



FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2016-2019)**

THIRTEENTH REPORT
(Presented on 9th March, 2017)

**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2017**

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On

**The State Farming Corporation of Kerala Limited
(Based on the Report of the Comptroller
and Auditor General of India for the
year ended 31 March, 2012)**

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COMMITTEE ON PUBLIC UNDERTAKINGS (2016-2019)

COMPOSITION OF THE COMMITTEE

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Shri C. Divakaran.

Members:

Shri T. A. Ahammed Kabeer

Shri K. B. Ganesh Kumar

Shri C. Krishnan

Shri S. Rajendran

Shri Thiruvanchoor Radhakrishnan

Shri P. T. A. Rahim

Shri Raju Abraham

Shri Sunny Joseph

Shri C. F. Thomas

Shri P. Unni.

Legislature Secretariat:

Shri V. K. Babu Prakash, Secretary

Smt. P. K. Girija, Additional Secretary

Shri P. B. Suresh Kumar, Deputy Secretary

Smt. Deepa. V., Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Undertakings (2016-2019) having been authorised by the Committee to present the Report on its behalf, present this Thirteenth Report on The State Farming Corporation of Kerala Limited, based on the Report of the Comptroller and Auditor General of India for the year ended 31 March, 2012 (Commercial) relating to the Public Sector Undertakings of the Government of Kerala.

The aforesaid Report of the Comptroller and Auditor General of India for the year ended 31st March, 2012 was laid on the Table of the House on 18-2-2013. The consideration of the audit paragraphs included in this Report and the examination of the departmental witness in connection thereto was made by the Committee on Public Undertakings constituted for the years 2014-2016.

This Report was considered and approved by the Committee (2016-19) at its meeting held on 18-1-2017.

The Committee place on record its appreciation for the assistance rendered by the Accountant General (Audit), Kerala in the examination of the Audit Paragraphs included in this Report.

The Committee wishes to express thanks to the officials of the Agriculture Department of the Government Secretariat and the State Farming Corporation of Kerala Limited for placing the materials and information solicited in connection with the examination of the subject. The Committee also wishes to thank in particular the Secretaries to Government-Agriculture and Finance Departments and the officials of the State Farming Corporation of Kerala Limited who appeared for evidence and assisted the Committee by placing their views before it.

Thiruvananthapuram,
9th March, 2017.

C. DIVAKARAN,
Chairman,
Committee on Public Undertakings.

REPORT

ON

THE STATE FARMING CORPORATION OF KERALA LIMITED

AUDIT PARAGRAPH 19

Avoidable expenditure on interest

Failure to adhere to the provisions of Agricultural Income Tax Act resulted in avoidable expenditure on interest of ₹ 2.64 crore

The State Farming Corporation of Kerala Limited (company) is a profit making Public Sector Undertaking (PSU) engaged in farming activities and is an assessee under the Kerala Agriculture Income Tax (AIT) Act. Government of Kerala exempted (February 1994) the company for six years (1992-1993 to 1997-1998) from paying AIT for providing financial assistance to Trivandrum Rubber Works Limited (TRW), a loss making PSU engaged in the manufacture of rubber based products. The Company transferred fund and material to TRW from 1993-94 onwards and this continued beyond March 1998 (up to 2007-2008) to meet the working capital requirements and payment of salaries to employees.

Although the Company was liable to pay AIT from 1997-1998, the Company did not have AIT liability for six years (upto 2003-2004). Though the company was liable to self assess the tax and furnish returns and pay advance tax before the end of February each year, the Company belatedly filed returns for the years 2002-03 to 2007-2008 (six years) and remitted ₹ 12.67 crore towards self assessed AIT only in February/March 2008 and October/November 2009.

The details are as follows:

Sl. No.	Period (FY)	No. of years	Self Assessed AIT liability (Admitted Tax) (₹)	Amount of Admitted tax paid (₹)	Interest adjusted by the Dept. for delay (₹)
1	1993-1994 to 1997-1998	5	Exempted	Nil	Nil
2	1998-1999 to 2001-2002	4	No profit from Agricultural activity. Hence no AIT	Nil	Nil
3	2002-2003 to 2003-2004	2	Started making taxable income, but no AIT liability on account of set off of carry forward losses	Nil	Nil
4	2004-05 to 2007-08	4	126711438 (8715385+34866367+43772236) (paid in Feb./ March 2008 and Oct./Nov. 2009)	126711438	26412641

The Assistant Commissioner, Commercial Taxes Department finally assessed the AIT (August/October 2011) as ₹ 14.10 crore and an interest of ₹ 2.64 crore was charged.

The Company replied (July 2012) that the delay in payment of AIT occurred since the request for exemption was pending before Government in view of continued fund transfer to TRW. They also stated that the interest received from fixed deposits was ₹ 1.37 crore.

The reply is not acceptable since the Company was aware of the fact that the benefit of exemption (₹ 17.73 crore) available from payment of AIT up to 1997-1998 was far in excess of the financial assistance (₹ 13.30 crore up to 2004-2005) to TRW. The Company should have adhered to the provisions of AIT and filed the returns timely. This could have avoided the payment of interest of ₹ 2.64 crore on account of the AIT liability.

The matter was reported (July 2012) to Government; their reply was awaited (November 2012).

[Audit paragraph 4.7 contained in the report of the Comptroller and Auditor General of India for the year ended 31st March 2012.]

Notes furnished by Government on Audit Paragraph are given in Appendix II.

1. The Committee sought explanation regarding the failure to adhere to the provisions of Agricultural Income Tax Act which resulted in the payment of an avoidable penal interest of ₹ 2.64 crore by the Corporation. The witness replied that the Government vide G.O. (Ms.)No. 31/94/AD dated 8-2-1994, directed the corporation to take over Trivandrum Rubber Works Ltd. and to provide financial assistance to it and it was stated in the above order that Government would exempt the Corporation from payment of Plantation Tax and Agricultural Income Tax up to March 1998. Hence the fund transfer and material transfer to TRW was continued till 2007 though the Company had requested for tax exemption for that period, it ended in vain.
2. Subsequently due to the decision of liquidation of Trivandrum Rubber Works in 2007, the Company refunded ₹ 1,06,90,245 to State Farming Corporation and as State Farming Corporation of Kerala was making better profit from 2005-2006 onwards tax return up to 2007-2008 was filed and an amount of ₹ 12.67 crore was remitted as AIT. The interest for the delayed remittance was reassessed as ₹ 2,64,12,641 and revised assessment orders were also issued due to the short remittance in 2006 and 2007. During the period of delay Corporation had earned interest of ₹ 1,37,30,968 against the tax amount deposited in banks and the net interest remitted to Government was ₹ 1,26,81,673.
3. To the query of the Committee regarding the reason for the delay in filing returns, the witness replied that since the returns had to be filed along with the receipt of remittance of tax, the company had kept in abeyance return filing process on the assumption that exemption from the payment of tax would be allowed due to the continued fund transfer to TRW.

The financial position of the Corporation had improved at that time and ₹ 12.67 crore had been remitted. The witness also added that the application to waive the penal interest is under consideration of the Government and steps will be taken for the speedy disposal of the appeal which was pending before the Taxes Commissioner.

Conclusions/Recommendations

- 4. The Committee is distressed to note the failure of the Corporation to adhere to the provisions of Agricultural Income Tax Act resulting in the payment of a penal interest of ₹ 2.64 crore. The Committee recommends that the Government should take decisions for the final disposal of the AIT appeal filed by the Corporation requesting waiver of the penal interest and urges the Government to pursue the matter urgently and make its benefit available to the Corporation.**

Thiruvananthapuram,
9th March, 2017.

C. DIVAKARAN,
Chairman,
Committee on Public Undertakings.

APPENDIX I

SUMMARY OF MAIN CONCLUSIONS/RECOMMENDATIONS

Sl. No.	Para No.	Department Concerned	Conclusions/Recommendations
1	4	Agriculture	The Committee is distressed to note the failure of the Corporation to adhere to the provisions of Agricultural Income Tax Act resulting in the payment of a penal interest of ₹ 2.64 crore. The Committee recommends that the Government should take decisions for the final disposal of the AIT appeal filed by the Corporation requesting waiver of the penal interest and urges the Government to pursue the matter urgently and make its benefit available to the Corporation.

APPENDIX II

NOTES FURNISHED BY GOVERNMENT ON THE AUDIT PARAGRAPH

Sl. No.	Audit Paragraph	Reply furnished by Government
1	2	3
1	4.7 (2011-2012)	<p>The Government vide G.O. (Ms.) No. 31/94/AD dated 8-2-1994 directed State Farming Corporation of Kerala to take over Trivandrum Rubber Works Ltd., and to provide financial assistance to them. It was stated in the above order that Government will exempt the State Farming Corporation of Kerala from payment of Plantation Tax and Agricultural Income Tax up to March, 1998. After entrusting the Management of Trivandrum Rubber Works, fund transfer and material transfer to TRW up to 2007-2008 have been made for meeting their working capital requirement and for payment of salaries and other employee benefits. The board vide Resolution No: 2885 in their 184th meeting held on 23-1-2002 directed that the matter of getting exemption from payment of Agricultural Income Tax beyond 1998 has to be taken up with Government. Accordingly the matter was taken up with Government.</p> <p>Subsequently as resolved by the Board of Directors of State Farming Corporation of Kerala fund transfer to Trivandrum Rubber Works continued until the transfer of land to Airport Authority and to take up the matter of exemption from payment of Agricultural Income Tax to the date upto which fund and material transfer is made TRW. Hence State Farming Corporation Kerala had again taken up with Government for exemption from payment of</p>

1	2	3
		<p>Agricultural Income Tax upto 2005-2006. It has been informed to the Board in 207th meeting held on 27-3-2006 that Agricultural Income Tax return for the period from 1998-1999 to 2005-2006 has not been filed and Government has not taken any decision on request for exemption from payment of Agricultural Income Tax beyond 1998. The Board vide Resolution No. 3338 directed to take up with Government for exemption on from payment of Agricultural Income Tax.</p> <p>However the fund transfer was again continued as per Government directions during 2006-07 and 2007-2008 and hence agricultural Income Tax was not paid and return not filed for the above periods. But subsequently while granting compensation package to the employees of Trivandrum Rubber Works, Government granted funds and Trivandrum Rubber Works refunded ₹ 1,06,90,245 to State Farming Corporation of Kerala (Table1).</p> <p>There was no profit from agricultural activity from 1998-1999 to 2001-2002 and hence there was no Agricultural Income Tax liability. But the Company started making taxable income 2002-03 onwards. But due to set off of carry forward losses, there was not tax liability in the financial years 2002-03 and 2003-2004. From the financial year 2004-2005 onwards, there was tax liability on the agricultural and against which exemption was sought in view of the continued fund transfer to Trivandrum Rubber Works.</p> <p>In the Meantime Government issued directions to liquidate Trivandrum Rubber Works Ltd., vide G.O. (Ms.) No. 153/07/AD dated 25-8-2007 in view of the</p>

1	2	3
		<p>transfer of Trivandrum Rubber Works Land to Airport authority of India for the development of Trivandrum Airport as State Farming Corporation of Kerala is making better profit from 2005-2006 onwards as decided by the Board of Directors AIT return upto 2007-2008 filed and tax of ₹ 12 crores paid in Feb. and March, 2008. Thereafter while issuing pre assessment notice, the Commercial Taxes department demanded balance admitted tax of ₹ 67,11,438 and interest for the delayed remittance.</p> <p>The above balance of admitted tax was also remitted in October and November 2009. The delay in filing of return was occurred due to the pendency in applying for exemption of tax with Government in view of the continued fund transfer to Trivandrum Rubber Works. The application for exemption from AIT was put up due to the shortage of funds and ensuing re plantation commitments. But subsequently due to decision of liquidation of Trivandrum Rubber Works and Improvement in the financial position corporation decided to withdraw the exemption application and remitted tax. Then State Farming Corporation of Kerala have taken up the matter with government stating that the delay in remittance of AIT was occurred, since the matter of granting exemption from payment of AIT in view of the continued fund transfer to Trivandrum Rubber Works.</p> <p>In the meantime the Inspecting Assistant Commissioner, Commercial Taxes Kottarakkara has issued assessment orders for the years from 2001-2002 to 2006-2007 (Assessment years 2002-2003 to 2007-2008). During assessment the department has adjusted the amount remitted firstly against the interest and the balance earmarked for admitted tax.</p>

1	2	3
		<p>While issuing Assessment orders for the assessment years 2001-2002 to 2007-2008, some of the eligible expenses were disallowed and some non agricultural incomes were taken as Agricultural Income. Thus tax was assessed in excess and the demand for ₹ 10,45,12,002 issued for the above years.</p> <p>Thus SFCK have filed Appeals with Appellate Authority against the order of Inspecting Assistant Commissioner, Kottarakkara. But the Inspecting Assistant Commissioner, Kottarakkara had not issued the admitted tax remittance certificate for the assessment years 2005-2006 to 2007-2008 due to the short remittance in 2005-2006 and 2006-2007. Thus the Deputy Commissioner (Appeals) informed that State Farming Corporation of Kerala's Appeal is defective due to the non remittance of above differential amount. To hear the Appeals, the admitted tax together with interest has to be remitted. The State Farming Corporation of Kerala had intimated the Commercial taxes department that the matter of waiver of interest is under the consideration of Government. But Taxes Department informed that the above amount of Rs. 3,11,96,291/- has to be remitted for hearing the Appeal. Thus, State Farming Corporation of Kerala had remitted the amount "UNDER PROTEST" with the approval of board pending the final decision regarding waiver of interest by Government. Subsequently the interest portion was reworked by the Agricultural Income Tax Authorities as ₹ 2,64,12,641 and revised order issued. During the period of delay Corporation has earned interest of about ₹ 1,37,30,968 against the tax amount deposited in banks and thus net interest remitted to Government is ₹ 1,26,81,673.</p>

1	2	3
		<p>In view of the above it is informed that the delay in filing return was not intentional or not a failure on the part of Company. It was occurred due to a genuine intention to get waiver of Agricultural Income Tax beyond 1998 due to continued fund transfer to Trivandrum Rubber Works Ltd. Now the application for waiver of above interest is under the active consideration of Government.</p>

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