

Summary
of
Recommendations

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❖ **On managing the inventory of appeals** (Paragraphs 2.1 to 2.8)

We recommend that:

small tax payers' disputes may be hived off and dealt separately through an alternate dispute resolution mechanism. This would bring relief to a large number of disputants (66 *per cent*) and clear the pendency. Segregation of complex corporate disputes from such low end disputes, would promote greater focus on the "big ticket" appeals and also facilitate rationalisation of the workload of CsIT(A);

the reasons for low satisfaction in assessment of small taxpayers leading to disputes need to be identified;

the Act may be amended to stipulate a definite time limit in finalising appeals at the CIT(A) level, which may be in line with international best practices;

the Kelkar Committee had recommended that as a confidence building measure, the Board should release annual information on the performance of officers. Greater public disclosure on the performance of the AOs, capturing the error rates, would enforce greater accountability. Such information should provide break-up on the assessments completed, demands raised, number of refunds (and amount) and number in appeals (with amount) disputed. To begin with, such a data would serve as a Management Information System for the Department;

reasons for low disposal of appeals by CsIT(A) need to be analysed; wherever pendency is due to lower efficiency, strict administrative measures may need to be taken;

lacunae in the provisions of the Act need to be addressed without linking them to the Direct Taxes Code (DTC).

❖ **On escalation of disputes** (Paragraphs 3.1 to 3.15)

We recommend that:

a system of peer review at the AO level to examine the merits in escalation should be in place. The periodicity of such review may be such that it does not render the AO's workload unviable;

Kelkar Committee had recommended a stricter accountability structure within the Department that is seen to be taking decisive action against the tendency to "appealitis".

Internal audit should in its audit plan, include coverage of a prescribed percentage of appeals, to identify needless escalation or inaction where there is merit.

❖ **On issues leading to disputes** (Paragraphs 4.1 to 4.6)

We recommend that:

a sectoral analysis of disputes to identify frequently disputed provisions of the Act should be done. This would serve as a template while finalising the provisions of DTC;

there is a need to remove ambiguities in the provisions of the Act to reduce the use of discretion by the AOs. The penal provisions of the Act, for instance, require a re-look, since the deterrent edge to these provisions is being blunted due to inability to sustain the penalty orders in appeals;

a databank of cases in which permission is not granted by Committee on Disputes (COD) containing details on the disputed provisions of the Act may be created so that similar cases are not pursued or referred to COD;

responsibility must be fixed on AOs for technical or procedural lapses that drag the Department to needless litigation;

the DTC seeks to change the very basis of exemptions. After its operationalisation, the only purpose behind continuation with the disputes could be the realisation of revenue as no substantial clarification on law would be necessary. Hence it may be useful if a process of plea bargaining [in the form of Kar Vivad Samadhan Scheme] is considered.

❖ **On effectiveness of internal controls** (Paragraphs 5.1 to 5.11)

We recommend that:

automation of receipt and disposal of appellate orders, with inbuilt supervisory controls be implemented. Pending automation, maintenance and updation of control registers should be monitored regularly;

a system for periodic reconciliation of data maintained by different sources, may be instituted;

an effective system, involving departmental representative/legal counsel may be laid down to ensure timely collection of appellate orders to stem the delays in implementation;

as a confidence building measure, the data on AO-wise receipt and implementation of appellate orders should be placed on the website.

❖ **On accuracy in implementation** (Paragraphs 6.1 to 6.3)

We recommend that:

there should be supervisory review of orders giving effect to appeal, to detect mistakes;

a stricter accountability structure should be formulated to fix responsibility on AOs for incorrect implementation of appellate orders.