
ASSAM AGRICULTURAL INCOME-TAX ACT, 1939

9 of 1939

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SCHEDULE 1 :- SCHEDULE

ASSAM AGRICULTURAL INCOME-TAX ACT, 1939

9 of 1939

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An Act to provide for the imposition of a tax on Agricultural income
Whereas it is expedient to impose a tax on agricultural income arising from lands situated in the Province of Assam ;It is hereby enacted as follows

CHAPTER 1

Preliminary

1. Short title :-

(1) This Act may be called the Assam Agricultural Income-tax Act, 1939.

(2) It shall take effect from the 1st of April, 1939.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context

(c) "Senior Superintendent of Taxes", "Superintendent of Taxes" or "Agricultural Income-tax Officer" means a person appointed to be a Superintendent of Taxes or Agricultural Income-tax Officer under sub-S. (2) of S. 18 ;

(e) "assessee" means a person by whom agricultural income-tax is payable ;

(g) "Board" means the Assam Board of Revenue constituted under S. 3 of the Assam Board of Revenue Act, 1959 or under any statutory modification or re-enactment thereof.'

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

Commissioner of Taxes under sub-S. (2) of S. 18 ;

(i) "Company" means a company as defined in the Indian Companies Act, 1956, or formed in pursuance of an Act of Parliament of the United Kingdom or of Royal Charter, or Letters Patent, or of an Act of the Legislature of a British possession, and includes any foreign association carrying on business in India whether incorporated or not and whether its principal place of business is situated in India or not, which the Commissioner may, by general or special order, declare to be a Company for the purposes of this Act;

(j) "assessment year" means and shall be deemed always to have meant the period of twelve months commencing on the 1st day of April every year;

(l) "landlord" has the same meaning as in the Assam (Temporarily Settled Districts) Tenancy Act, 1935 ; Sylhet Tenancy Act, 1936 ; Goalpara Tenancy Act, 1929 ;

(n) "prescribed" means prescribed by Rules made under this Act;

(p) "total agricultural income" means the aggregate of amounts of agricultural income referred to in C1. (a) of S. 2 and determined in the manner laid down in or under this Act.

CHAPTER 2

Charge of agricultural income-tax

3. Charge of agricultural income-tax :-

Agricultural income-tax at the rate or rates specified in the Schedule, subject to the provisions of S. 6, shall be charged for each assessment year in accordance with and subject to the provisions of this Act on the total agricultural income of the previous year of every person.

4. Exemption :-

Except as provided elsewhere in this Act, agricultural income-tax shall not be assessed on, and be payable by an assessee in respect of

(i) any income which he receives as a member of a Hindu joint or undivided family where agricultural income of such family has been assessed to agricultural income-tax under this Act ;

(ii) any sum which he receives by way of dividend as a share-holder in any company where the agricultural income of the company has

been assessed to agricultural income-tax under this Act ;

(iii) such an amount of the agricultural income of any firm which has been assessed to agricultural income-tax under this Act as is proportionate to his share in the firm at the time of such assessment as is received by him ;

(iv) any sum which he receives as his share of the agricultural income of an association of individuals other than a Hindu joint or undivided family, company or firm where such agricultural income has been assessed to agricultural income-tax under this Act;

(v) any sum which he receives after the tax in respect thereof has been assessed under Ss. 9 to 14 and realised.

5. Application of the Act :-

Save as hereinafter provided, this Act shall apply to all agricultural income derived from the land situated in the State of Assam.

6. Limit of taxable income and rate of tax :-

Agricultural income-tax shall be payable by every person whose total agricultural income of the previous year exceeds the limits specified in the Schedule at such rates as are specified therein.

7. Determination of agricultural income :-

The agricultural income mentioned in sub-C1. (1) of C1. (a) of S. 2 shall be deemed to be the sum realised in the previous year on account of agricultural income mentioned in the said sub-C1. (1) after making the following deductions :

(a) the sum actually paid in the previous year as revenue to the Government or as rent to superior landlord in respect of the land from which such agricultural income is derived ;

(b) the sum actually paid in the previous year in respect of such land as any local rate collected under enactment in force in Assam ;

(c) a sum equal to 15 per cent of the total amount of the rent which accrued due in the previous year, in respect of the charge for collecting the same ;

(d) any rate under the Village Chowkidari Act, 1870, in respect of any building used by the assessee as an office for the collection of the rents due in respect of the land from which such agricultural income is derived ;

(e) any expenses incurred on the maintenance of any irrigation or

protective work constructed for the benefit of the land from which such agricultural income is derived ;

(f) in respect of the current repairs to any capital asset used in connection with the collection of rents due in respect of the land from which agricultural income is derived, the amount paid on account thereof;

(g) interest actually paid on any amount borrowed and actually spent on any capital expenditure incurred after the First April, 1937 for the benefit of the land from which such agricultural income is derived ;

(h) depreciation in respect of any capital asset purchased or constructed after First April, 1937 for the benefit of the land from which such agricultural income is derived, or for the purpose of deriving such agricultural income from such land at such rates as may be prescribed by the Central Government for computing profits or gains of any business for the purpose of assessment of income-tax thereon and in default of such prescription prescribed by rules under S. 50 ;

(i) any interest actually paid on any mortgage of any other kind of debt or any interest actually paid on any other capital charge incurred for the purpose of acquiring the property from which such agricultural income is derived ;

(j) when the property from which such agricultural income is derived is subject to a mortgage created before the 1st day of January 1939, the amount of any interest actually paid on such mortgage ;

(k) any malikana or similar levy actually paid by the assessee in respect of the land from which such agricultural income is derived ;

(l) any sum actually paid as interest in respect of loans taken under the Agricultural Loans Act, 1884, and the Land Improvement Loans Act, 1883 ; and

(m) any sum actually donated for charitable purposes if such donation in aggregate is not more than Rs. 5 lakh or ten per centum of the total agricultural income, whichever is less; provided that such sum is actually spent for such purposes in the State of Assam ;

(n) such other deductions on account of depreciation or any other

cause as may be prescribed by rules under S. 50.

8. Determination of agricultural income mentioned in sub-CI. (2) of Cl. (a) of S. 2. :-

(1) The agricultural income mentioned in sub-CI. (2) of Cl. (a) of S. 2 shall be assessed on the net amount of such income determined in the prescribed manner.

(4) Any amount as may be notified in this behalf by the State Government invested for setting up of industries other than tea plantation and manufacturing within the State of Assam.

8A. Liability of the husband or father for income of the wife or minor child. :-

The total agricultural income of any individual shall for the purpose of assessment include

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

9. Exemption of charitable trust :-

(1) Any agricultural income derived from property held under a trust or other legal obligations wholly or partly for religious or charitable purposes shall, to the extent it applied or finally set apart for the aforesaid purposes, not be liable to income-tax under this Act.

(2) In this section, "purposes of a charitable nature" include relief of the poor, education, medical relief, and advancement of any other object of general public utility.

10. Exclusion of agricultural income of certain waqf :-

All agricultural income of Muslim Trusts referred to in S. 3 of the Muslim Wakf Validating Act, 1913, created before the commencement of this Act, shall be excluded from the operation of this Act :

Provided that the share of a beneficiary under a trust under the aforesaid Act, of the description commonly known as Wakf-alal-aulad shall not be exempted and the basis of the taxation shall be the share of each beneficiary ;

Provided further that if a beneficiary's income is assessable under the above-mentioned proviso, the Superintendent of Taxes or Agricultural Income-tax Officer may require the Mutawalli to deduct the amount of the tax from the payment to be made to the beneficiary and pay the same to the Superintendent of Taxes or Agricultural Income-tax Officer. On such requisition the Mutawalli shall be liable to pay the same.

11. . :-

Assessment of a Hindu undivided or joint family. [Deleted].

12. **Assessment of tax on land held for the benefit of several persons :-**

(1) Save as provided in Ss. 10, 13 and 14, if a person holds land from which agricultural income is derived partly for his own benefit and partly for the benefit of beneficiaries or wholly for the benefit of a beneficiary or beneficiaries, agricultural income-tax shall be assessed on the total agricultural income derived from such land at the rate which would be applicable if such person had held the land exclusively for his own benefit and agricultural income-tax so payable shall be assessed on the person holding such land, and he shall be liable to pay the same.

(2) Any person holding such land shall be entitled before paying to any beneficiary the amount of agricultural income which such beneficiary is entitled to receive from the agricultural income derived from such land, to deduct the amount of agricultural income-tax at the rate at which the agricultural income is or will be assessed under sub-S. (1). Explanation. In this section "beneficiary" means a person entitled to a portion of the agricultural income derived from the land.

13. **Assessment of tax on common manager, receiver, etc :-**

Where any person holds land, from which agricultural income is derived, as a common manager appointed under any law for the time being in force or under any agreement or as receiver, administrator or the like on behalf of persons jointly interested in such land or in the agricultural income derived therefrom, the aggregate of sums payable as agricultural income-tax by each person on the agricultural income derived from such land and received or receivable by him shall be assessed on such common manager, receiver, administrator or the like and he shall be deemed to be the assessee in respect of the agricultural income-tax

so payable by each such person and shall be liable to pay the same.

14. Court of Wards, etc :-

In the case of agricultural income taxable under this Act, which is received by the Court of Wards the Administrator General, or Official Trustee, the tax shall be levied upon and be recoverable from such Court of Wards, Administrator General or Official Trustee in the like manner and to the same amount as it would be leviable upon and recoverable from any person on whose behalf such agricultural income is received and all the provisions of this Act shall apply accordingly.

14A. Residuary provision for computation and recovery of tax in certain cases :-

(1) In any case covered by Ss. 13 and 14 where any agricultural income or any part thereof is not specifically received on behalf of any one person, or where the individual shares of the person on whose behalf they are received are determinate or known, the tax shall be levied and be recoverable at the rate applicable to the total amount of such income.

(2) Nothing contained in Ss. 13 and 14 shall prevent either the direct assessment of the person on whose behalf agricultural income therein referred to is received or the recovery from such person of the tax payable in respect of such income.

15. Exemption in case of life insurances :-

(2) Where the assessee is a Hindu undivided or joint family there shall be exempted under sub-S. (1) any sum paid to affect an insurance on the life of any male member of the family.

(3) The aggregate of any sums exempted under this section shall not exceed one-sixth of the total agricultural income of the assessee.

16. Carrying forward of loss of profits or gains :-

(1) Where any assessee sustains a loss of profits or gains in any year under any of the items mentioned in sub-C1s. (1) and (2) of C1. (a) of S. (2), he shall be entitled to have the amount of the loss set-off against his income, profits or gains under any other item in that year.

(2) Where any assessee sustains a loss of profits or gains in any year being a previous year not earlier than the previous year for the assessment for the year ending on the 31st day of March, 1940, the loss shall be carried forward to the following year and set-off against the profits or gains if any of the assessee from agricultural income for that year and if it cannot be wholly so set-off the amount of loss not so set-off shall be carried forward to the following year and so on but no loss shall be carried forward for more than six years.

17. :-

Deleted by Assam Act XIII of 1959]

CHAPTER 3

CHAPTER

18. Income-tax Authorities :-

(2) The State Government may appoint one Commissioner of Taxes and as many other officers as mentioned in sub-S. (1) of S. 18 as the State Government may deem fit.

(3) The Commissioner of Taxes shall perform his functions in respect of whole of the State of Assam and the other officers mentioned in sub-S. (1) shall perform their functions in respect of such areas or such persons or classes of persons or of such incomes or classes of incomes or of such cases or classes of cases as the Commissioner of Taxes may, by notification in the official Gazette, direct.

CHAPTER 4

Assessment, deduction and exemption

19. Return of income :-

(1) Every person, if his total agricultural income in respect of which he is assessable under this Act during the previous year exceeded the limit of the taxable income prescribed in S. 6, shall furnish before the 30th day of September of the relevant assessment year, a return of his agricultural income or the agricultural income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars, as may be prescribed :

[* * *]

(2) In the case of any person who, in the opinion of the

Superintendent of Taxes or Agricultural Income-tax Officer is assessable under this Act, whether on his own total agricultural income or on the total agricultural income of any other person during the previous year, the Superintendent of Taxes or Agricultural Income-tax Officer, may, before the end of the relevant assessment year, serve a notice upon him requiring him to furnish, within thirty days from the date of service of the notice, a return of his agricultural income or the agricultural income of such other person during the previous year, in the prescribed form verified in the prescribed manner and setting forth such other particulars as may be prescribed :

[* * *]

(3) If any person who has not been served with a notice under sub-S. (2) has sustained a loss of profits or gains in any previous year and claims that the loss or any part thereof should be carried forward under sub-S. (2) of S. 16 he may furnish, within the time allowed under sub-S. (1) a return of loss in the prescribed form and verified in the prescribed manner and containing such other particulars as may be prescribed, and all the provisions of this Act shall apply as if it were a return under sub-S. (1).

(4) Any person who has not furnished a return within the time allowed to him under sub-S. (1) or sub-S. (2), may furnish the return before the assessment is made [* * *].

;

(5) If any person having furnished a return under sub-S. (1) or sub-S. (2), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the assessment is made [* * *].

(6) No return under sub-S. (1) need be furnished by any person for any previous year if he has already furnished a return of agricultural income for such year in accordance with the provisions of sub-S. (2) : Provided that no return submitted under this section shall be valid unless the taxes due for the year is paid in full in accordance with the provisions of the Act.

19A. Return by whom to be signed :-

The return under S. 19 shall be signed and verified

(a) in the case of an individual, by the individual himself; where the individual is absent from India, by the individual concerned or

by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu undivided family, by the Karta and where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family ;

(c) in the case of a company or local authority by the principal officer thereof;

(d) in the case of a firm, by any partner thereof, not being a minor ;

(e) in the case of any other association, by any member of the association or the principal officer thereof; and

(f) in the case of any other person, by that person or by some person competent to act on his behalf.

19B. Provisional assessment :-

(1) The Superintendent of Taxes or Agricultural Income-tax Officer may, at any time after the receipt of a return made under S. 19, proceed to make in a summary manner a provisional assessment of tax payable by the assessee on the basis of his return and the accounts and documents, if any, accompanying it. Where the amount of tax payable as per provisional assessment exceeds the amount paid or deemed to have been paid, the provisions of Ss. 35-C, 35-D and 35-E of the Act shall apply in his case.

(2) In making any assessment under this section due effect shall be given to the allowances and deductions as admissible under this Act and the Rules.

(3) After a regular assessment has been made, any amount paid or deemed to have been paid towards the provisional assessment made under sub-S. (1) shall be deemed to have been paid towards the regular assessment; and where the amount paid or deemed to have paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee. When the amount of tax payable as per regular assessment exceeds the amount paid or deemed to have been paid towards the provisional assessment, the provisions of Ss. 35-C, 35-D and 35-E of the Act shall apply in every such case.

(4) Nothing done or suffered by reason or as a consequence of any provisional assessment made under this section shall prejudice the determination on the merits of any issue which may arise in the course of the regular assessment.

(5) There shall be no right to appeal against a provisional assessment under sub-S. (1).

20. Assessment :-

(1) If the Superintendent of Taxes or Agricultural Income-tax Officer is satisfied that a return made under S. 19 is correct and complete he shall assess the total agricultural income of the assessee, and shall determine the sum payable by him on the basis of such return.

(2) If the Superintendent of Taxes or Agricultural Income-tax Officer has reason to believe that a return made under S. 19 is incorrect or incomplete, he shall serve on the person who made the return a notice requiring him, on the date to be specified therein, either to attend at the office of the Superintendent of Taxes or Agricultural Income-tax Officer or to produce or to cause to be there produced any evidence on which such person may rely in support of the return.

20A. Assessment in cases of discontinued firm or association :-

(1) Where agricultural income is received or deemed to be received by a firm or association of individuals and the business of such firm or association is discontinued in any year, an assessment may be made in that year on the basis of the agricultural income received or deemed to be received during the period between the end of the previous year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the agricultural income received or deemed to be received in the previous year. Every person who was a partner of such firm or member of such association at the time of such discontinuance shall be jointly and severally liable to assessment on such agricultural income and for the amount payable as tax, and all the provisions of the Act shall, so far as may be, apply accordingly.

(2) Any person discontinuing any such business shall give to the Superintendent of Taxes or Agricultural Income-tax Officer notice of such discontinuance within fifteen days thereof, and where any

person fails to give the notice required by this sub-section, the Superintendent of Taxes or Agricultural Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of agricultural income-tax subsequently assessed on him in respect of any agricultural income of the firm or association of individuals up to the date of the discontinuance of its business.

20B. Assessment in case of transfer of property :-

(2) Notwithstanding anything contained in sub-S. (1), when the predecessor cannot be found, the assessment of the agricultural income-tax for the previous year up to the date of succession and for the years preceding that year shall be made on the successor in the like manner and to the same extent as it would have been made on the predecessor, and all the provisions of this Act shall, so far as may be, apply accordingly.

20C. . :-
Deleted].

20D. Assessment in case of variation of Central assessment :-

(1) Where in any case in consequence of any order relating to computation of income made under the Income Tax Act, 1961, by any authority constituted under that Act the income of an assessee as assessed under that Act in respect of any period is revised leading to enhancement or, as the case may be, reduction of the agricultural income of the assessee in respect of the period, the assessee shall, as specified in sub-Ss. (2) and (3), submit a return of his agricultural income or as the case may be, a revised return of his agricultural income in respect of the period to the Superintendent of Taxes or Agricultural Income-tax Officer disclosing therein his agricultural income as enhanced or reduced as aforesaid.

(2) The return or revised return under sub-S.(1) shall be submitted in a case, in which the income has been or is revised under the Income Tax Act, 1961, on or before the 31st December, 1989 not later than 31st March, 1990, and in any other case, within sixty days of such revision,

(3) All the provisions of this Act, except to the extent specified in this section, shall, so far as may be, apply to a return or a revised

return submitted under this section as if such return or revised return were submitted under S. 19.

(4) The rate of tax applicable to the agricultural income disclosed in the return or revised return submitted under this section shall be the same as that applicable to the period to which the agricultural income relates.

(5) Where in any case the agricultural income of an assessee has been or is varied as specified in sub-S. (1), the Superintendent of Taxes or Agricultural Income-tax Officer may, at any time, serve a notice on the assessee requiring him to submit a return or revised return as required under sub-S. (1), by such date as may be specified in a notice served on the assessee in this behalf and the assessee shall accordingly submit a return or revised return and the provisions of this Act shall apply as if the notice served under this sub-section were a notice under sub-S. (2) of S. 19.

(6) An assessee shall be liable to pay simple interest at the rate of two per centum for each English calendar month, from the first day of the month next following the expiry of the period specified in sub-S. (2), on the amount by which the tax paid on the return or revised return submitted under this section falls short of the amount of tax as finally assessed in respect of that portion of the agricultural income which had not been returned by the assessee under S. 19. Interest as aforesaid shall be payable till the amount as finally assessed is paid by the assessee and to that extent the provisions of Ss. 35-C, 35-D and 35-E shall not apply.

21. Cancellation of assessment in certain cases and fresh assessment thereof :-

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

22. Penalty for concealment of income :-

(2) If the Commissioner of Taxes or the Deputy Commissioner of Taxes or the Assistant Commissioner of Taxes makes an order under sub-S. (1), he shall forthwith send a copy of the same to the Superintendent of Taxes or Agricultural Income-tax Officer in whose jurisdiction the assessee concerned resides.

23. Notice of demand :-

Where any agricultural income-tax or penalty is due in consequence of any order passed under or in pursuance of this Act, the Superintendent of Taxes or Agricultural Income-tax Officer shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable.

24. Appeal against assessment under this Act :-

(2) Every appeal under this section shall be presented in the prescribed form and shall be verified in the prescribed manner.

(3) The appellate authority shall fix a date and place for hearing of the appeal, and may, from time to time, adjourn the hearing and make such further enquiry as he thinks fit.

25. Appeal against order of refusal to refund :-

Deleted by Assam Act XXVI of 1972].

26. Appeal to the Board of Revenue :-

(1) Any assessee objecting to an order passed under S. 24 or passed in revision under sub-S. (1) of S. 27 may appeal to the Board within sixty days of the date on which such order is - communicated to him.

(2) The Board may admit an appeal after the expiration of the sixty day» referred to in sub-S. (1) if it is satisfied that for reasons beyond the control of the appellant or for any other sufficient cause it could not be filed within time.

(3) An appeal to the Board shall be in such form and shall be verified and presented in such'manner as may be laid down by the Board and shall be accompanied by a fee of twenty-five rupees.

(4) The Board may, after giving the assessee an opportunity of being heard, pass such orders thereon as it thinks fit, and shall communicate any such orders to the assessee and to the

Commissioner.

27. Revision by Commissioner :-

(1) The Commissioner may call for and examine the records of any proceedings under this Act, if he considers that any order passed therein by any authority appointed under S. 18 other than himself is erroneous in so far as it is prejudicial to the interest of revenue, and he may after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such order thereon as the circumstance of the case justify, including an order enhancing or modifying the assessment or modifying the assessment and directing a fresh assessment.

28. Reference :-

(1) The assessee or the Commissioner may, within sixty days from the date of service of any order under S. 26, by petition in writing, require the Board to refer to the High Court any question of law arising out of such order of the Board or the Board may make such reference out of its own motion. It shall be accompanied by a fee of one hundred rupees.

(2) Within sixty days of the receipt of the petition under sub-S. (1), the Board shall, subject to the provisions in sub-S. (3), draw up, after such hearing and enquiry as may be considered necessary, a statement of the case and refer it with its opinion thereon to the High Court.

(5) Where the application under sub-S. (1) is rejected on the ground that it is time-barred and where no action taken by the applicant under sub-S. (3), he may, within ninety days of the date of such rejection, apply to the High Court against the order rejecting the application and if, upon receipt of such an application the High Court is not satisfied with the correctness of the decision, it may require the Board to treat the application under sub- S. (1) as made within time.

(6) Where the High Court is not satisfied that the statement in a case referred under this section is sufficient to enable it to determine the questions of law raised thereby, it may refer the case back to the Board to make such additions thereto or such alterations therein as may be directed and the Board shall thereupon comply with the directions and submit the case accordingly.

(7) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Board a copy of such judgment under the seal of the Court and signature of the Registrar, and the Board shall, on receipt of the copy of such judgment, order disposal of the case accordingly.

(8) Where a reference is made on the application of an assessee, the cost shall be in the discretion of the High Court.

(9) Notwithstanding that a reference has been made under this section, to the High Court, payment of tax shall not be stayed pending disposal of such reference ; but where the amount of tax is reduced as the result of the reference, the excess shall be refunded in accordance with the provisions of this Act.

(10) Section 5 of the Indian Limitation Act, 1963 shall apply to an application to the High Court under this section.

29. Appeal against any judgment of the High Court :-

(i) An appeal shall lie to the Supreme Court of India from any judgment of the High Court delivered in a reference made under the foregoing section in any case which the High Court certifies to be a fit one for appeal to the Supreme Court of India.

(iii) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of the Supreme Court of India in the manner provided in sub-Ss. (6) and (8) of the foregoing section in the case of a judgment of the High Court.

30. Income escaping assessment :-

If for any reason any agricultural income chargeable to agricultural income-tax has escaped assessment for any assessment year, or has been assessed at too low a rate or has been the subject of undue relief under this Act, the Superintendent of Taxes or Agricultural Income-tax Officer may at any time within eight years of the end of that assessment year serve on the person liable to pay agricultural income-tax on such agricultural income, or in the case of a company on the principal Officer there of, a notice containing all or any of the requirements which may be included in a notice under sub-S. (2) of S. 19, and may proceed to assess or reassess such income, and the provisions of this Act shall, so far as

may be, apply accordingly as if the notice were a notice issued under that sub-section :

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

Provided further that in computing the period of eight years mentioned in this section the period during which the Superintendent of Taxes or the Agricultural Income Tax Officer was restrained or prevented from issuing the notice under this section by an order or injunction of any court or authority shall be excluded.

31. Rectification of mistakes :-

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

(3) Where any such rectification has the effect of enhancing the assessment or reducing the refund, the Superintendent of Taxes or Agricultural Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under S. 23 and the provisions of this Act shall apply accordingly.

32. Tax to be calculated to the nearest naya paisa :-

In the determination of the amount of agricultural income-tax or of a refund payable under this Act, if the amount is not a multiple of five naye paise, it shall be rounded off to the next higher multiple of five naye paise.

33. Power to take evidence on oath :-

(2) If any person assessed to agricultural income-tax in respect of agricultural income mentioned in sub-C1. (1) of C1. (a) of S. 2 produces before the Superintendent of Taxes or Agricultural Income-tax Officer for the purpose of calculating his agricultural income any rent roll or other similar papers showing the amount of rent received by him, he shall not be entitled to recover or to institute a suit to recover rent due to him for any tenure or holding included in such return at a rate higher than the rate mentioned in such return as payable for such return or holding, unless the rent

shown in such return has, since the date of the return been lawfully enhanced.

(3) Any person who has produced a rent roll referred to in sub-S. (2) may, within one year of producing such roll, apply to the Superintendent of Taxes or Agricultural Income-tax Officer to make any correction therein, and the Superintendent of Taxes or Agricultural Income-tax Officer may, if he is satisfied that such correction should be made, pass an order correcting such rent roll.

(4) Where the Superintendent of Taxes or Agricultural Income-tax Officer passes any order under sub-S. (3), he may assess under S. 30 any income escaping assessment by reason of the original incorrectness of any entry corrected.

34. Power to call for information :-

The Assistant Commissioner of Taxes or the Superintendent of Taxes or Agricultural Income-tax Officer may, for the purposes of this Act

(1) require any firm or Hindu undivided or joint family to furnish him with a return of the names of members of the firm or of the names of the manager or the brothers or sons of brothers of the family, as the case may be, and of their addresses ;

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

34A. Disclosure of information by Public Servant :-

(1) All particulars contained in any statement made, return furnished, or account or documents produced in accordance with this Act, or in any evidence given or affidavit or deposition made in the course of any proceedings under this Act other than proceedings before a Criminal Court, or in any record of any proceedings under this Act, shall, save as provided in sub-S. (3), be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any public servant to produce before it any such statement, return, accounts, documents or record or any part thereof, or to give evidence before it in respect thereof.

CHAPTER 5

Recovery of tax and penalties

35. Advance tax :-

35A. Estimate by assessee :-

(2) The assessee may send a revised estimate of the advance tax payable by him on or before the date prescribed under S. 35 and adjust excess or deficiency in respect of any instalment or instalments.

(4) After a regular assessment has been made under S. 20, any amount paid as advance tax in pursuance of S. 35 or of this section shall be deemed to have been paid towards the regular assessment, and where the amount of advance tax paid as aforesaid exceeds the amount payable under this regular assessment the excess shall be refunded to the assessee. Explanation. In this section, the expression "advance tax" means the agricultural income tax payable in advance in accordance with the provisions of S. 35 or of this section.

(5) In the case of an assessee who has been already assessed by way of regular assessment in respect of total agricultural income of any previous year and who has not paid any advance tax under S. 35, the Agricultural Income Tax Officer, if he is of the opinion that such assessee is liable to pay advance tax, may at any time during the financial year but not later than last day of February, by an order in writing require such assessee to pay advance tax calculated on the total agricultural income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment or the total agricultural income returned by the assessee in any return of agricultural income furnished by him for any subsequent year, whichever is higher, shall be taken and the agricultural income tax thereon shall be calculated at the rates in force in the financial year, and issue to such assessee a notice of demand under S. 23 specifying the instalment or instalments in which such tax is to be paid.

(6) If after the making of an order by the Agricultural Income Tax Officer under sub-S. (5) and at any time before the 1st day of March, a return of agricultural income is furnished under S. 19 or a regular assessment is made in respect of a previous year later than referred to in sub-S. (5), the Agricultural Income Tax Officer may make an amended order and issue to such assessee a notice of demand under S. 23 requiring the assessee to pay, on or before the due date or each of the dates prescribed under S. 35 falling

after the date of the amended order, the appropriate percentage so prescribed under S. 35, of the advance tax computed on the basis of the total agricultural income returned or in respect of which regular assessment aforesaid has been made.

(7) An assessee who is served with an order by the Agricultural Income Tax Officer under sub-S. (5) or an amended order under sub-S. (6), may, if in his estimate the advance tax payable on his current income would be less than or more than the amount of advance tax specified in such order or amended order, send an intimation as provided in sub-S. (1) to the Agricultural Income Tax Officer to that effect and pay such advance tax as accords with his estimation the instalment or instalments on or before the due date or each of the due dates prescribed under S. 35 falling after the date of such intimation.

35B. Interest payable by State Government :-

The State Government shall pay a simple interest at the rate of two per centum for each English Calendar month on the amount by which the aggregate sum of instalments of advance tax paid during any financial year in which they are payable under S. 35 or 35-A, exceeds the amount of the tax determined on regular assessment under S. 20 from the first day of the month next after the expiry of three months from the date of such regular assessment up to the month preceding the month in which the refund of the excess amount is made.

35C. Short payment of advance tax :-

(1) Where in any financial year, an assessee has paid advance tax under S. 35 or S. 35-A and the advance tax so paid is less than seventy five per centum of the tax determined on regular assessment under S. 20, simple interest at the rate of two per centum for each English Calendar month from the first day of April of succeeding financial year in which the advance tax was payable up to the month prior to the month of regular assessment shall be payable by the assessee upon the amount by which the advance tax paid falls short of the tax determined on regular assessment.

(2) Where before the date of completion of regular assessment, tax is paid by the assessee in accordance with the provisions of the Act, interest shall be calculated in accordance with the foregoing provision up to the month prior to the months in which tax is so paid and thereafter interest shall be calculated under sub-S. (1) on

the amount by which the tax so paid falls short of the tax determined on regular assessment.

35D. Interest payable by assessee :-

(1) Where on making the regular assessment under S. 20, the Agricultural Income Tax Officer finds that no payment of advance tax has been made in accordance with the provisions of S. 35 or S. 35-A, interest at the rate of two per centum for each English Calendar month from the first day of April succeeding the financial year in which the advance tax was payable up to the month prior to the month of such regular assessment shall be payable by the assessee.

(2) Where as a result of an order under S. 21, S. 24, S. 26, S. 27, S. 31, S. 28 or S. 29 the amount on which interest was payable under this section or S. 35-C has been reduced, the interest shall be reduced proportionately and the excess interest paid, if any, shall be refunded.

35E. Interest for non-payment of tax demanded :-

(1) Where an assessee does not pay the amount of tax demanded from him after an assessment made under any provision of this Act within the date specified in the notice of demand served on him in this behalf, he shall be liable to pay simple interest from the 1st day of the month following the said date up to the date of full payment at the rate of two per centum for each English Calendar month on the amount of tax as finally assessed reduced by the amount of tax paid on or before the said first day until the tax is fully paid.

35F. Sections 35-B, 35-C and 35-D not to apply in certain cases :-

The provisions for interest as made in S. 35-B, S. 35-C and S. 35-D shall not be applicable in case of an assessee whose agricultural income tax does not exceed two thousand five hundred rupees.

35G. When assessee deemed to be in default :-

If an assessee

- (a) does not pay any instalment or instalments of advance tax payable by him under S. 35 on the date or dates prescribed, or
- (b) after filing an estimate or a revised estimate of the advance tax payable by him under S. 35-A does not pay any instalment in

accordance therewith on the date or dates prescribed, or

(c) fails without reasonable cause to file an estimate or a revised estimate as required under S. 35-A ;

he shall be deemed to be in default, in the cases referred to in C1s. (a) and (b) in respect of such instalment or instalments and in the case referred to in C1. (c), in respect of the amount that falls short the last instalment of advance tax that would have been payable by him had he submitted an estimate or a revised estimate as required under S. 35-A and all the provisions of S. 36 shall apply in relation to any advance tax payable in pursuance of S. 35 and S. 35-A as if it were an order for payment of tax on regular assessment under S. 20:

Provided that if any interest is payable by an assessee under S. 35-C or S. 35-D or S. 35-E in respect of any period and penalty is imposed under S. 36 read with this section, the aggregate of such interest and penalty shall not exceed the amount for which such assessee is deemed to be in default.

35H. Submission of evidence of payment with return :-

An assessee shall except when taxes have been paid in advance in full, submit alongwith the annual return a receipt from a Government Treasury or crossed cheque or crossed demand draft in favour of the Agricultural Income Tax Officer for the full amount of tax payable for the year on the basis of the return after deducting therefrom the advance taxes if any already paid for the year.

36. Mode of recovery :-

(2) Where an assessee is in default, the Superintendent of Taxes or Agricultural Income-tax Officer may, in his discretion, direct that in addition to the amount due, a sum not exceeding that amount shall be recovered from the defaulter by way of penalty.

(3) Where an assessee is in default, the Superintendent of Taxes or Agricultural Income-tax Officer may order that the amount due shall be recoverable as an arrear of land revenue and may proceed to realise the amount as such.

37. Recovery of penalties :-

Any sum imposed by way of penalty under the provisions of S. 22 or S. 36 shall be recoverable in the manner provided in this Chapter for the recovery of an arrear of tax.

38. . :-

Deleted by Assam Act XIX of 1974].

CHAPTER 6

CHAPTER

39. Refund :-

(1) The Superintendent of Taxes or Agricultural Income- tax Officer shall, in the prescribed manner, refund to an assessee any sum paid by such assessee in excess of the sum due from him under this Act, either by cash payment or at the option of the assessee by set-off against the sum due from him in respect of any other assessment year.

(2) If for reasons of delay a refund due to an assessee is not made within ninety days of such refund being due, the State Government shall pay • to such assessee simple interest at the rate of six per centum per annum of the amount refundable.

39A. Grant of rebate :-

The Government may grant a rebate of one per centum of the tax subject to such conditions as may be prescribed.

39B. Remission :-

The State Government, for reasons to be recorded in writing, may remit the whole or part of the amount of the tax, interest or penalty payable in respect of any year by any assessee who has suffered heavy loss due to any calamity.

CHAPTER 7

Offences and penalties

40. False statement in declaration :-

If any person makes a statement in a verification mentioned in S. 19, 24, 26 or 27 which is false and which he either knows or believes to be false, or does not believe to be true, he shall be deemed to have committed the offence described in S. 177 of the Indian Penal Code (XLV of 1860);

41. Failure to furnish return or to supply information :-

If any person fails, without reasonable cause or excuse, to furnish in due time any of the returns mentioned in S. 19 or S. 34, he shall be punishable with fine which may extend to five rupees for every day during which the default continues.

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

(1) A person shall not be proceeded against for an offence under S. 40 or 41 except at the instance of the Deputy Commissioner of Taxes, or where there is no Deputy Commissioner of Taxes, the Assistant Commissioner of Taxes empowered by the Commissioner of Taxes, in this behalf.

(2) Before instituting proceedings against any person under sub-S. (1) the Deputy Commissioner of Taxes, or where there is no Deputy Commissioner of Taxes, the Assistant Commissioner of Taxes empowered by the Commissioner of Taxes in this behalf, shall call upon such person to show cause why proceeding should not be instituted against him.

(3) The Deputy Commissioner of Taxes, or where there is no Deputy Commissioner of Taxes, the Assistant Commissioner of Taxes empowered by the Commissioner of Taxes in this behalf, may stay any such proceedings or compound any such offence,

CHAPTER 8

Miscellaneous

43. Place of assessment :-

(1) An assessee shall, subject to any orders passed under sub-S. (2), be assessed by the Superintendent of Taxes or Agricultural Income-tax Officer of the area in which is situated the land from which the greater part of the agricultural income, in respect of which he is assessed, is derived.

(3) Notwithstanding anything contained in this section, every Superintendent of Taxes or Agricultural Income-tax Officer shall have all the powers conferred by or under this Act on the Superintendent of Taxes or Agricultural Income-tax Officer in respect of any agricultural income derived from land, situated within the area to which he is appointed.

44. Bar of suits in Civil Courts :-

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

45. Computation of period of limitation :-

In computing the period of limitation prescribed for any appeal under this Act, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be

excluded.

46. Appearance by authorised representative :-

Any assessee, who is entitled or required to attend before any income-tax authority in connection with any proceeding under this Act, may (except when required under S. 33 to attend personally for examination on oath or affirmation) attend either in person or by any person duly authorised by him in writing in this behalf.

47. Receipts to be given :-

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

48. Indemnity :-

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

49. Power of income-tax authorities to call for papers or documents :-

Nothing in this Act shall be deemed to authorise any of the taxing authorities mentioned in S. 18 to call for any papers or documents for the purpose of ascertaining agricultural income or for any other purpose under this Act, except the papers noted below :

- (1) papers showing the amount of rent which accrued due in the previous year ;
- (2) papers showing the actual receipt of agricultural income by an assessee in the previous year ;

49A. Delegation of powers :-

The Commissioner of Taxes may delegate by notification in the Official Gazette, any of his powers under S. 27 to any authority not below the rank of Deputy Commissioner of Taxes.

50. Power to make rules :-

(1) The State Government may, subject to previous publication, make rules for carrying out the purposes of this Act, and such rules may be made for the whole of the State or such part or parts thereof as may be specified.

51. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act,

the State Government may, by order, do anything not inconsistent with such provisions which appear to it to be necessary or expedient for the purpose of removing the difficulty.

52. Savings :-

Notwithstanding anything contained in this Act, the provisions of the earlier laws with rules and notifications in respect of submission of return, levy of interest relating to the earlier financial years up to the end of the financial year 1993-94 shall be deemed to be in force as if this Act had not been passed.

SCHEDULE 1

SCHEDULE

SCHEDULE	
[See Section (2) (oa), 3 and 6]	
A. In the case of every company	Rates
(a) The total income of which does not exceed Rs. 1,00,000 on the whole of the total income	Fifty-two paise in the rupee ;
(b) The total income of which exceeds Rs.1,00,000 on the whole of the total income	<u>Sixty paise in the rupee</u> ;
(c) The total income of which exceeds Rs.2,00,000 but does not exceed Rs.5,00,000 on the whole of the total income	Seventy-seven paise in the rupee ;
(d) The total income of which exceeds Rs.5,00,000 on the whole of the total income	Eighty-three paise in the rupee;
B. In the case of persons other than companies	
(a) On the first Rs. 1,000 of the total income	Nil
(b) On the next Rs. 5,000 of the total income	Ten paise in the rupee ;
(c) On the next Rs. 5,000 of the total income	Fifteen paise in the rupee ;
(d) On the next Rs. 10,000 of the total income	Thirty paise in the rupee ;
(e) On the next R. 25,000 of the total income	Forty-five paise in the rupee :
(f) [* * *]	
(g) [* *]	
(h) On the balance of the total income	Sixty paise in the rupee.