

## Chapter 2: Audit Approach

This chapter discusses the reasons for selection of this topic, the objectives of this Performance Audit, the Audit methodology and associated aspects.

### 2.1 Why we chose this topic

The grounds for selecting this topic for performance audit were:

- As per the Receipt Budgets forming part of the Annual Budget of the Government of India, the total amount of exemption applied by the Charitable Trusts/Institutions has increased from ₹ 2.25 lakh crore in FY 2014-15 to ₹ 3.34 lakh crore in FY 2017-18, showing an increase of 48 per cent. The details of how this amount was arrived at are not available in the Budget, nor could they be traced from records produced to Audit.
- A Performance Audit on “Exemptions to the Charitable Trusts and Institutions” conducted and included in the C&AG’s Report No. 20 of 2013 had highlighted various lapses such as irregularities in the process of registration of Charitable Trusts/Institutions, irregular exemption to trusts which were not charitable in nature, non-monitoring of accumulations of income of trusts and non-monitoring of Foreign contribution received by trusts, Non-taxation of short application of income/accumulations after specified period, etc. The Public Accounts Committee (PAC), in its 104<sup>th</sup> Report, on the Action Taken by the Government on the observations/recommendations of the Committee contained in its 27<sup>th</sup> Report (16<sup>th</sup> Lok Sabha), had, *inter alia* expressed its concern over the serious nature of the violations and failure of the ITD to monitor whether the trusts were fulfilling the objectives under which they had been established. The Committee, in its report, also desired that the office of the Comptroller & Auditor General of India submit a report on the violations by Public Charitable trusts and make recommendations on how to remedy the gaps and prevent such recurrences in future.
- We also conducted a limited follow-up test-check of assessments of the charitable trusts and institutions and the audit findings thereon were included in the CAG’s Audit Report No. 9 of 2019.
- This present audit also aimed to ascertain whether deficiencies highlighted in the earlier Performance Audit, and in the limited follow-up test-check of assessments of the charitable Trusts/Institutions, had since been addressed by the ITD.

## **2.2 Audit objectives**

This Performance Audit aimed to focus on:

- (i) Whether the CBDT ensures in an effective manner that the Charitable trusts and Institutions, which are availing the benefits under Sections 10(23C), 11, 12, 13, 80G(5) of the Income Tax Act, complied with the prescribed procedures regarding registration/approval and ensures monitoring thereafter;
- (ii) Whether the ITD is efficient in granting the exemptions to the Charitable trusts and Institutions under the above provisions of the Act and such exemptions are given to the eligible entities accurately and in a timely manner; and
- (iii) Whether the existing provisions in the Act/Rules/CBDT Instructions relating to Assessments of the Charitable Trusts/Institutions are sufficient or are there any lacuna/ambiguity/inconsistency.

## **2.3 Audit scope and coverage**

From the assessee-wise data in respect of the Charitable Trusts/Institutions, containing 6,89,011 cases provided by the Pr. DGIT(Systems), initially a total of 6,390 cases falling under 47 Pr. CsIT/CsIT relating to scrutiny/rectification, under our audit jurisdiction, were selected as the audit sample for this performance audit. However, due to the prevailing situation arising out of the Covid-19 pandemic, the audit sample was reduced to 5,798 cases involving exemptions granted of ₹ 1.66 lakh crore<sup>9</sup>. The sample cases included the 200 top assessees involving exemptions granted of ₹ 1.07 lakh crore. Further, in respect of any assessee whose assessment for a particular Assessment Year was selected in the audit sample and where we found a deficiency or non-compliance, Audit selected all remaining assessments also between AYs 2014-15 to 2017-18 for this performance audit. Accordingly, 1,028 additional assessment cases were selected for this audit. Thus, the total audit sample covered 6,826 assessments.

Apart from the above audit sample, in order to examine summary assessment cases, 200 high value summary assessment cases (gross income more than ₹ 125 crore) in respect of PANs which were not part of the initial sample including additional cases, were also selected for audit. Thus, the total audit sample for the Performance Audit came to 7,026 cases. The details of the audit sample are tabulated in Table 2.1 below:

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<sup>9</sup> Source: Data received from Pr. DGIT(Systems)

S. No.	Name of the State(s)	Audit sample				Total
		Initial cases	Revised cases	Additional cases	Top 200 Summary cases	
		1	2	3	4	
1.	Andhra Pradesh and Telangana	401	401	0	4	405
2.	Bihar	91	62	0	1	63
3.	Delhi	622	622	66	45	733
4.	Gujarat	614	507	50	9	566
5.	Jharkhand	66	66	1	1	68
6.	Karnataka and Goa	571	441	182	27	650
7.	Kerala	272	272	24	8	304
8.	Madhya Pradesh and Chhattisgarh	251	236	201	2	439
9.	Maharashtra	1,412	1,412	93	30	1535
10.	North Eastern States	49	38	0	1	39
11.	Odisha	98	98	34	3	135
12.	Punjab, Haryana, Himachal Pradesh and Jammu & Kashmir	345	315	200	16	531
13.	Rajasthan	304	304	97	5	406
14.	Tamil Nadu	549	515	42	23	580
15.	Uttar Pradesh and Uttarakhand	402	202	0	21	223
16.	West Bengal	343	307	38	4	349
17.	<b>Total</b>	<b>6,390</b>	<b>5,798</b>	<b>1,028</b>	<b>200</b>	<b>7,026</b>

In terms of number of cases in the initial audit sample, Maharashtra was the highest with 1,505 cases followed by Delhi at 688 cases. In terms of number of cases in the top 200 summary assessment cases, Delhi was the highest with 45 cases; out of these 45 cases, 24 were Government entities having total gross income of ₹ 8,027.1 crore, and 21 were Private entities having total gross income of ₹ 4,812.3 crore.

#### **2.4 Audit methodology**

- (i) An Entry Conference was held with the ITD/CBDT on 23<sup>rd</sup> December 2019, wherein the audit objectives, scope of audit and main focus areas of the performance audit, were explained to the ITD.
- (ii) In the course of the performance audit, data regarding registration/ approval, withdrawal of registration of Trusts/Institutions engaged in charitable and religious activities, was collected for scrutiny of the processes followed under Sections 12AA, 10(23C) and 80G(5)(vi) of the Act.

- (iii) The data was captured in audit checklists (generic and specific) from the assessment and other records pertaining to the approved samples, so as to examine the nature and extent of compliance with general provisions of the Act, relevant circulars of CBDT etc.
- (iv) Key documents were collected from the records provided by the ITD. These included assessment orders, including computation sheets (ITNS-150); AST screenshots of Income Tax Computation Sheets; notices issued to assessees; assessees' submissions; Income Tax Returns (ITRs), including details in the schedules, balance sheets, income and expenditure accounts, audit reports and other relevant records. Audit examined those documents, and also analysed the data captured in the generic and specific checklists during the course of the performance audit. Systemic and compliance issues, emanating as a result of such audit examination and analysis, were conveyed to the respective units (ward/circle/commissionerates) of ITD for their comments. Replies, wherever received, have suitably been incorporated in the report.
- (v) Audit also reviewed action taken by the ITD on the recommendations of the previous Performance Audit (PA) Report No. 20 of 2013 and Chapter VI of Compliance Audit Report No. 9 of 2019 and also on the recommendations made thereafter by the PAC on PA Report No. 20 of 2013 and action taken by the Ministry thereon, in its 27<sup>th</sup> Report and 104<sup>th</sup> Report presented in Parliament in December 2015 and in FY 2018-19 respectively.
- (vi) The draft Performance Audit was issued to the Ministry in December 2021. Partial replies were received in February and March 2022. An exit conference was held with the Ministry on 4<sup>th</sup> March 2022.

## **2.5 Non-production of records to Audit**

Out of 7,026 sampled cases, the Department produced assessment records of 6,260 cases, and 766 cases were not produced to audit. Further, in respect of the sample cases, which were processed summarily or rectified in the ITD System, the Department provided incomplete information in a number of cases. In its reply, the ITO (Exemptions) Ward - 3, Bengaluru stated that where the rectification proceedings under Section 154/155 had been filed by the respective assessees before the CPC-ITR, were directly processed by the CPC-ITR and this office had no access to even the orders passed by them, in general. The AO further stated that still the screen shots of the cases to the extent available in AST/ITBA module had been made available to Audit. This issue was brought to the notice of the CBDT in March 2020 with a request to make available the selected processed/rectified cases to the Jurisdictional Assessing Officer.

Non-production of assessment records was 10.9 *per cent*, details of which are given in Table 2.2 below:

Table 2.2: Details of non-production of assessment records				
Name of the State	Audit sample	Cases audited	Cases not produced	
			In number	in <i>per cent</i>
Andhra Pradesh, Telangana and Odisha	540	424	116	21.5
Delhi, Madhya Pradesh and Chhattisgarh	1,172	1,108	64	5.5
Gujarat and Rajasthan	972	859	113	11.6
Karnataka & Goa	650	557	93	14.3
Maharashtra	1,535	1,320	215	14.0
Punjab, Haryana, Jammu, Himachal Pradesh	531	522	9	1.7
Tamil Nadu and Kerala	884	792	92	10.4
Uttar Pradesh, Uttarakhand, Bihar and Jharkhand	354	350	4	1.1
West Bengal & North Eastern States	388	328	60	15.5
<b>Total</b>	<b>7,026</b>	<b>6,260</b>	<b>766</b>	<b>10.9</b>

It is seen from the above Table 2.2 that out of 766 cases not produced, Maharashtra has the highest number of non-production of cases (215 cases) followed by Andhra Pradesh, Telangana and Odisha (116 cases); however, in terms of percentage of non-production, Andhra Pradesh, Telangana and Odisha (21.5 *per cent*) were the highest followed by West Bengal and North Eastern States (15.5 *per cent*).

Further, non-production of assessment records included 17 cases (eight Scrutiny cases and nine Rectification cases) of the top 200 Trusts/Institutions having gross income ₹ 167.9 crore and above (involving exemption of ₹ 6,102.4 crore), selected from the data furnished by the ITD as detailed in **Appendix-2.1**. The main reasons for non-production of records as stated by the Department were limited attendance of key ITD officials in office due to the prevailing pandemic situation, restructuring of the Department, some records not readily traceable etc. Further, the Department could not produce records of 194 cases related to registration/approval out of 425 cases registered/approved after 2014<sup>10</sup>.

Non-production of records of registrations/approvals and incomplete production of summary/rectification cases were major constraints for the Audit to ascertain the due compliance of procedure laid down for registration and granting exemptions.

<sup>10</sup> Refer para 5.2.1 of this PA report.

## **2.6 Acknowledgement**

We acknowledge the co-operation of the Department in providing the necessary records/information and facilitating the conduct of this Performance Audit, despite the constraints faced due to COVID-19 pandemic.