

CHAPTER 1

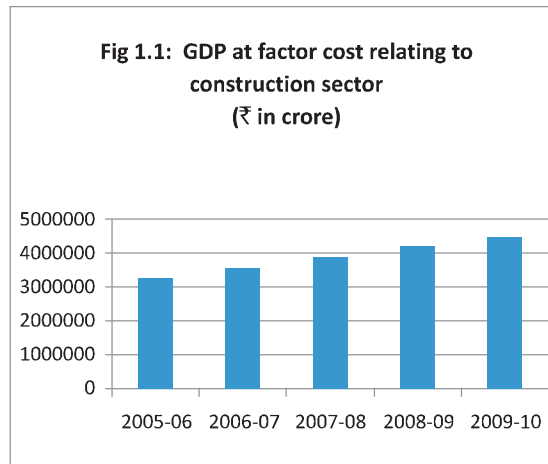
INTRODUCTION

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CHAPTER 1

INTRODUCTION

1.1 India has emerged as the second fastest growing economy in the world.¹ The civil construction industry is not only an integral part of the economy but also a powerful engine of growth influencing the development path. It is poised for growth on account of industrialization, urbanization, economic development and people's rising expectations for improved quality of living. In India, construction is the second largest economic activity² after agriculture in terms of employment generation. The Eleventh Plan document set the investment target on construction to nine percent of GDP by the end of the plan period. The total turnover in residential, commercial and infrastructure construction sector increased³ from ₹ 32,49,130 crore during 2005-06 to ₹ 44,64,081 crore during 2009-10 registering compound annual growth rate of seven per cent over the period.



1.2 Why we chose the topic

- There has been steady growth in construction activity since 2005-06 in spite of a brief slowdown in the housing sector in 2008-09.
- A number of tax concessions are given to entities in this sector.
- An earlier performance audit conducted by us for the year ending March 2003 highlighted absence of data base of civil contractors, the ineffective use of surveys to broaden the tax base, deficiencies in the 'Project Completion Method' of accounting adopted by the construction entities and several irregularities in assessments of civil contractors and builders. Since the review, the sector has grown manifold and much of the concerns pointed out by us continue to exist.
- There has been a rapid urbanization in India and upgradation of city infrastructure by regional and local governments.

Thus, the subject merited a performance evaluation.

¹ Finance Minister's Budget Speech 2009.

² Source: Report of the Working Group on construction, 11th Five Year Plan

³ Centre for monitoring of Indian Economy

1.3 Legal Provisions

Income tax assessment of entities engaged in civil construction are governed by general provisions for computation of income from business and specific provisions relating to deductions/ exemptions etc as laid out in the Income Tax Act 1961. The relevant provisions are summarized in Table 1 below:

Table:1 Relevant sections of the Income Tax Act			
General Provisions		Provisions specific to civil construction	
Section	Brief	Section	Brief
28 to 32	Computation of income from profits and gains of business or profession.	44AD	Special provision for computing profits and gains of business of civil construction etc.
36 & 37	Allowable deductions.	44AB	Audit of accounts of certain persons carrying on business or profession
40(a)(ia)	Amounts not deductible	80IA(4)	Deduction in respect of profits and gains from industrial undertaking or enterprises engaged in infrastructure development
40A(3)	Expenses or payments not deductible in certain circumstances	80IAB	Deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone
50C	Special provision for full value of consideration in certain cases	80IB(10)	Deduction in respect of profits and gains from industrial undertaking or enterprises engaged in developing and building housing projects

1.4 Objectives of the review

The objectives of the review were to seek an assurance that:-

- All registered contractors including builders, who are liable to pay taxes are on the records of the Income Tax Department.
- The Income Tax Department has made significant efforts to widen and deepen the tax base in this potential area specifically to examine the effective utilization of information collected from transaction returns like the Annual Information Returns that are filed separately with the Department by different agencies.
- The Department has ensured proper compliance of the provisions of the Income Tax Act by the contractors/ builders/developers.
- The Department has been able to identify and plug lacunae or deficiencies in the administration of law or policy related to the above subject.

1.5 Scope of audit

1.5.1 Coverage

The review covered the assessments completed between financial years 2006-07 and 2009-10 and up to June 2010.

1.5.2 Sample

For audit coverage we selected 50 percent of the assessment units which are company circles and 30 percent of units other than Company Circles in metro charges. In non-Metro charges, we chose 30 percent of the company circles and 10 percent of other assessment units for audit scrutiny. Within a selected unit, all cases of scrutiny assessments were selected for examination. In case of assessments completed in a summary manner five percent of these were selected in audit at Metro charges and 10 percent in non Metro charges. In absence of assessment charge-wise database, we identified assesses engaged in the business of civil construction from the (Assessment Information System) AST⁴ data maintained by the DG (Systems) of the Department by selecting the relevant codes. We requisitioned 15,045 assessment records from the assessment units of the Department located all over India. However, the Department could produce 11,476 assessment records to us.

1.5.3 Constraints

The Department failed to provide 3,569 assessment records which were about 24 percent of records requisitioned by audit. The level of non production ranged from 31 percent to 51 percent in Uttar Pradesh, Orissa, Jammu & Kashmir and Maharashtra charges. Thus, our selection of assesses for study remained confined to the limited assessee data. Non production of records by certain charges despite repeated requests was a matter of concern.

1.6 Acknowledgment

1.6.1 An entry conference was held with CBDT on 19 March 2010. The audit objectives, scope and the main focus areas of audit examination were explained in the meeting. The Indian Audit and Accounts Department acknowledges the cooperation of the Income Tax Department in facilitating the audit.

1.6.2 The exit conference was held (June 2011) with the Ministry/Board wherein the Report was discussed. The views expressed by the Ministry/Board in the exit conference have been suitably incorporated in this Report.

⁴ One of the modules of the applications software used by the IT department for assessment of income tax returns of assessee. The process starts with entering the returns received from assesses into the system.