

## **Madras Plantations Agricultural Income-Tax Act, 1955**

**05 of 1955**

**[30 March 1955]**

### CONTENTS

#### **CHAPTER 1 :- PRELIMINARY**

1. Short title and extent
2. Definitions

#### **CHAPTER 2 :- CHARGE OF AGRICULTURAL INCOME-TAX**

3. Charge of Agricultural Income-tax
4. Total agricultural income
5. Computation of agricultural income
6. Assessment of income derived from plantations partly within the State and partly without
7. Method of accounting
8. Liability of Court of Wards, Administrator-General, etc.
9. Income from settlement, disposition, etc.
10. Exemption From assessment of income-tax
11. Nonresidents
12. Carrying forward of loss
13. Supply of information regarding dividends

#### **CHAPTER 3 :- INCOME-TAX AUTHORITIES**

14. Income-tax authorities

#### **CHAPTER 4 :- APPELLATE TRIBUNAL**

15. The Appellate Tribunal

#### **CHAPTER 5 :- RETURN OF INCOME, ASSESSMENT, ETC.**

16. Return of income
17. Assessment of income
18. Power to make provisional assessment in advance of regular assessment
19. Cancellation of assessment in certain cases
20. Penalty for concealment of income
21. power to assess individual members of certain associations
22. Assessment in case of departure from the State
23. Assessment in case of transfer of right in plantation

- 24. Tax of deceased person payable by representative
- 25. Assessment in case of discontinued business of company, firm or association
- 26. Liability in case of discontinued business or firm or association
- 27. Procedure in registration of firms
- 28. Change in constitution of a firm and succession to business
- 29. Assessment after partition of a Hindu undivided family, an Aliasantana family Or branch or Marumakkattayam tarwad Or tavazhi
- 30. Notice of demand
- 31. Appeal against assessment
- 32. Appeals against orders of Assistant Commissioner
- 33. Appellate against an order of refusal to refund
- 34. Revision
- 35. Income escaping assessment
- 36. Rectification of mistake
- 37. [Omitted]
- 38. Power to take evidence on oath, etc.
- 39. Power to call for information, etc.

## **CHAPTER 6 :- RECOVERY OF TAX AND PENALTIES**

- 40. Recovery of tax and penalties
- 41. Mode and time of recovery
- 42. Right, title and interest in property sold for arrears of tax in certain cases
- 43. Recovery of penalties

## **CHAPTER 7 :- REFUNDS**

- 44. Refunds
- 45. Refunds admissible under rules
- 46. Power to set off amount of refund against tax remaining payable<sup>1</sup>
- 47. Power of representative of deceased person or persons disabled to make claim on his behalf
- 48. Limitation of claims for refund

## **CHAPTER 8 :- OFFENCES AND PENALTIES**

- 49. False statements in declaration
- 50. Failure to furnish return or to supply information
- 51. Prosecution to be at the instance of the Assistant Commissioner
- 52. Disclosure of information by public servant

## **CHAPTER 9 :- MISCELLANEOUS**

- 53. Place of assessment
- 54. Revision by High Court
- 55. Appearance by authorized representative
- 56. Receipt to be given
- 57. Indemnity

- 58. Manner of service of notice
- 59. Power to grant extension of time for returns, etc.
- 60. Power to inspect registers of members of company, etc.
- 61. Power to make rules
- 62. Bar of suits in Civil courts
- 63. Computation of period of limitation
- 64. Amendment of Madras Act XIX of 1954
- 65. Composition of agricultural income-tax

## **SCHEDULE 1 :- SCHEDULE**

### **Madras Plantations Agricultural Income-Tax Act, 1955**

**05 of 1955**

**[30 March 1955]**

#### **PREAMBLE**

An Act to provide for the levy of a tax on agricultural income from plantations in the State of Madras.

Whereas it is expedient to provide for the levy of a tax on agricultural income from plantations in the State of Madras;

Be it enacted in the Sixth Year of the Republic of India as follows:--

1 For Statement of Objects and Reasons, see Fort St. George Gazette, Extraordinary, dated the 28th July 1954, part IV-A, pages 261-262.

#### **CHAPTER 1 PRELIMINARY**

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

(1) This Act may be called the Madras Plantations Agricultural Income-tax Act, 1955.

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

##### **2. Definitions :-**

In this Act, unless the context otherwise requires --

(a) "agricultural income" means--

(1) any rent or revenue derived from a plantation;

(2) any income derived from such plantation in the State 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 by him fit to be taken to market, or

(iii) the sale by a 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 sub-clause (ii);

Explanation I.--Agricultural income derived from such plantation by the cultivation of tea means that portion of the income derived from the cultivation, manufacture and sale of tea as is defined to be agricultural income for the purpose of the enactments relating to Indian Income-tax;

Explanation II.--Agricultural income derived from such plantation by the cultivation of coffee, rubber, cinchona or cardamom means that portion of the income derived from the cultivation, manufacture and sale of coffee, rubber, cinchona or cardamom, as the case may be, as may be defined to be agricultural income for the purposes of the enactments relating to Indian Income-tax;

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

Provided that the building is on or in the immediate vicinity of the plantation, 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 connexion with the plantation, requires as a dwelling-house or as a store-house or other out-building;

(b) "agricultural income-tax" means the tax payable under this Act;

(c) "Agricultural Income-tax Officer" means a person appointed to be an Agricultural Income-tax Officer under section 14;

(d) " Aliyasantana family or branch " means a family or branch governed by the Madras Aliyasantana Act, 1949 (Madras Act IX of 1949);

(e) " assessee " means a person by whom agricultural income-tax or any other sum of money is payable under this. Act and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of his agricultural income or of the loss sustained by him or of the amount of refund due to him;

(f) "Assistant Commissioner" means the person appointed as Assistant Commissioner of Agricultural Income-tax under section 14;

(g) " Collector " means the Collector or other officer in charge of a district;

(h) " Commissioner" means the person appointed to be the

Commissioner of Agricultural Income-tax under section 14;

(i) "Company" means a company as defined in <sup>1</sup>the Indian Companies Act, 1913 (Central Act VII of 1913), or formed in pursuance of an Act of parliament of the United Kingdom, or of Royal Charter or Letters Patent or by an, Act of the Legislature of a British possession and includes any foreign association, whether incorporated or not, which the Government may, by general or special order, declare to be a company for the purposes of this Act;

(j) " 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 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 capitalized or not;

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

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 capitalized 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";

(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 also include any person who being a minor has been admitted to the benefits of partnership;

(m) " Government" means the State Government;

(n) " Hindu undivided family" includes a family governed by the Madras Nambudiri Act, 1932 (Madras Act XXI of 1933);

(o) " landlord " means any individual who receives rent for

plantation either in cash or kind from a tenant;

(p) " Marumakkattayam tarwad or tavazhi" means a tarwad or tavazhi governed by the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1933), or the Mappilla Marumakkattayam Act, 1938 (Madras Act XVII of 1939); and in the case of a tavazhi possessing separate properties the provisions of this Act shall apply as if the tavazhi were a tarwad;

(q) " person " means any individual or association of individuals, owning 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 recognized by law, and includes an undivided Hindu Mitakshara family, an Aliyasantana family or branch, a Marumakkattayam tarwad or a tavazhi possessing separate properties, or a Nambudiri or other family to which the rule of impartibility applies, a firm or a company, an association of individuals, whether incorporated or not, and any institution capable of holding property;

(r) " plantation " means any land used for growing all or any of the following, namely, tea, coffee, rubber, cinchona or cardamom;

(s) "prescribed" means prescribed by rules made under this Act;

(t) " previous year " means--

(i) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of any year ending on any date other than the said 31st day of March, then, at the option of the assessee, the year ending on the day to which his accounts have so been made up:

Provided that, if the option has once been exercised by an assessee, he shall not exercise it again so as to vary the meaning of the expression "previous year" as then applicable to him except with the consent of the Agricultural Income-tax Officer and upon such conditions as he may think fit; or

(ii) such period as may be determined by the Commissioner in the particular case of any person or class of persons;

(u) "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 Agricultural Income-tax Officer has served a notice of his

intention of treating him as principal officer thereof;

(v) " registered firm " means a firm registered under the provisions of section 27;

(w) " State" means the State of Madras;

( x ) "total agricultural income" means the aggregate of all agricultural income mentioned in section 4 computed in accordance with the provisions of section 5 and includes all income of the description specified in section 9 and all the receipts of the description specified in Section 10.

1 See now the Companies Act, 1956 (Central Act I of 1956).

## **CHAPTER 2 CHARGE OF AGRICULTURAL INCOME-TAX**

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

(1) Agricultural income-tax at the rate or rates specified in Part I of the Schedule to this Act shall be charged for each financial year commencing from the 1st April 1955 in accordance with and subject to the provisions of this Act, on the total agricultural income of the previous year of every person.

(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 Charge of agricultural income-tax. same proportion as the unexempted portion of the total agricultural income bears to the total agricultural income.

(3) In the case of persons holding property as tenants-in-common and deriving agricultural income, the tax shall be assessed at the rate applicable to the agricultural income of each tenant-in-common.

### **4. Total agricultural income :-**

Subject to the provisions of this Act, the total agricultural income of any previous year of any person comprises all agricultural income derived from a plantation situated within the State and received by him within or without the State, but does not include--

(a) any agricultural income derived from a plantation situated without the State;

(b) any agricultural income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such purposes, the income applied thereto.

Explanation---In this section, "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility.

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

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 land revenue due to the Government, local rates and cesses and municipal taxes in respect of plantations;

(b) any rent paid in the previous year to the landlord or superior landlord, as the case may be, in respect of the plantation from which the agricultural income is derived;

(c) any expenses incurred in the previous year on the maintenance of any protective work constructed for the benefit of the plantation from which the agricultural income is derived;

Explanation.--"Maintenance" includes current repairs and includes also, in the case of protective dykes and embankments, all such work as may be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes;

(d) any expenses incurred in the previous year on maintenance and repairs in respect of any capital asset which was purchased or constructed for the benefit of the plantation from which the agricultural income is derived;

(e) any expenditure incurred in the previous year (not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of the plantation;

(f) in respect of depreciation of buildings, machinery, plant and furniture which are the property of the assessee and 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 newly installed, a further sum subject to such conditions as may be prescribed:

Provided that the prescribed particulars have been duly furnished:



Provided further that 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.--In this clause, "buildings" include all structures constructed with a view to provide amenities to workers [as defined in the Plantations Labour Act, 1951 (Central Act LXIX of 1951)], employed on the plantations;

(g) expenses other than capital expenditure incurred in the previous year of cultivating the crop from which the 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:

Provided that in any particular year the total replanting expenditure shall not exceed the amount necessary for replanting  $2\frac{1}{2}$  per cent of the acreage if the crop is rubber or coffee,  $1\frac{2}{3}$  per cent if the crop is tea and  $8\frac{1}{3}$  per cent if the crop is cardamom, and 10 per cent if the crop is cinchona;

(h) any tax, cess or rate paid on the cultivation or sale of the crop from which such agricultural income is derived;

(i) 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 realized by sale of the cattle or implements replaced or their estimated value;

(j) 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 or insurance against loss or damage in respect of building, machinery, plant and furniture necessary for the purpose of deriving the agricultural income;

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 Indian Income-tax Act, 1922 (Central Act XI of 1922);

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

Provided that the need for borrowing was genuine having due regard to the assets of the assessee at the time:

Provided further that the interest allowed under this clause shall be

limited to six per cent on an amount equivalent to twenty-five per cent of the agricultural income from the plantation in that year;

(l) any sum paid to a worker as defined in the Plantations Labour Act, 1951 (Central Act LXIX of 1951), as bonus for services rendered where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus:

Provided that the bonus is of a reasonable amount with reference to --

(i) the wages and conditions of service of such worker;

(ii) the income from the plantation in the year in question; and

(iii) the general practice in plantations:

Provided that no deduction shall be made under this section if it has already been made in the assessment under the Indian Income-tax Act, 1922 (Central Act XI of 1922), or is allowable in assessing a person to tax under that Act.

Explanation.--For the purpose of this section, "paid" means actually paid or incurred according to the method of accounting upon the basis of which agricultural income is computed under this section; "plant" includes vehicles and scientific apparatus purchased for the purpose of deriving the agricultural income; and "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.

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

Where agricultural income is derived from plantations 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 plantations 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 Agricultural Income-tax Officer, the agricultural income cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as may be prescribed.

#### **8. 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 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 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

plantations 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 plantations at the rate which would be applicable if such person had held the plantations exclusively for his own benefit.

(b) Any person holding such plantations 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).

Explanation.--In this section "beneficiary " means a person entitled to the whole or any portion of the income derived from the plantation.

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

(1) In computing the total agricultural income of an assessee, 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 the property of the settlor or disposer shall be deemed to be the agricultural income of the settlor or disposer, 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 provision for the re-transfer directly or indirectly of the agricultural income or assets to the settlor, disposer or transferor or in any way gives the settlor, disposer 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 disposer " 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.

(2) In computing the total agricultural income of any individual for the purpose of assessment, there shall be included --

(a) so much of the agricultural income of a wife or minor child of such individual as arises directly or indirectly--

(i) from the membership of the wife in a firm of which her "husband is a partner;

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

(iii) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart; or

(iv) from assets transferred directly or indirectly to the minor child not being a married daughter by such individual otherwise than for adequate consideration; and

(b) so much of the agricultural income of any person or association of persons as arises from assets transferred otherwise than for adequate consideration to the person or association by such individual for the benefit of his wife or minor child or both.

#### **10. 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, an Aliyasantana family or branch or a Marumakkattayam tarwad or tavazhi, if he receives such sum as a member of the family or tarwad or tavazhi 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;

(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;

(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 9.

## **11. Nonresidents :-**

(1) A person who is residing outside the State and who is in receipt of agricultural income from a plantation in the State shall be liable to pay tax on such income; if the non-resident person has an agent in the State, such person and the agent shall be jointly and severally liable for the tax. The assessment may be made either in the name of the non-resident person or his agent or both; and where the assessment is made in the name of the agent, such agent shall be deemed to be, for 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 Agricultural Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for 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 an opportunity of being heard, by the Agricultural Income-tax Officer 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.

## **12. 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:

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.

## **13. Supply of information regarding dividends :-**

The principal officer of every company shall, on or before the 15th day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to

whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each such shareholder.

### **CHAPTER 3 INCOME-TAX AUTHORITIES**

#### **14. Income-tax authorities :-**

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

- (a) The Board of Revenue;
- (b) The Commissioner of Agricultural Income-tax;
- (c) Assistant Commissioners of Agricultural Income-tax;
- (d) Agricultural Income-tax Officers;

(2) (a) The authorities specified in clauses (6) to (d) of sub-section (1) shall be appointed by the Government.

(b) The authorities specified in sub-section (1) shall exercise and perform in such areas, such powers and duties as the Government may, by notification in the Fort St. George Gazette, determine.

(3) The Government may, by notification in the Fort St. George Gazette, empower any other officers 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 (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 the Board of Revenue:

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

### **CHAPTER 4 APPELLATE TRIBUNAL**

#### **15. The Appellate Tribunal :-**

(1) The Government shall from time to time appoint, as and when may be necessary, an Appellate Tribunal consisting of one but not more than three members:

Provided that the member, or as the case may be, at least one member, of the Tribunal, shall be a Judicial Officer not below the rank of District Judge, or an advocate of not less than ten years standing.

(2) Where the Appellate Tribunal consists of more than one member, the judicial officer shall be its Chairman.

(3) Where the Appellate Tribunal consists of three members, the following provisions shall apply:--

(a) The functions of the Appellate Tribunal may be exercised by a Bench consisting of all the members of the Tribunal or by a Bench consisting of two members constituted by the Chairman or, in the event of the office of a member other than the Chairman being vacant, by a Bench consisting of the Chairman and the other member:

Provided that, if any case which comes before a Bench (of which the Chairman is not a member) involves a question of law, the Bench may, in its discretion, reserve such case for decision by a Bench to be constituted under this clause of which the Chairman shall be a member.

(b) Where an appeal is heard by all the three members of the Tribunal, and the members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority.

(c) Where an appeal is heard by a Bench consisting of two members, and the members are divided in their opinion on any point, the point shall be found against the appellant and the members shall, after delivering their separate opinions, pronounce a joint judgment announcing the result of the finding, if any, on which they are agreed and of the findings recorded against the appellant on points on which they are divided.

(4) Subject to the provisions of this Act, the Appellate Tribunal shall have power to determine the times and places of its sittings and to regulate its own procedure and the procedure in all matters arising out of the discharge of its functions.

## **CHAPTER 5 RETURN OF INCOME, ASSESSMENT, ETC.**

### **16. 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 shall furnish to the Agricultural Income-tax Officer so as to reach him before the 1st June every year a return in the prescribed form and verified in the



prescribed manner, setting forth his total agricultural income during the previous year.

(2) In the case of any person whose total agricultural income is, in the opinion of the Agricultural Income-tax Officer, of such amount as to render such person liable to, payment of agricultural income-tax in any financial year, he may serve in that year 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.

(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 subsections 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.

(4) The Agricultural Income-tax Officer 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, or to furnish in writing and verified in the prescribed manner information in such form and on such points or matters (including with the previous approval of the Commissioner a statement of all assets and liabilities not included in the accounts) as such officer may require for the purposes of this section:

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.

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

(1) If the Agricultural Income-tax Officer is satisfied that a return made under section 16 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 Agricultural Income-tax Officer 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 the office of the Agricultural Income-tax Officer 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 Agricultural Income-tax Officer, after considering such evidence as such person may produce and such other evidence as that officer may require on specified points, 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 subsection (2) of section 16, 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 Agricultural Income-tax Officer shall make the assessment to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment, and, in the case of a firm, may refuse to register it or may cancel its registration, if it is already registered:

Provided that the registration of a firm shall not be cancelled until fourteen days have elapsed from the issue of a notice by the Agricultural Income-tax Officer to the firm intimating his intention to cancel its registration.

(5) Notwithstanding anything contained in the foregoing sub-sections, when the assessee is a firm and the total income of the firm has been assessed under sub-section (1), sub-section (3) or sub-section (4), as the case may be--

(a) in the case of a registered firm, the sum payable by the firm itself shall not be determined but the total income of each partner of the firm including therein his share of its income, profits and gains of the previous year, shall be assessed, and the sum payable by him on the basis of such assessment shall be determined:

Provided that, if such share of any partner is a loss, it shall be set off against his other income or carried forward and set off in accordance with the provisions of section 12:

Provided further that, when any of such partners is a person not resident in the State, his share of the income, profits and gains of the firm shall be assessed on the firm at the rates which would be applicable if it were assessed on him personally, and the sum so determined shall be paid by the firm; and

(b) in the case of an unregistered firm, the Agricultural Income-tax Officer may, instead of determining the sum payable by the firm itself, proceed in the manner laid down in clause (a) as applicable

to a registered firm, if, in his opinion, the aggregate amount of the tax payable by the partners under such procedure would be greater than the aggregate amount which would be payable by the firm and the partners individually if the firm were assessed as an unregistered firm.

(6) 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 12, the Agricultural Income-tax Officer shall notify to the assessee by order in writing the amount of the loss as computed by him.

### **18. Power to make provisional assessment in advance of regular assessment :-**

(1) The Agricultural Income-tax Officer may, at any time after the receipt of a return made under section 16, 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 the allowance referred to in section 12.

(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) A firm may be provisionally assessed under subsection (1) as if it were an unregistered firm, unless the firm fulfils such conditions as the Government may, by notification in the Fort St. George Gazette, specify in that behalf.

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

(5) For the avoidance of doubt, it is hereby declared that the provisions of sections 40 and 41 apply in relation to any tax payable in pursuance of a provisional assessment made under sub-section (1), as if it were a regular assessment made under section 17.

(6) After a regular assessment has been made under section 17, any amount 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 towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee.

(7) Nothing done or suffered by reason or in consequence of any

provisional assessment made under this section shall prejudice the determination of the merits, of any issue which may arise in the course of the regular assessment under section 17.

### **19. 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 Agricultural Income-tax Officer that he was prevented by sufficient cause from making the return required by section 16 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 17 or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of any such notice, the Agricultural Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 17.

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

(1) If the Agricultural Income-tax Officer, the Assistant Commissioner, the Commissioner or the Appellate Tribunal 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 (1) or sub-section (2) of section 16, 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 16 or by a notice served under sub-section (2) of that section, or

(c) has concealed the particulars of his agricultural income or has deliberately furnished inaccurate particulars of such income, he or it may direct that such person shall pay by way of penalty, in addition to the amount of agricultural income-tax, if any, payable by him, a sum not exceeding that amount:

Provided that--

(a) no penalty shall be imposed under this subsection upon a person who has failed to furnish a return under sub-section (1) of section 16, 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) of section 16 and proves that he has no income liable to tax, the penalty imposable under this subsection shall not exceed twenty-five 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 for failure to furnish the return required under section 16 unless a notice under sub-section (2) thereof or under section 35 has been served on him;

(d) when the person liable to penalty is a registered firm, or an unregistered firm treated under section 17(5) (b) as a registered firm, so that the amount of the agricultural income-tax payable by the firm itself has not been determined, that amount shall be taken to be an amount equal to the tax which would have been payable by an unregistered firm on an income equal to the firms total agricultural income, and in the cases referred to in clauses (b) and (c), the amount of the agricultural income-tax which would have been avoided if the income as returned had been accepted as the correct income, shall be taken to be the difference between the amount of the tax which would have been payable by an unregistered firm on an income equal to the firms total agricultural income and the amount of the tax payable by an unregistered firm on income equal to the income of the firm as actually returned by the firm.

(2) If the Agricultural Income-tax Officer, the Assistant Commissioner, the Commissioner or the Appellate Tribunal in the course of any proceedings under this Act, is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of the partnership registered under this Act governing such distribution, and that any partner has thereby returned his income below its real amount, he or it may direct that such partner shall in addition to the agricultural income-tax payable by him pay by way of penalty a sum not exceeding the amount of agricultural income-tax which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income; and no refund or other adjustment shall be claimable by any other partner by reason of such direction.

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

(4) 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).

(5) The Appellate Tribunal, the Commissioner or the Assistant Commissioner shall, on making an order under sub-section (1),

send forthwith a copy of the same to the Agricultural Income-tax Officer concerned.

**21. power to assess individual members of certain associations :-**

(1) Where the Agricultural Income-tax Officer is satisfied that any association of individuals other than a Hindu undivided family, and Aliyasantana family or branch, Maru-makkattayam 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 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.--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 Commissioner of Agricultural Income-tax shall not give his approval to any order proposed to be passed by the Agricultural Income-tax Officer, 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 agricultural income-tax is recoverable from an association under this section, a notice of demand shall be served upon it in the prescribed form 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 VI.

**22. Assessment in case of departure from the State :-**

(1) Where it appears to the Agricultural Income-tax Officer that any person intends to alienate his right, title and interest in any plantation in the State and that such person may leave the State during the financial year or shortly after its expiry and that he has no present intention of returning, the Agricultural Income-tax

Officer may proceed to assess him on his total agricultural income for the period from the expiry of the last previous year for which he has been assessed to the probable date of his departure from the State. For each completed previous year included in this period, an assessment shall be made on the total agricultural income of such person at the rate at which it would have been charged had such income been fully assessed, and for the period from the expiry of the last of such previous years to the probable date of departure, the Agricultural Income-tax Officer shall estimate the total agricultural income of such person and assess it at the rate applicable to the agricultural income:

Provided that nothing herein contained shall authorize an Agricultural Income-tax Officer to assess any agricultural income which has escaped assessment or has been assessed at too low a rate in respect of which he is debarred from issuing a notice under section 35.

(2) For the purpose of making an assessment under sub-section (1), the Agricultural Income-tax Officer may serve a notice upon such person requiring him to furnish, Within such time not being less than seven days as may be specified in the notice, a return in the same form and verified in the same manner as a return under sub-section (2) of section 16, setting forth, along with such other particulars as may be provided for in the notice, his total agricultural income for each of the completed previous years comprised in the period first referred to in sub-section (1) and his estimated total agricultural income for the period from the expiry of the last such completed previous year to the probable date of his departure, and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under sub-section (2) of section 16.

### **23. Assessment in case of transfer of right in plantation :-**

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

Provided that when 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 years preceding that year shall be made on the transferee in like manner

and to the same amount as it would have been made on the transferor, or when the tax in respect of the assessment made for any or all of such years assessed 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 of any tax so paid.

#### **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, 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 as 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 16 or under section 35, 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 16 or under section 35, as the case may be, comply therewith, and the Agricultural Income-tax Officer 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 16, or having furnished a return which the Agricultural Income-tax Officer 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 executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which he might under section 16 or section 17 have acquired from the deceased person.

#### **25. Assessment in case of discontinued business of company, firm or association :-**

(1) Where agricultural income is received by a company, firm or association of persons and the business through which such income is received is discontinued in any year, an assessment may be



made in that year on the basis of the agricultural income received during the period between the end of the previous year and the date of such discontinuance, in addition to the assessment, if any, made on the basis of the agricultural income received in the previous year.

(2) Any person discontinuing any such business shall give to the Agricultural Income-tax Officer notice of such discontinuance within fifteen days thereof and where any person 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 a company, firm or association of persons up to the date of the discontinuance of the business.

(3) Where an assessment is to be made under sub-section (1), the Agricultural Income-tax Officer may serve on the person whose agricultural income is to be assessed or, in the case of a firm, on any person who was a member of such firm at the time of its discontinuance 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 16 and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that subsection.

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

Where agricultural income is received by a firm or association of persons and the business of such firm or association is discontinued or such firm or association is dissolved, every person who was at the time of such discontinuance or dissolution a partner of such firm or member of such association, shall be jointly and severally liable to assessment on such agricultural income and for the amount of agricultural income-tax payable under this Act by such firm or association and all the provisions of this Act shall, so far as may be, apply to such assessment.

## **27. Procedure in registration of firms :-**

(1) Application may be made to the Agricultural Income-tax Officer on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners, for registration for the purposes of this Act and of any other enactment for the time being in force relating to agricultural income-tax.

(2) The application, shall be made by such person or persons and at such times and shall contain such particulars and shall be in such form, and be verified in such manner, as may be prescribed, and it shall be dealt with by the Agricultural Income-tax Officer in such manner as may be prescribed.

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

(1) Where at the time of making an assessment under section 17, 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 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.

**29. Assessment after partition of a Hindu undivided family, a n Aliyasantana family Or branch or Marumakkattayam tarwad Or tavazhi :-**

(1) Where at the time of making an assessment under section 17, it is claimed by or on behalf of any member of r. Hindu undivided family, an Aliyasantana family or branch or a Marumakkattayam tarwad or tavazhi hitherto assessed as undivided that a partition has taken place among the members or groups of members of such

family, branch, tarwad or tavazhi, the Agricultural Income-tax Officer shall make such inquiry thereinto as he may think fit, and if he is satisfied that the joint family property has been partitioned among the various members or groups of members in definite portions, 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 proscribed.

(2) Where such an order has been passed, the Agricultural Income-tax Officer 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 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 10, 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 Agricultural Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 17:

Provided that all the members and groups of members whose family, branch, tarwad or tavazhi property has been partitioned 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.

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

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

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

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

(1) Any assessee objecting to the amount of income assessed or

tax determined or loss computed under section 17 or denying his liability to be assessed under this Act or objecting to any order under any of the provisions of sections 19, 20, 21, 25, 29 and 41 made by the Agricultural Income-tax Officer or to the cancellation by him of the registration of a firm or to the refusal to register a firm may appeal to the Assistant Commissioner against the assessment or against such order:

Provided that no appeal shall lie in respect of an assessment made under sub-section (4) of section 17.

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

(3) The appeal shall be presented within a period of thirty days from the date of service of the order; but the Assistant Commissioner may admit an appeal presented after the expiration of the said period, if he is satisfied that the appellant had sufficient cause for not presenting it within the said period.

(4) The Assistant Commissioner 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 he thinks fit:

Provided that on the application of the appellant and at his cost the Assistant Commissioner may, in appropriate cases, issue a commission to ascertain and report the yield and cultivation expenses or the rent and collection charges of the properties of the assessee included in the assessment order, and orders on the appeal shall be passed only after considering the said report.

(5) In disposing of an appeal, the Assistant Commissioner 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 Agricultural Income-tax Officer to make a fresh assessment after such further enquiry 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 of being heard against such enhancement:

Provided further that at the hearing of any appeal against an order of an Agricultural Income-tax Officer, the Agricultural Income-tax Officer shall have the right to be heard either in person or by a representative.

(6) Where, as the result of an appeal, any change is made in the

assessment of a firm or association of persons or a new assessment of a firm or association of persons is ordered to be made, the Assistant Commissioner may authorise the Agricultural Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association.

(7) The Assistant Commissioner shall, on the conclusion of the appeal, communicate the orders passed by him to the assessee and to the Commissioner.

### **32. Appeals against orders of Assistant Commissioner :-**

(1) Any assessee objecting to an order passed by an Assistant Commissioner under section 20 or section 31 may appeal to the Appellate Tribunal within sixty days of the date on which such order is communicated to him.

(2) The Commissioner may, if he objects to any order passed by an Assistant Commissioner under section 31, direct the Agricultural Income-tax Officer to appeal to the Appellate Tribunal against such order, and such appeal may be presented within sixty days of the date on which the order is communicated to the Commissioner by the Assistant Commissioner.

(3) The Appellate Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period.

(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner, and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of five per cent of the sum appealed against, subject to a minimum of twenty-five rupees and a maximum of one hundred rupees.

(5) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and shall communicate any such orders to the assessee and to the Commissioner.

(6) Where, as the result of an appeal, any change is made in the assessment of a firm or association of persons or a new assessment of a firm or association of persons is ordered to be made, the Appellate Tribunal may authorise the Agricultural Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association.

(7) Save as provided in section 54, orders passed by the Appellate

Tribunal on appeal shall be final.

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

The provisions of sections 31 and 32 shall, so far as may be, apply to any order of refusal of any refund admissible under this Act or the rules made thereunder.

### **34. Revision :-**

(1) The Commissioner may, of his own motion or on application by an assessee, call for the record of any proceeding under this Act which has been taken by any authority subordinate to him and may make such enquiry or cause such enquiry to be made and, subject to the provisions of this Act, may pass such orders thereon as he thinks fit:

Provided that he shall not pass any order prejudicial to an assessee without hearing him or giving him a reasonable opportunity of being heard:

Provided further that an order passed declining to interfere shall not be deemed to be an order prejudicial to the assessee.

(2) The Commissioner shall not revise any order under sub-Section (1) if--

(a) where an appeal against an order lies to the Appellate Tribunal, the time within which such appeal may be made has not expired; or

(b) where an appeal against the order has been made to the Appellate Tribunal, the appeal is pending before it; or

(c) the order has been made more than one year previously.

(3) Every application by an assessee under sub-section (1) shall be accompanied by a fee of fifty rupees.

(4) Any order passed under sub-section (1) shall, subject to revision by the High Court under section 54, be final.

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

If for any reason 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 Agricultural Income-tax Officer may, at any time, within three 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 16 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.

### **36. Rectification of mistake :-**

(1) The authority which passed an order on appeal or revision may at any time within three years from the date of such order passed by him on appeal or in revision and the Agricultural Income-tax Officer may at any time within three years from the date of any assessment or refund order passed by him, of his own motion, rectify any mistake apparent from the record of the appeal, revision, assessment or refund, as the case may be, and shall, within the like period, rectify any such mistake which has been brought to his notice by an assessee:

Provided that no such rectification shall be made having the effect of enhancing an assessment or reducing a refund unless the appellate or revisional authority or the Agricultural Income-tax Officer, as the case may be, has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, the Agricultural Income-tax Officer shall make any refund which may be due to such assessee.

(3) Where any such rectification has the effect of enhancing the assessment or reducing a refund, the Agricultural Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be issued under section 30 and the provisions of this Act shall apply accordingly.

### **37. [Omitted] :-**

<sup>1</sup>[Omitted]

1 Section 37 was Omitted by section 2 of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1956 (Madras Act XXXV of 1956), which came into force on the 1st April 1957.

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

The Appellate Tribunal, the Commissioner, the Assistant Commissioner and the Agricultural Income-tax Officer shall, for the purpose 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 for ascertaining the yield and cultivation expenses in respect of any plantation; and any proceeding before the Appellate Tribunal, the Commissioner or Assistant Commissioner or the Agricultural Income-tax Officer 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 (Central Act XLV of 1860).

**39. Power to call for information, etc. :-**

(1) The Assistant Commissioner or the Agricultural Income-tax Officer may for the purposes of this Act --

- (i) require any Hindu undivided family, an Aliyasantana family or branch, a Marumakkattayam tarwad or a tavazhi possessing separate properties, a firm or a company, to furnish a return of the names of all the members of the family, branch, tarwad, tavazhi, firm or company, as the case may be, 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;
- (iii) impound and retain in his custody for such period as he thinks fit any books of account or other documents produced before him in any proceedings under this Act:

Provided that the Assistant Commissioner or the Agricultural Income-tax Officer shall not--

- (a) impound any books of account or other documents without recording his reasons for so doing; or
- (b) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the



approval of the Commissioner therefor.

(2) The Assistant Commissioner or the Agricultural Income-tax Officer may for the purposes of this Act enter and inspect any place where accounts are maintained, or other documents are kept, and take into his custody any such accounts or documents:

Provided that if any such place is a dwelling house, or an apartment, in the actual occupation of a woman, such officer shall, before entering such house or apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing:

Provided further that such officer shall prepare a list of all accounts and documents taken into his custody and deliver a copy of such list to the occupant of the place or some person in his behalf.

(3) If the Assistant Commissioner or the Agricultural Income-tax Officer is resisted in the exercise of his power or in the discharge of his duties under this section, the Magistrate having jurisdiction shall, on the written requisition from such officer, direct any police officer not below the rank of Sub-Inspector to render such help as may be necessary to enable the officer to exercise such power or discharge such duty.

## **CHAPTER 6 RECOVERY OF TAX AND PENALTIES**

### **40. Recovery of tax and penalties :-**

Any amount specified as payable in a notice of demand under section 30 or an order under section 31, 32 or 34 shall be paid in such number of instalments, within such time, at such place, to such person and in such manner as may be prescribed, and any assessee failing so to pay shall be deemed to be in default:

Provided that, when an assessee has presented an appeal under section 31, the Agricultural Income-tax Officer may, in his discretion, treat the assessee as not being in default so long as such appeal is undisposed of.

### **41. Mode and time of recovery :-**

(1) When an assessee is in default in making a payment of agricultural income-tax, the Agricultural Income-tax Officer may, in his discretion, direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty.

(2) For the purposes of sub-section (1), the Agricultural Income-tax

Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable.

(3) The Agricultural Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee and the Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue:

Provided that, without prejudice to any other powers of the Collector in this behalf, he shall for the purpose of recovering the said amount have the powers which under the Code of Civil Procedure, 1908 (Central Act V of 1908), a Civil Court has for the purpose of the recovery of an amount due under a decree.

(4) No proceeding for the recovery of any sum payable under this Act shall be commenced after the expiration of three years from the latest day fixed for payment in the notice of demand served under section 30 or where the assessee has been treated as not being in default under the proviso to section 40 pending his appeal, after the expiration of three years from the date on which the appeal is decided.

#### **42. Right, title and interest in property sold for arrears of tax in certain cases :-**

(1) Where any property of a Hindu undivided family, an Aliyasantana family or branch, or a Marumakkattayam tarwad or tavazhi is sold for the realization of arrears of agricultural income-tax, the right, title and interest of all the members of such family, branch, tarwad, or 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 plantation held by him wholly or partly for the benefit of other persons and the tax payable by him is in arrears, the plantation so held by him may be attached and sold for the realization of such arrears and on such sale, the right, title and interest of such person in the said plantation shall pass to the purchaser.

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

Any sum imposed by way of penalty under the provisions of section

20, section 25 or section 41 shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax.

## **CHAPTER 7 REFUNDS**

### **44. Refunds :-**

(1) If any person satisfies the Agricultural Income-tax Officer 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 the amount with which such person is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess.

(2) The appellate or revisional authority, in the exercise of his appellate or revisional powers, if satisfied to the like effect shall cause a refund to be made by the Agricultural Income-tax Officer 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 authorize 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.

### **45. Refunds admissible under rules :-**

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

### **46. Power to set off amount of refund against tax remaining payable<sup>1</sup> :-**

Where under any of the provisions of this Act, a refund is found to be due to any person, the Agricultural Income-tax Officer, the Assistant 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 that amount, against the agricultural income-tax, if any, remaining payable by the person to whom the refund is due.

#### **47. 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 44 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.

#### **48. 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 8 OFFENCES AND PENALTIES**

#### **49. False statements in declaration :-**

If any person makes a statement in a verification mentioned in section 16 or sub-section (2) of section 31 or sub-section (4) of section 32 or in any application under section 65, 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 (Central Act XLV of 1860).

#### **50. 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 16, section 13 or section 39, or
- (b) to grant inspection or allow copies to be taken in accordance with the provision of section 60, or
- (c) to produce or cause to be produced on or before the date mentioned in any notice under sub-section (4) of section 16, 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.

**51. Prosecution to be at the instance of the Assistant Commissioner :-**

(1) A person shall not be proceeded against for an offence under section 49 or section 50 except at the instance of the Assistant Commissioner.

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

(3) The Assistant Commissioner may, either before or after the institution of proceedings, compound any such offence.

**52. Disclosure of information by public servant :-**

(1) All particulars contained in any statement made, return furnished or accounts or documents produced, under the provisions of this Act or in any evidence given or affidavit or deposition made in the course of any proceedings under this Act other than proceedings under this Chapter or in any record of an assessment proceeding or any proceeding relating to the recovery of a demand prepared for the purposes of this Act shall be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872 (Central Act I of 1872), no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of such record or to give evidence before it in respect thereof.

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine.

(3) Nothing contained in this section shall apply to the disclosure --

(a) of any such particulars for the purposes of a prosecution under the Indian Penal Code (Central Act XLV of 1860), in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition or for the purposes of a prosecution under this Act; or

(b) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act; or

(c) of any such particulars occasioned by the lawful employment

under this Act of any process for the service of any notice or the recovery of any demand; or

(d) of any such particulars to a Civil Court in any suit to which the Government are a party which relates to any matter arising out of any proceeding under this Act, or

(e) of any such particulars to any officer appointed to audit agricultural income-tax receipts or refunds; or

(f) of any such particulars relevant to any inquiry into the conduct of an official of the Agricultural Income-tax Department to any persons appointed commissioners under any law relating to enquiries into the conduct of public servants or to an officer otherwise appointed to hold such enquiry or the State Public Service Commission when exercising its functions in relation to any matter arising out of any such enquiry; or

(g) of any such particulars relevant to any inquiry into a charge of misconduct in connection with the proceedings under this Act against a lawyer or registered accountant; or

(h) of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899 (Central Act II of 1899), to impound an insufficiently stamped document; or

(i) of such facts as may be necessary to enable a refund to be given in accordance with this Act or the rules made thereunder; or

(j) of such facts to an officer of the Central Government as may be necessary for the purpose of enabling that Government to levy or realize any tax or duty imposed by it; or

(k) of such facts to any authority exercising powers under any Act of the State Legislature imposing any tax or duty as may be necessary for enabling it duly to exercise such powers; or

(l) of such facts as may be necessary to establish whether a person is or is not entitled to be entered on an electoral roll, or

(m) of such particulars to the appropriate authority as may be necessary to establish whether a person has or has not been assessed to agricultural income-tax in any particular year or years where, under the provisions of any law for the time being in force, such fact is required to be established; or

(n) of such particulars in any rent-roll or other document, produced by any assessee as the basis of his agricultural income or any part of such income; or

(o) of such facts as may be necessary to enable an intending purchaser or other transferee of property to ascertain the nature and extent of the liability of any such property for agricultural

income-tax.

(4) Nothing in this section shall apply to the production by a public servant before a court of any document, declaration or affidavit filed, or the record of any statement or deposition made, in a proceeding under section 29 or to the giving of evidence by a public servant in respect thereof.

(5) No prosecution shall be instituted under this section--

(a) against a person who is not removable from his office save by or with the sanction of the Government or some higher authority, except with the previous sanction of the Government, or

(b) against any other person, except with the previous sanction of the authority competent to remove him from his office.

## **CHAPTER 9 MISCELLANEOUS**

### **53. Place of assessment :-**

(1) Subject to any orders passed under sub-section (2), the agricultural income of a person shall be assessed by the Agricultural Income-tax Officer of the area in which is situated the plantation from which the greater part of the income is derived:

Provided that, when an assessee has made a return under sub-section (1) of section 16 to the Agricultural Income-tax Officer having jurisdiction over the assessee's place of residence or the place where any of his plantation 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 16 may, before the expiry of the time allowed for the submission of the return, apply to the Agricultural Income-tax Officer of the area in which is situated the plantation 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 Agricultural Income-tax Officer shall refer the matter to the Assistant 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 Agricultural Income-tax Officer 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 Agricultural Income-tax Officer shall have all the powers conferred by or under this Act on an Agricultural Income-tax Officer in respect of any agricultural income derived from plantations situated within the area for which he is appointed.

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

(1) Within sixty days of the date on which he is served with a notice of the order, the assessee or the Commissioner, in the case of an order under sub-section (5) of section 32, and the assessee, in the case of an order under section 34 enhancing the assessment or otherwise prejudicial to him, may prefer an application to the High Court against the order on the ground that the Appellate Tribunal or, as the case may be, the Commissioner has either decided erroneously or failed to decide 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 applicant had sufficient cause for not preferring the application within that period.

(2) The application shall be in the prescribed form, shall be verified in the prescribed manner and shall, where it is made by the assessee, be accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed.

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

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

(4) (a) If the High Court does not dismiss the application summarily, it shall, after giving both parties to the application 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 application was preferred, or remit the matter to the Appellate Tribunal or the 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 under clause (a) with its opinion on



the question or questions of law raised, the Appellate Tribunal or the 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 it necessary so to do, remit the application to the Appellate Tribunal or the Commissioner, as the case may be, and direct it or him to return the application with its or his finding on any specific question or issue.

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

Provided that, if as a result of the application any change becomes necessary in such assessment, the High Court may authorize the assessing authority 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 further 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 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 within such time, and in such manner as may be prescribed, and shall, where it is preferred by the assessee, be accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed.

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

(9) When any person defaults to pay the costs ordered by the High Court, the Agricultural Income-tax Officer concerned may apply for the realization of the amount to the District Court having local jurisdiction and such Court shall, on receipt of the Agricultural Income-tax Officer's application, execute the order as if it were its own decree.

## **55. Appearance by authorized representative :-**

(1) Any assessee who is entitled or required to attend before any Agricultural Income-tax Authority in connexion 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 authorized 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 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 chartered accountant or an Income-tax practitioner is found guilty of misconduct in connexion with any proceedings under the Indian Income-tax Act, 1922 (Central Act XI of 1922), 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 thenceforward 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 recognized in this behalf by the Government;

(iii) "Income-tax Practitioner" means an Income-tax practitioner as defined in the Indian Income-tax Act, 1922 (Central Act XI of 1922);

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

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

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

## **57. 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.

## **58. Manner of service of notice :-**

(1) A notice or requisition under this Act may be served on the person therein named either by 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 Aliyasantana family or branch or a Marumakkattayam tarwad or tavazhi be addressed to any member of the firm or to the manager, yajaman or karnavan, or any adult 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,

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

The Agricultural Income-tax Officer 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 16 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.

## **60. Power to inspect registers of members of company, etc. :-**

Any Agricultural Income-tax Authority or any person authorized by him, in writing in that behalf may, during such hours as may be prescribed, 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.

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

(1) The Government may, after previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the

foregoing power, they 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 in cases 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 16 and the manner in which they should be verified;
- (e) as to the form of notice of the demand mentioned in section 30;
- (f) as to the powers and duties of Income-tax Authorities appointed under sub-section (2) of section 14 and the relation of such authorities to each other;
- (g) as to the form in which appeals under section. 31 shall be presented and the manner in which they shall be verified;
- (h) as to the form of the notice of demand mentioned in sub-section (3) of section 36;
- (i) as to the manner in which and the authority to whom applications for refund shall be made and the procedure to be followed in respect of such applications;
- (j) as to all other matters expressly required or allowed by this Act to be prescribed.

(3) All rules made under this section shall be published in the Fort St. George Gazette and upon such publication shall have effect as if enacted in this Act. The rules so made shall be placed on the table of the Legislative Assembly as soon as possible after they are published and shall be subject to such modifications, whether by way of repeal or amendment, as the Assembly may make within fifteen days during the session in which they are so laid.

## **62. 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 Government for anything in good faith done or intended to be done under this Act.

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

In computing the period of limitation prescribed for any appeal under this Act or for any application under section 54, the date on which the order complained of was made and the time requisite for

obtaining a copy of such order shall be excluded.

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

In section 3 of the Madras Land Revenue (Surcharge) Act, 1954 (Madras Act XIX of 1954), the Explanation shall be numbered as Explanation I and after the Explanation as so numbered, the following Explanation shall be inserted, namely: --

"Explanation II.--No surcharge shall be levied under this section from a landholder who is liable to pay land revenue in respect only of a plantation or plantations as defined in the Madras Plantations Agricultural Income-tax Act, 1955 (Madras Act V of 1955); but where he is liable to pay land revenue in respect also of other lands surcharge under this section shall be levied only on the land revenue payable by him in respect of such other lands but at the average rate applicable to the aggregate of the land revenue payable in respect of such plantation or plantations and of such other lands.".

#### **65. Composition of agricultural income-tax :-**

(1) Any person, who derives agricultural income from a plantation not exceeding twenty acres in extent if used for growing tea or an extent equivalent thereto if used for growing any crop other than tea, may apply to the prescribed officer for permission to compound the agricultural income-tax payable by him and to pay in lieu thereof a lump sum at the rate or rates specified in Part II of the Schedule:

Provided that the lump sum payable under this subsection shall be calculated only on the extent of the plantation which is in excess of five acres if used for growing tea or of an extent equivalent thereto if used for growing any crop other than tea.

Explanation.--In determining the extent of a plantation for the purposes of this section and of the Schedule, three acres of plantation used for growing any crop other than tea shall be taken to be equivalent to one acre of plantation used for growing tea and the plantation growing tea as well as the plantation growing any other crop from which agricultural income is derived by the same person shall be taken into account.

Illustration 1.--A has a plantation of four acres growing tea and a plantation of twelve acres growing coffee. This is equivalent to eight acres of plantations growing tea.

Illustration 2.--B has a plantation of fourteen acres growing tea and

a plantation of thirty-six acres growing cinchona. This is equivalent to twenty-six acres of plantation growing tea.

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

(3) The prescribed officer, after satisfying himself that the particulars specified in the application are correct may, by order in writing, grant the permission.

(4) A permission granted under sub-section (3) shall be in force for the year for which it is granted; and in respect of that period the provisions of this Act regarding the submission of returns, accounts or other documents, the assessment to agricultural income-tax or any other matter incidental thereto shall not apply in relation to the grantee.

#### **SCHEDULE 1**

##### **SCHEDULE**

#### **THE SCHEDULE.**

##### **Part I.**

##### **(See section 3.)**

##### **Rates of Agricultural Income-tax.**

1 [(1) On the first Rs. 1,500 of total agricultural income.	Nil.
(2) On the next Rs. 3,500 of total agricultural income.	Five naye paise in the rupee.
(3) On the next Rs. 5,000 of total agricultural income.	Fifteen naye paise in the rupee.
(4) On the next Rs. 5,000 of total agricultural income.	Twenty naye paise in the rupee.
(5) On the next Rs. 5,000 of total agricultural income.	Twenty-five naye paise in the rupee.
(6) On the next Rs. 5,000 of total agricultural income.	Thirty naye paise in the rupee.
(7) On the balance of total agricultural income.	Forty-five naye paise in the rupee.]

Provided that no agricultural income-tax shall be payable--

(i) on a total agricultural income which is less than three thousand rupees; or

(ii) by a person who derives agricultural income from a plantation not more than five acres in extent if used for growing tea or not more than fifteen acres in extent if used for growing any other crop.

The limit referred to in the above proviso shall be Rs. 6,000 in the case of every Hindu undivided family or an Aliyasantana family or branch or a Marumakkattayam tarwad or tavazhi including a Nambudiri family or any other class governed by the law applicable to Nambudiris, which satisfies as at the end of the previous year the condition that it consists of at least five members:

Provided further that--

(1) the agricultural income-tax payable shall in no case exceed one-half of the amount by which the total agricultural income exceeds three thousand rupees or six thousand rupees, as the case may be;

(2) in the case of every company, agricultural income-tax shall be charged at the maximum rate on the whole of the total agricultural income.

## **Part II.**

**(See section 65.)**

**Extent. Rate per acre.**

**Plantations used for growing tea.**

(i) not exceeding 5 acres	Nil.
(ii) exceeding 5 acres but not exceeding 10 acres.	Rs. 9.
(iii) exceeding 10 acres but not exceeding 20 acres.	Rs. 15.

Plantations used for growing any other crop.

Plantations --	Nil.
(i) not exceeding 15 acres	
(ii) exceeding 15 acres but not exceeding 30 acres.	Rs. 3.
(iii) exceeding 30 acres but not exceeding 60 acres.	Rs. 5.

1 Items 1 to 7 of Part I of the Schedule were substituted by section 3 of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1956 (Madras Act XXXV Of 1956), which came into force on the 1st April 1957, and of the items so substituted, items 3 to 7 were again substituted by section 2 of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1957 (Madras Act IX of 1957). deemed to have come into force on the 1st April, 1957.