CHAPTER III

THE BACKGROUND OF AGRICULTURAL INCOME-TAX

Introduction

Except for two short periods of nine years in all (1860—1865 and 1869—1873) agricultural incomes have been exempt from the general income-tax and, till recently, from any income-tax. The Indian Taxation Enquiry Committee observed in 1925:

> "There is no historical or theoretical justification for the continued exemption from the income-tax of incomes derived from agriculture. There are, however, administrative and political objections to the removal of the exemption at the present time. There is ample justification for the proposal that incomes from agriculture should be taken into account for the purpose of determining the rate at which the tax on the other income of the same person should be assessed, if it should prove administratively feasible and practically worthwhile."

But the position remained unchanged until the passing of the Government of India Act of 1935; and the actual development which then took place was that a *separate* provincial levy on agricultural incomes became for the first time possible. The segregation of the two types of income and the allocation of agricultural income-tax to the States are features which continue unchanged under the Constitution.

States levying agricultural income-tax

2. Bihar was the first State in India to levy a tax on agricultural incomes. In view of the system of permanent settlement in force in that State, the yield from land revenue was small and inelastic. With the separation of Orissa, the needs of the Government of Bihar for additional revenue increased. Besides, that Government had to make up the loss of revenue it incurred with the introduction of prohibition in certain areas of the Province. Thus for the first time after a lapse of nearly 60 years, income from agriculture was subjected to tax. The Bihar Agricultural Income-tax Act of 1938 was passed and, at intervals, a certain number of other States followed suit. Twelve States now levy the tax:

(1) Bihar,
(2) Assam,
(3) Bengal,
(4) Orissa,
(5) Uttar Pradesh,
(6) Hyderabad,
(7) Travancore-Cochin,
(8) Madras,
(9) Rajasthan,
(10) Coorg,
(11) Bhopal, and
(12) Vindhya Pradesh.

It may be said of some of these States that it was the existence of big landlords under the permanent settlement or of large plantations of a commercial character that drew the attention of the Governments to the desirability of levying this tax. A late-comer in the field, Madras has restricted the tax to incomes from plantations. In the former princely States constituting Hyderabad and Travancore-Cochin, agricultural income *along* with non-agricultural income had been taxable before the integration of those areas with the rest of India; after integration, only agricultural income-tax is levied by the State Governments.

Receipts from agricultural income-tax

3. The receipts from agricultural income-tax in the different States have been as follows:—

TABLE 1.—*Receipts from agricultural income-tax*

(In lakhs of Rupees)

States	1940-41	1945-46	1950-51	1951-52	1952-53	1953-54	1954-55
Bihar . . .	15	31	69	57	46	35	22
Assam . . .	39	49	79	91	1,08	89	69
West Bengal . .	..	..	63	64	61	63	64
Orissa . . .	..	..	10	13	7	8	8
Uttar Pradesh . .	..	..	1,38	1,00	71	58	36
Hyderabad . . .	..	..	..	11	3	5	5
Travancore-Cochin .	..	..	50	99	96	90	90
Madras . . .	..	..	..	..	..	..	7*
Coorg . . .	..	..	..	..	14	15	10
Rajasthan (1-4-1954) .	..	..	..	..	..	..	15
Bhopal . . .	..	..	..	..	..	..	2
Vindhya Pradesh . .	..	..	..	..	1	1	3

*Estimate.

Definition of 'agricultural income'

4. The Constitution, under Article 366, specifies that 'agricultural income' shall mean agricultural income as defined for the purposes of the enactment relating to Indian Income-tax. Accordingly, all States which levy an agricultural income-tax adopt the definition contained in the Indian Income-tax Act, with a few slight modifications to suit local conditions. Section 2 (2) of the Indian Income-tax Act, 1922, defines 'agricultural income' as follows:—

(a) any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land revenue in the taxable territories or subject to a local rate

assessed and collected by officers of the Government as such;

(b) any income derived from such land by—

(i) agriculture, or

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

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

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

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

Though the definition is clear, occasionally questions have been raised whether particular incomes are agricultural or non-agricultural. Most of these disputed points have, however, been settled by judicial decisions. The following incomes are also now held to be agricultural incomes:—

(i) income derived from the letting out of pasture land provided the animals pastured are agricultural animals;

(ii) amount paid by mortgagor-lessee to the mortgagee under usufructuary mortgage, whether or not the amount is or ought to be appropriated towards the principal or interest of the mortgage or to any other purpose;

(iii) *malikanas* payable to a proprietor in lieu of surrender of all his proprietary rights, to a transferee, which is payable whether or not the lands are used for agricultural purposes;

(iv) interest payable on arrears of rent on the ground that it is not payable for use of the land but as compensation for delay in payment.

Rates of tax in different States

5. Agricultural income-tax is charged for each financial year in accordance with and subject to the provisions of the State Acts, on the total agricultural income of the previous year of every 'person' which term includes an association of individuals, undivided Hindu

family, a firm or a company. The rates of levy, in some States have been laid down in the enactment itself while in a few others the rates are fixed annually under the Finance Acts. For the sake of administrative convenience as also on considerations of equity, the States have prescribed an exemption limit and have laid down that annual incomes below the limit will not be assessable to tax.

The exemption limits and the rates of the tax have in no State remained constant. The former have been reduced and the latter increased as occasion seemed to demand. In a few States, incomes have been subjected also to super-tax. When Bihar first levied the tax in 1938, the prescribed exemption limit was Rs. 5,000. The rates were also lower than at present—the minimum was six pies in the rupee on incomes exceeding Rs. 5,000 and the maximum was 30 pies in the rupee on incomes exceeding Rs. fifteen lakhs. Today, the exemption limit is Rs. 3,000, the minimum rate is nine pies in the rupee with a maximum rate of four annas per rupee for incomes exceeding Rs. fifteen lakhs and in addition, there is a surcharge on incomes exceeding Rs. 25,000 at rates varying from a minimum of one anna in the rupee on incomes not exceeding Rs. 35,000 to a maximum of five annas and three pies in the rupee on incomes exceeding Rs. 1·5 lakhs. In Travancore-Cochin, the exemption limit was originally fixed at Rs. 2,000 but was later increased to Rs. 3,000. The rates vary from a minimum of nine pies to a maximum of four annas in the rupee on incomes exceeding Rs. 25,000. In addition, super-tax is levied on incomes exceeding Rs. 45,000 at rates varying from 1½ annas to six annas. In Bengal also, the rates originally fixed were lower than the present rates. The exemption limit is fixed at Rs. 3,000. Further, persons possessing land not exceeding 80 bighas are also exempt. Uttar Pradesh has a similar exemption limit: Rs. 3,000 or cultivated area not exceeding 50 acres. But the rates of tax are much higher, the minimum rate is one anna against nine pies in Bengal; and a super-tax is also levied on incomes exceeding Rs. 25,000 at rates varying from one anna to five and a quarter annas in the rupee. The exemption limit in Orissa has been Rs. 5,000 since the beginning, but the maximum rate has recently been raised from three annas in a rupee to twelve annas six pies in a rupee. The exemption limit in Madras is Rs. 3,000 and the minimum rate is nine pies and the maximum rate is four annas in the rupee. Hyderabad has the highest exemption limit and the lowest rates of tax. The exemption limit is Rs. 10,000 and the rates vary from six pies to three annas. The exemption limit in Rajasthan is Rs. 6,000 while the rate of tax varies from six pies to two annas and four pies in the rupee. In Coorg, the exemption limit has been fixed at Rs. 3,500 and the minimum rate is six pies in the rupee, the maximum rate being four annas in the rupee.

Detailed information regarding the exemption limits, the rates of tax (including super-tax), etc., is given in Statistical Appendix 2.

Effect of tax on agricultural incomes

6. The tax rates in all the States are based on the 'slab system'. The first slab of Rs. 1,500 is exempted from this tax. In Orissa, the tax-free slab has been fixed at Rs. 3,000.

The effect of the tax on different groups of agricultural income in some of these States is shown below:—

TABLE 2.—*Effect of agricultural income-tax on certain groups of agricultural incomes*

States	Income groups	Rs. 5,000	Rs. 10,000	Rs. 25,000	Rs. 50,000	Rs. 1,00,000
		Tax Burden				
Bihar . . .		164	633	3,914	12,352	34,695
Assam . . .		164	555	3,836	10,086	22,586
West Bengal . .		164	555	3,367	9,617	22,117
Orissa . . .		163	373	2,717	13,186	43,811
Uttar Pradesh .		219	688	3,031	10,469	32,968
Hyderabad . .		109	422	2,931	7,636	17,046
Travancore-Cochin .		164	633	3,758	12,664	37,039

Exemptions

7. Apart from levels of income which are exempted, there are also types of agricultural incomes which are exempted, such as:—

(i) any income derived from a house or building which is in actual use and occupation of the receiver of rent or revenue or the cultivator or the receiver of rent-in-kind as the case may be;

(ii) any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes and, in the case of property so held in part only for such purposes, the income applied or finally set apart for application thereto;

(iii) any income received by a person as shareholder out of the agricultural income of a company which has certified that it has paid or will pay the tax in respect of the agricultural income of the company;

(iv) any income received by a person as his share out of the agricultural income of a firm or association of individuals if tax has been levied on the agricultural income of such firm or association; and

(v) any sum received by a person out of the agricultural income in respect of which tax has been assessed on the common manager, receiver or any court of wards, etc.

Assessment procedure

8. From the gross agricultural income derived by an assessee, the following principal deductions are allowed by the States in computing the assessable income:—

(1) actual payment of revenue to the State or of rent to the superior landlord;

(2) actual payment of any local rate or cess including irrigation rates and *chaukidari* tax;

(3) collection charges at a prescribed per cent. (which varies from 12 to 20 per cent.) of the amount of rent or revenue;

(4) actual expenses incurred on the maintenance (i) of any irrigation or protective work for the benefit of the land or (ii) of any capital asset required for the collection of rent;

(5) interest paid on any amount borrowed and actually spent on any capital expenditure incurred for the benefit of the land;

(6) depreciation at prescribed rates (which are different in different States) in respect of any capital asset purchased or constructed for the benefit of the land;

(7) interest paid on any debt (including mortgages) or other capital charges incurred for the benefit of the land;

(8) any *malikana* or amount of interest on natural calamities loans actually paid;

(9) expenses of cultivation, including those incurred on the maintenance of agricultural implements and cattle, and expenses for transporting the produce to market;

(10) any tax, cess or rate paid on the cultivation or sale of the produce; and

(11) subject to prescribed restrictions, any sum paid by an assessee to effect an insurance or to make a contribution to a provident fund.

For enabling proper assessment to be made, an assessee is asked to maintain elaborate accounts. While this is possible for the bigger farmers, companies and owners of plantations, the small farmers find it extremely difficult to comply with all the requirements of the tax provisions. Certain States adopted in the past a simple method of assessment under which an agriculturist was presumed to have earned an income equal to a specified multiple of the rent received from the land. The agriculturist had the option of having his taxable income from agriculture determined either on his books of accounts or on the basis of this multiple. The system has, since 1948, been abandoned in Bihar because of difficulties in fixing the operative multiple for each area as also on account of a noticeable abuse of this option by the assessees. In Bengal too, the system has been discontinued. Uttar Pradesh, however, continues the practice of offering an alternative. The multiple was originally fixed at the maximum of seven and a half times the rent of the land, and the Board of Revenue was authorised to fix the operative multiple for each district or portion thereof within the prescribed maximum. The maximum has since been raised to twelve and a half times the rents, in view of recent increase in the prices of agricultural produce. It has also been laid down that once an assessee decides to exercise the option of being assessed under this system, he will not be entitled to vary the method of computation of his income except with the permission of the Board of Revenue. This has reduced the possibility of abuse of the facility.

Assessment of special types of agricultural incomes

9. For certain special types of agricultural income, a separate assessment procedure is laid down. The provisions relating to the assessment of special types of agricultural incomes like those of a Hindu undivided family, a trustee, a manager, a receiver, a non-resident assessee, etc., are generally the same in most of these States and are explained below in brief:

(i) *Hindu undivided family.*—The total agricultural income of a Hindu undivided family is treated as the income of an individual and assessed as such in Bihar, Orissa, and Hyderabad. If, however, the Hindu undivided family consists of brothers only, or of brothers and their sons, the total agricultural income is assessed at a concessional rate. The laws in operation in West Bengal and Travancore-Cochin have no specific provision regarding the assessment of Hindu undivided families, but it appears that the total income is assessed as that of an individual as in the aforesaid three States. In Uttar Pradesh it has been provided that the tax on agricultural income of a Hindu undivided family should be so assessed that the share of the amount which a coparcener receives on partition of the property has to be treated as the separate income of each coparcener and liable to tax as such, provided, firstly, that the father and the son or the son's son should be deemed to be one coparcener and, secondly that the income derived by a woman from her *stridhan* property is not included in the agricultural income of the undivided family.

(ii) *Person holding land for the benefit of several persons.*—If a person holds agricultural land on trust from which income is derived wholly for the benefit of others or partly for his own benefit and partly for the benefit of another, tax is assessed on the total income at the rate which would be applicable if such person had held the land as his personal property and exclusively for his own benefit. The tax so payable is assessed on the persons holding such land.

(iii) *Common manager, receiver, etc.*—When a person holds land as the common manager, as a receiver, or as an administrator on behalf of persons jointly interested in such land, the aggregate of the sums payable as agricultural income-tax by each person is recoverable from the common manager, receiver, or administrator who is deemed to be the assessee in respect of the tax payable by each such person.

(iv) *Court of Wards, Administrator-General, etc.*—In the case of agricultural income which is received by the Court of Wards, the Administrator-General, or the Official Trustee, the tax is levied upon and recoverable from these persons in the same manner as from the person on whose behalf such income is received.

(v) *Non-residents.*—In the case of persons residing outside the State in which the tax is levied, all agricultural income accruing to such persons whether directly or indirectly through or from any land within that State, is deemed to be received in that State and is chargeable to the agricultural income-tax of that State.

Administration

10. In Uttar Pradesh, the administration of the agricultural income-tax is entrusted to the district revenue officers. Other States have a separate Agricultural Income-tax Department. The administrative provisions regarding

submission of returns, assessment, appeal or revision, etc. are more or less similar in all the States. These are briefly indicated below:—

(a) *Return of income.*—The return is generally required to be furnished within 60 days of the publication of the notice calling for such return. The time for submitting the return is extended if the assessing authority is satisfied that adequate reasons exist for such extension. The assessee can furnish a revised return at any time before the assessment is made if he discovers any omission or wrong statement in the original return.

(b) *Assessment.*—If the agricultral income-tax authority is satisfied that the return furnished is correct and complete, it is open to him to make an assessment on the basis of the return. If not, he serves a notice on the assessee requiring him to produce necessary evidence in support of the return. When an assessee fails to furnish a return or avoids compliance with the terms of the notice duly served on him, the assessing authority usually proceeds to assess the tax on a discretionary basis.

(c) *Appeal and revision.*—In all the State enactments relating to agricultural income-tax, there is provision for appeal and revision against an order of the lower assessing or appellate authorities. The appeal has to be submitted in the prescribed form and within the prescribed time. The appellate authority cannot only confirm, reduce, or annul an assessment, but can also increase the assessment. No enhancement of an assessment can, however, be made by the appellate authority unless the assessee has been given a reasonable opportunity of being heard. More or less the same procedure is adopted for revisions against the orders of the appellate authority. West Bengal and Hyderabad have Appellate Tribunals. In other States, the Boards of Revenue are the final revisional authorities; any appeal from their orders lies to the High Court, but only on questions of law.