

CHAPTER 2

Audit Approach

The audit approach encompassing the Audit Objectives, Scope of Audit and Audit sample are detailed below:

2.1 Audit Objectives

The objectives of conducting this Subject Specific Compliance Audit (SSCA) were:

- to examine whether there are policy or procedural gaps in the existing provisions of Section 281B applicable to property of an assessee; and
- to examine the extent of compliance or consistent application of the provisions of Section 281B of the Act in individual cases in relation to property of an assessee.

2.2 Audit Scope and Sources of Audit Criteria

The criteria for audit were primarily derived from the provisions of Section 281B of the Act and supporting circulars/instructions from the Board. In order to address the two audit objectives set out for the SSCA, the audit scope encompassed the 281B process undertaken during the Financial Years (FYs) 2017-18 to 2019-20 in the course of assessment/re-assessment proceedings, including the *post*-assessment status thereof. Details were updated as of July 2022 as per the records made available by the Department.

2.3 Audit Sample

In view of travelling and other restrictions caused by COVID-19 pandemic situation prevailing across the country, the sample selection was restricted to the cases of provisional attachment under Section 281B of the assessment units under the jurisdiction of the Principal Commissioner of Income Tax (Central) [Pr. CIT(Central)], which were covered by Audit between November 2020 and March 2021.

The AOs of Central Circles are vested with the powers of making assessments in the case of an assessee who has been subjected to search and seizure as per provisions of Section 132⁶ of the Act. A total of 354 cases were identified where orders under Section 281B were issued by AOs holding assessment charge of 72 Central Circles under the jurisdiction of the 18 Principal

⁶ Under Section 132, an Authorised Officer of the Investigation Wing of ITD can enter and search any building, vehicle etc and seize books of account, bullion etc. of an assessee under the prescribed circumstances, in cases where the assessee is suspected of evading tax.

Commissioner of Income Tax (Central) covering 14 States⁷ during FYs 2017-18 to 2019-20 which were selected for audit examination.

The year-wise Pr.CIT-wise break-up of cases of provisional attachment under Section 281B invoked by the respective assessing units that were selected for Audit is given in Table No. 02 below:

Table No. 02: Details of number of cases selected for Provisional Attachment – Central Commissionerate-wise					
Pr.CIT Jurisdiction	No. of AOs	No. of 281B cases (FY wise)			
		2017-18	2018-19	2019-20	Total
(1)	(2)	(3)	(4)	(5)	(6)
Pr.CIT (Central)-1, Delhi	4	4	2	5	11
Pr.CIT (Central)-2, Delhi	4	20	9	1	30
Pr.CIT (Central)-3, Delhi	6	4	11	26	41
Pr.CIT (Central), Bhopal	2	5	21	0	26
Pr.CIT (Central)-1, Kolkata	3	0	2	5	7
Pr.CIT (Central)- 2, Kolkata	1	0	0	6	6
Pr.CIT (Central)- 1, Mumbai	4	5	2	2	9
Pr.CIT (Central)- 3, Mumbai	5	11	1	0	12
Pr.CIT (Central)- 4, Mumbai	4	5	6	5	16
Pr.CIT (Central)- 1, Chennai	6	9	13	12	34
Pr.CIT (Central)- 2, Chennai	4	3	13	18	34
Pr.CIT (Central), Kochi	2	3	4	0	7
Pr.CIT (Central), Bengaluru	10	13	3	14	30
Pr.CIT (Central), Hyderabad	7	4	3	18	25
Pr.CIT (Central), Visakhapatnam	2	3	5	0	8
Pr.CIT (Central), Ahmedabad	5	20	9	4	33
Pr.CIT (Central), Rajasthan	1	0	3	0	3
Pr.CIT (Central), Chandigarh	2	4	14	4	22
Total	72	113	121	120	354

2.4 Audit methodology

(i) An entry conference was held by the Lead Office with the jurisdictional Pr. CIT (Central) during December 2020 wherein the audit objectives and methodology were explained. Audit methodology included capturing of data in audit checklists and collection of requisite information through audit requisitions along with questionnaire during field audit.

(ii) The draft SSCA report was issued to the Ministry on 10 June 2022. Replies on the audit recommendations and partial replies in respect of illustrated cases were received between July 2022 and September 2022. An Exit Conference was held on 28 September 2022 with the Ministry to discuss

⁷ New Delhi, Madhya Pradesh, Chhattisgarh, West Bengal, Maharashtra, Tamil Nadu, Kerala, Karnataka, Goa, Telangana, Orissa, Gujarat, Rajasthan and Chandigarh.

the issues incorporated in the Report and replies received from the Ministry. Response of the Ministry was suitably incorporated in the Report.

2.5 Non-production of records

Out of the 354 cases, records in respect of provisional attachment process under Section 281B pertaining to four cases (three cases assessed in Central Circle-1, Bhubaneswar under Pr.CIT (Central), Visakhapatnam charge and one case assessed in Central Circle 6(1), Mumbai under Pr.CIT (Central)-3, Mumbai charge) were not produced to Audit. Further, out of four non production cases, three cases in respect of Central Circle-1, Bhubaneswar under Pr.CIT (Central), Visakhapatnam charge, only part of information was provided in July 2022 much after the completion of field audit. Case-wise details are given in **Appendix 4A**.

Audit also requisitioned extract of the Appraisal Reports⁸ in these cases containing information relating to unaccounted/undisclosed income found during search and details of properties owned by the assessee that could be provisionally attached. However, the AOs did not make available extract of the Appraisal Reports in respect of 217 out of the audited 350 cases as detailed in **Appendix 4B**.

2.6 Acknowledgement

We acknowledge the cooperation of the Income Tax Department in facilitating the audit by providing the necessary records and information related to the conduct of SSCA, excepting the production of records relating to provisional attachment in certain cases under Section 281B and Appraisal Reports (stated in Para 2.5 *ibid*). On this account, Audit was constrained in examining the extent of compliance in these cases.

⁸ An appraisal report is a report which contains the investigation proceedings of the assessee. The concerned officer sends the appraisal report along with the seized material to the assessing officer who starts the assessment proceedings.

