the order appealed against.

(3) Pending the decision of any appeal, execution of the certificate may be stayed if the Appellate Authority so directs, but not otherwise.

37BV. Review :-

Any order passed under this Part may, after notice to all persons interested be reviewed by the Officer who made the order, or by his successor-in-office, on account of any mistake apparent from the record.

37BW. Recovery From Surety :-

Where any person has under this Part become surety for the amount due by the defaulter, he may be proceeded against under this Part as if he were the defaulter.

37BX. Saving Regarding Charge :-

Nothing in this Part shall affect any provision of the Act whereunder the tax is a first charge upon any asset.