

Executive Summary

The Co-operative Sector witnessed a significant growth in terms of number of entities registered as Co-operative Societies and Co-operative Banks. During 2009-10 to 2016-17, Co-operative Societies registered a growth of 39.84 *per cent*. A Co-operative Society or Co-operative Bank registered under the Co-operative Societies Act (State or Central Act) is treated as an “assessee” liable to pay income tax and assessed under the provisions of the Income Tax Act, 1961 (the Act). This topic was selected for performance audit with a view to examine the extent of: Coverage of Co-operative Societies in Income Tax net; Widening and deepening of the tax base; and Compliance of the statutory provisions.

The objectives of the performance audit were to examine:

- i. whether all the entities in the Co-operative Sector are in the tax net and filing income tax returns and are being assessed for levy of due amount of tax;
- ii. the nature and extent of compliance to provisions specific to the assesseees of Co-operative Sector under the Income Tax Act, 1961; and
- iii. the nature and extent of compliance to the general provisions of the Act during assessment process.

The performance audit covered the assessments of Co-operative Societies and Co-operative Banks completed during the financial years 2014-15 to 2018-19. The sample was derived from the data provided by Income Tax Department (ITD) for period 2014-15 to 2016-17, as per risk assessment carried out by audit as well as cases identified from the list of Multi State Co-operative Societies (MSCS) available on the MSCS website. Audit had called for 9,282 sample case records (including 81 cases of MSCS) pertaining to Co-operative Societies and Co-operative Banks from 1,726 Assessment Charges for audit scrutiny. Out of chosen sample, 400 cases did not fall under the category of Co-operative Societies and Co-operative Banks and of remaining 8882 cases, 8470 cases (95.36 *per cent*) were produced to Audit.

Summary of audit findings is given below:

- Audit noticed that the number of Co-operative Societies and Co-operative Banks as per records of respective States/ Regional regulatory authorities/ Registering authorities was much higher as compared to the numbers as per ITD indicating that many Co-operative Societies and Banks were not in the tax net of ITD.

(Paragraph 2.1.1)

- ITD does not have a mechanism to map the information on Co-operative Societies/ Banks with the registering authorities in order to be able to verify the status of filing of income tax returns. There is no mechanism to seed the PAN in the databases of the Registrar of Co-operative Societies, and to check any change of declared registration status by the assessee, which is a major impediment in institutional and structured sharing of information with ITD.

(Paragraph 2.1.1)

- There was no evidence of action initiated against the non-filers/ stop-filers of Income Tax returns. ITD did not utilize the tools available with it through conduct of survey and search & seizure operations to identify and bring into tax net the non-filers and stop filers of income tax returns.

(Paragraph 2.5.1, 2.2)

- While Co-operative Societies/ Co-operative Banks are supposed to be classified as Association of Persons (AOP), audit noticed that assessees classified as Firms, Body of Individuals (BOIs), Companies, Local authorities etc., were irregularly availing deductions meant for Co-operative Societies/ Co-operative Banks. This also has potential of providing inaccurate information pertaining to the assessees involved in Co-operative Sector activities.

(Paragraph 2.3, 3.1)

- Audit noticed instances of inconsistencies and errors in the amounts of incomes and claims or deductions as per the data sets furnished by the DGIT(Systems) vis-à-vis the information available in assessment records. The mismatch in assessment data as furnished by the DGIT(Systems) and data as per the assessment records is not only indicative of poor coordination and control over data updation but also a reflection on accuracy of information.

(Paragraph 2.4.2)

- Audit noticed instances where appropriate form viz. ITR 5 was not used by assessees in cases of Co-operative Sector for filing the Income Tax Return.

(Paragraph 2.5.2)

- Audit noticed that the verification of registration of the entity as Co-operative Societies/ Co-operative Banks was inadequate and evidential proof of a certificate of registration by Registrar as well as the details of members of the societies was either not available in the assessment records or not verified by the Assessing Officers. Thus, in

such cases, it could not be confirmed by audit whether the deductions were availed by genuine assesseees.

(Paragraph 2.6.1, 2.6.2, 2.6.3)

- Accounts of the Co-operative Societies/ Co-operative Banks were required to be audited by an empanelled auditor and the details were to be collected through ITR-5. Audit noticed that this essential requirement was not complied with. Thus, the reliability of the accounts could not be confirmed.

(Paragraph 2.6.4.1, 2.6.4.2)

- The ITD assessed entities as Co-operative Banks that did not have a valid licence from Reserve Bank of India to operate as a Bank thereby allowing deductions to ineligible assesseees available for the Co-operative Banks.

(Paragraph 2.6.5)

- There were instances of irregular allowance of deductions under sections 36(1)(viiia), 36(1)(viii), 36(1)(xvii) of the Act and various subsections of section 80P of the Act., where, conditions specified under the said provisions were not fulfilled, involving tax effect of ₹ 694.50 crore in 649 cases.

(Paragraph 3.1 to 3.7, 3.10, 3.11, 3.12)

- There was, relatively, higher propensity of irregular claims of deduction in respect of assesseees engaged in banking, credit and financial services, accounting for 68.7 *per cent* of the total number of irregularities identified.

(Paragraph 3.1)

- While conducting scrutiny assessments, the Assessing Officers did not duly examine the parameters specified by the ITD for selection of cases for scrutiny viz. 'Large deductions claimed under section 80P' of the Act, in 274 cases, resulting in irregular allowance of deduction.

(Paragraph 3.1)

- Among the various sub sections under which a Co-operative Society/ Co-operative Bank could avail of deductions, it was seen that there was, relatively, higher risk of non-compliance under the sub-sections 80P(2)(d), 36(1)(viiia) and 80P(2)(a)(i) of the Act, being 56.55 *per cent*, 18.18 *per cent* and 17.72 *per cent* of the total number of irregularities identified during audit, respectively.

(Paragraph 3.1)

- Verification by the Assessing Officers was inadequate in determining adherence to the principles of mutuality. The Assessing Officers were taking differential stand in assessing similar cases of claims for deduction under section 80P of the Act. This impacted the quality of assessments of Co-operative Societies and Co-operative Banks.

(Paragraph 3.2.3)

- The major reasons for disallowance of claim of deduction were on account of assessee either not engaged in activities listed out in the Act for Co-operative Societies or engaged in small proportion compared to principal activity or business. This entailed major risk of entities not working based on principles of mutuality, claiming benefits wrongfully and there being potential abuse of provisions applicable to Co-operative Societies.

(Paragraph 3.8)

- The Assessing Officers are adopting differential approach in allowance of deduction claimed under section 80P of the Act while completing assessments of assessee categorised as Regional Rural Banks, Land Development Banks and Agriculture and Rural Development Banks.

(Paragraph 3.9)

- There is no mechanism to monitor the nature of income on which deduction is being claimed by Co-operative Societies. The ITR does not capture the information in respect of sub-sections of 80P of the Act under which the assessee claims deduction under section 80P of the Act.

(Paragraph 3.10.1)

- Distinct and actual claim of deduction made under section 36(1)(viiia) of the Act is not getting captured in the existing format of ITR.

(Paragraph 3.11)

- Audit noticed instances of non-compliance to provisions laid down in the Act with respect to allowances of deductions/ expenses/ set-off and carry forward of losses, mistakes in computation of tax and interest, non-deduction of TDS, non-levy of penalty etc. involving tax effect of ₹12,328.40 crore, in 858 cases. It is pertinent to note that the assessment is being completed through ITD systems and applications. This is indicative of there being weaknesses in assessment procedure and internal controls of ITD which need to be addressed.

(Paragraph 4.1, 4.2, 4.3, 4.14)

- Audit noticed that 20.7 *per cent* cases (151 observations) relate to entities which were not registered as AOPs. In absence of uniformity in PAN registration category of similar class of assessees, in this case registered as Co-operative Society, the ITD would not be in position to derive meaningful information from data available with itself.
(Paragraph 4.1)
- Adequate examination of cases during scrutiny was not done. In 131 cases out of scrutiny assessment cases, where the criteria for selection was 'Large Deductions under chapter VIA of the Income Tax Act' that includes section 80P, the same was not adequately examined.
(Paragraph 4.1)
- Audit noticed instances of raising of demand in cases where returned income was equal to the assessed income at different stages of assessment viz. electronic processing of ITR, rectification, reassessment etc. Audit noticed several reasons for raising these demands such as, accounting of pre-paid taxes at processing of ITR stage, advance tax deposited under wrong head not considered as payment by CPC Bengaluru etc. Such cases point to the fact that claims, payments data are not reconciled at the time of assessment.
(Paragraph 4.12)
- Audit examined cases involving high value additions made during assessment and noticed instances where deduction claimed under section 80P(4) of the Act was disallowed on the pretext that the Co-operative Society was engaged in banking business. The existing activity codes do not differentiate the Co-operative Banks from Primary Agricultural Credit Societies (PACS). ITD should assign codes as per the nature of business or activity for effective monitoring.
(Paragraph 4.13)

