CHAPTER VI: MINISTRY OF FINANCE

Insurance Regulatory and Development Authority

6.1 Avoidable expenditure on service tax

Failure to recover service tax from clients and subsequent payment thereof from own funds resulted in avoidable expenditure of ₹ 22.58 crore.

Insurance Regulatory and Development Authority (IRDA), Hyderabad has been rendering services to the Public/ Private Insurance companies, agents, brokers etc. by collecting charges/ fees. As per the provisions of the Finance Bill 2012, service tax is to be levied on all services except those specified under Section 66D (Negative List and exempted services). The services provided by IRDA were not included in the negative list. Hence, IRDA was required, with effect from 1 July 2012, to collect service tax on the charges/ fees collected for the services provided by it.

IRDA, instead of collecting the tax, requested (April 2012) the Ministry to get the services rendered by it included in the Negative List. IRDA did not, however, collect the service tax as per the provisions of the Act pending decision from the Ministry.

Ministry stated (July 2013) that it was a conscious decision of Government to keep exemptions at the minimum and as such the services of IRDA are liable to service tax.

Subsequently, IRDA sought opinion from a tax consultant, who confirmed (December 2013) the service tax liability and assessed the same for the period from 1 July 2012 to 2 December 2013 at ₹ 17.09 crore.

IRDA decided (December 2013) to collect service tax payable from 1 January 2014 from service receivers. It however, paid the service tax of ₹ 22.58[1] crore for the period 01.07.2012 to 31.12.2013.

Audit observed (February 2014) that

- IRDA did not consider it prudent to recover service tax from its service receivers pending Ministry's reply which was received after 15 months
- Even after receipt of Ministry's reply in July 2013, IRDA did not initiate action to recover service tax from its clients and instead it decided to pay the tax from its own funds.

IRDA stated (September 2014) that

- As there was no clarity on the subject, it sought the opinion of Ministry and the clarification was received in July 2013.
- Opinion sought from tax consultant was for calculation of service tax and not regarding its applicability.
- It felt that it was cumbersome to collect the service tax from agents (20 lakh), brokers (300), etc. and hence a conscious decision was taken to bear the service tax liability.

The reply needs to be viewed in light of the following:

- Services provided by IRDA were covered neither in the negative list nor by any specific exemption notification and were therefore liable to service tax.
- Tax consultant in his opinion also confirmed that services provided by IRDA were neither covered under negative list nor Mega Exemption List, therefore attracted service tax.
- IRDA could have attempted to collected service tax from its service recipients at the time of renewal of licenses as the services

[1] Service tax paid ₹ 6.42 crore (01.07.2012 to 31.12.2012) and ₹ 16.16 crore (01.01.2013 to 31.12.2013). Total ₹ 22.33 crore

provided by IRDA were clearly taxable and its decision to bear the burden without initiating steps to recover the same was flawed.

Therefore IRDA's decision firstly to not collect service tax and subsequently to bear the tax liability resulted in an avoidable expenditure of ₹ 22.58 crore.

The matter was reported to Ministry (October 2014); their reply was awaited.

Office of the Principal Chief Commissioner of Income Tax, Pune

6.2 Infructuous Expenditure incurred for hiring of office accommodation for Regional Processing Centre

CBDT's decision to create a Regional Processing Centre at Pune without planning & proper analysis of its requirement resulted in Office of the Principal Chief Commissioner of Income Tax, Pune incurring infructuous expenditure towards hiring of office accommodation for Regional Processing Centre amounting to ₹ 3.83 crore.

Rule 21 of the General Financial Rules specifies the standards of financial propriety and requires that every officer incurring or authorizing expenditure from public money to be guided by high standards of financial propriety. Every officer should also enforce financial order and strict economy and to exercise the same vigilance in respect of expenditure incurred from public moneys as a person of ordinary prudence would exercise in respect of expenditure of his own money. The expenditure should not be prima facie more than the occasion demands.

The Hon'ble Finance Minister in the Budget presentation of 2010 made a proposal for setting up of Regional Processing Centre (RPC) at Pune and Manesar, for carrying out processing of manual returns of other than Karnataka and Goa Region. The main functions of the RPC, were to handle paper returns including picking up of the returns from designated locations, digitization, data entry and pushing the digitised return data to Central Processing Centre (CPC), Bengaluru, which is being run by the Infosys for handling all e-returns. Accordingly, based on the instructions of The Directorate of Income Tax (Systems) (June, 2010), the Chief Commissioner of Income Tax (CCIT) Pune constituted a committee (November, 2010) and after following all the procedures and deliberations, tenders were floated and a space of 1,06,278/ sq. ft. from M/s Vason Engineering Ltd. (Phoenix Ventures), at Hingewadi , Taluka Mulshi, Pune @ ₹.28 per sq. ft per month of carpet area for cold shell and ₹ 36 per sq.ft. per month of carpet area for warm shell was shortlisted. The administrative approval and expenditure sanction for the same was given by CBDT in June, 2011. The Department started paying rent with effect from 20th July 2011 as per agreement dated 20th July, 2011.

The Central Board of Direct Taxes (CBDT) later realised that the cost involved in processing the paper returns at the centre would be exceptionally high as compared to the existing rates charged by M/s Infosys at (CPC), Bengaluru. The department also found that the setting up of RPC was not viable as number of e-returns had increased substantially while the number of paper returns reduced considerably and so, there was a need to move towards e-filing of returns. Eventually, the CBDT in June 2012, informed CCIT-I Pune that the RPC, Pune project was to be scrapped and asked the latter to terminate the lease of the hired premises after issue of 2 months notice. CCIT-I Pune accordingly gave the lessor notice period of 2 months (15/06/2012) and terminated the lease w.e.f. 15.08.2012. Thus, though the CCIT paid rent amounting to ₹ 3.83 crore (As detailed in **Annex-VIII**) for the period from July, 2011 to August, 2012, neither the actual possession of the building was taken nor was any work carried out.

On this being pointed out (March 2014) the Department replied (November, 2014) that CBDT's proposal for alternative use of rented premises including for setting up of separate processing centre for processing the non-PAN based AIR information, was not finalised by Ministry of Finance on the ground that it would require a complete fresh proposal which may itself take more than one year. Further, the Ministry of Finance and the CBDT were involved in the entire process of hiring and termination of lease of RPC Pune.

Audit examination further revealed that the issue of opposition of Income Tax Employees Federation against the outsourcing of data entry work was persisting right from the beginning of the tendering process as paper returns of Karnataka and Goa were not being supplied to CPC Bengaluru from April 2010. Due to opposition of ITEF, the prospective parties were reluctant to bid, as a result lesser number of bids were received despite extension of time for submission of bids and retendering. Moreover the department was in the process of making e-filing mandatory for more and more number of assesses during the period when the proposal for setting up of Regional Processing Centres was in process. Thus, the reply of the department is not tenable, as CBDT took decisions in haste without evaluating the financial implications. Further, the trend of increase in e-filing and decrease in paper returns was also not envisaged and analysed by the department before deciding to setup the RPC at Pune. This resulted in CCIT Pune incurring infructuous expenditure of ₹ 3.83 crore.

The matter was referred to the Ministry (December 2014); their reply was awaited as of February 2015.