

**Report of the  
Comptroller and Auditor General of India  
for the year ended March 2017**



**Union Government  
Department of Revenue - Direct Taxes  
Report No. 40 of 2017**



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**Laid on the table of Lok Sabha and Rajya Sabha on \_\_\_\_\_**



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## **Preface**

This Report for the year ended March 2017 has been prepared for submission to the President under Article 151 of the Constitution of India.

The Report contains significant results of the compliance audit of the Department of Revenue-Direct Taxes of the Union Government.

The instances mentioned in this Report are those, which came to notice in the course of test audit for the period 2016-17 as well as those which came to notice in earlier years but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2016-17 have also been included, wherever necessary.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.





## Highlights

The Comptroller and Auditor General of India conducts the audit of receipts of the Union Government under section 16 of the Comptroller Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971. This Report primarily discusses compliance to the provisions of the Income Tax Act, 1961 and the associated rules, procedures, directives etc. as applied to all aspects related to the administration of direct taxes. The report is organised into seven chapters, the highlights of which are described below:

### Chapter I: Direct Taxes Administration

Direct taxes receipts of Union Government in FY 2016-17 amounted to ₹ 8,49,801 crore grew by 14.5 *per cent* over the FY 2015-16 (₹ 7,42,012 crore). Direct Taxes represented 5.6 *per cent* of the GDP in FY 2016-17. Share of direct taxes in gross tax revenue decreased to 49.5 *per cent* in FY 2016-17 from 51.0 *per cent* in FY 2015-16.

Of the two major components of direct taxes, collections from Corporation Tax increased by 7.0 *per cent*, from ₹ 4.53 lakh crore in FY 2015-16 to ₹ 4.85 lakh crore in FY 2016-17. Collections from Income Tax increased by 21.5 *per cent* from ₹ 2.80 lakh crore in FY 2015-16 to ₹ 3.41 lakh crore in FY 2016-17.

The number of non-corporate assesseees increased from 3.98 crore in FY 2015-16 to 4.37 crore in FY 2016-17, registering an increase of 9.8 *per cent*. The number of corporate assesseees increased from 6.9 lakh in FY 2015-16 to 7.1 lakh in FY 2016-17, registering an increase of 3.6 *per cent*.

Out of total 9.2 lakh scrutiny assessment cases, the Income Tax Department had disposed off 4.0 lakh cases (44.0 *per cent*) in FY 2016-17. The disposal rate was 48.1 *per cent* last year.

There has been significant reduction in the pendency of direct refund cases over the years from 28.9 *per cent* in FY 2012-13 to only 10.7 *per cent* in FY 2016-17.

The arrears of demand increased from ₹ 8.2 lakh crore in FY 2015-16 to ₹ 10.4 lakh crore in FY 2016-17. The Department indicated that more than 98.6 *per cent* of uncollected demand would be difficult to recover.

Number of appeals pending with CIT (Appeals) increased from 2.6 lakh in FY 2015-16 to 2.9 lakh in FY 2016-17. The amount locked up in these cases was ₹ 6.1 lakh crore in FY 2016-17. The amount locked up at higher levels (ITAT/High Court/Supreme Court) increased from ₹ 3.0 lakh crore (70,371 cases) in FY 2015-16 to ₹ 4.4 lakh crore (82,806 cases) in FY 2016-17.

## **Chapter II: Audit Mandate, Products and Impact**

During FY 2015-16, the ITD had completed 2.57 lakh scrutiny assessments in the units audited as per the audit plan of FY 2016-17, out of which we checked 2.39 lakh cases. Apart from this, we have also audited 0.30 lakh cases completed in the earlier financial years, during FY 2016-17. The incidence of errors in assessment checked in audit during FY 2016-17 was 0.19 lakh cases (7.2 *per cent*, as against 7.3 *per cent* last year).

There has been persistent and pervasive irregularities in respect of corporation tax and income tax assessments cases over the years. Recurrence of such irregularities, despite being pointed out repeatedly in the earlier Audit Reports points to structural weaknesses on the part of Department as well as the absence of appropriate institutional mechanisms to address this. Such irregularities were particularly noticeable in the assessment charges in Maharashtra and Delhi.

This Report includes only 457 high value cases reported to the Ministry. Out of these, we received replies in respect of 269 cases as on 31 October 2017, of which, 243 cases (90.3 *per cent*) were accepted and 26 cases not accepted. In remaining cases the Ministry/ ITD did not furnish replies. These do not include the cases described in Chapters V and VI, relating respectively to fictitious demands during scrutiny assessments and bogus transactions by assesseees, noticed in audit. Besides, the Report also discusses one subject specific compliance audit on 'The Appeal process in Income Tax Department' which has been included in Chapter VII.

In the last five years, the ITD recovered ₹ 4,951.51 crore from demands raised to rectify the errors in assessments that we had pointed out. There are 49,436 cases involving revenue effect of ₹ 0.87 lakh crore pointed in audit which are remaining unsettled as of 31 March 2017 for want of replies from the ITD.

During FY 2016-17, 2,243 cases with tax effect of ₹ 1,637.81 crore became time-barred for initiating any remedial action.

## **Chapter III: Corporation Tax**

We pointed out 320 high value cases pertaining to corporation tax with tax effect of ₹ 3,850.86 crore. We classified these cases in four broad categories, viz. (1) quality of assessments involving tax effect of ₹ 625.73 crore (99 cases); (2) administration of tax concessions/exemptions/deductions involving tax effect of ₹ 1,789.22 crore (150 cases); (3) income escaping assessments due to omissions involving tax effect of ₹ 989.83 crore (31 cases); and (4) over-charge of tax/interest involving ₹ 446.08 crore (40 cases).

#### **Chapter IV: Income Tax and Wealth Tax**

We pointed out 131 high value cases of income tax with tax effect of ₹ 335.53 crore and six cases of wealth tax with tax effect of ₹ 0.46 crore. We classified these cases in the above four broad categories as follows: (1) quality of assessments involving tax effect of ₹ 217.93 crore (69 cases); (2) administration of tax concessions/exemptions/deductions involving tax effect of ₹ 78.19 crore (35 cases); (3) income escaping assessments due to omissions involving tax effect of ₹ 18.61 crore (17 cases); and (4) over charge of tax/ interest involving ₹ 21.26 crore (16 cases).

#### **Chapter V: Fictitious demands during scrutiny assessments**

We pointed out that the ITD had raised exaggerated demands to achieve its revenue collection targets by resorting to methods that were irregular and unwarranted. The demands so collected were refunded in the next financial year along with the interest under section 244A, which eventually put a heavy burden on the exchequer in the form of avoidable interest paid on refunds.

#### **Chapter VI: Bogus transactions by assessees**

**We pointed out that ITD did not adopt a uniform approach to deal with the cases of fictitious donations or bogus purchases. The AOs did not take cognizance of reports of the Investigation Wing and failed to initiate necessary follow up actions by disallowing the amounts of the fictitious donations or bogus purchases which resulted in loss of revenue.**

#### **Chapter VII: The Appeal Process in Income Tax Department**

We audited 17,097 appeal cases produced by the ITD and found irregularities in 2,203 cases involving tax effect of ₹ 549.56 crore related to non-compliance of the provisions of the Act/Rules/CBDT circulars etc. Such irregularities accounted for more than 12 *per cent* of total cases audited.

We pointed out admission of appeals by the CIT (Appeals) ignoring the precondition of payment of tax by the assessee, besides pointing out other violations of rules noticed.

In implementation of appellate orders, we noticed mistakes in giving effect to the appellate orders on account of non-consideration of the refund already issued to the assessee, short/non levy of the interest etc. There were delays in implementation of appellate orders which resulted in avoidable payment of interest under section 244A to the assessee. We also came across cases where the appellate authorities gave decisions in favour of revenue, but no action was taken by the ITD to implement the Appellate orders resulting in unrealised revenues.



## Chapter I

### Direct Taxes Administration

#### 1.1 Resources of the Union Government

**1.1.1** The Government of India's resources include all revenues received by the Union Government, all loans raised by issue of treasury bills, internal and external loans and all moneys received by the Government in repayment of loans. Tax revenue resources of the Union Government consist of revenue receipts from direct and indirect taxes. Table 1.1 below shows the summary of resources of the Union Government for the Financial Year (FY) 2016-17 and FY 2015-16. The figures of Union Finance Accounts for the FY 2016-17 are provisional.

Table 1.1: Resources of the Union Government	₹ in crore)	
	FY 2016-17	FY 2015-16
<b>A. Total Revenue Receipts</b>	22,23,988	19,42,353
i. Direct Taxes Receipts	8,49,801	7,42,012
ii. Indirect Taxes Receipts including other taxes <sup>1</sup>	8,66,167	7,13,879
iii. Non-Tax Receipts	5,06,721	4,84,581
iv. Grants-in-aid & contributions	1,299	1,881
<b>B. Miscellaneous Capital Receipts<sup>2</sup></b>	47,743	42,132
<b>C. Recovery of Loan &amp; Advances<sup>3</sup></b>	40,971	41,878
<b>D. Public Debt Receipts<sup>4</sup></b>	61,34,137	43,16,950
<b>Receipts of Government of India (A+B+C+D)</b>	<b>84,46,839</b>	<b>63,43,313</b>

Source: Union Finance Accounts of respective years. Direct Tax receipts and Indirect tax receipts including other taxes have been worked out from the Union Finance Accounts. Total Revenue Receipts include ₹ 6,08,000 crore in FY 2016-17 and ₹ 5,06,193 crore in FY 2015-16, share of net proceeds of direct and indirect taxes directly assigned to states.

**1.1.2** The revenue receipts contributed 26.3 *per cent* in total receipts of the Government of India and share of Direct Taxes was 10.1 *per cent* in FY 2016-17. Direct Taxes accounted for 38.2 *per cent* of total revenue receipts in FY 2016-17, growing by 14.5 *per cent* over the last year's receipts.

#### 1.2 Nature of Direct Taxes

**1.2.1** Direct taxes levied by the Parliament mainly comprise,

- i. **Corporation Tax** levied on income of the companies;
- ii. **Income Tax** levied on income of persons (other than companies);
- iii. **Other direct taxes** including Securities Transactions Tax<sup>5</sup>, Wealth Tax<sup>6</sup> etc.

1 Indirect taxes levied on goods and services such as customs duty, excise duty, service tax etc.;

2 This comprises of value of bonus share, disinvestment of public sector and other undertakings and other receipts;

3 Recovery of loans and advances made by the Union Government;

4 Borrowing by the Government of India internally as well as externally;

5 Tax on the value of taxable securities purchased and sold through a recognized stock exchange in India. However, no rebate under section 88E is allowable with effect from Assessment Year 2009-10.

6 Tax chargeable on the net wealth comprises certain assets specified under section 2(ea) of the Wealth Tax Act, 1957. The Wealth Tax has been abolished through Finance Act, 2015.

**1.2.2** Table 1.2 provides a snapshot of direct taxes administration.

<b>Table 1.2: Direct Taxes Administration</b>					
	2012-13	2013-14	2014-15	2015-16	2016-17
<b>₹ in crore</b>					
<b>1. Direct taxes collection</b>	5,58,989	6,38,596	6,95,792	7,42,012	8,49,801
a. Corporation Tax	3,56,326	3,94,678	4,28,925	4,53,228	4,84,924
b. Income Tax	1,96,843	2,37,870	2,58,374	2,80,390	3,40,592
c. Other Direct Tax	5,820	6,048	8,493	8,394	24,285
<b>2. Refunds</b>	83,766	89,060	1,12,163	1,22,596	1,62,582
<b>3. Interest on refunds</b>	6,666	6,598	5,332	6,886	10,312
<b>Number in lakh</b>					
<b>4. Actual returns filed by</b>					
a. Non-corporate Assesseees	367.9	304.0	360.6	398.0	436.9
b. Corporate Assesseees	5.9	6.4	6.8	6.9	7.1
<b>5. Scrutiny assessments completed</b>	3.1	2.9	5.4	3.4	4.0
<b>6. Scrutiny assessments pending</b>	2.9	4.1	4.9	3.7	5.2
<b>7. Non-scrutiny assessments processed</b>	170.5	175.4	125.6	176.2	215.8
<b>8. Officers on assessment duty (in No.)</b>	3,657	4,033	5,159	5,079	5,257
<b>9. Revenue expenditure (₹ in crore)</b>	3,334	3,687	4,148	4,689	5,623
Source: Sl. no. 1 and 9 – Union Finance Accounts; Sl. no. 2 - Pr. CCA, CBDT, Sl. no. 3 to 8 – Pr. Directorate General of Income Tax (Admn. & Tax Payers Services), Research & Statistics Wing					

The average number of scrutiny assessment completed by assessing officer ranged from 67 to 105 during the last five years, the number being 76 during FY 2016-17.

**1.2.3** Table 1.3 below gives the details of non-corporate assesseees in different categories of income.

<b>Table 1.3: Non-Corporate Assesseees</b>						<b>(Figures in lakh)</b>
<b>Financial Year</b>	<b>A<sup>7</sup></b>	<b>B<sub>1</sub><sup>8</sup></b>	<b>B<sub>2</sub><sup>9</sup></b>	<b>C<sup>10</sup></b>	<b>D<sup>11</sup></b>	<b>Total</b>
2012-13	276.13	58.21	23.94	6.59	3.00	367.87
2013-14	117.23	135.79	34.24	16.72	0.05	304.03
2014-15	76.32	216.31	46.11	21.80	0.01	360.55
2015-16	55.93	264.47	52.94	24.69	0.01	398.04
2016-17	54.17	290.16	61.85	30.69	0.02	436.89

Source: Pr. Directorate General of Income Tax (Admn. & Tax Payers Services), Research & Statistics Wing. These figures are based on actual returns filed during the respective year.

The number of non-corporate assesseees registered an increase of 9.8 *per cent* in FY 2016-17 in comparison to increase of 10.4 *per cent* in FY 2015-16. As can be seen from the Table 1.3 above and Chart 1.1, there has been increase of 16.8 *per cent* and 24.3 *per cent* in Category 'B<sup>2</sup>' and Category 'C' during FY 2016-17 in comparison to FY 2015-16. However, the increases in both the

7 Category 'A' assesseees – Assessments with income/loss below ₹ two lakh;

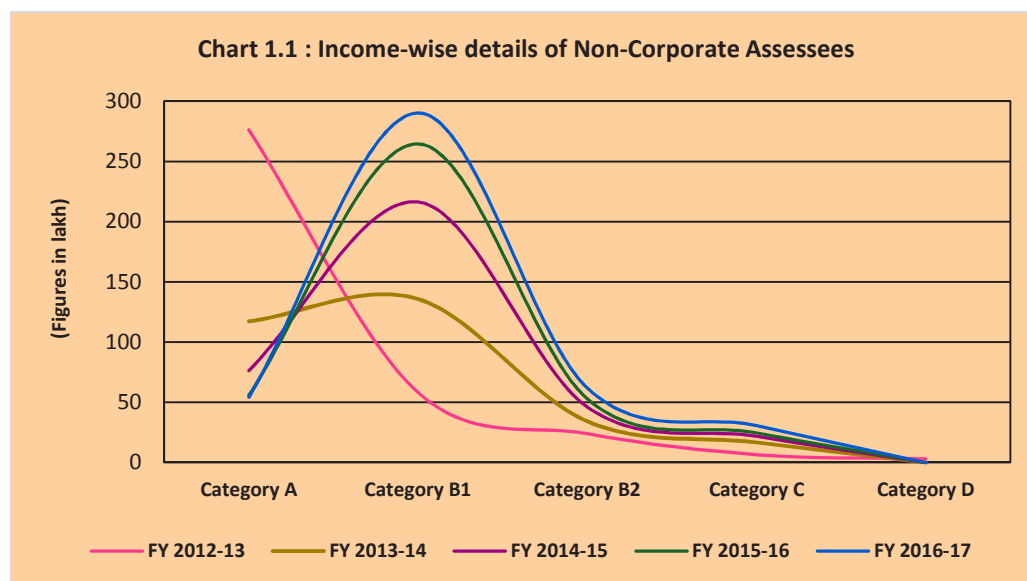
8 Category 'B<sub>1</sub>' assesseees (lower income group) - Assessments with income/loss above ₹ two lakh and above; but below ₹ five lakh;

9 Category 'B<sub>2</sub>' assesseees (higher income group) - Assessments with income/loss above ₹ five lakh and above; but below ₹ 10 lakh;

10 Category 'C' assesseees - Assessments with income/loss of ₹ 10 lakh and above;

11 Category 'D' assesseees – Search and seizure assessments;

categories were 14.8 per cent and 13.3 per cent during FY 2015-16 in comparison to the previous year.



**1.2.4** Table 1.4 below gives the details of corporate assesseees belonging to the different categories of income.

Financial Year	A <sup>12</sup>	B <sub>1</sub> <sup>13</sup>	B <sub>2</sub> <sup>14</sup>	C <sup>15</sup>	D <sup>16</sup>	Total	Assesseees having income above ₹ 25 lakh	Working companies as per RoC as on 31 <sup>st</sup> March
2012-13	3.05	0.97	0.83	1.02	0.03	5.90	0.14	8.84
2013-14	4.14	0.89	0.31	1.01	0.01	6.36	0.65	9.52
2014-15	3.20	1.51	0.48	1.56	0.00*	6.75	0.69	10.16
2015-16	3.08	1.59	0.50	1.71	0.00 <sup>^</sup>	6.88	0.76	10.82
2016-17	3.14	1.65	0.53	1.81	0.00 <sup>#</sup>	7.13	1.44	11.11

Source: Pr. Directorate General of Income Tax (Admn. & Tax Payers Services), Research & Statistics Wing. These figures are based on actual returns filed during the respective year.

\* 256 assesseees; <sup>^</sup> 337 assesseees, # 134 assesseees

The corporate assesseees registered an increase of 3.6 per cent in FY 2016-17 in comparison to increase of 1.9 per cent in FY 2015-16. As can be seen from the Table 1.4 above and Chart 1.2 below, there have been marginal increases in the number of assesseees in all categories during FY 2016-17.

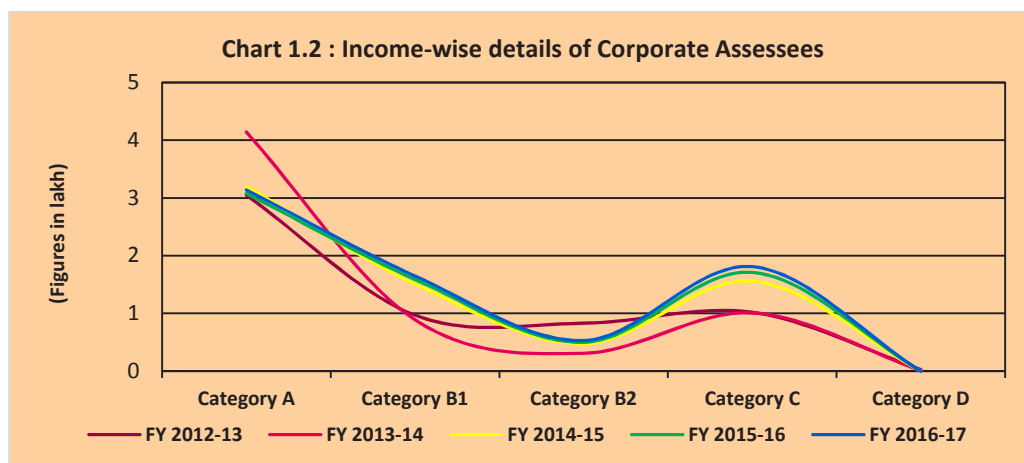
12 Category 'A' assesseees – Assessments with income/loss below ₹ 50,000;

13 Category 'B<sub>1</sub>' assesseees (lower income group) – Assessments with income/loss of ₹ 50,000 and above; but below ₹ five lakh;

14 Category 'B<sub>2</sub>' assesseees (higher income group) - Assessments with income/loss above ₹ five lakh and above; but below ₹ 10 lakh;

15 Category 'C' assesseees - Assessments with income/loss of ₹ 10 lakh and above;

16 Category 'D' assesseees – Search and seizure assessments;



**1.2.5** A comparison of the figure on total working companies as per the Registrar of Companies (ROCs)<sup>17</sup> data with the total filers as per the ITD would suggest that ensuring compliance by indentifying non-filers has not been effective. As in FY 2015-16, there were 10.82 lakh companies registered with ROC, against which it is observed that in FY 2016-17, 7.13 lakh companies only filed income tax returns. Though all working companies (whether profit earning or loss incurring) are required by the provision of the Income Tax Act, 1961, to file their return of income, 34.1 *per cent* of such working companies in FY 2015-16 did not file their returns of income.

### 1.3 Functions and responsibilities of the CBDT

**1.3.1** The Central Board of Direct Taxes (CBDT) under the Department of Revenue (DOR) in the Ministry of Finance provides essential inputs for policy and planning in respect of direct taxes in India. At the same time, it is also responsible for administration of direct taxes laws through Income Tax Department (ITD). ITD deals with matters relating to levy and collection of direct taxes and the issues of tax evasion, revenue intelligence, widening of tax-base, providing tax payers services, grievance redressal mechanism etc.

**1.3.2** As on 31 March 2016, the overall staff strength and working strength of the ITD is 78,552 and 45,045 respectively. The sanctioned and working strength of the officers<sup>18</sup> is 11,052 and 9,200 respectively. The revenue expenditure for the year 2016-17 is ₹ 5,623 crore<sup>19</sup>.

### 1.4 Budgeting of Direct Taxation

**1.4.1** The Budget reflects the Government's vision and intent. The revenue budget consists of the revenue receipts of the Government (tax revenues and other revenues). Comparison of budget estimates with the corresponding

<sup>17</sup> Source: Ministry of Corporate Affairs, Statistics Division, New Delhi.

<sup>18</sup> Pr. CCIT/Pr. DGIT, CCIT/DGIT, Pr. CIT/Pr. DIT, CIT/DIT, Addl. CIT/Addl. DIT/JCIT/JDIT, DCIT/DDIT/ACIT/ADIT and ITOs.

<sup>19</sup> Union Finance Accounts for FY 2016-17.



actuals is an indicator of quality of fiscal management. Actuals may differ from the estimates because of unanticipated and random external events or methodological inadequacies or unrealistic assumptions about critical parameters.

**1.4.2** Table 1.5 below shows the details of Budget Estimates (BE), Revised Estimates (RE) and Actual collection of Direct Taxes during FYs from 2012-13 to FY 2016-17.

Table 1.5: Budget Estimates, Revised Estimates vis-à-vis Actual							(₹ in crore)	
Financial Year	Budget estimates	Revised estimates	Actual	Actual minus budget estimates	Actual minus Revised estimates	Difference as per cent of budget estimates	Difference as per cent of Revised estimates	
2012-13	5,70,257	5,65,835	5,58,989	(-) 11,268	(-) 6,846	(-) 2.0	(-) 1.2	
2013-14	6,68,109	6,36,318	6,38,596	(-) 29,513	2,278	(-) 4.4	0.4	
2014-15	7,36,221	7,05,628	6,95,792	(-) 40,429	(-) 9,836	(-) 5.5	(-) 1.4	
2015-16	7,97,995	7,52,021	7,42,012	(-) 55,983	(-) 10,009	(-) 7.0	(-) 1.3	
2016-17	8,47,097	8,47,097	8,49,801	2,704	2,704	0.3	0.3	

Note: BE and RE figures are as per respective Receipts Budget and Actual are as per respective Finance Accounts

**1.4.3** The variation between RE and actual collection ranged from (-) 1.4 per cent to 0.3 per cent of RE whereas the variation between BE and actuals were much higher, as seen for the period from FY 2012-13 to FY 2016-17, indicating that the budget estimates, on which expenditure proposals were formulated, were based on somewhat unrealistic assumptions, except for FY 2016-17 provisional figures.

## 1.5 Growth of Direct Taxes

**1.5.1** Table 1.6 below gives the relative growth of direct taxes (DT) with reference to Gross Tax Receipts<sup>20</sup> (GTR) and Gross Domestic Products (GDP) during FY 2012-13 to FY 2016-17.

Table 1.6: Growth of Direct Taxes						(₹ in crore)
Financial Year	DT	GTR	DT as per cent of GTR	GDP	DT as per cent of GDP	
2012-13	5,58,989	10,36,460	53.9	99,88,540	5.6	
2013-14	6,38,596	11,38,996	56.1	1,13,45,056	5.6	
2014-15	6,95,792	12,45,135	55.9	1,25,41,208	5.5	
2015-16	7,42,012	14,55,891	51.0	1,35,76,086	5.5	
2016-17	8,49,801	17,15,968	49.5	1,51,83,709	5.6	

Source: DT and GTR - Union Finance Accounts, GDP-Central Statistical Office (CSO), Ministry of Statistics and Programme Implementation; GDP for FY 2016-17 – Press note released by CSO on 31 May 2017. The Figures of GDP are continually being revised by CSO.

<sup>20</sup> It includes all direct and indirect taxes.

**1.5.2** Though the DT increased by 14.5 *per cent* in FY 2016-17 as compared to FY 2015-16, there was marginal decrease (1.5 *per cent*) in the share of DT to GTR in FY 2016-17 as compared to FY 2015-16. This is because of growth of 21.3 *per cent* in Indirect Taxes during FY 2016-17 as shown in Table 1.1. DT is 5.6 *per cent* of GDP during FY 2016-17, which has been constant over the years.

**1.5.3** Table 1.7 below gives the growth of direct taxes and its major components i.e. Corporation Tax (CT) and Income Tax (IT) during FY 2012-13 to FY 2016-17.

Table 1.7: Growth of Direct Taxes and its major components						(₹ in crore)
Financial Year	Direct Taxes	Per cent growth over previous year	Corporation Tax	Per cent growth over previous year	Income Tax	Per cent growth over previous year
2012-13	5,58,989	13.2	3,56,326	10.4	1,96,843	19.6
2013-14	6,38,596	14.2	3,94,678	10.8	2,37,870	20.8
2014-15	6,95,792	9.0	4,28,925	8.7	2,58,374	8.6
2015-16	7,42,012	6.6	4,53,228	5.7	2,80,390	8.5
2016-17	8,49,801	14.5	4,84,924	7.0	3,40,592	21.5

Source: Union Finance Accounts

**1.5.4** There was growth of 21.5 *per cent* in Income Tax as compared to growth of 7.0 *per cent* in Corporation Tax in FY 2016-17.

**1.5.5** There are different stages of direct taxes collection such as Tax deducted at source (TDS), advance tax, self assessment tax, and regular assessment tax in respect of both corporation and income tax. The pre-assessment collection through TDS, advance tax and self assessment tax is indicative of voluntary compliance in the system. The collection of tax through regular assessment stage occurs post assessment.

**1.5.6** Table 1.8 below shows the collection of Corporation and Income Tax under different stages during FY 2012-13 to FY 2016-17.

Table 1.8: Collection of Corporation and Income Tax								(₹ in crore)
Financial Year	TDS	Advance Tax	Self assessment tax	Pre-assessment collection (Col. 2 + 3 + 4)	Percentage of total pre-assessment collection	Regular Assessment Tax	Other receipts	Total Collection (Col. 6 + 7 + 8)
1.	2.	3.	4.	5.	6.	7.	8.	9.
2012-13	2,10,654	2,75,794	39,470	5,25,918	82.6	62,418	48,596	6,36,932
2013-14	2,48,547	2,92,522	44,123	5,85,192	81.1	72,528	63,884	7,21,604
2014-15	2,59,106	3,26,525	52,050	6,37,681	79.8	80,189	81,589	7,99,459
2015-16	2,87,412	3,52,899	54,860	6,95,171	81.2	63,814	96,940	8,55,925
2016-17	3,43,134	4,06,769	68,160	8,18,063	82.8	74,138	95,886	9,88,087

Note: The above figures were received from the Pr. CCA, CBDT during the respective years. The other receipts includes surcharge and cess. The figures of collection comprises of refunds also. In FY 2016-17, there is a difference of ₹ 11.0 crore in collection of Corporation Tax and Income Tax as compared with the Union Finance Accounts.

**1.5.7** The data of Tax deducted at source as shown in Table 1.8 indicates that the TDS has increased to ₹ 3.4 lakh crore in FY 2016-17 from ₹ 2.1 lakh crore in FY 2012-13, showing an increase of 62.9 *per cent* over the period from FY 2012-13 to FY 2016-17. There was increase of 72.7 *per cent* and 47.5 *per cent* in Self-assessment Tax and Advance Tax respectively over the period. The TDS in respect of Corporate and Income tax was ₹ 1,05,077 crore and ₹ 2,38,057 crore, respectively for FY 2016-17 in comparison to ₹ 94,061 crore and ₹ 1,93,351 crore respectively in FY 2015-16.

## 1.6 Revenue impact of tax incentives

**1.6.1** The primary objective of any tax law and its administration is to raise revenues for the purpose of funding government expenditure. The revenues raised are primarily dependent upon the tax base and effective tax rate. The determinant of these two factors is a range of measures which includes special tax rates, exemptions, deductions, rebates, deferrals and credits. These measures are collectively called as “tax incentives or tax preferences”. These are also referred as tax expenditure.

**1.6.2** The Income Tax Act, 1961, *inter alia*, provides for tax incentives to promote exports, balanced regional development, creation of infrastructure facilities, employment, rural development, scientific research and development, growth of the cooperative sector and encourages savings by individuals and donations for charity. Most of these tax benefits can be availed of by both corporate and non-corporate taxpayers.

**1.6.3** The Union Receipt Budget depicts statement of revenue impact of major incentives on corporate taxpayers and non-corporate taxpayers based on returns filed electronically. Table 1.9 shows the revenue impact of major tax incentives for FY 2012-13 to FY 2016-17.

Financial Year	Total Revenue impact of tax incentives	Revenue impact as <i>per cent</i> of		
		GDP	DT	GTR
2012-13	1,02,256	1.0	18.3	9.9
2013-14	93,047	0.8	14.6	8.2
2014-15	1,18,593	0.9	17.0	9.5
2015-16	1,38,658	1.0	18.7	9.5
2016-17	1,63,526	1.1	19.2	9.5

Note: The figures of revenue impact of tax incentives are actuals except FY 2016-17 (projected) as per respective Receipt Budget. These do not cover Charitable Institutions. However, the amount applied by Charitable Institutions was ₹ 2,67,534 crores in respect of 1,31,705 electronically filed returns till November 2016 as per Receipt Budget 2017-18.

As reported in the Receipts Budget for the FY 2017-18, the effective rate of corporation tax for the FY 2015-16 was 28.24 *per cent*, as against the statutory

rates ranging from of 33.06 *per cent* to 34.6 *per cent* depending on the incomes of the companies.

**1.6.4** The major tax incentives given were deductions under section 80C (worth ₹ 55,299 crore in 2016-17), accelerated depreciation under section 32 (₹ 55,194), deduction of export profits to SEZ units under section 10A and 10AA (₹ 20,914 crore), deductions to undertakings in generation/ transmission and distribution of power under section 80IA (₹ 12,591 crore), deductions for scientific research under sections 35(1), (2AA) and (2AB) (₹ 10,993 crore).

**1.6.5** The revenue impact of tax incentives has been increasing in absolute terms over the years (except FY 2013-14). The Public Accounts Committee (PAC) in their 87<sup>th</sup> Report (15<sup>th</sup> Lok Sabha) observed, *inter alia*, that the Government needed to consider some measures to phase out unwarranted tax exemptions/deductions. The Finance Minister in his Budget speech of 2015 had announced that exemption for corporate taxpayers would be rationalized and removed. In pursuance of this, the Government, in order to rationalize the deductions, had reduced or abolished deductions under section 35, 35AC, 35AD, 35CCC, 35CCD, 80IA, 80IAB and 80IB(9) through the Finance Act, 2016.

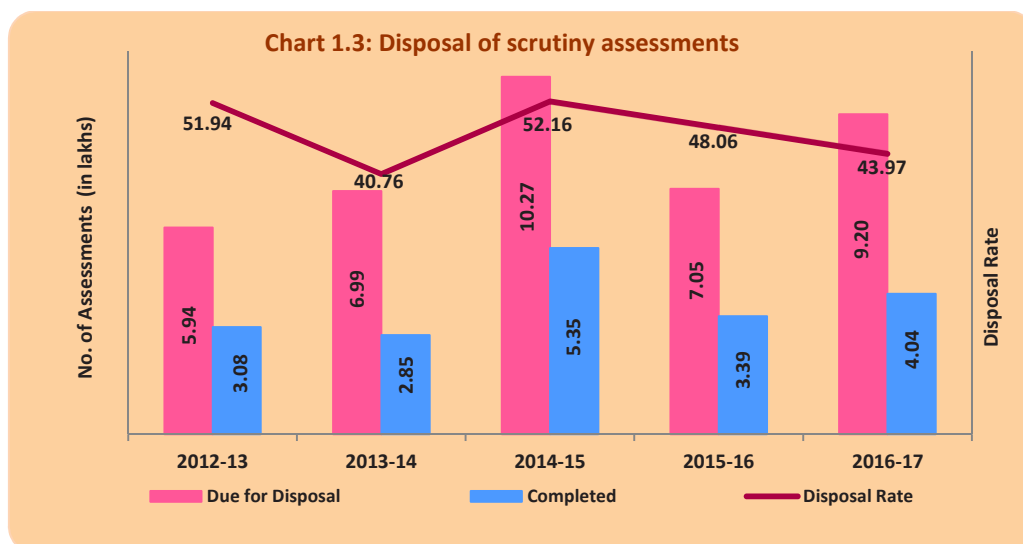
## **1.7 Widening of tax base**

**1.7.1** The ITD has different mechanisms available to enhance the assessee base which includes survey, information sharing with other tax departments and third party information available in annual information returns (AIRs). In the Central Action Plan 2016-17 of ITD, key result areas for widening of tax base are:

- a. Action on non-PAN/invalid PAN cases reported in AIR transactions disseminated by the Directorate of Systems in FY 2015-16 and FY 2016-17;
- b. Non-filers of return identified by the Directorate of Systems under Non-filers Monitoring System (NMS) cycle 1 (2013) : 12.2 lakh; cycle 2 (2014) : 22.1 lakh; cycle 3 (2015) : 44.1 lakh; & cycle 4 (2016): 58.9 lakh; and subsequent NMS cycle : 67.5 lakh.

## **1.8 Disposal of Scrutiny assessments**

**1.8.1** Chart 1.3 gives the trend of disposal of scrutiny assessments during FY 2012-13 to FY 2016-17.



**1.8.2** The numbers due for disposal of scrutiny assessment cases and the actual scrutiny assessment cases completed increased to 9.2 lakh and 4.0 lakh respectively in FY 2016-17 as compared to 7.0 lakh and 3.4 lakh respectively in FY 2015-16. Though the numbers for disposal of scrutiny assessment cases and the actual scrutiny assessment cases completed increased in absolute terms in FY 2016-17, in percentage, the disposal of scrutiny assessment cases in FY 2016-17 has decreased to 44.0 per cent as compared to 48.1 per cent in FY 2015-16.

## 1.9 Disposal of Refund cases

**1.9.1** Table 1.10 gives the trend of disposal and pendency of direct refund cases during FY 2012-13 to FY 2016-17.

Table 1.10: Disposal of Direct Refund Cases				(Number in lakh)
Financial Year	Direct Refund cases due for disposal	Direct Refund cases disposed of	Direct Refund cases pending	Pendency in percentage
2012-13	38.8	27.6	11.2	28.9
2013-14	34.5	25.7	8.8	25.5
2014-15	31.5	22.6	8.9	28.1
2015-16	38.9	33.4	5.5	14.2
2016-17	43.6	38.9	4.7	10.7

Source: Pr. Directorate General of Income Tax (Admn. & Tax Payers Services), Research & Statistics Wing

**1.9.2** It is seen that there has been significant reduction in pendency of direct refund cases over the years.

**1.9.3** The Government has refunded ₹ 1,62,582 crore which included interest of ₹ 10,312 crore (6.3 per cent) in FY 2016-17. The interest paid on refunds in FY 2015-16 was ₹ 6,886 crore (5.6 per cent) on ₹ 1,22,596 crore refunded during 2015-16.

## 1.10 Arrears of demand

**1.10.1** Table 1.11 gives the trend of arrears of demand pending during the period FY 2012-13 to FY 2016-17.

Table 1.11: Arrears of Demand (₹ in crore)				
Financial Year	Arrears of earlier year's demand	Current year's demand	Total arrears of demand	Demand difficult to recover
2012-13	4,09,456	76,724	4,86,180	4,66,854
2013-14	4,80,066	95,274	5,75,340	5,52,538
2014-15	5,68,724	1,31,424	7,00,148	6,73,032
2015-16	6,67,855	1,56,356	8,24,211	8,02,256
2016-17	7,33,229	3,11,459	10,44,688	10,29,725

Source: Directorate of Income Tax (Organisation & Management Services), Demand & Collection report (CAP-1) for the month of March of respective FY

**1.10.2** Demand & Collection report for the month of March of respective FYs analysed various factors viz. no assets/inadequate assets for recovery, cases under liquidation/BIFR, assessee's not traceable, demand stayed by Courts/ITAT/IT authorities, TDS/prepaid taxes mismatch etc. leading to an estimation of the demands difficult to recover. These demands have been increasing year after year and accounted for 98.6 *per cent* of the total arrears of demands in FY 2016-17 as against 97.3 *per cent* in FY 2015-16.

**1.10.3** Defaults in payment of taxes are referred to the Tax Recovery Officers (TROs) who draw up a certificate specifying the amounts of arrears due from the assessee's and then proceed to recover the amount. The certified demands remaining uncollected were increased to ₹ 3.2 lakh crore in FY 2016-17 in comparison to ₹ 2.4 lakh crore in FY 2015-16. TROs could dispose only 5.6 *per cent* (₹ 19.1 crore) of the pending certified demands in FY 2016-17. The quarterly progress report on Tax Recovery officer's work for the quarter ending March 2017 as provided by Pr. Directorate General of Income Tax (Admn. & Tax Payers Services), Research & Statistics Wing indicates the reasons as 'stayed by court/other authorities, pending from ITOs, cases of doubtful recovery and others'.

## 1.11 Disposal of Appeal cases

**1.11.1** Table 1.12 gives the trend of disposal and pendency of appeal cases before CIT (Appeals) during FY 2012-13 to FY 2016-17.

Table 1.12: Disposal of Appeal Cases by CIT(A)					
Financial Year	Appeal cases due for disposal	Appeal cases disposed of	Appeal cases pending	Pendency in percentage	Amount locked up in Appeal cases
2012-13	2.84	0.85	1.99	70.1	2,59,556
2013-14	3.03	0.88	2.15	71.0	2,87,444
2014-15	3.06	0.74	2.32	75.8	3,83,797
2015-16	3.53	0.94	2.59	73.3	5,16,250
2016-17	4.08	1.18	2.90	71.1	6,11,227

Source: Pr. Directorate General of Income Tax (Admn. & Tax Payers Services), Research & Statistics Wing

**1.11.2** As per the information provided by DGIT (Logistics, Research & Statistics), appeal cases decided by CIT (A) against the department were 30 per cent, 27 per cent and 33 per cent during 2013-14, 2014-15 and 2015-16 respectively (refer para 7.8.3, chart 7.1). The amount locked up in appeal cases with CIT (Appeals) is equivalent to 1.97 times of the revised revenue deficit of the Government of India in FY 2016-17 against 1.51 times of actual revenue deficit in FY 2015-16.

**1.11.3** Table 1.13 below gives the position of Appeals/Writs and other matters pending with the Income Tax Appellate Tribunals (ITATs)/High Courts and Supreme Court as on 31 March 2017.

Table 1.13: Appeals/Writs and other matters pending with ITATs/High Courts/Supreme Court		
Authority with whom pending	Cases pending (Numbers)	Amount locked up (₹ in crore)
ITATs	37,968	1,43,771
High Courts	38,481	2,87,818
Supreme Court	6,375	8,048
<b>Total</b>	<b>82,806</b>	<b>4,39,637</b>

Source: Pr. Directorate General of Income Tax (Admn. & Tax Payers Services), Research & Statistics Wing

**1.11.4** The amount locked up at higher levels (ITATs/High Courts/Supreme Court) increased to ₹ 4.4 lakh crore (82,806 cases) as on 31 March 2017 in comparison to ₹ 3.0 lakh crore (70,371 cases) as on 31 March 2016.

## 1.12 Search & Seizure and Survey

The Search & seizure and survey are amongst the main evidence collecting mechanisms which are used in cases where credible information about tax evasion is in possession of the ITD. Table 1.14 below shows the details of search & seizure and survey conducted and the undisclosed income admitted/detected during FY 2012-13 to FY 2016-17.

Table 1.14: Status of search & seizure and survey cases				(₹ in crore)
Financial Year	Number of groups searched	Undisclosed income admitted	Number of survey conducted	Undisclosed income detected
2012-13	422	10,292	4,630	19,337
2013-14	569	10,792	5,327	90,391
2014-15	545	10,288	5,035	12,820
2015-16	447	11,226	4,428	9,700
2016-17	1,152	15,497	12,526	13,716

Source: Investigation Wing, CBDT

During FY 2016-17, undisclosed income admitted during search & seizure increased by 38.0 *per cent* and undisclosed income detected during survey increased by 41.4 *per cent*.

### 1.13 Effectiveness of Internal Audit

**1.13.1** Internal audit is an important part of the Departmental control that provides assurance that demands/refunds are processed accurately by the correct application of the provisions of the Act. The internal audit of ITD completed audit of 1,80,110 cases in FY 2016-17 as against 1,78,793 cases audited in FY 2015-16.

**1.13.2** Table 1.15 shows details of internal audit observations raised, settled and pending for each of the five years from FY 2012-13 to FY 2016-17:

Table 1.15: Details of Internal audit observations								(₹ in crore)
Financial Year	Opening balance		Addition		Settled		Pending	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
2012-13	34,563	9,278	18,275	4,135	16,626	2,736	36,212	10,677
2013-14	36,212	10,677	14,423	8,951	26,322	8,610	24,313	11,018
2014-15	20,834 <sup>^</sup>	8,368	9,927	2,292	15,586	3,805	15,175	6,855
2015-16	19,137 <sup>^</sup>	8,023	13,148	6,463	12,891	2,205	19,394	12,281
2016-17	19,405 <sup>^</sup>	12,283	12,972	2,451	11,256	3,352	21,121	11,382

Source: Directorate of Income Tax (Income Tax & Audit); <sup>^</sup>Figures revised after verification by respective CsIT(Audit) subsequent to submission of quarterly statement for the quarter ending March

**1.13.3** Out of 12,439 major finding cases <sup>21</sup> raised by internal audit, the assessing officers (AOs) acted upon only in 4,126 cases (33.2 *per cent*) in FY 2016-17 in comparison to 3,730 cases (32.4 *per cent*) out of 11,509 cases in FY 2015-16. This needs improvement.

<sup>21</sup> Audit objection above ₹ two lakh in Income tax and above ₹ 30,000 in other taxes.



## **Chapter II: Audit Mandate, Products and Impact**

### **2.1 Authority of the CAG for audit of receipts**

Article 149 of the Constitution of India provides that the Comptroller and Auditor General of India (CAG) shall exercise such powers and perform such duties in relation to the accounts of the Union and of the states and of any other authority or body as may be prescribed by or under any law made by the Parliament. The Parliament passed the Comptroller and Auditor General's DPC Act (CAG's DPC Act) in 1971. Section 16 of the CAG's DPC Act authorises CAG to audit all receipts (both revenue and capital) of the Government of India and of Governments of each State and of each Union Territory having a legislative assembly and to satisfy himself that the rules and procedures are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed. Regulations on Audit & Accounts, 2007 (Regulations) lay down the principles for Receipt Audit.

### **2.2 Examination of systems and procedures and their efficacy**

**2.2.1** Audit of receipts includes an examination of the systems and procedures and their efficacy mainly in respect of:

- a. identification of potential tax assessees, ensuring compliance with laws as well as detection and prevention of tax evasion;
- b. exercise of discretionary powers in an appropriate manner including levy of penalties and initiation of prosecution;
- c. appropriate action to safeguard the interests of the Government on the orders passed by departmental appellate authorities;
- d. any measures introduced to strengthen or improve revenue administration;
- e. amounts that may have fallen into arrears, maintenance of records of arrears and action taken for the recovery of the amounts in arrears;
- f. pursuit of claims with due diligence and to ensure that these are not abandoned or reduced except with adequate justification and proper authority.

To achieve the above, we examined the assessments completed by the Income Tax Department in the financial year 2015-16. In addition, some assessments which were completed in earlier years were also taken up for examination.

**2.2.2** The ITD undertakes scrutiny assessments in respect of a sample of returns filed by the assessee as per the Income Tax Act, 1961. The scrutiny assessment cases are selected on the basis of parameters identified and

pre-defined by the ITD. These cases are then closely examined in respect of claims of deductions, losses, exemptions etc. to arrive at the correct assessments to ensure that there is no evasion of taxes. The assessee is given the opportunity to substantiate his claim with evidence failing which the AO makes the assessment as deemed appropriate.

On the basis of examination of scrutiny assessment cases, Audit noticed that despite irregularities of certain types being pointed out repeatedly in the audit reports, there are continued occurrences of these irregularities in following the tax laws and instructions and directives of CBDT during scrutiny assessments completed by the AOs, raising questions about the efficiency of tax administration. Some of these cases are discussed in the subsequent paragraphs.

**2.2.3** ITD completed 2,56,814 scrutiny assessments<sup>22</sup> in FY 2015-16 in those units which were audited during audit plan of FY 2016-17, of which we checked 2,39,046 cases. Apart from this, we have also audited 29,652 cases (out of 65,028 cases) completed in previous financial years, during FY 2016-17. The incidence of errors in assessment checked in audit during FY 2016-17 was 19,289 cases (7.2 per cent) which was less than the previous year (7.3 per cent). Out of these, Internal Audit of ITD had checked 14,520 cases.

**2.2.4** State-wise incidence of errors in assessment is given in *Appendix-2.1*. Table 2.1 below shows details of top 10 States where more than 10,000 assessments were checked in audit during FY 2016-17.

Table 2.1: Details of top ten states where more than 10,000 assessments were checked					(₹ in crore)
State	Assessments			Total revenue effect of the audit observations	Percentage of assessments with errors
	completed during 2015-16#	checked in audit during 2016-17	with errors		
a. Andhra Pradesh	23,194	20,448	1,319	3,916.24	6.45
b. Delhi	41,347	33,656	1,455	7,697.44	4.32
c. Gujarat	21,689	16,227	984	1,052.29	6.06
d. Karnataka	18,189	13,762	1,248	1,117.56	9.07
e. Madhya Pradesh	11,806	11,604	764	293.85	6.58
f. Maharashtra	67,861	50,980	3,178	5,438.18	6.23
g. Rajasthan	15,841	14,567	723	92.55	4.96
h. Tamil Nadu	28,725	24,076	2,299	10,181.46	9.55
i. Uttar Pradesh	24,419	23,692	1,207	1,653.78	5.09
j. West Bengal	19,759	18,226	2,667	2,368.91	14.63

# including those completed in earlier years

This indicates that West Bengal has the highest percentage of assessments with errors (14.63 per cent) followed by Tamil Nadu (9.55 per cent). It has also been

<sup>22</sup> Total scrutiny assessment completed in the ITD during FY 2015-16 were 3,38,898.

seen that in the last five years both these states were having the highest percentage of assessments with errors. The ITD needs to take corrective action in respect of errors noticed in the assessments.

**2.2.5** Table 2.2 below shows the details of errors noticed in local audit during FY 2016-17.

Table 2.2: Tax wise details of errors in assessments			(₹ in crore)
Category	Cases	Tax effect (TE)	
a. Corporation tax (CT) and Income tax (IT)	20,582	35,745.12 <sup>23</sup>	
b. Other Direct taxes (ODT)	652	77.13	
<b>Total</b>	<b>21,234</b>	<b>35,822.25</b>	

Note: The above findings and all subsequent findings are based exclusively on audit of selected assessments.

**2.2.6** Table 2.3 below shows the category-wise details of underassessment in respect of Corporation tax and Income Tax. *Appendix-2.2* indicates details in respect of sub-categories under them.

Table 2.3: Category-wise details of errors			(₹ in crore)
Category	Cases	Tax effect	
a. Quality of assessments	5,373	2,899.68	
b. Administration of tax concessions/exemptions/deductions	8,055	9,550.71	
c. Income escaping assessments due to omissions	2,864	4,803.92	
d. Others	3,718	11,589.61	
<b>Total</b>	<b>20,010</b>	<b>28,843.92</b>	

### 2.3 Persistent and pervasive irregularities in respect of Corporation Tax and Income Tax assessments cases

The instances of non-compliance and irregularities noticed during audit examination of assessment cases completed by the Assessing Officers (AOs) are brought out in our Compliance Audit Report – Department of Revenue -Direct Taxes every year. An irregularity may be considered persistent if it occurs year after year. It becomes pervasive, when it affects the entire system and is dispersed over many assessment jurisdictions. We have been pointing out various irregularities including those relating to (i) arithmetical errors in computation of income and tax, (ii) mistakes in levy of interest and (iii) instances of incorrect allowance of business expenditure with respect to assessment of corporation and income tax cases in the Compliance Audit Reports year after year, and some of these irregularities seem to be both persistent and pervasive. Recurrence of such irregularities, despite being pointed out repeatedly in earlier audit reports, is not only indicative of non-seriousness on the part of the Department in instituting appropriate systems to prevent recurrence of such repetitive mistakes, but is also points the lack of effective monitoring and absence of an institutional mechanism to respond to

<sup>23</sup> Includes 572 cases of over assessment with tax effect of ₹ 6,901.20 crore.

the systematic and structural weaknesses leading to leakages of revenue. Cases of such irregularities reported in the above mentioned categories are discussed below.

Though the irregularities observed in different states showed no distinctive pattern of occurrences among the states, they were occurring more frequently in some states than others; their occurrences were seen to be consistently high in Maharashtra and Delhi. Uttar Pradesh and Andhra Pradesh also showed higher occurrences of errors than the other states under the above categories. The instances where the errors constituted more than 25 *per cent* of the total tax effect under each of the above categories have been highlighted in the following analysis.

### 2.3.1 Quality of assessments – arithmetical errors in computation of income and tax

A large number of irregularities noticed by us reflect arithmetical or computational errors which are the easiest to address. We noticed irregularities emanating from arithmetical errors in computation of income and tax caused by computing errors, like adoption of incorrect figures while computing assessed income and tax demand, disallowances made in the assessments not added back, allowance of double deductions, omission to disallow claims allowed earlier due to non-correlation of assessment records, etc. AOs had committed such errors in the assessments ignoring clear provisions in the Act which obviously reflect weaknesses in internal controls on the part of ITD which need to be addressed. Mistakes noticed in this category during 2013-14 to 2015-16 as brought out in the Compliance Audit Reports of past three years along with findings of the current year audit report (2016-17) are summarised in the Table 2.4 below:

Assessment	Audit Report for the year ended							
	March 2014		March 2015		March 2016		March 2017	
	No. of cases	Tax Effect	No. of cases	Tax Effect	No. of cases	Tax Effect	No. of cases	Tax Effect
CT	46 <sup>24</sup>	268.09	43 <sup>25</sup>	164.63	45 <sup>26</sup>	922.95	36	310.04
IT	09 <sup>27</sup>	199.66	16 <sup>28</sup>	83.40	19 <sup>29</sup>	33.44	26	75.89

24 States involved: Andhra Pradesh, Assam, Delhi, Gujarat, Haryana, Karnataka, Kerala, Maharashtra, Punjab, Rajasthan, Tamil Nadu and West Bengal.

25 Bihar, Delhi, Gujarat, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal.

26 Andhra Pradesh, Bihar, Delhi, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Tamil Nadu and West Bengal.

27 Delhi, Kerala, Maharashtra, Punjab, West Bengal

28 Delhi, Gujarat, Kerala, Maharashtra, Punjab, Rajasthan, Uttar Pradesh, West Bengal

29 Bihar, Delhi, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Uttar Pradesh

During 2013-14, such irregularities were significant in Maharashtra (accounting for 36 *per cent* of the total tax effect). During 2014-15 the tax effect on this account was found significant in Maharashtra (44 *per cent*) and Madhya Pradesh (24 *per cent*), whereas in 2015-16, it was found significant in Delhi (41 *per cent*) and Maharashtra (28 *per cent*).

During 2016-17, we noticed 36 cases relating to Corporation Tax assessments where AOs had committed arithmetical errors in computation of income and tax involving tax effect of ₹ 310.04 crore in nine states<sup>30</sup>. These were significant<sup>31</sup> in Delhi (33 *per cent* of the total tax effect) and Maharashtra (25 *per cent*). All these cases have been issued as separate draft paragraphs (DPs) for Audit Reports 2016-17.

In respect of Income Tax, such irregularities were found to be significant in Delhi (94 *per cent* of the total tax effect) during 2013-14. During 2014-15 the tax effect on this account was found significant in Uttar Pradesh (63 *per cent*) whereas in 2015-16, it was found significant in Maharashtra (39 *per cent*) and Delhi (29 *per cent*).

During 2016-17, we noticed 26 cases relating to Income tax assessments where AOs had committed arithmetical errors in computation of income and tax involving tax effect of ₹ 75.89 crore in nine states<sup>32</sup>. These were significant in Maharashtra (66 *per cent* of the total tax effect).

### **2.3.2 Quality of assessments – mistakes in levying of interest**

We noticed irregularities related to mistakes in levying of interest on account of non-furnishing or delay in furnishing of returns of income, default in payment of advance tax, default in payment of instalments of advance tax, default in payment of tax demand raised by ITD, etc. Mistakes noticed in levy of interest during 2013-14 to 2015-16 as brought out in the Compliance Audit Reports of past three years along with findings of the current year audit report (2016-17) are summarised in the Table 2.5 below:

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30 Delhi, Goa, Gujarat, Haryana, Maharashtra, Punjab, Tamil Nadu, Uttar Pradesh and West Bengal

31 Wherever significance is mentioned, it is only with reference to the total tax effect and not in relation to the number of cases.

32 Andhra Pradesh, Delhi, Gujarat, Haryana, Madhya Pradesh, Maharashtra, Odisha, Punjab and Tamil Nadu

Table 2.5: Mistakes noticed in levying of interest								(₹ in crore)	
Assessment	Audit Report for the year ended								
	March 2014		March 2015		March 2016		March 2017		
	No. of cases	Tax Effect	No. of cases	Tax Effect	No. of cases	Tax Effect	No. of cases	Tax Effect	
CT	21 <sup>33</sup>	122.39	22 <sup>34</sup>	150.10	39 <sup>35</sup>	163.84	40	157.46	
IT	20 <sup>36</sup>	30.77	29 <sup>37</sup>	54.65	36 <sup>38</sup>	61.97	37	130.12	

During 2013-14, the non-compliance on this account was found significant in Maharashtra (86 per cent of the total tax effect). In 2014-15 the non-compliance was significant in Maharashtra (53 per cent) and Delhi (37 per cent) whereas in 2015-16 such non-compliance was significant in Maharashtra (37 per cent) and Uttar Pradesh (30 per cent).

During 2016-17, we noticed 40 cases of mistakes in levying of interest involving tax effect of ₹ 157.46 crore in 10 states<sup>39</sup> in respect of Corporation tax assessments. The non-compliance was found to be significant in Maharashtra (67 per cent). These cases have been reported as draft paragraph for Audit Report 2016-17.

In respect of Income Tax, such irregularities were found to be significant in Delhi (31 per cent of the total tax effect) and Maharashtra (25 per cent) during 2013-14. During 2014-15 the tax effect on this account was found significant in Maharashtra (43 per cent) and Uttar Pradesh (28 per cent) whereas in 2015-16, it was found significant in Delhi (27 per cent) and Andhra Pradesh (27 per cent).

During 2016-17, we noticed 37 cases of mistakes in levying of interest involving tax effect of ₹ 130.12 crore in 17 states<sup>40</sup>. These were significant in Delhi (82 per cent)<sup>41</sup>.

Despite there being clear provisions on the levying of interest in the Act, such mistakes were found to be continuing unabated.

33 Delhi, Gujarat, Haryana, Karnataka, Maharashtra, Odisha, West Bengal

34 Delhi, Gujarat, Kerala, Madhya Pradesh, Maharashtra, Odisha, Tamil Nadu, West Bengal

35 Andhra Pradesh, Delhi, Gujarat, Haryana, Madhya Pradesh, Maharashtra, Odisha, Tamil Nadu, Uttar Pradesh and West Bengal.

36 Andhra Pradesh, Bihar, Delhi, Gujarat, Haryana, Madhya Pradesh, Maharashtra, Punjab, Tamil Nadu, Uttar Pradesh

37 Andhra Pradesh, Delhi, Karnataka, Madhya Pradesh, Maharashtra, Tamil Nadu, UT Chandigarh, West Bengal

38 Andhra Pradesh, Delhi, Goa, Gujarat, Haryana, Kerala, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal

39 Andhra Pradesh, Delhi, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Punjab, Tamil Nadu, UT Chandigarh and West Bengal

40 Andhra Pradesh, Assam, Bihar, Delhi, Goa, Gujarat, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Tamil Nadu, UT Chandigarh, Uttar Pradesh and West Bengal

41 Wherever significance is mentioned, it is only with reference to the total tax effect and not the number of cases.

### 2.3.3 Administration of tax concessions/exemptions/deductions-incorrect allowance of business expenditure

We noticed irregularities related to incorrect allowance of ineligible claims of business expenditure viz. capital expenditure, unpaid claims and provisions deemed as unascertained liability, etc. Mistakes noticed in incorrect allowance of business expenditure during 2013-14 to 2015-16 as brought out in the Compliance Audit Reports of past three years along with findings of the current year audit report (2016-17) are summarised in the Table 2.6 below:

Table 2.6: Mistakes noticed in incorrect allowance of business expenditure								(₹ in crore)	
Assessment	Audit Report for the year ended								
	March 2014		March 2015		March 2016		March 2017		
	No. of cases	Tax Effect	No. of cases	Tax Effect	No. of cases	Tax Effect	No. of cases	Tax Effect	
CT	40 <sup>42</sup>	281.36	56 <sup>43</sup>	299.64	47 <sup>44</sup>	514.09	50	478.67	

During 2013-14 the non-compliance on this account was found significant in Maharashtra (52 per cent of the total tax effect) whereas in 2015-16 such non-compliance was significant in Maharashtra (45 per cent) and Andhra Pradesh (30 per cent).

During 2016-17, we noticed 50 cases of incorrect allowance of business expenditure involving tax effect of ₹ 478.67 crore in 10 states<sup>45</sup>. Irregularities on this account was found significant in Maharashtra (64 per cent of total tax effect).

Non-compliance to tax laws and instructions and directives of CBDT is always one of the major risk areas affecting the efficiency of tax administration, to improve which the departmental systems and procedures have significantly been computerised over the years for efficient processing and improved compliance at all stages of assessment. ITD selects cases through Computer Assisted Scrutiny Selection (CASS) on the basis of pre-defined parameters for detailed scrutiny to be done by AO. For the scrutiny, AO calls for required information from the assessee and examines them in the light of applicable provisions of the Act. However, as seen from the above analysis, the risks seem to have remained unchanged in the above areas as indicated by the continued occurrence of the similar types of irregularities over time, despite these being pointed out by Audit from year to

42 Andhra Pradesh, Assam, Delhi, Gujarat, Haryana, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu, West Bengal

43 Andhra Pradesh, Bihar, Delhi, Gujarat, Haryana, Karnataka, Maharashtra, Odisha, Rajasthan, Tamil Nadu, West Bengal

44 Andhra Pradesh, Assam, Delhi, Gujarat, Haryana, Karnataka, Maharashtra, Odisha, Punjab, Tamil Nadu and West Bengal.

45 Andhra Pradesh, Delhi, Gujarat, Karnataka, Kerala, Maharashtra, Odisha, Rajasthan, Tamil Nadu and West Bengal

year and there seems to be no system to make the AOs more accountable for minimising, if not eliminating, repetition of similar or identical mistakes.

### 2.3.4 Conclusion and Recommendation

*From the above analysis and also from our past experiences, it is clear that the required systems and processes to minimise the risk of recurrence and repetition of similar types errors in computation of taxable income, once they are pointed out in audit, is absent in the Department. Once such an irregularity emanating from an assessment made by the AO has been pointed out in audit, it is expected that appropriate checks should be instituted by the Department so that those types of irregularities and errors in assessment are reduced in future, which is not seen to be the case. As pointed out above, the situation in respect of the three types of errors discussed in fact indicate that the incidence of such errors are on the rise.*

*It is recommended that the IT Department should emphasise on accountability on the part of the AOs to ensure that the risk of recurrences of similar types of irregularities are minimised, besides instituting systems and procedural checks to ensure this.*

## 2.4 Audit products and response to audit

**2.4.1** We elicit response from the audited entities at different stages of audit. As per provision of Regulations 193 on completion of field audit, we issue the local audit report (LAR) to ITD for comments.

**2.4.2** Table 2.7 below depicts the position of number of observations included in the LAR issued during FY 2012-13 to FY 2016-17 and replies received thereto and observations accepted.

Financial Year	Observations raised	Reply received		Reply not received	Percentage of cases accepted	Percentage of reply not received
		Cases Accepted	Cases not accepted			
2012-13	18,548	3,343	4,124	11,081	18.0	59.7
2013-14	19,312	3,642	3,131	12,534	18.9	64.9
2014-15	17,626	3,631	3,535	10,450	20.6	59.3
2015-16	20,737	3,281	5,196	12,260	15.8	59.1
2016-17	22,579	4,074 <sup>46</sup>	3,546	15,060	18.4	66.7

<sup>46</sup> 1,868 - Cases accepted and remedial action taken; 2,206 - Cases accepted but remedial action not taken



**2.4.3** Table 2.8 below shows the increasing trend of pendency of observations.

Table 2.8: Details of outstanding audit observations								(₹ in crore)	
Period	CT		IT		ODT		Total		
	No.	TE	No.	TE	No.	TE	No.	TE	
Upto Mar 2013	6,396	16,438.50	4,722	2,316.16	1,840	174.48	12,958	18,929.14	
2013-14	2,399	6,479.66	3,512	1,523.25	628	12.26	6,539	8,015.16	
2014-15	3,633	18,576.35	4,088	3,582.07	551	79.13	8,272	22,237.55	
2015-16	5,761	12,527.52	6,107	1,783.70	676	63.72	12,544	14,374.94	
2016-17	3,798	21,511.37	4,785	1,682.53	540	8.28	9,123	23,202.19	
<b>Total</b>	<b>21,987</b>	<b>75,533.40</b>	<b>23,214</b>	<b>10,887.71</b>	<b>4,235</b>	<b>337.87</b>	<b>49,436</b>	<b>86,758.98</b>	

The accretion in pendency in replies to audit findings each year has resulted in accumulation of 49,436 cases involving revenue effect of ₹ 86,758.98 crore as of 31 March 2017.

The Department's efforts to ensure that replies to audit are sent in the prescribed period have not been satisfactory. The provisions of Regulations 202 and 203 which require establishment of system and procedures to ensure adequate, constructive and timely action on audit observations included in Inspection Reports/Audit Notes and establishment of audit committees for monitoring and ensuring compliance and settlement of pending audit observations, need to be observed in letter and spirit.

**2.4.4** We issue significant and high value cases noticed in audit to the Ministry for comments before inclusion in the Audit Report as per provision of Regulations 205 to 209. We give six weeks to the Ministry to offer their comments on cases issued to them before their inclusion in the Audit Report. Four hundred fifty seven cases<sup>47</sup> are included in the current Audit Report, of which replies were received for 269 cases. The Ministry/ITD accepted 243 cases<sup>48</sup> (90.3 per cent) having tax effect of ₹ 2,691.8 crore (93.1 per cent) while it did not accept 26 cases<sup>49</sup> having tax effect of ₹ 200.7 crore as of 31 October 2017. Replies to remaining cases were not received. Table 2.9 shows category wise details of these cases<sup>50</sup>.

47 Appendix 2.3 gives the details of 457 cases issued to the Ministry.

48 Ministry - 175 cases; ITD - 68 cases

49 Ministry - 7 cases; ITD - 19 cases

50 Sub-categories-wise details are given in Appendix-2.4

Table 2.9 Category-wise details of errors of high value cases						(₹ in crore)	
Category	CT		IT		Total		
	No.	TE	No.	TE	No.	TE	
a. Quality of assessments	99	625.73	69	217.93	168	843.66	
b. Administration of tax concessions/exemptions/ deductions	150	1,789.22	35	78.19	185	1,867.41	
c. Income escaping assessments due to omissions	31	989.83	17*	18.61	48	1,008.44	
d. Overcharge of tax/ interest	40	446.08	16	21.26	56	467.34	
<b>Total</b>	<b>320</b>	<b>3,850.86</b>	<b>137</b>	<b>335.99</b>	<b>457</b>	<b>4,186.85</b>	

\*includes 6 cases of under assessment of wealth involving TE of ₹ 0.46 crore.

**2.4.5** Chapters III and IV bring out details of errors in assessments in respect of Corporation Tax; Income Tax and Wealth Tax respectively. In addition, two long draft paras viz. 'Fictitious demand during scrutiny assessments' and 'Bogus transactions by assesseees' were issued to the Ministry which have been separately included in the present Report in Chapters V and VI respectively, as they point out to some systemic flaws. Chapter V brings out the instances noticed by audit where the ITD had raised exaggerated demands to achieve its revenue collection targets by resorting to unwarranted methods; among these, we noticed five cases where credits for full pre-paid taxes were not given while raising additional demands and 13 more cases where refunds due to the assesseees were not paid; instead the refund amounts were adjusted against interests which were levied incorrectly. Both these led to loss of revenue as the excess demands as well as the amount adjusted against interest not due had to be refunded subsequently, with avoidable payment of huge amount of interest.

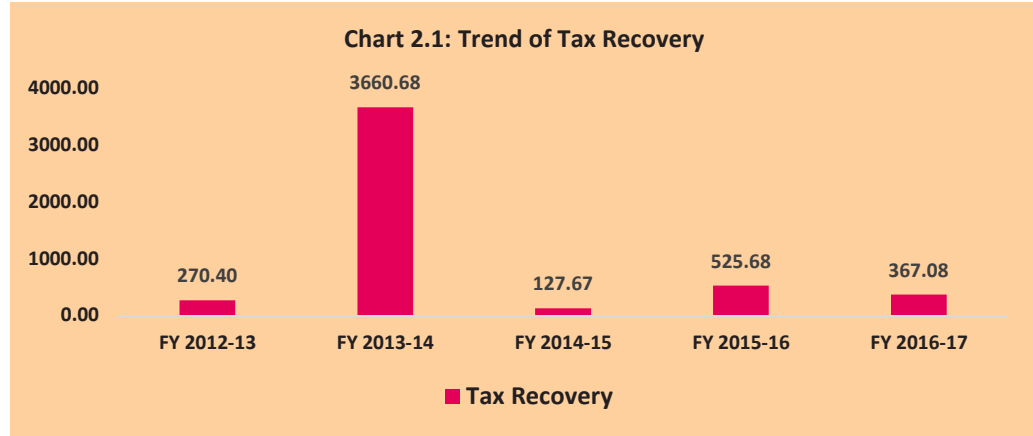
Chapter VI brings out the cases where the the AOs had failed to follow up the reports of their Investigation Wing relating to fictitious donations and bogus purchases and did not adopt a uniform approach to deal with such cases. These cases are included separately as they point to weaknesses in the internal control system of the ITD. We noticed seven cases where bogus donations or purchases were allowed in full and 18 cases where these were allowed partially, where the provisions of the Act demanded complete disallowance of such bogus donations or purchases. In 31 cases, the AOs had failed to initiate any action against assesseees who had availed of entries related to bogus donations or purchases.

**2.4.6** Besides, Chapter VII brings out our report on a subject specific compliance audit on 'The Appeal Process in Income Tax Department'. We audited 17,097 appeal cases produced by the ITD and found various irregularities in 2,203 cases involving tax effect of ₹ 549.56 crore. Such irregularities accounted for more than 12 *per cent* of total cases audited.

## 2.5 Audit impact

### 2.5.1 Recovery at the instance of audit

ITD recovered ₹ 4,951.51 crore in the last five years (Chart 2.1) from demands raised to rectify the errors in assessments that we pointed out. This includes ₹ 367.08 crore recovered in FY 2016-17.



## 2.6 Time barred cases

**2.6.1** Table 2.10 below shows the details of time-barred cases during FY 2012-13 to 2016-17.

Year of Report	Cases	Tax effect
2012-13	2,207	899.9
2013-14	2,427	1,121.2
2014-15	3,881	2,490.8
2015-16	2,074	1,230.72
2016-17	2,243	1,637.81

**2.6.2** During FY 2016-17, 2,243 cases with tax effect of ₹ 1,637.81 crore became time-barred for remedial action, of which Maharashtra alone account for 25.58 *per cent* followed by Tamil Nadu at 25.54 *per cent*. *Appendix-2.5* indicates state-wise details of such cases for FY 2016-17. Responsibility may be fixed for not taking remedial action in time in such cases. The Department should ensure that remedial action is taken in time so that such incidences do not recur in future.

## 2.7 Non-production of records

**2.7.1** We scrutinize assessment records under Section 16 of the C&AG's (DPC) Act, 1971 with a view to securing an effective check on the assessment and collection of taxes and examining that regulations and procedures are being duly observed. It is also incumbent on ITD to expeditiously produce records and furnish relevant information to Audit.

**2.7.2** Non-production of records has increased in Goa, Gujarat, Rajasthan Tamil Nadu and West Bengal significantly over previous years during FY 2016-17. ITD did not produce 26,823 records out of 3,23,532 records requisitioned during FY 2016-17, (8.29 *per cent*) which is an improvement over FY 2015-16 (10.74 *per cent*).

Appendix 2.6 shows the details of non-production of records during FY 2014-15 to FY 2016-17. Table 2.11 shows details of records not produced to audit pertaining to same assessee in three or more consecutive audit cycles.

<b>Table 2.11: Records not produced to Audit in three or more audit cycles</b>	
<b>States</b>	<b>Records not produced</b>
<b>a.</b> Maharashtra	73
<b>b.</b> Odisha	28
<b>c.</b> Gujarat	1
<b>Total</b>	<b>102</b>

In FY 2016-17, 102 records pertaining to same assessees in three states were not produced to audit in last three or more consecutive audit cycles.

## Chapter III: Corporation Tax

### 3.1 Introduction

**3.1.1** This chapter discusses 320 significant and high value corporation tax cases referred to the Ministry during April 2017 to July 2017. Of these, 280 cases involve undercharge of ₹ 3,404.78 crore and 40 cases involve overcharge<sup>51</sup> of ₹ 446.08 crore. These cases of incorrect assessment point towards weaknesses in the internal controls in the assessment processes of the Income Tax Department (ITD).

**3.1.2** The categories of mistakes have been broadly classified as follows:

- Quality of assessments
- Administration of tax concessions/ exemptions/ deductions
- Income escaping assessments due to omissions
- Others – Overcharge of tax/ Interest etc.

Table 2.9 (*Para 2.4.4*) shows the details of broad categories of mistakes and their tax effect (refer *Appendix 2.3*).

**3.1.3** The Ministry/ITD has conveyed its acceptance of audit observations in respect of 180 cases involving tax effect of ₹ 2,619.44 crore while not accepting 22 cases involving tax effect of ₹ 191.62 crore. Out of 320 cases, ITD has completed remedial action in 218 cases involving tax effect of ₹ 2,749.96 crore and initiated remedial action in 21 cases involving tax effect of ₹ 197.98 crore.

### 3.2 Quality of assessments

**3.2.1** AOs committed errors in the assessments ignoring clear provisions in the Act. These cases of incorrect assessments point to weaknesses in the internal controls in ITD which need to be addressed. Table 3.1 shows the sub-categories of mistakes which impacted the quality of assessments.

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<sup>51</sup> Overcharge is on account of mistakes in adoption of correct figures, arithmetical errors in computation of income, incorrect application of rates of tax/interest etc.

Table 3.1: Sub-categories of mistakes under Quality of assessments				(₹ in crore)
Sub-categories	Cases	Tax effect	States	
a. Arithmetical errors in computation of income and tax	36	310.04	Delhi, Goa, Gujarat, Haryana, Maharashtra, Punjab, Tamil Nadu (TN), Uttar Pradesh (UP) and West Bengal (WB).	
b. Application of incorrect rate of tax and surcharge	11	36.50	Delhi, Haryana, Madhya Pradesh (MP), Maharashtra, TN, UT-Chandigarh, UP and WB.	
c. Mistakes in levy of interest	40	157.46	Andhra Pradesh (AP) & Telangana, Delhi, Karnataka, MP, Maharashtra, Odisha, Punjab, TN, UT-Chandigarh and WB.	
d. Excess or irregular refunds/interest on refunds	6	50.35	Karnataka and Maharashtra.	
e. Mistakes in assessment while giving effect to appellate order	6	71.38	Delhi, Karnataka, Maharashtra and WB.	
<b>Total</b>	<b>99</b>	<b>625.73</b>		

### 3.2.2 Arithmetical errors in computation of income and tax.

We give below six such illustrative cases:

*Section 143(3) provides that AOs have to determine and assess the income correctly. Different types of claims together with accounts, records and all documents enclosed with the return are required to be examined in details in every scrutiny assessment. CBDT has also issued instructions from time to time in this regard.*

**3.2.2.1** In Pr.CIT-1 Delhi charge, AO completed the scrutiny assessment of **M/s Aravali Power Company Pvt. Ltd.** for the assessment year (AY) 2013-14 in March 2016 at a loss of ₹ 113.48 crore. Audit examination revealed that in the assessment order, incorrect figures of net profit and expenses were adopted and adjusted with the disallowance of ₹ 4.90 lakh to arrive at a loss of ₹ 113.48 crore. While computing taxable income, the net profit was considered as ₹ 42.72 crore instead of the correct amount of ₹ 222.17 crore, the additions were worked out to ₹ 144.18 crore instead of the correct amount of ₹ 260.77 crore and deductions were computed as ₹ 300.38 crore instead of the correct amount of ₹ 419.25 crore. These mistakes had resulted in under assessment of income by ₹ 63.69 crore<sup>52</sup> and simultaneously, excess carry forward of loss by ₹ 113.48 crore, involving short levy of tax of ₹ 20.66 crore and potential tax effect of ₹ 36.82 crore<sup>53</sup>. *Ministry accepted the audit observation (October 2017) and rectified the mistake (July 2016) under section 154<sup>54</sup> of the Act.*

<sup>52</sup> The assessee had brought forward losses available for set-off against income of ₹ 63.69 crore.

<sup>53</sup> ₹ 20.66 crore (₹ 63.69 crore\*30 per cent + 5 per cent surcharge + 3 per cent education Cess) + ₹ 36.82 crore (₹ 113.48 crore\*30 per cent + 5 per cent surcharge + 3 per cent education Cess)

<sup>54</sup> Mistakes apparent from records in any order passed by the AO can be rectified under section 154 of the Act.

**3.2.2.2** In Pr. CIT-3 Delhi charge, AO completed the scrutiny assessment of **M/s Fortis Healthcare Ltd.** for the AY 2012-13 in March 2015 at a loss of ₹ 116.40 crore under normal provisions and at income of ₹ 210.71 crore under special provisions of the Act. Audit examination revealed that the assessee had filed its return at nil business income (after setting off of brought forward business loss to the extent of ₹ 19.16 crore) and showing long term capital loss of ₹ 131.68 crore which was to be carried forward to the subsequent assessment years. While computing the taxable income, the long term capital loss of ₹ 131.68 crore was treated as business loss and after addition of ₹ 15.28 crore on account of disallowances, the assessment was completed at a loss of ₹ 116.40 crore, instead of income of ₹ 8.76 crore<sup>55</sup>. The mistake had resulted in under assessment of income by ₹ 8.76 crore and over assessment of loss by ₹ 116.40 crore involving potential tax effect of ₹ 40.61 crore. *Ministry accepted the audit observation (September 2017) and rectified the mistake (February 2016) under section 154 of the Act.*

**3.2.2.3** In Punjab, Pr.CIT (Central) Ludhiana charge, AO completed the assessments of **M/s ARK Imports Pvt. Ltd.** for AYs 2012-13, 2013-14 and 2014-15 under section 153A<sup>56</sup> read with section 143(3) in March 2016 at incomes of ₹ 92.89 crore, ₹ 520.24 crore and ₹ 109.37 crore respectively. Audit examination revealed that the AO had erroneously levied tax demand of ₹ 37.16 crore, ₹ 208.09 crore and ₹ 43.75 crore as against leviable amounts of ₹ 44.85 crore, ₹ 238.17 crore and ₹ 46.10 crore after adjustment of prepaid taxes of ₹ 3.57 lakh, ₹ 97.10 lakh and 'nil' during assessment years 2012-13, 2013-14 and 2014-15 respectively. The mistakes had resulted in short levy of tax and interest aggregating to ₹ 40.13 crore<sup>57</sup>. *ITD rectified the mistake for the assessment year 2013-14 under section 154 in February 2017 wherein demand of ₹ 30.08 crore was raised. However, details of remedial action taken for the assessment years 2012-13 and 2014-15 were awaited (July 2017).*

**3.2.2.4** In Gujarat, Pr. CIT-1, Ahmedabad charge, AO completed the assessment of **M/s Cadila Healthcare Ltd.** for the AY 2010-11 under section 143(3) read with section 144C(13)<sup>58</sup> in February 2015, determining loss of ₹ 106.21 crore and book profit of ₹ 160.04 crore under section 115JB. Audit

55 ₹ 15.28 crore - ₹ 6.52 crore (after setting off of brought forward loss of ₹ 6.52 crore)

56 Section 153A of Income Tax Act deals with assessment in case of search or requisition.

57 ₹ 4,012.56 lakh = ₹ 769.82 lakh (AY 2012-13) + ₹ 3,007.89 lakh (AY 2013-14) + ₹ 234.85 lakh (AY 2014-15)

58 Section 144C governs provisions relating to Dispute Resolution Panel (DRP) that has been constituted as an alternative dispute resolution mechanism for resolving disputes relating to transfer pricing in international transactions. The DRP issues directions to AO for completing the assessment and as per section 144C(13) the AO is required to finalise the assessment within one month from the end of the month in which such direction is received without giving any opportunity to the assessee for being heard.

examination revealed that, while finalizing the scrutiny assessment, the AO had adopted the business loss as ₹ 125.17 crore as per statement of income as against the returned loss of ₹ 12.52 crore. The mistake had resulted in under assessment of income of ₹ 6.44 crore and over assessment of loss of ₹ 106.21 crore involving short levy of tax of ₹ 2.19 crore and potential tax of ₹ 36.10 crore. *Ministry accepted the audit observation (August 2017) and rectified the mistake (July 2017) under section 154 of the Act.*

**3.2.2.5** In Maharashtra, Pr.CIT Central-2 Mumbai charge, AO completed the assessment of **M/s Dhanus Technologies Ltd.** for the AY 2010-11 under section 143(3) read with section 153C<sup>59</sup> of the Act in March 2016, determining income at ₹ 6.28 crore. Audit examination revealed that while completing the assessment, the AO had considered assessed income at ₹ 6.28 crore instead of correct amount of ₹ 31.94 crore. As per the records, the regular assessment was completed under section 143(3) read with section 144 in February 2013 and the taxable income was determined at ₹ 6.28 crore which was subsequently rectified under section 154 in April 2015 at ₹ 31.94 crore after making addition of ₹ 25.65 crore. This mistake had resulted in under assessment of income of ₹ 25.66 crore and consequent short levy of tax of ₹ 8.72 crore. *ITD accepted (May 2016) the mistake and stated that remedial action was being taken.*

**3.2.2.6** In Haryana, Pr. CIT (Central), Gurgaon charge, AO completed the assessment of **M/s Kudos Chemie Ltd.** for the AY 2013-14 under section 153A(1)(b) read with sections 143(3) and 144<sup>60</sup> of the Act in February 2016 determining income of ₹ 138.56 crore. Audit examination revealed that while completing the assessment, the AO had erroneously computed the assessed income as ₹ 138.56 crore instead of correct amount of ₹ 154.15 crore. The mistake had resulted in short levy of tax of ₹ 7.13 crore including interest. *ITD rectified the mistake (February 2017) under section 154 of the Act.*

### **3.2.3 Application of incorrect rates of tax and surcharge**

We give below three such illustrative cases:

**3.2.3.1** In Uttar Pradesh, Pr. CIT-Noida charge, AO completed the scrutiny assessment of **M/s Dkrrish Builders Pvt. Ltd.** for AY 2012-13 in March 2016 determining income of ₹ 44.71 crore. Audit examination revealed that while computing tax demand, the AO did not levy surcharge as per the relevant Finance Act provisions and interest under section 234B of the Act. The omissions had resulted in short levy of tax of ₹ 7.65 crore. *ITD stated*

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<sup>59</sup> Section 153C of the Income Tax Act deals with assessment of income of a person other than the person in whose case search has been initiated or books of account, other documents or assets have been requisitioned.

<sup>60</sup> Section 144 of the Income Tax Act deals with best judgement assessment in cases where the return of income is not filed by the taxpayer or if there is no cooperation by the taxpayer in terms of furnishing information/ explanation related to his tax assessment or if books of accounts of taxpayer are not reliable or are incomplete.



(February 2017) that necessary action under section 154 will be carried out. Final reply is awaited (July 2017).

*Section 115BBE(1) of the Income Tax Act provides that where the total income of an assessee includes any income referred to in section 68 or 69 of the Act, the income tax payable shall be the aggregate of the amount of income tax calculated on income referred to in section 68 or 69 at the rate of thirty per cent and the amount of income tax chargeable on the remaining income determined under normal provisions. Further sub-section (2) provided that no deduction in respect of any expenditure or allowance shall be allowed under any provisions of this Act in computing the income referred to in section 68 or 69 of the Act.*

**3.2.3.2** In Haryana, Pr. CIT (Central)-Gurgaon charge, AO completed the assessment of **M/s Kudos Chemie Ltd.** for AY 2014-15 under section 153B(1)(b)<sup>61</sup> read with sections 143(3) and 144 of the Act in February 2016 determining loss of ₹ 23.25 crore. Subsequently, the assessment was rectified (May 2016) determining income of ₹ 28.37 crore under section 115BBE. Audit examination revealed that while computing tax liability in the rectification order, income of ₹ 28.37 crore, assessed under section 115BBE of the Act, was erroneously taxed at the rate of 18.5 per cent as against applicable normal rate of tax at 30 per cent. The tax liability was computed at ₹ 4.81 crore instead of correct amount of ₹ 11.63 crore. The mistake had resulted in short levy of tax ₹ 6.82 crore. *ITD rectified the mistake (September 2016) under section 154 of the Act.*

**3.2.3.3** In Maharashtra, Pr. CIT-1, Pune charge, the assessment of **M/s Duke Corporation Ltd.**, for the AY 2013-14, was completed under section 143(3) read with section 144(1) in March 2016, determining income at ₹ 2.49 crore after making additions of ₹ 18.90 crore which included addition of ₹ 11.95 crore under section 68 of the Income Tax Act being unexplained share application money. Audit examination revealed that the AO had levied tax on the assessed income of ₹ 2.49 crore only, instead of levying tax at the rate thirty per cent on the additions of ₹ 11.95 crore made under section 68 of the Act. The mistake had resulted in under assessment of income of ₹ 9.46 crore involving short levy of tax of ₹ 3.07 crore. *Reply from the ITD was awaited (July 2017).*

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61 Section 153B of the Income Tax Act provides for time limit for completion of search assessments.

### 3.2.4 Mistakes in levy of interest

We give below five such illustrative cases:

*The Income Tax Act provides for levy of interest for omissions on the part of the assessee at the rates prescribed by the Government from time to time. Section 234A provides for levy of interest on account of default in furnishing return of income at specified rates and for specified time period. Section 234B provides for levy of interest on account of default in payment of advance tax at specified rates and for specified time period.*

**3.2.4.1** In Maharashtra, Pr. CIT-13, Mumbai charge, initially the assessee, **M/s Shivan Giri Steel Ltd.** did not file any return of income, for assessment years 2008-09 to 2010-11, within the due dates of filing of returns in the month of September of respective years under section 139 (1). The assessee had filed returns of income for three assessment years in March 2016 post issue of notice under section 148 in March 2015 and the AO had completed assessments for each AY after scrutiny in March 2016 as per details given in Table 3.2 below:

Table 3.2: Details of returns filed and assessment completed						(₹ in lakh)	
AY	Date of Issue of notice under section 148	Date of filing the return	Date of completion of assessment	Income returned	Income assessed	Interest levied under section 234A	Interest leviable under section 234A
2008-09	19-03-2015	29-03-2016	29-03-2016	nil	7,183.07	317.40	2,197.37
2009-10	19-03-2015	28-03-2016	28-03-2016	0.08	2,178.65	96.27	577.61
2010-11	19-03-2015	28-03-2016	28-03-2016	0.17	912.86	40.34	204.78

The AO completed the assessment for all the three years as best judgment assessment under section 144 read with section 147 on the basis of materials available on record. However, interest for delay in filing the returns was levied for 13 months (March 2015 to March 2016) in each case instead of 90 months (October 2008 to March 2016), 78 months (October 2009 to March 2016) and 66 months (October 2010 to March 2016) for AYs 2008-09, 2009-10 and 2010-11 respectively. The mistake resulted in short levy of interest aggregating ₹ 25.26 crore<sup>62</sup> for all the three years. *ITD rectified the mistake (January 2017) under section 154 of the Act.*

**3.2.4.2** In Maharashtra, Pr.CIT-6, Mumbai charge, the scrutiny assessments of **M/s B A Trading Co. Pvt. Ltd.** for the AYs 2009-10 and 2010-11 were completed in March 2016 under the provision of Section 144 read with section 147 of the Act determining incomes at ₹ 33.53 crore and ₹ 52.67 crore respectively. Audit examination revealed that the assessee had not filed the return of income on due date as specified under section 139(1) of the Act of the relevant assessment years, nor filed the return in response to notice issued under section 148 of the Act. As the assessee had not filed the return for both the AYs, it was liable to pay

<sup>62</sup> AY 2008-09: ₹ 18.79 crore, AY 2009-10: ₹ 4.81 crore and AY 2010-11: ₹ 1.64 crore

interest under section 234A. While computing tax demand, the AO had levied interest of ₹ 1.37 crore and ₹ 53.71 lakh for a period of 12 months only as against leviable amount of ₹ 8.88 crore (for 78 months) and ₹ 11.64 crore (for 65 months) in AYs 2009-10 and 2010-11 respectively. The mistakes resulted in short levy of interest of ₹ 18.62 crore<sup>63</sup> under section 234A in AYs 2009-10 and 2010-11. *ITD rectified the mistake (January 2017) under section 154 of the Act.*

**3.2.4.3** In Pr. CIT (Central)-1 Delhi charge, the assessments of **M/s Ultra Home Construction Pvt. Ltd.** for the assessment years 2010-11, 2011-12 and 2012-13 were completed under section 153A read with section 143(3) of the Income Tax Act in March 2016 determining incomes of ₹ 73.36 crore, ₹ 133.97 crore and ₹ 32.87 crore respectively. Audit examination revealed that while computing tax demand, interest under section 234A(3) was incorrectly levied in the AY 2010-11, while interest amounts leviable under section 234A(3) in the AYs 2011-12 and 2012-13 were not levied at all. Moreover, in the AYs 2010-11, 2011-12 and 2012-13, interest under section 234B(3) was charged incorrectly (as indicated in the Table 3.3 given below).

Table 3.3: Details of interest short levied							(₹ in lakh)
AY	Interest under section 234A			Interest under section 234B			Total
	Levied by Department	Leviable (as per Audit)	Short levy of interest	Levied by Department	Leviable (as per Audit)	Short levy of interest	
2010-11	38.90	78.10	39.20	863.68	937.24	73.56	112.76
2011-12	Nil	198.64	198.64	1,312.16	1,986.35	674.19	872.83
2012-13	Nil	40.94	40.94	313.86	327.51	13.65	54.59
<b>Total</b>	<b>38.9</b>	<b>317.68</b>	<b>278.78</b>	<b>2,489.70</b>	<b>3,251.10</b>	<b>761.4</b>	<b>1,040.18</b>

These mistakes resulted in short levy of interest of ₹ 10.40 crore. *Ministry accepted the audit observation (June 2017) and rectified the mistakes in January 2017 by way of passing an order under section 154.*

**3.2.4.4** In Odisha, Pr. CIT-Bhubaneswar charge, block assessment of **M/s Green India Infra Projects Ltd.** for the AYs 2012-13 and 2013-14 was completed after scrutiny under section 153B read with section 144 in March 2015 determining incomes at ₹ 144.63 crore and ₹ 74.58 crore respectively. Audit examination revealed that notices under sections 153A and 142(1)<sup>64</sup> of the Act were served upon the assessee on 11 September 2013 and 02 May 2014 for AYs 2012-13 and 2013-14 respectively. As the assessee did not file returns of income within the dates specified in notices under sections 153A and 142(1), it was liable to pay interest under section 234A of the Act for 19 months and 11

63 ₹ 18.62 crore = ₹ 7.52 crore (AY 2009-10) + ₹ 11.10 crore (AY 2010-11)

64 Section 142(1) of the Income Tax Act deals with inquiry before assessment. Notice under section 142(1) is served to call upon documents and details from the assessee, and to take a particular case under assessment

months during AYs 2012-13 and 2013-14 respectively.<sup>65</sup> However, the Assessing Officer had levied such interest for five months only. The above omission had resulted in short levy of interest of ₹ 8.02 crore<sup>66</sup> under section 234A. *ITD stated in its reply that the mistake was rectified in March 2016. However, a review of the rectification order revealed that the order was passed by levying interest under section 234A for 11 months instead of 19 months for the AY 2012-13. Audit issued a rejoinder on the mistake in January 2017 in respect of which the AO replied (February 2017) that interest under section 234A of Income Tax Act would be re-computed after serving notice to the assessee. Further details of remedial action taken were awaited (August 2017).*

*Section 234C provides for levy of interest on account of default in payment of instalments of advance tax at specified rates and for specified time period.*

**3.2.4.5** In West Bengal, Pr. CIT-3, Kolkata charge, the assessment of **M/s ITC Ltd.** for the AY 2012-13 was completed after scrutiny in March 2016 determining income of ₹ 8,241.40 crore. Audit examination revealed that the assessee had paid advance tax of ₹ 265 crore only before 15 June 2011 as against the requirement of ₹ 297.56 crore, and was therefore liable to pay interest under section 234C for default in the payment of advance tax. However, the AO, while finalizing the assessment, did not levy any interest under section 234C. The omission resulted in non-levy of interest of ₹ 3.21 crore. *Ministry accepted the audit observation (June 2017) and rectified the mistake (July 2016) under section 154 of the Act.*

### **3.2.5 Excess or irregular refunds/interest on refunds**

We give below two such illustrative cases:

**3.2.5.1** In Karnataka, CIT-LTU Bengaluru charge, the assessment of **M/s Vijaya Bank**, for the AY 2012-13 was completed under section 143(3) in March 2015 determining the taxable income at ₹ 1,101.93 crore and tax payable at ₹ 376.90 crore. Audit examination revealed that a refund of ₹ 36.88 crore generated on rectification made under section 154 (April 2014) was adjusted towards the outstanding demand of the AY 2011-12. However, the said refund was not considered while completing the scrutiny assessment (March 2015). This omission had resulted in short computation of tax to the extent of ₹ 36.88 crore. *Ministry accepted the audit observation (June 2017) and rectified the mistake under section 154 in March 2016.*

<sup>65</sup> For the period from the date following the expiry of time limit specified in the notice till the date of assessment.

<sup>66</sup> ₹ 6.57 crore for AY 2012-13 + ₹ 1.45 crore for AY 2013-14

*Section 244A(1)(a) of the Income Tax Act, 1961 provides for levy of interest on the amount of refund where refund arises due to excess payment of tax, at a specified rate from the first day of the assessment year to the date of grant of refund. Further, it has been judicially held<sup>67</sup> that payment of interest on interest is irregular.*

**3.2.5.2** In Maharashtra, Pr. CIT (Central)-1, Mumbai charge, AO completed the scrutiny assessment of **M/s Hindalco Industries Ltd.** for the AY 1994-95 in March 1997 determining income at ₹ 146.56 crore after making various disallowances, which was reduced to ₹ 109.81 crore in September 2013 while giving effect to an appellate order under section 143(3) read with section 254<sup>68</sup>. Audit examination revealed that while giving effect to the appellate order in September 2013, the AO had allowed interest of ₹ 5.30 crore under section 244A(1)(a), which included an element of interest on interest already included in the total refundable amount. Thus, the payment of interest on interest contrary to the judgement *ibid* had resulted in excess allowance of interest of ₹ 3.45 crore on refund. *ITD accepted the observation (December 2015) and rectified the mistake (May 2015) under section 154 of the Act.*

### **3.2.6 Mistakes in assessment while giving effect to appellate orders**

We give below two such illustrative cases:

**3.2.6.1** In Maharashtra, Pr. CIT-LTU, Mumbai charge, the scrutiny assessment of **M/s Reliance Industries Ltd.** for the AY 2011-12 was completed in April 2015 determining income of ₹ 20,156.18 crore after giving relief on account of provision for mark to market loss (MTM)<sup>69</sup> of ₹ 94.09 crore. Audit examination revealed that the AO had disallowed assessee's claim of deduction of ₹ 94.09 crore on account of provision for mark to market (MTM) loss in AY 2010-11, against which the assessee had preferred an appeal before the CIT(Appeals). Meanwhile, based upon the assessee's submission that the provision was already reversed as on 01-04-2010, the AO had given relief for the amount during AY 2011-12. However, the assessee was granted relief for the amount vide orders passed by CIT (Appeals) in May 2016. While giving effect to the appellate order (May 2016), the assessee was again allowed deduction of ₹ 94.09 crore with respect to claim for AY 2010-11, ignoring the fact that the relief was already given at the time of assessment for AY 2011-12. Thus the assessee was allowed double relief (April 2015, May 2016) on account of the same provision. This mistake had resulted in under assessment of income of ₹ 94.09 crore with consequent short levy of tax of ₹ 46.57 crore including

67 CIT vs Gujarat Fluoro Chemicals – Supreme Court (2013)

68 Section 254 of the Income Tax Act provides for powers of Appellate Tribunal while specifying criteria and conditions for passing of orders by the Appellate Tribunal.

69 MTM is a methodology of assigning value to a position held in a financial instrument based on its market price on the closing day of the accounting or reporting period. Mark-to-market losses are generated through an accounting entry (viz. when financial instruments are valued at current market value) rather than the actual sale value of the instrument.

interest. ITD has initiated remedial action (October 2016) for rectification under section 154 of the Act.

**3.2.6.2** In Maharashtra, Pr. CIT-6, Mumbai charge, the AO completed the assessment of **M/s CEAT Ltd.** for assessment year 1998-99, in March 2001 at total income of ₹ 39.60 crore, which was rectified in March 2002 at nil income, *inter alia* setting off income from other sources and short term/long term capital gains against business loss/long term capital loss brought forward from the earlier years. The assessment was further revised in July 2003, September 2011, March 2012 and December 2012 to give effect to the appellate orders passed by CIT (Appeals) and ITAT and for rectification of mistakes under section 154. Audit examination of the order giving effect to the appellate order passed in September 2011 and the assessment orders passed thereafter revealed that in all his assessment orders, the AO had omitted to include income ₹ 12.51 crore from other sources and short term capital gains of ₹ 48.06 crore. The omission had resulted in under assessment of income of ₹ 60.57 crore involving potential tax effect of ₹ 21.20 crore. ITD stated (March 2017) that there was mistake in computing the income and aggregate income of ₹ 60.57 crore was not considered while assessing the income.

### 3.3 Administration of tax concessions/exemptions/deductions

**3.3.1** The Act allows concessions/exemptions/deductions to the assessee in computing total income under Chapter VI-A and for certain categories of expenditure under its relevant provisions. We observed that the AOs have irregularly extended benefits of tax concessions/exemptions/deductions to beneficiaries who were not entitled for the same. These irregularities point out weakness in the administration of tax concessions/ deductions/ exemptions on the part of ITD which need to be addressed. Table 3.4 shows the sub-categories which have impacted the Administration of tax concessions/exemptions/deductions.

Table 3.4: Sub-categories of mistakes under Administration of tax concessions/exemptions/deductions (₹ in crore)			
Sub-categories	Nos.	TE	States
a. Irregularities in allowing depreciation/business losses/capital losses	81	1,144.10	AP & Telangana, Delhi, Gujarat, Haryana, Jharkhand, Karnataka, Kerala, Maharashtra, Odisha, Punjab, Rajasthan, TN, UP and WB.
b. Irregular exemptions/ Deductions/Rebates/ Relief/MAT Credit	19	166.45	AP & Telangana, Delhi, Gujarat, Haryana, Karnataka, Maharashtra, Odisha, Rajasthan, TN and WB.
c. Incorrect allowance of business expenditure	50	478.67	AP & Telangana, Delhi, Gujarat, Karnataka, Kerala, Maharashtra, Odisha, Rajasthan, TN and WB.
<b>Total</b>	<b>150</b>	<b>1,789.22</b>	

### 3.3.2 Irregularities in allowing depreciation and set off and carry forward of business/capital losses

We give below six such illustrative cases:

*CBDT has clarified<sup>70</sup> that the cost of construction on development of infrastructure facility of roads/highways under Build-Operate-Transfer (BOT) projects may be amortized and claimed as allowable business expenditure under the Income Tax Act. Further, while deciding the issue of claim of depreciation on toll road, ITAT Mumbai held<sup>71</sup> that provision of section 32(1) will not apply in the case of assessee holding leasehold rights in respect of land on which construction had been carried out. The Bombay High Court had upheld the decision of the Tribunal (ITA No. 499 of 2012) in its judgement pronounced on 14 October 2014.*

**3.3.2.1** In Gujarat, Pr. CIT-1 Baroda charge, AO completed the scrutiny assessment of **M/s Gujarat Urja Vikas Nigam Ltd.** for the AY 2011-12 in January 2014 determining income as 'nil' after setting-off brought forward business losses/unabsorbed depreciation to the extent of income of ₹ 374.94 crore. As per 3CD Report for the AY 2011-12, the assessee had brought forward business loss of ₹ 339.25 crore and unabsorbed depreciation of ₹ 477.55 crore. Audit examination revealed that the business losses and unabsorbed depreciation for the AYs 2008-09, 2009-10 and 2010-11 amounting to ₹ 1,289.04 crore had already been allowed during the respective AYs. Thus, set-off of brought forward business loss and unabsorbed depreciation of ₹ 374.94 crore in AY 2011-12 was irregular. This mistake had resulted into under assessment of income of ₹ 374.94 crore involving short levy of tax of ₹ 166.89 crore including interest. *Ministry accepted the audit observation (July 2017) and completed remedial action under section 143(3) read with section 263 in November 2016.*

**3.3.2.2** In Maharashtra, Pr. CIT-2, Mumbai charge, AO completed the assessment of **M/s. Satyam Computers Services Ltd.** for AY 2011-12 in May 2015 under section 143(3) read with section 144C(3) determining loss of ₹ 501.24 crore under normal provisions of the Act, being loss other than long term capital loss. Audit examination revealed that the AO had erroneously included loss of ₹ 250.86 crore, being brought forward loss relating to AY 2010-11, as a part of loss of the AY 2011-12 and passed speaking order to this effect. Further, as per rectification order passed under section 154 of the Act in January 2016, the AO had taken ₹ 501.24 crore as total loss for the AY 2011-12 while treating the brought forward loss of earlier AY 2010-11 as part of loss of the instant AY 2011-12, which was not in order. This mistake had resulted in inflated allowance of loss to the extent of ₹ 250.86 crore being brought forward loss from the last assessment order for the AY 2010-11 involving potential tax effect of

<sup>70</sup> CBDT Circular No. 09 dated 23-04-2014

<sup>71</sup> M/s North Karnataka Expressway Ltd. vs. CIT (ITA No.3978/Mum/2010)

₹ 83.33 crore. ITD accepted the observation (March 2017) and intimated that the necessary remedial action would be taken to rectify the mistake. Further details of remedial action is awaited (July 2017).

**3.3.2.3** In Delhi, Pr. CIT-3 charge, AO completed the scrutiny assessment of **M/s Delhi Transco Ltd.**, for the AY 2013-14 in March 2016 at 'nil' after setting off of brought forward business loss of ₹ 23.96 crore (to the extent of available business income) under normal provisions and ₹ 317.31 crore under special provisions<sup>72</sup> of the Act. In addition to this, income of ₹ 39.35 crore had also been assessed as income from other sources. Audit examination revealed that while completing the assessment, the AO had erroneously considered gross total income as loss of ₹ 63.49 crore instead of the correct income of ₹ 230.04 crore. This mistake had resulted in setting off of brought forward loss of ₹ 23.96 crore instead of ₹ 190.87 crore. This resulted in excess carry forward of loss of ₹ 166.91 crore involving potential tax effect of ₹ 54.15 crore. ITD rectified the mistake (May 2016) under section 154.

*As per explanation 5 to section 32(1) of the Income Tax Act, the entire depreciation is required to be absorbed in the same assessment year regardless of whether or not the assessee has claimed or not.*

**3.3.2.4** In Andhra Pradesh & Telangana, Pr. CIT-1 Hyderabad charge, AO completed the scrutiny assessment of **M/s Bartronics India Ltd.** for AY 2010-11 in February 2015 determining income at ₹ 11.83 crore under normal provisions after allowing deduction of ₹ 154.37 crore under section 10B of the Income Tax Act. Audit examination revealed that the assessee had claimed and was allowed deduction under section 10B without reducing the entire current depreciation of ₹ 135 crore. Only an amount of ₹ 3.26 crore was reduced and the balance amount of depreciation of ₹ 131.74 crore was allowed to be carried forward as unabsorbed depreciation. The assessee was allowed deduction of ₹ 154.10 crore as against the admissible deduction of ₹ 22.37 crore under section 10B of the Income Tax Act. This mistake resulted in excess carry forward of depreciation of ₹ 131.74 crore involving potential tax effect of ₹ 44.78 crore. ITD has accepted the audit observation (February 2017) and stated that remedial action was being initiated under section 263 of the Act.

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72 under section 115JB



*CBDT has clarified<sup>73</sup> that the cost of construction on development of infrastructure facility of roads/highways under Build-Operate-Transfer (BOT) projects may be amortized and claimed as allowable business expenditure under the Income Tax Act. In cases where assessee has claimed a deduction out of initial cost of infrastructural facility of roads/highway under BOT projects in earlier years, the total deduction so claimed for the AYs prior to the AY under consideration may be deducted from the initial cost of infrastructural facility of roads/ highways and the cost so reduced shall be amortised equally over the remaining period of toll concessionaire agreement.*

**3.3.2.5** In Andhra Pradesh & Telangana, Pr. CIT-1 Hyderabad charge, AO completed the scrutiny assessment of **M/s Bangalore Elevated Tollway Ltd.** for AY 2012-13 in March 2015 determining loss of ₹ 184.15 crore under normal provisions of the Act. Audit examination revealed that the assessee had claimed depreciation of ₹ 181.43 crore at the rate of 25 per cent on the written down value of carriage way at ₹ 725.74 crore as on 01 April 2011. Instead, the said amount should have been amortised equally over the remaining period of 15 years (out of the total period of 20 years from 2007-08), which worked out to ₹ 48.38 crore<sup>74</sup> as against depreciation of ₹ 181.43 crore that was allowed. The incorrect allowance of depreciation had resulted in under assessment of income of ₹ 133.05 crore involving potential tax effect of ₹ 43.17 crore. *ITD had accepted the audit observation (February 2017) and initiated remedial action under section 263 of the Act.*

**3.3.2.6** In Maharashtra, CIT-1, Mumbai charge, AO completed the scrutiny assessment of **M/s Deep Water Services India Ltd.,** for AY 2014-15 in March 2016 under special provisions of the Act at book profit of ₹ 57.58 lakh and nil income under normal provisions, after allowing set-off of brought forward business loss of ₹ 37.21 crore pertaining to AY 2012-13 and carry forward of brought forward losses of ₹ 83.12 crore pertaining to AYs 2012-13 and 2013-14 as claimed without ascertaining the availability of such losses. Audit examination of assessment records of AYs 2012-13 and 2013-14 revealed that the AO had determined assessed income of ₹ 20.42 crore and ₹ 42.41 crore in AYs 2012-13 and 2013-14 respectively and as such there was no loss available in these two assessment years. Incorrect set off and carry forward of non-existent loss in AY 2014-15 resulted in under assessment of income to that extent involving short levy of tax of ₹ 12.65 crore and potential tax effect of ₹ 28.25 crore. *ITD has accepted the audit observation (April 2017) and stated that remedial action was being taken. Further details are awaited (July 2017).*

<sup>73</sup> CBDT Circular No. 09 dated 23/04/2014

<sup>74</sup> ₹ 48.38 crore = ₹ 725.74 crore/15

### 3.3.3. Irregular exemptions/deductions/rebate/relief/MAT credit

We give below four such illustrative cases:

*Section 115JAA of the Income Tax Act allows carry forward of MAT credit to an assessee when tax payable under normal provisions is more than tax under special provisions. However, such credit shall be limited to the difference of tax under normal provisions of the Act and tax under special provisions of the Act.*

**3.3.3.1** In Pr. CIT-1, Bhubaneswar charge, AO completed the scrutiny assessment of **National Aluminium Company Ltd. (NALCO)**, for the AY 2013-14 in February 2016 determining income at ₹ 1,090.35 crore. Audit examination revealed that assessment for the AY 2012-13 was completed in February 2015 determining total income at ₹ 1,109.76 crore under normal provisions. As total income was determined under normal provisions, no MAT credit was available for carry forward. However, while completing the scrutiny assessment for AY 2013-14, the AO had allowed MAT credit of ₹ 53.04 crore relating to AY 2012-13 as claimed by the assessee in the return of income. This mistake had resulted in irregular grant of MAT credit involving short levy of tax of ₹ 71.61 crore including interest. *ITD stated (February 2017) that remedial action has been initiated for invoking provisions under section 147 of the Income Tax Act. Further details were awaited (July 2017).*

*Section 80-IB (11A) provides that 100 per cent deduction of the profits and gains is allowable to the undertaking deriving profits from the business of processing, preservation and packaging of fruits or vegetables or meat and meat products or poultry or marine or dairy products or from the integrated business of handling, storage and transportation of food grains for five assessment years beginning with the initial assessment year.*

**3.3.3.2** In Gujarat, Pr. CIT-2 Baroda Charge, the scrutiny assessments of **M/s Manpasand Beverages Pvt. Ltd.** for the AYs 2012-13 and 2013-14 were completed in October 2015 and March 2016 determining income of ₹ 7.04 crore and ₹ 8.80 crore respectively under normal provisions and ₹ 6.92 crore and ₹ 24.72 crore respectively under section 115JB. The assessee had claimed and was allowed deductions of ₹ 6.31 crore and ₹ 9.69 crore for the AYs 2012-13 and 2013-14 respectively under section 80-IB (11A) for the business of manufacturing and processing of fruits juices. Audit examination revealed that the assessee had not dealt with fruits for manufacturing and processing of fruit juices during these AYs, and had instead used mango pulp only as raw material. Thus, deductions allowed as per provisions quoted *ibid* were not in order. The incorrect allowance of deduction of ₹ 6.31 crore and ₹ 9.69 crore for the AYs 2012-13 and 2013-14 respectively resulted in under assessment of income by ₹ 16 crore and short levy of tax of ₹ 7.20 crore including interest. *Ministry accepted the audit observation (July 2017) and initiated remedial action by issuing notice under section 263 of the Act in March 2017.*

**3.3.3.3** In Rajasthan, CIT Kota charge, AO completed the scrutiny assessment of **M/s Mangalam Cement Ltd.** for the AY 2013-14 in March 2016 at income of ₹ 103.65 crore and tax demand of ₹ 26.24 crore thereon after allowing MAT credit of ₹ 7.39 crore. Audit examination revealed that MAT credit of ₹ 6.91 crore was available for carry forward after scrutiny assessment of AY 2011-12 (March 2014), of which credit of ₹ 4.52 crore was allowed during the assessment of AY 2012-13 assessed under section 154 in March 2015. Thus, MAT credit of ₹ 2.39 crore was only available for set off during the AY 2013-14 instead of ₹ 7.39 crore allowed by the assessing officer. The omission had resulted in under charge of tax by ₹ 5 crore. *Ministry accepted the audit observation (October 2017) and had rectified the mistake (October 2016) under section 154 of the Act.*

**3.3.3.4** In Maharashtra, Pr. CIT (Central)-3, Mumbai charge, AO completed the scrutiny assessment of **M/s Welspun Syntex Ltd.** for the AY 2013-14 in March 2016 at 'nil' income after allowing set off of unabsorbed depreciation of ₹ 10.89 crore to the extent of assessed income. The tax was computed under special provisions of section 115JB on book profit of ₹ 16 crore. Audit examination revealed that the assessee had positive income of ₹ 6.61 crore under normal computation in the AY 2012-13 after allowing set off of brought forward unabsorbed depreciations of ₹ 8.43 crore pertaining to the AYs 2005-06 and 2009-10. As such, no unabsorbed depreciation was available for set off against the assessed income of ₹ 10.89 crore in AY 2013-14. Irregular set off of unabsorbed depreciation and application of MAT provisions had resulted in under assessment of income of ₹ 10.89 crore under the normal provision involving tax effect of ₹ 3.53 crore including excess allowance of MAT credit of ₹ 3.20 crore and short levy of tax of ₹ 33.03 lakh under normal provisions. *ITD accepted the observation and rectified the mistake (July 2016) under section 154 of the Act.*

### 3.3.4 Incorrect allowance of business expenditure

We give below nine such illustrative cases:

*Explanation to Section 37(1) of the Act stipulates that any expenditure incurred by an assessee for any purpose which is an offence or prohibited by law shall not be deemed to have been incurred for the purpose of business or profession. Further, Hon'ble Delhi High Court, in case of M/s Northern India Chemical Distribution Ltd. vs. CIT [2001] 248 ITR 790 (Delhi), also upheld the disallowance of the damages paid for the dishonest conduct of director though the amount may have been settled in civil action for damages.*

**3.3.4.1** In Maharashtra, Pr.CIT-2 Mumbai charge, AO completed the scrutiny assessment of **M/s Satyam Computer Services Ltd.**, for the AY 2011-12 in May 2015 determining loss at ₹ 250.38 crore. Audit examination revealed that the assessee had claimed and was allowed amount of ₹ 569 crore to profit and loss account on account of settlement of 'Class Action Complaint' under the head of exceptional items. In the Tax Audit Report (Form 3CD), the Auditor qualified these expense as deduction under section 37 of the income tax Act and hence ineligible for deduction for tax purposes. It was further revealed that the Company had to pay Class Action Settlement Consideration of ₹ 569 crore to its investors in the United States of America due to fraud towards financial irregularities in the Company's books of accounts, which was allowed by the Department during scrutiny assessment. As the payment of settlement considerations was payment in the form of punitive damages for fraudulent act of the assessee company, the same was not allowable as per provisions *ibid*. The incorrect allowance of inadmissible deduction has resulted in the underassessment of income to the extent of ₹ 569 crore and short levy of tax to the extent of ₹ 189 crore. *ITD's reply was awaited (July 2017).*

*Under section 36(1)(viiia) of the Income Tax Act, provision for bad and doubtful debts is allowable in the case of banking industry at the rate of 7.5 per cent of total income of an Indian company and 5 per cent of total income in the case of a foreign company. It was clarified by the CBDT circular no. 17 of 2008 dated 26 November 2008 that this provision shall become the opening credit balance and the bad and doubtful debts actually written off shall first be set-off against available credit balance and excess, if any, is allowable under section 36(1)(vii) read with section 36(2) of the Act.*

**3.3.4.2** In Maharashtra, Pr.CIT(IT)-4, Mumbai charge, AO completed the scrutiny assessment of **M/s Standard Chartered Bank** for the AY 2009-10 in March 2013 determining income at ₹ 3,783.11 crore. Audit examination revealed that the assessee had claimed bad debts of ₹ 261.91 crore. This was done by setting off the opening credit balance in provision for bad debts of ₹ 103.18 crore as per the return filed and claiming the balance in net bad debts of ₹ 158.73 crore under section 36(1)(viiia), which was allowed by the AO. The actual opening credit balance in provision for bad debts available for set off against the bad debts written off was ₹ 190.85 crore. Thus the amount of ₹ 71.06 crore only was

eligible for deduction under section 36(1)(viiia) as against ₹ 158.73 crore allowed by the AO. The omission had resulted in excess allowance of bad debts by ₹ 87.67 crore resulting in under assessment of income by the same amount involving tax effect of ₹ 37.02 crore. *ITD stated (June 2016) that the mistake had been rectified under section 154 in March 2016.*

*Section 36(1)(viii) of the Income Tax Act stipulates that in computing income from business, a deduction shall be allowed in respect of any special reserve created and maintained by a specified entity. The amount of permissible deduction should be the least of the i) Amount transferred to special reserve account during the previous year; ii) 20 per cent of income from eligible business during the year; or iii) 200 per cent of the paid up capital less the balance of the special reserve account on the first day of the previous year.*

**3.3.4.3** In Maharashtra Pr. CIT-2, Mumbai charge, AO completed the scrutiny assessment of **M/s State Bank of India**, for the AY 2013-14 in March 2015 determining income of ₹ 22,210.40 crore. Audit examination revealed that ₹ 750 crore was transferred to the special reserve under section 36(1)(viii) during the previous year. However, the AO had allowed deduction of ₹ 833.68 crore as claimed by the assessee on the grounds that there was no express provision in the Act to the effect that reserve should be created by way of debit to the Profit and Loss Account of the relevant financial year. This is not correct as the Act clearly provides for restricting the amount of deduction to the amount transferred during the previous year to the special reserve account created for the purpose of section 36(1)(viii). This mistake resulted in excess allowance of deduction amounting to ₹ 83.68 crore<sup>75</sup> with consequent short levy of tax of ₹ 27.14 crore. *ITD's reply was awaited (July 2017).*

*Section 41(1) of Income Tax Act provides that where an allowance or deduction has been made in the assessment for any year in respect of a loss declared by the assessee and subsequently during any previous year this amount is received, then the income realized should be treated as profits chargeable to tax.*

**3.3.4.4** In Rajasthan, CIT Jaipur-2 charge, AO completed the scrutiny assessment of **State Bank of Bikaner and Jaipur** for the AY 2013-14 in February 2015 determining income of ₹ 1,407.74 crore. Audit examination revealed that assessee had claimed and was allowed deduction of ₹ 37.61 crore as 'recovery in written off accounts' from the taxable income. The same was not allowable as per provisions *ibid* and chargeable to tax. The omission had resulted in under assessment of income of ₹ 37.61 crore involving short levy of tax of ₹ 15.01 crore including interest. *ITD's reply was awaited (February 2017).*

<sup>75</sup> ₹ 83.68 crore = ₹ 833.68 crore - ₹ 750 crore

*As per section 37 of Income Tax Act, any expenditure being in the nature of capital expenditure or personal expenditure shall not be allowed in computing the income chargeable under the head 'profits and gains of business or profession'. Bombay High Court in the case of Ciba of India Ltd. vs CIT held that where the assessee had set up a new plant for manufacturing additional pharmaceutical goods in the same line of business, travelling expenses, training expenses of staff etc. were in the nature of capital expenditure.*

**3.3.4.5** In Maharashtra, CIT-LTU, Mumbai charge, AO completed the scrutiny assessment of **M/s Tata Motors Ltd.**, for AY 2009-10 in January 2014 determining loss of ₹ 1,779.04 crore. Audit examination revealed that the assessee had claimed total expenses of ₹ 43.83 crore towards salary, staff welfare expenses, travelling and conveyance, hotel expenses etc. in respect of 'Nano Project' which was capitalised in the books of accounts. However, the same was claimed and allowed as revenue expenses for the purpose of Income Tax in the computation of income. As 'Nano Project' at Singur (West Bengal) was altogether a new project and not an expansion of existing one, the expenses should have been capitalised. The incorrect allowance resulted in under assessment of income by ₹ 43.83 crore, involving potential tax effect of ₹ 14.90 crore. *ITD took remedial action (July 2016) under section 143(3) read with section 263.*

**3.3.4.6** In Maharashtra, Pr.CIT-1, Mumbai charge, AO completed the scrutiny assessment of **M/s Hindustan Petroleum Corporation Ltd. (HPCL)**, for the assessment year (AY) 2013-14 in March 2016 determining loss at ₹ 282.14 crore after disallowance of various expenditure. The assessee was liable to tax on book profit of ₹ 1,322.72 crore under the provision of MAT. Audit examination revealed that the assessee had debited ₹ 35.53 crore to Profit and Loss Account on account of loss on sale of current investment which was allowed as business expenditure. It was also revealed that these investments were in the form of bonds issued by the Government of India to the assessee in previous years to make up for the loss on account of sale of products at lower cost to the Public Distribution System. As the sale/redemption of such bonds was capital in nature, it was required to be disallowed in view of above quoted provisions. In a similar case of M/s HPCL for AYs 2006-07 and 2007-08, the Department had treated profit/loss on sale of oil bonds as capital gain/loss and was upheld by CIT (Appeals) in AY 2006-07. The incorrect allowance of capital expenditure had resulted in under assessment of income by ₹ 35.53 crore involving short levy of tax of ₹ 11.53 crore. *Ministry accepted the audit observation (September 2017) and stated that remedial action has been initiated under section 263 of the Act.*

*A provision made in the accounts only for an accrued or known liability is an admissible deduction.*

**3.3.4.7** In Gujarat, Pr. CIT-1, Baroda Charge, AO completed the scrutiny assessment of **M/s Gujarat State Electricity Corporation Ltd.** for the AY 2011-12 determining income at 'nil' after setting-off brought forward business losses of ₹ 269.90 crore and unabsorbed depreciation of ₹ 17.90 crore in January 2014. Audit examination revealed that the assessee had claimed and was allowed ₹ 31.68 crore as provision towards a long term service contract agreement for maintenance of 374MW Utran Gas Based Power Plant. As the expenditure was merely a provision and not an ascertained liability, it should have been disallowed and added back to the income of the assessee. The mistake had resulted in under assessment of income by ₹ 31.68 crore involving potential tax effect of ₹ 10.52 crore. *ITD took remedial action by passing order under section 143(3) read with section 263 in December 2016.*

*It has judicially been held<sup>76</sup> that the guidelines issued by the Reserve Bank of India cannot override the statutory provisions of the Income Tax Act.*

**3.3.4.8** In Tamil Nadu, Pr.CIT-2 Chennai charge, AO completed the scrutiny assessment of **M/s Indian Bank** for the AY 2013-14 in March 2016 determining income of ₹ 2,801.94 crore. Audit examination revealed that the assessee had claimed and was allowed amortisation of premium of ₹ 31.90 crore on investment held under 'held to maturity' (HTM) category as per RBI's master Circular on 'Prudential norms for Classification, Valuation and Operation of Investment Portfolio by Banks' and the same was reflected as a deduction from 'Income on Investments'. Since the investments classified under HTM category were not held as stock-in-trade and were of capital nature, the claim of amortisation of premium on investments held under HTM category was not allowable under the Income Tax Act. The omission to disallow had resulted in incorrect allowance of expenditure of ₹ 31.90 crore involving short levy of tax of ₹10.35 crore. *ITD's reply is awaited (July 2017).*

**3.3.4.9** In Odisha, Pr.CIT-1 Bhubaneswar charge, AO completed the scrutiny assessment of **M/s Odisha Hydro Power Corporation Ltd.** for the AY 2013-14 after scrutiny in March 2016 determining income of ₹ 15.67 crore. Audit examination revealed that the assessee had claimed and was allowed deduction of ₹ 77.01 crore towards pension fund despite of certification by tax auditor that out of above liability, an amount of ₹ 49.15 crore had been paid in 2012-13 and ₹ 27.86 crore which remained unpaid was required to be disallowed under

<sup>76</sup> M/s Tamil Nadu Power Finance and Infrastructure Development Corporation Ltd. vs JCIT (280 ITR 491 Madras High Court)

section 43B of the Income Tax Act. The incorrect allowance resulted in under assessment of income by ₹ 27.86 crore involving potential tax effect of ₹ 9.04 crore. ITD accepted the audit observation (February 2017) and initiated remedial action for re-assessment under section 147 of the Act.

### 3.4 Income escaping assessment due to omissions

**3.4.1** The Act provides that the total income of a person for any previous year shall include all incomes from whatever source derived, actually received or accrued or deemed to be received or accrued. We observed that the AOs did not assess/under assess total income that require to be offered to tax. Table 3.5 shows the sub-categories which have resulted in Income escaping assessments.

Table 3.5: Sub-categories of mistakes under income escaping assessments due to omissions			(₹ in crore)			
Sub-categories		Nos.	TE	States		
a.	Income not assessed/under assessed under special provision	1	2.06	Maharashtra		
b.	Income not assessed/under assessed under normal provision	14	136.71	AP & Telangana, Delhi, Maharashtra, Odisha, TN and WB		
c.	Incorrect classification and computation of capital gains	4	7.60	Gujarat, Maharashtra, Rajasthan and TN		
d.	Incorrect estimation of Arm's Length Price	8	43.68	AP & Telangana, Delhi, Maharashtra and WB.		
e.	Unexplained investment/cash credit	4	799.78	Gujarat, Maharashtra and WB		
<b>Total</b>		<b>31</b>	<b>989.83</b>			

### 3.4.2 Income not assessed/under assessed under special provisions

We give below one such illustrative case:

*Section 115JB of the Act provides for levy of Minimum Alternate Tax (MAT) at prescribed percentage of book profit if the income tax payable on the total income computed under the normal provisions is lesser than MAT. As per explanation 1 under section 115JB, "book profit" means the net profit as shown in the profit and loss account for the relevant previous year subject to certain additions/ deletions. Further, vide Finance Act 2011, book profit as defined below Explanation 1 of section 115JB has been amended to exclude retrospectively from 01 April 2005 any deduction with respect to sections 80HHC, 80HHE and 80 HHF as enumerated in sub-clause (iv), (v) and (vi) thereof.*

**3.4.2.1** In Maharashtra, Pr. CIT-15, Mumbai charge, AO completed the scrutiny assessment of **M/s The Wanbury Ltd.** for AY 2010-11 in April 2014 at nil income after allowing set off of brought forward unabsorbed depreciation to the extent of income available and computed tax under special provisions of Minimum Alternate Tax (MAT). Audit examination revealed that the assessee had claimed and was allowed deduction of ₹ 12.11 crore under section 80HHC(1B), which was not in order. In view of the above mentioned



amendment, AO should have disallowed and added back the deduction. Omission to do so resulted in underassessment of book profit to that extent, involving short levy of tax of ₹ 2.06 crore. *Reply from the ITD was awaited (July 2017).*

### 3.4.3 Income not assessed/under assessed under normal provisions

We give below six such illustrative cases:

*As per Section 115BBD of the Act, where the total income of an assessee, being an Indian company, includes any income by way of dividends declared, distributed or paid by a specified foreign company, the income tax payable shall be the aggregate of the amount of income-tax calculated on the income by way of such dividends at the rate of fifteen per cent and the amount of income tax with which the assessee would have been chargeable had its total income been reduced by the aforesaid income by way of dividends. Further, in a scrutiny assessment, AO is required to make a correct assessment of the total income or loss of the assessee and determine the correct sum payable by him or refundable to him on the basis of such assessment.*

**3.4.3.1** In Delhi, Pr. CIT-4 charge, AO completed the scrutiny assessment of **M/s India Infrastructure Finance Company Ltd.** for AY 2013-14 in February 2016 determining income of ₹ 1,141.18 crore and tax of ₹ 343.28 crore thereon. Audit examination revealed that while completing the assessment, the AO did not add the dividend income<sup>77</sup> of ₹ 166.28 crore to the income of the assessee despite the fact that assessee itself had offered tax at the rate of fifteen *per cent* on the said income in its return. Besides, tax on the assessed income of ₹ 1,141.18 crore was charged at ₹ 343.28 crore, instead of the correctly leviable amount of ₹ 370.25 crore. These mistakes had resulted in underassessment of income of ₹ 166.28 crore, involving short levy of tax of ₹ 53.95 crore. *Ministry accepted the audit observation (July 2017) and rectified the mistake (February 2017) under section 154.*

*Section 5 of the Act provides that the total income of a person for any previous year shall include all incomes derived from whatever source, which is received or deemed to be received or which accrues or is deemed to be accrued during such previous year, unless specifically exempt from tax under the provisions of the Act.*

**3.4.3.2** In Odisha, Pr.CIT-1 Bhubaneswar charge, AO completed the scrutiny assessment of **M/s North Eastern Electricity Supply Company of Orissa Ltd. (NESCO)** for AY 2012-13 in March 2015 determining loss at ₹ 108.95 crore. Audit examination revealed that the assessee had credited ₹ 79.32 crore in its profit and loss account as “Income to be recovered from future tariff determinations by OERC”. However, in the computation of income, the same was reduced as “Income from regulatory affairs towards future tariff

<sup>77</sup> Tax was chargeable at the rate of fifteen per cent at this income under section 115BBD of the Act

determinations by OERC". As the Act did not provide for deduction or exemption of such income and as this income was receivable in future, allowance of this income as exempt was not in order. The omission resulted in under assessment of income by ₹ 79.32 crore involving potential tax effect of ₹ 25.73 crore. *ITD accepted the audit observation and initiated remedial action (February 2017).*

*Under section 28(iiiib) of Income Tax Act, 1961, cash assistance (by whatever name called) received or receivable by any person against exports under any scheme of the Government of India shall be chargeable to income tax under the head 'profit and gains of business or profession'.*

**3.4.3.3** In Maharashtra, Pr. CIT-2, Mumbai Charge, AO completed the scrutiny assessment of **M/s Nhava Sheva International Containers Terminal Pvt. Ltd.** for AY 2011-12 in March 2014 under special provisions of section 115JB allowing carry forward of tax credit of ₹ 13.60 crore for set off in the following AY(s). The assessee company had credited to profit and loss account ₹ 4.90 crore as duty scrip<sup>78</sup> earned on account of its export earnings under the Served from India Scheme (SFIS) and utilised the same for payment of custom duty on import of capital goods and spares. While finalising the assessment order, the AO had treated the duty scrip as capital receipt and reduced the same from the taxable income as claimed by the assessee. As per the provisions of section 28(iiiib) of the Act, the duty scrip of ₹ 4.90 crore was required to be taxed by treating it as revenue receipt. In doing so, the tax liability under normal provision worked out to be ₹ 13.65 crore which exceeded the tax liability of ₹ 13.60 crore worked out under special provisions. The mistake had resulted in short levy of tax of ₹ 13.65 crore including irregular carry forward of MAT credit of ₹ 13.60 crore. *ITD accepted the audit observation (February 2017) and took remedial action by passing the order under section 143(3) read with section 147 in December 2016.*

**3.4.3.4** In Delhi, CIT (International taxation)-1, AO completed the scrutiny assessment of **M/s Amadeus IT Group SA** for AY 2011-12 under section 143(3) read with section 144C(13) of the Act in November 2014 determining income of ₹ 305.16 crore and tax of ₹ 128.87 crore thereon. In the assessment order, taxable income was computed in two ways, viz. an amount of ₹ 305.16 crore as profit attributable to the permanent establishment (PE) (taxable at the rate of 42.23 per cent) and ₹ 79.37 crore as gross booking revenue in respect of bookings arising from India (taxable at the rate of 10 per cent). As the tax liability was more in respect of profits attributable to the PE, the taxable

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<sup>78</sup> A Duty Credit Scrip is a scrip which is issued by Director General of Foreign Trade and can be used to pay Customs Duty, Excise Duty and Service Tax. These Scrips are issued to both Exporters of Goods as well as Exporters of Service under various schemes mentioned in the Foreign Trade Policy.

income was assessed at ₹ 305.16 crore. Audit examination revealed that income of ₹ 7.66 crore (Euro 12,000,000 at the rate of ₹ 63.8429) was required to be included in the taxable income as revenue from the use of Altea system by British Airways and taxed at the rate of 10 per cent. However, this amount was not included in the profits attributable to the PE nor was any tax raised on the same. The omission had resulted in under assessment of income by ₹ 76.61 crore involving short levy of tax of ₹ 11.03 crore including interest. *ITD rectified the mistake (January 2016) under section 154 of the Act.*

*Section 115-O of the Income Tax Act, 1961 provides for tax on any amount declared, distributed or paid by a domestic company by way of dividend. Under Section 2(22)(d) of the Act, dividend includes any distribution to its shareholders by a company on the reduction of its capital, to the extent to which the company possesses accumulated profits whether such accumulated profits have been capitalized or not, but does not include any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77A of the Companies Act, 1956.*

**3.4.3.5** In Tamil Nadu, CIT-4, Chennai charge, AO completed the scrutiny assessment of **M/s Mayajaal Entertainment Ltd.** for AY 2012-13 in March 2015 at total loss of ₹ 58.03 lakh. The company had bought back 1,68,77,800 equity shares of ₹ 10 each at a price of ₹ 45 per share from M/s Pentamedia Graphics Pvt. Ltd., holding 48.71 per cent shares in the assessee company, under settlement, making payment of premium of ₹ 59.07 crore. Out of premium amount of ₹ 59.07 crore, assessee had adjusted ₹ 39.89 crore against the Securities Premium Account and the balance ₹ 19.18 crore towards distribution of profit to M/s Pentamedia Graphics Pvt. Ltd. under section 2(22)(d) of the Act against the surplus as per profit and loss account. Since buyback of shares was not covered under the provisions of section 77A of the Companies Act, 1956, Dividend Distribution Tax under section 115-O was payable. Omission to do so had resulted in non-levy of Dividend Distribution Tax of ₹ 3.19 crore excluding interest leviable thereon under section 115P. *Reply from ITD was awaited (July 2017).*

**3.4.3.6** In Maharashtra, Pr. CIT (Central)-8(3), Mumbai charge, AO completed the scrutiny assessment of **M/s Lokhandwala Kataria Construction Pvt. Ltd.** for AY 2012-13 in March 2015 at total loss of ₹ 14.10 crore. The assessee, engaged in the business of property development, showed closing work-in-progress (WIP), in respect of AY 2013-14, at ₹ 547.77 crore after adding expenditure of ₹ 224.68 crore incurred during the year in the opening WIP of ₹ 323.09 crore i.e. closing WIP of AY 2012-13. The AO had restricted the closing WIP of previous AY 2012-13 to ₹ 313.40 crore as against ₹ 323.09 crore as claimed by the assessee in the assessment proceedings of that year. Hence the correct closing WIP with respect to the instant AY 2013-14 worked out to ₹ 538.08 crore instead of ₹ 547.77 crore after adding expenditure of ₹ 224.68 crore incurred during the

year as allowed in the assessment. Omission to adopt correct figure of closing WIP resulted in under assessment of income of ₹ 9.69 crore involving potential tax effect of ₹ 3.15 crore. *ITD accepted the observation (March 2017), but details of remedial action initiated were awaited (July 2017).*

#### **3.4.4 Incorrect computation/ classification of capital gains**

We give below three such illustrative cases:

*Section 50 provides that if an assessee has sold a capital asset forming part of block of assets (building, machinery etc.) on which depreciation has been allowed under the Income Tax Act, the income arising from such capital asset (i.e. difference between WDV and sales consideration) is treated as short term capital gain.*

**3.4.4.1** In Gujarat, Pr. CIT Valsad Charge, AO completed the scrutiny assessment of **M/s Avi Global Plast Private Ltd.** for AY 2012-13 in January 2015 determining total income of ₹ 1.29 crore. The assessee had sold factory building and earned profit of ₹ 10.43 crore. The gain so received was claimed to be non-taxable on the ground that the block of 'Factory Building' still remained positive as on 31.03.2012. Assessee had shown a new building purchased at ₹ 11.03 crore in January 2012 under the block of 'Factory Building'. However, there was no such purchase of building as the assessee had only entered into an agreement for purchase of building which was under construction. Thus, the new building shown as purchased did not form part of the block of asset, and therefore the amount of ₹ 10.43 crore was liable to be taxed as short term capital gains (STCG). The omission had resulted into under assessment of STCG of ₹ 10.43 crore involving short levy of tax of ₹ 4.53 crore including interest. *Ministry accepted the audit observation (September 2017) and stated that remedial action was initiated under section 148 of the Act in August 2017.*

*Section 45(1) of the Income Tax Act provides that any profits or gains arising from the transfer of capital asset effected in the previous year shall be chargeable to income tax under the head "Capital Gains", and shall be deemed to be the income of the previous year in which the transfer took place.*

**3.4.4.2** In Maharashtra, Pr.CIT-10, Mumbai charge, AO completed the scrutiny assessment of **M/s N V Developers Pvt. Ltd.** for AY 2012-13 in March 2015 determining income of at ₹ 9.01 Crore. The assessee was engaged in the business of operating and maintaining 'G-Corp Tech Park' and offered its rental income under the head 'Profit and Gains from Business or Profession'. While completing the assessment, AO had treated the rental income as 'Income from house property' and disallowed depreciation and other expenditure. Further, during the year under consideration, the assessee had sold a flat in the fifth floor (out of the 15 floors) of the Tech Park in August 2011 and credited an amount of ₹ 3.53 crore being the profit on this sale to profit and loss account under the

head 'Exceptional Items'. Since the rental income from the flats had been considered as 'Income from House Property' by the AO, any gain arising out of the sale would be taxable as 'Capital Gains' instead of profits from business. Moreover, assessee had kept the flat for less than three years (April 2010 to August 2011). Hence, the profit would be taxable as 'Short Term Capital Gains'. The omission to tax STCG had resulted in under assessment of capital gain of ₹ 3.53 crore involving tax effect of ₹ 1.15 crore. *Ministry accepted the audit observation (September 2017) and stated that remedial action under section 147 of the Act will be taken in due course.*

**3.4.4.3** In Rajasthan, CIT-Ajmer charge, AO completed the scrutiny assessment of **M/s Sharda Spuntex Private Ltd.** for AY 2013-14 at an income of ₹ 0.98 crore including short term capital gains (STCG) of ₹ 5.04 crore after setting-off brought forward business loss of ₹ 2.48 crore and unabsorbed depreciation of ₹ 1.38 crore in March 2016. While computing the taxable income of the assessee, the AO allowed set-off of brought forward business loss of ₹ 2.48 crore from STCG which was irregular in view of the provisions quoted above. The omission had resulted in under-computation of short term capital gains by ₹ 2.48 crore involving short levy of tax of ₹ 1.11 crore including interest. *Ministry accepted the audit observation (October 2017) and rectified the mistake by passing order under section 154 in January 2017.*

### 3.4.5 Incorrect estimation of Arm's Length Price

We give below four such illustrative cases:

*The computation of Arm's Length Price (ALP) under section 92C of Income Tax Act, 1961, should be referred to the Transfer Pricing Officer (TPO), if the value of international transaction as defined under section 92B of the Act exceeds ₹ 15 crore. The TPO, after hearing the assessee and considering the evidence produced by him as required on any specified points and after taking into account all relevant materials which he has gathered, shall by order in writing determine the ALP in relation to the international transaction in accordance with provisions of section 92C(3) and send a copy of his order to the AO and to the assessee.*

**3.4.5.1** In Maharashtra, Pr.CIT (TP)-1 Mumbai charge, AO completed the transfer pricing assessment of **M/s ACC Ltd.** for AY 2013-14 in November 2016, determining the Arm's Length Price (ALP) adjustment at ₹ 503.48 crore. While determining the ALP of the inter-unit transfer of power, the sales value of the assessee at various locations was revised and ALP adjustment of ₹ 428.81 crore was proposed vide para 33 of transfer pricing order. As per the working of the revised sale value and adjustments thereon, while computing the adjustment in respect of a location 'Jamul', the value was inadvertently taken at ₹ 4.75 crore instead of ₹ 47.55 crore. This mistake had resulted in short adjustment of ALP by

₹ 42.80 crore involving a tax effect of ₹ 13.89 crore. *Ministry accepted the audit observation (September 2017) and rectified the mistake by passing order under section 92CA(5)<sup>79</sup> read with section 154 in January 2017.*

*Section 92C(1) of the Income Tax Act, 1961, provides that the Arm's Length Price (ALP) in relation to an international transaction shall be determined by any of the methods, being the most appropriate method, having regard to the nature of transaction or class of transaction or class of associated persons or functions performed by such persons or such other relevant factors as the Board may prescribe. The methods specified may be any of a) comparable uncontrolled price method, b) resale price method, c) cost plus method, d) profit split method, e) transactional net margin method, and f) such other method as be prescribed by the Board.*

**3.4.5.2** In Maharashtra CIT(TP)-Pune charge, the TPO passed an order on **M/s Volkswagen India Pvt Ltd.** for AY 2013-14 in October 2016 determining adjustment of ₹ 1,110.42 crores to the value of international transaction by applying Cost Plus Method (CPM). An alternate adjustment of ₹ 881.53 crore was also made by applying Transactional Net Margin Method (TNMM) as the Most Appropriate Method (MAM). During the course of alternative benchmarking with TNMM as MAM, the Profit Level Indicator (PLI) of the assessee was determined by the ITD as (-) 13.74 *per cent* while PLI of the comparables was worked out to 1.81 *per cent*. Considering this, the Arm's Length operating profit in case of the assessee should be ₹ 106.90 crore (1.81 *per cent* of ₹ 5,906.27 crore as operating revenue) as against the actual operating profit of the assessee at (-) ₹ 811.84 crore. Thus, the total adjustment under this head should have been proposed at ₹ 918.74 crore. However, the ITD had incorrectly considered PLI of the comparables as 1.18 *per cent* instead of correct PLI of 1.81 *per cent*. Consequently, the Arm's Length Profit was wrongly computed at ₹ 69.69 crore (1.18 *per cent* of ₹ 5,906.27 crore) after allowing ALP adjustment of only ₹ 881.53 crore under the provisions of section 92CA(3) of the Act. The omission resulted in short adjustment of ₹ 37.21 crore<sup>80</sup> involving tax effect of ₹ 12.07 crore. *Ministry accepted the audit observation (September 2017) and rectified the mistake by passing order under section 154 read with section 92CA(5) of the Act in December 2016.*

**3.4.5.3** In West Bengal, CIT IT & TP, Kolkata charge, the TPO passed an order on **M/s Philips India Pvt. Ltd.** for AY 2012-13 under section 92CA(3) in January 2016 at an upward adjustment of ₹ 371.94 crore which was revised at ₹ 340.21 crore under sections 92CA(3) read with sections 92CA(5) and 144C(5) of the Act for

<sup>79</sup> Section 92CA of Income Tax Act deals with procedure for reference to TPO of any issue relating to computation of ALP in an international transaction. As per sub section 5 of section 92CA the TPO can determine ALP of other international transactions identified subsequently in the course of proceedings before him.

<sup>80</sup> ₹ 37.21 crore = ₹ 918.74 crore - ₹ 881.53 crore

giving effect to the directions of the Dispute Resolution Panel (DRP) in January 2017. In the final TP order of January 2017, upward adjustments in respect of Advertisement Marketing and Promotions (AMP) expenses for lighting (distribution) division and CLS (distribution) division was made for total amount of ₹ 1.03 crore (lighting division ₹ 0.02 crore and CLS division ₹ 1.01 crore). Audit examination revealed that the TPO, while making upward adjustments, computed upward adjustment on AMP expenses instead of on the operating income. This omission had resulted in short upward adjustment of ₹ 21.03 crore (₹ 2.27 crore for lighting and ₹ 18.76 crore for CLS respectively) involving tax effect of ₹ 6.82 crore. *ITD rectified the mistake (June 2017) under section 144C(5) read with sections 154 and 92CA(3).*

**3.4.5.4** In Delhi, CIT-1 TPO charge, the TPO passed an order on **M/s Bharti Airtel Ltd.** under section 92CA(3) of the Act for AY 2011-12 in November 2014 at an adjustment of ₹ 227.96 crore on the international transactions of corporate guarantee, interest on loans advanced to Associated Enterprises (AEs), receivables (recoverable from AEs) and valuation of shares. The TPO proposed interest adjustments of ₹ 0.19 crore, ₹ 17.94 crore and ₹ 54.19 crore at the rate of 11.69 *per cent* on the loans advanced to its three subsidiary companies, viz. M/s Bharti Airtel (USA) Ltd., M/s Bharti Airtel International (Netherland) B.V. and M/s Bharti Airtel (Lanka) Ltd. respectively. However, in the final computation, the proposed adjustment of ₹ 0.19 crore and ₹ 17.94 crore were not included. This mistake had resulted in short adjustment of ₹ 18.13 crore. Further, while applying the Comparable Uncontrolled Price (CUP) method, the rate for the financial guarantee rate of Punjab National Bank was taken as 2.7 *per cent* instead of 3.6 *per cent* (0.9 *per cent* per quarter rate was given), leading to short adjustment of ₹ 87.16 lakh. The mistakes had resulted in total short adjustment of ₹ 19 crore in the order of the TPO involving short levy of tax of ₹ 6.31 crore. *Ministry accepted the audit observation (September 2017) and rectified the mistakes (May 2016) under section 154.*

### 3.4.6 Unexplained Investment/cash credit

We give below one such illustrative case:

*Section 68 provides that if assessee offers no explanation about the nature and source of any sum credited in the books of the assessee, the sum so credited may be charged to income tax as income of the assessee. As per Section 281B of the Act, if during the assessment proceedings, the AO is of the opinion that it is necessary in the interest of revenue, he may, with the prior approval of Pr. Commissioner of Income Tax, provisionally attach the property of the assessee. Further, bank accounts of the defaulting assessee can be frozen under section 226(3) of the Act.*

**3.4.6.1** In Maharashtra, Pr. CIT-14, Mumbai charge, a company **M/s Darwin Platform Infrastructure Ltd.** declared income of ₹ 1.16 crore for AY 2012-13 (September 2012). The case was selected for scrutiny under CASS to examine the huge introduction of unsecured loan during the relevant financial year 2011-12 (₹ 1,799.78 crore was raised by the assessee during the year). The AO completed the best judgment assessment (March 2015) *ex parte* under section 144, making ad-hoc addition of ₹ 19.01 crore, under section 68 of the Act, treating one *percent* of the entire unsecured loans at the year-end amounting to ₹ 1900.79 crore as unexplained income.

As per the assessment records, ITD had issued notices to the assessee (August 2013, December 2014 and March 2015) for submission of the details in respect of these loans including the list of unsecured loan providers and their confirmations. However despite the first two notices being duly served, no information or submission in this regard was received from the assessee. The case being material one involving loan transactions of ₹ 1,900.79 crore, the ITD was required to make maximum possible inquiries about the assessee, direct/indirect assets of the assessee etc. and to take recourse to available options of property attachments and/or freezing of bank accounts so as to protect the interest of revenue. ITD added back only one *per cent* of the unsecured loan instead of the entire amount of unsecured loan concluding that the three main yardsticks of candidness of the loan transaction viz. *identity* of the loan providers, their *creditworthiness* and *genuineness* of transaction remained unproved. Conclusion drawn by the AO was not convincing at all. The omission had resulted in under assessment of income of ₹ 1,780.77 crore involving short levy of tax was of ₹ 577.77 crore. Besides, interest of ₹ 208 crore was also leviable under section 234B. *Ministry accepted the audit observation (September 2017) and stated that since the assessment was set aside, the proceedings under section 143(3) read with section 264 was in progress.*



### 3.5 Over-charge of tax/Interest

**3.5.1** We noticed that AOs over assessed income in 40 cases involving overcharge of tax and interest of ₹ 446.08 crore in Andhra Pradesh & Telangana, Delhi, Haryana, Madhya Pradesh, Maharashtra, Odisha and West Bengal. We give below five such illustrative cases:

**3.5.1.1** In Maharashtra, Pr. CIT-5, Mumbai Charge, the AO had reopened and completed the assessment of **M/s National Aviation Company (India) Ltd.** for AY 2008-09 after scrutiny in February 2015 determining assessed loss at ₹ 4,679.29 crore, *inter alia*, making addition of ₹ 39.69 crore towards unabsorbed depreciation pertaining to the AY 1997-98. The assessee company had total brought forward unabsorbed depreciation of ₹ 311.12 crore including ₹ 39.69 crore pertaining to AY 1997-98 which was not allowed to be carried forward for set off either at the time of rectification order passed in March 2012 or at the time of earlier scrutiny order passed by the department in December 2010 as the assessee had reported loss during the relevant previous year. As such, the AO should have reduced the claim of carry forward of unabsorbed depreciation of ₹ 39.69 crore pertaining to AY 1997-98 instead of adjusting the income of AY 2008-09. The mistake resulted in underassessment of loss of ₹ 39.69 crore involving potential excess levy of tax of ₹ 13.49 crore. *ITD's reply was awaited (July 2017).*

**3.5.1.2** In Haryana, Pr.CIT (Central), Gurgaon charge, AO completed the assessment of **M/s Tokai Imperial Rubber India Pvt. Ltd.** for AY 2009-10 under section 143(3) read with section 147 in March 2015 determining income of ₹ 30.59 crore. While computing taxable income, the AO erroneously adopted figure of returned income as ₹ 20.97 crore instead of loss of ₹ 20.97 crore as per return filed by the assessee. The assessed income was wrongly determined as ₹ 30.59 crore instead of the correct amount of loss of ₹ 11.35 crore after making disallowance of ₹ 9.72 crore. The mistake had resulted in over charge of tax of ₹ 10.72 crore including interest. *ITD has rectified mistake by issuing order under section 154 (September 2015).*

**3.5.1.3** In West Bengal, Pr. CIT-2, Kolkata charge, AO completed the scrutiny assessment of **M/s Trend Vyapaar Ltd.** for AY 2013-14 in March 2016 determining income of ₹ 21.81 crore. The assessee had filed return of income for the year at nil income after setting off brought forward losses of ₹ 21.78 crore against the income of ₹ 97.16 lakh and the remaining loss of ₹ 20.81 crore was carried forward for set off in future year. The AO, while finalizing the assessment, rejected the claim of the entire brought forward losses of the assessee and erroneously added this amount, along with the disallowed expenses of ₹ 3.32 lakh to the assessee's total income. The omission had

resulted in over assessment of income of ₹ 20.81 crore<sup>81</sup> involving over charge of tax of ₹ 9.20 crore. *Ministry accepted the audit observation (October 2017) and rectified the mistake (May 2016) under section 154 of the Act.*

*As per section 234B(3), if as a result of re-assessment under section 147, the amount on which interest was initially payable is increased, the taxpayer will be liable to pay additional interest at the rate of 1 per cent per month or part of month. This is calculated from the date of determination of total income under section 143(1) or regular assessment and ending on the date of reassessment.*

**3.5.1.4** In AP & Telangana, Pr.CIT-4 Hyderabad charge, AO completed the scrutiny assessment of **M/s Deccan Chronicle Holdings Ltd.** for AY 2010-11 in March 2013 determining income at ₹ 364.10 crore. Subsequently the assessment was re-opened and completed in March 2015 enhancing the income to ₹ 3,280.27 crore. While computing tax demand under the re-assessment made in March 2015, AO had levied surcharge at 7.5 *per cent* instead of leviable rate of 10 *per cent* resulting in short levy of surcharge of ₹ 24.60 crore. Besides, AO had erroneously charged interest at ₹ 592.26 crore under section 234B instead of the correct amount of ₹ 246.86 crore, resulting in excess levy of interest of ₹ 345.41 crore. The mistakes had resulted in net excess demand of tax of ₹ 320.80 crore. *ITD rectified the mistakes under section 154 in June 2016 and January 2017 respectively.*

**3.5.1.5** In Delhi, Pr. CIT-3 charge, AO completed the scrutiny assessment of **M/s Delhi Transco Ltd.** for AY 2013-14 in March 2016 determining income of ₹ 39.35 crore as 'income from other sources' and ₹ 317.31 crore under special provisions of the Act. While computing tax demand, the AO had erroneously levied interest of ₹ 18.08 crore under section 234B of the Act despite the fact that TDS credit of ₹ 83.74 crore available to the assessee was more than the assessed tax of ₹ 63.49 crore. The mistake had resulted in excess levy of interest of ₹ 18.08 crore. *Ministry accepted the audit observation (September 2017) and rectified the mistake (May 2016) under section 154.*

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<sup>81</sup> ₹ 20.81 crore = [₹ 21.81 crore – (₹ 97.16 lakh + ₹ 3.32 lakh)]

## Chapter IV: Income Tax and Wealth Tax

### 4.1 Introduction

**4.1.1** This chapter discusses 131 income tax and six wealth tax cases, of which 121 cases involving undercharge of ₹ 314.73 crore and 16 cases involving overcharge of ₹ 21.26 crore were issued to the Ministry during April 2017 to July 2017. These cases of incorrect assessment point towards weaknesses in the internal controls on the assessment process being exercised by the Income Tax Department.

**4.1.2** The categories of mistakes have been broadly classified as follows:

- Quality of assessments
- Administration of tax concessions/exemptions/deductions
- Income escaping assessments due to omissions
- Others-Overcharge of tax/interest etc

**4.1.3** ITD has completed remedial action in 90 cases involving tax effect of ₹ 215.01 crore. The Ministry has conveyed its acceptance in 47 cases involving tax effect (TE) of ₹ 48.89 crore while not accepting two cases involving tax effect of ₹ 7.17 crore.

Table 2.9 (para 2.4.4) of this report shows the details of broad categories of mistakes and their tax effect (refer *Appendix 2.3*).

### 4.2 Quality of assessments

**4.2.1** AOs committed errors in the assessments despite clear provisions in the Act. These cases of incorrect assessments point to continuing weaknesses in the internal controls on the part of ITD which need to be addressed on priority.

Table 4.1 shows the sub-categories of mistakes which impacted the quality of assessments.

Table 4.1: Details of errors in quality of assessment			(₹ in crore)
Sub-categories	Cases	TE	States
a. Arithmetical errors in computation of income and tax	26	75.89	Andhra Pradesh, Delhi, Gujarat, Haryana, Madhya Pradesh, Maharashtra, Odisha, Punjab and Tamil Nadu
b. Incorrect application of rates of tax, surcharge etc.	06	11.92	Delhi, Goa, Jharkhand, Maharashtra and Punjab
c. Mistakes in levy of interest	37	130.12	Andhra Pradesh, Assam, Bihar, Delhi, Goa, Gujarat, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Tamil Nadu, UT Chandigarh, Uttar Pradesh and West Bengal
<b>Total</b>	<b>69</b>	<b>217.93</b>	

#### 4.2.2 Arithmetical errors in computation of income and tax

We give below four such illustrative cases:

*The Act provides that AO is required to make a correct assessment of the total income or loss of the assessee and determine correct amount of tax or refund, as the case may be.*

**4.2.2.1** In Maharashtra, CIT Exemption Mumbai charge, AO completed the assessment of an Association of Persons (Trust), **Mumbai Cricket Association**, for AY 2010-11 after scrutiny in March 2013 at an income of ₹ 20.53 crore. The AO had considered the assessee as a non-charitable organization having no valid registration under section 12A and hence, the entire income of the assessee was required to be taxed. However, an amount of ₹ 39.67 crore received by the assessee on account of infrastructure subsidy was not added back while computing assessed income. The mistake had resulted in underassessment of income of ₹ 39.67 crore involving short levy of tax of ₹ 16.67 crore including interest. *ITD initiated remedial action under section 147 of the Act (January 2017).*

**4.2.2.2** In Odisha, Pr. CIT-1 Bhubaneswar charge, AO completed the assessment of a co-operative society **M/s Neelachal Gramya Bank** for AY 2013-14 after scrutiny in January 2016 at 'nil' income as declared by assessee in its returned income. The assessee had claimed ₹ 0.6 crore and ₹ 4.07 crore on account of 'printing & stationary' and 'other expenditure' respectively, however, while computing aggregate of both expenses in the return of income, adopted the aggregate figure at ₹ 34.62 crore instead of ₹ 4.13 crore. As a result, profit before taxes was arrived at 'nil' instead of ₹ 30.49 crore which was also considered by AO while computing taxable income of the assessee. The mistake had resulted in underassessment of income of ₹ 30.49 crore involving short levy of tax of ₹ 12.61 crore including

interest. *ITD initiated remedial action under section 147 of the Act (March 2017).*

**4.2.2.3** In Tamil Nadu, CIT Central-1, Chennai charge, AO completed the assessment of a trust **M/s Jaya Educational Trust** for AY 2012-13 after scrutiny in March 2015 at an income of ₹ 10.77 crore. In the Income and Expenditure Account, the assessee had shown total receipts of ₹ 68.06 crore and arrived at 'Excess of Income over Expenditure' of ₹ 13.92 crore. However, while computing the taxable income of the assessee, AO took the net Income as per Income and Expenditure Account at 'nil' instead of ₹ 13.92 crore. The mistake had resulted in under assessment of income by ₹ 13.92 crore involving short levy of tax of ₹ 4.30 crore. *Reply from the ITD was awaited (September 2017).*

**4.2.2.4** In Gujarat, Pr. CIT-1, Surat Charge, AO completed the scrutiny assessment of an individual **Anil Satyanarayan Roongta** for AY 2013-14 after scrutiny in March 2016 at an income of ₹ 9.63 crore. While computing the taxable income of the assessee, the assessed income was incorrectly adopted as ₹ 5.06 crore instead of the correct figure of ₹ 9.63 crore by AO. The mistake had resulted in underassessment of income of ₹ 4.57 crore with consequent short levy of tax of ₹ 1.28 crore including interest. *Reply from the ITD was awaited (September 2017).*

### **4.2.3 Incorrect application of rates of tax, surcharge etc.**

We give below three such illustrative cases:

*Section 4(1) of the Income Tax Act, 1961 provides that income tax is chargeable for every assessment year in respect of the total income of the previous year of an assessee, according to the rates prescribed under the relevant Finance Act. The Finance Act relevant to assessment year 2009-10 provides for levy of surcharge at the rate of ten per cent of income-tax in the case of a firm, if net income exceeds rupees one crore.*

**4.2.3.1** In Delhi, Pr. CIT(C)-2 charge, assessment of a firm, **M/s Shiva Mint Industries** for the assessment year 2009-10 was completed in March 2016 at an income of ₹ 159.67 crore and a tax of ₹ 47.90 crore thereon. While computing tax in the Income Tax Computation Form, AO did not levy the surcharge applicable at the rate of ten *per cent* of income-tax. The mistake had resulted in short levy of tax of ₹ 9.08 crore including interest. *ITD rectified the mistake under section 154 (March 2017).*

**4.2.3.2** In Goa, CIT-Panji charge, AO completed the scrutiny assessment of the assessee, **M/s Vassudeva Dempo Family Pvt. Trust** for AY 2013-14 in February 2016 at an income at ₹ 5.09 crore. While computing tax liability of the assessee, AO computed tax on short term capital gains on the sale of debt funds at 15 *per cent* instead of 30 *per cent*, although the assessee had offered the same at 30 *per cent* in its return of income/statement of computation of income and tax.

The mistake had resulted in short levy of tax to the tune of ₹ 0.67 crore. *The Ministry accepted the audit observation and rectified the mistake under section 154 (January 2017).*

**4.2.3.3** In Punjab, Pr.CIT (Central) Ludhiana charge, AO completed the assessment of an individual **Suman Aggarwal** for AY 2009-10 under section 147 read with section 143(3) in March 2016 at income of ₹ 3.99 crore. While calculating tax liability of the assessee, AO did not levy the surcharge even though the same was leviable at the rate of 10 *per cent*. The omission had resulted in short levy of tax of ₹ 23.13 lakh including interest. *ITD rectified the mistake under section 154 (July 2016).*

#### **4.2.4 Mistakes in levy of Interest**

We give below three such illustrative cases:

*Section 234B(3) of the Income Tax Act, 1961 provides that, where, as a result of an order of re-assessment under section 153A, the amount on which interest was payable is increased, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the 1st day of April next following such financial year and ending on the date of the reassessment, on the amount by which the tax on the total income determined on the basis of the reassessment exceeds the tax on total income determined under sub section(1) of section 143 or on the basis of the regular assessment.*

**4.2.4.1** In Delhi, Pr. CIT-(C)-2 charge, AO completed the assessment of a firm, **M/s Ambika International**, for AYs 2008-09, 2009-10 & 2010-11 under section 153A in March 2016 determining incomes of ₹ 238.64 crore, ₹ 338.06 crore and ₹ 346.31 crore respectively. While computing interest under section 234B(3) in the said assessment years, AO levied interest at ₹ 32.45 crore, ₹ 74.69 crore and ₹ 63.00 crore instead of ₹ 77.87 crore<sup>82</sup>, ₹ 96.52 crore<sup>83</sup> and ₹ 76.89 crore<sup>84</sup> respectively. The mistake had resulted in short levy of interest of ₹ 81.14 crore. *ITD rectified the mistakes under section 154 (March 2017).*

**4.2.4.2** In Haryana, Pr. CIT (Central), Gurgaon charge, AO completed the assessments of an individual **Jitendra Singh** for AYs 2009-10 to 2013-14 under section 153A(1)(b) read with sections 143(3) and 144 in March 2016 determining income of ₹ 43.29 crore. While computing tax liability for AYs 2009-10 to 2013-14, AO erroneously charged interest under section 234B at ₹ 5.78 crore instead of leviable amount of interest of ₹ 7.74 crore. The mistakes had resulted in short levy of interest of ₹ 1.96 crore. *ITD rectified the mistake under section 154 (September 2016).*

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82 for 96 months

83 for 84 months

84 for 72 months

*Section 234A of Income Tax Act 1961 provided that if a return of income is furnished after the due date, the assessee is liable to pay interest at the rate of one per cent per month commencing on the date immediately following the due date for filing the return of income and ending on the date of furnishing the return.*

**4.2.4.3** In Pr.CIT-Central, Kanpur charge, AO completed the assessment of an individual **Manoj Kumar** for AYs 2012-13, 2013-14 & 2014-15 under section 144/153C in March 2016 at income of ₹ 35.51 crore, ₹ 38.41 crore and ₹ 7.83 crore respectively. While computing tax liability of the assessee, AO did not levy interest under section 234A despite the fact that assessee had neither filed return of income in response to notice under section 153C nor under section 139(1) of Income Tax Act 1961. The mistake had resulted in short levy of interest of ₹ 9.26 crore. *Reply from the ITD was awaited (September 2017).*

### 4.3 Administration of tax concessions/exemptions/deductions

**4.3.1** The Act allows concessions/exemptions/deductions to the assessee in computing total income under Chapter VI-A and for certain categories of expenditure under its relevant provisions. We observed that the AOs have irregularly extended benefits of tax concessions/exemptions/deductions to ineligible beneficiaries. These cases point out weaknesses in the administration of tax concessions/deductions/exemptions on the part of ITD which need to be addressed. Table 4.2 shows the sub-categories which have impacted the administration of tax concessions/exemptions/deductions.

Table 4.2: Sub-categories of mistakes under Administration of tax concessions/exemptions/deductions				(₹ in crore)		
Sub-categories		Nos.	TE	States		
a.	Irregular exemptions/deductions/relief given to individuals	07	4.17	Gujarat, Kerala, Maharashtra, Rajasthan and UT-Chandigarh		
b.	Irregular exemptions/deductions/relief given to Trusts/Firms/Societies/AOPs	09	17.92	Bihar, Chhattisgarh, Gujarat, Himachal Pradesh, Maharashtra, Tamil Nadu and Uttrakhand		
c.	Incorrect allowance of Business Expenditure	10	31.69	Assam, Bihar, Gujarat, Maharashtra, UT Chandigarh, Uttrakhand and West Bengal		
d.	Irregularities in allowing depreciation/business losses/capital losses	09	24.41	Bihar, Jharkhand, Kerala, Maharashtra, Odisha and Rajasthan		
<b>Total</b>		<b>35</b>	<b>78.19</b>			

### 4.3.2 Irregular exemptions/deductions/relief given to Individuals

We give below two such illustrative cases:

*Section 54F of the Income Tax Act provides that to claim the exemption under this section, the assessee should not own more than one residential house, other than the new asset, on the date of transfer of the original asset.*

**4.3.2.1** In Rajasthan, CIT-III Jaipur Charge, AO completed the scrutiny assessment of an Individual **Bharat Mohan Raturi** for AY 2013-14 in February 2016 at income of ₹ 18.22 lakh. The assessee had earned long term capital gain (LTCG) of ₹ 94.39 lakh on sale of a plot of land at sale consideration of ₹ one crore. On LTCG being investment in another house property of ₹ one crore, the assessee had claimed exemption and the same was allowed. However, other than new house, the assessee owned two residential houses on the date of transfer. Therefore, assessee was not eligible to avail the exemption as per provisions ibid and tax was to be charged on LTCG of ₹ 94.39 lakh. The omission had resulted in under computation of income by like amount involving tax effect of ₹ 26.25 lakh including interest.

*Section 54B of Income Tax Act, 1961, provides that, any capital gain arising to an individual assessee from transfer of any agricultural land which has been used by the assessee or his parents for at least a period of two years immediately preceding the date of transfer, for agricultural purposes, shall be exempt to the extent such capital gain is invested in the purchase of another agricultural land within a period of two years after the date of transfer to be used for agricultural purpose. Further, section 54F ibid provides for exemption of any long-term capital gain in full, arising to an individual from the transfer of any capital asset other than residential house property, if the entire net sales consideration is invested in purchase of one residential house within one year before or two years after the date of transfer of such an asset or in the construction of one residential house within three years after the date of such transfer. Where part of the net sales consideration is invested, it will be exempt proportionately.*

**4.3.2.2** In Kerala, Pr.CIT Thiruvananthapuram charge, AO completed the assessment of an individual, **Sanjith Sadasivan**, for AY 2012-13 after scrutiny in June 2014 determining the total income at ₹ 1.19 crore and agricultural income of ₹ 0.12 lakh. The total income assessed included long term capital gain of ₹ 1.12 crore arising from transfer of agricultural land. In computing the long term capital gain at ₹ 1.12 crore, exemption under section 54B amounting to ₹ 3.59 crore towards investment in purchase of new agricultural land and exemption under section 54F amounting to ₹ 61.40 lakh towards purchase of residential house were allowed. The cost of improvement to the new agricultural land purchased amounting to ₹ 1.56 crore was also considered while arriving at the amount of exemption under section 54B, which was not allowable under the section. This has resulted in excess exemption of ₹ 69.68 lakh under section 54B. Further, verification of the documents in



respect of the purchase of residential house and land appurtenant thereto (3.85 Are) furnished by the assessee in support of claiming exemption under section 54F revealed that the building on the said land had been demolished before the date of purchase of the same by the assessee. As the assessee did not invest capital gain on residential house, allowance of exemption under section 54F was irregular. The total inadmissible exemption under sections 54B and 54F works out to ₹ 1.31 crore with a tax effect of ₹ 34.29 lakh including interest. *The Ministry accepted the audit observation and initiated action under section 263 (March 2017).*

#### **4.3.3 Irregular exemptions/deductions/relief given to Trusts/Firms/Societies/AOPs**

We give below two such illustrative cases:

*Section 80(P)(1) provides that in case of an assessee being a co-operative society, while computing total taxable income of the assessee, a deduction in respect of the specified income under sub-section (2) is to be allowed. Further, section 80P(2)(d) allows deduction of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society. This deduction cannot be extended to the interest income earned from the investment in a bank other than a co-operative society.*

**4.3.3.1** In Gujarat, Pr. CIT-V Ahmedabad charge, AO completed the assessment of a co-operative society, **The Gujarat State Co Op. Agri & Rural Development Bank Ltd.** for AYs 2010-11 and 2012-13 after scrutiny in December 2012 and October 2014 at income of ₹ 2.94 lakh and nil after allowing deductions under section 80(P) of ₹ 42.81 crore and ₹ 41.31 crore respectively. The assessee had taxable receipts of ₹ 10.39 crore and ₹ 10.51 crore for AYs 2010-11 and 2012-13 which were required to be disallowed after relating expenses of ₹ 5.56 crore and ₹ 6.11 crore respectively. Omission to do so had resulted in excess allowances of deduction of ₹ 4.80 crore for AY 2010-11 and ₹ 4.40 crore for AY 2012-13 aggregating to ₹ 9.20 crore with consequent short levy of tax of ₹ 3.75 crore including interest. *ITD rectified the mistakes for both the AYs under section 147 and 263 in November 2016 and March 2017 respectively.*

*Section 80IC of the Income Tax Act, 1961 provides for deduction of one hundred percent of the profit and gains for five assessment years commencing with the initial assessment year and thereafter twenty five per cent of the profit and gains from an industrial undertaking or enterprise which begins to manufacture or produce any article or thing specified in the Fourteenth Schedule or commences any operation specified in that Schedule, inter alia, in the State of Uttarakhand.*

**4.3.3.2** In Uttarakhand, Pr. CIT-Dehradun charge, AO completed the assessment of a firm, **M/s KBG Industries** for AY 2012-13 after scrutiny in March 2015 at an income of ₹ 0.69 lakh after allowing deduction of ₹ 1.31 crore at 100 per cent under section 80IC, considering that the AY 2012-13 was the fifth year of the claim of deduction. As per audit report in Form no. 10CCB, date of

commencement of the operation was 12 June 2006, indicating that the AY 2012-13 beginning from initial assessment year 2007-08 was the sixth year of commencement of operation. Consequently, the firm was eligible for deduction at 25 percent as against hundred percent of the profits allowed by the ITD. Excess allowance of deduction had resulted in under assessment of income of ₹ 98.57 lakh involving tax effect of ₹ 41.42 lakh including interest. *The Pr. CIT-Dehradun had cancelled the assessment order under section 143(3) by passing order under section 263 (March 2017) with the direction to pass the fresh assessment order. Further developments were awaited (September 2017).*

#### **4.3.4 Incorrect allowance of Business Expenditure**

We give below two such illustrative cases:

*Section 37 of the Income Tax Act 1961, provides that any expenditure, not being in the nature of capital expenditure or personal expenses of the assessee, laid out or expended wholly and exclusively for the purposes of the business or profession, shall be allowed in computing the income chargeable under the head: Profits and gains of business or profession. Further, under the Income Tax Act, a provision made in the accounts for an accrued or known liability is an admissible deduction, while other provisions do not qualify for deduction.*

**4.3.4.1** In Maharashtra, Pr.CIT-I Kolhapur charge, AO completed the assessment of an association of persons (Co-operative society), **M/s Sangli District Central Co-operative Bank Ltd.** for AY 2012-13 after scrutiny in March 2015 at an income at ₹ 14.65 crore. The assessee bank had claimed and was allowed deduction towards provisions debited to the profit and loss account amounting to ₹ 3.47 crore and ₹ 7.25 crore for strengthening and development of primary institutions respectively which were not allowable deductions under section 37 of the Act. The mistake had resulted in underassessment of income by ₹ 10.72 crore, involving short levy of tax of ₹ 4.50 crore including interest under section 234B.

*ITD accepted the audit observation and rectified the mistake under section 143(3) read with section 263 (August 2016).*

**4.3.4.2** In West Bengal, Pr. CIT-12, Kolkata charge, AO completed the assessment of a firm, **M/s Calcutta Export Company** for AY 2013-14 after scrutiny in January 2016 at an income of ₹ 2.01 crore. While completing the assessment, AO allowed deduction of ₹ 83.20 lakh claimed by the assessee. The said amount pertaining to the assessment year 2010-11 was added back under section 40(a)(i) in the assessment by the AO, but the addition was deleted by the CIT(Appeal) and its effect was already given vide order passed under section 251/143(3) in December 2014. Therefore the deduction of ₹ 83.20 lakh was not in order. The mistake had resulted in underassessment of income by ₹ 83.20 lakh involving tax effect of ₹ 25.71 lakh. *Reply from the ITD was awaited (September 2017).*

#### 4.3.5 Irregularities in allowing depreciation/business losses/capital losses

We give below two such illustrative cases:

*Under section 72 of the Income Tax Act, 1961, where the net result of computation under the head 'Profits & Gains of Business or Profession' is a loss to the assessee and such loss cannot be wholly set off against income under any other head of the relevant year, so much of the loss as had not been set off shall be carried forward to the following assessment year/years, to be set off against the profits and gains of business or profession of those years.*

**4.3.5.1** In Kerala, Pr. CIT-Thrissur charge, AO completed the scrutiny assessment of a Co-operative Society engaged in banking business, **The Kodungallur Town Co-operative bank Ltd. No. 102**, for AY 2012 in February 2015 at an income at ₹ 10.13 crore. This was set-off against the claimed brought forward losses pertaining to AYs 2007-08, 2008-09 and 2009-10, and the remaining loss of ₹ 12.93 crore pertaining to AY 2009-10 onwards was allowed to be carried forward. The AO had started the computation of income by adopting returned income as NIL instead of a loss of ₹ 3.99 crore computed by the assessee. Thus the total income was erroneously arrived at ₹ 10.13 crore in the assessment order instead of the correct figure of ₹ 6.14 crore. Audit further noticed that the assessee had no losses for the AYs 2008-09, 2009-10, 2010-11 and 2011-12 to be carried forward as per the assessment orders for these AYs completed in December 2010, December 2011, March 2013 and February 2014 respectively. As the assessment records pertaining to the AY 2007-08 was not made available to audit, the admissibility of the brought forward loss of ₹ 2.90 crore pertaining to the AY 2007-08 allowed could not be ascertained. The tax effect involved in adopting the returned income as NIL and the incorrect allowance of carry forward losses for the AYs 2008-09 to 2011-12 works out to ₹ 5.18 crore. *The ITD accepted the audit observation and rectified the mistake under section 154 (February 2017).*

*As per section 139(3) of the Income Tax Act, 1961, if the assessee does not file the return of loss before the expiration of the due date of filing of return mentioned under section 139(1), the assessee will not be entitled to carry forward losses incurred to the subsequent years.*

**4.3.5.2** In Bihar, CIT-Bhagalpur charge, assessment of a co-operative society, **The Khagaria District Central Co-operative Bank Ltd.** for AY 2012-13 was completed after scrutiny in February 2015 determining loss of ₹ 5.47 crore including unabsorbed depreciation of ₹ 0.72 lakh. Return of income for the AY 2012-13 was filed on 16 February 2013 as against the due date of filing viz. 30 September 2012. As such, the income of the assessee should have been determined at nil and the business loss of ₹ 5.47 crore should not have been allowed to be carried forward. However, during scrutiny assessment income was determined at nil and loss of ₹ 5.47 crore was allowed to be carried forward. The mistake resulted in incorrect allowance of carry forward of

business loss of ₹ 5.47 crore with consequent potential tax effect of ₹ 1.69 crore. The ITD did not accept the audit observation stating that the assessee has already filed online audit report for the AY 2012-13 on 15 September 2012 which was well within time as prescribed in the law. The ITD's reply is not acceptable as it is clearly specified in section 139(3) of the Act that if the assessee has business losses to be carried forward, the return of income is required to be filed within the due date as prescribed under section 139(1) of the Act. Further, as per section 80 of Income Tax Act, if the return is not filed in accordance with the provision under section 139(1), the loss under the provisions of section 72, 73, 74 and 74A shall not be allowed to be carried forward.

#### 4.4 Income escaping assessments due to omissions

**4.4.1** The Act provides that the total income of a person for any previous year shall include all incomes from whatever source derived, actually received or accrued or deemed to be received or accrued. We observed that the AOs did not assess/under assess total income that was required to be offered to tax. There were also omissions in implementing TDS/TCS provisions which led to escapement of tax. Table 4.3 shows the sub-categories which have resulted in income escaping assessments.

<b>Sub-categories</b>	<b>Nos.</b>	<b>TE</b>	<b>States</b>
<b>a.</b> Incorrect classification and computation of capital gains	03	2.14	Gujarat, Haryana and Rajasthan
<b>b.</b> Incorrect computation of income	05	13.58	Gujarat, Maharashtra and West Bengal
<b>c.</b> Omissions in implementing provisions of TDS/TCS	03	2.43	Bihar and Jharkhand
<b>d.</b> Non-levy/short levy of Wealth Tax	06	0.46	Karnataka and West Bengal
<b>Total</b>	<b>17</b>	<b>18.61</b>	

#### 4.4.2 Incorrect classification and computation of Capital Gains

We give below two such illustrative cases:

*Section 10(37) of the Act provides that any income chargeable under the head "Capital gains" arising from the transfer of agricultural land is exempt from tax in the case of an assessee, being an individual or a Hindu Undivided family, if the agricultural land was used by the assessee for agricultural purposes during the period of two years immediately prior to the date of transfer.*

**4.4.2.1** In Gujarat, Pr. CIT-Central, Baroda Charge, assessment of an individual **Bharat D. Patel** for AY 2011-12 was completed under section 143(3) read with section 153A at returned income of ₹ 4.01 lakh in February 2014. The assessee had claimed exemption of ₹ 3.73 crore under section 10(37) for AY 2011-12 on account of profit on sale of land. The land was purchased by the assessee in November 2009 and sold in February 2011, hence the condition of eligibility for exemption, that use of land by the assessee for agricultural purposes during the two years immediately prior to the date of transfer, was not satisfied. Thus, the exemption so claimed was irregular and was required to be disallowed. The omission had resulted into underassessment of short term capital gains of ₹ 3.73 crore with consequent short levy of tax of ₹ 1.55 crore including interest. *The ITD rectified the mistake under section 143(3) read with section 263 (December 2016).*

*Section 54B of the Income Tax Act, 1961, provides that where the capital gain arises from the transfer of agriculture land, if the assessee purchases any other agriculture land within a period of two years after the date of transfer of such land, the amount of capital gain so arising shall not be charged to tax subject to certain conditions.*

**4.4.2.2** In Rajasthan, CIT-II Jaipur charge, the scrutiny assessment of an individual **Rahul Kapur** for AY 2012-13 was completed at returned income of ₹ 88.12 lakh in March 2015. The assessee had an agriculture land which was converted for residential-purpose in October 2005 by Jaipur Development Authority. The said land was sold to M/s Mangalam Build Developers Pvt. Ltd., Jaipur, at a sale consideration of ₹ 1.53 crore in May 2011. The assessee had claimed and was allowed exemption of ₹ 1.40 crore under section 54B for purchase of another agriculture land of ₹ 1.41 crore. As the sold land was already converted into a residential-purpose land from being an agriculture land, the exemption so allowed was irregular and tax on capital gain should have been charged. The omission had resulted in under computation of capital gain by like amount involving tax of ₹ 41.06 lakh including interest. *The ITD accepted (April 2017) the audit observation and initiated the remedial action by issuing notice under section 143(2).*

#### 4.4.3 Incorrect computation of income

We give below two such illustrative cases:

*The Act provides that AO is required to make a correct assessment of the total income or loss of the assessee and determine correct amount of tax or refund, as the case may be.*

**4.4.3.1** In Maharashtra, Pr. CIT 3 Pune charge, AO completed the assessment of an association of persons (co-operative society) **Shriram Jawahar Shetkari Sahakari Sakhar Udyog** for AY 2011-12 after scrutiny in January 2014 determining income at 'nil' after allowing set off of brought forward losses. The assessee had made payments on the purchase of sugarcane during AYs 2009-10 to 2010-11 against Fair Remunerative Price (FRP) which entailed excess payment of ₹ 9.70 crore as shown in Table 4.4 below:

Table 4.4: Details of excess payment of sugarcane					
AY	Weight of sugarcane (in Metric ton)	Rate of sugarcane per metric ton	FRP per metric ton	Excess sugarcane price per metric ton	Amount paid in excess (₹ in crore)
2009-10	52,027.900	₹ 2,251	₹ 1,558.70	₹ 692.30	3.60
2009-10	17,766.697	₹ 2,151	₹ 1,558.70	₹ 592.30	1.05
2010-11	2,17,427.797	₹ 1,900	₹ 1,668.00	₹ 232.00	5.05
<b>Total</b>					<b>9.70</b>

The excess payment of sugar cane price of ₹ 9.70 crore had resulted in underassessment of income to that extent involving short levy of tax of ₹ 3.35 crore including interest. *The Ministry accepted the audit observation and rectified the mistake under section 143(3) read with section 263 (December 2016).*

*As per section 2(22) (e) of the Income Tax Act, 1961, a loan by a company, in which the public are not substantially interested, to a shareholder beneficially holding more than 10 per cent of the voting power of the company, or to a concern in which he is substantially interested, is deemed to be a dividend paid by the company, to the extent that the company possesses accumulated profits. Such dividend is not subject to dividend distribution tax under section 115-O of the Act, and is a taxable income.*

**4.4.3.2** In West Bengal, Pr. CIT Central-2, Kolkata charge, the assessment of an individual, **Kanika Maiti**, for AY 2012-13 was completed after scrutiny in March 2014 at income of ₹ 6 crore. The assessee had received unsecured loan of ₹ 29.95 crore from a company, M/s I-Core E-Services Ltd., during the previous year 2011-12. It was found that the assessee was holding 27.36 per cent of shares of the said company. The company was a closely held company and had accumulated profit of ₹ 2.97 crore at the beginning of the year. The company was a retailer as per the Tax Audit Report and was not in the business of lending. Thus, the loan accepted by the assessee from the said closely held company should have been treated as deemed dividend to the extent of accumulated profit of the company at the beginning of the year.

Therefore, the amount of ₹ 2.97 crore was required to be taxed as income from other sources in the hands of the assessee. The omission had resulted in underassessment of income by ₹ 2.97 crore involving tax effect of ₹ 1.14 crore including interest. *The ITD rectified the mistake under section 144/263/154/143(3) (July 2016).*

#### 4.4.4 Omissions in implementing provisions of TDS/TCS

We give below two such illustrative cases:

*Section 40(a)(ia) provides that deduction of expenditure towards payments where TDS has not been deducted or after deduction, has not been paid on or before due date, shall not be allowed.*

**4.4.4.1** In Bihar, Pr. CIT-2 Patna charge, the scrutiny assessment of a firm, **M/s Nandlal & Company**, Patna, for the AY 2012-13 was completed in February 2015 determining income of ₹ 1.02 crore. The payment of ₹ 2.69 crore towards 'contract works' was allowed on which tax of ₹ 4.20 lakhs was deducted but the same was not deposited within the due date of filing return of income for the relevant assessment year. As tax had not been deposited on or before the due date of filing of return, the expenditure of ₹ 2.69 crore was required to be disallowed and added back to the taxable income. The omission had resulted in underassessment of income of ₹ 2.69 crore with consequent short levy of tax of ₹ 1.19 crore including interest. *Reply from the ITD was awaited (September 2017).*

**4.4.4.2** In Jharkhand, CIT (Central), Patna charge, the assessment of **Sachidanand Prasad** was completed after scrutiny in March 2014 for the AY 2012-13 at ₹ 11.84 lakh. The assessee had claimed and was allowed ₹ 2.22 crore on account of payment made to 15 transporters during the financial year 2011-12, each individual payment being more than ₹ 0.75 lakh, on which no tax had been deducted at source. As tax had not been deducted at source, the sum of ₹ 2.22 crore was required to be disallowed and added back to taxable income. The mistake had resulted in underassessment of income by ₹ 2.22 crore and short levy of tax of ₹ 84.90 lakh including interest. *The ITD accepted the audit observation and rectified the mistake under section 143(3) read with section 263 (September 2016).*

#### 4.4.5 Non-levy/short levy of Wealth Tax

Six cases of Wealth Tax involving tax effect of ₹ 0.46 crore were reported to the Ministry during April 2017 to July 2017. We found that AO did not comply with CBDT's instructions<sup>85</sup> in these cases in Karnataka and West Bengal.

We give below two such illustrative cases:

*As per section 14 of the Wealth Tax Act, 1957, every person having net wealth for which he is assessable on the valuation date shall furnish a return of his net wealth on or before the due date as prescribed in the Act.*

**4.4.5.1** In Karnataka, DCIT, Central Circle-2(1), Bangalore charge, the assessment of an individual, **K. Nagesh Reddy**, for the AYs 2009-10 to 2013-14 was completed under section 143(3) read with section 153A in March 2015. Audit scrutiny revealed that the assessee had a net taxable wealth of ₹ 2.13 crore, ₹ 1.61 crore, ₹ 3.36 crore, ₹ 4.57 crore and ₹ 4.03 crore for AYs 2009-10 to 2013-14 respectively. However, neither had the assessee filed the return nor had the ITD initiated any wealth tax assessment proceedings. The omission had resulted in wealth of ₹ 15.70 crore escaping assessment with a consequential tax effect of ₹ 24.80 lakh including interest under section 17B of the Act. *The Ministry accepted the audit observation and rectified the mistake under section 16(5) read with section 17(1) of the Wealth Tax Act (September 2016).*

*Section 3 of Wealth Tax Act, 1957 provides that the Wealth-Tax shall be charged for every assessment year in respect of the net wealth on the corresponding valuation date. Further as per section 2(ea) of the Wealth Tax Act, the assets in relation to the assessment year means any building, motor cars, jewellery, yachts, urban land and cash in hand in excess of rupees fifty thousand.*

**4.4.5.2** In West Bengal, Pr. CIT Central-5, Kolkata charge, the income tax assessment of an individual, **Sarif Hossain**, for AY 2013-14 was completed after scrutiny in March 2016 at an income of ₹ 5.13 crore. Audit observed from the balance sheet of the relevant assessment year that the assessee was in possession of assets (building, land and cash in hand) worth ₹ 10.04 crore which attracted the provision of Wealth Tax Act making the assessee liable to pay wealth tax. But neither had the assessee filed any return of wealth, nor had the ITD initiated any action for the same. The omission had resulted in non-assessment of wealth of ₹ 10.04 crore involving non-levy of wealth tax of ₹ 9.74 lakh. *The Ministry accepted the audit observation and initiated the remedial action by issuing notice under section 17 of the Wealth Tax Act (April 2017).*

<sup>85</sup> CBDT's instructions issued to the AOs in November 1973, April 1979 and September 1984.



#### 4.5 Over Charge of Tax/Interest

**4.5.1** We noticed over assessment of income in 16 cases involving overcharge of tax/interest of ₹ 21.26 crore in Andhra Pradesh, Delhi, Madhya Pradesh, Tamil Nadu and Uttar Pradesh. We give below two such illustrative cases.

**4.5.1.1** In Delhi, CIT (Intl. Taxn.)-2 Charge, the assessment of individual, **Karamjit S. Jaiswal**, Legal Heir Late Sh. Ladli Pershad Jaiswal for the assessment years 2006-07 and 2007-08 was completed<sup>86</sup> in November 2014 at income of ₹ 13.77 crore and ₹ 2.06 crore respectively. Audit noticed that in both the assessment years, tax was computed by applying incorrect rates of tax and surcharge. This resulted in overcharge of tax of ₹ 2.28 crore including interest. *The ITD rectified the mistake under section 154 (September 2016).*

**4.5.1.2** In Madhya Pradesh, Pr. CIT(Central) Bhopal charge, the scrutiny assessment of an Individual, **Nitin Agrawal**, for AY 2014-15 was completed in March 2016 at income of ₹ 8.21 crore. Audit examination revealed that though the assessee had paid Self Assessment Tax (SAT) of ₹ 1.61 crore, AO allowed credit of SAT of ₹ 10 lakh only while computing the tax liability of assessee. The mistake had resulted in raising of excess demand of tax of ₹ 1.80 crore including interest. *The Ministry accepted the audit observation and rectified the mistake under section 154 (June 2016).*

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86 Under section 147/143(3)



## Chapter V: Fictitious demands during scrutiny assessments

### 5.1 Introduction

The source of Government's revenue consists of borrowings, corporation tax, income tax, custom-excise duties, service tax, non-tax revenue, non-debt capital receipts. Corporation and income tax together constitute 33 *per cent* of Government Revenues. Considering the importance of revenue collection in the yearly budget exercise, it is of utmost importance that the revenue collection reporting must be based on realistic figures.

For the financial year 2015-16, total tax collection of Pr. Chief Commissioner of Mumbai region was ₹ 2,48,061 crore of which collection of corporate tax was ₹ 1,45,708.30 crore. During test check we noticed that the AOs had not allowed credit of full amount of pre-paid taxes (i.e. advance tax and tax deducted at source) to the assessee and levied higher amount of interest under section 234B or 234C which resulted in unrealistic demands, which were collected. As a result there was inflated collection of revenue of ₹ 14,185.74 crore during FY 2015-16. Some of the cases analysed by Audit are discussed in the subsequent paragraphs.

### 5.2 Short credit of advance tax payment

Section 207 of the Income Tax Act, 1961 (Act) provides for payment of advance tax in accordance with the provision of section 208 to 209. During test check, Audit noticed in the following five cases (Table 5.1) that erroneous demands were created by giving short credit of advance tax and by levying interest under section 234B on the short payment of advance tax so determined by the Department.

Table 5.1: Cases where credit for full pre-paid taxes was not given						(₹ in crore)
Sl. No.	Name of Assessee, AY	Charge	Date of scrutiny/ appeal effect order	Date of rectification/ refund order (Amount refunded)	Irregularities noticed	
1	State Bank of India, 2014-15	Pr. CIT 2, Mumbai	30.03.2016	31.03.2016 (9,407.69)	Credit for full advance tax was not given and excess interest under section 234B was levied.	
2	Bank of Baroda, 2014-15	Pr. CIT 2, Mumbai	21.03.2016	12.04.2016 (1,572.09)	Credit for full advance tax was not given.	
3	Bank of India, 2014-15	Pr. CIT 2, Mumbai	29.3.2016	31.3.2016 (584.0) 18.4.2016 (452.0)	Credit of advance tax of ₹ 1,170 crore was not given.	
4	IDBI Bank Ltd., 2009-10	Pr. CIT LTU, Mumbai	22.3.2016	31.3.2016 (100.50)	Appeal effect order was erroneously prepared and credit of advance tax was short given.	
5	DHL Express (India) Pvt. Ltd., 2012-13	Pr. CIT 9, Mumbai	30.03.2016	07.07.2016 (10.48)	Credit of TDS of ₹ 25.12 crore was not given	

Some major cases are highlighted below:

**5.2.1** In Pr. CIT-II Mumbai charge, scrutiny assessment of **State Bank of India** for the assessment year 2014-15 was completed on 30 March, 2016 determining income of ₹ 17389.58 crore. We noticed that against paid advance tax of ₹ 4,908 crore, credit for advance tax of ₹ 1,202 crore only was given. We also noticed that interest of ₹ 5,853.63 crore was levied under section 234B for 24 months which works out to 5.75 *per cent* per month, as against one *per cent* per month. As a consequence, illusory demand of ₹ 10,109.37 crore was raised. Interestingly, on the one hand the demand was paid by the assessee on 30 March, 2016 itself and on the other hand, the assessee had applied for rectification of the mistake on the same date i.e. 30 March 2016, seeking full credit of advance tax paid. The rectification order was passed on the next day i.e. 31 March, 2016, determining refund of ₹ 9,407.69 crore after allowing full credit of advance tax of ₹ 4,908 crore and regular assessment tax paid on 30.03.2016. Though the refund order was issued on 31 March 2016 itself after obtaining necessary approval on the same day, the actual refund was transferred on 2 April 2016, i.e. in the next financial year.

Similar mistake was made in the scrutiny assessment order of assessment year 2013-14, completed on 27 March 2015, wherein a demand of ₹ 7,094.32 crore was raised by giving credit for advance tax of ₹ 1,173 crore, instead of the full amount of ₹ 6,144 crore. In this case also the assessee had paid the demand immediately. The mistake was rectified under section 154 on 31 March 2015 and a refund of ₹ 6,771.11 crore was determined.

**5.2.2** In Pr. CIT-II Mumbai Charge, scrutiny assessment of **Bank of Baroda** for the assessment year 2014-15 was completed on 21 March 2016, determining income at ₹ 5,045.33 crore. We noticed that against advance tax paid of ₹ 1,890 crore, the assessing officer had given credit of ₹ 595 crore only. The consideration of less advance tax resulted in creation of non-existent demand of ₹ 1067.29 crore including interest under section 234B of ₹ 203.29 crore, against an actual refund of ₹ 501.68 crore. The assessee had paid the demand of ₹ 1067.29 crore on 28 March, 2016, and applied for rectification on the very next day i.e. 29 March, 2016, pointing out that the credit of advance tax was not correctly given. We noticed that the department had passed the rectification order on 12 April, 2016 (i.e. in the next financial year) and refund of ₹ 1572.09 crore was released on 26 April, 2016, which included interest under section 244A of ₹ 56.85 crore which could have been reduced if the full credit for pre-paid taxes was given during the original assessment.

### **5.3 Withholding of refund by levy of interest under section 234B/234C**

Section 234B of the Act provides for levy of simple interest at the rate of one *per cent* per month if advance tax paid is less than 90 *per cent* of the assessed tax.

Section 234C of the Act provides for levy of simple interest at the rate of one percent for deferment of payment of advance tax instalment on specified due dates.

During test check we noticed the following 13 cases (Table 5.2) in which the refunds to the assesseees were not issued since undue interest under section 234B or 234C was levied. The method adopted was to withhold the refund by making contra-adjustment in 'Assessment Information System' (AST) and levy interest under section 234B/234C to the extent of the amount for refund.

Table 5.2: Cases where refund was adjusted by levy of interest under section 234B or 234C							(₹ in crore)
Sl. No.	Name of Assessee, AY	Charge	Date of scrutiny (refund withheld)	Date of rectification order (amount refunded)	Amount of Interest paid		
1	Housing Development Corporation Ltd., 2013-14	Pr. CIT LTU, Mumbai	25.02.2016 (181.91)	21.04.2016 (213.65)	32.59		
2	Kotak Mahindra Bank Ltd., 2012-13	Pr. CIT Mumbai	2, 23.03.2016 (23.46)	12.07.2016 (29.33)	5.87		
3	Kotak Mahindra Bank Ltd., 2013-14	Pr. CIT Mumbai	2, 28.03.2016 (25.5)	Rectification order yet to pass	--		
4	Hewlett Packard Financial Services (I) Pvt. Ltd., 2013-14	Pr. CIT Mumbai	2, 29.03.2016 (20.14)	28.09.2016 (24.18)	4.03		
5	BSE Ltd., 2013-14	Pr. CIT Mumbai	2, 29.01.2016 (17.82)	20.05.2016 (21.33)	3.40		
6	Air India Ltd., 2013-14	Pr. CIT Mumbai	5, 23.03.2016 (31.29)	28.07.2016 (40.49)	6.32		
7	Birla Sunlife Asset Management Pvt. Ltd, 2013-14	Pr. CIT Mumbai	6, 18.03.2016 (11.25)	08.11.2016 (13.72)	2.47		
8	Drive India Enterprises Solutions Ltd., 2013-14	Pr. CIT Mumbai	9, 29.03.2016 (18.26)	31.03.2017 (21.49)	3.36		
9	Metropolitan Stock Exchange Ltd., 2013-14	Pr. CIT Mumbai	14, 31.03.2016 (12.98)	24.06.2016 (15.45)	0.13		
10	Crest Logistics and Engineers Pvt Ltd., 2013-14	Pr. CIT Mumbai	14, 15.02.2016 (32.69)	13.04.2016 (38.58)	5.88		
11	Kotak Mahindra Asset Management Co., 2013-14	Pr. CIT Mumbai	14, 28.03.2016 (10.95)	09.05.2016 (13.03)	2.08		
12	Lichen Metals Pvt Ltd., 2012-13	Pr. CIT Mumbai	14, 31.03.2016 (7.79)	11.05.2016 (10.32)	2.06		
13	Deposit Insurance & Credit Guarantee Ltd., 2013-14	Pr. CIT LTU, Mumbai	18.03.2016 (167.77)	04.04.2016 (167.77)	Nil		

We give below three illustrated cases:

**5.3.1** In Pr. CIT LTU Mumbai Charge, in the case of **Housing Development Finance Corporation Ltd.** scrutiny assessment for the assessment year 2013-14

was completed in February 2016. We observed that the assessee had pre-paid taxes of ₹ 1,920.90 crore as against tax payable of ₹ 1,738.99 crore. Thus, the assessee was entitled for refund of ₹ 181.91 crore. However, the refund was withheld by incorrect levy of interest of ₹ 181.91 crore under section 234B. The mistake was rectified by the Department in the next financial year on 21 April 2016, when interest levied earlier under section 234B was withdrawn and refund of ₹ 213.65 crore including interest under section 244A of ₹ 32.59 crore was issued to the assessee.

**5.3.2** In Pr. CIT LTU, Mumbai charge, the assessment of **Deposit Insurance and Credit Guarantee Corporation** for the assessment year 2013-14 was completed on 18 March, 2016 determining income of ₹ 8,703.34 crore. We noticed that the assessee had paid advance tax of ₹ 2,991.57 crore against tax liability of ₹ 2,823.80 crore. Thus, the assessee was entitled for refund of ₹ 167.77 crore. However, the refund was not issued as undue interest of ₹ 167.77 crore was levied under section 234C. The mistake was rectified by the Department on 4 April, 2016 i.e. in the next financial year and refund of ₹ 167.77 crore was issued to the assessee.

**5.3.3** In Pr. CIT 14, Mumbai charge the assessment of **Metropolitan Stock Exchange Ltd.** for the assessment year 2013-14 was completed on 31 March 2016 determining tax of ₹ 1.86 crore against which the assessee had pre-paid taxes by way of TDS of ₹ 14.84 crore. However, no refund was issued to the assessee since interest of ₹ 12.98 crore was levied under section 234B incorrectly. The mistake was rectified on 24 June 2016 (i.e. in the next financial year) and a refund of ₹ 15.45 crore including interest under section 244A of ₹ 2.47 crore for the period from April 2013 to June 2016 was issued. Thus, incorrect levy of interest under section 234B at the stage of scrutiny assessment resulted in exaggerated revenue collection and excess interest outgo of ₹ 12.98 lakh as interest under section 244A.

In reply Department stated that there were 2,591 entries in e-TDS data base and since 31 March 2016 was the last day for passing order under section 143(3), the server of Income tax department was not functioning properly, so the order was passed without giving credit of TDS.

The reply is not tenable as the Department had given credit for full amount of TDS of ₹ 14.84 crore. The Department has not given any reply on the levy of interest under section 234B when available tax credit was more than the tax.

#### **5.4. Other observations**

**5.4.1** In Pr. CIT LTU Mumbai charge, in the case of **Union Bank of India** for the assessment year 1991-92, effect to appeal order (ITAT) was given on 21 March 2016 determining demand of ₹ 752.06 crore which was paid by the assessee on 31 March, 2016. We noticed that the demand was created due to incorrect addition of ₹ 872.27 crore on account of the refund previously issued, instead of the correct amount of ₹ 105.78 crore. The assessee had applied for rectification of the mistake on 31 March 2016, the date on which the demand was paid. The mistake was rectified by the Department on 1 April 2016 (in the next financial year) and refund of ₹ 762.48 crore including interest under section 244A of ₹ 3.57 crore for the month of April 2016 was issued to the assessee, since it is fully payable even for part of the month under section 244A.

#### **5.5 Conclusion**

As discussed above, Audit found instances where the ITD had raised exaggerated demands to achieve its revenue collection targets by resorting to unwarranted methods such as not allowing full credit of the prepaid taxes in the assessment, levying interest under section 234B or 234C on undue demands etc. Finally the inflated demands collected by the department were refunded in the next financial year along with the interest under section 244A. This eventually put a heavy burden on the exchequer in the form of avoidable interest paid on refunds.



## Chapter VI: Bogus transactions by assessees

### 6.1 Introduction

The white paper on Black Money<sup>87</sup> defines black money “as assets or resources that have neither been reported to the public authorities at the time of their generation nor disclosed at any point of time during their possession”. Significant amount of black money is generated through legally permissible economic activities, which are neither accounted for nor disclosed to the public authorities as per the law or regulations, in order to evade payment of taxes by artificially reducing profits.

One of the most common ways to reduce profits is by inflating the purchase costs and various expenses. In such cases, bogus bills may be prepared to show inflated expenses in the books. It involves obtaining bogus or inflated invoices from parties, who make bogus vouchers and charge nominal fees for these illegal services. Bogus transaction is also resorted to for receiving donations by the institutions through cheque/RTGS and thereafter routing back the same to the donor in the form of cash, after deducting commissions and routing the transaction through several layers to evade detection. This again gives rise to black money in the market.

### 6.2 Role of Income Tax Department

Income Tax Department (ITD) is primarily responsible for combating the menace of black money. For this purpose, it uses the tools of scrutiny assessment as well as information based investigations for detecting tax evasion and penalizing those found guilty of tax evasion as per the provisions of the Income Tax Act, 1961 (Act). In doing so, ITD plays an important role in preventing generation, accumulation and consumption of unaccounted black money. Investigation Wing of the ITD often collects information from various sources, carries out investigations and conveys its findings to the AOs for them to examine these findings and take necessary remedial actions.

### 6.3 Audit findings

**6.3.1** A detailed examination of bogus transactions/accommodation entries was carried out in audit based on the following information collected during compliance audit:

➤ Based on a survey carried out (January 2015) by the Investigation Wing, Kolkata of the ITD, reports covering 770 donations under section 35(1)(ii)<sup>88</sup> of

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<sup>87</sup> White paper on Black Money issued by Ministry of Finance, Department of Revenue, CBDT dated 16 May 2012

<sup>88</sup> As per provisions of section 35(1)(ii) of IT Act, an assessee is eligible for weighted deduction of any sum paid to an approved scientific research association which has as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research. Deduction under section 35(1)(ii) was increased from “one and one-fourth” of sum paid to “one and three-fourth” of sum paid by the Finance Act, 2010 w.e.f. 01/04/2011.

the Act to three institutions (assesseees)<sup>89</sup> were forwarded (October 2015) to the concerned AOs<sup>90</sup> for further verification. Out of these 770 donors, we had selected 87<sup>91</sup> along with the three donee institutions for detailed examination. The ITD did not furnish assessment records pertaining to 13 donors, where weighted deductions of ₹ 15.94 crore (at the rate of 175 per cent of donations) were allowed. No reasons were given for non-furnishing of the assessment records except in one case<sup>92</sup> in which it was stated that the records were with the Income Tax Settlement Commission (ITSC).

➤ The Investigation Wing, Mumbai sent information to Investigation Wing, Kolkata in February 2014 intimating that 55 assesseees of West Bengal region had availed of entries of bogus purchases from an entry provider<sup>93</sup> of Mumbai. This information was forwarded by the Investigation Wing, Kolkata (February 2014) to the concerned PCsIT to take necessary action as per provisions of the Income Tax Act.

➤ Out of these 55 assesseees who had used the entries for bogus purchases, assessment records in respect of 50 cases<sup>94</sup> were made available to Audit. We observed that the department had disallowed the entire amount of ₹ 18.10 crore of bogus purchases in 17 cases and partial disallowance was made in 18 cases. In two cases, purchases were allowed on being found genuine. However, no action was taken in respect of the remaining 13 cases<sup>95</sup>.

**6.3.2** As per a survey report of the Investigation Wing, three institutions viz., School of Human Genetics & Population Health (School of Human Genetics - SHG&PH), Matrvani Institute of Experimental Research & Education (Matrvani Institute – MIERE) and Herbicare HealthCare Bio Herbal Research Foundation (Herbicare Healthcare – HHBRF), approved u/s 35(1)(ii) of the Act as scientific research organizations for the purpose of deduction on account of expenditure on scientific research, were receiving bogus donations in connivance with

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89 (i) School of Human Genetics & Population Health- PAN: AABAS4570M (ii) Matrvani Institute of Experimental Research & Education - PAN: AABTM0125H and (iii) Herbicare HealthCare Bio Herbal Research Foundation - PAN : AABCH4849J covered in this examination for AYs up to 2013-14.

90 Under PCIT-1 to 5, 8 to 17, 19 to 21, Central-1 and 2, Kolkata, Asansol, Siliguri, Pr. DIT(Inv) Guwahati & DIT (Int. Tax.), Kolkata

91 Out of 770 donors relating to FY 2010-11 to 2014-15 from West Bengal jurisdiction, 440 were related to FY 2010-11 to 2012-13. We selected, 87 assesseees relating to FY 2010-11 to 2012-13 i.e. AY 2011-12 to AY 2013-14 having transaction money value of ₹ 25 lakh or more related to PCIT-1, PCIT-2, PCIT-3, PCIT-4, PCIT Central-1 & PCIT Central-2 (all PCsIT located in Kolkata). We restricted our selection up to AY 2013-14 as scrutiny in most of the cases of AY 2014-15 were not completed till the date of our audit. In the case of three donee institutions, audit examination extended upto AY 2014-15 as the remedial actions in these cases for AY 2014-15 were completed alongwith other AYs.

92 Emta Coal Ltd. for AY 2012-13 & 2013-14.

93 Companies/individuals who issues fictitious accommodation invoices

94 The department did not furnish records in five cases involving bogus purchases of ₹ 319.17 lakh. In one case (M/s Pushkarraj Construction Pvt. Ltd., AY 2011-12), the AO stated that though PAN of the assessee was transferred to Ward 10(4), Kolkata from Circle-3, Guwahati on in June 2015, assessment records of past years was lying with Circle-3, Guwahati.

95 Assessed under different sections 250/143(3)/147 of the IT Act during September 2009 to March 2016 except in case of sl. no. 10 where no return of income was filed by the assessee and in other two cases (Sl. no. 12 and 13) details regarding return of income were not furnished.

donors, brokers and accommodation entry providers. Bogus donations were being taken vide cheques/RTGS and after taking commission, and the same were routed back to the donor in the form of cash as indicated in the survey report of Directorate of Investigation, Kolkata. Share of the donee scientific research organization was 8 to 10 *per cent* of total amount and two to eight *per cent* of total amount was charged by broker.

Investigation wing of ITD conveys its findings to the AOs to take necessary remedial actions. During our examination of selected cases, we noticed that there was no instructions or guidelines from the Central Board of Direct Taxes (CBDT) to the AOs about how to deal with such cases. As a result, in number of cases, AOs either did not act upon the report of the Investigation Wing or did not disallow the claim of deduction of bogus donations by the donors. Audit findings in this regard are discussed in succeeding paragraphs.

### **6.3.3 Short addition of income of assesseees receiving bogus donations**

Out of three assesseees<sup>96</sup> receiving bogus donations, the department had completed the scrutiny in two cases<sup>97</sup> and in one case ('School of Human Genetics') order was passed<sup>98</sup> by the Income Tax Settlement Commission. On examination of assessment records<sup>99</sup> made available to Audit in respect of two assesseees, we observed that the amount of donations disclosed by these institutions in their Profit and Loss (P&L) Accounts were much less than the donations shown in the report of the Investigation Wing. The assessing officer treated only 10 *per cent* of donations mentioned in the respective P&L Accounts as income of the assesseees earned from commission, and did not carry out necessary follow up investigation to explain the differences in all cases. Thus, under reporting of donations in P&L accounts had resulted in suppression of income of ₹ 24.09 crore from donations received as detailed in Table 6.1 below:

96 As per the report of Investigation Wing, donations were received by 'Herbicare Healthcare' during FY 2010-11 to 2014-15, Matrvani Institute during FY 2012-13 to 2014-15 and School of Human Genetics during FY 2011-12 to 2014-15.

97 In respect of Herbicare Healthcare and Matrvani Institute for the FYs up to 2013-14 except for FY 2012-13 in respect of Herbicare Healthcare where a proposal to initiate proceedings under section 263 of the IT Act to revise the order passed (March 2016) under section 143(3) was pending (December 2016).

98 July 2016 in respect of AY 2012-13, 2013-14 and 2014-15.

99 'Herbicare Healthcare' for AY 2011-12, 2012-13 & 2014-15 and 'Matrvani Institute' for AY 2013-14 & 2014-15.

Table 6.1: Suppression of income from donation					(₹ in lakh)	
Sl. no.	Name of assessee	AY	Donation as per P/L Account	Donation as per report of the Investigation Wing	Difference	
1.	Herbicare	2011-12	1,599.78	1,854.80	255.02	
	Healthcare	2012-13	5,145.55	7,236.80	2,091.25	
		2013-14	NA <sup>100</sup>	6,231.17	0.00	
		2014-15	7,426.25	7,149.25	0.00	
2.	Matrvani	2013-14	1,848.66	1,901.04	52.38	
	Institute	2014-15	1,341.02	1,351.02	10.00	
<b>Total</b>					<b>2,408.65</b>	

In the case of M/s Herbicare Healthcare for AY 2011-12, the department stated (January 2017) that the rectification process had been initiated by issuance of notice under section 154 of the Act. Whereas, in the case of M/s Matrvani Institute, the Department stated (January 2017) that during scrutiny, no concrete evidence was found to establish the fact of additional receipt by the assessee in excess of the donation as per audited accounts and there was the possibility of typographical error in total figure in Investigation Report. The reply is not acceptable as Investigation Wing in their report had furnished the complete list of bogus donors in support of total figure and therefore, possibility of typographical error did not arise. Besides, no efforts towards cross-checking of the donors as per the list of the Investigation Wing with the amounts corresponding of donations credited in P&L Account was seen in the assessment records.

#### 6.3.4 Non initiation of action against bogus donors

It was noticed from the assessment records of 74 assesseees<sup>101</sup> that though the report of the Investigation wing had been forwarded long back in October 2015 to the concerned AOs, no action was initiated by the AOs on the basis of the report in the following 18 cases (Table 6.2) where weighted deduction of ₹ 98.22 crore of bogus donations was allowed under section 35(1)(ii)<sup>102</sup> of the Act involving tax effects of ₹ 31.79 crore.

100 The department did not produce the assessment records in case of M/s Herbicare Healthcare (Sl. no. 1 of the table above for AY 2013-14) containing order passed under section 143(3) passed in March 2016 as it was not traceable by them.

101 Out of 87 cases requisitioned by Audit, 13 cases were not furnished.

102 As per provisions of section 35(1)(ii) of IT Act, an assessee is eligible for weighted deduction of any sum paid to an approved scientific research association which has as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research. Deduction under section 35(1)(ii) was increased from "one and one-fourth" of sum paid to "one and three-fourth" of sum paid by the Finance Act, 2010 w.e.f. 01/04/2011.

Table 6.2: Details of cases where no action was initiated by AOs against bogus donors					(₹ in lakh)	
Sl. no.	Name of assessee, PAN, AY	Assessment Charge	Amount of bogus donation (paid to)	Weighted deduction (at the rate of 175 per cent of donation)	Tax effect (excluding interest)	
1	M/s Pragati Viniyog Pvt. Ltd., ABCP4919R, AY 2012-13	PCIT-4, Kolkata {DCIT, Circle-11(2)}	50.00 (SHG&PH)	87.50	28.39	
2	M/s Aryan Mining & Trading Corporation Pvt. Ltd., AADCA7247B, AY 2012-13	PCIT, Central Kolkata-2, {DCIT, Central Circle-4(2)}	1000.00 (SHG&PH) and 1200.00 (HHBRF)	3,850.00	1,249.13	
3	M/s Aryan Mining & Trading Corporation Pvt. Ltd., AADCA7247B, AY 2013-14	PCIT, Central Kolkata-2, {DCIT, Central Circle-4(2)}	950.00 (HHBRF), 850.00 (MIERE) and 900.00 (SHG & PH)	4,725.00	1,533.03	
4	M/s F Harley and Co Pvt. Ltd., AAACF3966D, AY 2012-13	PCIT-1, Kolkata {DCIT, Circle-1(1)}	30.00 (HHBRF)	52.50	17.03	
5	M/s Iserve Solutions and Services Pvt. Ltd., AABCI6158F, AY 2012-13	PCIT-4, Kolkata {DCIT, Circle-12(1)}	25.00 (SHG&PH)	43.75	14.19	
6	M/s Jekay International Track Pvt. Ltd., AABCJ6307K, AY 2012-13	PCIT, Central Kolkata-2, {DCIT, Central Circle-4(2)}	80.00 (SHG&PH)	140.00	45.42	
7	M/s Penguin Trading & Agencies Ltd., AABCP9346E, AY 2012-13	PCIT-3, Kolkata {DCIT, Circle-8(2)}	50.00 (SHG&PH)	87.50	28.39	
8	M/s Penguin Trading & Agencies Ltd., AABCP9346E, AY 2013-14	PCIT-3, Kolkata {DCIT, Circle-8(2)}	150.00 (SHG&PH)	262.50	85.17	
9	M/s Lotus Merchandise Pvt. Ltd., AAACL5376P, AY 2012-13	PCIT, Central Kolkata-1, {DCIT, Central Circle-2(3)}	25.00 (SHG&PH)	43.75	13.52	
10	M/s Associated Minerals Pvt. Ltd., AACCA0754G, AY 2012-13	PCIT-3, Kolkata {DCIT, Circle-7(1)}	30.00 (SHG&PH)	52.50	16.22	
11	M/s Kalash Mercantile Pvt. Ltd., AABCK1537C, AY 2012-13	PCIT-2, Kolkata {DCIT, Circle-4(1)}	42.50 (SHG&PH)	74.38	24.13	
12	M/s Nabaratna Vinimay Pvt. Ltd., AACCN7752P, AY 2012-13	PCIT-3, Kolkata {ITO Ward-6(3)}	40.00 (SHG&PH)	70.00	21.63	
13	M/s Allied Capital & Investment Pvt. Ltd., AABCM8146R, AY 2013-14	PCIT-1, Kolkata {ITO, Ward-1(4)}	25.00 (SHG&PH)	43.75	13.52	

14	M/s Ortem Marketing Pvt. Ltd., AAACO3663L, AY 2013-14	PCIT, Central Kolkata-1, {DCIT, Central Circle-2(3)}	25.00 (SHG&PH)	43.75	13.52
15	M/s Tarini Infrastructure Pvt. Ltd., AACCT3687K, AY 2013-14	PCIT-3, Kolkata {ITO, Ward-9(1)}	25.00 (SHG&PH)	43.75	13.52
16	M/S Shree Venkatesh Films Pvt. Ltd., AAECs8975P, AY 2013-14	PCIT-Central, Kolkata 2 {DCIT, Central Circle 3(3)}	30.00 (SHG&PH)	52.50	16.22
17	M/s Vishnu Kant Mohta AIBPM8796J, AY 2013-14	PCIT-Central, Kolkata 2 {DCIT, Central Circle 3(3)}	60.00 (SHG&PH)	105.00	32.45
18	M/s ABS Vanijya Pvt. Ltd., AACCA7746E, AY 2013-14	PCIT, Central Kolkata-1, {DCIT, Central Circle-2(3)}	25.00 (SHG&PH)	43.75	13.52
<b>Total</b>				<b>9,821.88</b>	<b>3179</b>

In respect of M/s. Nabaratna Vinimay Pvt. Ltd. (Sl. No. 12), the department had accepted (February 2017) the audit observation and stated that the proposal for remedial measure u/s 148 had been sent to Pr. CIT-2, Kolkata. In the case of M/s ABS Vanijya Pvt. Ltd. (Sl. No. 18) also the proposal for remedial action u/s 148 was initiated. Further, in the case of M/s F. Harley & Company Pvt. Ltd. (Sl. No. 4), the department stated that remedial action u/s 147 has been initiated. In the remaining cases, no reply was furnished (February 2017).

### **6.3.5 Remedial action against bogus donors completed without disallowing the weighted deduction for bogus donations**

Scrutiny of assessment records revealed that remedial action against bogus donors were completed without disallowing the weighted deduction for bogus donations in the following cases (Table 6.3):

Table 6.3: Details of cases where remedial action completed by AO without disallowing the weighted deduction for bogus donations					(₹ in lakh)	
Sl. no.	Name of assessee, PAN, AY	Assessing charge	Amount of bogus donation and paid to	Amount of weighted deduction (at the rate of 175 per cent of donation amount)	Tax effect (excluding interest)	
1	M/s Indicon Estate Pvt. Ltd., AAACI5594E, AY 2013-14	PCIT-3, Kolkata {AC/DCIT, Circle-9(1)}	125.00 SHG&PH	218.75	70.97	
2	M/s Chamong Tea Exports Pvt. Ltd., AABCC3553E, AY 2013-14	PCIT-2, Kolkata {AC/DCIT, Circle-4(1)}	100.00 HHBRF	175.00	56.78	
3	M/s Narottamka Commodities Pvt. Ltd., AAACN8807B, AY 2013-14	PCIT-1, Kolkata {AC/DCIT, Circle-2(2) & 4(2)}	100.00 SHG&PH	175.00	56.78	
4	M/s Sycotta Tea Company Pvt. Ltd., AADCS5246A, AY 2013-14	PCIT-2, Kolkata {AC/DCIT, Circle-4(2)}	50.00 HHBRF	87.50	11.36	
5	M/s Tonganagaon Tea Company Pvt. Ltd., AABCT1824D, AY 2013-14	PCIT-2, Kolkata {AC/DCIT, Circle-4(2)}	100.00 HHBRF	175.00	56.78	
6	M/s Chamong Tea Exports Pvt. Ltd. <sup>103</sup> , AABCC3553E, AY 2014-15	PCIT-2, Kolkata {AC/DCIT, Circle-4(1)}	100.00 HHBRF	175.00	56.78	
7	M/s Maud Tea Seed Co. Pvt. Ltd. <sup>103</sup> , AACCN0710C, AY 2014-15	PCIT-2, Kolkata {AC/DCIT, Circle-4(1)}	100.00 HHBRF	175.00	22.71 <sup>104</sup>	
<b>Total</b>			<b>675.00</b>	<b>1,181.25</b>	<b>332.16</b>	

We observed that Herbicare Healthcare, Matrvani Institute and School of Human Genetics (scientific research organizations) had admitted during the assessment proceedings/before the Income Tax Settlement Commission that they had accepted cheques towards donations and refunded similar amounts after retaining the service charges for themselves. During survey operations, Investigation Wing also noticed that donations were routed back to the donors through intermediaries, sometimes more than one. Therefore, in view of the findings of the Investigating Wing and acceptance of donee organizations, there was no scope to allow the deduction claimed by the assesseees.

The department replied (August 2016) in the case of two donors<sup>105</sup> that the information received from the Investigation wing was general in nature and no concrete materials or corroborative evidences were available on record. The

<sup>103</sup> Audit Observations in respect of these assesseees were raised during regular compliance audit.

<sup>104</sup> Tax effect has been computed on the 40 per cent of the business income in terms of Rule 8.

<sup>105</sup> M/s Chamong Tea Exports Private Ltd. (Sl. no. 2 and 6) and M/s Maud Tea Seed Company Private Ltd. (Sl. no. 7)

reply of the department is not acceptable as Herbicure Healthcare accepted not only before the Investigation wing but also during assessment that they were receiving bogus donations. Further, the report of the Investigation wing was not general in nature, it was a comprehensive report detailing the modus operandi and also contained the lists of bogus donors. Further, the ITD stated (February 2017) that both the assessees had preferred Income Declaration Scheme (IDS) 2016 for the said matter. Further, in the case of M/s Sycotta Tea Company (Sl. no 4. in Table 6.3), the department stated that the assessee had declared bogus donation of Rs.50 lakh under the IDS 2016 and offered it for tax. This clearly established the fact that donations were in fact bogus and should have been disallowed during scrutiny assessment itself u/s 143(3).

#### **6.3.6 Approval by the competent authority was not given for remedial action**

We observed that the competent authority did not approve the proposal of the assessing officer (February 2016) to re-open the case of M/S Pioneer Online Ltd. (PAN AACCP7500K, AY 2012-13, assessment charge PCIT-3 (Ward 7(2)), Kolkata) under section 147 to take action on the basis of report of the Investigation wing. As a result, no action could be taken to re-assess the income and disallow the bogus donation. Reasons for such non-approval though called for (November 2016) from the department, was not intimated to the Audit (September 2017).

#### **6.3.7 Partial disallowances for bogus purchases**

As per the provisions of section 69(C) of the Act, where an assessee incurs any expenditure but offers no explanation about the source of such expenditure or explanation offered by him is not satisfactory in the opinion of the AO, the amount of such expenditure may be deemed to be the income of the assessee. Thus, once it is established that the expenditure was unexplained/bogus, the entire amount of bogus expenditure was required to be added. There is no scope for partial disallowance in section 69C. Further, as per provisions of section 37(1), expenditure incurred only for the purposes of the business shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

In the following 18 cases (Table 6.4), bogus purchases in view of the information received from the Investigation wing, Mumbai, were examined by the AOs. Though, it was held by the AOs that the assessees had availed of entries of bogus purchases, the disallowances made were only partial:



Table 6.4: Details of cases for partial disallowance for bogus purchases					(₹ in lakh)
Sl. no.	Name of assessee, PAN, AY	Assessment charge	Amount of bogus purchase	Amount of addition and percentage	
1	M/s Om Forging Engineering Pvt. Ltd., AAACO3336L, AY 2011-12	PCIT-1, Kolkata {ITO, Ward-3(3), Kolkata}	72.84	2.39 (3.27 per cent)	
2	M/s Om Forging Engineering Pvt. Ltd., AAACO3336L, AY 2010-11	PCIT-1, Kolkata {ITO, Ward-3(3), Kolkata}	33.31	1.09 (3.28 per cent)	
3	Anand Mehta AFGPM3766E, AY 2009-10	PCIT-10, Kolkata {ITO, Ward-30(1), Kolkata}	25.02	0.75 (3 per cent)	
4	Premlata Tekriwal ABSPT5997N, AY 2011-12	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	18.02	0.54 (3 per cent)	
5	Promod Kumar Tekriwal ABUPT3079K, AY 2009-10	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	280.94	8.43 (3 per cent)	
6	Sajjan Kumar Bansal ADVPB8045Q, AY 2011-12	PCIT-13, Kolkata {ITO, Ward-37(4), Kolkata}	322.07	10.24 (3.18 per cent)	
7	Sajjan Kumar Bansal ADVPB8045Q, AY 2009-10	PCIT-13, Kolkata {ITO, Ward-37(4), Kolkata}	453.09	14.41 (3.18 per cent)	
8	Sandeep Kumar Tekriwal AAFHS0739F, AY 2009-10	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	103.51	3.11 (3 per cent)	
9	Pramod Kumar Tekriwal <sup>106</sup> ABUPT3079K, AY 2010-11	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	421.37	12.64 (3 per cent)	
10	Sandeep Kumar Tekriwal <sup>106</sup> AAFHS0739F, AY 2010-11	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	195.74	5.87 (3 per cent)	
11	Premlata Tekriwal <sup>106</sup> ABSPT5997N AY 2009-10	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	54.13	1.62 (3 per cent)	
12	Premlata Tekriwal <sup>106</sup> ABSPT5997N, AY 2010-11	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	16.17	0.49 (3 per cent)	
13	Binod Kumar Tekriwal, HUF <sup>106</sup> , AABHT3573Q, AY 2010-11	PCIT-10, Kolkata {ITO, Ward-30(2), Kolkata}	48.85	1.47 (3 per cent)	
14	Binod Kumar Tekriwal <sup>106</sup> ABVPT7683E, AY 2010-11	PCIT-10, Kolkata {ITO, Ward-30(2), Kolkata}	49.54	1.49 (3 per cent)	
15	Binod Kumar Tekriwal <sup>106</sup> ABVPT7683E, AY 2011-12	PCIT-10, Kolkata {ITO, Ward-30(2), Kolkata}	3.11	0.09 (3 per cent)	
16	Satya Prakash Sharma <sup>106</sup> ALSPS5474C, AY 2010-11	PCIT-12, Kolkata (ACIT Circle-36)	165.37	3.72 (2.25 per cent)	
17	Satya Prakash Sharma <sup>106</sup> ALSPS5474C, AY 2011-12	PCIT -12, Kolkata (ACIT Circle-36)	12.68	0.29 (2.25 per cent)	
18	Satya Prakash Sharma <sup>106</sup> ALSPS5474C, AY 2009-10	PCIT -12, Kolkata (ACIT Circle-36)	443.19	9.97 (2.25 per cent)	
<b>Total</b>			<b>2718.95</b>	<b>78.61</b>	

<sup>106</sup> Audit observations in respect of these assesseees were issued during regular compliance audits.

It was noticed from the assessment records that the assessing officer had disallowed only partial amounts either on the basis of his own estimation as per his discretion. In respect of cases of Satya Prakash Sharma (AY 2009-10, to 2011-12), the department stated (November/December 2016) that there was no scope to re-open the case under section 147 for AY 2009-10, as the stipulated time had already expired, whereas for AYs 2010-11 and 2011-12, the assessing officer had scrutinized all the purchases and concluded that those were genuine and partial disallowance was made in the profit ratio as unaccounted purchases. The department on one hand stated that “the purchases are genuine and not bogus as per all the grounds as submitted”, whereas on other hand partial disallowances were made for bogus purchases.

### 6.3.8 No action taken on bogus purchases

The department did not take any action in the following cases despite having information from DGIT (Inv.), Mumbai about availing of entries of bogus purchases by the assessees

Table 6.5: Details of cases where action was not taken on bogus purchases despite having information				₹ in lakh	
Sl. no.	Name of assessee, PAN, AY	Assessment charge	Amount of bogus purchase as reported by the DGIT (Inv), Mumbai	Tax effect (excluding interest)	
<b>A. Scrutiny cases where no action was taken in respect of bogus purchase</b>					
1.	M/s Tirupati Fibres & Industries Ltd., AABCT1849C, AY 2010-11	PCIT-4, Kolkata {ITO, Ward-10(1), Kolkata}	165.15	56.13	
2.	M/s Kilburn Engineering Ltd., AABCK3421H, AY 2009-10	PCIT-1, Kolkata {DCIT, Circle-1(1), Kolkata}	26.56	9.03	
3.	M/s Kilburn Engineering Ltd., AABCK3421H, AY 2011-12	PCIT-1, Kolkata {DCIT, Circle-1(1), Kolkata}	667.27	221.65	
<b>Total</b>			<b>858.98</b>	<b>286.81</b>	
<b>B. Non-scrutiny cases where no action was taken in respect of bogus purchase</b>					
4.	M/s Goldwin Tracon Pvt. Ltd., AABCG7693R, AY 2009-10	PCIT-2, Kolkata {DCIT, Circle-6(1), Kolkata}	70.38	21.75	
5.	M/s Goldwin Tracon Pvt. Ltd., AABCG7693R, AY 2010-11	PCIT-2, Kolkata {DCIT, Circle-6(1), Kolkata}	43.22	13.35	
6.	M/s Goldwin Tracon Pvt. Ltd., AABCG7693R, AY 2011-12.	PCIT-2, Kolkata {DCIT, Circle-6(1), Kolkata}	0.89	0.28	

7.	Anand Mehta, AFGPM3766E, AY 2010-11	PCIT-10, Kolkata {ITO Ward 30(1), Kolkata}	23.71	7.33
8.	Anand Mehta AFGPM3766E AY 2011-12	PCIT-10, Kolkata {ITO Ward 30(1), Kolkata}	31.03	9.59
9.	Promod Kumar Tekriwal, ABUPT3079K, AY 2011-12	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	230.41	71.20
10.	Quest united, AAAFQ1740P, AY 2011-12	{ITO, Ward-28(2), Kolkata}	0.11	0.04
11.	Sandeep Kumar Tekriwal, AAFHS0739F, AY 2011-12	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	190.98	59.01
12.	Vikesh Tarachand Mehta, ALHPM4119J, AY 2009-10	PCIT-8, Kolkata {ITO, Ward-23(3), Hooghly}	99.37	30.71
13.	Vikesh Tarachand Mehta, ALHPM4119J, AY 2010-11	PCIT-8, Kolkata {ITO, Ward-23(3), Hooghly}	64.58	19.95
<b>Total</b>			<b>754.68</b>	<b>233.21</b>

We observed that ITD had not adopted uniform approach in dealing with all such cases as no action was taken in the cases mentioned in Table 6.5, whereas the cases mentioned in Table 6.4 had been reopened and bogus purchases disallowed partially. Reasons for non-initiation of action was called for from the department but had not been intimated to Audit (February 2017).

#### 6.4 Conclusion

**AOs were allowing or disallowing amounts pertaining to Bogus transactions arbitrarily, applying discretion that was not available to them. Reports of the Investigation Wing regarding bogus donations were not taken cognizance of in some of the cases, while in other cases, no appropriate follow up action was taken by disallowing the amounts of these fictitious donations or bogus purchases. In some cases, the disallowances made were only partial, where complete disallowance was called for which resulted in loss of revenue.**



## **Chapter VII: The Appeal Process in Income Tax Department**

### **7.1 Introduction**

In accordance with the provisions contained in chapter XX of the Income Tax Act, 1961, (Act) if an assessee is not satisfied with his assessment, he can file an appeal with the Commissioner of Income Tax (Appeals) [CIT(A)] against the order of an Assessing Officer (AO) and the AO shall comply with the directions given in the appellate order. Alternatively, the assessee or the ITD can initiate the proceedings for revision of assessment order. An appeal against the order of CIT (A) can be preferred by the assessee or the Income Tax Department (ITD) to the Income Tax Appellate Tribunal (ITAT). The order of the Appellate Tribunal can be challenged by the assessee or the ITD in the High Court. Similarly, orders of the High Court can be challenged by preferring an appeal to the Supreme Court which is the final authority.

### **7.2 Law and Procedures**

Sections 246 to 262 of the Act deal with the provisions of Appeal before the CIT (Appeal), ITAT, High Court and Supreme Court. Besides, the appeals are governed by the latest judicial pronouncements as well as circulars/ instructions issued by the Central Board of Direct Taxes (CBDT) from time to time.

### **7.3 Objectives of the audit**

The objectives of audit were to ascertain whether:

- a. the provisions of the Act/Rules/CBDT circulars/instructions etc. in respect of the procedure for filing, allowing, disposing and monitoring of appeals are complied with.
- b. the appellate orders are implemented accurately and without delay to avoid inconvenience to the taxpayer, blockade of revenue to Government and unnecessary payment of interest.

### **7.4 Audit criteria**

The following sources of criteria were considered for evaluating the appeal process.

- a. Provisions of the Act/Rules
- b. CBDT Circulars/instructions
- c. Judicial pronouncements
- d. Citizen's Charter 2014 of the ITD
- e. Manual of office procedure of ITD

## 7.5 Audit Methodology

The audit methodology included:

- a. Selection of cases from the Demand and Collection Register, where orders giving effect to appellate orders were passed during the period of audit coverage.
- b. Carrying out Audit checks in respect of selected cases and issuance of observations by way of half margins as well as draft report to the ITD. ITD replies were suitably incorporated wherever received.
- c. Seeking replies/comments of the Ministry for audit findings (sent in July 2017) and incorporating the same as appropriate (replies received on 11 September 2017).

## 7.6 Audit Coverage and Sample Size

The audit covered cases of appeals which were decided by various appellate authorities viz. CIT(A), ITAT, High Court and Supreme Court during the years 2013-14 to 2015-16 and their implementation by AOs. We categorized states in 'A' and 'B' and selected the charges as follows:

Category "A" States <sup>107</sup>	Category "B" States <sup>108</sup>
2 Pr. CIT/CIT (Corporate Assesseees) including 1 Pr. CIT (Large Tax Payers Unit), 2 Pr. CIT/CIT (Central)	1 Pr. CIT/CIT (Corporate Assesseees)  1 Pr. CIT/CIT (Central)
1 Pr. CIT/CIT (non-corporate assesseees) 1 Pr. CIT/CIT (International Taxation)	1 Pr. CIT/CIT (Non-corporate assesseees) 1 Pr. CIT/CIT (Exemption)
1 Pr. CIT/CIT (Exemption) 1 Pr. CIT/CIT (TDS)	1 Pr. CIT/CIT (TDS)

Within the selected Pr. CIT/CIT, Circles selection was 100 *per cent* and that of Wards was 33 *per cent*. On the above basis, 103 Pr. CsIT consisting of 689 units, i.e. 407 Circles and 282 Wards were selected in Audit.

## 7.7 Non-Production of Records

From 689 units, a total of 26,465 cases were selected from Demand & Collection registers for examination. Out of 26,465 cases selected and requisitioned, 17,097 cases were produced & audited and remaining 9,368 cases were not produced. Non-production of records of those requisitioned worked out to 35.40 *per cent*. The non-production of records by the ITD of those requisitioned was 67 *per cent* in J&K, 59 *per cent* in Mumbai, 54 *per cent* in West Bengal,

<sup>107</sup> Andhra Pradesh, Delhi, Gujarat, Karnataka, Maharashtra, Tamil Nadu, Uttar Pradesh and West Bengal

<sup>108</sup> Bihar, UT-Chandigarh, Chhattisgarh, Goa, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Madhya Pradesh, North East States, Odisha, Punjab, Rajasthan and Uttrakhand,

55 per cent in Uttar Pradesh, 49 per cent in Odisha and 16 per cent in Punjab.

*The Ministry replied (September 2017) that there exists instructions to produce the records to the Audit Party as and when requisitioned. However, if records could not have been produced due to any reasons, records should be produced in next cycle of Audit.*

The non-production of the records has constrained Audit from checking the sample originally planned for its analysis on the subject. Production of records in next cycle will not help as the reports has already been finalized.

## **7.8 Sustainability of additions made by AOs and success rate of appeals of ITD**

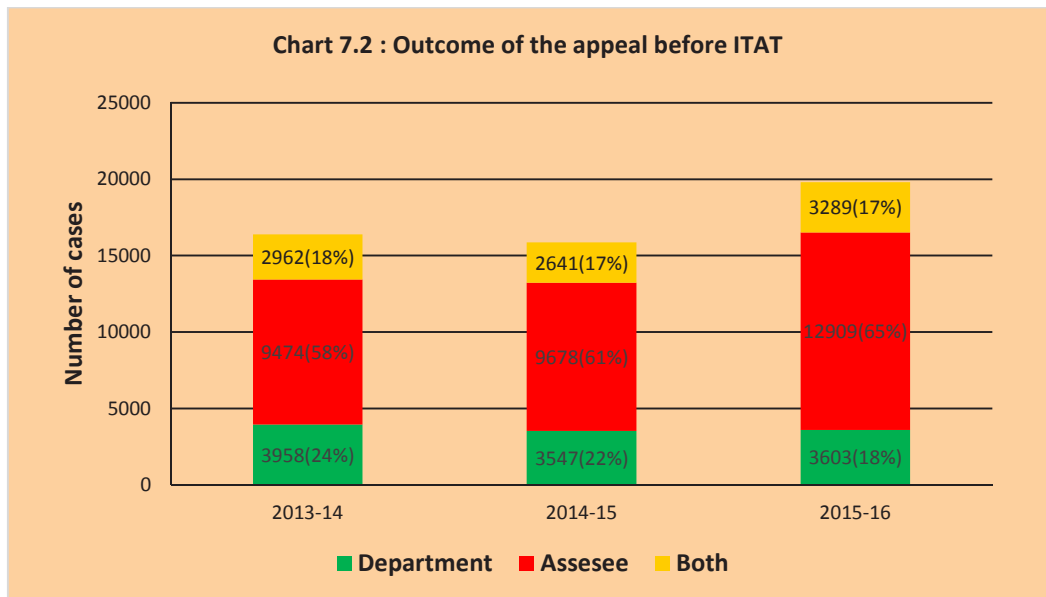
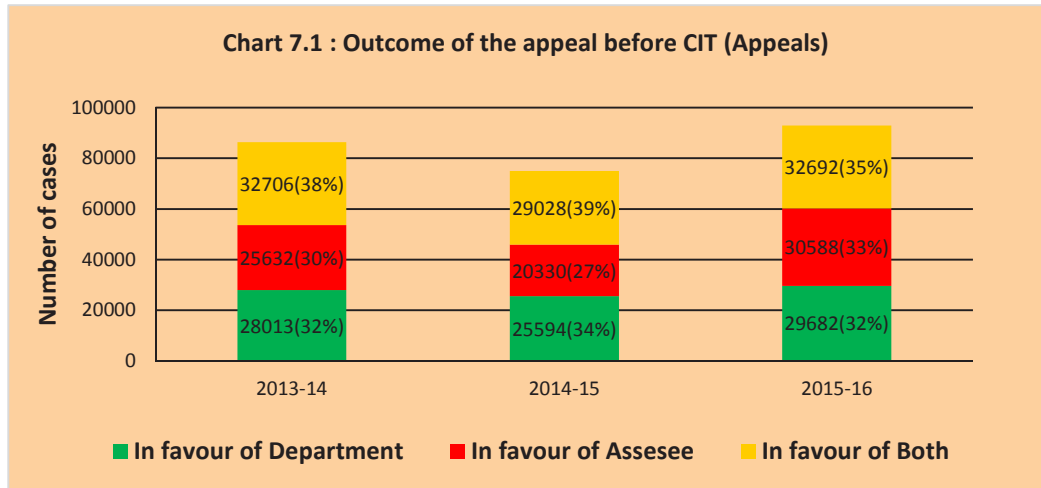
**7.8.1** We examined 17,097 appeal cases produced by ITD and found irregularities in 2,203 cases involving tax effect of ₹ 549.56 crore related to non-compliance of the provisions of the Act/Rules/CBDT circulars etc. Such irregularities accounted for more than 12 per cent of total cases audited which is a significant per cent.

**7.8.2** We carried out a study in five Pr. CsIT in Mumbai and one Pr. CIT in Pune to assess the sustainability of additions made by AOs before various appellate authorities. Out of 750 appeal cases produced to audit, we selected 318 cases in which addition to the income of the assessee was made by AOs during scrutiny assessment. The outcome of the study which is produced below showed that the sustainability of additions made by ITD before the appellate authorities was low:

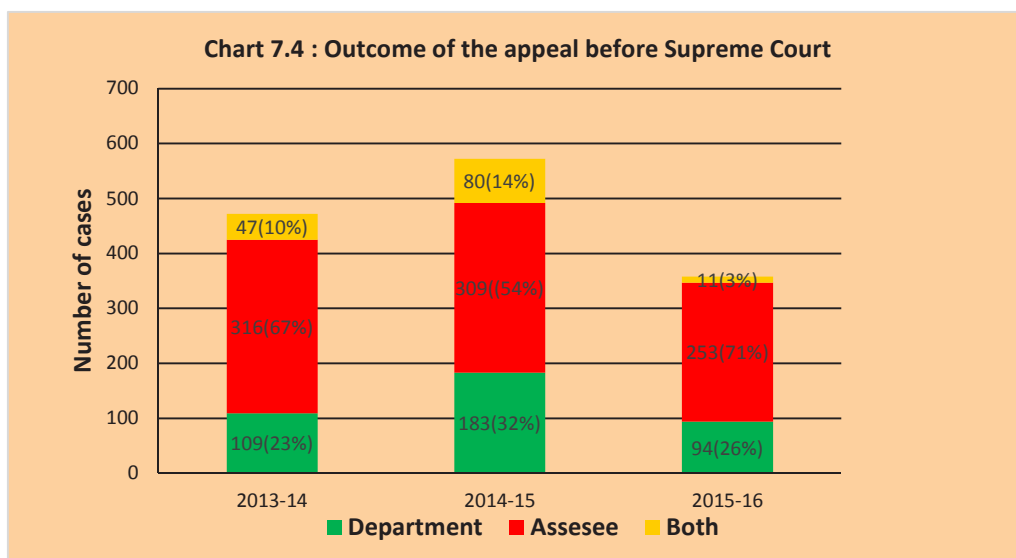
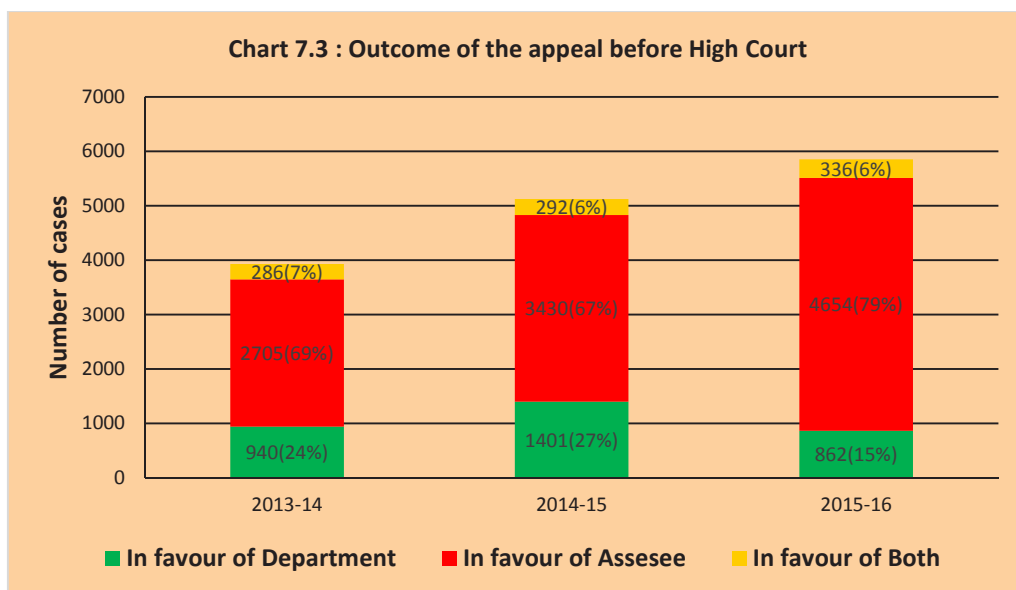
- a. In 318 cases of scrutiny assessment, addition of ₹ 10,676.90 crore were made by the AOs to the income of the assessees, out of which, only ₹ 2,214.60 crore i.e. 20.74 per cent of the added amount could be sustained by the conclusion of appeal effect.
- b. In 45 cases of block assessment<sup>109</sup>, addition of ₹ 801.08 crore were made by the AOs to the income of the assessees. However, after the conclusion of appeal effect, not only these additions were completely deleted but also the additional relief of ₹ 281.06 crore was granted to the assessees by the appellate authorities. Consequently, the returned income of ₹ 1,484.17 crore was decreased by ₹ 281.06 crore and the income after appeal effect was computed at ₹ 1,203.11 crore.
- c. In 134 cases, penalty of ₹ 156.69 crore was imposed against the assessees by AOs, out of which only ₹ 25.63 crore i.e. 16.36 per cent of the penal amount could be sustained after the appeal effect.

<sup>109</sup> Block assessment is an assessment of block period comprising six assessment years preceding the previous year in which the search was conducted under section 132

**7.8.3** Information received from Directorate General of Income Tax (Logistics), Research & Statistics Wing revealed that the success rate achieved by the ITD was low especially in appeals at the levels of ITAT, High Court and Supreme Court during the years 2013-14 to 2015-16. Appeal cases decided in favour of the ITD, those in favour of the assessee and both (partly in favour of ITD and partly in favour of assessee) before each of the appellate authority have been depicted in the graphs given below:







**7.8.4** Thus, the overall success rate in appeals achieved by the ITD was low. The success rate of the ITD deteriorated as we look at the outcome of the appeal at successively higher levels of appeal. Significant non-compliance to the provisions of the Act/Rules/Circulars in the implementation of appeal process could be one of the reasons for low sustainability of the additions made by the ITD before the appellate authorities and low success rate of the ITD before the appellate authorities.

*The Ministry replied (September 2017) that following steps have already been taken in this regard:*

- (i) A Central Technical Committee (CTC) and Regional Technical Committees (RTCs) have been created at the level of CBDT & Pr.CCIT Charges respectively to resolve contentious legal issues and to formulate Departmental View/Settled View.*
- (ii) An internet based litigation management system National Judicial Reference System (NJRS) is fully functional.*
- (iii) Extensive workshops by the*

*Directorate of Income Tax (L&R) at various field stations and Training Institutes are organised to sensitise/train officers about improving quality of litigation. (iv) Instructions/letters were issued from time to time by the Board for steps taken towards a non-adversarial tax regime and filing of appeals on merit criteria.*

Audit is of the view that despite all the above mentioned steps taken by ITD, the compliance to the provisions of the Act, Rules/Circulars, the sustainability of additions made as well as overall success rate in appeals achieved by ITD before the appellate authorities was low, suggesting a need to improve their functioning.

## **7.9 Irregularities in admission of appeals, non-observance of directions of appellate authorities and other irregularities**

We examined the appeal cases to see the extent of compliance with the provisions of the Act and circulars/instructions issued by the CBDT from time to time in respect of admission, condonation and escalation of appeal to the appellate authorities. We found irregularities in 187 cases due to delay in filing, non-condonation of delay, non-deposit of tax on the returned income before filing of appeal, non-escalation of the level of appeal, loss of revenue due to non-compliance of relevant provisions of the Act etc. Findings of non-compliance of the provisions of the Act are discussed in ensuing paragraphs with the illustrated cases.

### **7.9.1 Admission of appeals in contravention of provisions of the Act**

**7.9.1.1** Section 249(4)(a) of the Act provides that no appeal shall be admitted unless the assessee had paid the tax due on the returned income. We found mistakes in eight cases<sup>110</sup> where the appeal had been admitted and disposed of, ignoring the precondition of payment of tax on returned income by the assessee before filing the appeal. Two such cases are illustrated below:

**Charge: Pr. CIT Central, Panaji, Goa; AY: 2011-12**

**Assessee: M/s. Muktar Minerals Pvt. Ltd.; PAN: AAECM0510E**

Assessee filed its return of income in September 2011 at ₹ 5.70 crore with payable tax of ₹ 2.08 crore thereon. AO completed the assessment<sup>111</sup> in March 2014 at an income of ₹ 13.70 crore with a tax demand of ₹ 6.26 crore against which assessee filed an appeal before CIT(A) in April 2014. Audit noticed that CIT(A) admitted the appeal and subsequently passed the order in July 2015 ignoring the fact that the assessee had not paid total tax due on

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110 In Gujarat, West Bengal and Goa.

111 Under section 153A read with section 143(3) of the Act

returned income before filing of appeal. Thus, failure to ensure fulfilment of precondition of filing of appeal resulted in incorrect admission of appeal.

**Charge: Pr. CIT – 4, Kolkata, West Bengal; AY: 2004-05**

**Assessee: Shilpa Creation (P) Ltd.; PAN: AAEC5267L**

Assessee filed its return of income in March 2005 at ₹ 31.12 lakh with payable tax of ₹ 10.60 lakh thereon. AO completed the assessment after scrutiny in December 2006 at an income of ₹ 1.48 crore with a tax demand of ₹ 72.48 lakh against which assessee filed an appeal before CIT(A) in February 2007. Audit noticed that out of total tax of ₹ 10.60 lakh due on returned income, the assessee had paid only ₹ 4.49 lakh before filing of appeal. However, the CIT(A) admitted the appeal and subsequently passed order in July 2013 by allowing relief of ₹ 1.01 crore lakh from the total income of the assessee ignoring the fact that the assessee had not paid total tax due on returned income before filing of appeal.

**7.9.1.2** Section 249(2)(c) of the Act provides that the appeal made to the CIT (Appeals) shall be presented within 30 days of the date on which intimation of the order sought to be appealed against is served. The CIT (Appeals) can condone<sup>112</sup> the delay in filing the appeal if there is sufficient cause for the same. Although he is not bound to give an opportunity of hearing in the case of belated appeals, on grounds of equity, such opportunity should be given before a belated appeal is rejected. After the hearing, if the CIT(Appeals) is of the opinion that the delay should not be condoned, he should pass an order accordingly. Where the CIT(Appeals) has condoned the delay and admitted the appeal, he should not only record the reasons for condoning the delay in the order sheet, but should had also discussed the same in the appellate order. This measure is intended to enable the ITD to decide whether the reasons recorded in the appellate order admitting the time barred appeal should be made the subject of further appeal to the ITAT. Audit noticed 71 cases<sup>113</sup> where the assessee had delayed in filing of appeal with the CIT(A)<sup>114</sup>. The delay ranged between 0-6 months in 57 cases, between 6 months to one year in 12 cases and in two cases more than one year. However, the appeal was admitted without condonation of delay and no record of the reasons for condoning the delay was found in the order sheet.

*The Ministry replied (September 2017) that the irregularities found on account of admission of appeals by CIT(A) ignoring the preconditions of payments of Tax, admission of appeals by CIT(A) without condonation of delay and/or non-recording the reasons for condoning the delay and dismissal of appeals due to non-compliance of directions of appellate Authorities have been noted and that*

112 Paragraph 5.1 of the Manual of Office Procedure (Chapter 18, Volume II, Part A Technical)

113 69 cases in Tamil Nadu and 02 cases in West Bengal

114 CIT (Appeals)-1, 2, 16, 17, 18 and 19 of Tamil Nadu and CIT (Appeal)-13 and 21 Kolkata.

*in order to sensitize the issue to the field Authorities a letter to all Pr. CCITs was being issued.*

The reply of the Ministry is general in nature. The Ministry has not specifically stated what action it proposes to check non-recurrence of such irregularities.

**7.9.1.3** It is prescribed<sup>115</sup> that as soon as an appeal petition is received in the office of the CIT (Appeal), the same is scrutinised and the CIT (Appeal) is required to send an intimation to the concerned AO in form ITNS-51 enclosing a copy of the appeal memo. The reverse of this form requires certain data or particulars which are to be filled by the AO and returned to the CIT(A). In the order sheet, the information with reference to date of forwarding ITNS 51 to AO and date of receipt of report from AO is required to be filled up. Such entries, inter alia, include information as to whether appeal is within the limitation period and whether admitted tax payable has been paid by the appellant.

On scrutiny of appeal cases disposed of during the financial years 2013-14 to 2015-16 under the CIT(A) charges<sup>116</sup> of Tamil Nadu, we noticed in 26 cases that such entries were not made in the order sheet which were essential to decide the admissibility of the appeals by the CIT (Appeals). We also noticed in 18 cases in Karnataka under Belgaum charge that the intimation memo ITNS 51 had not been returned by the AO to the CIT (A) even though the appeals were admitted and disposed of by the CIT (A).

*The Ministry replied (September 2017) that the period covered in audit was prior to launch of Appeals module of ITBA and that with the operationalization and stabilization of its Appeals module, the likelihood of a delay in disposal of appeals by CIT(A) and lapses in furnishing ITNS-51 by AOs would stand eliminated.*

### **7.9.2 Dismissal of Appeals due to non-observance of directions of appellate authorities**

The appellate authority may issue directions to ITD as it thinks fit for disposal of appeal. It is obligatory for ITD to follow the directions of the appellate authority within the time schedule fixed by the authority to facilitate the admission/disposal of appeal. We noticed seven cases<sup>117</sup> where the directions of the appellate authorities (High Court - 5 cases; ITAT - 4 cases) were not observed by the ITD, as a result, appeals of the ITD were dismissed by the appellate authorities. One such illustrative case is shown below:

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115 Paragraph 8.3 of the Manual of Office Procedure (Chapter 18, Volume II, Part A Technical)

116 CIT (Appeals)-1, 2, 16, 17, 18 & 19 of Tamil Nadu

117 Goa and West Bengal

**Charge: Pr. CIT-4 Kolkata, West Bengal; AY: 1998-99**

**Assessee: M/s Classic Infrastructure and Development; PAN/GIR: JCIT/SR-4/C-795/Cal**

The CIT(A) deleted an addition of ₹ 6.14 crore made by AO in the scrutiny assessment (March 2001) on account of 'interest charged on the loan fund' and the ITAT also confirmed the decision of CIT(A). The High Court admitted the appeal of ITD in November 2005 and directed the ITD to serve the notice of appeal to the respondent within eight weeks. However, ITD did not serve the notice of appeal to the respondent despite repeated opportunities given by the High Court, though the matter was listed for hearing. The High Court, thereafter, dismissed the appeal citing the reason that the appellant was not interested in pursuing the appeal. Thus, non-compliance of the directions of the appellate authority by the ITD led to the dismissal of the appeal which was preferred by ITD itself in the High Court.

### **7.9.3 Other irregularities resulting in loss of revenue**

#### **7.9.3.1 Non-sustainability of additions by AOs**

The ITD may comply with all the prescribed provisions of the Act at the time of making the additions in the income of the assessee through income escapement proceedings and revision orders under sections 147 and 263 of the Act respectively, so that these additions could sustain before the appellate authorities. The ITD may take action as per CBDT circulars and instructions etc. so as to avoid dismissal of appeals by the appellate authorities. Audit noticed irregularities in 57 cases<sup>118</sup> where non-compliance of the relevant provisions of the Act, CBDT Circulars, instructions etc. by the AOs resulted in loss of revenue. One such case is illustrated below:

**Charge: Pr. CIT VI, Panchkula, Haryana; AYs 2005-06 to 2009-10 & 2011-12**

**Assessee: Haryana Vidyut Prasaran Nigam Ltd.; PAN: AAACH9216J**

CBDT vide Circular F.No.12/113/68-IT (A-II) dated 28 October 1968 had clarified that there is no need to deduct tax at source while making payment to institutions whose income is exempt under the Act.

The assessment for AYs 2005-06 to 2009-10 and 2011-12 were completed after scrutiny between December 2007 to January 2014 by making, inter alia, additions under section 40(a)(ia) for payment of interest aggregating ₹ 56.66 crore to Market Committees on account of non-deduction of TDS. Aggrieved with addition made by AO, the assessee filed appeals with CIT(A) which deleted the addition made by AO in view of the above circular. The ITD

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118 Andhra Pradesh, Assam, Delhi, Gujarat, Haryana, Jammu & Kashmir, Karnataka, Maharashtra, Odisha, Tamil Nadu, and West Bengal

filed further appeal before ITAT which was also dismissed on the ground that the Market Committees being charitable institutions are not liable to tax under section 11 of the Act and hence, the provisions of deduction of tax at source were not applicable. Non-compliance of CBDT instructions resulted in avoidable escalation of appeals.

### **7.9.3.2 Non-compliance of instructions relating to maintenance of appeal disposal register by CIT(A)**

Para 27.1 of Chapter 18 of ITD – MOP (Vol.II) prescribes the registers to be maintained by the CIT(Appeals) viz. Register of Appeals (ITNS 133) and Register of Disposals (ITNS 134) in order to have proper watch of appeal process. The ITNS 133 consists information like date of receipt of filing of the appeal, order appealed against etc. and after disposal of the appeal petition, the date of disposal/number in disposal Register (if appeal was transferred to whom) etc. whereas the disposal register consists the details like the date of appellate order, the outcome of the appeal, enhancement/reduction etc., which are essential information for monitoring the appeal process. We noticed irregularities in maintenance of Register of Appeals (ITNS 133) and Register of Disposals (ITNS 134) as discussed below:

- a. In Maharashtra, CIT(A)-13 Pune charge, Register of Disposals was not maintained at all whereas in CIT(A)-6 Pune charge, Register of Disposals had not been maintained in prescribed format. Further, in CIT(A)-1, CIT(A)-49 and CIT(A)-50 Mumbai charge, column number six “Date of last hearing” was either left blank or filled with assessment year.
- b. In Tamil Nadu, the Register of Appeals maintained in ITNS-133 did not contain the details of the date of disposal and the Register of Disposals was not maintained at all.
- c. In Kerala, four out of eight offices of CIT(A) did not maintain the Register of Appeals in proper format.

### **7.9.3.3 Non-maintenance/improper maintenance of Appeal Register by AO**

According to para 27.2 of Income Tax Department’s Manual of Office Procedure (Chapter 18, Volume –II, Technical), AO has to maintain the Appeal Register in the prescribed form ITNS-61 to ensure scrutiny of the appellate orders, timely filing of appeals and uniform implementation of the appellate orders. We noticed in 14 states<sup>119</sup> that 254 out of 332 Appeal Registers produced to audit were not maintained in the prescribed form.

*The Ministry replied (September 2017) that the issues such as non-maintenance of Registers and incomplete data entry with regard to handling and disposal of*

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119 Andhra Pradesh, Chhattisgarh, Delhi, Gujarat, Haryana, Himachal Pradesh, Karnataka Kerala, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu,

*appeals have been addressed in the Appeals module of their ITBA and would be eliminated after the entire transition from manual to system environment stabilizes.*

#### **7.9.3.4 Non-Inspection of CIT (A)'s work by the Pr. CCIT**

CBDT Instruction No. 16 dated 04.11.2008 provides that an annual inspection of the office of CIT (A) would be carried out by the concerned Pr. Chief Commissioner of Income tax to examine and comment on overall functioning of the office in the light of various Government instructions in general and CBDT instructions in particular. Audit observed that, inspections in compliance with the CBDT instructions had not been carried out in the following cases.

- a. In Maharashtra, Mumbai charge, no inspection had been conducted in the office of CIT(A)-1, CIT(A)-5, CIT(A)-49, CIT(A)-50, Mumbai and CIT(A)-13, Pune during the period 2013-14 to 2015-16.
- b. In Andhra Pradesh, Hyderabad charge, inspection of CIT (A)-4 for the year 2015-16 was not conducted by Pr. CIT, Hyderabad. Inspection of CIT(A) Visakhapatnam for the years 2014-15 and 2015-16 were not carried out as no regular CCIT was posted at Visakhapatnam.
- c. In Rajasthan, CCIT Jodhpur and Udaipur charge, the details of inspection carried out and the inspection report had not been provided.
- d. In Gujarat, only four inspection of offices of CsIT(A) had been conducted by CCIT-2 Ahmadabad against the target of total 15 to be carried out during the period 2013-14 to 2015-16.
- e. In Punjab, Pr CCIT Ludhiana charge, inspection was not conducted during the period 2013-16.
- f. In Karnataka, Bengaluru charge, no inspection for FYs 2013-14 to 2014-15 had been conducted in respect of six CsIT (Appeal).
- g. In Chhatisgarh, no inspection was conducted by the Pr. CIT during the period 2013-16.
- h. In Madhya Pradesh, no inspection was conducted by the Pr. CIT during the period 2013-16.

Inspection of CIT(A) by Pr. CCIT is one of the monitoring mechanisms which is essential for strengthening the internal control of appeal process. Lack of inspection of the CIT(A)'s work by the CCIT indicates lack of monitoring on the appeal process leading to various irregularities and compliance issues such as admission of appeals by CIT(A) without fulfilling its pre-conditions, delay in issue of appellate orders, non-maintenance of appeal disposal register etc. *The Ministry replied (September 2017) that the audit observation has been noted and that in order to sensitise the issue to the field authorities a letter to all Pr. CCsIT was being issued.*

## 7.10 Implementation of appellate order by AOs

While giving effect to an appellate order, the AO shall comply with the directions given in the appellate order and ensure the arithmetical accuracy. The administrative Commissioner (CIT) has the responsibility to monitor the implementation of appellate orders by AOs under its charge. We noticed in 2016 cases involving tax effect of ₹ 549.56 crore where AOs committed mistakes while giving effect to appellate order or delay in implementation of appellate order leading to avoidable payment of interest and blockade of revenue. This also indicates inadequate attention and monitoring on the part of CsIT in the implementation of appellate orders by the AOs. Mistakes/ delays in giving effect to appellate orders and consequences thereof are discussed in ensuing paragraphs with the illustrated cases.

### 7.10.1 Mistakes in giving effect to appellate orders

We noticed mistakes in 219 cases across 15 states<sup>120</sup> involving tax effect of ₹ 286.44 crore while giving effect to appellate orders on account of non-consideration of the refund already issued to the assessee, short/non levy of interest, incorrect adoption of figures etc. Two such cases are illustrated below:

**Charge: Pr. CIT-LTU Mumbai, Maharashtra; AY: 1997-98**

**Assessee: M/s Bajaj Holdings & Investments Ltd; PAN: AAACB3370K**

As per section 244(A)(1) of the Act, when a refund of any amount out of advance tax paid or TDS or TCS becomes due to the assessee, the interest is payable at the rate of 0.5 *per cent* per month or part of month from 1<sup>st</sup> April of assessment year to the date of grant of refund. No interest is payable if the excess payment is less than 10 *per cent* of the tax determined on regular assessment or under section 143(1).

The AO while giving effect to CIT (Appeals) order in March 2014 processed refund amount of ₹ 9.89 crore which contained refund of ₹ 2.75 crore arising out of Advance Tax and TDS. As the refund amount of ₹ 2.75 crore was less than 10 *per cent* of tax<sup>121</sup> determined under section 143(1), no interest was payable on the said amount. However, ITD paid interest of ₹ 2.27 crore to the assessee in contravention of the provision of the Act.

**Charge: Pr.CIT VI, Delhi; AY: 2005-06**

**Assessee: M/s NTPC Ltd.; PAN: AAACN0255D**

The AO, while giving effect to the appellate order in July 2014, omitted to give credit of prepaid taxes of ₹ 362.17 crore to the assessee. The mistake was rectified under section 154 of the Act in October 2014 on the basis of application

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120 Andhra Pradesh, Maharashtra, Kerala, Gujarat, Rajasthan, West Bengal, Assam, Karnataka, Goa, Delhi, UT Chandigarh, Uttar Pradesh, Bihar, Jharkhand and Madhya Pradesh

121 ₹ 229.41 crore



filed by the assessee. Audit noticed that the ITD had to pay interest of ₹ 5.43 crore under section 244A for extra period of three months, i.e. August 2014 to October 2014 which led to additional burden on exchequer by an equal amount.

#### **7.10.2 Delay in implementation of appellate order:**

The AO is required to implement the appellate order with extraordinary promptness so as to raise fresh demands, if any, and avoid interest payable under section 244A on the refunds which are to be issued to the assessee. Considering this provision, a time limit of one month from the end of the month in which the appellate order was received in the office of the Pr. CITs/ CITs may deem to be sufficient to implement the appellate orders. Further, the Citizen's Charter 2014 of the ITD provides timeliness for giving effect to appellate /revision order within one month from the end of the month in which cause of action arises. In addition to this, Chapter 18, Vol. II of MOP, Technical of the ITD provides that immediate steps should be taken by the AO to revise the assessment in light of the appellate orders. Thus, appeal effect of the appellate orders should be given timely and correctly for taxpayers' convenience and to reduce the liability of the revenue in respect of payment of interest under section 244A. Further, if the demand is to be raised in favour of the revenue, the same should be raised at the earliest to avoid the blockade of revenue.

Audit noticed in 204 cases across 19 states<sup>122</sup> that the AOs did not implement the appellate orders promptly, as a result, delay occurred in giving effect to the appellate orders, resulting in avoidable payment of interest under section 244A amounting to ₹ 258.61 crore. Four such cases are illustrated below:

**Charge: Pr. CIT-2 Mumbai, Maharashtra, AY 2010-11**

**Assessee: Central Bank of India; PAN: AAACC2498P**

The AO made an addition of ₹ 1509.83 crore while completing the assessment after scrutiny in March 2012 which was disputed by the assessee. CIT(A) passed the order in March 2014 which was received in assessment charge in April 2014. Consequent to this order, assessee made a request to the ITD in April 2014 for giving effect to the CIT (Appeals) order. The AO passed the order giving effect to the CIT(Appeal) order in March 2015 after a delay of 10 months which resulted in avoidable payment of interest of ₹ 27.16 crore under section 244A.

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<sup>122</sup> Maharashtra, Kerala, Tamil Nadu, Rajasthan, West Bengal, Assam, Karnataka, Goa, Andhra Pradesh, Delhi, Punjab, Haryana, Himachal Pradesh, Jammu & Kashmir, Uttar Pradesh, Bihar, Odisha, Madhya Pradesh and Uttarakhand

**Charge: CIT(LTU), Chennai; AY: 2011-12**

**Assessee: M/s. Indian Overseas Bank; PAN: AAACI1223J**

The CIT(A) passed the order in October 2013 which was received in assessment charge in November 2013. However, the AO gave the appeal effect in May 2014, i.e. after a delay of five months. Delay in giving appeal effect by the AO resulted in avoidable payment of interest under section 244A of ₹ 13.82crore<sup>123</sup> on the refund amount of ₹ 552.89 crore.

**Charge: Pr. CIT (LTU) Delhi; AY: 2001-02**

**Assessee: M/s. Indian Railway Finance Corporation Ltd.; PAN:AAACI0681C**

The AO made an addition of ₹ 142.02 crore in the assessment of the assessee and raised a demand of ₹ 16.50 crore in February 2004 which was deposited by the assessee within the stipulated time period. The CIT(A) allowed part relief to the assessee (March 2005) against which assessee went into further appeal to ITAT. The ITAT vide order dated 31 January 2011 allowed the appeal of the assessee by deleting the addition of ₹ 142.02 crore made by AO. This order was received in CITs office on 01 April 2011. On the basis of the order of ITAT, the assessee was entitled for a refund of ₹ 16.50 crore along with interest under section 244A from April 2004. However, despite assessee's repeated reminders<sup>124</sup>, the ITD gave the appeal effect of the order of ITAT in January 2014 by issuing the refund of ₹ 26.24 crore consisting of ₹ 16.50 crore (original tax demand deposited by assessee in March 2004) and interest under section 244A amounting to ₹ 9.74 crore from April 2004 to January 2014. The ITD took 33 months<sup>125</sup> in implementing the ITAT's order, resulting in avoidable payment of interest of ₹ 2.64 crore.

**Charge: Pr. CIT VI, Delhi; AY: 2006-07**

**Assessee: M/s. NTPC Sail Power Company Pvt. Ltd.; PAN:AABCN5467A**

The AO made an addition of ₹ 27.16 crore in the assessment order and raised a demand of ₹ 11.50 crore against the assessee in March 2008 which was deposited by the assessee within the scheduled time period. Assessee filed the appeal before the CIT (A) in March 2008 and on the basis of the CIT(A) order date 19 July 2010, all the additions of ₹ 27.16 crore were deleted. This order of the CIT (A) was received in the office of the Pr. CIT in August 2010. As per the order of the CIT (A), the assessee was entitled for a refund of tax of ₹ 11.50 crore along with interest under section 244A from April 2008. Audit noticed that the appeal effect of this order was given in January 2014 and interest under section 244A was paid to the assessee amounting to ₹ 4.03 crore from April 2008 to January 2014. Thus, due to the delay of

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123 from January 2014 to May 2014

124 On 02.06.2011, 21.10.2011, 12.10.2012, 16.01.2013, 28.06.2013 and 20.12.2013

125 May 2011 to January 2014

40 months from October 2010 to January 2014 in implementing the appellate order, ITD made an avoidable payment of interest of ₹ 2.30 crore to the assessee.

*The Ministry replied (September 2017) that Board had already issued instruction No. 8 of 2011 which contains the timelines for filing appeals before ITAT and giving effect to the order of CIT(A) and that the same was again reiterated vide letter dated 7 October 2015.*

Audit is of the view that despite Board's above instructions, the mistakes in giving effect to appellate orders and delay in its implementation continued. ITD's orders remain ineffective due to non-fixing of accountability for non-observance of CBDT's directives and instructions. Reiteration of orders itself is indicative that they are not serving any purpose.

### **7.10.3 Blockade of revenue due to non-implementation of appellate orders decided in favour of revenue.**

Audit noticed in 18 cases across five states<sup>126</sup> where the appellate authorities gave the decision in favour of revenue, but no action was taken by the ITD to implement the appellate orders. Hence, due to inaction of the ITD, revenue of ₹ 4.52 crore remained blocked till date. One such case is illustrated below:

**Charge: Pr. CIT-1, Ahmadabad, Gujarat; AY: 2001-02**

**Assessee: M/s. Bloom Decor Ltd; PAN: AAACB6221B**

An appellate order, favouring the revenue, was passed by the High Court in December 2013 wherein the export benefit amounting to ₹ 1.79 crore was excluded for the purpose of computing deduction under section 80IA of the Act. However, the appeal effect was not given by the AO till January 2017 which resulted in blockade of revenue of ₹ 0.56 crore including interest. The ITD gave effect to High Court's order in June 2017 and raised the demand of ₹ 1.24 crore.

*The Ministry replied (September 2017) that the audit observation has been noted and that in order to sensitise the issue to the field authorities a letter to all Pr. CCsIT was being issued.*

### **7.10.4 Delay in issue of orders by the CIT(A)**

Volume II para 17.1 of MOP and Board's Instruction No. 20/2003 dated 23 December 2003 stipulates that the appellate orders may be issued by the CIT(A) within 15 days from the last date of hearing. Audit noticed following irregularities in this regard:

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126 Uttar Pradesh, Karnataka, Chandigarh, Gujarat and Jharkhand.

- a. In Karnataka, CIT(A)-11 central charge Bangalore, there was a delay in issue of appellate orders in 22 cases. The delay ranged between 0-3 months in 21 cases and more than one year in one case.
- b. In Maharashtra, CIT(A)-5, Mumbai charge, there was a delay in issue of appellate orders in 167 cases. The delay ranged between 0-three months in 157 cases and more than three months in 10 cases. We also noticed in CIT(A)-59, Mumbai charge, the CIT(A) had passed 413 appellate orders beyond 15 days of the last hearing. In other four charges viz CIT(A)-1, CIT(A)-49, CIT(A)-50 Mumbai and CIT(A)-6 Pune, this analysis could not be carried out in absence of proper entries in Register of Disposals.
- c. In Himachal Pradesh, there was a delay in issue of appellate orders by CIT(A) in 372 cases. The delay was less than three months.

*The Ministry replied in respect of all the above cases (September 2017) that the Board's Instruction No. 20 of 2003 clearly mandates that appellate orders by CIT(A) should be issued within 15 days of the last hearing and that the observation of the audit in this regard was noted and the relevant instruction was being reiterated through a letter to all Pr. CCsIT.*

#### **7.10.5 Delay in supply of appellate orders by CIT(A)**

As per Para 19.1 of Chap.18 of ITD – MOP (Vol.II), as soon as the appellate order is passed, a copy of the same should be sent by the CIT(A) to the appellant free of cost either by registered post or through a notice server, without waiting for the appellant to file an application in this regard. Copies of the appellate orders should also be sent to the CIT (in fortnightly batches) and the AO with current jurisdiction over the case and not to Officers who had jurisdiction at the time of passing of the order appealed against.

In Tamil Nadu, we noticed 601 cases where CIT(A) had delayed in supply of appellate orders resulting in late receipt of the order by the appellant/jurisdictional CIT. The delay ranged between 0-1 month in 276 cases, between 1 month to 3 months in 286 cases and in more than three months in 39 cases.

*The Ministry replied (September 2017) that the period covered in Audit was prior to launch of Appeals module of ITBA and that the issues raised by Audit would be eliminated once the entire transition from manual to system environment stabilizes.*

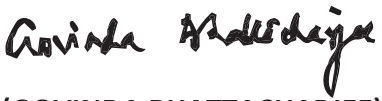
#### **7.11 Conclusion**

Audit noticed cases of admission of appeals by the CIT (Appeals) ignoring the preconditions of payment of tax by the assessee and admission of appeals without condonation of delay and/or non-recording the reasons for condoning the delay in the order sheet though there was a significant delay in filing of

appeals to CIT(A). Audit noticed dismissal of appeals due to non-compliance of the directions of the appellate authorities by the ITD. Audit also noticed cases where ITD did not follow the circulars/instructions issued by CBDT which led to dismissal of appeal and subsequently payment of interest to the assessee. Thus, ITD's orders remain ineffective due to non-fixing of accountability for non-observance of CBDT's directives and instructions. Reiteration of orders itself is indicative that they are not serving any purpose. Other irregularities relating to delay in issue of orders by the CIT(A), non/improper maintenance of appeal register by AOs, non-inspection of CIT(A)'s work by the Pr. CCIT etc. were also noticed during audit.

Regarding implementation of appellate orders, audit noticed mistakes in giving effect to the appellate orders on account of non-consideration of the refund already issued to the assessee, short/non levy of the interest etc. We found cases of delay in implementation of appellate orders which resulted in avoidable payment of interest under section 244A to the assessee. Audit also came across cases where the appellate authorities gave decisions in favour of revenue, but no action was taken by the ITD to implement the Appellate orders and revenue remained blocked.

New Delhi  
Dated: 15 November 2017

  
(GOVINDA BHATTACHARJEE)  
Director General (Direct Taxes)

Countersigned

New Delhi  
Dated: 16 November 2017

  
(RAJIV MEHRISHI)  
Comptroller and Auditor General of India



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# APPENDICES

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## Appendix 2.1 (Reference: Paragraph 2.2.4)

State-wise incidence of errors in assessment					
State	Assessments completed during 2015-16 in units selected for audit during 2016-17 (including those completed in earlier years)	Assessments checked in audit during 2016-17 (including those completed in earlier years)	Assessments with errors	Total revenue effect of the audit observations made in the scrutiny assessments (₹ in crore)	Percentage of assessments with errors (Col. 4/ Col. 3x100)
1	2	3	4	5	6
Andhra Pradesh	23,194	20,448	1,319	3,916.24	6.45
Assam	3,431	3,237	375	26.41	11.58
Bihar	2,139	2,047	230	58.58	11.24
Chhattisgarh	3,366	2,646	126	82.49	4.76
Delhi	41,347	33,656	1,455	7,697.44	4.32
Goa	915	860	95	23.43	11.05
Gujarat	21,689	16,227	984	1,052.29	6.06
Haryana	8,088	6,604	748	382.27	11.33
Himachal Pradesh	754	638	98	4.09	15.36
Jammu & Kashmir	1,922	1,848	82	6.21	4.44
Jharkhand	3,374	3,325	197	72.88	5.92
Karnataka	18,189	13,762	1,248	1,117.56	9.07
Kerala	10,254	8,377	525	175.67	6.27
Madhya Pradesh	11,806	11,604	764	293.85	6.58
Maharashtra	67,861	50,980	3,178	5,438.18	6.23
Odisha	3,195	3,053	231	476.30	7.57
Punjab	6,570	4,906	449	137.62	9.15
Rajasthan	15,841	14,567	723	92.55	4.96
Tamil Nadu	28,725	24,076	2,299	10,181.46	9.55
UT Chandigarh	2,898	2,192	237	97.35	10.81
Uttarakhand	2,106	1,727	52	9.40	3.01
Uttar Pradesh	24,419	23,692	1,207	1,653.78	5.09
West Bengal	19,759	18,226	2,667	2,368.91	14.63
<b>Total</b>	<b>3,21,842</b>	<b>2,68,698</b>	<b>19,289</b>	<b>35,364.96</b>	<b>7.18</b>

**Appendix 2.2 (Reference: Paragraph 2.2.6)**

<b>Category wise details of underassessment in respect of Corporation tax and Income tax detected during local audit</b>		
	(₹ in Crore)	
<b>Sub category</b>	<b>Cases</b>	<b>Tax effect</b>
<b>A. Quality of assessments</b>	<b>5,373</b>	<b>2,899.68</b>
a. Arithmetical errors in computation of income and tax	1,135	1,127.94
b. Incorrect application of rate of tax, surcharge etc.	598	251.39
c. Non/short levy of interest/penalty for delay in submission of returns, delay in payment of tax etc.	3,487	1,155.69
d. Excess or irregular refunds / interest on refunds	119	301.86
e. Mistake in assessment while giving effect to appellate orders	34	62.80
<b>B. Administration of tax concessions/exemptions/ deductions</b>	<b>8,055</b>	<b>9,550.71</b>
a. Irregular exemptions/deductions/reliefs given to Corporate	949	963.21
b. Irregular exemptions/deductions/reliefs given to Trusts/Firms/Societies	426	223.39
c. Irregular exemptions/deduction/reliefs given to individuals	381	68.75
d. Incorrect allowance of Business Expenditure	5,147	6,292.71
e. Irregularities in allowing depreciation/business losses/Capital losses	1,125	1,990.38
f. Incorrect allowance of DTAT relief	27	12.27
<b>C. Income escaping assessments due to omissions</b>	<b>2,864</b>	<b>4,803.92</b>
a. Under Special Provisions including MAT/Tonnage Tax etc.	404	609.50
b. Unexplained investments/ cash credits etc.	431	1,193.99
c. Incorrect classification and Computation of Capital Gains	854	2,267.45
d. Incorrect estimation of arm's length price	26	8.20
e. Omission to club income of spouse, minor child etc.	11	0.23
f. Incorrect computation of Income from House Property	242	74.71
g. Incorrect computation of salary income	59	24.50
h. Omission in implementing provisions of TDS/ TCS	837	625.34
<b>D. Others</b>	<b>3,718</b>	<b>11,589.61</b>
<b>Total</b>	<b>20,010</b>	<b>28,843.92</b>

## Appendix 2.3 (Reference: Paragraphs 2.4.4, 3.1.2 and 4.1.3)

Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	Tax Effect (₹ in lakh)
<b>Corporation Tax</b>						
<b>Quality of assessments - Arithmetical errors in computation of income and tax</b>						
1	144-CT	Delhi	Pr. CIT-1, Delhi	Aravali Power Company Pvt. Ltd.	2013-14	5748.19
2	151-CT	Delhi	Pr. CIT-3, Delhi	Fortis Healthcare Ltd.	2012-13	4060.63
3	171-CT	Punjab	Pr. CIT-(Central), Ludhiana	ARK Imports Pvt. Ltd.	2012-13, 2013-14, 2014-15	4012.56
4	117-CT	Gujarat	Pr. CIT-1, Ahmedabad	Cadila Healthcare Ltd.	2010-11	3829.2
5	143-CT	Maharashtra	Pr. CIT- 15, Mumbai	Micro Technologies India Ltd.	2012-13	1664.46
6	298-CT	Maharashtra	Pr. CIT-8, Mumbai	Rewas Ports Ltd.	2013-14	1619.88
7	156-CT	Punjab	Pr. CIT-(Central), Ludhiana	Shakun Polyplast Pvt. Ltd.	2012-13	970.15
8	189-CT	Gujarat	Pr. CIT-1, Surat	Nakoda Ltd.	2011-12	930.09
9	49-CT	Maharashtra	Pr. CIT (Central)-2, Mumbai	Dhanus Technologies Ltd.	2010-11	871.98
10	135-CT	Maharashtra	Pr. CIT-14, Mumbai	Global Wind Power Ltd.	2013-14	773.01
11	122-CT	Haryana	Pr. CIT (Central), Gurgaon	Kudos Chemie Ltd.	2013-14	713.16
12	47-CT	Maharashtra	Pr. CIT-3, Mumbai	Videocon Reality and Infrastructure Ltd.	2009-10	608.29
13	31-CT	Maharashtra	Pr. CIT-15, Mumbai	Micro Retail Ltd.	2012-13	499.76
14	118-CT	Goa	CIT- Panaji	Siddharth Natural Food Resources Pvt. Ltd.	2012-13	440.78
15	131-CT	Uttar Pradesh	Pr. CIT (Central), Kanpur	Brys Hotels Pvt. Ltd.	2012-13	409.53
16	17-CT	Uttar Pradesh	Pr. CIT, Ghaziabad	Bharat Immunological and Biological Corporation Ltd.	2012-13	404.93
17	48-CT	Maharashtra	Pr. CIT-5, Mumbai	Jet Airways (I) Ltd.	2013-14	393.43
18	286-CT	Delhi	CIT (Intl. Tax.)-1, Delhi	Amadeus IT Group SA	2012-13	317.46
19	97-CT	West Bengal	Pr. CIT-2, Kolkata	Wellman Tradelinks Private Ltd.	2013-14	290.84
20	52-CT	Maharashtra	Pr. CIT-5, Mumbai	Greatship India Ltd.	2011-12	237.21
21	319-CT	Maharashtra	Pr. CIT-7, Mumbai	Mahindra Lifespace Developers Ltd.	2013-14	232.76
22	273-CT	Maharashtra	Pr. CIT-14, Mumbai	Thiruvananthapuram Road Development Co. Ltd.	2012-13	230.09
23	84-CT	Maharashtra	Pr. CIT (Central)-1, Mumbai	Hydroair Tectonics PCD Ltd.	2010-11	228.21
24	4-CT	Gujarat	Pr. CIT-(Central), Ahmedabad	Neesa Technologies Pvt. Ltd.	2013-14	207.78
25	121-CT	Haryana	Pr. CIT (Central), Gurgaon	Feather Infotech Pvt. Ltd.	2011-12	198.65
26	59-CT	Maharashtra	Pr. CIT (Central)-3, Mumbai	Mudra Lifestyle Ltd.	2010-11	171.83
27	164-CT	West Bengal	Pr. CIT-2, Kolkata	GKB Lens Pvt. Ltd.	2013-14	124.99
	105-CT	Tamil Nadu	CIT-3, Chennai	Tidel Park Ltd.	2013-14	114.71
29	182-CT	West Bengal	Pr. CIT-1, Kolkata	Gorgeous Trade Link Private Ltd.	2013-14	106.93
30	82-CT	Maharashtra	Pr. CIT-13, Mumbai	Siroya FM Construction Pvt. Ltd.	2012-13	106.37
31	81-CT	Maharashtra	Pr. CIT-6, Mumbai	Aegis Ltd.	2010-11	104.38
	130-CT	Delhi	Pr. CIT-4, Delhi	Hotline CPT Ltd.	2012-13	103.2
33	88-CT	Tamil Nadu	CIT-3, Chennai	Team HR Services Ltd.	2013-14	101.78

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Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	Tax Effect (₹ in lakh)
34	146-CT	Delhi	Pr. CIT-4, Delhi	Helios Photo Voltaic Ltd.	2012-13	70.16
35	195-CT	Gujarat	Pr. CIT-1, Ahmedabad	Cera Sanitaryware Ltd.	2013-14	53.47
36	65-CT	West Bengal	Pr. CIT-1, Kolkata	Saregama India Ltd.	2013-14	53.24
<b>Quality of assessments – Incorrect Application of rate of tax, surcharge, etc.</b>						
37	255-CT	West Bengal	Pr. CIT (Central)-2, Kolkata	REI Agro Ltd.	2013-14	803
38	19-CT	Uttar Pradesh	Pr. CIT (Central), Kanpur	Dkrrish Builders Pvt. Ltd.	2012-13	765.39
39	110-CT	Haryana	Pr. CIT (Central), Gurgaon	Kudos Chemie Ltd.	2014-15	681.98
40	185-CT	Uttar Pradesh	Pr. CIT-Exemptions, Lucknow	UP Jal Nigam	2013-14	310.3
41	179-CT	Maharashtra	Pr. CIT-1, Pune	Duke Corporation Ltd.	2013-14	306.79
42	296-CT	Maharashtra	CIT-3, Pune	Shirdi Country Inns Pvt Ltd	2013-14	269.98
43	123-CT	Haryana	Pr. CIT (Central), Gurgaon	Surya Pharmaceuticals Ltd.	2008-09	163.31
44	127-CT	Delhi	Pr. CIT-1, Delhi	Anant Raj Ltd.	2009-10	129.96
45	289-CT	Madhya Pradesh	Pr. CIT-1, Indore	Computer Science Corporation India Pvt Ltd.	2007-08	85.68
46	14-CT	UT Chandigarh	CIT-2, Chandigarh	Healthway Immigration Consultants Pvt. Ltd.	2011-12	74.08
47	219-CT	Tamil Nadu	Pr. CIT (Central)-2, Chennai	G. Tech Stone Ltd.	2008-09, 2009-10, 2010-11, 2011-12	59.22
<b>Quality of assessments – Non/short levy of interest/penalty for delay in submission of returns, delay in payment of tax, etc.</b>						
48	69-CT	Maharashtra	Pr. CIT-3, Mumbai	Export Import Bank of India	2010-11	4385.59
49	51-CT	Maharashtra	Pr. CIT-13, Mumbai	Shivan Giri Steel Ltd.	2008-09, 2009-10, 2010-11	2525.76
50	77-CT	Maharashtra	Pr. CIT-6, Mumbai	B A Trading Co Pvt. Ltd.	2009-10, 2010-11	1862.14
51	41-CT	Delhi	Pr. CIT (Central)-1, Delhi	Ultra Home Construction Pvt. Ltd.	2010-11, 2011-12, 2012-13	1040.18
52	186-CT	Odisha	Pr. CIT-1, Bhubaneswar	Green India Infra Projects Ltd.	2012-13, 2013-14	802.16
53	33-CT	West Bengal	Pr. CIT-3, Kolkata	ITC Ltd.	2012-13	320.84
54	20-CT	Maharashtra	Pr. CIT-1, Mumbai	Orkey Industries Ltd.	2007-08	309.67
55	85-CT	Maharashtra	Pr. CIT (Central)-1, Mumbai	Global Paper Impex Pvt. Ltd.	2010-11	305.76
56	104-CT	Maharashtra	Pr. CIT-11, Mumbai	Quality Apparel Exports Pvt. Ltd.	2000-01	284.65
57	276-CT	Delhi	Pr. CIT-4, Delhi	International Electron Devices Ltd.	2008-09	272.62
58	272-CT	Maharashtra	Pr. CIT (Central)-1, Mumbai	Speciality Paper Ltd.	2008-09	249.63
59	251-CT	West Bengal	Pr. CIT-2, Kolkata	Sarda Mines Private Ltd.	2013-14	229.47
60	55-CT	Maharashtra	CIT-6, Mumbai	B A Trading Co Pvt. Ltd.	2010-11	214.84
61	119-CT	Tamil Nadu	Pr. CIT (Central)-2, Chennai	RKKR Steels Ltd.	2011-12, 2012-13, 2013-14	204.9

Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	Tax Effect (₹ in lakh)
62	125-CT	Punjab	Pr. CIT (Central), Ludhiana	GH Agro Products Pvt. Ltd.	2013-14	200.63
63	75-CT	West Bengal	Pr. CIT-4, Kolkata	Bhairab Board Manufacturing Company Private Ltd.	2008-09	170.52
64	25-CT	Delhi	Pr. CIT-1, Delhi	Gaurisuta Infrastructure Pvt. Ltd.	2013-14	166.92
65	108-CT	Delhi	Pr. CIT-(Central)-2, Delhi	Adhist Garment Pvt. Ltd.	2008-09	156.63
66	32-CT	Karnataka	Pr. CIT - 2, Bengaluru	Mineral Enterprises Ltd.	2013-14	144.62
67	29-CT	Tamil Nadu	CIT-6, Chennai	Swelect Energy Systems Ltd.	2013-14	142.15
68	190-CT	Maharashtra	Pr. CIT-12, Mumbai	Mishka Fibbers Pvt. Ltd.	2011-12	139.29
69	70-CT	Maharashtra	Pr. CIT-13, Mumbai	Siroya FM Construction Pvt. Ltd.	2012-13	130.49
70	227-CT	Delhi	Pr. CIT(Central)-1, Delhi	Three C Universal Developers Pvt. Ltd.	2010-11	116.58
71	213-CT	Maharashtra	CIT (CC)-3, Mumbai	Satra Property Developers Pvt. Ltd.	2011-12	114.93
72	188-CT	Andhra Pradesh & Telangana	CIT (Central), Hyderabad	Genera Agri Corporation Ltd.	2011-12	108.9
73	27-CT	Delhi	Pr. CIT-1, Delhi	Kapila Buildhome Pvt. Ltd.	2013-14	108.09
74	132-CT	Maharashtra	Pr. CIT-6, Mumbai	Basanti Gold Pvt. Ltd.	2010-11	97.61
75	94-CT	Delhi	Pr. CIT(Central)-1, Delhi	KAD Housing Pvt. Ltd.	2011-12	96.42
76	63-CT	West Bengal	Pr. CIT-1, Kolkata	Gemini Barter Private Ltd.	2008-09	95.17
77	282-CT	Delhi	Pr. CIT-8, Delhi	Swatch Group India Pvt. Ltd.	2010-2011	93.99
78	128-CT	Delhi	Pr. CIT-4, Delhi	India Infrastructure Finance Co. Ltd.	2013-14	88.39
79	71-CT	Karnataka	Pr. CIT(Central), Bengaluru	Astitva Promoters and Developers Pvt. Ltd.	2009-10	80.22
80	42-CT	Delhi	Pr. CIT-4, Delhi	Honest Promoters Pvt. Ltd.	2010-11	79.79
81	18-CT	Delhi	Pr. CIT-6, Delhi	Motto Softech Pvt. Ltd.	2008-09	78.15
82	103-CT	West Bengal	Pr. CIT-1, Kolkata	Credence Trexim Private Ltd.	2008-09	69.66
83	160-CT	Tamil Nadu	CIT-6, Chennai	State Industries Promotion Corporation of Tamil Nadu Ltd.	2013-14	63.63
84	22-CT	Delhi	Pr. CIT-8, Delhi	Sobhin Buildwell Pvt. Ltd.	2008-09	52.42
85	233-CT	Delhi	Pr. CIT-6, Delhi	Mobisoc Technology Pvt. Ltd.	2013-14	52.07
86	157-CT	UT Chandigarh	Pr. CIT-2, Chandigarh	Soni Hi-Tech Builders Pvt. Ltd.	2013-14	46.61
87	45-CT	Madhya Pradesh	Pr. CIT, Bhopal	MP State Agro Industries Development Corporation Ltd.	2012-13	43.66
<b>Quality of assessments – Excess or irregular refunds/interest on refunds</b>						
88	46-CT	Karnataka	CIT-LTU, Bengaluru	Vijaya Bank	2012-13	3688.02
89	249-CT	Maharashtra	CIT-LTU, Mumbai	Union Bank of India	2009-10	411.1
90	192-CT	Maharashtra	Pr. CIT (Central)-1, Mumbai	Hindalco Industries Ltd.	1994-95	345.18
91	53-CT	Maharashtra	Pr. CIT-7, Mumbai	Mahindra and Mahindra Financial Services Ltd.	2007-08	267.04
92	176-CT	Karnataka	Pr. CIT(Central), Bangalore	GMR Infrastructure Ltd.	2010-11	216.08
93	264-CT	Maharashtra	Pr. CIT-1, Mumbai	Securities Trading Corporation of India Finance Ltd.	2004-05	107.4
<b>Quality of assessments - Mistakes in assessment while giving effect to appellate orders</b>						
94	299-CT	Maharashtra	Pr. CIT LTU, Mumbai	Reliance Industries Ltd.	2011-12	4656.9

Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	Tax Effect (₹ in lakh)
95	83-CT	Maharashtra	Pr. CIT-6, Mumbai	CEAT Ltd.	1998-99	2119.63
96	165-CT	West Bengal	Pr. CIT Central-2, Kolkata	Ujjal Udyog Ltd.	2008-09	138.35
97	320-CT	Maharashtra	Pr. CIT-2, Mumbai	Bank of Baroda	2003-04	113.78
98	230-CT	Delhi	Pr. CIT-3, Delhi	EDAG Engineering and Design India Pvt. Ltd.	2007-08	55.85
99	247-CT	Karnataka	Pr. CIT(Central), Bangalore	GMR Holdings Pvt. Ltd.	2008-09	53.76
<b>Administration of tax concessions/exemptions/deductions - Irregular exemptions/deductions/ reliefs</b>						
100	155-CT	Odisha	Pr. CIT-1, Bhubaneswar	National Aluminium Company Ltd.	2013-14	7161.18
101	293-CT	Maharashtra	Pr. CIT-LTU, Mumbai	Shell India Markets Pvt. Ltd.	2009-10, 2010-11, 2011-12	3999.57
102	212-CT	Maharashtra	Pr. CIT (Central)-4, Mumbai	Orbit Corporation Ltd.	2012-13	1197.06
103	12-CT	Andhra Pradesh & Telangana	Pr. CIT-4, Hyderabad	Nusun Genetic Research Ltd.	2012-13	897.11
104	3-CT	Gujarat	Pr. CIT-2, Baroda	Manpasand Beverages Pvt. Ltd.	2012-13, 2013-14	720.38
105	92-CT	Rajasthan	Kota	Mangalam Cement Ltd.	2013-14	500.63
106	57-CT	Maharashtra	Pr. CIT (Central)-3, Mumbai	Welspun Syntex Ltd.	2013-14	353.21
107	201-CT	Maharashtra	Pr. CIT 2, Mumbai	Mahindra and Mahindra Ltd.	2010-11	290
108	28-CT	Tamil Nadu	CIT-4, Chennai	Maveric Systems Ltd.	2011-12	252.27
109	260-CT	Andhra Pradesh & Telangana	Pr. CIT-4, Hyderabad	Natco Pharma Ltd.	2012-13	235.18
110	79-CT	Maharashtra	Pr. CIT 6, Mumbai	Bhander Power Ltd.	2010-11	207.5
111	223-CT	Tamil Nadu	Pr. CIT-2, Chennai	Electronics Corporation of Tamil Nadu Ltd.	2013-14	206.9
112	261-CT	Haryana	Pr. CIT (Central), Gurgaon	Valco Industries Ltd.	2013-14	121.48
113	203-CT	Karnataka	Pr. CIT-1, Bengaluru	Bagmane Developers Pvt. Ltd.	2013-14	107.11
114	91-CT	Gujarat	Pr. CIT-3, Ahmedabad	Parshwanath Corporation Ltd.	2012-13	96.88
115	256-CT	West Bengal	Pr. CIT-2, Kolkata	Darjeeling Organic Tea Estates Private Ltd.	2013-14	93.23
116	202-CT	West Bengal	Pr. CIT-5, Kolkata	Chemex Oil Private Ltd.	2013-14	77.53
117	37-CT	Tamil Nadu	Pr. CIT-1, Madurai	I Grandee Software Technologies Private Ltd.	2011-12	77.17
118	231-CT	Delhi	Pr. CIT-8, Delhi	SC Johnson Products Pvt. Ltd.	2012-13	50.58
<b>Administration of tax concessions/exemptions/deductions - Incorrect allowance of business expenditure</b>						
119	137-CT	Maharashtra	Pr. CIT-2, Mumbai	Satyam Computer Services Ltd.	2011-12	18900
120	206-CT	Odisha	Pr. CIT-1, Bhubaneswar	Western Electricity Supply Company of Odisha Ltd.	2012-13	4517.32
121	265-CT	Maharashtra	CIT (IT) 4, Mumbai	Standard Chartered Bank	2009-10	3702.02
122	191-CT	Maharashtra	Pr. CIT-2, Mumbai	State Bank of India	2013-14	2714.92
123	93-CT	Rajasthan	CIT Jaipur-2	State Bank of Bikaner and Jaipur	2013-14	1500.91
124	297-CT	Maharashtra	CIT – LTU, Mumbai	Tata Motors Ltd.	2009-10	1489.63
125	136-CT	Maharashtra	Pr. CIT-1, Mumbai	Hindustan Petroleum Corporation Ltd.	2013-14	1152.77
126	159-CT	Gujarat	Pr. CIT-1, Baroda	Gujarat State Electricity Corporation Ltd.	2011-12	1052.25

Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	Tax Effect (₹ in lakh)
127	246-CT	Tamil Nadu	Pr. CIT-2, Chennai	Indian Bank	2013-14	1035
128	279-CT	Odisha	Pr. CIT-1, Bhubaneswar	Odisha Hydro Power Corporation Ltd.	2013-14	903.77
129	211-CT	Odisha	Pr. CIT-1, Bhubaneswar	Orissa Rural Housing and Development Corporation Ltd.	2013-14	666.76
130	294-CT	Maharashtra	Pr. CIT-8, Mumbai	Morgan Construction Company India Pvt. Ltd.	2010-11	571.09
131	266-CT	Maharashtra	Pr. CIT-11, Mumbai	Valecha Badwani Sendhwa Tollways Pvt. Ltd.	2013-14	570.42
132	245-CT	Tamil Nadu	CIT-LTU, Chennai	Alstom T and D India Ltd.	2010-11	570.16
133	30-CT	Tamil Nadu	CIT-6, Chennai	State Express Transport Corporation Tamil Nadu Ltd.	2013-14	562.94
134	106-CT	Tamil Nadu	CIT-3, Chennai	Tamil Nadu Generation and Distribution Corporation Ltd.	2012-13	552.63
135	270-CT	West Bengal	Pr. CIT Central 1, Kolkata	Rungta Mines Ltd.	2013-14	548.9
136	222-CT	Tamil Nadu	Pr. CIT-4, Chennai	Metropolitan Transport Corporation Chennai Ltd.	2013-14	521.09
137	116-CT	Karnataka	PCIT-7, Bengaluru	The Hutti Gold Mines Company Ltd.	2013-14	495.62
138	58-CT	Maharashtra	Pr. CIT-2, Mumbai	ICICI Bank Ltd.	2011-12	440.78
139	78-CT	Maharashtra	Pr. CIT-LTU, Mumbai	Depuy Medical Pvt. Ltd.	2012-13	418.42
140	220-CT	Tamil Nadu	CIT-5, Chennai	Omne Agate Systems Pvt. Ltd.	2013-14	398.07
141	268-CT	West Bengal	Pr. CIT- LTU, Kolkata	United Bank of India	2012-13	363.76
142	205-CT	Odisha	Pr. CIT-1, Bhubaneswar	Paradeep Phosphates Ltd.	2012-13	356.33
143	217-CT	Tamil Nadu	Pr. CIT-2, Chennai	Indian Bank	2013-14	350.13
144	262-CT	Odisha	Pr. CIT-1, Bhubaneswar	Odisha Forest Development Corporation	2013-14	313.22
145	60-CT	Karnataka	CIT-Central, Bengaluru	Obulapuram Mining Company Pvt. Ltd.	2008-09	254.17
146	5-CT	Gujarat	Pr. CIT, Gandhinagar	Gujarat State Road Development Corporation Ltd.	2012-13	230.48
147	16-CT	West Bengal	Pr. CIT-2, Kolkata	Indian Pulp and Paper Private Ltd.	2013-14	229.71
148	177-CT	Maharashtra	Pr. CIT-2, Mumbai	Nhava Sheva International Container Terminal Pvt. Ltd.	2011-12	213.6
149	254-CT	West Bengal	Pr. CIT-4, Kolkata	Suraksha Diagnostic Private Ltd.	2013-14	202.78
150	316-CT	Maharashtra	Pr CIT 3, Mumbai	Shreeyam Power and Steel Industries Ltd.	2012-13, 2013-14	181.8
151	252-CT	West Bengal	Pr. CIT-1, Kolkata	Shri Badrinarain Alloys and Steels Ltd.	2013-14	174.92
152	269-CT	West Bengal	Pr. CIT-LTU, Kolkata	Hindustan Copper Ltd.	2013-14	166.56
153	35-CT	West Bengal	Pr. CIT Central-1, Kolkata	Adhunik Power Transmission Ltd.	2013-14	164.16
154	139-CT	Maharashtra	Pr. CIT-12, Mumbai	Karmayogi Properties Developers Pvt. Ltd.	2012-13	154.82
155	215-CT	Maharashtra	Pr. CIT-8, Mumbai	Suraksha Realty Ltd.	2011-12	149.48
156	154-CT	Andhra Pradesh & Telangana	Pr. CIT-5, Hyderabad	Vijaya Nagar Sugar Pvt. Ltd.	2013-14	131.1
157	56-CT	Maharashtra	Pr. CIT-2, Mumbai	Indusind Bank Ltd.	1999-2000	127.89
158	114-CT	Karnataka	Pr. CIT-4, Bengaluru	Mysore Minerals Ltd.	2013-14	122.3
159	175-CT	Karnataka	CIT-LTU, Bengaluru	Mindtree Ltd.	2010-11	105.59

Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	Tax Effect (₹ in lakh)
160	216-CT	Karnataka	Pr.CIT-3, Bengaluru	IZMO Ltd.	2013-14	101.51
161	244-CT	Tamil Nadu	Pr. CIT-2, Chennai	Indian Bank	2012-13	80.67
162	278-CT	Delhi	Pr. CIT-2, Delhi	Bhadra International India Pvt. Ltd.	2013-14	77.45
163	302-CT	West Bengal	Pr. CIT Central-1, Kolkata	Rungta Sons Private Ltd.	2013-14	70.27
164	66-CT	West Bengal	Pr. CIT-2, Kolkata	Kesoram Industries Ltd.	2011-12	69.53
165	275-CT	Delhi	Pr. CIT-9, Delhi	Universal Energies Ltd.	2012-13	69.22
166	169-CT	Karnataka	PCIT-5, Bengaluru	Provimi Animal Nutrition India Pvt. Ltd.	2013-14	54.82
167	158-CT	Kerala	Pr. CIT Kochi-1	Roads and Bridges Development Corporation of Kerala Ltd.	2012-13	37.08
168	204-CT	Odisha	Pr. CIT-1, Bhubaneswar	Rektor Mines and Minerals Ltd.	2013-14	27.74
<b>Administration of tax concessions/exemptions/deductions - Irregularities in allowing depreciation/ business losses/ capital losses</b>						
169	13-CT	Andhra Pradesh & Telangana	Pr. CIT-3, Hyderabad	Share Microfin Ltd.	2013-14	29582.1
170	120-CT	Gujarat	Pr. CIT-1, Baroda	Gujarat Urja Vikas Nigam Ltd.	2011-12	16689.2
171	314-CT	Maharashtra	Pr. CIT-10, Mumbai	Hanjer Biotech Energies Pvt. Ltd.	2013-14	10692
172	196-CT	Maharashtra	Pr. CIT-2, Mumbai	Satyam Computers Services Ltd.	2011-12	8333.12
173	240-CT	Delhi	Pr. CIT-3, Delhi	Delhi Transco Ltd.	2013-14	5415.31
174	306-CT	Andhra Pradesh & Telangana	Pr. CIT-I, Hyderabad	Bartronics India Ltd.	2010-11	4477.86
175	259-CT	Andhra Pradesh & Telangana	Pr. CIT-I, Hyderabad	Bangalore Elevated Tollway Ltd.	2012-13	4316.85
176	193-CT	Maharashtra	Pr. CIT 1, Mumbai	Deep Water Services India Ltd.	2014-15	4090.03
177	243-CT	Tamil Nadu	Pr. CIT-1, Chennai	Dishnet Wireless Ltd.	2011-12	2707.47
178	271-CT	Maharashtra	Pr. CIT-6, Mumbai	Kosi Bridge Infrastructure Co. Ltd.	2013-14	2665.03
179	295-CT	Maharashtra	Pr. CIT 11, Mumbai	Valecha LM Toll Pvt. Ltd.	2013-14	1792.26
180	322-CT	Maharashtra	Pr. CIT 10, Mumbai	Hanjer Biotech Energies Surat Pvt. Ltd.	2013-14	1553.61
181	224-CT	Tamil Nadu	Pr. CIT-1, Chennai	Aircel Ltd.	2011-12	1441.52
182	90-CT	Kerala	Pr. CIT - Thrissur	The Catholic Syrian Bank Ltd.	2012-13	1404.11
183	50-CT	Maharashtra	Pr. CIT-7, Mumbai	Loop Telecom Ltd.	2013-14	1330.51
184	300-CT	Maharashtra	Pr. CIT 14, Mumbai	SU Toll Road Pvt. Ltd.	2013-14	1070.49
185	307-CT	Odisha	Pr. CIT-1, Bhubaneswar	Southern Electricity Supply Company of Odisha Ltd.	2013-14	1033.69
186	140-CT	Maharashtra	Pr. CIT-15, Mumbai	Plus BKSP Toll Private Ltd.	2012-13	1017.72
187	10-CT	Andhra Pradesh & Telangana	CIT-3, Hyderabad	Sagar Cements Ltd.	2012-13	950.22
188	253-CT	West Bengal	Pr. CIT-2, Kolkata	Hindustan Paper Corporation Ltd.	2013-14	921.7
189	209-CT	Andhra Pradesh & Telangana	Pr. CIT-(Central), Hyderabad	MBS Jewellers Pvt. Ltd.	2012-13	836.64
190	11-CT	Andhra Pradesh & Telangana	Pr. CIT-2, Visakhapatnam	Visakhapatnam Industrial Water supply Co. Ltd.	2013-14	816.29
191	2-CT	Gujarat	Pr. CIT-4, Ahmedabad	Sintex Industries Ltd.	2014-15	791.42
192	9-CT	Andhra Pradesh & Telangana	Pr. CIT-5, Hyderabad	Vijay Nirman Company Pvt. Ltd.	2014-15	554.14
193	312-CT	Maharashtra	Pr. CIT-8, Mumbai	Riverside Industries Ltd.	2011-12	540.27
194	285-CT	Delhi	Pr.CIT-3, Delhi	Fujitsu India Pvt. Ltd.	2011-12	509.51
195	313-CT	Maharashtra	Pr. CIT-10, Mumbai	Hanjer Biotech Mira Pvt. Ltd.	2013-14	484.39



Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	Tax Effect (₹ in lakh)
196	199-CT	Maharashtra	Pr. CIT Central-3, Mumbai	Ankur Drugs and Pharma Ltd.	2012-13	473.09
197	197-CT	Maharashtra	Pr. CIT-14, Mumbai	IDFC Projects Ltd.	2013-14	416.33
198	200-CT	Maharashtra	Pr. CIT-1, Mumbai	Serco BPO Pvt. Ltd.	2009-10	390.84
199	1-CT	Gujarat	Pr. CIT-4, Ahmedabad	Sparta Cement and Infra Ltd.	2013-14	347.58
200	54-CT	Maharashtra	Pr. CIT-8, Mumbai	Sabero Organics Gujarat Ltd.	2009-10	330.45
201	95-CT	Delhi	CIT-8, Delhi	Shyam Forgings Pvt. Ltd.	2013-14	304.35
202	291-CT	Tamil Nadu	Pr. CIT- 6, Chennai	South Asia FM Ltd.	2010-11, 2011-12	279.47
203	89-CT	Tamil Nadu	Pr. CIT-1, Coimbatore	Sharadha Terry Products Ltd.	2012-13	274.51
204	170-CT	Tamil Nadu	Pr. CIT-4, Chennai	Mahindra World City Developers Ltd.	2013-14	270.34
205	26-CT	Delhi	CIT-7, Delhi	Oberthur Technologies India Pvt. Ltd.	2011-12	260.74
206	228-CT	Delhi	Pr. CIT-2, Delhi	Centum Learning Ltd.	2012-13	260.5
207	323-CT	Maharashtra	Pr. CIT 2, Nagpur	Indoworth India Ltd.	2011-12	258.19
208	303-CT	Punjab	Pr. CIT, Patiala	Punjab State Transmision Corporation Ltd.	2012-13	238.92
209	138-CT	Maharashtra	Pr. CIT-4, Mumbai	Silver Spark Apparel Ltd.	2012-13	235.59
210	38-CT	Tamil Nadu	CIT-6, Chennai	Sowraj Investments Pvt. Ltd.	2013-14	216.99
211	21-CT	Delhi	Pr. CIT (Central)-1, Delhi	Neucom Consulting Pvt. Ltd.	2013-14	206.23
212	242-CT	Tamil Nadu	Pr. CIT-1, Chennai	Aircel Cellular Ltd.	2011-12	176.48
213	181-CT	West Bengal	Pr. CIT-3, Kolkata	Mackertich Consultancy Services Private Ltd.	2013-14	173.17
214	161-CT	Tamil Nadu	CIT-3, Chennai	Tristar Container Services (Asia) Pvt. Ltd.	2013-14	167.77
215	248-CT	Maharashtra	Pr. CIT-11, Mumbai	Total Oil India Pvt. Ltd.	2012-13	156.9
216	86-CT	Maharashtra	Pr. CIT-15, Mumbai	HCC Aviation Ltd.	2012-13	139.01
217	321-CT	Maharashtra	CIT-11, Mumbai	Virbac Animal Health India Pvt. Ltd.	2012-13	138.82
218	7-CT	Rajasthan	CIT-2, Jaipur	Agribiotech Industries Ltd.	2012-13	136.98
219	129-CT	Delhi	Pr. CIT-4, Delhi	Interglobe Enterprises Ltd.	2012-13	132.48
220	162-CT	Tamil Nadu	Pr. CIT-1, Madurai	International Agricultural Processing Pvt. Ltd.	2009-10	132.1
221	153-CT	Andhra Pradesh & Telangana	Pr. CIT-5, Hyderabad	Uttara Bakers Pvt. Ltd.	2013-14	125.95
222	87-CT	Tamil Nadu	CIT-3, Chennai	Tremco Roofing and Facility Services Pvt. Ltd.	2013-14	122.19
223	198-CT	Maharashtra	Pr. CIT-8, Mumbai	TPL Plastech Ltd.	2011-12	112.39
224	107-CT	Tamil Nadu	Pr. CIT(Central)-1, Chennai	Kamachi Sponge and Power Corporation Ltd.	2007-08	108.57
225	39-CT	Gujarat	Pr. CIT-1, Rajkot	Dynamix Urja India Ltd.	2012-13	99.67
226	115-CT	Karnataka	Pr. CIT-7, Bengaluru	Vijayjyothi Investments Agencies Pvt. Ltd.	2013-14	98.51
227	61-CT	West Bengal	Pr. CIT Central-2, Kolkata	Dove Airlines Pvt. Ltd.	2013-14	96.46
228	67-CT	Uttar Pradesh	CIT-1, Agra	Ginni Filament Ltd.	2012-13	96.34
229	74-CT	West Bengal	Pr. CIT-1, Kolkata	Dozco Infratech Private Ltd.	2011-12	94.65
230	124-CT	Haryana	Pr. CIT (Central) Gurgaon	DD Global Capital Ltd.	2012-13	93.76
231	34-CT	West Bengal	Pr. CIT Central- 2	Visa International Ltd.	2013-14	90.68
232	62-CT	West Bengal	Pr. CIT-4, Kolkata	Utsav Agro Products Ltd.	2013-14	90.48

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Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	Tax Effect (₹ in lakh)
233	36-CT	Delhi	Pr. CIT-6, Delhi	Neel Auto Pvt. Ltd.	2012-13	82.66
234	15-CT	West Bengal	Pr. CIT (Central)-1, Kolkata	Adhunik Alloys and Power Ltd.	2013-14	82.51
235	292-CT	Gujarat	Pr. CIT-1, Baroda	Benzo Petro International Ltd.	2013-14	75.58
236	184-CT	West Bengal	Pr. CIT-2, Kolkata	Kamarhatty Power Ltd.	2013-14	73.12
237	304-CT	Punjab	Pr. CIT-2, Amritsar	Nijjer Agro Foods Ltd.	2012-13	72.05
238	287-CT	Delhi	Pr. CIT-2, Delhi	Beacon Higher Education Services Pvt. Ltd.	2012-13	69.54
239	76-CT	Rajasthan	CIT-1, Jaipur	Udaipur Mineral Development Syndicate Pvt. Ltd.	2013-14	66.5
240	173-CT	Karnataka	Pr. CIT-4, Bengaluru	KRS Enterprises Pvt. Ltd.	2013-14	64.86
241	174-CT	Karnataka	Pr. CIT-4, Bengaluru	Kingfisher Finvest India Ltd.	2012-13	58.26
242	102-CT	West Bengal	Pr. CIT- 4, Kolkata	Radiance Edifice Infra Realty Ltd.	2013-14	57.83
243	6-CT	Rajasthan	CIT Jaipur-3	Sanga Builders Pvt. Ltd.	2011-12	57.12
244	166-CT	West Bengal	Pr. CIT-3, Kolkata	Calcutta Resorts and Enterprise Ltd.	2012-13	55.61
245	234-CT	Delhi	Pr. CIT-6, Delhi	Mahle Filter Systems India Ltd.	2013-14	52.69
246	226-CT	West Bengal	Pr. CIT-5, Kolkata	Millennia Infrastructure Private Ltd.	2013-14	51.39
247	40-CT	Karnataka	Pr. CIT-4, Bengaluru	Mysore Fruit Products Ltd.	2013-14	50.09
248	113-CT	Kerala	Pr. CIT Kochi-1	Nitta Gelatin India Ltd.	2012-13	49.55
249	168-CT	Jharkhand	CIT Jamshedpur	TRF Ltd.	2009-10	26.26
<b>Income escaping assessments due to omissions - Income not assessed/under assessed under special provisions including MAT/Tonnage Tax etc.</b>						
250	318-CT	Maharashtra	Pr. CIT 15 Mumbai	Wanbury Ltd.	2010-11	205.87
<b>Income escaping assessments due to omissions - Incorrect classification and computation of capital gains</b>						
251	311-CT	Gujarat	Pr. CIT- Valsad	Avi Global Plast Pvt. Ltd.	2012-13	453.35
252	80-CT	Maharashtra	Pr. CIT-10, Mumbai	N V Developers Pvt. Ltd.	2012-13	114.55
253	8-CT	Rajasthan	Ajmer	Sharda Spuntex Pvt. Ltd.	2013-14	111.45
254	218-CT	Tamil Nadu	Pr. CIT-1, Chennai	Bay Forge Ltd.	2012-13	80.83
<b>Income escaping assessments due to omissions – incorrect computation of income</b>						
255	72-CT	Delhi	Pr. CIT-4, Delhi	India Infrastructure Finance Co. Ltd.	2013-14	5394.79
256	308-CT	Odisha	Pr. CIT-I, Bhubaneswar	North Eastern Electricity Supply Company of Orissa Ltd.	2012-13	2573.54
257	317-CT	Maharashtra	Pr. CIT 1, Mumbai	Hindustan Aegis LPG Ltd.	2012-13	1534.43
258	133-CT	Maharashtra	Pr CIT-2, Mumbai	Nhava Sheva International Container Terminal Pvt. Ltd.	2011-12	1365.31
259	310-CT	Delhi	CIT-(Intl. Tax.)-1	Amadeus IT Group SA	2011-12	1103.21
260	221-CT	Tamil Nadu	CIT-4, Chennai	Mayajaal Entertainment Ltd.	2012-13	318.65
261	178-CT	Maharashtra	Pr. CIT (C)-8, Mumbai	Lokhandwala Kataria Construction Pvt. Ltd.	2013-14	314.53
262	68-CT	Maharashtra	Pr. CIT-3, Mumbai	Phulchand Exports Pvt. Ltd.	2010-11	304.04
263	100-CT	West Bengal	Pr. CIT-4, Kolkata	Dream Bake Private Ltd.	2011-12	192.16
264	214-CT	Maharashtra	CIT-3, Pune	Ropa Plastics Pvt. Ltd.	2009-10	166.5
265	207-CT	Andhra Pradesh & Telangana	Pr. CIT-4, Hyderabad	P R Energy Holding Ltd.	2012-13	147.68
266	267-CT	Tamil Nadu	Pr. CIT-5, Chennai	Oceanic Bio Harvest Ltd.	2013-14	101.27
267	98-CT	West Bengal	Pr. CIT-2, Kolkata	Vishwarupa Metaliks Private Ltd.	2013-14	87.37
268	172-CT	Tamil Nadu	CIT-4, Chennai	Nexus Electro Steel Ltd.	2013-14	67.92

Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	Tax Effect (₹ in lakh)
<b>Income escaping assessments due to omissions - Unexplained investment/ cash credits etc.</b>						
269	180-CT	Maharashtra	Pr. CIT-14, Mumbai	Darwin Platform Infrastructure Ltd.	2012-13	78576.7
270	194-CT	Gujarat	Pr. CIT-4, Ahmedabad	Seema Jewellers Pvt. Ltd.	2011-12	1064.64
271	126-CT	Gujarat	Pr. CIT, Gandhinagar	Shri Rang Infrastructure Pvt. Ltd.	2012-13	269.16
272	64-CT	West Bengal	Pr. CIT Central-2, Kolkata	I Core Housing Finance Corporation Ltd.	2011-12	67.76
<b>Income escaping assessments due to omissions – Incorrect estimation of Arm's Length Price</b>						
273	163-CT	Maharashtra	Pr. CIT (TP)-1, Mumbai	ACC Ltd.	2013-14	1388.6
274	142-CT	Maharashtra	CIT (TP), Pune	Volkswagen India Pvt. Ltd.	2013-14	1207.28
275	301-CT	West Bengal	CIT (IT & TP), Kolkata	Philips India Ltd.	2012-13	682.37
276	309-CT	Delhi	CIT-1, TPO	Bharti Airtel Ltd.	2011-12	631.17
277	141-CT	Maharashtra	CIT-(IT & TP), Pune	Pranav Agro Industries Ltd.	2013-14	205.55
278	257-CT	Andhra Pradesh & Telangana	Pr. CIT - IT & TP, Hyderabad	Deloitte Tax Services India Pvt. Ltd.	2012-13	97.15
279	305-CT	Andhra Pradesh & Telangana	Pr. CIT, IT&TP, Hyderabad	Clause India Private Ltd.	2012-13	84.88
280	134-CT	Maharashtra	CIT-(TP)-4, Mumbai	The Indian Hotels Company Ltd.	2013-14	70.59
<b>Over-charge of tax/ interest - Overcharge of tax</b>						
281	315-CT	Maharashtra	Pr. CIT (C)-5, Mumbai	National Aviation Company India Ltd.	2008-09	1349.09
282	152-CT	Haryana	Pr. CIT (Central), Gurgaon	Tokai Imperial Rubber India Pvt. Ltd.	2009-10	1072.46
283	167-CT	West Bengal	Pr. CIT-2, Kolkata	Trend Vyapaar Ltd.	2013-14	919.75
284	187-CT	Odisha	Pr. CIT-I, Bhubaneswar	North Eastern Electricity Supply Company of Odisha Ltd.	2013-14	691.31
285	210-CT	Andhra Pradesh & Telangana	Pr. CIT-I, Hyderabad	Andhra Pradesh Industrial Infrastructure Corp. Ltd.	2009-10	637.5
286	149-CT	Delhi	Pr. CIT-3, Delhi	Enershell Alloy and Steel Pvt. Ltd.	2013-14	465.3
287	250-CT	Maharashtra	Pr. CIT 13, Mumbai	Royal Palm India Pvt. Ltd.	2007-08	298.94
288	183-CT	West Bengal	Pr. CIT Central-2, Kolkata	Ujjal Udyog Ltd.	2009-10	145.36
289	99-CT	West Bengal	Pr. CIT-2, Kolkata	MJ and Sons Distillery and Breweries Private Ltd.	2013-14	129.99
290	208-CT	Haryana	Pr. CIT (Central), Gurgaon	EPICU Agro Product Pvt. Ltd.	2012-13	120.53
291	73-CT	West Bengal	Pr. CIT -1, Kolkata	Ferguson Traders Private Ltd.	2013-14	117.42
292	288-CT	Delhi	CIT LTU, Delhi	Mahanagar Telephone Nigam Ltd.	2007-08	96.38
293	109-CT	Delhi	Pr. CIT-4, Delhi	HN Reacon Pvt. Ltd.	2013-14	80.59
294	225-CT	West Bengal	Pr. CIT-5, Kolkata	Radiance Edifice Infra Realty Private Ltd.	2012-13	73.48
295	147-CT	Delhi	Pr. CIT-3, Delhi	Epitome Travel Solutions India Pvt. Ltd.	2013-14	61.65
296	277-CT	Delhi	CIT (Intl. Tax.)-1, Delhi	Buongiorno Hong Kong Ltd.	2011-12	60.71
297	145-CT	Delhi	Pr. CIT-5, Delhi	JS Exim Pvt. Ltd.	2013-14	55.47

Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	Tax Effect (₹ in lakh)
<b>Over-charge of tax/ interest - Overcharge of interest</b>						
298	258-CT	Andhra Pradesh & Telangana	Pr. CIT-4, Hyderabad	Deccan Chronicle Holdings Ltd.	2010-11	32080.4
299	239-CT	Delhi	Pr. CIT-3	Delhi Transco Ltd.	2013-14	1807.62
300	283-CT	Delhi	Pr. CIT 6	National Housing Bank	2013-14	749.58
301	148-CT	Delhi	Pr. CIT-3	Degremont Ltd.	2012-13	531.71
302	290-CT	Madhya Pradesh	Pr. CIT-I, Bhopal	Madhya Pradesh Madhya Kshetra Vidyut Vitran Company Ltd.	2013-14	358.83
303	232-CT	Delhi	Pr. CIT-6	Mothercare Sourcing India Pvt. Ltd.	2013-14	315.83
304	101-CT	West Bengal	Pr. CIT- 4, Kolkata	Uniworth Textiles Ltd.	2013-14	299.19
305	263-CT	Delhi	CIT (Central)-1, Delhi	Sunny Infraprojects Ltd.	2010-11	293.91
306	229-CT	Delhi	CIT-LTU	Whirpool of India Ltd.	2011-12	289.71
307	44-CT	Madhya Pradesh	Pr. CIT-I, Bhopal	Hathway Datacom Central Pvt. Ltd.	2013-14	252.62
308	284-CT	Delhi	Pr. CIT 6	National Cooperative Development Corporation	2013-14	231.72
309	237-CT	Delhi	Pr. CIT-6	M carbon Tech Innovation Pvt. Ltd.	2013-14	220.98
310	274-CT	Delhi	CIT(Central)-1, Delhi	Lairy Distributors Pvt. Ltd.	2006-07	110.8
311	241-CT	Delhi	Pr. CIT-4, Delhi	Haskoning DHV India Pvt. Ltd.	2012-13	102.39
312	43-CT	Delhi	Pr. CIT-4, Delhi	Hayat Communications Pvt. Ltd.	2013-14	88.93
313	24-CT	Delhi	Pr. CIT-3	Den Digital Entertainment Gujarat Pvt. Ltd.	2013-14	85.18
314	96-CT	Delhi	Pr. CIT-3	Dedicated Freight Corridor Corporation Of India Ltd.	2013-14	83.64
315	111-CT	Haryana	Pr. CIT (Central), Gurgaon	Kudos Agrohols Ltd.	2013-14	65.66
316	236-CT	Delhi	CIT-2 (International Taxation)	Honeywell International Ltd.	2013-14	63.85
317	235-CT	Delhi	CIT ( Central )-1, Delhi	Metro Tyres Ltd.	2007-08	53.8
318	238-CT	Delhi	Pr. CIT(Central)-1, Delhi	NCML Industries Pvt. Ltd.	2012-13	53.01
319	23-CT	Delhi	Pr. CIT-9	Vayam Technologies Ltd.	2012-13	50.23
320	112-CT	Haryana	Pr. CIT (Central), Gurgaon	Prinku Landfin Pvt. Ltd.	2009-10	42.05
<b>Income Tax and Wealth Tax</b>						
<b>Quality of assessments-Arithmetical errors in computation of Income and tax</b>						
321	10-IT	Haryana	Pr. CIT, Karnal	M/s The Karnal Central Cooperative Bank Ltd.	2012-13	18.34
322	12-IT	Maharashtra	CIT-Ex-Mumbai	Tata Social Welfare Trust	2012-13	110.09
323	17-IT	Delhi	Pr. CIT(Central)-2	Brij Kishore Kochar	2013-14	77.22
324	18-IT	Madhya Pradesh	Pr. CIT-I, Bhopal	The MP State Co-operative Marketing Federation Ltd.	2012-13	63.63
325	19-IT	Maharashtra	CIT-Ex., Mumbai	The JRD Tata Trust	2012-13	101.61
326	22-IT	Maharashtra	CIT-Ex., Mumbai	Tata Education Trust	2012-13	111.39
327	24-IT	Maharashtra	Pr. CIT 6, Pune	Bhima Sahakari Sakhar Karkhana Ltd.	2012-13	844.59
328	26-IT	Maharashtra	Pr. CIT 6, Pune	Shree Siddheshwar Sahakari Sakhar Karkhana Ltd.	2011-12	302.80

Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	Tax Effect (₹ in lakh)
329	28-IT	Tamil Nadu	CIT, Central-1, Chennai	Jaya Educational Trust	2012-13	430.13
330	50-IT	Maharashtra	CIT CC 1, Pune	Lalit S Gandhi	2007-08; 2008-09; 2009-10; 2010-11; 2011-12; 2012-13	262.80
331	52-IT	Delhi	Pr. CIT(C)-2	Fine Aromatics	2009-10	57.08
332	54-IT	Punjab	Pr. CIT (C), Ludhiana	Kailash Aggarwal	2011-12	45.99
333	61-IT	Gujarat	Pr. CIT-IV, Ahmedabad	Ibrahimbhai Valimahmad Mankanojiya	2013-14	54.03
334	65-IT	Maharashtra	Pr. CIT 3, Pune	Sahyadri SSK Ltd	2009-10	142.69
335	67-IT	Maharashtra	CIT Ex, Mumbai	Mumbai Cricket Association	2010-11	1667.08
336	78-IT	Maharashtra	Pr. CIT 29, Mumbai	Sameer Sudhir Joshi	2012-13	100.58
337	79-IT	Maharashtra	Pr. CIT Central 3, Mumbai	Bhupendra Surani	2010-11	800.93
338	80-IT	Maharashtra	CIT Ex, Mumbai	R. D. Tata Trust	2012-13	63.61
339	84-IT	Maharashtra	Pr. CIT 21, Mumbai	Arvind P Nadkarni	2009-10	66.05
340	90-IT	Gujarat	Pr. CIT-I, Surat	Anil Satyanarayan Roongta	2013-14	127.94
341	96-IT	Odisha	Pr. CIT-I, Bhubaneswar	Md Yusha	2010-11	29.33
342	110-IT	Maharashtra	Pr. CIT-1, Pune	Agasti S. S. K. Ltd.	2012-13	386.35
343	111-IT	Maharashtra	Pr. CIT Central 1, Mumbai	Shirish C Shah	2013-14	34.56
344	126-IT	Punjab	Pr. CIT (C), Ludhiana	Anubhav Aggarwal	2008-09; 2014-15	319.57
345	128-IT	Odisha	Pr. CIT-I, Bhubaneswar	M/s Neelachal Gramya Bank	2013-14	1260.91
346	129-IT	Andhra Pradesh & Telangana	Pr. CIT-I, Hyderabad	B. Balraj Goud	2011-12	109.39
<b>Quality of assessments- Incorrect application of rate of tax, surcharge, etc.</b>						
347	32-IT	Jharkhand	Hazaribagh	Ajay Kumar	2009-10	10.62
348	36-IT	Goa	CIT-Panaji	Ms Vassudeva Dempo Family Pvt Trust	2013-14	67.48
349	51-IT	Delhi	Pr. CIT(C)-2	Shiva Mint Industries	2009-10	907.80
350	53-IT	Punjab	Pr. CIT (C), Ludhiana	Suman Aggarwal	2009-10	23.13
351	73-IT	Punjab	Pr. CIT (C), Ludhiana	Updesh Jaspal	2009-10	10.29
352	83-IT	Maharashtra	Pr. CIT 23, Mumbai	Dosu A Bhiwandiwala	2009-10	172.11
<b>Quality of assessments-- Non/short levy of interest/penalty for delay in submission of returns, delay in payment of tax, etc.</b>						
353	2-IT	Tamil Nadu	Pr. CIT, Central-1, Chennai	Naresh Prasad Agarwal	2009-10; 2010-11	77.28
354	4-IT	UT Chandigarh	Pr. CIT-2, Chandigarh	Mangat Singh	2011-12	31.56
355	5-IT	Uttar Pradesh	CIT Central, Lucknow	Amod Kumar Sachan	2008-09; 2010-11; 2011-12; 2012-13; 2013-14	88.87
356	8-IT	Maharashtra	Pr. CIT 19, Mumbai	Parshuram N Dandekar	2007-08	102.29

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Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	Tax Effect (₹ in lakh)
357	13-IT	Uttar Pradesh	CIT-Central, Kanpur	Manoj Kumar	2012-13; 2013-14; 2014-15	925.89
358	14-IT	Gujarat	Pr. CIT-Central, Surat	M/s M D Infra Developers	2011-12; 2012-13	137.77
359	15-IT	Kerala	Pr. CIT, Thiruvananthapuram	Padmajadevi Amma J	2012-13	63.01
360	25-IT	Maharashtra	Pr. CIT 23, Mumbai	Sandhya Enterprises	2007-08; 2008-09	121.94
361	27-IT	Tamil Nadu	Pr. CIT-2, Madurai	M/s Dinamalar	2008-09	34.17
362	35-IT	Bihar	Pr. CIT (Central), Patna	Saroj Singh	2006-07; 2007-08; 2008-09; 2009-10; 2010-11; 2011-12	24.61
363	37-IT	Goa	CIT-Panaji	Goa Cricket Association	2009-10	58.00
364	38-IT	Tamil Nadu	Pr. CIT, 10, Chennai	Rajan Elumalai Devendiran	2012-13	22.31
365	39-IT	Haryana	Pr. CIT (Central) Gurugaon	Jitendra Singh	2009-10; 2010-11; 2011-12; 2012-13; 2013-14	195.88
366	40-IT	UT Chandigarh	Pr. CIT-2, Chandigarh	Swaranjit Kaur	2007-08	18.70
367	41-IT	Andhra Pradesh & Telangana	CIT, Central, Visakhapatnam	Grandhi Manoj Kumar	2010-11	181.69
368	44-IT	Madhya Pradesh	CIT(Central)-Bhopal	Kantilal Kataria	2011-12	111.08
369	46-IT	Uttar Pradesh	Pr. CIT-Central, Kanpur	Navneet Bhadla	2010-11	88.10
370	47-IT	Uttar Pradesh	Pr. CIT-Central, Kanpur	Anita Miglani	2013-14	46.78
371	48-IT	Uttar Pradesh	Pr. CIT Central, Kanpur	Manish Kumar Jain	2013-14	110.58
372	49-IT	Assam	PCIT-2, Guwahati	Assam Gramin Vikash Bank	2011-12	10.66
373	55-IT	Tamil Nadu	Pr. CIT-1, Chennai	Guruprakash Hotels	2011-12	39.83
374	56-IT	Karnataka	PCIT-Central, Bengaluru	Dr. P Dayananda Pai	2007-08	43.61
375	58-IT	Rajasthan	CIT-1 Jaipur	Ramakant Sharma	2007-08	19.12
376	64-IT	Maharashtra	Pr. CIT 27, Vashi Navi Mumbai	Hema Apurva Doshi	2010-11	561.38
377	66-IT	Maharashtra	Pr. CIT 25, Mumbai	Milestone Real Estate Fund	2011-12	61.16
378	71-IT	Assam	CIT-II, Guwahati	Babu Singh	2010-11; 2011-12; 2012-13	17.36
379	72-IT	Uttar Pradesh	Pr. CIT, Ghaziabad	Shashi Kant Tyagi	2008-09	243.40
380	76-IT	Gujarat	Pr. CIT-3, Surat	Anil Ghanshyam Kumavat	2010-11; 2011-12; 2012-13	165.38
381	81-IT	Maharashtra	CIT CC 2, Mumbai	Shirish C Shah	2009-10; 2010-11; 2011-12; 2012-13; 2013-14	515.36

Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	Tax Effect (₹ in lakh)
382	85-IT	Maharashtra	Pr. CIT 28, Mumbai	Amjadali Sayed	2009-10	147.19
383	87-IT	Odisha	Pr. CIT-1, Bhubaneswar	Pradeep Kumar Singh	2010-11; 2011-12	204.10
384	91-IT	West Bengal	Pr. CIT Central-2	Ajit Kumar Surana	2009-10	63.66
385	92-IT	Haryana	Pr. CIT (Central) Gurgaon	Gurmeet Sodhi	2008-09; 2009-10; 2010-11; 2013-14	118.45
386	102-IT	Delhi	Pr. CIT-16	Shri Kishore Prop Sham Enterprises	2008-09	51.39
387	103-IT	Delhi	Pr. CIT-(C)-2	Ambika International	2008-09; 2009-10; 2010-11	8113.87
388	108-IT	Maharashtra	Pr. CIT (C) 3, Mumbai	The Board of Control for Cricket in India	2008-09; 2010-11	137.41
389	118-IT	Madhya Pradesh	Pr. CIT(Central), Bhopal	Chugh Housing and Developers	2008-09; 2009-10	58.13
<b>Administration of tax concession/exemption/deduction-Irregular exemptions/deductions/reliefs given to Trusts/ Firms/Societies</b>						
390	11-IT	Maharashtra	Pr. CIT-3, Nagpur	Sukhkarta Developers and Builders	2011-12; 2012-13	93.00
391	34-IT	Uttarakhand	Pr. CIT, Dehradun	KBG Industries	2012-13	41.42
392	63-IT	Maharashtra	Pr. CIT (C), Pune	Ravi Developments	2009-10; 2010-11	282.62
393	70-IT	Bihar	Pr. CIT-II, Patna	M/s Aishwarya Lifescience	2013-14	14.40
394	100-IT	Tamil Nadu	CIT, Puducherry	NLC Indcoserve	2010-11	26.62
395	109-IT	Maharashtra	CIT (Exemption), Mumbai	The Stock Exchange Investors Protection Fund	2011-12	872.05
396	119-IT	Chhattisgarh	Pr. CIT, Bilaspur	Shri Shri Vidya Sagarji Maharaj Education Trust	2011-12	68.83
397	130-IT	Himachal Pradesh	Pr. CIT, Shimla	M/s Himsar Technomers	2012-13	18.04
398	131-IT	Gujarat	Pr. CIT-5, Ahmedabad	M/s Gujarat State Co. Op. Agriculture and Rural Development Bank Ltd.	2010-11; 2012-13	375.14
<b>Administration of tax concession/exemption deduction-Irregular exemptions/deductions/reliefs given to individual</b>						
399	59-IT	Kerala	Pr. CIT, Thiruvananthapuram	Sanjith Sadasivan	2012-13	34.29
400	77-IT	Rajasthan	CIT-3, Jaipur	Bharat Mohan Raturi	2013-14	26.25
401	94-IT	UT Chandigarh	Pr. CIT-2, Chandigarh	Arun Trehan	2012-13	15.63
402	98-IT	Maharashtra	Pr. CIT 6, Mumbai	Vasundhara Karun Sanghi	2011-12	70.30
403	99-IT	Rajasthan	Alwar	Rajendra Yadav	2011-12	11.49
404	107-IT	Gujarat	Pr. CIT-5, Ahmedabad	Devendrasingh C. Vaghela	2012-13	218.92
405	115-IT	UT Chandigarh	Pr. CIT-2, Chandigarh	Harvinder Singh Mavi	2013-14	40.56
<b>Administration of tax concession/exemption deduction-Incorrect allowance of business expenditure</b>						
406	3-IT	UT Chandigarh	Pr. CIT-2, Chandigarh	M/s Aggarwal Promoters	2012-13	56.36
407	7-IT	Maharashtra	Pr. CIT-1, Kolhapur	Sangli District Central Coop Bank Ltd.	2012-13	450.50
408	33-IT	Uttarakhand	Pr. CIT, Dehradun	Pradeep Nagrath	2011-12	13.97

Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	Tax Effect (₹ in lakh)
409	89-IT	West Bengal	Pr. CIT-12, Kolkata	M/s Calcutta Export Company	2013-14	25.71
410	93-IT	UT Chandigarh	Pr. CIT-2, Chandigarh	Sukhdev Singh Patwari	2012-13; 2013-14	74.10
411	105-IT	Gujarat	Pr. CIT-1, Rajkot	Raju Badriprasad Sharma	2012-13	2,342.37
412	106-IT	Gujarat	Pr. CIT-1, Rajkot	Raju Badriprasad Sharma	2012-13	120.96
413	112-IT	Bihar	Pr. CIT, Muzaffarpur	The Samastipur District Central Cooperative Bank Ltd., Samastipur	2008-09	14.70
414	125-IT	Punjab	Pr. CIT (C), Ludhiana	Ankush Singla	2013-14	29.93
415	132-IT	Assam	PCIT-Shillong	Tapesh Chandra Debnath	2012-13	40.26
<b>Administration of tax concession/exemption deduction-Irregularities in allowing depreciation/business loss/capital loss</b>						
416	1-IT	Rajasthan	Jaipur-3	Central Cooperative Bank Ltd.	2013-14	60.23
417	30-IT	Rajasthan	Ajmer	The Ajmer Urban Cooperative Bank Ltd.	2009-10	40.18
418	31-IT	Jharkhand	Jamshedpur	Shadab Khan	2011-12	22.94
419	57-IT	Rajasthan	CIT-Alwar	Narendra Kumar Modi	2013-14	13.27
420	60-IT	Kerala	Pr. CIT, Thrissur	Kodungallur Town Cooperative Bank Ltd. No. 102	2012-13	518.09
421	82-IT	Maharashtra	Pr. CIT-19, Mumbai	Om Anand Exports	2011-12	102.34
422	95-IT	Odisha	Pr. CIT, Cuttack	M/s Guru Maharaj Construction	2012-13	53.20
423	101-IT	Bihar	Pr. CIT-Bhagalpur	The Khagaria District Central Cooperative Bank Ltd.	2012-13	168.92
424	120-IT	Bihar	Pr. CIT-Bhagalpur	The Purnea District Central Cooperative Bank Ltd. Purnea	2009-10; 2010-11	1461.73
<b>Income escaping assessments due to omissions-Incorrect classification and computation of capital gains</b>						
425	16-IT	Rajasthan	Jaipur-2	Rahul Kapur	2012-13	41.06
426	74-IT	Gujarat	Pr. CIT-Central, Baroda	Shri Bharat D Patel	2011-12	155.49
427	127-IT	Haryana	Pr. CIT (Central), Gurgaon	Sadhna Aggarwal	2014-15	17.20
<b>Income escaping assessments due to omissions-Incorrect computation of Income</b>						
428	20-IT	West Bengal	PCIT Central-2	Kanika Maity	2012-13	113.92
429	21-IT	West Bengal	Pr. CIT Central-2	Anukul Maiti	2012-13	101.92
430	62-IT	Maharashtra	Pr. CIT-3, Pune	Shriram Jawahar Shetkari Sahakari Sakhar Udyog	2011-12	335.02
431	75-IT	Gujarat	Pr. CIT-II, Rajkot	Girishbhai R Tanti	2011-12	702.66
432	88-IT	Maharashtra	CIT Ex Mumbai	Mumbai Cricket Association	2011-12	104.48
<b>Income escaping assessments due to omissions-Omissions in implementing provisions of TDS/TCS</b>						
433	68-IT	Jharkhand	Patna	Vijay Prasad	2012-13	39.59
434	69-IT	Bihar	Pr. CIT-II, Patna	M/s Nandlal and Company, Patna	2012-13	118.95
435	86-IT	Jharkhand	Patna	Sachidanand Prasad	2012-13	84.90
<b>Income escaping assessments due to omissions-Non/short levy of Wealth Tax</b>						
436	1-WT	Karnataka	PCIT-Central, Bengaluru	K. Nagesh Reddy	2009-10; 2010-11; 2011-12; 2012-13; 2013-14	24.80
437	2-WT	West Bengal	Pr. CIT-11, Kolkata	Rishi Jain	2013-14	2.33
438	3-WT	West Bengal	Pr. CIT Central-1, Kolkata	Subhash Kumar Agarwala	2013-14	2.02



Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	Tax Effect (₹ in lakh)
439	4-WT	West Bengal	Pr. CIT Central-1, Kolkata	K. Kalpana Industries India Ltd.	2009-10; 2010-11; 2011-12; 2012-13	5.29
440	5-WT	West Bengal	Pr. CIT Central-1, Kolkata	Rita Agarwal	2013-14	2.08
441	6-WT	West Bengal	Pr. CIT-5, Kolkata	Sarif Hossain	2013-14	9.74
<b>Over-charge of tax/Interest-Over-charge of tax/interest</b>						
442	6-IT	Uttar Pradesh	CIT Central, Lucknow	Hind Charitable Trust	2010-11; 2012-13; 2013-14	418.80
443	9-IT	Delhi	CIT (Central)-2	Devashish Apparels	2013-14	25.66
444	23-IT	Madhya Pradesh	Pr. CIT (Central), Bhopal	M/s Signature Infrastructure	2014-15	90.01
445	43-IT	Delhi	Pr. CIT-5	Lalit Modi	2013-14	30.58
446	45-IT	Madhya Pradesh	Pr. CIT (Central), Bhopal	Nitin Agrawal	2014-15	180.44
447	113-IT	Uttar Pradesh	Pr. CIT-Exemption, Lucknow	Allahabad Development Authority	2012-13	104.41
448	114-IT	Delhi	Pr. CIT-1	Dharambir Singh	2008-09	46.74
449	116-IT	Delhi	CIT (Intl. Taxn.)-2	Karamjit S Jaiswal	2006-07; 2007-08	227.92
450	117-IT	Delhi	Pr. CIT-11	Rakesh Janghu	2013-14	157.50
451	121-IT	Uttar Pradesh	Pr. CIT (Exemptions), Lucknow	Lucknow Development Authority	2013-14	90.72
452	122-IT	Uttar Pradesh	Pr. CIT (Exemptions), Lucknow	Moradabad Development Authority	2013-14	69.72
453	123-IT	Uttar Pradesh	Pr. CIT (Exemptions), Lucknow	UP Awas Evam Vikas Parishad	2014-15	33.33
454	124-IT	Uttar Pradesh	Pr. CIT (Exemptions), Lucknow	UP Forest Corporation	2012-13	26.09
455	42-IT	Delhi	Pr. CIT-V	Surender Modi	2013-14	22.52
456	97-IT	Andhra Pradesh & Telangana	Pr. CIT-Central, Hyderabad	Leena Prasada Rao	2013-14	541.79
457	104-IT	Tamil Nadu	CIT, Central-2, Chennai	Aravind Nandagopal	2012-13	60.30

**Appendix 2.4 (Reference: Paragraph 2.4.4)**

<b>Category wise details of observations in respect of Draft Paragraphs sent to Ministry</b>		
<b>Sub category</b>	<b>Cases</b>	<b>Tax Effect (₹ in crore)</b>
<b>A. Quality of assessments</b>	<b>168</b>	<b>843.66</b>
a. Arithmetical errors in computation of income and tax	62	385.93
b. Incorrect application of rate of tax, surcharge etc.	17	48.42
c. Non/short levy of interest/penalty for delay in submission of returns, delay in payment of tax etc.	77	287.58
d. Excess or irregular refunds/interest on refunds	6	50.35
e. Mistake in assessment while giving effect to appellate orders	6	71.38
<b>B. Administration of tax concessions/exemptions/deductions</b>	<b>185</b>	<b>1,867.41</b>
a. Irregular exemptions/deductions/reliefs given to Corporate	19	166.45
b. Irregular exemptions/deductions/reliefs given to Trusts/Firms/Societies	9	17.92
c. Irregular exemptions/deductions/reliefs given to individuals	7	4.17
d. Incorrect allowance of Business Expenditure	60	510.36
e. Irregularities in allowing depreciation/business losses/Capital losses	90	1,168.51
<b>C. Income escaping assessment due to omissions</b>	<b>48</b>	<b>1,008.44</b>
a. Under special provisions including MAT/Tonnage Tax etc.	1	2.06
b. Incorrect classification and Computation of Capital Gains	7	9.74
c. Incorrect Computation of Income	19	150.29
d. Omission in implementing provisions of TDS/TCS	3	2.43
e. Non/short levy of wealth tax	6	0.46
f. Unexplained investment/ cash credit	4	799.78
g. Incorrect estimation of Arm's Length Price	8	43.68
<b>D. Others</b>	<b>56</b>	<b>467.34</b>
Over charge of tax/interest	56	467.34
<b>Total</b>	<b>457</b>	<b>4,186.85</b>

**Appendix 2.5 (Reference: Paragraph 2.6.2)**

<b>Cases where remedial action has become time barred in FY 2016-17</b>		
<b>State</b>	<b>Audit observations where remedial action became time barred</b>	
	<b>Cases</b>	<b>Tax effect (₹ in crore)</b>
Andhra Pradesh	354	313.37
Assam	0	0.00
Bihar	91	4.02
Chhattisgarh	31	3.01
Delhi	4	0.24
Goa	0	0.00
Gujarat	147	138.35
Haryana	162	42.68
Himachal Pradesh	40	5.48
Jammu & Kashmir	25	12.21
Jharkhand	11	0.81
Karnataka	42	32.52
Kerala	0	0.00
Madhya Pradesh	84	26.09
Maharashtra	410	418.94
Odisha	171	102.96
Punjab	64	12.62
Rajasthan	52	14.57
Tamil Nadu	426	418.27
UT Chandigarh	13	1.55
Uttarakhand	7	1.06
Uttar Pradesh	109	89.06
West Bengal	0	0.00
<b>Total</b>	<b>2,243</b>	<b>1,637.81</b>

**Appendix 2.6 (Reference Paragraph 2.7.2)**

Details of non-production of records during FY 2014-15 to FY 2016-17					
States	Records requisitioned in FY 2016-17	Records not produced in FY 2016-17	Percentage of records not produced in FY 2016-17	Percentage of records not produced in FY 2015-16	Percentage of records not produced in FY 2014-15
Andhra Pradesh	23,194	1,182	5.10	N.A	10.43
Assam	7,020	2	0.03	0.36	1.21
Bihar	2,372	196	8.26	14.05	13.42
Chhattisgarh	2,682	30	1.12	0.00	26.84
Delhi	41,347	7,691	18.60	23.20	24.81
Goa	915	55	6.01	2.79	0.39
Gujarat	25,900	1,073	4.14	2.71	6.43
Haryana	6,662	57	0.86	7.87	7.64
Himachal Pradesh	638	0	0.00	17.75	11.03
Jammu & Kashmir	1,851	3	0.16	1.39	16.01
Jharkhand	3,374	49	1.45	5.37	12.09
Karnataka	14,813	1,051	7.10	7.31	9.56
Kerala	9,287	289	3.11	11.36	11.76
Madhya Pradesh	12,186	1,688	13.85	17.56	20.06
Maharashtra	61,767	4,198	6.80	6.74	5.79
Odisha	3,995	377	9.44	29.36	9.78
Punjab	4,912	6	0.12	15.49	15.10
Rajasthan	15,841	1,261	7.96	6.38	8.75
Tamil Nadu	28,725	4,649	16.18	13.16	25.03
UT Chandigarh	2,260	68	3.01	45.90	41.49
Uttarakhand	1,736	11	0.63	21.35	0.69
Uttar Pradesh	24,799	861	3.47	4.86	3.11
West Bengal	27,256	2,026	7.43	5.30	7.01
<b>Total</b>	<b>3,23,532</b>	<b>26,823</b>	<b>8.29</b>	<b>10.74</b>	<b>12.02</b>

### Abbreviations

ACIT	Assistant Commissioner of Income Tax
Act	Income Tax Act, 1961
AE	Associated Enterprises
ALP	Arm's Length Price
AO	Assessing Officer
AIR	Annual Information Return
AY	Assessment Year
CASS	Computer Assisted Scurtiny Selection
CBDT	Central Board of Direct Taxes
CCIT	Chief Commissioner of Income Tax
CIT	Commissioner of Income Tax
CIT(A)	Commissioner of Income Tax (Appeals)
CPM	Cost Plus Method
CSO	Central Statistical Office
CT	Corporation Tax
CUP	Comparable Uncontrolled Price
DGIT (Systems)	Director General of Income Tax (Systems)
DOR	Department of Revenue
DRP	Dispute Resolution Panel
DT	Direct Taxes
FY	Financial Year
GDP	Gross Domestic Product
GTR	Gross Tax Receipts
HTM	Held to Maturity
IT	Income Tax
ITAT	Income Tax Appellate Tribunal
ITBA	Income Tax Business Application
ITD	Income Tax Department
ITO	Income Tax Officer
ITR/Return	Income Tax Return
JCIT	Joint Commissioner of Income Tax
PAC	Public Accounts Committee
PAN	Permanent Account Number
Pr. CCA	Principal Chief Controller and Accounts
Pr. CCIT	Principal Chief Commissioner of Income Tax
MAM	Most Appropriate Method
MAT	Minimum Alternate Tax
MOP	Manual of Office Procedure
NJRS	National Judicial Reference System
NMS	Non-filers Monitoring System
OERC	Odisha Electricity Regulatory Commission
ROC	Registrar of Companies
Rules	Income Tax Rules, 1962
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
TP	Transfer Pricing
TPO	Transfer Pricing Officer
TRO	Tax Recovery Officer
TNMM	Transaction Net Margin Method

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