

Press Release

CAG's Audit Report on 'Assessment of Assesseees in Entertainment Sector' tableed in Parliament

Performance Audit Report of the Comptroller and Auditor General of India, Report No. 1 of 2019 on "Assessment of Assesseees in Entertainment Sector" was tableed in Parliament today.

C&AG carried out a Performance Audit on 'Assessment of Assesseees in Entertainment Sector. This performance audit covered the assessment of assesseees engaged in key sub-sectors of entertainment sector viz. television, radio, music, event management, films, animation and visual effects, broadcasting, sports and amusement which included cases of scrutiny assessment, appeal and rectification completed during the period 2013-14 to 2016-17.

Audit findings

CAG covered the scrutiny assessments completed by the ITD during the financial years 2013-14 to 2016-17. Out of total of 13,031 assessments made in the period by the ITD, we checked 6,516 assessment records (approx. 50 *per cent*) with assessed income of ₹ 47,979.44 crore during this performance audit. CAG noticed 726 instances (approx. 11 *per cent* of the audited sample) concerning systemic and compliance issues involving tax effect of ₹ 2,267.82 crore, thus causing loss of revenue to the Government.

Some of the findings are given below:

- A number of segments of the entertainment sector, viz. sports, event management, artist, animation, cable business etc. are clubbed under the business code 906 [Others (Entertainment sector)], segment specific refinement of assesseees may not be possible for selection under scrutiny and monitoring purposes.

(Para 2.1)

- Useful information of the assessee was not shared amongst different charges of Income Tax Department (ITD). Even, information of cash transactions, being a major source of unaccounted income, was not passed on to other charges of ITD for further verification of such transactions.

(Para 2.2.1 and 2.2.2)

- Despite specific film circles/wards created to assess all the assessees of film and television industry in dedicated units, sufficient efforts were not made by the ITD to assess them in the designated circles/wards.

(Para 2.2.3)

- ITD did not utilise available sources effectively for collection and analysis of data from other central and state government departments.

(Para 2.3)

- Surveys, though an effective tool for strengthening tax base as well as deterrence against evasion, were not utilised at all in some states.

(Para 2.4)

- Verification of the expenses as claimed by the Indian film production houses on account of production cost payment made to the foreign line producers was not being done during assessment proceedings.

(Para 3.1.1)

- Verification of the incentive/subsidy received by the Indian film production houses from Foreign Governments was not being done during assessments.

(Para 3.1.2)

- Inter-related parties of the entertainment sector were following different accounting methods, impacting proper cross verification of transactions made by them.

(Para 3.2.1)

- There was no monitoring mechanism to examine the details of revenue earned from overflow and from various movie rights by the film producers.

(Para 3.2.2)

- There was lack of uniformity while applying provisions of withholding tax in respect of payments made to foreign line producers.

(Para 3.3)

- There was no uniformity in allowing pre-operative expenses by the assessing officers despite the facts and circumstances being similar in nature.

(Para 3.4)

- There was no uniformity in allowance of franchisee fee, as paid by Indian Premier League (IPL) franchisee to Board of Control for Cricket in India (BCCI), by the ITD.

(Para 3.6)

- Despite acceptance of recommendation (made in our earlier report No. 36 of 2010-11) by the Ministry for inclusion of PAN of payee in Form 52A, no action has been taken by the ITD in this regard.

(Para 3.7)

- Provisions related to allowances of deductions/expenses/set off and carry forward of losses/ MAT etc. were not followed correctly by the ITD.

(Para 4.3 to 4.7)

Recommendations

CAG recommends that:

- a. The ITD may strengthen the existing mechanism for sharing and cross-verification of needful information within the Department to ensure quality assessments.

The CBDT replied (June 2018) that the suggestion is noted for improvement/enhancement.

- b. The CBDT may effectively coordinate with external agencies such as central/state revenue departments/authorities for cross verification of revenue collection figures disclosed by assessees in its ITRs.

The CBDT replied (June 2018) that the suggestion is noted for improvement/enhancement for data exchange with other potential partners in State/ Central Government.

- c. The CBDT may ensure that cases related to film and television industry are assessed in the Film circles/wards so that the related transactions could be cross verified and leakage of revenue could be prevented.

The CBDT replied (June 2018) that separate film circles are already created in major stations such as Mumbai, Chennai and Hyderabad to assess cases related to film and entertainment sector at one place in a centralized manner.

The reply does not address the audit recommendation, as a number of assessees are being assessed outside film circles/wards.

- d. In respect of effective utilisation of Form 52A, the CBDT may consider:
 - i. to pursue pro-actively the receipt of Form 52A from all movie producers
 - ii. extending disclosure requirement vide Form 52A for assessees engaged in other emerging sub-sectors of Entertainment Industry, viz. documentary producer, event management firms/companies etc.
 - iii. changing template of Form 52A to include PAN of payees receiving payments from the movie producers

- iv. capturing the details of receipts earned by movie producers from various movie rights/ overflow (surplus receipts)
- v. making it mandatory to disclose all details sought as per Form 52A
- vi. making it necessary to disclose, separately, details of amounts actually paid during the financial year and amounts due for payment as on the date of filing of Form 52A to facilitate cross verification of receipts in respect of the assesseees who are following cash/mercantile basis of accounting

The CBDT replied (June 2018) that the format of Form 52A shall be examined and revised as per the recommendations made by the Audit.

- e. CBDT may ensure that the provisions/conditions laid down in the Income Tax Act with respect to allowances of deductions/expenses/ set off and carry forward of losses/MAT etc. are duly complied with by the Assessing Officers. The CBDT while agreeing to the recommendation (June 2018) stated that with the implementation of Income Tax Business Application (ITBA), the Assessing Officer is required to follow a more detailed and comprehensive approach in computing taxable income.
- f. CBDT may make it mandatory for the Assessing Officers, at all stages of assessments, to auto generate tax demand through its assessment module having in built checks and validations to prevent recurring and avoidable mistakes in computation of tax and interest.

The CBDT while agreeing to the recommendation (June 2018) stated that, it has been made mandatory for the AOs to pass the assessment orders through ITBA, which has in-built checks and validation.

BSC/RSJ/SS/TT