

Chapter 4 : Bringing Zero Tax Companies into the tax base

4.1 This chapter addresses the question whether all the companies are filing returns of their income and whether the ITD has taken adequate steps to identify them to bring into tax net.

4.2 Status of filing return of the income by the corporate assessees

All the corporate assessees are compulsorily required to file their returns of income with ITD irrespective of income or losses.

With a view to ascertaining the status of filing of return by corporate assessees, we compared the data obtained from different sources viz. Ministry of Corporate Affairs, DGIT (Systems) and DGIT (Logistics, Research & Statistics)⁸⁵ as shown in the table below:

(Figures. in lakh)

Financial Year	Working companies as per ROC on 31 st March	Corporate assessees as per DGIT (Logistics, Research & Statistics) Wing, New Delhi	difference between the working companies registered with ROC and the companies reported by DGIT (Logistics, Research & Statistics)
2012-13	8.84	5.90	2.94 (33.3%)
2013-14	9.52	6.36	3.16 (33.2%)
2014-15	10.16	6.75	3.41 (33.6%)
2015-16	10.82	6.88	3.94 (36.4%)

The difference between the working companies registered with ROC and the number of companies reported by DGIT (Logistics, Research & Statistics) ranged from 2.94 lakh (33.3%) to 3.94 lakh (36.4%) which indicates the extent of non filing/stop filing of the return of income by the companies. About one third of the companies registered with the ROC were not in the database of the ITD.

Further, due to non furnishing of list of the companies by the ITD, audit could not compare the list of assessees from that available with the ROC and hence could not comment on specific non filers/stop filers assessees.

4.2.1 Action taken by ITD on corporate non filers

CBDT introduced⁸⁶ a Non filers Monitoring System (NMS) as a pilot project to prioritize action on non-filers with potential tax liabilities through the use of the system. The system is followed by Standard Operating Procedure (SOP) as below:

⁸⁵ CAG Report No. 3 of 2016 and 2 of 2017

⁸⁶ Instruction 14 of 2013 dated 23.09.2013 has issued a standard operating procedure for cases under NMS

- (i) A letter is to be issued to the assessee within 15 days of the case being assigned in NMS. On delivery of the letter, the AO should capture the delivery date in the NMS module. If the letter is not delivered, the AO should issue letter to the alternate address. In case the AO is not able to serve the letter and identify the taxpayer, he should mark "Assessee not traceable" in NMS.
- (ii) On receipt of the return from the non filer, the AO should capture the details in Assessment Information System (AST) within 15 days of filing of return. If the assessee informs that paper return has already been filed which was not captured in AST, the details of return should be entered in AST module. If no return is required to be filed in a case, the AO should mark accordingly in NMS;
- (iii) If return is not filed by identified assessee within 30 days of the time given, the AO should consider initiation of proceedings u/s 142(1)/148 in AST. Such cases will be processed every week by Directorate of System and will be marked as closed in NMS if (a) details of return are available in AST (b) Notice u/s 142(1) or 148 has been issued (c) "No return is required" is marked by the assessing officer.

Audit attempted to verify the action taken by ITD in respect of non filers. We sought from DGIT (Systems) ⁸⁷ data, in respect of non filers which was not furnished. Individual CCsIT/CsIT was also asked to furnish the data/details in respect of non filers. We received information relating to non-filers from 42 Pr. CIT charges in Andhra Pradesh and Telangana, Delhi, Jharkhand, Karnataka, Kerala, Maharashtra, Madhya Pradesh, Tamil Nadu and Uttar Pradesh charges only as shown in the Table below:

Table 4.2 : Action taken by ITD on corporate non filers					
Sl. No	Commissionerate	Corporate non-filers identified	Cases where letters/notices issued	Cases where ITR was filed in response to letters/notices issued	Cases where ITRs were not filed
1.	PCIT-II, Hyderabad	865	845	263	582
2.	PCIT-V, Hyderabad	475	535	167	368
3.	PCIT (Central), Hyderabad	53	53	20	33
4.	PCIT-I, Visakhapatnam	22	18	5	13
5.	PCIT-II, Visakhapatnam	441	49	44	5
6.	PCIT, Rajahmundry	605	0	0	0
7.	PCIT-Ranchi	225	225	38	187
8.	PCIT-Jamshedpur	30	30	0	30
9.	PCIT-Dhanbad	56	56	0	56
10.	PCIT-Hazaribag	11	11	0	11
11.	PCIT-Central-Patna	7	7	0	7

⁸⁷ DGA, CR , New Delhi letter no. RAIT/PA-115JB/2016-17/2193 dated 15.11.2016

12.	PCIT-1, Bengaluru	150	124	28	96
13.	PCIT-2, Bengaluru	211	173	41	132
14.	PCIT-3, Bengaluru	121	38	15	23
15.	PCIT-4, Bengaluru	178	106	31	75
16.	PCIT-5, Bengaluru	196	149	30	119
17.	PCIT-6, Bengaluru	369	366	71	295
18.	PCIT-7, Bengaluru	322	289	67	222
19.	PCIT-1, Chennai	905	905	160	745
20.	PCIT-2, Chennai	453	453	48	405
21.	PCIT-3, Chennai	274	274	37	237
22.	PCIT-4, Chennai	231	231	22	209
23.	PCIT-5, Chennai	493	493	130	363
24.	PCIT-6, Chennai	34	34	8	26
25.	PCIT-1, Kochi	866	866	405	461
26.	PCIT, Kottayam	16	16	3	13
27.	PCIT, Kozhikode	421	421	180	241
28.	PCIT, Thiruvananthapuram	376	376	148	228
29.	PCIT, Thrissur	197	197	142	55
30.	CIT LTU, Mumbai	0	0	0	0
31.	JCIT 14(2), Mumbai	268	268	124	144
32.	Central Range-6, Mumbai	9	9	2	7
33.	Addl. CIT 14(1), Mumbai	293	267	267	26
34.	PCIT Gwalior	28	27	0	28
35.	PCIT-I Indore	32	31	0	32
36.	PCIT 7 Delhi	251	251	96	155
37.	Bareilly	2452	10	2	8
38.	Ghaziabad	104	104	0	104
39.	I-Lucknow	317	313	41	272
40.	II-Lucknow	190	190	34	156
41.	Meerut	55	55	11	39
42.	Noida	148	148	NA	NA
Total		12750	9013 (70.69%)	2680 (29.73%)	6208
Note: Data pertaining to PCIT 7, Delhi may include both corporate and non corporate non filers					

It is seen from the Table above that out of 12,750 identified non filers, ITD issued notices in 9013 (70.69 per cent) cases only. Of them, only 29.73 per cent of the corporate non filers identified by the ITD had filed their income tax return in response to the notices issued by the ITD whereas no return has been filed in remaining 6,208 cases so far.

Audit further wanted to analyse the non filers list to see if any pattern or insight regarding the nature of the non filers emerge. However, this could not be done as the list/details of non filers were not furnished.

ITD was asked to produce the files of those corporate assesees who filed returns in response of the notices issued by the ITD for examination in audit but no such file was produced to audit.

There was a need to examine as to why the notices were not issued in all the cases identified as non filers by the ITD as a corrective measure and what action is being taken by ITD in respect of the cases where no return has been filed by the assessee despite issue of notice by the ITD.

4.3 Mismatch in the details of scrutiny disposal

We verified the data furnished by DGIT (System) with those at the assessing officer level in Demand and Collection Registers and noticed wide variation in the numbers of scrutiny disposal during FY 2015-16. The mismatches regarding disposal of scrutiny cases randomly noticed during audit have been shown in **Appendix 32**.

Actual disposal of scrutiny cases as per Demand and Collection Register in Andhra Pradesh and Telangana, Gujarat, Jharkhand, Kerala and Rajasthan was less than those indicated in the data provided by DGIT (Systems) whereas the reverse was true in Bihar, Karnataka, Maharashtra, North East Region, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal. The difference needs to be reconciled.

4.4 Conclusion

During FYs 2012-13 to 2015-16, about one third of the companies registered with the ROC were not in the database of the ITD. Only 19.57 per cent of the corporate non filers identified by the ITD had filed their returns in response to the notices issued by the ITD.

There was variation in the numbers of scrutiny disposal during FY 2015-16 between data furnished by DGIT (System) and that available at the assessing officer level in Demand and Collection Registers.

4.5 Recommendations

(a) The ITD may devise a framework for accountability where AOs may be made accountable for the effective use of Non-filers Monitoring System for identification of both corporate and non corporate non filers separately so that they effectively pursue the non filers to bring them into tax net.

(Para 4.2.1)

The CBDT during exit conference agreed to have a suitable framework in this regard.

(b) ITD may pursue the cases where ITRs were not filed so as to bring them into tax net.

(Para 4.2.1)

The CBDT during exit conference agreed to look into the matter.