

TWELFTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2008-2011)**

ONE HUNDRED AND THIRD REPORT

(Presented on 17th July, 2009)



SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2009

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On

**Paragraphs relating to Taxes and Forest and Wild Life Departments
contained in the Reports of the Comptroller and Auditor General
of India for the years 31st March 2003 (RR), 31st March
2004 (RR) and 31st March 2006 (RR)**

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COMMITTEE ON PUBLIC ACCOUNTS (2008-2011)

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INTRODUCTION

I, the Chairman, Committee on Public Accounts having been authorised by the Committee to present this Report on their behalf present the One Hundred and Third Report on paragraphs relating to Taxes and Forest and Wild Life Departments contained in the Reports of the Comptroller and Auditor General of India for the years ended 31st March, 2003 (RR), 31st March, 2004 (RR) and 31st March, 2006 (RR).

The Reports of the Comptroller and Auditor General of India for the years ended 31st March, 2003 (RR) , 31st March, 2004 (RR) and 31st March, 2006 (RR) were laid on the Table of the House on 28th June, 2004, 20th July, 2005 and 28th March, 2007 respectively.

The Committee considered and finalised this Report at the meeting held on 14th July, 2009.

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

Thiruvananthapuram,
17th July, 2009.

ARYADAN MUHAMMED,
Chairman,
Committee on Public Accounts.

REPORT

TAXES DEPARTMENT AND FOREST AND WILD LIFE DEPARTMENT

AUDIT PARAGRAPH

Result of Audit

Test Check of the records of the Agricultural Income Tax Offices conducted in audit during the year 2002-03 revealed underassessment of tax amounting to Rs. 9.44 crore in 209 cases which, may broadly be categorised as under

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1	Inadmissible expenses allowed	49	2.86
2	Income escaping assessment	38	1.94
3	Incorrect computation of tax	13	0.34
4	Incorrect computation of income	5	0.20
5	Failure to club income	3	0.07
6	Assignment of incorrect status	3	0.06
7	Other irregularities	98	3.97
	Total	209	9.44

During 2002-03, the department accepted underassessment, etc., of Rs. 1.35 crore involved in 64 cases which were pointed out during earlier years. At the instance of audit, the Department collected Rs. 7.77 lakh in 9 cases during 2002-03. A few illustrative cases involving Rs. 1.28 crore are given in the following paragraphs.

AUDIT PARAGRAPH

Exclusion of income/deduction of inadmissible expenditure from income

Under the Kerala Agricultural Income Tax (KAIT) Act, 1991, the total agricultural income comprises of all agricultural income received by an assessee from land situated within the State. Such income is computed after allowing deductions as prescribed in the Act. Expenditure incurred on immature plants and depreciation on plantation crops are not allowable deductions for computing the taxable income.

In Agricultural Income Tax and Sales Tax Office, Taliparamba, while finalising in August, 2001 and January, 2002 the assessments of a company for the assessment years 1998-99 and 1999-2000, the Assessing Officer allowed inadmissible depreciation of Rs. 1.02 crore on plantation crops, inadmissible expense of Rs. 44.43 lakh on immature plants and excess depreciation of Rs. 6.55 lakh claimed on fixed assets and omitted to include income of Rs. 9.70 lakh relating to cost of seeds produced and consumed for own purpose. This resulted in fixing loss of Rs. 75.18 lakh against the assessable income of Rs. 87.59 lakh and consequent short levy of tax of Rs. 52.55 lakh.

On this being pointed out, the Department stated in September, 2002 that it has issued notice to revise the assessments incorporating the cost of seeds consumed and disallowing the excess depreciation. It was also stated that expenditure on immature plants was allowable as it was incurred for immature plants and crops damaged due to various reasons and that plantation crops could be classified under other assets and hence depreciation thereof was allowable. The reply of the Department is not tenable as such expenditure is not allowable under the Act/Rules. Further report has not been received (October 2003).

The case was reported to Government in June, 2003, their reply has not been received (October 2003).

[Paragraph 3.1 & 3.2 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2003 (RR)]

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

1. The Committee learned that in Agricultural Income Tax and Sales Tax Office, Taliparamba, while finalising the assessments for the years 1998-99 and 1999-2000, the assessing officers allowed inadmissible depreciation of Rs. 1.02 crore on plantation crops, inadmissible expense of Rs. 44.43 lakh on immature plants and excess depreciation of Rs. 6.55 lakh claimed on fixed assets and omitted to include an income of Rs. 9.79 lakh relating to cost of seeds produced and consumed for own purpose. This resulted in fixing loss of Rs. 75.18 lakh against the assessable income of Rs. 87.59 lakh and consequent short levy of tax of Rs. 52.55 lakh.

2. When the Committee enquired as to whether expenditure on immature crops were deducted and depreciation allowed on fixed assets, the Secretary, Taxes Department replied that this case was related to Aaralam Farm, Kannur and that it was revised in the light of the Comptroller and Auditor General's

observation and fixed net loss. He added that AG's observation on granting inadmissible depreciation was correct.

Conclusion/Recommendation

3. No comments

AUDIT PARAGRAPH

Incorrect computation of income

Under the KAIT Act, 1991 the agricultural income of a person shall be computed in accordance with the provisions of the Act.

In Agricultural Income Tax and Sales Tax Office, Vythiri, while finalising in October, 2001 the assessment of a firm for the assessment year 1999-2000, the Assessing Officer reckoned the net income of Rs. 18.79 lakh as net loss and allowed the same to be carried forward. This resulted in agricultural income tax not levied on the profit during 1999-2000 with a tax effect of Rs. 16.53 lakh.

On this being pointed out, the Department revised the assessment in November, 2002. Further report has not been received (October 2003).

The case was reported to Government in April, 2003 their reply has not been received (October 2003).

[Paragraph 3.3 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2003 (RR)].

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

Conclusion/Recommendation

4. No comments

AUDIT PARAGRAPH

Short levy of tax due to incorrect carry forward of loss

Under the KAIT Act, 1991, loss sustained by an assessee as a result of computation of agricultural income of any year, shall be carried forward up to eight years. Under the KAIT Rules, 1991, carry forward of loss is admissible in any year when the return is filed for all the years on the due dates or within such time as may be allowed by the Agricultural Income Tax Officer.

In the Office of the Inspecting Assistant Commissioner (Special), Ernakulam, a company had neither filed the returns for the assessment years 1992-93 and 1993-94 by the due dates nor applied for extension of time for filing

the returns. While finalising in March 2001 the assessment for the assessment year 1998-99, the Assessing Officer carried forward loss of Rs. 23.31 lakh pertaining to the above years and set it off against the income for 1998-99. This resulted in short levy of tax and surcharge of Rs.13.99 lakh.

On this being pointed out, the Department revised in June 2002 the assessment raising additional demand for Rs. 13.99 lakh. Further report has not been received (October 2003).

On bringing this in March 2003 to notice, the Government stated in August 2003 that the revised assessment was annulled in appeal against which second appeal was filed by the Department. Further report has not been received (October 2003).

In Agricultural Income Tax and Sales Tax Office, Vythiri, while finalising the assessment in January 2001 for the assessment year 2000-01 of a firm, although the assessee had not filed the return for the assessment year 2000-01 on the due date or applied for extension of time for filing the return, the Assessing Officer carried forward earlier years' loss of Rs 4.18 lakh and set it off against the income for 2000-01. This resulted in exclusion of income of Rs. 4.18 lakh and consequent short levy of tax and surcharge of Rs. 1.84 lakh.

On this being pointed out, the Department revised the assessment in January, 2000. Further report has not been received (October 2003).

The case was reported to Government in March 2003; their reply has not been received (October 2003).

[Paragraph 3.4 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (RR)].

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

5. Regarding this paragraph the witness, Commissioner, Commercial Taxes Department replied that as far as the first assessee at Ernakulam was concerned, they had taken action based on the direction of the High Court in the case of Eucas Family Trust Vs. Deputy Commissioner. The witness again informed that Revenue Recovery actions were initiated against the parties for the recovery of Rs. 3,70,628 as Tax and Rs. 27,062 as surcharge in the case of the second assessee under STO, Vythiri.

Conclusion/Recommendation

6. No comments

AUDIT PARAGRAPH

Underassessment of Income

As per the KAIT Act, 1991, if any person fails to comply with the notice issued under the Act, the Assessing Officer shall make the assessment to the best of his judgement after taking into account all relevant information he has gathered. As per the guidelines issued by the Department in 1985, the yield from rubber trees during 5th year to 13th year of tapping could be estimated at 3 kilogram per tree.

In Agricultural Income Tax and Sales Tax Office, Kozhikode, while finalising in April 2001, the assessments for the assessment years 1996-97 and 1997-98 of an individual who had failed to comply with the notice issued to produce the accounts, the Assessing Officer reckoned the yield of latex from 5,950 rubber trees at one kilogram per tree instead of three kilogram per tree. This resulted in underassessment of income by Rs. 10.03 lakh and consequent short levy of tax and surcharge of Rs. 5.51 lakh.

On this being pointed out the Department stated in August 2002 that it would examine the case. Further report has not been received (October 2003).

The case was reported to Government in February, 2003; their reply has not been received (October 2003).

Under the KAIT Act, 1991, agricultural income shall be computed in accordance with the method of accounting adopted by the assessee. In respect of an assessee adopting mercantile system of accounting, the entire amount receivable shall be considered for assessment on accrual basis irrespective of the year of receipt.

In Agricultural Income Tax and Sales Tax Office, Nedumkandam, while finalising the assessment for the assessment year 1999-2000 in February 2000 of a firm following mercantile system of accounting, the Assessing officer omitted to include closing stock value of cardamom of Rs. 10.34 lakh. This resulted in short assessment of tax of Rs 4.55 lakh.

On this being pointed out, the Department stated in September 2002 that the case would be examined. Further report has not been received (October 2003).

The case was reported to Government in June 2003; their reply has not been received (October 2003).

Under the KAIT Act, 1991, the total agricultural income of the previous year of any person shall comprise of all agricultural income derived from land situated within the State.

- In Agricultural Income tax and Sales Tax Office Kottarakkara, while finalising in February 2000 the assessments of an individual for the assessment years 1997-98 and 1998-99, the Assessing Officer computed income received from slaughter tapping as Rs. 9.18 lakh instead of Rs. 15.60 lakh. This resulted in underassessment of income of Rs. 6.42 lakh and short levy of tax and surcharge of Rs. 3.53 lakh.

On this being pointed, by the Department stated in April 2002 that the case would be examined. Further report has not been received (October 2003).

The case was reported to Government in March 2003; their reply has not been received (October 2003).

- In Agricultural Income Tax and Sales Tax Office, Chittur, while finalising in November 2000 the assessment of a firm for the assessment year 1996-97, the Assessing Officer did not reckon the opening stock of Rs. 6.03 lakh although he did not consider the closing stock in the assessment for the preceding assessment year. This resulted in underassessment of income of Rs. 6.03 lakh and consequent short levy of tax and surcharge of Rs. 2.24 lakh.

On this being pointed out, the Department stated in May 2002 that it had revised in May 2002 the assessment raising additional demand of Rs. 2.24 lakh.

The case was reported to Government in February 2003. Government confirming the Department's reply stated in August 2003 that the Department had advised the amount for revenue recovery.

[Paragraph 3.5 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (RR)].

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

7. Regarding this paragraph on under estimation of yield from rubber tree and consequent short levy of tax and surcharge of Rs. 5.51 lakh during the assessment of an individual under STO, Kozhikode for the years 1996-97 and 1997-98, the Committee enquired about its latest position. The Commissioner, Commercial Taxes replied that Tax Revision case was pending in the High Court. The witness again informed that as per the guidelines issued by the department, assessment should be done as per plot inspection. The department had done it, but they disagreed with AG's observation of 3 kg/tree for assessing tax on latex. The witness deposed that he was not sure about the authenticity of the plot inspection report mentioned in the audit paragraph. At this juncture, the Committee opined that plot inspection couldn't be relied upon at every time, but

at the same time it couldn't be dispensed with. The Committee was of the opinion that there were chances of manipulation in plot inspection reports and that random checking of superior officers twice or thrice in an year should be insisted on, instead of plot inspection.

8. The Committee was convinced with the Government reply in the case relating to STO, Nedumkandam wherein net loss of previous years were adjusted by re-assessment of the income for the year 1999-2000 and realisation of under-assessed tax earlier.

9. When the Committee enquired about the under assessment of income from slaughter tapping and thereby short levy of tax and surcharge amounting to Rs. 3.53 lakh in AIT & STO Kottarakkara, the Commissioner, Commercial Taxes disclosed that demand notice was issued to the concerned assessee. Since the party hadn't responded, RR action was initiated for effecting recovery, but no collection was effected till date. The Committee noted that Appellate Tribunal had dismissed that case before 5 years and enquired about the reason for lapse in collection. The Commissioner, Commercial Taxes informed that collection through RR had various limitations in situations where the party couldn't be found out or lack of property to be attached. Annual collection through RR was only Rs. 40 to 45 crore. The Committee directed to speed up collection through RR. They were distressed to note that the arrears had increased from Rs. 800 crore to Rs. 2400 crore. The Committee suggested to dispose off 44 old cases immediately by giving concession if allowable.

Conclusion/Recommendation

10. The Committee is dissatisfied with the weak checking mechanism of the department which failed in properly assessing the income of firms and individuals as a result of which the government suffered heavy loss in terms of tax and surcharge. The Committee urges for implementing quality inspections as per the guidelines of KAIT Act and wants the department to increase the number of inspections and to deploy higher ranked officials in the processes to ensure flawless and corruption free output. The Committee is disappointed with the inordinate delay in carrying out revenue recovery procedures which resulted in heavy increase in the arrear amount. The Committee also recommends the Department to dispose off the old cases after giving deserving concessions.

AUDIT PARAGRAPH

Short levy of tax due to allowance of inadmissible expense

Under the KAIT Rules, 1991, with effect from 1 April 1993 expenditure called 'infilling expenses' incurred for planting seedlings in the vacant areas of yielding perennial crops, is not an admissible deduction in computing income.

In the Offices of the Inspecting Assistant Commissioner (Special), Commercial Taxes, Ernakulam and Kozhikode, while finalising in December 2001 and January 2002 the assessments for the assessment year 1999-2000 of two companies, infilling expenses aggregating Rs. 14.66 lakh were incorrectly deducted resulting in short levy of tax of Rs. 8.80 lakh.

On these being pointed out, the Assessing Officer of Ernakulam stated in January 2003 that it had issued notice for revising the assessment. The Assessing Officer of Kozhikode stated in November 2002 that the expenditure was an admissible deduction. This reply is not tenable as the Rules do not provide for allowing such expenses with effect from 1 April 1993. Further report has not been received (October 2003).

The cases were reported to Government in April 2003. Government stated in September 2003 that the Assessing Officer of Kozhikode had since revised the assessment and served the demand notice in June 2003. Reply in respect of the case in Ernakulam and report regarding collection of the demand in Kozhikode have not been received (October 2003).

Under the KAIT Act, 1991, any expenditure, not incurred wholly and exclusively for the purpose of deriving the agricultural income is an inadmissible deduction in computing income.

In the Offices of the Inspecting Assistant Commissioner (Special), Commercial Taxes, Ernakulam, while finalising in November 2001 the assessment of a company for the assessment year 1999-2000, the Assessing Officer allowed expenditure of Rs. 1.75 lakh incurred on a World Bank Project which was not for the purpose of deriving agricultural income. This resulted in short levy of tax of Rs. 1.05 lakh.

On this being pointed out, the Assessing Officer stated in January 2003 that the assessee was a company owned by Government and implementation of World Bank Project was one of the functions of the company. The reply is not tenable as the above expenditure was not incurred for deriving agricultural income. Further report has not been received (October 2003).

The case was reported to Government in June 2003; their final reply has not been received (October 2003).

[Paragraph 3.6 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (RR)].

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

11. The Committee noted that as per Accountant Generals observation, infilling expenses incurred for planting seedlings in the vacant areas of yielding perennial crops is not an admissible deduction in computing income since the rules do not provide for allowing such expenses with effect from 1st April 1993. But against this rule, the offices of the Inspecting Assistant Commissioner (Special) Commercial Taxes, Ernakulam and Kozhikode allowed deduction of in-filling expense amounting to Rs. 14.66 lakh to two companies, which resulted in short levy of tax to the tune of Rs. 8.80 lakh. The Commissioner, Commercial Taxes deposed that even though rules regarding this matter have changed, the section remained as such. The Committee observed that the department had amended the rules without amending the concerned Act and that if the affected parties go to the court, the department's argument would not stand since the Rule and section in the Act are contradictory. Therefore, the Committee directed the department witness to correct this mistake immediately and the Secretary assured to do so and supplemented that assessment had been revised in the above two cases.

12. The Committee reminded the Taxes Department officials to avoid harassment of parties in collecting tax. The assesseees should be given due regard and consideration and they should be appreciated for prompt payment of tax.

Conclusion/Recommendation

13. **The Committee understands that the department officials allowed deduction of 'infilling expenses' in the vacant areas of high yielding perennial crops which resulted in the short levy of tax to the tune of Rs. 8.80 lakh which was against the KAIT Rules. The Committee could not take the justification given by the officials that this action was taken owing to the changes in the Rules and remarks that only the Rules got changed with the sections in the Act still remaining the same. The Committee adds that this will affect the credibility of the departments' stand since the Rules and Section in the Act are contradictory. The Committee warns the department from making own Rules without properly amending the Acts and Sections which may put them in a fix on legal matters. The Committee urges the department to refrain from any unruly tactics applied to parties while realising tax or income from them and also directs the department to laud any effort from the parties who make prompt payment of tax.**

AUDIT PARAGRAPH

Short/non-realisation of interest

The KAIT Act, 1991, requires every assessee to pay advance tax, on the estimated total agricultural income, which shall not be less than eight per cent of the total agricultural income as per return, before the end of February of the

previous year. Every assessee shall pay before furnishing the return, the tax due on the total agricultural income after deducting the advance tax paid by him. The assessee shall pay simple interest at the prescribed rate, on the unpaid balance.

In the Offices of the Inspecting Assistant Commissioner (Special), Commercial Taxes, Ernakulam, while finalising in November 2001 the assessments for the assessment year 1998-99 and 1999-2000 of an individual and for the assessment year 1999-2000 of a company where they did not make full payments of advance tax and tax on the total income by the due dates, the Assessing Officer did not levy interest of Rs. 6.55 lakh.

On these being pointed out, the department stated in January 2003 that it had issued notices to the assesseees.

The cases were reported to Government in March and June 2003. Government stated in August 2003 that the Department levied interest of Rs. 2.24 lakh in one case and adjusted the amount against excess tax paid by the company Report in respect of the other case has not been received (October 2003).

Under the KAIT Act, 1991, in the case of any person who fails to pay the tax demanded within the prescribed time, the Assessing Authority may forward to the Collector a certificate specifying the arrears due from the assessee for realisation as arrears of land revenue. In this certificate, the Assessing Authority shall indicate the amount of interest to be realised on the default amount up to the date of reporting and the rate at which interest should be realised up to the month in which the amount is recovered.

In Agricultural Income Tax and Sales Tax Office, Vythiri, in a case reported in January 2000 for revenue recovery, interest due till the date of reporting was incorrectly shown as Rs. 1.25 lakh instead of Rs. 2.15 lakh resulting in short demand of interest of Rs. 0.90 lakh. As per the certificate, interest was to be recovered up to the date of realisation. On realisation of the arrears reported. Which included the interest of Rs. 1.25 lakh, the case was closed in February 2001. Interest of Rs. 0.71 lakh due from the date of reporting till the date of realisation was also not recovered. These omissions resulted in short realisation of interest aggregating Rs. 1.61 lakh.

On this being pointed out, the Department stated in December 2002 that the case would be examined. Further report has not been received (October 2003).

The case was reported to Government in April 2003; their reply has not been received (October 2003).

Under the KAIT Act, 1991 every person opting for composition of agricultural income tax shall pay tax, for the previous year calculated at the rates specified in the Act, on the extent of landed properties held by him, before the end of February of the previous year. For delay in payment, simple interest shall be payable at the prescribed rates.

In the Agricultural Income Tax and Sales Tax Office, Kottarakkara, a firm which opted to pay compounded tax for the assessment years 1996-97 to 1998-99 failed to pay the tax in full by the due dates. However, the Assessing Officer omitted to levy interest of Rs 1.48 lakh for the period of delay.

On this being pointed out, the Assessing Officer demanded in June 2002 interest of Rs 1.34 lakh after adjusting excess tax remitted for assessment year 1997-98.

The case was reported to Government in June 2003; their reply has not been received (October 2003).

[Paragraph 3.7 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (RR)].

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

14. The Committee considered paragraphs 3.6.2, 3.7, 3.7.2 but made no remarks. As far as the case in Paras 3.7.3 related to Agricultural Income Tax and Sales Tax Office, Kottarakkara, the witness informed that the whole amount (Rs. 1.48 lakh) pending as interest had been collected.

Conclusion/Recommendation

15. No comments

AUDIT PARAGRAPH

Loss of revenue due to time-barred assessment

Under the KAIT Act, 1991, all assessments shall be completed within a period of two years from the date of filing of return of income.

In Agricultural Income Tax and Sales Tax Office, Kottarakkara, a religious and charitable institution filed its return of income for the assessment year 1996-97 on 31 October 1996. However, the assessment was finalised in October 2001 after the expiry of prescribed period for completion. The assessment was

later revised in January 2002 creating final demand of tax of Rs. 1.73 lakh. In both these assessments, the Assessing Officer did not include income of Rs. 2.21 lakh derived from slaughter tapping of rubber trees resulting in short demand of tax and surcharge of Rs. 1.22 lakh. The assessment was set aside (January 2002) in appeal as it was time barred. Thus, non-finalisation of the assessment within the time limit prescribed resulted in loss of revenue aggregating to Rs. 2.95 lakh.

On this being pointed out, the Assessing Officer stated in April 2002 that he would examine the case. Further report has not been received (October 2003).

The case was reported to Government in June 2003; their reply has not been received (October 2003).

[Paragraph 3.8 contained in the report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (RR)].

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

16. When queried on the latest position of this case in which Rs. 2.95 lakh in terms of tax and surcharge was lost due to non-assessment of income within the stipulated time, the witness, the Commissioner, Commercial Taxes replied that, even though the assessment time had expired, the Act provided ample power for the Commissioner to re-open the case. Based on that, the case was re-opened, and assessment done and Rs. 1.65 lakh was collected. An amount of Rs.5433 was pending for collection.

Conclusion/Recommendation

17. The Committee do not approve the delay that occurs in realising the tax and surcharge which is due to the department and the oversight that happens in properly assessing the income by the officials as per all the specification of the KAIT Act. The Committee urges the department officials to take proactive and time bound steps in Revenue Recovery processes instead of re-opening the cases on the benefit of powers of Assessing Authorities.

AUDIT PARAGRAPH

Short levy of surcharge

Under the Kerala Surcharge on Taxes Act, 1957, the agricultural income tax assessed as payable by any person (other than a company) under the KAIT Act, 1991, shall be increased by a surcharge at the rate of ten per cent.

In Agricultural Income Tax and Sales Tax Office, Vythiri, while finalising in December, 2001 the assessment of a trust, the Assessing Officer computed

surcharge on tax of Rs. 15.78 lakh as Rs. 0.16 lakh against the correct amount of Rs. 1.58 lakh calculated at ten per cent. This resulted in short levy of surcharge of Rs 1.42 lakh.

On this being pointed out, the Department stated in November 2002 that the case would be examined. Further report has not been received (October 2003).

The case was reported to Government in March 2003; their reply has not been received (October 2003).

[Paragraph 3.9 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (RR)].

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

18. When the Committee asked about the RR proceedings of the case in which surcharge of Rs. 1.42 lakh was not realised the witness replied that the case was reassessed and the appeal was dismissed on 24-3-2007 and that collection was pending.

Conclusion/Recommendation

19. The Committee is dissatisfied with the inability of the department in realising the surcharge amount owing to them by the trust in Vythiry. The Committee urges the department to explore legal method if any to realise the pending money which comes around Rs. 1.42 lakh.

AUDIT PARAGRAPH

Omission to assess income

Under the KAIT Act, 1991, the total agricultural income of any charitable trust does not include any agricultural income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied or set apart for application to such purposes in the state.

In Agricultural Income Tax and Sales Tax Office, Sulthan Bathery while finalising in February 2000 the assessment for the assessment year 1997-98 of a charitable trust, the Assessing Officer omitted to levy tax on income of Rs 2.86 lakh not applied or set apart for charitable purposes. This resulted in short levy of tax and surcharge of Rs 1.25 lakh.

The case was reported to Government in August 2001; they stated in September 2002 that the Department had revised the assessment raising additional demand of Rs. 1.25 lakh. Further report has not been received (October 2003).

[Paragraph 3.10 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (RR)].

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

20. The Committee directed to review the matter mentioned in this paragraph since four years had elapsed. The witness assured to do so.

Conclusion/Recommendation

21. **The Committee expresses its strong dissatisfaction on the fact that the witness did not review the case of the charitable trust at Sulthan Bathery which owed an amount of Rs. 1.25 lakh as short levy of tax to the Government, despite directions from the Committee since this case is very old.**

AUDIT PARAGRAPH

Short levy due to application of incorrect rate of tax/exemption

Under the KAIT Act, 1991, any person holding not more than 500 hectares of land and deriving agricultural income may compound the tax and pay in a lumpsum at the rates specified in the Act. For cardamom, the State is divided into zones 'A', 'B' & 'C' and the rates of tax for each zone are different. Government exempted in March 2000 income from rubber and coffee from levy of tax for the assessment year 2001-02 provided the total extent of landed property did not exceed 20 hectares.

In Agricultural Income Tax and Sales Tax Office, Kottayam while finalising in January 2002 the assessment for the assessment years 2000-01 and 2001-02 of a firm holding 20 hectares of cardamom plantations in zone 'A' and 16 hectares of coffee plantation, the Assessing Officer assessed the tax on cardamom at the rates applicable to zone 'C' and also exempted income from coffee for the year 2001-02 though the total extent of plantations exceeded 20 hectares. This resulted in short levy of tax and surcharge of Rs 1.16 lakh.

On this being pointed out, the Assessing Officer stated in September 2002 that the case would be examined. Further report has not been received (October 2003).

The case was reported to Government in February 2003; their reply has not been received (October 2003).

[Paragraph 3.11 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (RR)].

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

22. When asked about the latest position of short levy due to application of incorrect rate of tax mentioned in this paragraph, the witness answered that all the collections were made.

Conclusion/Recommendation

23. **The Committee opines that, the internal audit wing of the department needs to be strengthened by deputing competent persons from Accountant General's Office for avoiding such irregularities.**

AUDIT PARAGRAPH

Short levy due to grant of inadmissible deduction

Under the KAIT Act, 1991, the agricultural income of an assessee shall be computed after allowing deduction of any sum paid to employees as bonus and such deduction shall be allowed in the year in which actual payment is made irrespective of the method of accounting employed. Bonus paid before the due date for the submission of return will be allowed as deduction in the previous year to which the return relates.

In Agricultural Income Tax and Sales Tax Office, Vythiry, while finalising in January 2001 the assessment of a firm for the assessment year 2000-01, the Assessing Authority allowed deduction of Rs. 2.55 lakh claimed by the assessee towards provision for bonus though the assessee had not produced any document to establish that the sum was paid before the due date for filing of return. This resulted in excess allowance of deduction of Rs. 2.55 lakh and consequent short levy of tax of Rs. 1.12 lakh.

On this being pointed out, the Department stated that it had revised in January 2002 the assessment raising additional demand of Rs.1.12 lakh. Further report has not been received (October 2003).

The case was reported to Government in February 2003; reply has not been received (October 2003)

[Paragraph 3.12 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (RR)].

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

24. As far as this audit objection related to short levy of Rs. 2.25 lakh from an assessee in AIT and STO, Vythiri was concerned, the Commissioner, Commercial Taxes informed that all the pending amount had been collected.

Conclusion/Recommendation**25. No comments**

AUDIT PARAGRAPH

Result of Audit

Test Check of the records of the Offices of the Forest Department conducted in audit during 2003-04 revealed non-levy/short realisation of revenue amounting to Rs. 31.19 lakh in 17 cases, which may broadly be categorised as under :

(In lakh of Rs.)

<i>Sl. No.</i>	<i>Category</i>	<i>Number of cases</i>	<i>Amount</i>
1.	Non/short realisation of Sales Tax/Income Tax	3	6.92
2	Short/non-demand of lease rent on forest lands	3	5.04
3	Loss in auction/re-auction, disposal of forest produce, short/non-realisation of penalty and other charges	6	10.90
4	Other lapses	5	8.33
Total		17	31.19

During 2003-04, the Department accepted underassessments of Rs. 12.94 lakh involved in 9 cases of which 5 cases involving Rs. 8.28 lakh were pointed out in audit during 2003-04 and the rest in earlier years. During the year the Department recovered an amount of Rs. 0.25 lakh in one case pointed out prior to 2003-04.

A few illustrative cases involving Rs. 16.94 lakh are given in the following paragraphs.

Non demand of balance royalty

An agreement executed in October 1974 between M/s Hindustan Paper Corporation and Government of Kerala provides for the supply of a specified quantity of eucalyptus, reeds, other pulpwood, etc., from forests in Kerala to the Corporation's paper mills, Hindustan News Print Limited (HNL) at Kottayam District on payment of royalty fixed from time to time. By an undertaking in November 2001, HNL agreed that pending finalisation of rates by Government, they would pay a tentative rate of royalty for the working seasons 2001-02. Government subsequently approved these rates.

- Test check of records of Forest Division, Thiruvananthapuram revealed in December 2002 that royalty on 3,768.369 metric ton of raw material supplied to HNL between April and June 2001 was collected only at the pre-revised rate as undertaking regarding the rate of royalty was executed only in November 2001. The department had not demanded the balance royalty and taxes amounting to Rs. 5.52 lakh, even after the execution of the undertaking.

Audit pointed out this to the department in December 2002. The department stated in August 2004 that Rs. 4.68 lakh had already been adjusted against the advance payment made by the Company and that action was underway to realise the balance of Rs. 0.66 lakh from the Company. Further report is awaited (December 2004).

Reference was made to Government in December 2003. Their reply has not been received (December 2004).

- For bamboo allotted to HNL in lieu of short allotment of reeds, value payable is the selling price for bamboo fixed under the Kerala Forest Produce (Fixation of Selling Price) Act, 1978, being notified before the commencement of each financial year.

A Quantity of 22, 313.295 metric tonne bamboo valued at Rs. 2.48 crore was supplied to HNL from Nilambur Division between October 2000 and May 2001 against an advance payment of Rs. 2.44 crore. The Department however had not demanded the balance amount of Rs. 4.51 lakh from the Company.

After this was pointed out in Audit to the Department in July 2001, the department stated in August 2003 that the balance royalty was realised.

On reporting the case to Government in November 2001, the Government confirmed that the recovery was already made in September 2001.

Delay on the part of the Department to collect the revenue due to Government in time reveals absence of proper control mechanism.

[Paragraph 6.1& 6.2 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2004 (RR)].

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

26. The Committee noted that an agreement executed in the year 1974 between M/s. Hindustan Paper Corporation and Government of Kerala provided for the supply of specified quantity of eucalyptus, reeds and other pulpwood etc, from the forests of Kerala to the Corporation's Paper Mill, Hindustan Newsprint Limited at Kottayam on payment of royalty fixed from time to time. It

was agreed to pay a tentative rate of royalty for the working season 2001-2002, since the rate of wood was not fixed by Government during the time of agreement. Audit scrutiny revealed that there was lapse on the part of the department in collecting the royalty at the pre-revised rate for the period from April to June 2001. When this was pointed out by audit, the department replied that they had already adjusted Rs. 4.68 lakh against the advance payment made by the company. But no action was taken till then to realise the balance amount of Rs. 0.66 lakh. There was no proper reply from the witness when the Committee enquired about this.

27. When asked to depose on the system adopted for fixation of royalty the Principal Chief Conservator of Forests replied that the prices of the above mentioned raw materials were usually determined by the price fixation committee every year. But the Kerala Forest Produce (Fixation of Selling Price) Act, 1978 was yet to be repealed and Gwalior Rayons was the only company excluded from the purview of the Act. The prices of wood, reed etc. was to be fixed before 31st March of every year as per the procedure laid down in the said Act and this fixed amount was imposed as the price of wood to be realised from the concerns. Subsidy was stopped from 2004 onwards. As far as the rent collected for forest land leased out for plantation purposes was concerned, it was informed that an amount of Rs. 1300 was imposed, which was fixed in the year 1988 and this was applicable not only for Hindustan Newsprint Ltd., but for all other Public Undertakings in Kerala. The proposal to revise the price was pending before the government. When the Committee asked whether there was any provision for periodical revision of agreement, the Chief Conservator of Forests (Development) replied that initial agreement was for 10 years. When the Committee enquired as to whether the agreement was to be revised in the year 1988 since the price fixation agreement came into force in the year 1978, the Principal Chief Conservator of Forests disclosed that the agreement was being routinely revised every 3 year.

28. The Committee noted that though the Kerala Forest Produce (Fixation of Selling Price) Act, 1978 stated the timely fixation of royalty and directed to fix the price every year, it was not complied with. The Principal Chief Conservator of Forests at this juncture pointed out that public undertakings like Oil Palm India Ltd. and Plantation Corporation Kerala Ltd., were not paying lease rent and moratorium to Government even though they were profit making companies under public sector. The committee decided to recommend that the royalty should be strictly realised from all private and public sector companies concerned and in the case of companies running in loss, the Government could think of giving subsidies or grant and that the rate of royalty should be revised every five year.

29. The Committee further noted that the departments' reply itself revealed that the internal control mechanism in the department was very poor which in turn caused for delay in revenue collection. The Committee recommended that internal control mechanism should be strengthened in all ways and that steps taken in this regard be intimated to the Committee. The Committee also suggested that the leased out forest lands where no plantations were carried out should be taken back by the department.

Conclusion/Recommendation

30. **The Committee understands that the Forest Department failed to collect the royalty of raw materials used in paper industry at the revised rate approved by the Government which resulted in incomplete collection of revenue to the state and the Committee finds the failure of the Department officials in giving a proper reply, all the more appalling. The Committee is disappointed with the non-adherence of the Kerala Forest Produce (Fixation of Selling Price) Act of 1978 which stipulates that the prices of raw materials should be revised timely and rates be fixed every year, preferably before the beginning of the financial year. The Committee recommends that the realisation of royalty should be strictly done from all profit making public sector as well as private sector undertakings and that the Government should give subsidies or grant to those public sector companies which are running in loss. The Committee understands that the internal control and audit mechanism of the department is pathetically disordered due to which the department fails in the timely collection of revenue and royalty and the Committee wants the steps taken to strengthen the same be intimated to them. The Committee also suggests the department to take back all the leased out forest land where no plantations were carried out.**

AUDIT PARAGRAPH

Non-realisation of re-auction loss

As per Kerala Forest Code Vol. I, sale of timber and forest produce at depots shall be effected only after proper notification and publicity. According to the terms and conditions prescribed in the notification for auction sale of timber, firewood, etc., by Forest Department, the successful bidder in auction should remit the entire bid amount and remove the items within the specified time. In the event of breach of any of the conditions by the successful bidder, the produce shall be re-auctioned and the bidder shall make good to Government any loss due to re-auction and the expenditure incurred for such re-auction.

In Forest Division, Kannur, two successful bidders in timber auctions held in October 2001 and October 2002 got auction confirmed in their names after remitting part value, but did not remit the balance sale value. Loss sustained by Government in re-auction of the un-removed timber, conducted between July and December 2002 was not demanded from original bidders. This resulted in non-realisation of Rs. 6.91 lakh.

After this was pointed out to the Department in April 2003 and reported to Government in December 2003, they stated in June and August 2004 that revenue recovery, under KRR Act, was in progress in both the cases. Further report has not been received (December 2004).

[Paragraph 6.3 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2004 (RR)].

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

31. While examining this paragraph the Committee understood that the Government sustained a loss of Rs.6.91 lakh due to non-realisation of full auction amount of timber from the bidders. In the matter of auction of timber in Forest Division, Kannur, the department failed in collecting the loss sustained by government in re-auction of the un-removed timber conducted between July and December 2002. When enquired about this, the Chief Conservator of Forests (Development) informed that all the amount due from the first bidder Shri. Shaik Adam Sahin (Rs. 1,56,585) had been recovered. Revenue Recovery proceedings were pending against the second bidder, Shri.V. Jayachandran. Demand Notice was forwarded to the concerned District Collector for speeding up revenue recovery in the light of the Court verdict in favour of the Government in the original suit filed by the bidder.

Conclusion/Recommendation

32. No comments

AUDIT PARAGRAPH

Result of audit

Test check of records of the offices of the Forest Department conducted during 2005-06 revealed non levy/short realisation of revenue amounting to Rs. 11.62 crore in 19 cases, which may broadly be categorised as under:

(In lakh of Rs.)

<i>Sl. No.</i>	<i>Category</i>	<i>Number of cases</i>	<i>Amount</i>
1.	Non/short demand of lease rent/penal interest due on forest land	10	10.95
2	Non/short realisation of sales tax/income tax	2	0.03
3	Others lapses	7	0.64
	Total	19	11.62

During 2005-06, the department accepted non/short demand of lease rent/ penal interest of Rs. 1.11 lakh involved in two cases of which one case involving Rs 0.04 lakh was pointed out during 2005-06 and the other during earlier period. During the year the department recovered an amount of Rs. 1.68 lakh in two cases of which one case involving Rs. 0.04 lakh was pointed out during 2005-06 and the other during 2000-01.

An illustrative case involving Rs. 2.18 lakh is given below:

Non realisation of revenue due to re-auction

According to the terms and conditions for auction sale of timber, firewood, etc., by Forest Department, the successful bidder should remit the bid amount and remove the items within the specified time. In the event of breach of any of the conditions by the successful bidder, the items would be re-auctioned and the bidder shall make good to Government any loss due to re-auction and the expenditure incurred for such re-auction.

Test check of records in Mannarkkad and Tenmala forest divisions revealed that in auctions conducted between August 2002 and February 2004 three bidders failed to remove timber after remitting the entire bid amount. The items were re-auctioned between September 2003 and November 2004, but the department did not raise demand for loss due to re-auction and expenditure thereof against the defaulters, this resulted in non-realisation of Rs. 2.18 lakh.

After this was pointed out to the department in January 2004 and March 2005 and reported to Government in February 2006, Government stated in July 2006 that revenue recovery steps had been taken to realise the dues from the defaulters. Further report has not been received (December 2006).

[Paragraph 6.1, 6.2 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2006 (RR)].

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

33. The Committee expressed dissatisfaction over the non receipt of RMT statements regarding this paragraph from the department and viewed this much seriously. They directed the Secretary to take care of the matter and ensure that the remedial measures taken on audit paragraphs were furnished within the specified time itself. The witness, Principal Secretary, Forest and Wild Life Department agreed to it.

34. Regarding the audit objections that Government sustained loss of Rs. 2.18 lakh due to non-realisation of the amount from the successful bidders

who didn't remove the auctioned timber in time which caused re-auction and expenditure thereof, the Committee wanted to know the reason for the lapse. The Chief Conservator of Forests (Development) replied that revenue recovery steps were progressing against the concerned persons. But the Committee opined that the department failed to raise the demand at the proper time. The Committee directed to verify whether the re-auction was effected within one year after cancellation of first auction.

Risk and cost would stand only if it was effected within one year. The Principal Chief Conservator of Forests informed that he had not verified the matter. But he replied that showcause notice was given at the first instance after determining the risk and cost. He further clarified the procedure followed for this by which the copy of notification regarding this would be served to them by registered post. Re-auction date would also be mentioned in this notification order. Observing that the department might have raised demand notice in this case, the Committee pointed out that the department failed to convince the concerned audit officers of the latest position of matters mentioned in the audit paragraph during the time of audit. But such practices should be avoided and the department officers should understand the need and importance of audit verification every year. Many of the audit objections could be avoided if the department's approach to audit was changed. The Committee recommended to verify the matter once again and report it to the Committee immediately. Regarding the latest position of these cases the department officials replied that RR steps were initiated against Mr. Ravindranath, the first bidder and letters were forwarded to Karnataka Government in the case of the second bidder, namely Mushtaq Ahmmed since he being a native of Karnataka.

Conclusion/Recommendation

35. The Committee expresses its dissatisfaction over the in-effective approach taken by the Forest department in recovering and realising loss sustained to the Government due to expenditure incurred during re-auction and related procedures in the event of breach of any conditions by the successful bidder. The non-receipt of the Remedial Measures Taken statements regarding these cases made the situation worse. Thought the witness, Principal Secretary, Forest & Wilde Life Department agreed to furnish the related documents within a stipulated time, it was not complied with and the Committee views this with utmost contempt. The Committee is not pleased with the Chief Forest Conservator's disclosure that the RR procedures were progressing and laments that the department failed in the timely

realisation of risk and cost due to cancellation of the original auction. The Committee blames the internal audit wing of the department in not updating themselves with the latest position of cases in the Comptroller and Auditor General's report which could avoid the pendency of realisation of amounts in related cases.

Thiruvananthapuram,
17th July 2009.

ARYADAN MUHAMMED,
Chairman,
Committee on Public Accounts.

APPENDIX I

Summary of Main Conclusions/Recommendations

<i>Sl. No.</i>	<i>Para No.</i>	<i>Department concerned</i>	<i>Conclusion/Recommendation</i>
(1)	(2)	(3)	(4)
1	10	Taxes	The Committee is dissatisfied with the weak checking mechanism of the department which failed in properly assessing the income of firms and individuals as a result of which the Government suffered heavy loss in terms of tax and surcharge. The Committee urges for implementing quality inspections as per the guidelines of KAIT Act and wants the department to increase the number of inspections and to deploy higher ranked officials in the processes to ensure flawless and corruption free output. The Committee is disappointed with the inordinate delay in carrying out revenue recovery procedures which resulted in heavy increase in the arrear amount. The Committee also recommends the Department to dispose off the old cases after giving deserving concessions.
2	13	”	The Committee understands that the department officials allowed deduction of ‘infilling expenses’ in the vacant areas of high yielding perennial crops which resulted in the short levy of tax to the tune of Rs. 8.80 lakh which was against the KAIT Rules. The Committee could not take the justification given by the officials that this action was taken owing to the changes in the Rules and remarks that only the Rules got changed with the sections in the Act still remaining the same. The Committee adds that this will affect the credibility of the departments’ stand since the Rules and Section in the Act are contradictory. The Committee

(1)	(2)	(3)	(4)
3	17	Taxes	warns the department from making own Rules without properly amending the Acts and Sections which may put them in a fix on legal matters. The Committee urges the department to refrain from any unruly tactics applied to parties while realising tax or income from them and also directs the department to laud any effort from the parties who make prompt payment of tax.
4	19	”	The Committee do not approve the delay that occurs in realising the tax and surcharge which is due to the department and the oversight that happens in properly assessing the income by the officials as per all the specification of the KAIT Act. The Committee urges the department officials to take proactive and time bound steps in Revenue Recovery processes instead of re-opening the cases on the benefit of powers of Assessing Authorities.
5	21	”	The Committee is dissatisfied with the inability of the department in realising the surcharge amount owing to the department by the trust in Vythiry. The Committee urges the department to explore legal method if any to realise the pending money which comes around Rs. 1.42 lakh.
6	23	”	The Committee expresses its strong dissatisfaction on the fact that the witness did not review the case of the charitable trust at Sulthan Bathery which owed an amount of Rs. 1.25 lakh as short levy of tax to the Government, despite the directions from the Committee since this case is very old.
			The Committee opines that, the internal audit wing of the department needs to be strengthened by deputing the competent persons from Accountant General’s Office for avoiding such irregularities.

(1)	(2)	(3)	(4)
7	30	Forest and Wild Life	<p>The Committee understands that the Forest Department failed to collect the royalty of raw materials used in paper industry at the revised rate approved by the Government which resulted in incomplete collection of revenue to the state and the Committee finds the failure of the Department officials in giving a proper reply, all the more appalling. The Committee is disappointed with the non-adherence of the Kerala Forest Produce (Fixation of Selling Price) Act of 1978 which stipulates that the prices of raw materials should be revised timely and rates be fixed every year, preferably before the beginning of the financial year. The Committee recommends that the realisation of royalty should be strictly done from all profit making public sector as well as private sector undertakings and that the Government should give subsidies or grant to those public sector companies which are running in loss. The Committee understands that the internal control and audit mechanism of the department is pathetically disordered due to which the department fails in the timely collection of revenue and royalty and the Committee wants the steps taken to strengthen the same be intimated to them. The Committee also suggests the department to take back all the leased out forest land where no plantations were carried out.</p>
8	35	”	<p>The Committee expresses its dissatisfaction over the in-effective approach taken by the Forest department in recovering and realising loss sustained to the Government due to expenditure incurred during re- auction and related procedures in the event of breach of any conditions by the successful bidder. The non-receipt of the Remedial Measures Taken</p>

(1)	(2)	(3)	(4)
			<p>statements regarding these cases made the situation worse. Thought the witness, Principal Secretary, Forest & Wilde Life Department agreed to furnish the related documents within a stipulated time, it was not complied with and the Committee views this with utmost contempt. The Committee is not pleased with the Chief Forest Conservator's disclosure that the RR procedures were progressing and laments that the department failed in the timely realisation of risk and cost due to cancellation of the original auction. The Committee blames the internal audit wing of the department in not updating themselves with the latest position of cases in the Comptroller and Auditor General's report which could avoid the pendency of realisation of amounts in related cases.</p>

APPENDIX II

ACTION TAKEN NOTES ON C & AG's REPORTS

I. (a) Department	Commercial Taxes
(b) Subject/Title of the Review Paragraph	Exclusion of income/deduction of inadmissible expenditure from income
(c) Paragraph No.	3.2
(d) Report No. and year	Report of the C & AG for the year ended 31-3-2003 (RR)
II. (a) Date of receipt of the Draft Para/Review in the Department	18-6-2003
(b) Date of Department's reply	23-7-2005
III. Gist of Paragraph/Review	In Agricultural Income Tax and Sales Tax Office, Thalipparamba, while finalizing the assessment of a company for the assessment years 1998-99 and 1999-2000, the assessing officer allowed in admissible depreciation of Rs. 1.02 crore on plantation crops, in admissible expense of Rs. 44.43 lakh on immature plants and excess depreciation of Rs. 6.55 lakh claimed on fixed assets and omitted to include in income Rs. 9.79 lakh relating to cost of seeds produced and consumed for own purpose. This resulted in fixing loss of Rs. 75.18 lakh against the assessable income of Rs. 87.59 lakh and consequent short levy of tax of Rs. 52.55 lakhs.

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| IV. (a) | Does the Department agree with the facts and figures included in the paragraph ? | Yes |
| (b) | If not, Please indicate areas of disagreement and also attach copies of relevant documents in support | Not applicable |
| V. (a) | Does the Department agree with the audit conclusions ? | Yes |
| (b) | If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary. | Not applicable |
| VI. | <i>Remedial action taken</i> | |
| (1) | Improvement in system and procedure including internal controls | In the light of the audit the assessment for the years 1998-99 and 1999-2000 were revised on 6-9-2003 fixing net loss of Rs. 51,30,735 and Rs. 16,74,519 respectively. |
| (2) | Recovery of overpayment pointed out by Audit | |
| (3) | Recovery of under assessment, Short levy or other dues | |
| (4) | Modification in the schemes and programmes including financing pattern | |
| (5) | Review of similar cases/complete scheme/project in the light of findings of sample check by audit. | |

ACTION TAKEN NOTES ON C & AG's REPORTS

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| I. (a) Department | Commercial Taxes |
| (b) Subject/Title of the Review Paragraph | Short levy of tax due to incorrect carry forward of loss |
| (c) Paragraph No. | 3.4.1 |
| (d) Report No. and year | Report of the C & AG for the year ended 31-3-2003 (RR) |
| II. (a) Date of receipt of the Draft Para/Review in the Department | 3-4-2003 |
| (b) Date of Department's reply | 18-8-2003 |
| III. Gist of Paragraph/Review | In the office of the Inspecting Assistant Commissioner (Special), Ernakulam, a company had neither filed returns for the assessment years 1992-93 and 1993-94 by the due dates nor applied for extension of time for filing returns. While finalizing the assessment for the assessment year 1998-99, the assessing officer carried forward loss of Rs. 23.31 lakh pertaining to the above years and set it off against the income for 1998-99. This resulted in short levy of tax and surcharge of Rs. 13.99 lakh. |
| IV. (a) Does the Department agree with the facts and figures included in the paragraph ? | Yes |
| (b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support | Not applicable |

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| V (a) | Does the Department agree with the audit conclusions ? | Yes |
| (b) | If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary. | Not applicable |
| VI. <i>Remedial action taken</i> | | |
| (1) | Improvement in system and procedure including internal controls | Based on the audit, the assessment for 1998-99 was revised on 5-6-2002. The Deputy Commissioner, (Appeals). Ernakulam vide order No. AITA/36/2002 dated 9-9-2002 has set aside the revised assessment. The Department preferred second appeal against the first appellate order. Meanwhile, the original assessment for 1992-93 and 1993-94, alleged to be improper, has been revised as per order dated 17-10-2002, disallowing entitlement of loss to be carried forward. The assessee company has filed appeals against the revised orders, which are also pending disposal. The second appeal filed by the department as well as the first appeals of the assessee company are pending disposal. |
| (2) | Recovery of overpayment pointed out by Audit | |
| (3) | Recovery of under assessment, Short levy or other dues | |
| (4) | Modification in the schemes and programmes including financing pattern | |
| (5) | Review of similar cases/complete scheme/project in the light of findings of sample check by audit | |

ACTION TAKEN NOTES ON C & AG's REPORTS

I. (a) Department	Commercial Taxes
(b) Subject/Title of the Review Paragraph	Short levy of tax due to incorrect carry forward of loss
(c) Paragraph No.	3.4.2
(d) Report No. and year	Report of the C & AG for the year ended 31-3-2003 (RR)
II. (a) Date of receipt of the Draft Para/Review in the Department	4-3-2003
(b) Date of Department's reply	15-6-2004
III. Gist of Paragraph/Review	In AIT & STO, Vythiri, while finalizing the assessment in January 2001 for the assessment year 2000-01 of a firm although the assessee had not filed the return for the assessment year 2000-01 on the due date or applied for extension of time for filing the return, the assessing officer carried forward earlier year's loss of Rs. 4.18 lakh and set it off against the income for 2000-01. This resulted in exclusion of income of Rs. 4.18 lakh and consequent short levy of tax and surcharge of Rs. 1.84 lakh.
IV. (a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support.	Not applicable
V. (a) Does the Department agree with the audit conclusions ?	Yes

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| (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary | Not applicable |
|
VI. <i>Remedial action taken</i> | |
| (1) Improvement in system and procedure including internal controls | Not applicable |
| (2) Recovery of overpayment pointed out by Audit | Not applicable |
| (3) Recovery of under assessment, Short levy or other dues | |
| (4) Modification in the schemes and programmes including financing pattern | In the light of the audit objection, the assessment was revised on 22-1-2002 creating an additional demand of Rs. 3,70,628 and Rs. 27,062 as tax and surcharge respectively. The amount is pending collection under Revenue Recovery. |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | |

ACTION TAKEN NOTES ON C & AG's REPORTS

I	(a) Department	Commercial Taxes
	(b) Subject/Title of the Review/ Paragraph	Under assessment of income
	(c) Paragraph No.	3.5.1
	(d) Report No. and year	Report of the C & AG for the year ended 31-3-2003 (RR)
II	(a) Date of receipt of the Draft Para/Review in the Department	4-3-2003
	(b) Date of Department's reply	22-2-2005
III	Gist of Paragraph/Review	In AIT & STO, Kozhikkode, while finalizing the assessments for the years 1996-97 and 1997- 98 of an individual who had failed to comply with the notice issued to produce the accounts, the assessing officer reckoned the yield of latex from 5,950 rubber trees at one kilogram per tree instead of three kilogram per tree. This resulted in under assessment of income by Rs. 10.03 lakh and consequent short levy of tax and surcharge of Rs. 5.51 lakh.
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
	(b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support.	Not applicable

- V (a) Does the Department agree with the audit conclusions ? Yes
- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary. Not applicable
- VI *Remedial action taken*
- (1) Improvement in system and procedure including internal controls. } Not applicable
- (2) Recovery of overpayment pointed out by Audit. }
- (3) Recovery of under assessment, Short levy or other dues. Action has been taken to revise the assessment under section 41 (2) of the Agricultural Income Tax Act (1991).
- (4) Modification in the schemes and programmes including financing pattern.
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit.

ACTION TAKEN NOTES ON C & AG's REPORTS

I	(a) Department	Commercial Taxes
	(b) Subject/Title of the Review /Paragraph	Under assessment of income
	(c) Paragraph No.	3.5.2
	(d) Report No. and year	Report of the C & AG for the year ended 31-3-2003 (RR)
II	(a) Date of receipt of the Draft Para/Review in the Department	18-6-2003
	(b) Date of Department's reply	15-5-2004
III	Gist of Paragraph/Review	In AIT & STO, Nedumkandam, while finalizing the assessment for the years 1999-2000 of a firm following mercantile system of accounting the Assessing officer omitted to include closing stock value of cardamom of Rs. 10.34 lakh. This resulted in short assessment of tax of Rs. 4.55 lakh.
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
	(b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support.	Not applicable
V	(a) Does the Department agree with the audit conclusions ?	Yes
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary.	Not applicable

VI *Remedial action taken*

- (1) Improvement in system and procedure including internal controls.
- (2) Recovery of overpayment pointed out by Audit.
- (3) Recovery of under assessment, Short levy or other dues.
- (4) Modification in the schemes and programmes including financing pattern.
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit.

Based on audit, the assessment for the year 1999-2000 has been revised under section 41 of the AIT Act (1991) on 14-2-2003. As per the revised order, after adjusting the net loss carried forward from the previous year, balance net loss fixed for the year 1999-2000 was Rs. 13,60,094. There was no demand for the year 1999-2000.

ACTION TAKEN NOTES ON C & AG's REPORTS

I (a)	Department	Commercial Taxes
(b)	Subject/Title of the Review/ Paragraph	Under assessment of income
(c)	Paragraph No.	3.5.3 (2)
(d)	Report No. and year	Report of the C & AG for the year ended 31-3-2003 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	4-3-2003
(b)	Date of Department's reply	12-8-2003
III	Gist of Paragraph/Review	In AIT & STO, Chittur, while finalizing the assessment of a firm for the assessment year 1996-97, the assessing Officer did not reckon the opening stock of Rs. 6.03 lakh although he did not consider the closing stock in the assessment for the year preceding assessment year. This resulted in under assessment of income of Rs. 6.03 lakh and consequent short levy of tax and surcharge of Rs. 2.24 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support.	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary.	Not applicable

VI *Remedial action taken*

- (1) Improvement in system and procedure including internal controls.
- (2) Recovery of overpayment pointed out by Audit.
- (3) Recovery of under assessment, Short levy or other dues.
- (4) Modification in the schemes and programmes including financing pattern.
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit.

Based on audit, the AIT & STO, Chittur revised the assessment order and served it on 13-5-2003. The assessee filed appeal before the Appellate Assistant Commissioner, Palakkad. The Appellate Assistant Commissioner dismissed appeal No. AITA/14/2002 on 23-1-2003. The AIT & STO advised the amount for collection to the revenue Recovery authority on 22-4-2003 and the same is pending collection.

ACTION TAKEN NOTES ON C&AG's REPORTS

- | | | |
|-----|---|--|
| I | (a) Department | Commercial Taxes |
| | (b) Subject/Title of Review/
Paragraph | Short levy of tax due to allowance of inadmissible expenses. |
| | (c) Paragraph No. | 3.6.1 |
| | (d) Report No. and Year | Report of the C&AG for the year ended 31-3-2003 (RR) |
| II | (a) Date of receipt of the
Draft Para/Review in the
Department | 8-5-2003 |
| | (b) Date of Department's
Reply | 29-9-2003 |
| III | Gist of Paragraph/Review | In the office of the Inspecting Assistant Commissioner (Special), Ernakulam and Kozhikode while finalizing the assessment for the year 1999-2000 of two companies, in filling expenses aggregating Rs. 14.66 lakhs were incorrectly deducted resulting in a short levy of tax of Rs. 8.80 lakhs. |
| IV | (a) Does the Department
agree with the facts and
figures included in the
paragraph ? | Yes |
| | (b) If not, please indicate
areas of disagreement
and also attach copies
of relevant documents
in support | Not applicable |
| V | (a) Does the Department
agree with the Audit
conclusions ? | Yes |

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary
- Not applicable

VI *Remedial Action taken*

- | | | |
|--|---|---|
| <p>(1) Improvement in system and procedure including internal controls</p> <p>(2) Recovery of overpayment pointed out by audit</p> | } | Not applicable |
| <p>(3) Recovery of under assessment, short levy or other dues</p> | | <p>In order to set right the audit objection, the assessments were revised. The amounts are pending collection.</p> |
| <p>(4) Modification in the schemes and programmes including financing pattern</p> | | |
| <p>(5) Review of similar cases/ complete scheme/project in the light of findings of sample check by Audit</p> | | <p>Not applicable</p> |

ACTION TAKEN NOTES ON C&AG's REPORTS

- | | | |
|-----|---|---|
| I | (a) Department | Commercial Taxes |
| | (b) Subject/Title of the Review/Paragraph | Short levy of tax due to allowance of inadmissible expenses |
| | (c) Paragraph No. | 3.6.(2) |
| | (d) Report No. and Year | Report of the C&AG for the year ended 31-3-2003 (RR) |
| II | (a) Date of receipt of the Draft Para/Review in the Department | 20-6-2003 |
| | (b) Date of Department's Reply | 30-10-2003 |
| III | Gist of Paragraph/Review | In the office of the Inspecting Assistant Commissioner (Special), Ernakulam while finalizing the assessment for the year 1999-2000 the assessing authority allowed expenditure of Rs. 1.75 lakhs incurred on a World Bank Project which was not for purpose of deriving agricultural income. This resulted in a short levy of tax of Rs. 1.05 lakh. |
| IV | (a) Does the Department agree with the facts and figures included in the paragraph ? | No |
| | (b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support | M/s. KFDC is a Public undertaking Company. The expenditure of Rs. 1,74,631 is only an additional remuneration to the officers who have implemented the World Bank Project. |
| V | (a) Does the Department agree with the Audit conclusions ? | No |

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary
- The deduction allowed by the assessing authority is an allowable deduction under section 5 (1) of the Kerala Agricultural Income Tax Act (1991).

VI *Remedial Action taken*

- (1) Improvement in system and procedure including internal controls
 - (2) Recovery of overpayment pointed out by Audit
 - (3) Recovery of under assessment, short levy or other dues
 - (4) Modification in the schemes and programmes including financing pattern
 - (5) Review of similar cases/complete scheme/project in the light of findings of sample check by Audit
- Not applicable

ACTION TAKEN NOTES ON C&AG's REPORTS

- | | | |
|-----|---|---|
| I | (a) Department | Commercial Taxes |
| | (b) Subject/Title of Review/Paragraph | Short/Non-realisation of interest |
| | (c) Paragraph No. | 3.7.1 |
| | (d) Report No. and Year | Report of the C&AG for the year ended 31-3-2003 (RR) |
| II | (a) Date of receipt of the Draft Para/Review in the Department | 31-3-2003 |
| | (b) Date of Department's Reply | 18-8-2003 |
| III | Gist of Paragraph/ Review | In the office of the Inspecting Assistant Commissioner (Special), Ernakulam while finalizing the assessment for the years 1998-1999 and 1999-2000 of an individual and for the assessment year 1999-2000 of a company where they did not make full payments of advance tax on the income by the due dates, the Assessing officer did not levy interest of Rs. 6.55 lakhs. |
| IV | (a) Does the Department agree with the facts and figures included in the paragraph ? | Yes |
| | (b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support | Not applicable |
| V | (a) Does the Department agree with the Audit conclusions ? | Yes |

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary

Not applicable

VI *Remedial Action taken*

- (1) Improvement in system and procedure including internal controls
- (2) Recovery of overpayment pointed out by Audit
- (3) Recovery of under assessment, short levy or other dues
- (4) Modification in the schemes and programmes including financing pattern
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by Audit

(1) *M/s. Karimatharuvi Estate*

The assessment has been revised under section 37 (4) on 1-2-2003 with an excess payment of Agricultural Income Tax Rs. 3,05,029 and levying interest of Rs. 2,23,916. The interest levied was adjusted from the excess AIT paid. Thus the revised assessment was finalized with an excess payment of Rs. 81,113 after adjusting the entire due from the company.

(2) *Shri Mathew Philip*

The assessing authority has revised the assessment in the light of the audit objection as per order dated 1-11-2004 and created additional demand of interest of Rs. 3,46,081 and Rs. 85,371 respectively (Total Rs. 4,31,452) for the year 1998-99 and 1999-2000. Out of this amount, the firm has remitted Rs. 2 lakhs as detailed below :

<i>Chalan No. date</i>	<i>Amount (lakh)</i>
681/6-12-2004	One lakh
60/3-1-2005	One lakh

ACTION TAKEN NOTES ON C&AG's REPORTS

- | | | |
|-----|---|--|
| I | (a) Department | Commercial Taxes |
| | (b) Subject/Title of Review/
Paragraph | Short/Non-realisation of Interest |
| | (c) Paragraph No. | 3.7.2 |
| | (d) Report No. and Year | Report of the C&AG for the year ended
31-3-2003 (RR) |
| II | (a) Date of receipt of the
Draft Para/Review in the
Department | 8-5-2003 |
| | (b) Date of Department's
Reply | 23-3-2004 |
| III | Gist of Paragraph/Review | In AIT & STO, Vythiri, in a case reported
in January 2000 for revenue recovery,
interest due till the date of reporting was
incorrectly shown as Rs. 1.25 lakh instead
of Rs. 2.15 lakh resulting in short demand
of interest of Rs. 0.90 lakh. As per the
Certificate, interest was to be recovered
upto the date of realization. On realization
of the arrears reported, which included the
interest of Rs. 1.25 lakh, the case was
closed in February 2001. Interest of Rs.
0.71 lakh due from the date of reporting
till the date of realization was also not
recovered. These omissions resulted in
short realization of interest aggregating
Rs. 1.61 lakh. |
| IV | (a) Does the Department
agree with the facts and
figures included in the
paragraph ? | Yes |
| | (b) If not, please indicate
areas of disagreement
and also attach copies
of relevant documents in
support | Not applicable |

- | | | | |
|----|------------------------------|--|--|
| V | (a) | Does the Department agree with the Audit conclusions ? | Yes |
| | (b) | If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary | Not applicable |
| VI | <i>Remedial Action taken</i> | | |
| | (1) | Improvement in system and procedure including internal controls | The assessment has been revised and the assessee preferred appeal before the Appellate Assistant Commissioner. The Appellate Assistant Commissioner modified the assessment by allowing certain expenses. The assessee filed second appeal before the Sales Tax Appellate Tribunal, Additional Bench, Kozhikode. The Sales Tax Appellate Tribunal directed to adopt income from Cardamom as fixed by the Sales Tax wing of the Department. |
| | (2) | Recovery of overpayment pointed out by audit | |
| | (3) | Recovery of under assessment, short levy or other dues | |
| | (4) | Modification in the schemes and programmes including financing pattern | |
| | (5) | Review of similar cases/complete scheme/project in the light of findings of sample check by Audit | As per the Tribunal order, the assessment for 1990-91 was revised on 30-1-2003. As per the revised assessment the net income fixed for 1990-91 is Rs. 5.629 only. As the amount is below assessable minimum, the assessment for the year 1990-91 was recorded as a case of 'Nil' demand. Hence there is no loss of revenue as pointed out by audit. |

ACTION TAKEN NOTES ON C&AG's REPORTS

- | | | |
|-----|---|---|
| I | (a) Department | Commercial Taxes |
| | (b) Subject/Title of Review/
Paragraph | Short/Non-realisation of Interest |
| | (c) Paragraph No. | 3.7.3 |
| | (d) Report No. and Year | Report of the C&AG for the year ended
31-3-2003 (RR) |
| II | (a) Date of receipt of the
Draft Para/Review in the
Department | 18-6-2003 |
| | (b) Date of Department's
Reply | 3-12-2004 |
| III | Gist of Paragraph/Review | In AIT & STO, Kottarakkara a firm which
opted to pay compounded tax for the
assessment years 1996-97 to 1998-99
failed to pay the tax in full by the due
dates. However, the assessing officer
omitted to levy interest of Rs. 1.48 lakh
for the period of delay. |
| IV | (a) Does the Department
agree with the facts and
figures included in the
paragraph ? | Yes |
| | (b) If not, please indicate
areas of disagreement
and also attach copies
of relevant documents in
support | Not applicable |
| V | (a) Does the Department
agree with the Audit
conclusions ? | Yes |

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary
- Not applicable

VI *Remedial Action taken*

- (1) Improvement in system and procedure including internal controls
- (2) Recovery of overpayment pointed out by audit
- (3) Recovery of under assessment, short levy or other dues
- (4) Modification in the schemes and programmes including financing pattern
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by Audit
- The assessments for the years 1996-97 to 1998-99 were revised under section 42 of the KAIT Act (1991) on 22-6-2002. The assessee remitted Rs. 6,301 for the year 1996-97 and Rs. 1,22,278 for the year 1998-99. Action is being continued for collecting the balance amount.

ACTION TAKEN NOTES ON C & AG's REPORTS

- | | | |
|--------|--|---|
| I (a) | Department | Commercial Taxes |
| (b) | Subject/Title of the Review /Paragraph | Short levy of surcharge |
| (c) | Paragraph No. | 3.9 |
| (d) | Report No. and year | Report of the C & AG for the year ended 31-3-2003 (RR) |
| II (a) | Date of receipt of the Draft Para/Review in the Department | 31-3-2003 |
| (b) | Date of Department's reply | 26-2-2004 |
| III | Gist of Paragraph/Review | In AIT & STO, Vythri, while finalizing the assessment of a trust the assessing officer computed surcharge on tax of Rs. 15.78 lakh as Rs. 0.16 lakh against the correct amount of Rs. 1.58 lakh calculated at 10%. This resulted in short levy of surcharge of Rs. 1.42 lakh. |
| IV (a) | Does the Department agree with the facts and figures included in the paragraph? | Yes |
| (b) | If not, Please indicate areas of disagreement and also attach copies of relevant documents in support. | Not Applicable |
| V (a) | Does the Department agree with the audit conclusions ? | Yes |
| (b) | If not, Please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary | Not Applicable |
| IV | <i>Remedial Action Taken</i> | |
| (1) | Improvement in system and procedure including internal controls | The assessment was revised vide order dated 10-1-2003 as under |

(2) Recovery of overpayment pointed out by Audit	Not Applicable	
		Rs.
(3) Recovery under assessment, Short levy or other dues	AIT	15,78,500
	Surcharge	1,57,850
(4) Modification in the schemes and programmes including financing pattern	Total	17,36,350
(5) Review of similar cases/ complete scheme/project in the light of findings of sample check by audit.	This amount has been advised for Revenue recovery as per No. RRC/ 89/02-03 dated 13-2-2003. The amount is still pending collection.	

ACTION TAKEN NOTES ON C&AG's REPORTS

I	(a) Department	Commercial Taxes
	(b) Subject/Title of the Review /Paragraph	Omission to assess income
	(c) Paragraph No.	3.10
	(d) Report No. and year	Report of the C & AG for the year ended 31-3-2003 (RR)
II	(a) Date of receipt of the Draft Para/Review in the Department	4-3-2003
	(b) Date of Department's reply	4-3-2004
III	Gist of Paragraph/Review	In AIT & STO, Sulthan Batheri, while finalizing the assessment of a Charitable trust for the assessment year 1997-98 the assessing officer omitted to levy tax on income of Rs. 2.86 lakh not applied or set apart for the Charitable purposes. This resulted in short levy of tax and surcharge of Rs. 1.25 lakh.
IV	(a) Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support.	Not Applicable
V	(a) Does the Department agree with the audit conclusions?	Yes
	(b) If not, Please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	Not Applicable
VI	<i>Remedial Action Taken</i>	
	(1) Improvement in system and procedure including internal controls	Based on the audit objection, the assessment was revised under section

- (2) Recovery of over payment pointed out by Audit
- (3) Recovery of under assessment, Short levy or other dues
- (4) Modification in the schemes and programmes including financing pattern
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit.
- 41 of the KAIT Act on 1-2-2002 incorporating the income escaped from assessment. Aggrieved by the above order the assessee preferred appeal before the Appellate Assistant Commissioner, Kozhikode and the Appellate Assistant Commissioner as per his order dated 3-7-2003 ordered to re-examine the case and remitted the case back to the assessing authority. In light of the Appellate order the assessment was completed afresh as per order dated 29-4-2003 as under

Rs.

Taxable income	2,85,970
AIT	1,57,284
Surcharge	15,728

The entire amount was advised for Revenue Recovery on 8-1-2004.

ACTION TAKEN NOTES ON C & AG's REPORTS

- | | | |
|-----|--|--|
| I | (a) Department | Commercial Taxes |
| | (b) Subject/Title of the Review/
Paragraph | Short levy due to application of incorrect rate of tax/exemption |
| | (c) Paragraph No. | 3.11 |
| | (d) Report No. and year | Report of the C & AG for the year ended 31-3-2003 (RR) |
| II | (a) Date of receipt of the Draft
Para/Review in the Department | 4-3-2003 |
| | (b) Date of Department's reply | 13-11-2003 |
| III | Gist of Paragraph/Review | In AIT & STO, Kottayam, while finalizing the assessment for the assessment year 2000-2001 & 2001-2002 of firm holding 20 hectares of cardamom plantations in zone "A" and 16 hectares of coffee plantations the assessing officer assessed the tax on cardamom at the rates applicable to zone "C" and also exempted income from coffee for the year 2001-02 though the total extent of plantations exceeded 20 hectares. This resulted in short levy of tax and surcharge of Rs. 1.16 lakh. |
| IV | (a) Does the Department agree with the facts and figures included in the paragraph ? | Yes |
| | (b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support. | Not Applicable |
| V | (a) Does the Department agree with the audit conclusions ? | Yes |
| | (b) If not, Please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary | Not Applicable |

VI *Remedial Action Taken*

- | | |
|---|---|
| (1) Improvement in system and procedure including internal controls | Based on the audit the assessment was revised on 27-6-2003 invoking section 42 of the KAIT Act, (1991) creating an additional demand of Rs. 1,28,150 and total amount due Rs. 1,83,150, Rs. 1,55,100 was paid as per chalan No. 4385 dated 29-2-2000. Balance Rs. 28,000 along with interest was collected vide chalan No. 000294 dated 2-6-2004. |
| (2) Recovery of over payment pointed out by Audit | |
| (3) Recovery under assessment, Short levy or other dues | |
| (4) Modification in the schemes and programmes including financing pattern | |
| (5) Review of similar cases/ complete scheme/project in the light of findings of sample check by audit. | |

ACTION TAKEN NOTES ON C & AG's REPORTS

- | | | |
|-----|---|---|
| I | (a) Department | Commercial Taxes |
| | (b) Subject/Title of the Review/
Paragraph | Short levy due to inadmissible deduction |
| | (c) Paragraph No. | 3.12 |
| | (d) Report No. and year | Report of the C&AG for the year ended 31-3-2003 (RR) |
| II | (a) Date of receipt of the Draft
Para/Review in the Department | 4-3-2003 |
| | (b) Date of Department's reply | 15-6-2004 |
| III | Gist of Paragraph/Review | In AIT & STO, Vythitri while finalizing the assessment of a firm for the assessment year 2000-01 the assessing authority allowed deduction of Rs. 2.55 lakh claimed by the assessee towards provision for bonus though the assessee had not produced any document to establish that the same was paid before the due date for filling of return. This resulted in excess allowance of deduction of Rs. 2.55 lakh and consequent short levy of tax of Rs. 1.12 lakh. |
| IV | (a) Does the Department agree with the facts and figures included in the paragraph ? | Yes |
| | (b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support. | Not Applicable |
| V | (a) Does the Department agree with the audit conclusions ? | Yes |
| | (b) If not, Please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary | Not Applicable |

VI *Remedial Action Taken*

- (1) Improvement in system and procedure including internal controls
 - (2) Recovery of over payment pointed out by Audit
 - (3) Recovery under assessment, Short levy or other dues
 - (4) Modification in the schemes and programmes including financing pattern
 - (5) Review of similar cases/ complete scheme/project in the light of findings of sample check by audit.
- The assessment was revised on 22-1-2002. As the assessee did not pay the amount due to Government it was advised for revenue recovery on 2-1-2004 and the same is still pending collection.

**Statement of action taken on para 6.1 (Result of audit) in the Report of
C & AG of India for the year ended 31-3-2004 (RR) relating to
Forest & Wild Life Department**

<i>Sl No.</i>	<i>Division</i>	<i>Nature of under assessment</i>	<i>Amount</i>	<i>Action Taken</i>
(1)	(2)	(3)	(4)	(5)
1	DFO, Vazhachal	Non/short realisation of Sales Tax/ Income Tax	16159	Additional Sales Tax @ 15% of ST has already adjusted from advance remitted by M/s HNL. This item has already been dropped as per AG's letter No. SRA(HQ)IV/F/10-572/03-04/192 dated 28-6-2004.
2	DFO, Thenmala	Loss in auction/ reauction disposal of forest produces short/non-realisation of loss/ penalty and other charges	17875	1300 numbers of Eucalyptus Poles collected from the 1997 & 1998 clonal multiplication areas (CMA) of the Central Nursery, Kulathupuzha were put to auction on 2-8-2001. Earnest attempts were also made to dispose of the same in the auction. All these poles were not matured and having only two years growth they could not fetch any price. Because of the poor quality of the produce nobody turned up for taking the poles as the poles were collected from very younger plantations of two years old. Hence the poles have naturally deteriorated due to long storage and attack of white ants.
3	DFO, Kannur	Loss in auction/ reauction disposal of forest produces short/non-realisation of loss/ penalty and other charges. SRA	538268	The actual amount due from Shri V. Jayachandran, is Rs. 5,49,277 including publication charges of sales notice. In the case of Shri V. Jayachandran, R.R. proceedings have been initiated to recover the loss of Rs. 5,49,277 by DC, Kannur as per letter No. G1-26055/04 dated 23-6-2004 and instructed Tahsildar, Thaliparamba to recover the

(1)	(2)	(3)	(4)	(5)
		(HQ)IV/F/10-562/ 03-04/303 to 305 dated 15-7-2003 part IIA (A)		loss under RR Act. But the mother of the defaulted bidder filed O.S. No. 124/04 before the Honourable Sub Court, Payyannoor against the RR proceedings. The Divisional Forest Officer, Kannur stated that the case is still pending in the court.
			154426	In the case of Shri Shaik Adam Sahib the total amount to be recovered is Rs. 1,56,585 out of which an amount of Rs. 1,14,000 had already been recovered from him under RR Act. Action is in progress for the realization of the balance amount Rs. 42,585.
4	DFO, Palakkad	Short/Non demand of lease/rent penal interest due on forest land	358800	AG has dropped this item as per letter No. SRA (HQ)/IV/F2/10-597/2003/96/129 dated 1-6-2004.
5	DFO, Munnar	Non/short realisation of Sales Tax/Income Tax	609713	AG has dropped this item as per letter No. SRA (HQ)/IV/F/10-617/2003-04/243 dated 20-7-2004.
6	DFO, Malayattor	Short /Non demand of lease rent/penal interest due on forest land	120000	The total extent of forest land leased out to M/s Hindustan News Print Limited, Vellor for raising captive plantation is 1151.41 Ha, out of this, only 1081.60 Ha.is the effective area which is suitable for Planting. Balance 69.81 Ha. is not suitable for Planting. The lease rent for 1081.60 Ha. area which is Rs. 14,06,080 per annum (@ Rs. 1300-Ha) has been realized in this office for the period upto 31-3-2006. Countersigned chalans for the balance 69.81 Ha. had been issued from this office many times to the Company. But the Company refused to remit it saying that they are not accountable for remitting the lease rent for nonplantable area.

(1)	(2)	(3)	(4)	(5)
				The arrears which is actually Rs. 447425 (Not Rs. 447485) as recorded in part II (A) II of the LAR is the lease rent of 69.81 Ha. land from 1997-98 to 2002-2003. The penal interest of this arrear amount till 31-3-2004 is Rs. 120111.
7	DFO, South Wayanad	Loss in auction/ reauction disposal of forest produces short/non- realisation of loss /penalty and other charges.	58036	Proposals have been sent to Deputy Commissioner, Hunzur District Karnataka through the Deputy Commissioner, Wayanad to recover the amount from the defaulter under Revenue Recovery Act. The Deputy Commissioner, Mysore District; Mysore as per letter No. Tad/MSR/R11/6/00/01 dated 17-2-2003 has informed that he has given orders to the Tahasildar, Hunzur Taluk to realise the amount as arrers of land revenue. The details of realisation will be intimated shortly.
8	DFO, Timber Sales, Palakkad	Loss in auction reauction disposal of forest produces short/non-reali- sation of loss/ penalty and other charges	206000	Divisional Forest Officer, Timber Sales Palakkad reported that the defaulted bidder has approached the Hon'ble High Court of Kerala filing WP (C) 36591/2003 against the recovery of Government loss from him and the matter is subjudice. Earnest efforts are being taken to get the stay vacated. Further proceedings can be initiated only after vacating stay order. Hence the para may be dropped.
9	DFO, Punalur	Non/short realis- ation of value of forest produces	50401	As observed a chalan for Rs. 50401 with currency till 15-11-2003 has been sent to HNL vide Divisional Forest Officer, Punalur letter No. PL2-4119/

(1)	(2)	(3)	(4)	(5)
				2001 dated 9-10-2003. HNL has returned the same along with letter No. HNL/FD/629/1471 dated 28-10-2003 stating that an amount of Rs. 2,90,962 is refundable to the firm against the advance remitted during 2000-2001 and 2001-2002. A fresh chalan for Rs. 50,401 is being issued to the HNL with request to remit the chalan and produce the receipted chalan.
10	DFO, Punalur	Non/Short demand of lease rent	25123	M/s Power Grid Corporation has remitted Rs. 25,123 vide chalan No. T1 dated 28-10-2003 being the base lease rent for the period from 27-5-2002 to 31-5-2003. The said amount has been credited in the Division account vide Cash book No. 45 dated 30-10-2003.
11	DFO, Punalur	Non/Short Realisation of Sales Tax	66104	Range Officers, Anchal and Pathanapuram have been directed to recover the short levy of Sales Tax pointed out by the Audit. The Range Officer has replied that they have issued chalan for the difference amount to the parties concerned.
12	DFO, Konni	Other lapses	71081	Non removal of felled raw materials by M/s HNL during 2000-2001. As per Government Order No. G3-19040/2001 dated 9-8-2001 of CCF (Protection), Thiruvananthapuram a quantity of 225 MT bamboo including the 55 MT bamboo left un-removed during 2000-2001 have been re-allotted to M/s HNL from Mannarappara Range of Konni Forest Division during 2001-2002. The entire quantity of bamboo ie. 170 MT collected during 2001-2002 and 55 MT left unremoved in the coupe during

(1)	(2)	(3)	(4)	(5)
				2000-2001 were removed vide pass No. 21/2002 (100 MT) 22/2002 (70 MT) and 45/2001 (55 MT) of Mannarappara Range before 31-5-2002. The Company had remitted the entire amount due for the supply and Non Liability Certificate has been issued to the contractor.
13	DFO, TVM	Loss in auction/ re-auction disposal of forest produces Short/Non-realisation of loss penalty and other charges	71560	Total amount calculated Rs. 71,560 (in Kulathupuzha Range Rs. 26,500 and in Paruthipally Range Rs. 45,060). Action is being taken to dispose of timber in the next auction on Kulathupuzha Range. In the case of Paruthipally Range confiscated timber were auctioned and value remitted to Government.
14	DFO TVM	Other lapses	79917	The AG has computed the loss by taking the average value of Cashew nut for the 3 preceeding years. The loss thus arrived at comes to Rs. 79,917. In this connection the following facts are brought to notice. All the plantations designated for Departmental Collection were put up for auction 5 time each. There were no one to bid the plantations all the five times. The reason for not taking bid of the plantations was poor flowering of the Cashew trees usually before auction and after all the trees are flowered the participants will visit planatation for convincing themselves the flowering rate of the trees. Thereby to make a realistic assessment of the yield expected. In this case also they have visited the plantation before participating in the auction. That is why no one could offer any price and bid the plantations. They were convinced themselves that the

(1)	(2)	(3)	(4)	(5)
				<p>flowering of that season was very poor. From this it is very evidently clear that whatever may be the reason for short fall, the Cashew yield during the season was very low and that is the real reason for not bidding the plantation.</p> <p>Reason for shortfall in collection of cashew nuts during the seasons furnished in reply to the Audit enquiry was "Suppression of growth and bad climate condition". Since the Audit Enquiry was not properly and convincingly answered, AG has not accepted this explanation. Whatever may be reason for shortfall, the truth is that in that the yield in the plantation was very low during that season.</p>
15	DFO Nilambur (S)	Non realisation of value of forest produces	109000	<p>The defaulted bidder Shri P. T. Moosa had died, and the Government loss is to be recovered from the legal heirs of the deceased bidder. Divisional Forest Officer, Nilambur sent notice to the legal heir of the deceased bidder vide letter No. C1-906/2003. His family consists wife and 4 children. Divisional Forest Officer, again sent registered notice to the legal heirs on 25-5-2005 stating that if they had failed to remit the amount, RR action will be taken against them.</p>

**Report of the Comptroller and Auditor General of India for the
year ended 31-3-2004 (Revenue Receipts)**

<i>Para No.</i>	<i>Report</i>	<i>Action Taken</i>
(1)	(2)	(3)
6.3	<p>Non-realisation of re-auction loss</p> <p>As per Kerala Forest Code Vol. I sale of timber and forest produce and depots shall be effected only after proper notification and publicity. According to terms and conditions prescribed in the notification for auction sale of timber, firewood etc. by Forest Department, the successful bidder in auction should remit the entire bid amount and remove the items within the specified time. In the event of breach of any of the conditions by the successful bidder, the produce shall be re-auctioned and the bidder shall make good to Government any loss due to re-auction and the expenditure incurred for such re-auction.</p> <p>In Forest Division, Kannur, two successful bidders in timber auctions held in October, 2001 and October, 2002 got auction confirmed in their names after remitting part value, but did not remit the balance sale value.</p>	<p>Two bidders involved in this case are Shri Shaik Adam Sahib, the loss calculated against him in Rs. 1,56,585 and Shri V. Jayachandran, the loss is Rs. 5,49,277. In the case of Shri Shaik Adam Sahib, an amount of Rs. 1,52,000 has been recovered through RR proceedings and the recovery of the balance amount is in progress.</p> <p>In the case of Shri V. Jayachandran R. R. Proceedings to recover the loss of Rs. 5,49, 277 is initiated against him. But his mother has file OS 124/04 before the Sub Court, Payyannoor. The case is still pending. Efforts are being made to get the disposed of at the earliest.</p>

(1)	(2)	(3)
	<p>Loss sustained by Government in re-auction of the un-removed timber, conducted between July and December, 2002 was not demanded from original bidders. This resulted in non-realisation of Rs. 6.91 lakh.</p>	
	<p>After this was pointed out to the Department in April, 2003 and reported to Government in December, 2003, they stated in June and August, 2004 that revenue recovery under KRR Act, was in progress in both the cases. Further report has not been received. (December, 2004).</p>	
