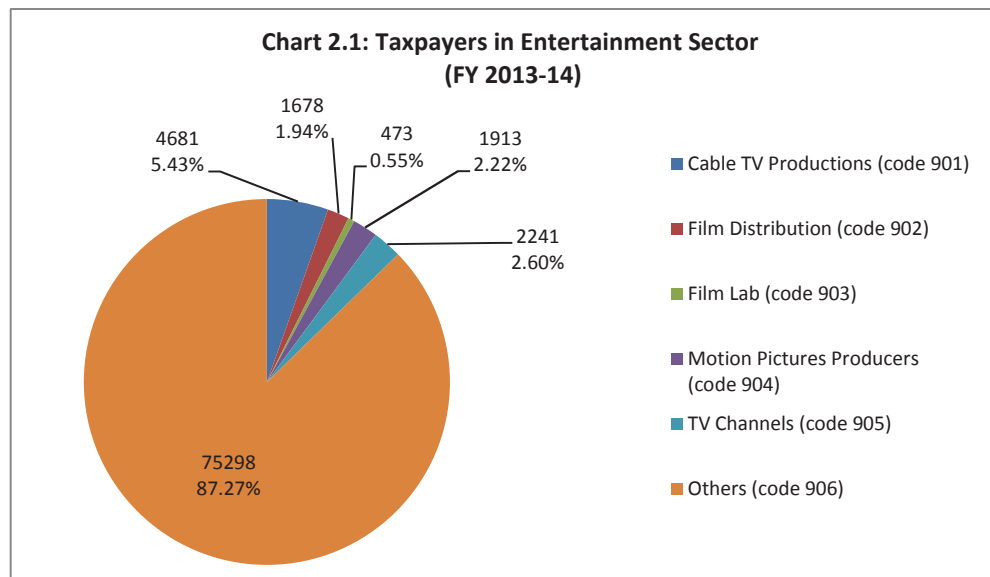


Chapter 2: Coordination effort within/outside the department and expansion of tax base

2.1 Tax base of assesseees related to entertainment sector under different codes

Allocation of specific codes to different businesses is essential for proper monitoring, collection and sharing of relevant information as also expert handling of sector-specific issues in the course of assessment.

ITD has allocated codes to the assesseees engaged in entertainment sector under six categories⁵. Of six categories, five categories have been assigned to Film & television sector while one category has been allotted for 'others'⁶. Code wise data of assesseees available in the website of ITD showed that during FYs 2013-14, only 13 per cent of assesseees in entertainment sector were falling under five categories assigned to Film & television sector whereas a significant proportion, i.e., 87 per cent of assesseees in entertainment sector were falling in 'others' category of entertainment sector. Number of taxpayers related to this sector under six categories is depicted in chart given below.



Source: ITR statistics, Income Tax Department

5

0901	Entertainment Industry [Cable T.V. productions]
0902	Entertainment Industry [Film distribution]
0903	Entertainment Industry [Film laboratories]
0904	Entertainment Industry [Motion Picture Producers]
0905	Entertainment Industry [Television Channels]
0906	Entertainment Industry [Others]

6 It covers assesseees associated with sports, film, event management, cable business, animation etc.

With a view to assess the scientific selection of cases under scrutiny under different categories especially for codes 906, we further analysed the data⁷ with respect to the number of scrutiny assessments completed and additions made during the period 2013-14 to 2016-17 for entertainment sector. Details of number of scrutiny assessments and addition made under different codes of entertainment sector is shown in the table below:

Table: 2.1: Number of scrutiny assessments completed and additions made under different codes of entertainment sector during the period 2013-14 to 2016-17

(₹ in crore)

Business Code	No. of scrutiny assessments (FY 2013-14)	Additions made in scrutiny assessments (FY 2013-14)	No. of scrutiny assessments (FY 2014-15)	Additions made in scrutiny assessments (FY 2014-15)	No. of scrutiny assessments (FY 2015-16)	Additions made in scrutiny assessments (FY 2015-16)	No. of scrutiny assessments (FY 2016-17)	Additions made in scrutiny assessments (FY 2016-17)
901	64	48.98	96	94.09	120	58.29	159	179.83
902	111	259.49	193	397.79	223	595.75	214	348.49
903	11	25.72	15	13.22	13	36.51	19	0.26
904	174	142.69	238	180.4	332	598.68	316	197.00
905	98	951.93	159	1519.57	203	1869.49	239	1751.77
906	771	2863.42	1657	6284	1815	9757.85	1995	10306.31
Total	1229	4292.23	2358	8489.07	2706	12916.57	2942	12783.66

Source: Data obtained from DGIT (Systems)

Additions made during scrutiny assessments in code 906 [Others (Entertainment sector)] as a proportion of total additions made in cases relating to entertainment sector continuously increased from 66.71 *per cent*⁸ in FY 2013-14 to 80.62 *per cent*⁹ in FY 2016-17. However, the number of cases selected for scrutiny assessments as a proportion of total scrutiny assessments in cases relating to entertainment sector under code 906 increased from 62.74 *per cent*¹⁰ in FY 2013-14 to 67.82 *per cent*¹¹ in FY 2016-17. Number of scrutiny assessments for each codes as a percentage of total number of scrutiny assessments in entertainment sector vis-à-vis additions made in each code as a percentage of total additions in this sector has been depicted for each FY (FY 2013-14 to FY 2016-17) in the chart below:

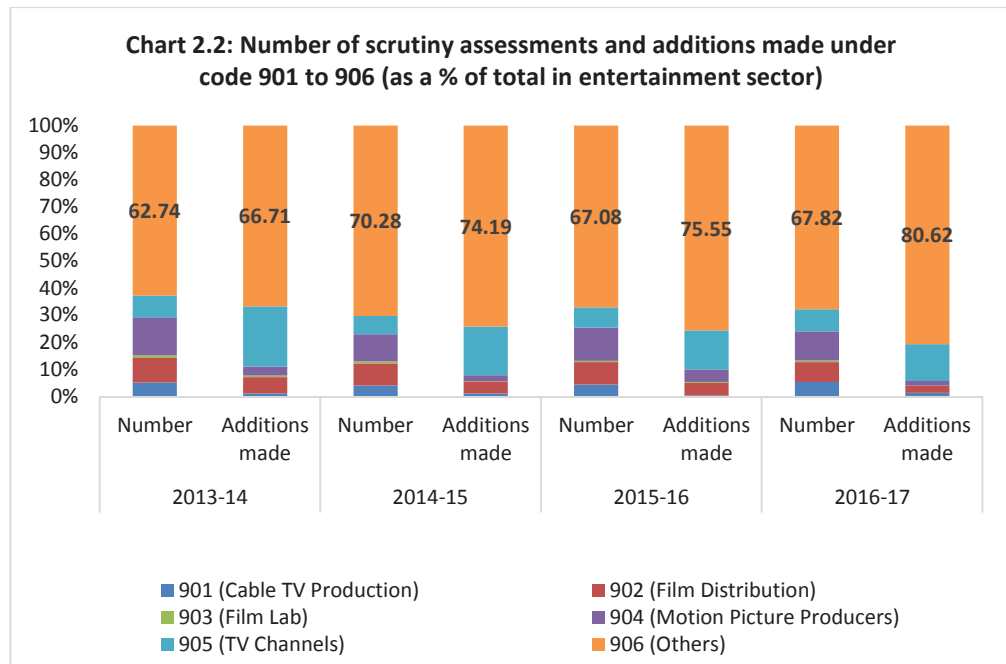
7 Data obtained from DGIT (Systems)

8 Addition of ₹ 2,863.42 crore out of total addition of ₹ 4,292.23 crore

9 Addition of ₹ 10,306.31 crore out of total addition of ₹ 12,783.66 crore

10 771 out of 1,229

11 1,995 out of 2,942



It is seen from above that there has been significant expansion (up to 80 per cent) in the additions in the scrutiny assessments made under code 906 (others) indicating that the assessee falling under this code are significant source for revenue generation in this sector. However, the number of cases selected for scrutiny assessments under this code was not commensurate with the additions made in scrutiny assessments of cases under this code during FYs 2013-14 to FYs 2016-17.

As a number of segments, viz. sports, event management, artist, animation, cable business etc. are clubbed in 906 code, segment specific refinement of assessee may not be possible for selection under scrutiny and monitoring purposes. Thus, there is a need to identify categories under code 906 and further delineate it for allotment of specific code to the assessee under emerging segments such as sports, event management, artist etc., in order to facilitate scientific selection and effective evaluation of risk for scrutiny selection.

2.2 Coordination within the department

The assessing units in ITD are structured in such a way so as to administer the different provisions of the Act pertaining to levy and collection of direct taxes. While regular assessments / re-assessments under the various provisions of the Act viz. 143(3), 147, 263, etc., are carried out in corporate/ non-corporate assessment circles and wards, search and seizure related assessments under sections 153A, 153C, etc., are concluded in central circles. Assessments under Tax Deducted at Source (TDS) and International taxation provisions are carried out by designated AO (TDS) and AO (International

Taxation) respectively. Further, for the purpose of efficient correlation between related assessee records and for effective cross-verification of information pertaining to assessments between personalities of film/TV industry, the ITD has created dedicated film/media assessing units. Coordination amongst various wings of the ITD and sharing of information is very important to prevent the possible leakage of revenue. Audit findings regarding coordination within the department are discussed in the succeeding paragraphs.

2.2.1 Sharing and using of information

Audit noticed in 11 cases in Karnataka and Maharashtra involving tax effect of ₹ 201.96 crore that the information in respect of assessees was not shared amongst different charges of ITD at the time of completing the assessment, thereby impacting the quality of assessment. Three cases are illustrated below (see Box 2.1).

Box 2.1 Illustrations of sharing and using of information

(a) Charge: PCIT-10, Mumbai
Assessee: M/s JMD Telefilms Industries Ltd.
Assessment Years: 2014-15 and 2015-16

The scrutiny assessments for AYs 2014-15 and 2015-16 of the assessee was completed in December 2016 at income of ₹ 1.26 crore and ₹ 1.78 crore respectively. Audit noticed that an investigation report of PDIT (Investigation), Kolkata on “Bogus LTCG through penny stock companies” was sent to DGIT (Investigation), Mumbai vide letter dated 27 April 2015 wherein the details of the penny stock companies and their *modus operandi* were explained and the concerned DGsIT were requested to disseminate the report to the AOs through the CCsIT concerned. Audit further noticed that the assessee (M/s JMD Telefilms Industries Ltd.) was one of the penny stock companies as per the Kolkata investigation report. However, while completing the scrutiny assessments in December 2016, AO did not take any cognizance of information of PDIT (Investigation), Kolkata, indicating that either the information was not shared with AO by the CCIT or the AO had not taken any action on the shared information. Thus, sharing of information by the Kolkata unit of ITD was not effectively utilized by the assessment charge of Mumbai office, thereby impacting the quality of scrutiny assessments.

(b) Charge: PCIT-11, Mumbai

Assessee: M/s Stellar Interactive Media Pvt. Ltd. (SIMPL)

Assessment Year: 2013-14

As per Section 68 of the Act, where any sum is found credited in the book of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the AO, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.

The scrutiny assessment of the assessee was completed in March 2016 at income of ₹ 27.73 lakh. During the assessment proceedings, AO had sent letter to DCIT, Circle 8(2), Kolkata on 10 March 2016 to verify the identity, genuineness and the credit worthiness of the M/s Sahara Universal Mining Corp. Ltd. (SUMCL), as the assessee had received share application money along with premium of ₹ 579.28 crore from M/s SUMCL, Kolkata. Local verification by the audit revealed that the DCIT(8), Kolkata did not share the required information with the AO, who in turn, completed the assessment on 30 March 2016 without adding back the unexplained amount of ₹ 579.28 crore to the income of the assessee. Considering the substantial amount involved, the AO could have verified the genuineness of transaction through third party data source, viz. data available with Ministry of Corporate Affairs (MCA) while completing the scrutiny assessment. Thus, both the AOs failed to ensure verification of genuineness before completion of scrutiny assessment of assessee. Had the information been shared between two assessment charges of the ITD, the unexplained amount of ₹ 579.28 crore would have been added back to the income of the assessee and amount of ₹ 187.95 crore be brought to tax. This is indicative of the fact that sharing of information between the different charges of the ITD was not effective leaving the scope of leakage of revenue.

(c) Charge: PCIT-25, Mumbai

Assessee: Sameer Baijnath Joshi

Assessment Year: 2011-12

As per Section 50B of the Act, any profits or gains arising from the slump sale effected in the previous year shall be chargeable to income-tax as capital gains arising from the transfer of long-term capital assets and shall be deemed to be the income of the previous year in which the transfer took place.

The assessee had filed its return of Income for AY 2011-12 in September 2011 declaring total income of ₹ 33.51 lakh and the same was assessed in a summary manner under section 143(1) of the Act. Audit scrutiny of

another assessee, viz. M/s Recept Entertainment Pvt. Ltd. (REPL)¹² revealed that the assessee (Sameer B Joshi) had sold on slump sale basis his business undertakings, viz. 'Chandan Cinema' and 'Chandan Cinema Canteen', to REPL at an agreed value of ₹ 38.84 crore vide agreement dated 7th February 2011. In lieu of the above business undertakings, M/s REPL issued equity share of like amount of ₹ 38.84 crore to the assessee. Since, the above transfer was done on slump sale basis, the capital gain was required to be taxed in the hand of the transferor, i.e., Sameer Joshi, as per the provisions of Section 50B. However, the assessee had not offered any capital gain on account of above transaction as per his return of income filed in September 2011. Audit also noticed from the Income Tax Return (ITR) of Sameer B. Joshi for AY 2011-12 that there was increase in capital amounting to ₹ 10.65 crore, however, the source of increase in capital/investment could not be ascertained from the details available in ITR.

Audit further noticed that the Assessing Officer (AO) of REPL¹³, instead of intimating to AO of Circle 25(3), intimated the AO of Circle 21(2), Mumbai on 13 June 2014 about the slump sale made by the assessee (Sameer B. Joshi) to verify the above transactions. However, AO of Circle 21(2), Mumbai had not taken any action stating that the case did not pertain to his charge. AO of Circle 21(2) Mumbai neither took any action nor referred the case to AO of Circle 25(3) to safeguard the interest of revenue. Had the information been sent to the actual assessment charge, i.e., Circle 25(3), the above transaction would have been brought to tax. This indicated lack of co-ordination within the different assessment units of ITD. The case for AY 2011-12 has become time barred which led to loss of revenue of ₹ 11.95 crore excluding interest.

2.2.2 Verification of cash transactions

White paper on black money¹⁴ highlighted that the cash has always been a facilitator of black money as transactions made in cash do not leave any audit trail. Given the primary importance of cash in relation to generation and use of black money, work needs to be done by way of legal curbs and regulations that can restrict the generation and flow of black money within the economy. As per section 40A(3) of the Act, where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or

12 AY 2011-12, which was assessed in the assessment charge of ITO 11(1)(3), Mumbai (now ITO 16(1)(3), Mumbai)

13 ITO 11(1)(3), Mumbai (now ITO 16(1)(3), Mumbai)

14 Issued by Ministry of Finance, Department of Revenue, CBDT (May 2012)

account payee bank draft, exceeds twenty thousand rupees, no deduction shall be allowed in respect of such expenditure.

During the examination of cases selected for sample, we noticed in five cases in three states¹⁵ that cash transactions were conducted among related parties. However, efforts were not made by the AO to obtain the details of corresponding parties and to pass the information to the jurisdictional AOs. Two cases are illustrated below (see box 2.2).

Box 2.2 Illustrations of verification of cash transactions

(a) Charge: PCIT-6, Hyderabad

Assessee: K. Venugopal (Proprietor of M/s KV Films)

Assessment Year: 2012-13

The scrutiny assessment of the assessee was completed in March 2015 at income of ₹ 1.29 crore. Audit noticed from the ledger account of the assessee that assessee had received a consideration of ₹ 2.92 crore in cash against sale of various movie rights, however, details of purchasers were not available in the records. Audit further noticed that the AO had not obtained the details of the film rights purchasers, from whom the cash payments were received by the assessee, to pass on the information to jurisdictional AOs of purchaser. Not obtaining and sharing of information by the AO with the jurisdictional AO prevented verification of cash transactions and disallowance of the same against the purchaser under section 40A(3) of the Act.

ITD replied (January 2018) that though there was no specific violation in the case of the assessee, efforts would be made to obtain the details from the assessee and forward the same to the jurisdictional AO. The reply of the ITD is not tenable as cash transactions, being a major source of unaccounted income, must be verified for quality scrutiny assessment and the details of persons making payment in cash needs to be shared with respective AOs to prevent possible leakage of revenue.

(b) Charge: PCIT-10, Chennai

Assessee: M/s Thirupathi Brothers Film Media

Assessment Year: 2013-14

Audit noticed from assessment records of the assessee that during survey, the assessee had admitted to have received ₹ 2.45 crore in cash from M/s Studio Green during FY 2012-13. Audit cross verified the assessment records of M/s Studio Green for AY 2013-14 and found that AO (assessing M/s Studio Green) had not added back the amount of expenses for which payment was made in cash by the M/S Studio Green to M/s Thirupathi

15 Andhra Pradesh & Telengana, Maharashtra and Tamilnadu

Brothers Film Media, violating the section 40A(3) of the Act. Had the information of cash transaction been shared by AO of assessee, i.e., M/s Thirupathi Brothers Film Media to the jurisdictional AO, assessing M/S Studio Green, trail of such transactions would have been detected for prevention of possible leakage of revenue.

2.2.3 Effectiveness of creating dedicated Film Circles/wards

With a view to have an overall control on the assessments and to achieve greater co-ordination and effective handling of the assessments of assesseees related to Film industry, dedicated Film Circles have been created in Mumbai, Chennai, Bengaluru and Hyderabad as maximum number of films are produced there.

To serve the above purpose, it was of utmost importance that all the cases related to film and television industry are assessed in the Film Circle. However, in Mumbai, it was noticed from the scrutiny data received from DGIT (Systems), New Delhi that from FY 2013-14 to 2016-17, 240 assesseees of film and television segment (business code 901 to 905) were assessed in other charges i.e. other than film Circles/ Wards. Similar issue was also raised in C&AG Report no. 36 of 2010-11¹⁶ wherein it was reported that 140 assesseees were assessed outside the film circle, and CCIT-I Mumbai had issued instructions (April 2010) to all CCsIT in Mumbai to transfer all cases related to film and television industry to the Film Circle. However, still 240 cases were found to be assessed in other charges. Similarly, in Bengaluru, 62 assesseees related to film and television segment were assessed outside Film Circles¹⁷. Thus the purpose to assess the cases of Film and Television Industry with a view to mitigate risk of revenue loss by cross verifying the facts and figures of inter-related projects and assesseees was not fulfilled. The respective AOs of other than film circles, should have transferred such cases relating to film and television to the dedicated film circles, instead of assessing them in their charge. ITD need to ensure that cases related to film and television sector are compulsorily transferred to dedicated circles, and in case of failure by AO to do so, responsibility may be fixed.

2.3 Coordination with other State/Central Government Departments

According to section 131(1) of the Income Tax Act, 1961 (Act), AOs shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, including, inter alia, "compelling the production of books of account and other documents". Further, ITD Manual

¹⁶ Report on "Taxation of assesseees engaged in the Film and Television Industry".

¹⁷ DCIT 2(3)(1), Bengaluru, ITO 2(3)(5), Bengaluru- both under PCIT 2, Bengaluru

of Office Procedure prescribed by CBDT¹⁸ entrusts ITD with the responsibility to liaise with other Government departments and agencies like Enforcement Directorate, Customs and Central Excise Department, Central Economic Intelligence Bureau, Sales tax and Trade tax Departments, State Excise Departments, District Administration, Government agencies dealing with economic offences and police authorities to enable income-tax authorities to get hold of vital information on assessees, both existing as well as potential. Audit found that the information of the assessee available with other departments was not effectively utilized by AOs while completing assessment, thereby leaving the scope of leakage of revenue. Audit findings in this regard are discussed in succeeding paragraphs.

2.3.1 Coordination with State Governments

Entertainment tax, now subsumed in Goods and Services Tax (GST), could be obtained and utilized by the ITD to verify the income offered through the chain of producers upto the level of exhibitors on the sale of movie tickets that was collected by the State Governments. Thus, box office collection could be selected to cross verify the actual receipts shown in the books of the assessee with respect to those shown for the purpose of entertainment tax.

2.3.1.1 We sought information of entertainment tax data of Delhi state through the Accountant General for cross verification of entertainment tax deposited by the assessee and the income offered as per Income Tax Act. We received details of entertainment tax collected in respect of 30 assessee. We test checked and cross examined the entertainment tax deposited by the assessee and the income offered as per Income Tax Act in respect of two assessee, viz. M/s Movie Times Cineplex Pvt. Ltd. and M/s M2K Entertainment Pvt. Ltd. Audit findings in this regard are discussed in succeeding paragraphs.

In Delhi, The details of tickets sold are prepared separately for each show of the movie in Form '7'¹⁹ showing gross amount received from the sale of tickets and the amount of entertainment tax and surcharge collected. Audit noticed that non verification of revenue collection figures offered by the assessee in its books of accounts with reference to collection as shown in Form '7' had resulted in short demand of ₹ 67.99 crore. The cases are illustrated below (see box 2.3).

18 Para 9 – Chapter 4 of ITD MOP – Vol. III; Para 34.2.2. under Chapter 9 of Vol. II

19 As per rule 14 of the Delhi Entertainment and Betting Tax Rules, 1997

Box: 2.3 Illustrative cases of coordination with other central/state departments

(a) Charge: PCIT-6, Delhi

Assessee: M/s Movie Times Cineplex Pvt. Ltd.

Assessment Years: 2011-12 to 2014-15

The assessee engaged in the business of running two multiplex cinemas in Delhi had offered income of ₹ 127.95 crore (exclusive of entertainment tax) in its Profit & Loss Account for AYs 2011-12 to 2014-15 from the sale of tickets. However, audit noticed from the information provided by the Entertainment Tax Department, Delhi, that the assessee had deposited entertainment tax of ₹ 46.01 crore against the two cinema halls during the above period. As such, taking into consideration the applicable 20 per cent entertainment tax on sale of tickets, the corresponding income generated by the cinema halls worked out to ₹ 230.06 crore. Thus, there was under reporting of income of ₹ 102.11 crore (₹ 230.06 crore - ₹ 127.95 crore) involving tax effect of ₹ 43.93 crore including interest. ITD had initiated remedial action under section 148 of the Act in March 2018.

(b) Charge: PCIT-6, Delhi

Assessee: M/s M2K Entertainment Pvt. Ltd.

Assessment Years: 2011-12 to 2014-15

The assessee engaged in the business of running two multiplex cinemas in Delhi had offered income of ₹ 39.72 crore (exclusive of entertainment tax) in its Profit & Loss Account for AYs 2011-12 to 2014-15 from the sale of tickets. However, audit noticed from the information provided by the Entertainment Tax Department, Delhi, that the assessee had deposited entertainment tax of ₹ 19.36 crore against the two cinema halls during the above period. As such, taking into consideration the applicable 20 per cent entertainment tax on sale of tickets, the corresponding income generated by the cinema halls worked out to ₹ 96.80 crore. Thus, there was under reporting of income of ₹ 57.08 crore (₹ 96.80 crore - ₹ 39.72 crore) involving tax effect of ₹ 24.06 crore including interest.

ITD replied (February 2018) that assessee had checked its records and performance reports submitted to entertainment tax department, however, it could not locate any figure of entertainment tax collected and deposited as shown by the audit and there might be some error in picking-up the figures. The reply was not tenable as the AO had relied upon the statement of assessee and not verified the entertainment tax deposited by the assessee with the state department for cross-verification of income offered by the assessee in its Income Tax Return(ITR).

2.3.1.2 In Maharashtra, every theatre owner had to file a weekly return in Form B under The Bombay Entertainment Duty Act, 1923. This weekly return included the movie wise details of revenue collection and entertainment tax paid. Hence, the Entertainment Tax Department of the State Government had primary information about the revenue realized from the exhibition of a film.

Audit noticed from test check of 12 cases²⁰ in Maharashtra (Pr. CIT-16, Mumbai charge) that in none of the cases the AO had taken any initiative to verify the revenue collection with actual collection as shown in Form B.

The cases illustrated above show that ITD did not liaise with other departments and it had accepted the disclosures made by assesseees without any cross verification.

2.3.1.3 In Karnataka, every person running the business of amusement had to file a monthly return in Form XXIII in accordance with Section 4E read with Rule 17-A of the Karnataka Entertainment Tax Act, 1958. The monthly return included details relating to payment for admission and all complimentary tickets and passes or relating to collection of amounts and the entertainment tax paid.

In Karnataka, PCIT-1, Bengaluru charge, audit noticed that an assessee, Bengaluru Leisure Pvt. Ltd., had furnished total collection from business of amusement in Form-XXIII at ₹ 3.75 crore (net of entertainment tax) during FY 2012-13 (relevant to AY 2013-14). However, the assessee had offered only ₹ 2.78 crore as income in the Profit & Loss account (P/L account) for the same FY, and thus, suppressed the income to an extent of ₹ 0.97 crore. Omission by AO to cross-verify the amount of actual collection declared by the assessee in Form XXIII and amount offered in the P/L account had resulted in under-assessment of income of ₹ 0.97 crore involving tax effect of ₹ 0.42 crore. The ITD accepted (September 2018) the audit observation and agreed to initiate the remedial action.

2.3.2 Coordination with Central Government Departments

To increase the revenue of the government and identify potential assesseees, information of external sources such as data of other central government agencies could be utilized by the ITD. Audit noticed instances where ITD did not coordinate with central government agencies while completing

20 (1) Rajiv Malhotra (2) M/s Swanston Multiplex Cinema Pvt. Ltd. (3) M/s Quality Cine Labs Pvt. Ltd. (4) M/s The Bengal Properties Pvt. Ltd. (5) M/s Fida Films and Hotels Company Pvt. Ltd. (6) M/s Shringar Films (7) Champaklal Pranlal Zaveri (8) Rahul Madhusudan Haskar (9) M/s Raksha Entertainment Pvt. Ltd. (10) M/s Rajshri Pictures Pvt. Ltd. (11) M/s Maruti International and (12) M/s Mukta Arts Ltd.

assessments, thereby, leaving a scope of leakage of revenue. Audit findings in this regard are discussed below:

2.3.2.1 Coordination with Registrar of Copyrights

As per section 33 to 35 of Copyright (Amended) Act, 2012²¹, the copyright society has to register itself with the Registrar of Copyrights afresh after a period of five years. Further, the renewal is subject to continued collective control of the copyright society being shared with the authors of works in their capacity as owners of copyright or of the right to receive royalty.

In Maharashtra, PCIT-16, Mumbai charge, the assessment of assessee, M/s Indian Performing Right Society Ltd. for AYs 2013-14 and 2014-15 was completed after scrutiny at income of ₹ 21.63 lakh and ₹ 19.81 lakh in March 2016 and December 2016 respectively. The assessee, engaged in collecting royalty on behalf of its members being composers or owner of any musical works, had been declaring net income as payable to its members and the same was claimed as exempt from tax. Audit noticed that fresh registration was not taken by the assessee, thus violating the provisions of Copyright (Amended) Act, 2012. Therefore, the royalty income of ₹ 38.28 crore and ₹ 39.67 crore in the AYs 2013-14 and 2014-15 respectively was required to be treated as income in the hands of the assessee and brought to tax.

Had the ITD co-ordinated with the Registrar of Copyrights and taken action in the case, undue benefit availed by the assessee could have been prevented and loss to exchequer avoided.

2.3.2.2 Coordination with Central Board of Film Certification

Audit also noticed that though the films are being certified by Central Board of Film Certification (CBFC), and there is existence of exclusive film circle and film ward in four states, the ITD has not devised any system to verify the Form 52A²² received *vis-à-vis* CBFC data of films certified. In the absence of such cross verification, the ITD is not in a position to ascertain about number of forms 52A required to be filed by the assessee. In the subsequent chapter (para 3.7.4), we have highlighted that Form 52A had not been submitted/delayed submitted by the producers of movie for 152 movies, thereby, impacting the effective verification by the AOs with respect to expenses claimed by the assessee. The ITD needs to devise the mechanism

21 Copyright Act is formulated by Ministry of Commerce and Industry

22 Every person carrying on production of cinematograph film is required to furnish to the jurisdictional Assessing Officer a statement in Form 52A providing particulars of all payments of over ₹ 50,000

for utilizing the information of CBFC for proper monitoring of receipt of Form 52A from the assesseees.

2.4 Role of survey in strengthening/widening of tax base

Sections 133A and 133B of the Income Tax Act empower the ITD to conduct surveys to gather information relating to the financial transactions of the assessee. Survey enables ITD to identify new assesseees, stop filers and detect tax evasions.

Information in respect of regular surveys conducted (within the selected units) in the entertainment sector during FY 2013-14 to 2016-17 was sought from ITD. It was seen that 25 surveys were conducted in six states²³ wherein additions/disclosures of ₹ 262.17 crore were made. However, no surveys were conducted in 13 states²⁴ during FY 2013-14 to 2016-17 in entertainment sector. No information was received with respect to survey conducted in Gujarat state. Thus, surveys, though an effective tool for strengthening tax base as well as deterrence against evasion, were not utilised altogether in 14 states during FYs 2013-14 to 2016-17 by the ITD.

2.5 Conclusion

- Business Code 906 (others) account for 87 per cent of the assesseees in entertainment sector and the assesseees falling under this code are significant source for revenue generation in this sector. There is a need to identify categories under code 906 and further delineate it for allotment of specific code to the assesseees under emerging segments such as sports, event management, artist etc., in order to facilitate scientific selection and effective evaluation of risk for scrutiny selection.
- Useful information of the assessee was not shared amongst different charges of ITD, thereby impacting the quality of assessment. ITD has also not coordinated with other state and central government departments effectively for collection and analysis of data available with them.
- Despite specific film circles/wards created to assess all the assesseees of film and television industry in dedicated units, sufficient efforts were not made by the ITD to assess them in the designated circles/wards thereby defeating the purpose of cross-verification of related transactions and prevention of possible leakages of revenue.

23 Andhra Pradesh & Telengana, Karnataka & Goa, Kerala, Maharashtra, Rajasthan and Tamilnadu

24 Bihar, Delhi, Haryana, Himachal Pradesh, J&K, Jharkhand, Madhya Pradesh, NER, Odisha, Punjab, Uttar Pradesh, Uttrakhand and West Bengal

- Surveys, though an effective tool for strengthening tax base as well as deterrence against evasion, were not utilised adequately during FY 2013-14 to FY 2016-17.

2.6 Recommendations

Audit recommends that

- a. CBDT may consider allocating separate codes to film artist and to emerging segments in entertainment industry viz. sports, event management etc. to ensure better monitoring, improved vigilance and identification of assessees for detailed scrutiny.

The CBDT replied (June 2018) that the codes specifying nature of business have been rationalized and revised in the return forms notified for AY 2018-19 and as per the revised codes, the column pertaining to "Culture and sports" includes various new and emerging segments in entertainment industry. The CBDT has already allotted code (in the new ITR form for AY 2018-19) to individual artists excluding authors which covers artists in all fields. Hence, no separate code for film artists is now required.

In this context, it is stated that event management, an emerging segment of entertainment sector, has not been allocated separate code in the return forms notified for AY 2018-19. As regards allocating codes to film artists, audit is of the view that film artists, being high risk assessees, may be allocated separate codes for better monitoring, improved vigilance and identification of such assessees for detailed scrutiny.

- b. 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.

- c. 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.

- d. 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 and no further action is required at the end of CBDT on this issue.

The reply does not address the audit recommendation, as the number of assesseees being assessed outside film circles/wards had actually increased from 140 (highlighted in C&AG Report of 36 of 2010-11) to 240 during the period of audit. The CBDT may ensure that cases related to film and television industry are assessed in the already created Film circles/wards so that the related transactions could be cross verified and leakage of revenue prevented.

