

CHAPTER 4

INFORMATION SHARING AND SCRUTINY

- **Information sharing and cross verification**
- **Lack of cross verification**
- **Recommendations**

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- Information and records on related assessees were found to be rarely shared and cross verified by the concerned AOs. We found that income of ₹ 49.26 crore in 15 cases escaped assessment due to lack of cross verification of records available with the AOs.
- We found 256 cases involving tax effect of ₹ 83.54 crore in which income escaped assessment due to short/non accountal of contract receipts, in profit and loss account.
- We also noticed 220 cases involving tax effect of ₹ 469.10 crore of non deduction/remittance of TDS or delay in remittance of TDS to the Government.

4.1 Information sharing and cross verification:

The Act provides that the Assessing Officers shall complete the assessment correctly after verifying all the necessary records, documents and accounts of the assessee.

We noticed 15 cases in Mumbai, Chennai, Delhi, Kanpur and Rajahmundry charges involving revenue impact of ₹ 49.26 crore where income escaped assessment either due to non sharing of information among AOs or due to lack of cross verification of records available with the AOs. Five illustrations involving tax effect of ₹ 46.26 crore are given in Table 4 below:

(₹ in crore)

Table:4 Cases on information sharing and cross verification				
S No.	Name of the assessee/ CIT charge	AY	Description	Tax effect
1.	M/s Abode Builders CIT-XX, Mumbai M/s Vaman Estate CIT-XXI Mumbai	2007-08	M/s Abode Builders and M/s Vaman Estate developed a project "Trans Residency" in joint venture. The AO disallowed the deduction under section 80IB(10) to the former for non-fulfillment of conditions prescribed. However, the latter was irregularly allowed the same due to non passing of the related information on breach of conditionality to the AO concerned. We verified that M/s Vaman Estate was irregularly allowed deduction of ₹ 34.20 crore.	15.38
2.	M/s EVP Group and M/s S&P Foundation Group CIT I Chennai	2004-05 to 2008-09	During assessment proceedings followed by search and seizure, the assessees accepted the actual sale considerations of developed properties along with 'on money payments' made to different parties for purchase of land that were not shown in their accounts and also paid related tax liability. We found that the actual sale consideration was mentioned in the sale agreements entered	18.67

			between the assessee and the sellers of the land. The information on the land transactions readily available with the department was not transmitted to the AOs having jurisdiction over the entities who had received the payments and were liable to pay taxes on the 'On money' received. The income escaping assessment involved revenue impact of ₹ 56.57 crore.	
3.	M/s Ansal Buildwell Ltd Central Circle I Delhi	2006-07	The assessee included project expenses of ₹ 82.74 crore in respect of work in progress of Sushant Lok-III transferred by Ansal Properties and Infrastructure Ltd. However, as per accounts of Ansal Properties and Infrastructure Ltd., the project cost of Sushant Lok- III was only ₹ 57.29 crore.	11.39
4.	M/s MCL-RSR (JV) CIT Rajahmundry Andhra Pradesh	2006-07	The assessee returned ₹ 43.90 lakh for sale of 9 flats as against ₹ 53.09 lakh as per records of Sub Registrar office thereby understating income of ₹ 9.19 lakh. Besides, assessee claimed sub contract payments of ₹ 11.86 crore to R. Subba Raju, Firm. We cross checked and found that it credited only ₹ 10.94 crore. AO failed to detect the irregularity though the firm's records were also available with him in the same charge.	0.32
5.	M/s Kanpur Development Authority CIT I Kanpur	2007-08	The assessee made payments of ₹ 1.48 crore to M/s Kanpur Electric Supply Co. and Shri Ram Kishan Kushvaha in Kanpur charge without quoting PAN. On cross verification we found that deductees neither offered the income for taxation nor claimed credit for TDS.	0.50

4.2 Lack of cross verification of TDS

In order to facilitate correct assessment by the AO, section 44AB provides a role to the tax auditor who would undertake verification of the accounts and records of the assessee to ensure compliance to TDS provisions. The tax auditor gives his report in the prescribed form (3CD). We noticed cases where the tax auditor, instead of making a detailed verification of compliance to TDS provisions gave qualified statements such as, "due to voluminous nature of transactions, the compliance with TDS provisions could not be verified but the same was done on test check basis". In such cases the Department neither disallowed the claims made by the assessee nor issued suitable instructions to the tax auditors. This resulted into allowing huge expenses without verifying compliance with TDS provision.

4.2.1 Escapement of income due to short accountal of TDS receipts

Section 199 of Income Tax Act, 1961 provides that any tax deducted at source shall be treated as payment of tax on behalf of the tax deductee and credit shall be given to him for the amount so deducted in respect of the assessment year for which income is assessable. The related receipt from which the tax was deducted has to be taken into account while computing the total income of the tax deductee.

We found 256 cases where the contract receipts on which TDS was made as shown in Form 16A were either not accounted for or short accounted by contractors (tax deductees) in their profit and loss account. These cases involved tax effect of ₹ 83.54 crore. Three illustrations are given below:

4.2.1.1 Charge: CIT-IV, Delhi, AY 2006-07

M/s IRCON International Ltd.¹⁸ had shown contract receipts of ₹ 1042.30 crore as against contract receipts of ₹ 1068.37 crore as per TDS certificates on which TDS was claimed by the assessee. Hence, contract receipts of ₹ 26.07 crore were short accounted by the assessee. Besides, the assessee also did not account for the receipts of ₹ 44.37 crore from countries covered under DTAA which were taxed in those countries but deducted the same from computation of the income. These mistakes resulted in short levy of tax of ₹ 32 crore including interest applicable.

4.2.1.2 Charge: CIT Bhubaneswar, AYs 2005-06 & 2006-07

M/s ARSS Infrastructure Projects Pvt Ltd had shown gross receipt of ₹ 29.58 crore and ₹ 60.25 crore in Profit and loss account during the above two AYs as against ₹ 29.77 crore and ₹ 65.76 crore shown in TDS certificates respectively. Hence, gross receipts of ₹ 5.70 crore were short accounted for by the assessee involving short levy of tax of ₹ 2.53 crore.

4.2.2 Allowing expenses without deducting/remitting TDS

Section 40(a)(ia) of the Act provides that any interest, commission or brokerage, fees for professional services or fees for technical services payable to a resident, or amounts payable to a contractor or sub-contractor, being resident, for carrying out any work on which tax is deductible at source and such tax has not been deducted or after deduction, has not been paid within prescribed period then such amounts shall not be deducted in computing the income chargeable under the head "profit and gains of business or profession".

We noticed 220 cases of inadmissible expenditure on which TDS was not deducted or where deducted, was not remitted to the Government. The mistakes involved tax effect of ₹ 469.10 crore. Three cases are illustrated below:

4.2.2.1 Charge: CIT-VIII Mumbai, AY 2007-08

M/s Aamby Valley Ltd debited an expenditure of ₹ 648.11 crore in profit and loss account on account of interest which was payable after two years and TDS on it was not deducted. As such the same was required to be disallowed in view of provisions of section 40(a)(ia) of the Act. Besides, the assessee

¹⁸ Assessment was completed after scrutiny in December 2008

credited an amount of ₹ 190.92 crore from sales of plots and debited expenditure of ₹ 161.72 crore as cost of the sales. We noticed that the assessee had sold plots as well as villas for a consideration of ₹ 361.71 crore. Thus, the sale consideration was understated to the extent of ₹ 170.79 crore. These mistakes resulted in aggregate tax effect of ₹ 285.47 crore.

4.2.2.2 Charge: CIT-V, Mumbai, AYs 2006-07&2007-08

M/s. Maharashtra State Road Development Corporation Ltd was granted deduction towards interest of ₹ 155.56 crore accrued but not due on secured/unsecured loan. As the interest was not due for payment and TDS thereon was not deducted, deduction granted towards payment of interest of ₹ 155.56 crore was not in order and should have been disallowed. The mistake resulted in under assessment of income to that extent involving potential tax effect of ₹ 52.36 crore.

4.2.2.3 Charge: CIT-II Hyderabad, AY 2005-06

M/s IVRCL Infrastructures and Projects Ltd recovered TDS of ₹ 93.24 crore every month during the year in respect of sub contract payment but failed to remit the tax deducted at source within the prescribed period. The same was required to be disallowed in terms of provision of section 40(a)(ia). The omission involved tax effect of ₹ 42.65 crore.

4.3 Recommendations

We recommend that

- *CBDT may issue necessary instruction for sharing of information regarding high value transactions among the concerned AOs to prevent leakage of revenue.*

(Para no. 4.1)

CBDT stated (June 2011) that the AOs are expected to cross verify and counter check such transactions. They would issue instructions with a view to sensitize the AOs on the issue as also to tighten the monitoring mechanism to prevent such lapses.

- *CBDT may issue necessary instructions that no TDS credits shall be allowed without quoting PAN of the deductees.*

(Para no. 4.2)

CBDT stated (June 2011) that the issue has been addressed with the implementation of the New System of mandatory furnishing of PAN wef 01-04-2010 by the deductor of tax at source, which is required to be matched with the income tax return of the deductee.