

**TAX ADMINISTRATION**

**MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)**

**PUBLIC ACCOUNTS  
COMMITTEE  
2013-2014**

**EIGHTY-SEVENTH REPORT**

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**FIFTEENTH LOK SABHA**



**LOK SABHA SECRETARIAT  
NEW DELHI**

EIGHTY-SEVENTH REPORT  
PUBLIC ACCOUNTS COMMITTEE  
(2013-2014)

(FIFTEENTH LOK SABHA)

TAX ADMINISTRATION

MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

*Presented to Lok Sabha on 29.08.2013*

*Laid in Rajya Sabha on 29.08.2013*



LOK SABHA SECRETARIAT  
NEW DELHI

*August, 2013/ Bhadrapada, 1935 (Saka)*

**PAC No. 2014**

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COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE  
(2013-14)  
(As on 27th August, 2013)

Dr. Murli Manohar Joshi — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Anandrao Vithoba Adsul
3. Dr. Baliram
4. Shri Ramen Deka
5. Shri Sandeep Dikshit
6. Dr. M. Thambidurai
7. Shri T.K.S. Elangovan
8. Shri Jayaprakash Hegde
9. Dr. Sanjay Jaiswal
10. Shri Bhartruhari Mahtab
11. Shri Abhijit Mukherjee
12. Shri Sanjay Brijkishorlal Nirupam
13. Shri Ashok Tanwar
- <sup>1</sup>14. Shri Ajay Maken
15. Shri Dharmendra Yadav

*Rajya Sabha*

16. Shri Prasanta Chatterjee
17. Shri Prakash Javadekar
- <sup>2</sup>18. Vacant
19. Shri Satish Chandra Misra
- <sup>3</sup>20. Vacant
21. Shri N.K. Singh
22. Smt. Ambika Soni

SECRETARIAT

- |                        |   |                         |
|------------------------|---|-------------------------|
| 1. Shri Devender Singh | — | <i>Joint Secretary</i>  |
| 2. Shri Abhijit Kumar  | — | <i>Director</i>         |
| 3. Smt. A. Jyothirmayi | — | <i>Deputy Secretary</i> |
| 4. Smt. Anju Kukreja   | — | <i>Under Secretary</i>  |

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<sup>1</sup> Elected *w.e.f.* 14th August, 2013 *vice* Dr. Girija Vyas appointed as Minister of Housing, Urban Development & Poverty Alleviation *w.e.f.* 17th June, 2013.

<sup>2</sup> Vacancy occurred *vice* Dr. V. Maitreyan ceased to be a Member upon his retirement as a Member of Rajya Sabha *w.e.f.* 24th July, 2013.

<sup>3</sup> Vacancy occurred *vice* Dr. E.M. Sudarsana Natchiappan appointed as Minister of State for Commerce and Industry *w.e.f.* 17th June, 2013.

COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE  
(2013-14)  
(As on 14th June, 2013)

Dr. Murli Manohar Joshi — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Anandrao Vithoba Adsul
3. Dr. Baliram
4. Shri Ramen Deka
5. Shri Sandeep Dikshit
6. Dr. M. Thambidurai
7. Shri T.K.S. Elangovan
8. Shri Jayaprakash Hegde
9. Dr. Sanjay Jaiswal
10. Shri Bhartruhari Mahtab
11. Shri Abhijit Mukherjee
12. Shri Sanjay Brijkishorlal Nirupam
13. Shri Ashok Tanwar
14. Dr. Girija Vyas
15. Shri Dharmendra Yadav

*Rajya Sabha*

16. Shri Prasanta Chatterjee
17. Shri Prakash Javadekar
18. Dr. V. Maitreyan
19. Shri Satish Chandra Misra
20. Dr. E.M. Sudarsana Natchiappan
21. Shri N.K. Singh
22. Smt. Ambika Soni

SECRETARIAT

- |                        |   |                         |
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| 1. Shri Devender Singh | — | <i>Joint Secretary</i>  |
| 2. Shri Abhijit Kumar  | — | <i>Director</i>         |
| 3. Smt. A. Jyothirmayi | — | <i>Deputy Secretary</i> |
| 4. Smt. Anju Kukreja   | — | <i>Under Secretary</i>  |

COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE  
(2012-13)

Dr. Murli Manohar Joshi — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Anandrao Vithoba Adsul
3. Dr. Baliram
4. Shri Sandeep Dikshit
5. Dr. M. Thambidurai
6. Shri T.K.S. Elangovan
7. Shri Anant Kumar Hegde
8. Shri Bhartruhari Mahtab
9. Shri Sanjay Brijkishorlal Nirupam
10. Shri Shripad Yesso Naik
- <sup>1</sup>11. Shri Abhijit Mukherjee
12. Shri Ashok Tanwar
- <sup>2</sup>13. Shri Takam Sanjoy
14. Dr. Girija Vyas
15. Shri Dharmendra Yadav

*Rajya Sabha*

16. Shri Prasanta Chatterjee
17. Shri Prakash Javadekar
18. Shri Satish Chandra Misra
19. Shri Sukhendu Sekhar Roy
20. Shri J.D. Seelam
21. Shri N.K. Singh
22. Prof. Saif-ud-Din Soz

SECRETARIAT

- |                        |   |                         |
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| 2. Shri Abhijit Kumar  | — | <i>Director</i>         |
| 3. Smt. A. Jyothirmayi | — | <i>Deputy Secretary</i> |
| 4. Smt. Anju Kukreja   | — | <i>Under Secretary</i>  |

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<sup>1</sup> Elected *w.e.f.* 6th December, 2012 *vice* Shri Sarvey Sathyanarayana appointed as Minister on 28th October, 2012.

<sup>2</sup> Elected *w.e.f.* 6th December, 2012 *vice* Dr. Shashi Tharoor appointed as Minister on 28th October, 2012.



COMPOSITION OF THE SUB-COMMITTEE-IV (DIRECT TAXES) OF THE  
PUBLIC ACCOUNTS COMMITTEE (2012-13)

Shri N.K. Singh — *Convenor*

MEMBERS

*Lok Sabha*

2. Shri Shripad Yesso Naik
3. Shri T.K.S. Elangovan
4. Shri Sanjay Brijkishorlal Nirupam

*Rajya Sabha*

5. Prof. Saif-ud-Din Soz

## INTRODUCTION

I, the Chairman, Public Accounts Committee (2013-14), having been authorised by the Committee, do present this Eighty-seventh Report (Fifteenth Lok Sabha) on '**Tax Administration**' based on Chapter-I and Para nos. 3.2.1A, 3.3.1, 3.4.1 and 3.5.1 of the Report No. 27 of the Comptroller and Auditor General of India for the year 2011-12 Union Government — (Direct Taxes).

2. The above-mentioned Report of the Comptroller and Auditor General of India was laid in Parliament on 24.04.2012.

3. The predecessor Public Accounts Committee (2012-13) took up the subject for detailed examination and report. A Sub-Committee specifically constituted for the purpose, procured written replies and took evidence of the representatives of the Ministry of Finance (Department of Revenue) on the subject at their sittings held on 25.7.2012, 17.9.2012 and 7.2.2013. Alongwith the representatives of Department of Revenue, representatives of Department of Personnel and Training (DoPT) were also examined on 7.2.2013. The subject was subsequently carried forward by the successor Committee (2013-14) for examination. The draft Report which was placed before the main Committee for consideration and was adopted at their sitting held on 14 June, 2013. The minutes of the Sittings are appended to the Report.

4. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in thick type and form Part-II of the Report.

5. The Committee thank their predecessor Committee and the Sub-Committee for taking oral evidence of the Ministry of Finance (Department of Revenue) and Department of Personnel and Training (DoPT) and obtaining the requisite information on the subject.

6. The Committee would also like to express their thanks to the representatives of the Ministry of Finance (Department of Revenue) and Department of Personnel and Training (DoPT) for tendering evidence before the Sub-Committee and furnishing information that the Sub-Committee desired in connection with the examination of the subject.

7. The Committee place on record their appreciation of the assistance rendered to them in the matter by the Office of the Comptroller and Auditor General of India.

NEW DELHI;

26 August, 2013  
4 Bhadrapada, 1935 (Saka)

DR. MURLI MANOHAR JOSHI

*Chairman,*  
*Public Accounts Committee.*

## **REPORT**

### **PART I**

#### **Introductory**

This Report is based on Chapter-I and para Nos. 3.2.1A, 3.3.1, 3.4.1 and 3.5.1 of Report No. 27 of the Comptroller and Auditor General of India for the year 2011-12, Union Government (Direct Taxes) relating to 'Tax Administration'.

The Public Accounts Committee (2012-13) selected the subject for detailed examination and Report. For this purpose a Sub-Committee was constituted to examine the issue in detail. The Sub-Committee obtained background material and written replies from the Ministry of Finance (Department of Revenue). They took oral evidence of the representatives of the Ministry of Finance (Department of Revenue) on 25.7.2012, 17.9.2012 and 7.2.2013. Alongwith the representatives of Department of Revenue, representatives of the Department of Personnel and Training (DoPT) were examined on 7.2.2013. Based on these oral and written depositions by the Ministry of Finance (Department of Revenue) and DoPT, the Committee examined the Subject in detail with regard to the Direct Tax Administration and collection of Corporation Tax.

#### **Audit Findings**

2. Audit had brought the following shortcomings in the Direct Tax Administration by the Ministry of Finance (Department of Revenue):—

- Tax-GDP ratio increased marginally from 5.6 per cent in 2006-07 to 5.7 per cent in 2010-11 through 6.6 per cent in 2007-08 and 6.1 per cent in 2009-10.
- The effective tax rate for companies was 23.5% in 2009-10 which was substantially lower than the statutory tax rate of 33.9%. Effective Tax rate of companies with profits before taxes (PBT) of Rs. 500 crore and above was 22.6% while the effective tax rate for companies having PBT of upto Rs. one crore was 25.7%.
- The revenue foregone on account of tax exemptions has increased by 111.8% from Rs. 65,587 crore in 2006-07 to Rs. 1,38,921 crore in 2010-11.
- The growth in assessee based over the last five years registered an increase of 7.3% with an average annual rate of growth of 1.8%. However, the assessee based declined from 340.9 lakh taxpayers in 2009-10 to 335.8 lakh taxpayers in 2010-11.
- Voluntary compliance by assessees (pre-assessment stage) accounted for 81.4 per cent of the gross collections in 2010-11.
- Out of total 8.5 lakh scrutiny assessment cases, the Department had disposed of 4.6 lakh (53.7 per cent) cases in 2010-11. The pendency of scrutiny assessments increased from 2.8 lakh in 2006-07 to 3.9 lakh in 2010-11.

- In 2010-11, only 64.1% of the total demands cumulatively raised in assessments upto that year had been collected. At the end of 2010-11, as much as Rs. 2.9 lakh crore remained uncollected. Certified demand remaining uncollected increased to Rs. 1,06,990.8 crore (96.3%) in 2010-11 from Rs. 26,703.9 crore (75.8%) in 2006-07.
- Out of total 59.9 lakh direct refund claims, the Department had disposed of 40.4 lakh (67.4%) claims in 2010-11. The pendency rate increased to 32.6% in 2010-11 from 24.1% in 2006-07.
- CsIT(A) were required to dispose of 2,57,656 appeal cases during 2010-11. Out of this, only 70,474 appeals (27.4%) were disposed of and the average annual disposal per CIT(A) during 2010-11 was only 479 appeals.
- Internal Audit wing had planned 2,62,000 cases for audit during 2010-11. Out of which, 1,73,040 cases were completed thereby achieving 66% of the target. Internal Audit had raised 13,494 observations in the audited assessments with money value of Rs. 5,466.9 crore during the year 2011-11. Based on the reply from assessment units, the Internal Audit had settled 7,996 cases with money value of Rs. 921.9 crore.
- Only 1905 cases (14.9 per cent) having tax effect of Rs. 904.6 crore out of 12,792 cases having tax effect of Rs. 9,335.1 crore of the major findings raised by Internal Audit were acted upon by the assessing officers in 2010-11.

3. The Committee have examined in-depth the various issues raised by the Audit in their Report. The same have been discussed in detail in the succeeding paragraphs.

## A. TAX ADMINISTRATION

### I. Tax-GDP Ratio and Tax Buoyancy

4. Audit scrutiny has revealed that the direct tax collection had increased by 94.2 per cent from Rs. 2,30,181 crore in 2006-07 to Rs. 4,46,934 crore in 2010-11 at an average annual rate of growth of 23.6 per cent, whereas total Gross Domestic Product (GDP) had increased from Rs. 41,45,810 crore in 2006-07 to Rs. 78,75,627 crore in 2010-11 at an average annual rate of growth of 22.5 per cent. Tax-GDP ratio increased marginally from 5.6 per cent in 2006-07 to 5.7 per cent in 2010-11 through 6.6 per cent in 2007-08 and 6.1 per cent in 2009-10. Thus, for every unit growth in GDP, though direct taxes grew by 2.6 per cent in 2007-08, the growth slowed down to 0.7 per cent in 2010-11.

5. When asked to give the break-up of data relating to Direct Tax Collection, GDP (at current market price) and tax- GDP ratio for the years, 2006-07 to 2011-12, the Ministry in its written submissions furnished the following details:—

Financial year	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Net Direct Tax Collection	230,181	312,213	333,818	378,063	446,935	494,799
GDP at (Current Market Prices)	4294706	4987090	5630063	6457352	7674148	8855797
Tax-GDP ratio	5.36%	6.26%	5.93%	5.85%	5.82%	5.59%

6. About the figures of tax buoyancy factor for direct taxes for the Financial year 2011-12, the Ministry stated that it was 0.70.

7. Explaining the meaning of 'buoyancy value less than one', the Ministry in its written reply stated as under:—

"Tax buoyancy elucidated the growth of tax collection, changes in tax legislation and efficiency of tax administration. Tax buoyancy of less than one indicate that the rate of growth of tax collection has fallen below the rate of growth of GDP."

8. Giving reasons for the decline in tax buoyancy during these years, the representative of the Ministry of Finance (Department of Revenue) during evidence deposed as follows:—

"Our tax buoyancy started suffering from 2008-09. that is the year when the slowdown in the economy started. When the GDP starts declining, the profits decline at one way and the income may decline at a sharper rate, the income which bears the tax may decline at a sharper rate."

She further added that:—

"We agree that tax buoyancy less than one is treated as unhealthy parameter and tax administration has to be alert to that."

9. While eleaborating further on the issue, another representative of the Ministry deposed before the Committee as:—

"Now, in the nominal growth of GDP, there are two elements. One is the real growth and the other is the inflation element. We noticed that the inflation rates have been higher than the real growth rates in the nominal growth. You may have a higher one but that will not be reflected here in these figures because these are just collection figures. But what has happened is that in these three, four years, in the nominal growth rate, the inflation rate has actually overtaken the real growth rate. Our major collections are from the Corporates. What is happening is that the inflation when it is coming higher than the actual real GDP growth rate, it is affecting the corporate profitability, and that is also affecting the Corporate tax collections."

## **II. Effective rate of taxation**

10. Audit scrutiny revealed that the effective tax rate for companies was 23.5% in 2009-10 which was substantially lower than the statutory tax rate of 33.9%. Audit found that 216 companies with Profits Before Taxes (PBT) of Rs. 500 crore and above accounted for 55.8% of the total PBT and 53.4% of the total corporate tax payable. However, their effective tax rate was only 22.6% while the effective tax rate was 25.7% for companies having PBT of upto Rs. one crore.

11. While submitting reasons for low effective rate of taxation for companies as compared to statutory tax rate during 2009-10, the Ministry in its written reply stated as under:—

"The effective rate of taxation in case of companies is the ratio of total tax payable to the total Profit Before Taxes (PBT) expressed as a percentage.

The difference between the effective rates of taxation and statutory rate of taxation is on account of various direct tax incentives. These incentives reduce the amount of tax payable thereby lowering the effective rate of tax. The major tax incentives provided to the companies are:—

- (i) Profit-linked deductions
- (ii) Deductions on scientific research
- (iii) Accelerated depreciation, and
- (iv) Investment-linked deductions

It is these incentives which are primarily responsible for low effective rate of taxation. The effective tax rate for financial year 2010-11 is 24.1 percent."

12. The Committee also wanted to know the reasons for effective tax rate for Companies having Profit Before Taxes (PBT) of Rs. 500 crore and above lower than the effective tax rate of companies having PBT of upto one crore. In response the Ministry stated as under:—

"The effective rate is dependent on the quantum of tax incentives availed by companies. In case of larger companies, since the quantum of profit linked incentives having larger income would be higher, it affects the effective rate of taxation more. Similarly, the companies which have made larger capital investments get a higher benefit of accelerated depreciation which also brings down their effective rate of taxation. Therefore, the effective tax rates for companies having higher income would be lower as compared to companies having smaller profits."

13. On being asked as to how the tax concessions were being availed of mainly by larger companies and the smaller companies were not able to avail the same to that extent, the Ministry replied as under:—

"The tax concession under the Income-tax Act is available to the companies as a category of assessee and there is no distinction based upon the size of the company while granting the incentive. The quantum of incentive, however, would vary according to the scale of operation and investments made by the company. Therefore, all the companies, irrespective of their size, are eligible for availing the benefits subject to the specified conditions."

14. On this issue, the Chairperson, CBDT deposed during evidence as:—

"The Companies that have much larger profits have, so far, been concerning the amount of deduction for themselves because they are basically profit-linked. Out of the entire revenue foregone, the largest portion together is of profit-linked, that is, Rs. 19,881 crore. The accelerated depreciation of Rs. 33,243 crore. I would like to point out that this crosses a figure Rs. 51,000 crore out of a total, of Rs. 57,000 crore. So, the major portion of Rs. 51,000 crore out of Rs. 57,000 crore have been on account of these, which are more available to the corporate sector and that too the larger companies out the corporate sector. So this is being now taken care of in the Direct Taxes Code (DTC) where we are phasing

out the profit-linked deductions; and we are going in for investment-linked deductions.—

She further added:

"Over these five years from 2006-07, the Government has, sort of, systematically moved away and the effective rate has gone up from 20 per cent in 2006 to 24 per cent of the Corporate as in 2010-11. It is a fact that the revenue foregone in the corporate sector over these five years has been coming down from 58.35 per cent to 54 per cent of the total. The revenue foregone in the non-corporate sector, which is the individuals, the HUFs, firms has been going up. So, accordingly, what I would say is that the Government is conscious of it and steps are being taken. I quite think that the Direct Taxes Code would be taking care of the larger concerns that the smaller companies have. As you, said the equity issue is going to be addressed in the DTC."

### III. Revenue foregone

15. The main objective of any tax system is to raise revenues necessary to fund Government expenditures. The amount of revenue raised is determined to a large extent by tax bases and tax rates. It is also a function of a range of measures—special tax rates, exemptions deductions, rebates, deferrals and credits—that affect the level and distribution of tax. These measures are sometimes called "tax preferences".

16. The Income-tax Act, *inter-alia*, provides for tax preferences to promote savings by individuals; exports; balance regional development, creation of infrastructure facilities; scientific research and development; cooperative sector, and accelerated depreciation for capital investment. Most of these tax benefits can be availed of by both corporate and non-corporate taxpayers.

17. Audit pointed out that the revenue foregone on account of tax exemptions had increased by 111.8 per cent from ₹ 65,587 crore in 2006-07 to ₹ 1,38,921 crore in 2010-11. Corporate sector had accounted for 63.5 per cent of revenue foregone in 2010-11.

18. Further, the revenue foregone on account of tax exemptions in respect of corporate taxpayers had increased by 76.3 per cent as compared to 226.6 per cent in respect of non-corporate taxpayers during 2006-07 to 2010-11 which is indicated in the following table:—

Revenue Foregone	(Rs. in crore)				
Sector	2006-07	2007-08	2008-09	2009-10	2010-11
1. Corporate	50,075	58,655	68,914	79,554	88,263
2. Non-corporate	15,512	42,161	39,553	40,929	50,658
Total	65,587	1,00,816	1,08,467	1,20,483	1,38,921

19. When asked to furnish details regarding the revenue foregone in respect of corporate and non-corporate sectors during the last five years, the Ministry submitted the following figures:—

Sector	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12*
Corporate Sector	45034	62199	66901	72881	57912	51292
Non-corporate sector	32143	38057	37570	45142	36826	42320
Total Direct Taxes	77177	100256	104471	118023	94738	93612

\*Projected.

20. Further, on being asked about the data of total corporate tax collection and revenue foregone thereto, the Ministry provided the following details:—

Year	Corporation Tax collection (Actuals) (Rs. in crores)	Revenue Forgone in case of Corporate taxpayers (Rs. in crores)	Revenue Forgone as a percentage of Actual Corporate tax collection (in %)	Effective Rate for Corporate Sector (in %)
2006-07	1,44,318	45034	31.20	20.55
2007-08	1,92,911	62199	32.24	22.24
2008-09	2,13,395	66,901	31.35	22.78
2009-10	2,44,725	72,881	29.78	23.53
2010-11	2,99,386	57,912	19.34	24.1

21. Revenue foregone figures for the financial year 2011-12 and 2012-13 as given in the budget statement of revenue foregone for the year 2013 are given as under:—

	Revenue Foregone in 2011-12	Projected Revenue foregone in 2012-13
Corporate Income-tax	61765.3	67995
Personal Income-tax	39375.4	45480.1
Total	101140.7	113475.1

22. When the Committee desired to know if any study had been conducted to assess the impact of exemptions given, the Ministry submitted as under:—

"The Government has set-up various Committees and Advisory Groups on tax policy, administration and reforms from time to time, *e.g.*, the Advisory Group on Tax Policy and Tax Administration for the Tenth Plan (Shome Committee), the Task Force on Direct Taxes (Kelkar Committee), etc. Besides, the genuineness of the claims of assesseees for the various exemptions are scrutinized during assessment proceedings. Patterns of general misuse or inefficiency of such exemptions are reported regularly and considered while formulating budget proposals."



23. To a specific query about the pith and substance of the findings of these Committee on the revenue foregone, the Ministry replied as under:—

"The basic thrust of the recommendations of both Committees is that the Profit linked deductions available in the Income Tax Act should be removed and phased out."

24. Further, with regard to the acceptance of the recommendations of these Committee, the Ministry replied that recommendations were accepted in principle by the Government, As a result of the follow-up policy, many deductions, which were profit linked, had been allowed to sunset or phased out from the Income Tax Act.

25. Regarding the future plan of action of the Government to reduce the revenue foregone by way of reducing the incentives to corporate sector to the barest minimum, the Ministry submitted as under:—

- (a) to phase out the existing profit linked deductions under the Income Tax Act, 1961.
- (b) not to introduce any new profit linked deduction in the Act.
- (c) not to increase the scope of existing profit linked deductions.
- (d) to maintain a Minimum Alternate Tax (MAT) on all the companies to moderate the revenue foregone on account of profit linked deductions and the ensure a minimum payment of tax by all companies.

26. On being asked as to how phasing out the profit-linked deduction would make a difference when the Direct Taxes Code came into effect, the Ministry replied that it would help to substantially moderate revenue foregone.

27. In this regard, the Committee further asked whether any study has been conducted to project revenue gain after phasing out profit linked deductions. In reply, the Ministry submitted as follows:—

"By its very nature, there cannot be a study of the 'projected revenue gain' after phasing out the profit linked deductions. This is because growth of new businesses and expansion of existing businesses depends upon several inter-related macro economic factors such a GDP growth rate, demographics, exploitation and exploration of natural resources, general business climate, international business climate etc. from which isolating a specific direct tax measure and estimating its impact would not be a feasible exercise. However, as a rough estimate, it can be seen that the current effective tax rate of corporate sector is about 24.10% whereas the nominal rate is 30%. Therefore, at the same level of corporate tax, if profit linked deductions and accelerated depreciated were to be totally phased out, there is a significant potential for additional corporate tax."

28. When specifically asked during evidence as to whether any study had been conducted to calculate the impact of these exemptions on the growth of economy, the Secretary (Revenue) replied in 'Negative'.

#### **IV. Growth of Tax Payers**

29. It is seen from Audit Paragraph that the assessee base grew over the last five years from 313.0 lakh taxpayers in 2006-07 to 335.8 lakh taxpayers in 2010-11 registering

an increase of 7.3% with an average annual rate of growth of 1.8%. However, the assessee base declined from 340.9 lakh taxpayers in 2009-10 to 335.8 lakh taxpayers in 2010-11.

30. The details with regard to the number of effective assesseees for the year ending March 2010 and March 2011, as provided by the Ministry are given as under:—

FY.	Company	Individual	HUF	Firms	Trusts	Others	Total
2009-10	367884	31384084	806236	1354330	76898	95994	34085426
2010-11	496872	31035394	761911	1229722	119378	95847	3373924

31. When asked to furnish reasons for decline in assessee base in 2010-11 as compared to 2009-10, the Ministry in a written note submitted as follows:—

"The basic exemption limit for filing return of income for Assessment Year 2010-11 was higher as compared to the Assessment year 2009-10 as is evident from the table below:—

Category	Basic exemption limit	
	For A.Y. 2009-10	For A.Y. 2010-11
Individuals other than women and senior citizens	Rs. 150000	Rs. 160000
Women (less than 65 years)	Rs. 180000	Rs. 190000
Senior citizens	Rs. 225000	Rs. 240000

Further submitted that the number of assesseees fluctuate due to various reasons such as closure of the business, demise of the taxpayer, retirement, economic activity affecting taxable income, etc. Also several provisions of the Act such as grant of additional exemptions/deductions, increase in the basic exemption limit (for individuals & HUFs) as elaborated above impact upon the number of assesseees."

32. Further the Committee sought to know the details of corporate and non-corporate assesseees and new assesseees that were added during the last five years. In response, the Ministry furnished the following details:—

Financial Year	No. of Corporate Assesseees	No. of Non-corporate Assesseees	(Rs. in lakh)
			New Assesseees added
2006-07	3.98	315.05	21.28
2007-08	4.98	331.64	17.64
2008-09	3.27	323.22	17.84
2009-10	3.67	337.17	16.75
2010-11	4.96	332.42	14.82

33. Apprising the Committee about the steps taken to identify new assesseees, the Ministry in a written note submitted as follows:—

- (a) "Information from certain specified class of persons depending upon the nature and value of transactions in the form of Annual Information Return (AIR) is being collected. These include information from banking companies of cash deposits aggregating to ₹ 10 lakh or more in any savings account of a person, payment made through credit card aggregating ₹ 2 lakh or more in a year, information from trustees of a Mutual Fund on receipt of ₹ 2 lakh from any person for acquiring units of that fund, or from Registrar/Sub-registrar of properties on sale or purchase of immovable property valued at ₹ 30 lakh or more.
- (b) The areas within the ambit of Tax Deduction at Source/Tax Collection at Source are being expanded. Further compulsory furnishing of PAN by the deductee to the tax deductor has been mandated failing which tax shall be deducted at a higher rate.
- (c) Instructions have been issued to the field authorities to take action against non-filers for AYs 2008-09 to 2010-11, in cases where TDS deductor had made payments of ₹ 5 lakh and above after deducting tax at source but recipients of payments or deductees have not filed their income tax returns.
- (d) Compulsory quoting of PAN for certain specified transactions has been mandated. These include sale and purchase of immovable property valued at ₹ 5 lakh or more; sale or purchase of motor vehicle; time deposit/fixed deposit exceeding ₹ 50,000/- with any Banking Company/Post Office; payments to purchase units, shares, debentures, bonds above ₹ 50,000/- from Mutual fund/company/institution/RBI; payment to hotel/restaurants against their bills for an amount exceeding ₹ 25,000/- at one time; opening of an account with a banking company; contract of value exceeding one lakh rupees for sale and purchase of securities; payment in cash above ₹ 25,000/- on travel to any foreign country.
- (e) Special focus was accorded to verification of non-PAN Annual Information Return data during the last quarter of the Financial Year 2011-12.
- (f) Focus is being accorded to match data of Companies registered with ROC with the data of Corporate assesseees of the department so as to identify non-filers and take appropriate action.
- (g) Quoting of PAN has been made compulsory on all 15G/15H declarations filed for non-deduction of tax at source. This will help the department club all the entries against a single PAN in an Assessment Year and thereby examine the eligibility of such cases to file Return of Income."

34. When asked about the efforts made by the Department on the follow up on those assesseees who had stopped filing their returns, the Ministry in a note replied as follows:—

"The Department is laying emphasis on voluntary compliance in the matters of payment of taxes and filing of the return of income. The Department is also leveraging upon the technological improvements at its end. Moreover, information is collected from third parties by Central Information Branch (CIB), data is

transmitted by various agencies in Annual Information Return (AIR) and the same is collated *w.r.t.* the PAN. The CIB has been converted into the Directorate of Income Tax (Intelligence) and conferred powers of verification of information which was earlier not available. Apart from these, with the mandatory e-filing of the TDS statements, data about deduction of tax at source is also linked with the PAN ledger. This information is utilized for the widening of tax base, identification of new assesseees and selection of cases for scrutiny under Computer Assisted Scrutiny Selection (CASS).

The CBDT has also provided in the Action Plan for FY 2012-13 specific measures for widening and deepening of the tax base.

However, due to the manpower constraints there have been limitations in taking effective action against non-filers of tax returns."

35. Regarding the targets fixed by the Department in the last five years for expanding the assessee base and the achievements made there against, the Ministry submitted as under:—

"The targets for addition of new assesseees are framed in the beginning of each financial year. Considering that the Department has been laying emphasis on voluntary compliance by the taxpayers, the target of putting new assesseees has not undergone change and has been pegged at growth of 15% over the new assesseees added in the preceding year. The target with regard to expansion in assessee base and achievement there against is tabulated as under:—

(Rs. in lakh)

Financial Year	Target of addition in new assesseees	Achievement in new assesseees
2006-07	21.83	21.28
2007-08	24.47	17.64
2008-09	20.28	17.84
2009-10	20.51	16.75
2010-11	19.26	14.82
2011-12	17.04	Under compilation

36. Since the proposed targets were not achieved during the years 2007-08 to 2010-11 the Committee desired to know the reasons thereof. In response, the Ministry submitted as follows:—

"The CBDT had projected a growth of 15% in new assesseees each year during the last 5 years. The growth rate of 15% of new assesseees added in the preceding year appears reasonable. However, the target could not be achieved for the following reasons:—

- (i) Emphasis on the voluntary compliance by the taxpayers.
- (ii) Consistent acute shortage of manpower at all levels.
- (iii) Increase in the basic exemption limit over years from ₹ 1 lakh in AY 2006-07 to ₹ 1.6 lakh in AY 2010-11 for individuals.
- (iv) Increase in deductions admissible under Chapter VI-A of the Act."

37. During evidence, the Committee observed the need for devising an analytical model for widening of tax base based on the increase in per capita income both in nominal and real terms. To this, Secretary (Revenue) assured the Committee as follows:

"We will certainly analyse this further on the lines suggested by you using an analytical model which experts could devise for us."

#### **V. Processing of returns and scrutiny Assessments**

38. Audit scrutiny has revealed that out of total 8.5 lakh scrutiny assessment cases for disposal, the Department had disposed off 4.6 lakh (53.7 per cent) cases in 2010-11. This was higher than the scrutiny assessments completed in 2006-07 to 2009-10 except in 2008-09. Further, the pendency of scrutiny assessments increased from 2.8 lakh in 2006-07 to 3.9 lakh in 2010-11. Out of 5.2 crore summary assessment cases for disposal, the Department had disposed off 3.1 crore cases in 2010-11. As a result the pendency of summary assessments increased from 33.2 per cent in 2006-07 to 41.4 per cent in 2010-11.

39. Apprising the Committee about the position of pendency of scrutiny cases upto June, 2012, the Ministry furnished the following details:—

Total Workload of Scrutiny cases	:	2,87,953
Disposal in FY 2012-13 up-to June 2012	:	8,165
Balance workload	:	2,79,788

40. Explaining the reasons for increase in pendency of scrutiny assessment cases over the years, the Ministry in its written reply stated as under:—

**"(a) Variation in number of cases selected for scrutiny in different years:** The number of scrutiny assessments available for disposal and its final pendency with each Assessing Officer keeps on changing because the selection of new cases for scrutiny and disposal of pending cases is a continuous process. At the beginning of the financial year, a fixed number of scrutiny cases is carried forward from the last year and to this are added the cases selected during the year and after disposing cases during the year, the balance is carried forward to next financial year. The capacity to dispose number of cases per Assessing Officer is stretched to ensure that the cases which are getting time barred should be disposed in time. Thus, the carried forward pendency is largely due to the cases selected during the year. The Department makes selection of scrutiny cases either through Computer Aided Scrutiny Selection (CASS) or through manual on predefined parameters. In consideration of 'Risk Management', in any particular year if large numbers of cases are selected for scrutiny consequently the balance carried forward (pending scrutiny cases) for the next financial year would increase.

**(b) Concept of Time barring cases:** Income Tax Act provides a time frame for completion of Assessment proceedings which acts a period of limitation and each year there is a set of scrutiny assessments which are time barring. These assessments are mandatorily completed before the date of limitation and therefore, the Assessing Officer with large number of time barring cases has no option but

to dispose them in the prescribed time frame. The concept of time barring ensure that the carried forward pendency can not be very old.

**(c) Shortage of Manpower:** Due to increase in number of returns more cases have been selected for scrutiny but without enhancing the disposal capacity by increasing number of officers on assessment work. The Department has not been able to get more officers for assessment work and considering the fact that if more cases are selected for scrutiny in any financial year the number of pending cases for succeeding year would increase. The selection process has been accordingly trimmed. But at the same time, still there are cases which can not be left out of scrutiny basket for certain risk indicators. Thus these cases get selected for scrutiny, contributing to enhanced pendency.

Regarding summary assessments (processing of returns) it is submitted that with the increasing e-filing and processing of returns through Centralized Processing Centre (CPC) at Bangalore, the Department's capacity to process the returns faster is increasing."

41. When enquired as to whether any disposal norm had been fixed for each assessing officer, the Ministry in a note replied as under:—

"At the commencement of every financial year, a minimum benchmark of number of cases to be disposed by the Assessing Officers is fixed by the CBDT through a formal written document titled as Central Action Plan. The achievement against targets of scrutiny assessment fixed is monitored by the supervisory officers. The target of scrutiny assessment fixed during last three years and for the current financial year is as under:—

Nature of Charge	Target of cases to be disposed				
	2008-2009	2009-2010	2010-2011	2011-2012	
(i) Corporate Charge	5 per month	8 per month	8 per month	By March 2013, all time barring cases and 20% of non-time barring are to be disposed by March 2013. Quarterly targets have been fixed for disposal of time barring cases.	
(ii) Non Corporate/ Mixed Charge	15 per month	15 per month	15 per month		
(iii) Salary Charge	20 per month	20 per month	20 per month		
(iv) Range Head of Corporate Charge	20 per year	20 per year	20 per year		10 per year
(v) Range Head of Non Corporate/ Mixed Charge	30 per year	30 per year	30 per year		15 per year

The cumulative disposal of scrutiny cases in each charge depends upon the workload and the number of officers available for assessment functions."

42. The Ministry further added that:—

"Priority is given to time-barring cases for a particular year and balance cases which could not be completed on account of priority of time-barring cases are carried over to the next financial year. Out of total pendency of 2,78,953 scrutiny cases as in June, 2012 a large number of cases will be time-barring in year ending 31.03.2013, therefore, will be priority cases for this year. Thus, the time-barring component out of total pending cases of 2,78,953 as on June, 2012 will necessarily be completed by March, 2013 as per provisions of I.T. Act."

43. Further, when the Committee enquired about the strategy, if any, formulated for clearing the pendency and timely disposal of such cases in future, the Ministry submitted as:—

"As per Central Action Plan for financial year 2012-13, the target for disposal of cases is:—

For Quarter ending	Percentage of completion
June, 2012	10%
September, 2012	40%
December, 2012	90%
March, 2013	100%

Considering the slow pace of disposal till June, 2012, CBDT has written a letter to all Chief-Commissioners of Income-tax to speed up the disposal of scrutiny assessments and to ensure strict compliance with the prescribed targets in their respective Regions. The progress of disposal of scrutiny assessments is also being monitored at Board level by calling for monthly feedback from the various Chief-Commissioners as part of the DO Letter addressed to the respective Zonal Member of CBDT."

## **VI. Uncollected Demands**

44. Audit had pointed out that in 2010-11, only 64.1% of the total demands cumulatively raised in assessments upto that year had been collected. At the end of 2010-11, as much as ₹ 2.9 lakh crore remained uncollected. This comprised demand of ₹ 2.0 lakh crore of earlier years and current demand (2010-11) of ₹ 0.9 lakh crore.

45. Further Audit had highlighted that the recovery mechanism was inefficient as certified demand remaining uncollected increased to ₹ 1,06,990.8 crore (96.3%) in 2010-11 from ₹ 26,703.9 crore (75.8%) in 2006-07. However, in 2009-10, earlier years pending demand was ₹ 1.8 lakh crore and current demand was ₹ 0.5 lakh crore.

46. The details with regard to year-wise trend of pending demands for the last five years, as furnished by the Ministry are as follows:—

Sl. No.	Financial Year	Arrear Demand pending (in crore)	Current Demand pending (in crore)	Total Demand pending (in crore)	Trends given in percentage -increase
Base year for calculation	2006-07	85335	31119	116454	
1.	2007-08	86859	37415	124274	6.29%
2.	2008-09	93344	107932	201276	61.96%
3.	2009-10	181612	47420	229032	13.79%
4.	2010-11	202859	88770	291629	28.06%
5.	2011-12	265040	143378	408418	40.04%

47. When asked to furnish the information about the present status of monetary wise details (from ₹ 10-50 crore to more than ₹ 400 crore) of arrear demand of individual assesseees as well as corporate assesseees, the Ministry provided the following details:—

Monetary details	Company		Individual	
	Total Number of Cases	Demand (in crore)	Total Number of Cases	Demand (in crore)
10 to 50	1032	22221	309	6323
50 to 400	343	42757	76	10593
400 & above	51	62011	18	208196
Total	1426	126990	403	225113

48. The Committee further sought to know the details about the demand pending against 25 top defaulters. Relevant details as provided by the Ministry are given at **Annexure I**.

49. On being asked about the details of the cases pending with Appellate Authority and Settlement Commission for the years 2007-08 to 2011-12, the Ministry in its written reply, furnished as under:—

Financial Year	Number of appeals pending before Appellate Authorities on last day of F. Y.					No. of Cases pending before Settlement Commission
	CIT(A)	ITAT	High Court	Supreme Court	Total	
2007-08	130358	34667	31590	3344	199959	2064
2008-09	158031	31384	34986	3984	228385	1310
2009-10	180991	24693	30544	5009	241237	1235
2010-11	187182	31121	35272	5803	259378	1061
2011-12	230616	29842*	30213*	5943*	296614	1130

\*Data is as on 31.12.2011, as reports for last quarter are under compilation.



50. When the Committee further desired to know the reasons for such huge uncollected Demands, the Ministry in a written note submitted as follows:—

- "Raising of demand and recovery of outstanding dues is a continuous process but there are many factors on account of which the Department is not able to realize the demand raised and arrears accumulated over the years. The position of unrealized revenue is monitored regularly to identify the causes in each case and the possibility of collections are constantly evaluated to ensure recovery, wherever feasible.
- Cases of large demand are monitored even at CBDT level on quarterly basis. Some of the significant factors which influence the pendency are listed below:—
  - (i) The taxpayer has no assets or income flows from which recovery could be made. Further the arrears relating to such taxpayers keep increasing as interest is regularly loaded.
  - (ii) Taxpayer is not traceable.
  - (iii) Recovery of demand is stayed by the court or ITAT considering the facts of the case or the legal points involved. Sometimes the tax authority also stay the recovery on grounds of equity as a tax demand pertains to issues similar to those decided in earlier years in favour of the taxpayers by the appellate authorities but the issue is kept alive as the Department is pursuing appeal before higher courts.
  - (iv) The demand is covered by instalments for tax-payments granted by the income tax authorities considering genuine financial constraints of the taxpayer.
  - (v) At times, protective demand is created which is not enforceable till the matter is finally decided in appeal.
  - (vi) Approx. 45% of the demand pertains to Money laundering and Security Scam cases (in Hassan Ali Khan Group, Harshad Mehta Group, Ketan Parekh Group and Dalal Group). In Hassan Ali Group, the recovery is not possible though all known immovable and moveable assets belonging to the group have been attached. As per the existing guidelines, recovery through sale of attached properties can be made only after the decision of appeal filed before ITAT. Further, the attached assets are inadequate to recover the entire dues. In Securities Scam cases also the recovery is not possible as it pertains to persons notified under the Special Court (TORT Act 1992) and no recovery can be made directly from these persons.
  - (vii) Case is before BIFR and so recovery can not be enforced.
  - (viii) Company is under liquidation.
  - (ix) Case is before Settlement Commission and so the income tax authorities cannot proceed with recovery proceedings.

- (x) Sometimes the demand raised has not fallen due or is under verification.
- (xi) Further, some cases pertain to proceedings related to Mutual Agreement Procedure (MAP) in terms of the Double Taxation Avoidance Agreement where bank guarantee are available but recovery has to await MAP decision."

51. When asked about the steps initiated to enhance disposal of pending demands, the Ministry replied as follows:—

To dispose of the pending demand, two pronged strategies are adopted by the Department:—

- I. At post assessment stage: A number of pro active steps are being taken by the department to enhance recovery in cases where assessments have already been made:—

In order to maximize recovery of arrear demand, with the given shortage of Officers and Staff, a focused approach has been adopted by the CBDT. The strategy/program outlined in the Central Action Plan 2012-13 for the field authorities is as under:

- To dedicate a quarter for recovery work during the year.
- For a focused approach the cases are bifurcated into actionable and non-actionable cases.
- Non-actionable cases are those having large amounts or major amounts of demand in the following categories:
  - Companies under Liquidation
  - Cases before BIFR
  - Demand on protective basis
  - Cases before Income Tax Settlement Commission (ITSC)
  - Cases where there are no assets for recovery
  - Assessee being Notified persons
  - Cases where demand is pending write off
  - Assessee not traceable

- II. In addition to Post Assessment Recovery, Department through following steps is trying to ensure that quality of assessment is improved and subsequent recovery is facilitated:—

At pre-assessment stage: Steps have been taken by the Department to ensure that the nature and quality of assessments made by the Department is high to facilitate not only collection but also to establish the identity of the Department as a trusted authority on law that cares for generation and

preservation of confidence of the community at large in the system. The Central Action Plan for 2012-13 has laid emphasis on passing High Quality Scrutiny Assessment orders after collecting and bringing on record all relevant facts and evidences through all possible inquiry and investigation processes, on each relevant point and issue and drawing conclusions after due consideration of assessee's view points and arguments through a speaking and analytical narration of facts, arguments and evidences that are finally capable of sustaining the test of judicial scrutiny. The bench mark for reporting quality assessment is one in which concealed income of minimum 1.5 lakh has been detected.

Details of the above-said steps taken by the Ministry for disposal of pending demand are given at **Annexure II**.

52. Further with regard to the measures initiated for effecting recovery of undisputed demands, the Ministry in a written note submitted as under:—

"A special cell has been constituted in the Directorate of Recovery to monitor undisputed demand. The field formations were advised to look into each case to identify the reasons for non-recovery and report to the special cell the amount classified as non-recoverable in separate baskets. The field authorities reported that approximately 90% of undisputed demand was classified as difficult to recover. This non-recoverable portion is largely on account of amounts identified for write off, assessees not traceable, assessees with no assets/inadequate assets, assessees notified under the Special Court (Trail of Offences Relating to Transaction in Securities) Act, 1992, cases with BIFR, companies in liquidation, demand under instalments, cases of TDS mismatch etc. Even in recoverable demand, a chunk is relatable to demand under reconciliation, rectification pending, non-credit of prepaid taxes due to certain mismatches."

53. About the steps taken to reduce litigation and streamline the litigation management at various levels so as to ensure quick settlement of the arrear demand cases, the Ministry submitted as follows:—

"Hon'ble Finance Minister, *vide* his order dated 28.07.2010, constituted a Committee headed by a Member CBDT to identify systemic causes for rising litigation; to prepare a roadmap for reducing the existing litigation and also avoid litigation in future and to act as a '**Standing Committee**' to reduce litigation. The Committee submitted its preliminary Report on 6.9.2010 and subsequent Report on 26.02.2011. On the recommendations of the Committee, several steps are being taken, including the following:

- *Vide* Instruction of the CBDT No. 3 of 2011 dated 9.2.2011, **monetary limits for filing appeals have been increased** from ₹ 2 lakh, 4 lakh and 10 lakh for filing appeals to ITAT, High Court and Supreme Court respectively to ₹ 3 lakh and 25 lakh respectively. This is likely to reduce litigation at ITAT level by about 13% and at High Court and Supreme Court level by 25-30%.
- **Standard Operating Procedure for filing SLP** before Supreme Court & appeals before High Courts and ITAT were issued through Instruction No. 4 of 2011 dated 9.3.2011 & Instruction No. 7 of 2011 dated 24.05.2011 and Instruction No. 8/2011 dated 11.08.2011 *inter alia* directing the field formation that appeals should be filed only in deserving cases.

- **New guidelines for engagement of standing counsels to represent the Income Tax Department before High Courts and other judicial forums have been issued by Instruction No. 3/2012 dated 11.04.2012.** The new Guidelines have revised the fee structure of Counsels of Department and given detailed eligibility criteria, procedure for engagement, duties, performance review and allocation of cases for senior/junior standing counsels, along with the assistance to be provided by Departmental office. This move is expected to attract better counsels for Department, which will facilitate better representation for Department and speedy disposal of cases.
- With a view to bring clarity on the matters under litigation and to assist the field formation in taking decisions, the instructions and directions on the subject matter have been reviewed and consolidated compendium has been issued to all concerned *vide* letter of CBDT No. 279/Misc./M-36/2010-ITJ of 29.10.2010. Further, a '**Digest of CBDT Circulars, Instructions and Notifications issued from 1.4.1961 to 31.3.2010**' was prepared in CD form and released in the video conference of the CBDT on 2.2.2011.

Apart from the above, other measures to reduce litigation which are under process are summarized as under:—

#### **A. National Judicial Reference System (NJRS):**

A **National Judicial Reference System (NJRS)** is being set up by the CBDT which will contain judicial pronouncements and database on all appeals pending before various appellate authorities *i.e.* Income Tax Appellate Tribunal, High Courts & Supreme Court. NJRS will have two components, namely '**Judicial Reference Repository System (JRRS)**' which would act as the single source of information for all decided cases (of ITATs, High Courts & Supreme Court) and all relevant statutory enactments, circulars, etc. with intelligent search capabilities and '**Judicial Workflow Management System (JWMS)**' for automation of the workflow of the Judicial wings of the Department. This will enable digital storage and retrieval of related documents with search, online dashboard, status tracking and alert capabilities. Such a system will help in tracking all appeals in ITATs, High Courts and the Supreme Court. It will help the Assessing Officers be consistent in framing assessment orders due to easy accessibility to judicial information, case laws and judgements and thus help in improving the quality of assessment order. It will assist the Departmental Representatives/Counsels in improving the quality of representation before Tribunal & Courts and enhancing the success rate of the Department in appeals.

#### **B. Measures to expedite disposal of cases by High Courts:**

A meeting was held with the Hon'ble Judges of Delhi High Court dealing with income tax appeals and it was decided to computerize the data of all pending appeals. Following the meetings, the database is being created and common questions of law under litigation are being identified with a view to facilitate bunching of such cases. Efforts are also being made to identify the cases which have now become covered by subsequent Supreme Court judgement. Similar exercise has also been initiated for other High Courts."

54. The Committee were given to understand that apart from the above measures to reduce unnecessary litigation, the Department had issued instructions to the administrative authorities concerned to ensure timely and proper presentation of the cases before Tribunals and Courts. Ministry of Law and Justice is considering establishing e-benches of ITAT at eight stations which will help in reducing the pendency at small towns.

55. On being asked to state the measures proposed to recover demands from those assesseees who were at large and also in situations where no assets were available for recovery, the Ministry in a note submitted as under:—

"During the F.Y. 2011-12 recovery of demand from the assesseees who are at large and no/inadequate assets cases received special focus.

A pilot study of such cases above ₹ 10 crore of Arrear Demand was taken up. At the very outset, besides regular recovery measures defined in the Act, effort was made to trace these assesseees through internet, ROC database, municipal authorities, police, etc. (One assessee of Mumbai was traced at Tirupur). Then as step two, the data available with the Department with the Directorate of Systems was determined to get any clues about these cases/assesseees. Wherever possible data of FIU-IND of Department of Revenue which is regularly collecting information from various authorities such as Banks, Financial Institutions, etc. was used to collect any information/clues about the availability of these assesseees/assets.

The pilot study has been successful and a special cell to deal with matters relating to the recovery of arrears classified as "Assessee not traceable" and "No assets/inadequate assets for recovery" has been created in the Directorate of Recovery.

Dossier reports in all cases where outstanding demand is ₹ 1 crore and above with the demand classified as "Assessee not traceable" or "No assets/inadequate assets for recovery", are to be forwarded to the Special Cell on a quarterly basis along with the verified checklist by the concerned CIT/CCIT. Besides other functions, this cell shall function as a nodal for obtaining information from FIU-IND or any other source/agency/database and transmitting that to the field formations on a quarterly basis is carried.

In this regard directions have been issued to the field formation laying down detailed procedure for handling such cases which is as follows:—

- (i) In order to ensure the correctness of the demand as well as its classification, the jurisdictional CsIT should ensure that the basic verification with respect to departmental database available with the field formations (such as PAN database, ITS, etc.), is carried out.
- (ii) In addition to normal recovery measures, information available on internet and in public domain, Registrar of Companies, etc. should be explored to get clues on the present whereabouts of the assessee/assets.
- (iii) The CsIT are required to get fresh enquiries conducted every six months specifically in those areas or sources which may be useful to supplement the existing information for clues for tracing the assesseees/assets.

- (iv) The next step would be to utilize the database available with Directorate of Systems and Directorate of Investigation. A 360 degree profile of the assessee (to the extent possible) can be built by using ITDMS data available with DGIT (Inv.)/DIT (Inv.) of the area concerned. For this purpose each CCIT (CCA) may nominate a nodal officer in their respective regions who may be provided ITDMS access by the concerned DGIT (Inv.) to carry out the process of profiling of persons categorized as 'Assessee not traceable' and 'No assets/inadequate assets for recovery'.
- (v) The FIU-IND of Department of Revenue is regularly collecting information from various authorities each as Banks, Financial Institutions, etc. Once the demand is classified under the categories "Assessee not traceable" and "No assets/inadequate assets for recovery", the information should be sent by the CCITs/DsGIT concerned to the Directorate of Income Tax (Recovery) in the prescribed proforma. The Directorate of Recovery would thereafter forward the data to FIU-IND for matching the database available with them and the result of such matching shall be transmitted back by DIT (R) to the CCsIT/DsGIT concerned.

Pursuant to these instructions, a wide ranging exercise has been initiated at the field level in the category "Assessee not traceable" due to which 112 assessees have been traced and in the category "No assets/inadequate assets for recovery". 357 bank accounts pertaining to 120 such assessees had been located earlier. Further 200 bank accounts pertaining to 65 such assessees have been located *i.e.* in 185 cases, 557 bank a/c traced which have been forwarded to field formations for necessary action. Efforts for recovery based on these clues are on.

As per information received from the National Stock Exchange (NSE), Mumbai in the category of Assessee not traceable in 5 cases 3 bank accounts were traced and in the category of No assets/inadequate assets for recovery in 29 cases, 35 bank accounts have been traced."

56. During evidence, the Committee enquired if the names of such defaulters had been published in the media. Chairperson, CBDT deposing before the Committee submitted that:—

"The names of the tax defaulters cannot be published in the media; permission has to be taken from the Finance Minister. You cannot go to the media without permission."

57. When asked to elaborate, the Chairperson, CBDT apprised the Committee that:—

"We have given a checklist to the field that all taxpayers where they feel that all their enquiries are not resulted in any recovery of taxes those names come to use. Now we are linking that with the reward scheme which is under consideration which is to be considered by the Board in the next meeting and linking these two, we will publish the names on the website along with the reward scheme. So, all these steps are under consideration and we have some names coming from the field to us which specify our internal criteria because we gave as show-cause

that we are not proposing to put their names in public and we will surely complete these exercises."

58. When enquired by the Committee as to whether any target had been fixed for Assessing Officers (AOs) and Tax Recovery Officers (TROs) to recover the arrears of demands, the Ministry in a note stated as follows:—

"The targets for Cash Collection are set CCIT-wise in the Action Plan. CCsIT are entrusted to take steps to achieve this target by further allocating the target down the hierarchy up to the level of the Assessing Officers and TROs.

The target for CCsIT level were given *vide* Central Action Plan 2012-13 and these were subsequently revised upwards in September, 2012."

Details of the above-said targets are given at **Annexure III**.

#### **VII. Refund cases and interest paid on refunds**

59. Where the amount of tax paid exceeds the amount of tax payable, the assesseees are entitled to a refund of the excess amount. Simple interest at the prescribed rate is payable on the amount of such refund. Refund is also admissible (alongwith interest) as a result of any order passed in appeal or other proceedings. Pendency of direct refund claims results in outflow of revenue from Government by way of interest.

60. Audit scrutiny indicated that out of total 59.9 lakh direct refund claims, the Department had disposed of 40.4 lakh (67.4 per cent) claims in 2010-11. The pendency rate had increased to 32.6 per cent in 2010-11 from 24.1 per cent in 2006-07.

61. The Government had refunded ₹ 75,169 crore including interest of ₹ 10,499.4 crore (13.9 per cent) from gross collection of Corporation and Income tax of ₹ 5,13,898 crore in 2010-11. The interest paid on refunds in 2009-10 was ₹ 6,876 crore (12.0 per cent of ₹ 57.101 crore, the amount refunded) out of the gross collection of Corporation and Income tax of ₹ 4,24,713 crore. The interest on refunds also needs to be seen in the perspective of pendency of direct refund cases which increased from 4.4 lakh in 2006-07 to 19.5 lakh in 2010-11 registering an increase of 343 per cent.

62. On being asked by the Committee to furnish statistics relating to the total workload of returns claiming refunds and cases of refunds disposed off during the last five years, the Ministry submitted the following:—

(Numbers in lakhs)

Financial Year	Total workload of returns claiming refund	Refunds processed out of the total workload	Pending returns claiming refund	% cases disposed during the year
2007-08	80.99	50.63	30.35	62.50%
2008-09	94.66	56.39	38.27	59.57%
2009-10	106.12	68.10	38.03	64.17%
2010-11	108.57	70.31	38.26	64.70%
2011-12	87.97	67.50	20.47	76.70%

63. Further, the Committee desired to know the reasons for increase in refund cases. In response, the Ministry stated as under:—

"The said increase in number of refunds can also be attributed to the following:

- (i) Increased focus on the processing of the pending returns of income claiming refunds,
- (ii) Use of better technology for processing of e-returns at CPC Bengaluru,
- (iii) Increase in the ambit of the Refund Banker Scheme for issue of the refund to the taxpayer after processing of return of income.

The refunds also arise on account of giving effect to the appellate orders or rectification orders. The extent of refunds in such cases depends upon the relief allowed by the competent authority and the recovery made prior to allowance of relief (if any). Accordingly, in such cases, it is not at all possible to pre-judge the quantum of refund which may have to be issued."

64. When asked to elaborate on the steps initiated by the Department to ensure completion of assessments having refunds as soon as possible, the Ministry submitted as follows:—

- (i) The Department has been promoting **e-filing of the returns** for speedy processing. As of now it is mandatory for corporate taxpayers and all non-corporate taxpayers, who have to get their accounts compulsorily audited u/s 44AB of the Income Tax Act, 1961, to e-file their return of Income. Further, e-filing has been made mandatory for an individual or HUF from the AY 2012-13, if his or its total income exceeds ₹ 10 lakh.
- (ii) **Centralized Processing Centre (CPC)** at Bengaluru has been set up for processing of e-filed returns of the entire country and manually filed returns of Karnataka & Goa Region.
- (iii) **Refund Banker Scheme** has been put in place for faster issuance of refunds either through ECS direct credit to bank account or issuing paper cheques to taxpayer.
- (iv) Through **Citizens' Charter** and other press releases issued by the Department, taxpayers are requested to carefully mention the relevant particulars in return of income, and especially to avoid the common deficiencies that may cause delays in issue of refund.
- (v) To improve the fidelity of the mechanism and to reduce mismatches between deductee claims and corresponding tax deduction statement from deductors, quoting of **PAN by deductors in their return has been made mandatory**. For improved compliance, failure to provide PAN number to deductor now results in higher rate of TDS.
- (vi) **Facility of viewing individual Tax Credit Statement in Form 26AS** is made available to tax payers so that they can verify the tax payment details before filing their return of income and take proper steps with the deductor(s), etc. to rectify mistakes, if any.



- (vii) **Online viewing of status** of taxpayers refund is available for better information dissemination.
- (viii) **Grievance Redressal Mechanism** has been strengthened and prompt disposal of tax payer grievances and its continuous monitoring has been made necessary. Income Tax Ombudsman with offices at 12 stations and jurisdiction across the country has been created to ensure that delivery of this objective becomes effective.

These steps have reduced the time to process the returns. **An e-filed return claiming refund is now on an average processed within three to four months of its filing.** The above measures will further significantly improve the time taken to process a return after its receipt and interest outgo shall proportionately be lower.

Also several steps are being taken to reduce litigation and streamline the litigation management at various levels. This will result in early disposal of appeals thereby reducing the period for which interest on refund is to be paid in the eventuality of reduction in tax assessed by the Assessing Officer."

#### VIII. Appeals Pending at CIT(A)

65. An aggrieved taxpayer has the right to dispute a tax demand with the Income Tax Department through the Commissioner of Income Tax (Appeals). Second appeal against the orders of CIT(A) lies in the Income Tax Appellate Tribunal (ITAT) which functions under the Ministry of Law. On any question of law arising out of an order of ITAT, a taxpayer may appeal progressively to the High Court and the Supreme Court. Analogous right to appeal is also available to the Department against the orders of CIT(A) and onwards.

66. Audit had pointed out that as per the instructions of the Board, each CIT(Appeal) is required to dispose of a minimum of 60 appeals per months, and a total of 720 appeals annually. Thus, 1,05,840 lakh appeals could have been disposed off during the year on the basis of the working strength of 147 CIT(A). CsIT(A) were required to dispose off 2,57,656 cases during 2010-11. Out of this, only 70,474 appeals (27.4 per cent) were disposed off and the average annual disposal per CIT(A) during 2010-11 was only 479 appeals. The amount locked up in appeal cases with CsIT(A) was Rs. 2.9 lakh crore in 2010-11 which is equivalent to 108.8 per cent of the revised revenue deficit of Government of India. Further, the amount locked up in appeals at higher levels (ITAT/High Court/Supreme Court) was Rs. 2.1 lakh crore in 72,196 cases as on 31 March, 2011.

67. On being asked about the details of numbers of appeals instituted before CIT(A) and number of appeals disposed by them during the years 2007-08 to 2011-12, the Ministry in its written reply, stated as under:—

FY.	Appeals filed before CIT(A)	Appeals disposed off by CIT(A)
2007-08	86042	63645
2008-09	93813	66351
2009-10	89271	79079
2010-11	90125	70474
2011-12	116809	75518

68. Considering the quasi-judicial nature of the work and complexities involved, the Income Tax Act, 1961 prescribes suggestive time-limit of one year for adjudicating of appeals by Commissioner of Income Tax (Appeals). When asked about the monitoring mechanism available in the Ministry to ensure disposal of appeals within the prescribed time-limit of one year, the Ministry stated as follows:—

"Best efforts are made to dispose off the appeals within the said time-limit of one year. However, owing to the factors such as shortage of man power at the level of CsIT(A) and support staff, complexities involved in the appeals, requirements of further enquiry, delay in representation by assesseees and requirements of natural justice, the CIT(A) takes more than one year in deciding many appeals.

Regarding monitoring mechanism it is submitted that CBDT formulates Central Action Plan every year identifying the core areas of departmental functioning and sets targets to be achieved. Such Central Action Plan includes the Action Plan for disposal of appeals by CIT(A). Periodical monitoring of disposal of CsIT(A) is undertaken by respective Chief Commissioners of Income Tax and Zonal Members of the Board. However, considering the statutory and quasi-judicial nature of the work, it is not feasible to enforce binding time limits in case of disposal of appeals by CIT(A).

However, efforts are being made to increase the number of posts of CIT(A) and the support staff through the cadre restructuring which is at advance stage of consideration of the Government."

69. Regarding the steps taken to bring down the pendency of appeals and also realization of amounts locked in various appellate processes, the Ministry submitted as follows:—

- “(i) The targets of disposal of appeals by CsIT(A) are being set as per the Central Action plan in an ambitious manner considering the mounting pendency.
- (ii) Administrative Chief Commissioners of Income Tax (CCsIT) monitor the performance of CsIT (Appeals) functioning within their administrative jurisdiction on a regular basis so as to ensure expeditious disposal. The performance appraisal is reported bi-annually to CBDT.
- (iii) Redistribution and rationalization of workload amongst CsIT (Appeal) is done by CCsIT to ensure even distribution of workload.
- (iv) The shortage of CIT(A) and man power is separately being projected by Directorate of H.R.D. in the cadre restructuring proposal pending with the Government.
- (v) CsIT(A) with low pendency of appeals have been given concurrent jurisdiction over charge of CIT(A) with high pendency as a short-term measure to dispose of the backlog."

70. The Ministry further added that with a view to liquidating the pendency at the earliest and reducing the time required in disposal of first appeal, efforts were on to get additional posts of CsIT(A) as a result of cadre restructuring of the Department

which is under consideration of the Government. At present there were 242 CIT(A) posts, which were inadequate to meet the demands of rising litigation. Against the existing 242 posts, 393 posts of CIT(A) were being proposed in the cadre restructuring with the increase in number of CIT(A), it was expected that litigation would be managed in an efficient manner.

71. Further, during the course of evidence, the representative of the Ministry deposed before the Committee that in order to reduce the number of appeals being filed by the Department, monetary limit for filing of appeals was increased from ₹ 2 lakh to ₹ 3 lakh.

72. Details of monetary limits for filing appeals before Appellate Tribunal, High Courts and Supreme Court as furnished by the Ministry are as under:—

Sl. No.	Appeals in Income-tax matters	Monetary Limit (in ₹)
1.	Appeal before Appellate Tribunal	3,00,000/-
2.	Appeal u/s 260 A before High Court	10,00,000/-
3.	Appeal before Supreme Court	25,00,000/-

Further, an appeal is not filed merely because the tax effect in a case exceeds the monetary limits prescribed above, but filing of appeal is decided **on merits** of the case as per the facts on which addition has been made in the assessment order and involvement of substantial question of law.

73. When the Committee further sought to know whether the Department had considered linking up the increase in monetary limits with the inflation index, Secretary (Revenue) deposing before the Committee replied that:—

"We will certainly do that. The review was carried out in 2011. When we made the next review, we will certainly look into it."

74. The Committee further desired to know about the success rate of the Department with regard to cases of appeals filed by the taxpayers in ITAT/High Court/Supreme Court during the last five years. In response, the Ministry furnished the following details:—

**A. Appeals filed by the Taxpayers before ITAT\***

Financial Year		2007-08	2008-09	2009-10	2010-11	2011-12
No. of appeals disposed off	Decided in favour of deptt.	2026 (26%)	1593 (23%)	1530 (23%)	1519 (26%)	2507 (35%)
	Decided against deptt.	3395 (44%)	3140 (45%)	3050 (46%)	2324 (40%)	2594 (36%)
	Set aside	621 (8%)	763 (11%)	634 (9%)	581 (10%)	572 (8%)
	Partially Allowed	1378 (18%)	1023 (15%)	983 (15%)	995 (17%)	921 (13%)
	Others	261 (3%)	487 (7%)	477 (7%)	339 (6%)	634 (9%)
Total		7681	7006	6674	5758	7228

**B. Appeals filed by the Taxpayers before High Court\***

F.Y.		2007-08	2008-09	2009-10	2010-11	2011-12
No. of appeals disposed off	Decided in favour of deptt.	102 (27%)	82 (19%)	172 (26%)	177 (30%)	267 (36%)
	Decided against deptt.	175 (47%)	211 (50%)	276 (41%)	282 (48%)	284 (38%)
	Set aside	26 (7%)	23 (5%)	71 (11%)	67 (11%)	60 (8%)
	Partially Allowed	24 (6%)	20 (5%)	39 (6%)	32 (5%)	23 (3%)
	Others	46 (12%)	88 (21%)	108 (16%)	34 (6%)	114 (15%)
Total		373	424	666	592	748

**C. Appeals filed by the Taxpayers before Supreme Court\***

F.Y.		2007-08	2008-09	2009-10	2010-11	2011-12
No. of appeals disposed off	Decided in favour of deptt.	0 (0%)	0 (0%)	26 (40%)	40 (42%)	10 (14%)
	Decided against deptt.	2 (40%)	14 (44%)	13 (20%)	32 (34%)	24 (33%)
	Set aside	0 (0%)	0 (0%)	5 (8%)	0 (0%)	10 (14%)
	Partially Allowed	0 (0%)	0 (0%)	3 (5%)	23 (24%)	15 (21%)
	Others	3 (60%)	18 (56%)	18 (28%)	0 (0%)	13 (18%)
Total		5	32	65	95	72

\*On the basis of data as compiled by the Research and Statistics Wing, Office of the Directorate General of Income Tax (Logistics).

75. When asked about the percentage of orders which went on appeal to the Commissioner of Income Tax (Appeal) during the last five years, the representative of the Ministry of Finance (Department of Revenue) deposed before the Committee as:—

"In 2007-08, about 22.65 per cent of our cases went in appeal to CIT appeal. In 2008-09, 16.96 per cent cases went and in 2009-10, 21.81 per cent cases went. In 2010-11, it was 20 per cent and in 2011-12, it was very high, 32.33 per cent were taken on appeal."

76. When specifically asked about the cases which on account of the supervisory efforts of the Department, some consequences had ended up in adventurous assessment order by some Assessing Officers, Secretary (Revenue) deposed before the Committee as:

"Sir, we will study this further and see what system we can put in place to ensure that there are disincentives for this sort of adventurous order."

### IX. Internal Audit

77. Internal audit is an important part of the Departmental control that provides the assurance that demands/refunds are processed accurately by correct application of the provisions of the Act. The Department introduced a new Internal Audit system *w.e.f.* June 2007 to have an effective and objective set up of Internal Audit wherein the assessment functions and audit functions are assigned to separate specialized wings. The Minimum number of cases to be audited by each Addl. CIT, Special Audit Party (SAP) and Internal Audit Party (IAP) in a year shall be 50,300 and 1,300 (6000 corporate cases & 700 non-corporate cases) respectively.

78. Audit scrutiny had revealed that Internal Audit Wing in the Income Tax Department had planned 2,62,000 cases for audit during 2010-11 based on the working strength of its wing. Out of which, 1,73,040 cases were completed thereby achieving 66% of the target. Internal Audit had raised 13,494 observations in the audited assessments with money value of ₹ 5,466.9 crore during the year 2010-11. Based on the reply from assessment units, the Internal Audit had settled 7,996 cases only with money value of ₹ 921.9 crore.

79. Audit noticed that Internal Audit had audited, 2,999 assessments in 2010-11, and Audit by the C&AG had pointed out the mistakes which were not detected by Department. Out of 464 draft paragraphs included, only 29 cases (6.3 *per cent*) were seen by Internal Audit and no mistakes were detected by them.

80. Audit further found that only 1905 cases (14.9 *per cent*) having tax effect of ₹ 904.6 crore out of 12,792 cases having tax effect of ₹ 9,335.1 crore of the major findings raised by Internal Audit were acted upon by the assessing officers in 2010-11. The total pendency increased from 6,688 cases having tax effect of ₹ 412.9 crore in 2006-07 to 34,940 cases having tax effect of ₹ 8,516.4 crore in 2010-11.

81. The Committee desired to know the reasons for not achieving the targets fixed for Internal Audit. In response, the Ministry stated as follows:—

"The question refers to under-achievement of targets relating to number of cases to be audited on the basis of working strength of the Internal Audit setup of the Department. There appears to be a mis-match between the figures given in the para 1.6.1 and the figures available in the Department's annual report of Internal Audit for the F.Y. 2010-11. Correct figures are as follows:

(A)

Auditing unit	Number of cases to be audited by each unit
Addl. CIT	50
SAPs	300
IAPs	600 (Corporate cases) or 700 (Non-corporate cases)

**(B) Calculation of Targets on the basis of working strength**

Sl. No.	Auditing Unit	Sanctioned Strength	Working Strength	Targets as per working Strength
1.	Addl. CIT	22	18	900 (50x18)
2.	SAPs	22	21	6,300 (300x21)
3.	IAPs	272	196	1,37,200 (700x196)
Total				1,44,400

The above figures show that there is no under-performance so far as it relates to number of cases planned to be audited on the basis of working strength and achievement thereof."

82. Apprising the Committee about the position with regard to achievement of target in the financial years 2010-11 and 2011-12, the Ministry furnished the following details:—

	F.Y. 2010-11	F.Y. 2011-12
(i) Target of Internal Audit cases based on working strength	144400	159749
(ii) Cases Audited	173040	180416
(iii) Total major findings raised	12792	15811
	(with tax effect ₹ 9335.1 crore)	(with tax effect ₹ 10277.30 crore)
(iv) Major findings acted upon	1905	3616
	(with tax effect ₹ 904.6 crore)	(with tax effect ₹ 1099.95 crore)
(v) Percentage of findings acted upon	14.9%	22.8%

83. On being asked as to why only 14.9 per cent case having major findings raised by Internal Audit were acted upon by the assessing officers in 2010-11, the Ministry stated as under:—

"It is submitted that there is acute shortage of officers and staff in the Department, which is adversely affecting the performance in key result areas, including settlement of Internal Audit Objections. However, the Board has been emphasizing upon the CCsIT to expedite the settlement. In this regard the Board has declared first fortnight of August 2012 as Audit Fortnight to settle maximum number of Audit objections."

84. When asked about the time limit for assessing officers to select such cases and settlement thereof, the Ministry replied as under:—

"There is a time limit of three months from the receipt of Audit memos for settlement thereof. However, the field formation is not able to follow the same because of acute shortage of officers and staff and overriding priorities in other key result areas such as assessments which have statutory time barring dates, judicial work having time limits and budget collection which receives very high priority."

85. As regards the steps initiated by the Department to improve the effectiveness of Internal Audit, the Ministry submitted as under:—

- “(i) The Cadre Controlling Chief Commissioners have been requested by the CBDT to post senior and competent officers in Internal Audit and monitor the progress of Auditing units on quarterly basis.
- (ii) The Board has directed Cadre Controlling Chief Commissioners to take specific measures to improve capacity of officers and staff posted in audit through organizing workshops and seminars.
- (iii) Compilation of Quality Audit Cases has been prepared and circulated amongst field officers working under Cadre Controlling Chief Commissioners and CIT (Audit) to improve capacity of the officers and staff in audit.

86. The Ministry further added that:—

- (i) First fortnight of August, 2012 has been declared as Audit Fortnight to take up a special drive to settle maximum number of Internal Audit Objections.
- (ii) Number of Inspections of Internal Audit units has been doubled as compared to preceding year.
- (iii) Field formations have been advised to organize frequent seminars/ Workshops to improve the capacity of officers and staff working in Audit & assessment.
- (iv) The compilation of Quality Audit cases has been brought out and circulated amongst field officers in the year 2011 to improve their effectiveness and the same has been planned for the current year also.
- (v) As a motivational measure, decision has been taken to appreciate the work of those officers in whose cases C&AG has not been able to raise any objection”.

87. When enquired about the present position of settlement of Audit objections as a result of 'Audit Fortnight', the Ministry submitted as follows:—

“The data has been collected from all the CCA regions in the country and as can be seen from the chart given below that Total 4495 cases have been disposed of in the Audit Fortnight which is 14.71% of the pending cases. The field formations have been directed to continue this pace of work.

CCA Region	Number of Internal Audit objections pending for settlement as on 1-8-2012	Number of Internal Audit objections pending for settlement as on 30-9-2012	Disposal during the month
1	2	3	4
Ahmedabad	2185	1607	578
Bhubaneswar	399	248	151

1	2	3	4
Chandigarh	987	927	60
Bhopal	1005	783	222
Jaipur	1226	926	300
Mumbai	7761	6961	800
Pune	1858	1689	169
Nagpur	646	291	355
Kochi	2506	2374	132
Hyderabad	1754	1586	168
Kolkata	882	865	17
Chennai	4083	3962	121
Delhi	3188	2351	837
Bangalore	1618	1296	322
Patiala	4	1	3
Ghaziabad	143	46	97
Agra	65	43	22
Meerut	15	9	6
Guwahati	228	103	135
Total	30553	26068	4495

88. The Committee further desired to know as to whether any timeframe had been fixed for disposal of the pending Audit objections. In response, the Ministry stated as follows:—

"The Department has given a time frame of 4 months for disposal of an internal audit objection to be settled in the Action Plan for FY 2012-13. The CCIT (CCA) regions from the entire country have given assurance of completing this work expeditiously and this is being monitored by CBDT on a quarterly basis."

#### **X. Sanctioned and working strength of officers**

89. According to Audit, the following was the sanctioned and working strength of the officers in the Income Tax Department as on 31 March, 2011.

Sanctioned and Working Strength of Officers:

Post	Sanctioned Strength	Working Strength	Short Fall
CCIT/DGIT	116	104	12
CIT/DIT	729	693	36
ADDL CIT/JCIT	1,253	893	360
ACIT/DCIT	2,092	1,397	695
ITOs	4,448	4,247	201
Total	8,638	7,334	1,304



90. The details about the present position of sanctioned and working strength of Officers (from CCIT/DGIT to Income Tax Officers) as provided by the Ministry are given as under. Rest of the details (from Sr. PS to other Gr. C.) are given at **Annexure IV**.

**Sanctioned and Working Strength of Income Tax Department**

Name of Post	Pay Band	Pay Range	Grade Pay	Classification of Post	S.S. as on 31.03.12	W.S. as on 31.03.12	Shor-tage	Shortage per-centage
CCIT/DGIT	PB-4	37400-67000	12000	GP'A'/Gazetted	116	115	1	0.86
CIT/DIT	PB-4	37400-67000	10000	GP'A'/ Gazetted	731	731	0	0
Addl CIT/ADD	PB-4	37400-67000	8700	GP'A' /Gazetted	606	871	382	30.48
Joint CIT/Jt. DIT	PB-3	15600-39100-15600-	7600	GP'A' Gazetted	647	871		
DCIT/DDIT	PB-3	39100	6600	GP'A'/Gazetted	1358			
ACIT/ADIT	PB-3	15600-39100	5400	GP'A' Gazetted	740	1494	604	28.97
Chief Engineer	PB-4	37400-67000	10000	GP'A' Gazetted	9	1	8	88
Suptd. Engineer	PB-4	37400-67000	8700	GP'A'/Gazetted	16	1	15	93.75
Jt. Dir.(S)/ Com. Mgr.	PB-3	15600-39100	7600	GP'A'/Gazetted	5	2	3	60
Executive Engineer	PB-3	15600-39100	6600	GP'A' Gazetted	76	3	73	96
Dy. Dir.(S)/Sys. analyst	PB-4	15600-39100	6600	GP'A'/Gazetted	25	11	14	56
DD(OL)	PB-3	15600-39100	6600	GP'A'/Gazetted	5	2	3	60
Sr. Admn. Officer	PB-3	15600-39100	6600	GP'A' Gazetted	5	0	5	100
A.D. (sys)/ Programmer	PB-3	9300-34800	5400	GP'A'/Gazetted	72	43	29	40.2
Other Gr-A#		Misc.		GP'A'/Gazetted	19	5	14	73.68
Admn. Officer Gr-II	PB-2	9300-34800	4800	GP'B'/Gazetted	35	32	3	8.57
Income Tax Officers	PB-2	9300-34800	4800/6400	GP'B'/Gazetted	4448	4226	222	4.99

91. The Committee sought to know about the factors leading to vacancies at various levels in the Department and plan of action formulated to fill up the same. In reply, the Ministry stated as under:—

"It is submitted that most of the vacancies in the IRS cadre exists in the grade of Joint Commissioner and Deputy Commissioner. These vacancies exist mainly on account of low intake of IRS officers during the period 2000-01 to 2005-06 due to

promulgation of DOPT's OM dated 16.5.2001 on 'Annual Direct Recruitment Programme' as per which only 1/3rd of the total direct recruitment vacancies occurring in a year could be filled. Since in the years 2001-02 to 2005-06, 167 fewer officers in the IRS could be recruited, 167 DR vacancies pertaining to the years 2001-02 to 2005-06 got revived in 2006 that could be filled at the earliest only through the Civil Services Examination 2007. Rather than filling all these vacancies at one go (as it would have impacted the promotion prospects of the officers adversely), the Department chose to fill up the same gradually and only 40 out of the 167 vacancies were indicated for CSE 2007. Since IRS officers are promoted as Deputy Commissioner after 4 years of service and as Jt. Commissioner after 9 years of service, hence the shortage presently exists in these 2 grades. The vacancies are now being filled by recruiting a larger number of IRS officers every year and present average intake of direct recruit IRS officers is 150 per annum. Simultaneously, relaxation is also sought from DoPT for relaxing the prescribed eligibility conditions for filling the posts Joint Commissioner. These measures will ensure that all the existing vacancies in the IRS cadre are filled at the earliest.

In non-IRS cadres, vacancies exist mainly in the grade of Stenographers because Staff Selection Board was, in the past a few years, not able to recruit any candidate to the post of Stenographer Grade II. However, during the current year, the Income-tax Department actively pursued the matter with the Staff Selection Board and it was ensured that most of the vacancies in this grade are filled. However, vacancies in the promotion grade of Stenographer Gr. I still exist because sufficient personnel do not exist in the feeder grade of Stenographers Grade II. The issue will be resolved once the proposed restructuring on the Income Tax Department is implemented where the various posts in the stenographer and ministerial cadres in the grade pay of Rs. 4200 are proposed to be merged as Executive Assistant. Consequently, the vacancies in Stenographers Grade I (re-designated as Executive Assistant) can then be filled by Tax Assistants.

Apart from this, vacancies also exist in the grade of Tax Assistants. Efforts are being made to ensure that all the direct recruitment vacancies for the year 2011-12 in this grade are filled at the earliest.

Some other vacancies exist in other grades as well. These vacancies are promotional vacancies and the difficulty in filling up is mainly on account of the ongoing litigation on the issue of reservation and the manner in which seniority is to be fixed in case of the reserved candidates. This issue is presently under consideration before the courts and once it is resolved by the courts and DoPT comes out with clarification on the same, the concerned posts shall be filled immediately.

It is submitted that earliest implementation of the cadre restructuring proposal of the Department will help augmenting the requisite strength of officers and staff and help the Department in due discharge of its responsibilities."

92. During evidence, the Committee sought to know as to when the last restructuring of the Income Tax Department had taken place. In response, Secretary revenue in his deposition stated that:—

"The basic issue we are facing is that normally the cadre review should be done every five years. Unfortunately that was done only ten years back."

93. While providing the details of the staff requirement sought under various categories in the present proposal for restructuring, the Department stated that the present proposal for restructuring sought 920 additional duty Posts and 760 reserves in IRS. Additionally, 19,402 posts have been sought in the non-IRS cadres. A total of 21,082 posts have therefore been sought in the ongoing restructuring exercise.

94. The Committee further desired to know as to whether the manpower requirement proposed in the restructuring was sufficient for effectively administering the increasing responsibilities of the Department. In response, the Ministry stated as follows:—

1. "The instant cadre review is seeking the minimum additional posts mainly to handle the increasing work load and strengthen the assessment, appeals and tax-administration) including taxpayer service) functions and also to ensure that at least 2% of returns are scrutinized every year.
2. In the present Cadre Review exercise, bare minimum number of additional posts are being sought in order to maximize operational efficiency. The additional posts are in the crucial areas of investigation, international taxation, assessment, risk management, etc.
3. Even despite the additional posts sought; the average work-load per administrative Commissioner will go up from 1.43 lakh taxpayers in 2007-08 to 1.85 lakh taxpayers in 2013-14, apart from review of the 180 top scrutiny/ audit assessments per year. Further, the span of control of each Commissioner will go up from 18 Assessing Officers (AOs) to 21 AOs.
4. It also has to be mentioned that Department of Expenditure (DoE), had approved 29 posts in Apex and 88 posts in HAG+. The proposal of DoE was thereafter approved by the then Finance Minister. DoPT, however, approved only 20 posts in Apex & 50 posts in HAG+. Further, as against 333 posts recommended in HAG, only 150 posts were proposed by Department of Personnel and Training (DoPT). The structure proposed by CBDT was based on strict functional considerations and the DoPT has not given any rationale for the reductions proposed by it. However, in order to ensure that the proposal was not delayed as any delay would seriously affect the operational efficiency of the Department; CBDT decided to accept the recommendations of DoPT and accordingly moved a Cabinet Note based on the proposals cleared by DoPT."

95. Explaining the extent to which the current cadre restructuring would benefit the Department' the Ministry submitted as under:—

- "The proposal will create 1080 additional assessment units and provide necessary manpower to the Department to scrutinize 2% of the total returns filed.

- Apart from this, the proposal will also provide the necessary manpower to process all the available pieces of information through AIR returns, details of companies that have not filed Income Tax Return even though they are live and TDS has been deducted in their cases, CIB information, etc.
- Apart from assessments, manpower is needed for the vitally important works of conducting surveys, making recovery, widening the tax-base and taxpayer base more effective and thorough as well as comprehensive. Proposed increase in Groups B and C will provide necessary manpower for this purpose.
- It is also noteworthy that while assessments and investigations are done by Group A and some Group B officers but they require manpower for verification, enquiries, recording of statements, checking of accounts, etc. The overall increase in Group B and C posts proposed in the restructuring exercise will provide manpower for this purpose as well."

96. To the question as to what would be the most efficient deployment pattern of staff in the post-cadre restructuring scenario, the Ministry responded as follows:—

"The additional manpower obtained in the restructuring exercise shall be deployed accordingly so that the operational efficiency of the Department is maximized as under:

- (i) Capacity to scrutinize the cases is presently only 1% as against the optimal 3%. Manpower will be suitably deployed to allow scrutiny in 2% cases. For this purpose, 1080 additional assessment units (4500 as against the present 3420) are proposed to be created.
- (ii) More than 1 crore the additional man power will also be used for processing numerous pieces of information that presently are unable to be processed resulting in huge amount of potential tax being lost.
- (iii) In numerous cases, companies have not filed returns although they are live and TDS has been deducted. Appropriate consequential action is not possible due to the lack of manpower. Some of the additional man power will be used to rectify this problem.
- (iv) Capacity to process is only 2 crore 90 lakh per annum, whereas the returns filed annually vary from 3.4 to 3.5 crore. Some of the additional man power will be used to clear the backlog and ensure up to date processing of returns.
- (v) Additional posts of CIT (A) will also be created to ensure that all the appeals are disposed of within a year and release the disputed amount for collection by the Department.
- (vi) Some of the additional man power will also be used to ensure verification huge volume of remittance data available with the Department in the field of International taxation."

97. About the proposal for restructuring in Income Tax Department that was pending with Department of Personnel and Training (DoPT) for approval, the Committee

sought to know from DoPT details regarding the receipt of proposal from Income Tax Department, action taken thereon by the DoPT, current status of approval and the agreement of DoPT with the quantum of staff sought in the proposal. In response, the DoPT in its written information submitted to the Committee replied as under:—

"The revised proposal of Department of Revenue (DoR) as modified by Department of Expenditure (DoE) seeks to increase the total cadre strength from 4192 to 5872, creation of reserves of 760 posts as compared to NIL presently and upgradation of 26 CCIT posts from HAG to Apex scale, upgradation of 90 CCIT posts from HAG to HAG+ and creation of one additional CCIT post at HAG+ level and upgradation of 300 CIT posts from SAG to HAG level, a reduction in number of posts from SAG level from 731 to 635, increase in JAG level posts from 1253 to 1575, increase in STS level posts from 1358 to 1394 and increase in JTS posts from 734 to 1091.

The original proposal was received in February 2011. However, it was not in the prescribed format and many relevant details were missing. After the details were received, DoPT conveyed its recommendations in January, 2012. DoR, however, submitted a Note for Cabinet in March 2012 without placing the proposal before the Cadre Review Committee. The Cabinet considered the proposal on April 26, 2012 and directed DoR to place the proposal before Cadre Review Committee first. The Cadre Review Committee considered the proposal on June 6 and July 27, 2012 and asked DoPT and DoE to consider the clarifications given by DoR. DoE in the meantime on May 31, 2012 issued economy instructions putting a ban of creation of posts and further clarified in August 2012 that the cadre strength could not be increased as part of cadre review. DoR was accordingly asked by DoE to revisit the proposal. The revised proposal was forwarded to DoPT by DoR *vide* their ID Note No. A. 50050/162/2012-Ad. 1 dated December, 5, 2012. The proposal again sought to increase the cadre strength significantly. The Department of Expenditure conveyed their concurrence *vide* their ID Note No. 2 (25)/E.III Desk/2012 dated February 4, 2013. The proposal was examined and based on the decisions taken a Note for Cadre Review Committee dated February 14, 2013 was prepared and circulated. The Note has since been considered by the Committee on February 19, 2013. The minutes of the meeting has been received.

DoPT is broadly in agreement with the quantum of staff sought in the proposal. However, a large number of posts are at present vacant and the increase in strength proposed would be difficult to be filled up. Any bulk recruitment is not advisable as this may lead to stagnation at higher level in future."

98. In addition to the above, the representative of the DoPT submitted before the Committee as follows:—

"There are two components. One is increasing the cadre strength of Group A Income Tax Officers from 4,192 to 5,916. Secondly, with Group B and C, the number of posts existing is about 53,000 and they want to increase it to about 73,000 an increase of approximately about 36 per cent. I would just like to mention that out of the total cadre strength of 4,192 in the Income Tax, there are vacancies at various levels. Earlier, they had reported about 1,088 vacancies. Later on they

have filled up some posts. Even at present, they are clearly short of about 660 people in their cadre strength, and 300 officers are on deputation and training. So, put together, about 800 to 900 posts are vacant in IRS Group A. Filling up of that could certainly take place even without the cadre review for increasing the present strength. It happened because of no recruitment in the last ten years or more.

Similarly, in Group C and D, approximately 10,000 or slightly less is the vacancy position, with the present cadre strength of 53,000. I am told that the Department of Revenue with Staff Selection Commission (SSC) and others is making very strenuous efforts to have the recruitment and have people in place.

Certainly, Cadre review and increasing the cadre strength would help, but along with that, filling up of the vacancies is very critical for the Department."

99. Agreeing with the above submissions made by the representative of DoPT before the Committee, Secretary Revenue, during evidence stated that:—

"We are making all efforts to fill up these posts."

100. Elaborating further on this issue, another representative of the Ministry of Finance stated as follows:—

"The Department of Income Tax has only as on date 74 officers on deputation out of a cadre of 4,193 and odd. We have in the Income-Tax Department more reserves at all to fill the posts. This is miniscule number of 74 officers who have gone on deputation. At the same time, we have two batches under training—150 of two batches. About 300 and odd officers are always under training. In fact, though they are on our cadre, the posts against which they are to work are lying vacant because we have no reserves. So, there is no manner by which we could fill up.

As far as the lower cadres are concerned, I have to put it on record that about 6900 vacancies in the group B and C Cadres exist because in the feeder grade, we have nobody. Now, we are proposing the merging of three feeder cadres because in these lower cadres, there is direct recruitment and the other one is through promotion. The numbers are not available like for Inspectors, TAS or office superintendents. As far as stenographers are concerned, we have nobody to promote at all. The numbers are not available. In fact, we have already written last year for those posts till May 2012. The Staff Selection Commission filled up 11,000 shortages. For these shortages, all steps are being taken to fill them up and the Staff Selection Commission have assured that there would be filling up of these posts."

101. On being asked about the present status of the proposal of cadre restructuring in the Income Tax Department, the Department of Revenue in its written replies stated that the proposal was considered by the CoS on 19.2.2013 and a Note for consideration of the Cabinet has been initiated.

## **B. AUDIT PARAGRAPHS**

### **I. Arithmetical errors in computation of income and tax**

#### **Charge: CIT X, Mumbai, Maharashtra; AY: 2007-08**

102. Audit had pointed out that in the case of Maharashtra State Electricity Distribution Company, while computing the revised income in March 2010, the Assessing Officer (AO) erroneously computed considering the total income as per assessment order of December 2009 at ₹ 495.1 crore instead of correct income of ₹ 2161.5 crore. The mistake involved short levy of tax of ₹ 746 crore including interest. *The Department accepted the observation (November 2010).* The Ministry in its reply dated 22 February, 2012 has accepted the observation and taken remedial action in May 2011.

103. When the Committee desired to know the circumstances under which this omission took place, the Ministry in its reply stated as under:—

"It has been reported by the Commissioner of Income Tax-X, Mumbai that the Assessing Officer, in a hurry to complete the assessment within time prescribed by the Statute, had made a bonafide mistake. However, The CIT has called for the explanation of the Officer."

104. On being asked as to whether any responsibility had been fixed against the erring officials, the Ministry informed that an explanation of the officer had been called for.

105. When specifically asked about the mechanism in place to avoid recurrence of such negligence by the AOs, the Ministry submitted as follows:—

"During a financial year on an average about 4 to 5 lakh scrutiny assessments are completed by the AOs. Out of these assessments, mistakes are found in comparably low number of cases. These mistakes occur due to the work pressure on the AOs to complete the assessment after due enquiries and affording reasonable opportunity to the assessee within the statutory time limits. However, as per Instruction No. 9 of 2006 of the CBDT, whenever an audit objection is accepted, the CIT is supposed to call for the explanation of the AO and examine the issue further for taking appropriate corrective action. In addition, the work of the AO is subject to review and inspection by senior officers. The Internal Audit also conducts regular Audit to detect mistakes of the AOs. Based upon experience of the past, a comprehensive check list for Internal Audit was prepared and circulated amongst the field formation of guidance while completing assessments. It is envisaged to have an electronic database of audit objections and the officers so as to enable the Department to identify the officers requiring further capacity building enhancing their skill sets. It is also submitted that as the level of computerization increases the incidences of such mistakes will decrease."

### **II. Irregularities in allowing depreciation/business losses/capital losses**

#### **A. Charge: CIT X Mumbai, Maharashtra; AY: 2007-08**

106. Audit has observed that Central Bank of India, was allowed carry forward of long term capital loss of ₹ 3323.9 crore against the available long term capital loss of

₹ 2190.2 crore only. The mistake resulted in excess carry forward of long term capital loss of ₹ 1133.7 crore involving potential tax effect of ₹ 127.2 crore. *The Department issued notice under section 154 of the Income Tax Act (April, 2010) for rectification of the error.*

107. When asked about the reasons for this irregularity, the Ministry in its reply stated as under:—

"The CIT has reported that the AO had inadvertently allowed the brought forward losses claimed in the return of income without verifying the past records. The Board had directed the CIT on 25.01.2012 to call for the explanation of the AO for further necessary action."

**B. Charge: CIT X Mumbai, Maharashtra; AY: 2007-08**

108. Audit scrutiny revealed that Reliance Communications Ltd. (RCL), was allowed set off of brought forward business losses of ₹ 244.9 crore and unabsorbed depreciation of ₹ 2615.9 crore pertaining to Reliance Infocom Limited (RIC), which was merged with RCL on 31 March, 2006. The carried forward losses and unabsorbed depreciation of RIC included the loss for the AYs 2000-01 to 2003-04 pertaining to basic telecom undertaking of Reliance Telecom Ltd. (RTL) which was merged with RIC on 6 March, 2003. Cross verification of case records of RIC and RTL by Audit has revealed that the carried forward loss from RTL to RIC and subsequently from RIC to the assessee required to be reduced by ₹ 232.2 crore. Omission involved potential tax effect of ₹ 78.5 crore. *The Department rectified the mistake (January 2011).*

109. Explaining the circumstances under which the AO allowed the set off of the entire amount of brought forward business loss and unabsorbed depreciation without cross verification of rectification order, the Ministry submitted as follows:—

"The Commissioner of Income Tax has reported that the said companies were assessed with different AOs and there was a communication gap amongst them which led to the mistake. The Board has again advised the officers to carefully undertake the required cross verifications while completing the assessments in such cases."

110. Regarding fixing responsibility on the erring Assessing Officer, the Ministry stated that explanation of the Assessing Officer has been called for by the CIT for further necessary action.

**C. Charge: CIT-LTU, Bangalore, Karnataka, AY: 2006-07**

111. Audit further pointed out that Canara Bank had claimed and was allowed unabsorbed depreciation/loss of ₹ 126.3 crore relating to AY 2005-06 against positive income of ₹ 1158.6 crore in the scrutiny assessment completed in December, 2008 in the assessment as well as in the order giving effect to CIT(A) passed on 30 July, 2009. The omission to disallow the loss resulted in under assessment of income of ₹ 126.3 crore involving a tax effect of ₹ 54.5 crore including interest. *The Department*



*rectified the mistake under section 154 of the Income Tax Act (February 2011).* The Ministry in its reply dated 21 March, 2012 has accepted the case.

112. Explaining the reasons for the above, the Ministry stated as follows:—

"The CIT has reported that it was a bonafide mistake where the AO has omitted to refer the assessment order for the AY 2005-06 passed in the month of December, 2008 while giving effect to the order of CIT(A) for the AY 2006-07. On being pointed out by audit in their objection dt. 27.10.2010 the same was rectified on 25.2.2011."

**D. Charge: CIT-IV, Hyderabad, Andhra Pradesh, AY: 2005-06**

113. Audit had observed that Lanco Kondapalli Power (P) Limited was allowed 100 percent deduction of ₹ 108.4 crore under section 80IA before setting off of the unabsorbed depreciation of ₹ 55.1 crore and thereby incorrect set off and carry forward of unabsorbed depreciation of ₹ 55.1 crore involving potential tax effect of ₹ 20.2 crore. *The Department rectified the mistake under section 154 of the Income Tax Act (July, 2010).*

114. On being asked that under what circumstances this omission had taken place, the Ministry stated as follows:—

"The assessment order which was the subject of the audit para, was passed on the date of limitation *i.e.*, 31-12-2007. The CIT has reported that it is purely a legal issue relating to the methodology of computation of Total Income and had taken place due to the heavy work load of time barring assessments to be completed by the said date. The CIT has reported that it was a bonafide mistake by the Assessment Officer. Further, there is no loss of revenue since the assessment was completed by computing the tax under sec. 115JB correctly. The above mistake was corrected by passing an order under sec. 154 of the IT Act, 1961 on 06-07-2010."

115. When the Committee wanted to know why the Internal Audit Party (IAP) of the Department had not pointed out the mistake, the Ministry in its written submissions stated that the file was audited by the IAP before the Audit by the Revenue Audit Party *i.e.* 21-08-2008. However, it appears that this issue had missed the attention of the IAP possibly since the IAP had gone by the MAT income.

**III. Income not/under assessed under normal provisions**

**Charge: CIT-LTU, Mumbai, Maharashtra; AY: 2007-08**

116. Audit found that Deposit Insurance & Credit Guarantee Corporation adjusted interest of ₹ 76.8 crore and ₹ 36.7 crore allowed in October, 2006 on refunds of ₹ 133.9 crore and ₹ 58.2 crore relating to AYs 1990-91 and 1991-92 respectively against the demand of AY 2004-05. Interest on refunds forming part of income, was not offered to tax in AY 2007-08. The mistake resulted in income of ₹ 113.5 crore escaping assessment involving short levy of ₹ 58.1 crore including interest. *The Department rectified the mistake (April 2011).*

117. To a pointed query as to why the Assessing Officer had not verified such a big amount of interest at the time of completing scrutiny assessment of AY 2007-08 in October 2009. In response, the Ministry replied as under:—

"The CIT has reported that it was a bonafide mistake on the part of the AO. The refunds for AY 1990-91 and 1991-92 were issued after adjusting against the demand for the AY 2004-05 on 30.10.2006. Subsequently, the case was transferred from ACIT-1(1), Mumbai to ACIT-LTU, Mumbai, *w.e.f.* 15.6.2008. The case records for the same were transferred on 30.07.2008 as per the transfer memo in which only pending actions were reported. The new AO who received the files on transfer was not aware of such refund as it was prior to transfer of jurisdiction. The mistake had taken place inadvertently because of this communication gap."

#### **IV. Mistakes in assessment while giving effect to appellate orders**

##### **A. Charge: CIT-V, Delhi, AY: 2004-05**

118. Audit had observed that while giving effect to the appellate order passed in March, 2007 in the case of Power Grid Corporation of India Ltd. under section 250, loss under normal provisions was computed at ₹ 858.3 crore instead of the correct amount of ₹ 1002.1 crore. This mistake resulted in under-assessment of loss by ₹ 143.8 crore involving potential tax effect of ₹ 51.6 crore. *The Department rectified the mistake under section 154 of the Income Tax Act (December, 2010).*

119. While accepting the mistake, the Ministry submitted the following reasons thereof:—

"The Ministry has accepted the mistake. The CIT has reported that the assessment u/s 143(3) was made on 29.11.2006 under normal provisions of Act at a loss of ₹ 930,21,57,144/-. The CIT(A) *vide* his order dt. 14.03.2007 gave relief of ₹ 71,90,00,000/- under different heads to the assessee. However, while giving appeal effect, inadvertently the amount of ₹ 71,90,00,000/- was decreased from the loss assessed instead of increasing the same. Subsequently, mistake was rectified *vide* order u/s 154 dt. 06.12.2010 and revised loss quantified at ₹ 1002,11,57,144/-".

##### **B. Charge: CIT-I, Jodhpur, Rajasthan; AYs: 2002-03 & 2003-04**

120. Audit scrutiny had also revealed that Jodhpur Vidyut Vitran Nigam Ltd. revised the returned loss in December, 2006 for AYs 2002-03 and 2003-04 at ₹ 62.6 crore and ₹ 22.9 crore respectively. However, while giving effect to the appellate order of December, 2009, the assessing officer adopted loss of ₹ 85.2 crore and ₹ 78.1 crore initially returned by assessee instead of adopting loss as declared by the assessee in the revised return for both the assessment years respectively. Thus, over computation of loss aggregating ₹ 77.9 crore for two assessment years involved potential tax effect of ₹ 28.4 crore. The Ministry in its reply dated 02 May, 2012 had accepted the case.

121. On being asked about the circumstances under which Assessing Officer had adopted loss initially returned by the assessee instead of adopting loss as declared in the revised return, the Ministry stated as under:—

"This case involved multiple litigation and complexities. The brief facts of the case are that the original return of Income (RoI) was filed declaring loss of ₹ 78.11 crore which was claimed to be carried forward as unabsorbed depreciation. The Revenue Audit raised an objection against the summary assessment order in this case. Remedial action was taken and re-assessment was done to rectify the mistake. During this period the assessee filed a revised computation of Income and not a revised return. Against the re-assessment the assessee went in appeal. After, the CIT (Appeal) confirmed the re-assessment, the assessee company filed appeal before Income Tax Appellate Tribunal (ITAT) and also an application before the Authority for Advance Rulings (AAR) placing on record Additional evidence which was hitherto not available either to the AO or the CIT (Appeal). Both the ITAT & AAR have set aside the issues and restored the matter to the AO for re-examining the facts and completing the assessment. While giving effect to the orders of the Appellate Authority, the AO had adopted the figure as given in the return and not as per the revised computation of Income submitted by the Assessee, by oversight. This mistake has hence been rectified. There has been no loss of Revenue. The Assessee Company is state PSU. The CIT after considering all the facts has opined that this is a bonafide mistake. However, a caution to the AO has been issued to be careful in future."

122. On the issue of fixing responsibility on the officials concerned for not adopting correct figures of loss based on revised return, the Ministry has submitted that as it was a case of bonafide mistake through inadvertence the CIT had cautioned the Assessing Officer to be careful.

123. As seen from the Ministry's replies in respect of all the above-mentioned cases the irregularities had occurred despite the fact that in most of the cases, the assessments were completed under scrutiny assessment.

## PART II

### OBSERVATIONS/RECOMMENDATIONS

**1. Tax-GDP ratio and tax buoyancy:** The Committee note that though the total direct tax collections have registered an increase in the preceding six years *i.e.* from ₹ 2,30,181 crore in 2006-07 to ₹ 494, 799 crore in 2011-12, the Tax-GDP ratio has decreased from 6.26% in 2007-08 to 5.59% in 2011-12. As a result, the tax buoyancy, which is a key indicator of efficiency of revenue mobilization in relation to growth in GDP, has decreased during these years and during the financial year 2011-12, it is only 0.70 (less than one). This clearly indicates that the rate of growth of tax collection has fallen below the rate of growth of GDP. While conceding the decline in tax buoyancy, the Ministry attributed the economic meltdown, that took place in 2008-09 as the main reason therefor. The Ministry further stated that the inflation was affecting the corporate profitability which in turn affected the Corporate tax collections. The Committee, however, are not inclined to accept these pleas of the Ministry, which gives a pessimistic reflect on the TAX-GDP ratio. In their considered view the revenue realized is nowhere near the revenue potential of the country and much remains to be done to improve the horizontal equity of the tax system by extending the tax net to hard-to tax groups. In order to increase the tax buoyancy by way of augmenting the tax-GDP ratio the Committee recommend that the Department of Revenue should re-orient their efforts for widening of tax base by bringing in the potential and high net worth assesseees into the tax net from specific sectors/channels/categories responsible for tax evasion. A concerted action plan both for widening tax net through innovative means and targeting high net worth assesseees should be evolved. The exercise should be done in transparent manner and involving all stakeholders.

**2. Effective rate of taxation:** The Committee find that the effective tax rate for the companies was lower than the statutory tax rate. Further, the effective tax rate for the companies having Profit Before Taxes (PBT) of ₹ 500 crore and above was 22.6% only while the effective tax rate for the companies having PBT of upto ₹ 1 crore was 25.7%. The Committee were informed that this difference was mainly on account of various direct tax incentives which reduce the amount of tax payable thereby lowering the effective rate of tax. The Committee observe that the growth of corporate sector has increased manifold during these years but, the growth of revenue from this sector has not increased proportionately as the statute is still riddled with so many tax exemptions/incentives to this sector. According to the Ministry this issue is now being taken care of in the Direct Taxes Code (DTC), which proposes phasing out the profit-linked deductions and substitute it by investment-linked deductions. The Committee hope that with the proposed transition of profit-linked deduction to investment-linked deduction, the anomaly in the tax

rate to corporate sector would be removed. The Committee, therefore, urge the Government to implement the DTC expeditiously.

**3. Revenue Foregone:** The Committee note that various tax exemptions and concessions extended under the Tax Law deplete considerable portion of tax collection which is borne out by the fact that the revenue foregone on account of tax exemptions has increased by 22.75% from ₹ 77,177 crore in 2006-07 to ₹ 94,738 crore in 2010-11 and corporate sector alone has accounted for 63.5% of revenue foregone in 2010-11. Further, from the latest figures for the years 2011-12 and 2012-13 as provided in the Budget Statement for the year 2013 it is seen that revenue foregone in respect of corporate income tax has increased to ₹ 67,995 crore in 2012-13 while the same for personal income tax has increased to ₹ 45,480.1 crore in 2012-13. It is so evident from the facts stated above that the revenue foregone which was decreased in 2010-11 in both the sectors has now been increased substantially in the years 2011-12 and 2012-13. This clearly indicates that the tax concessions and exemptions provided in the law are still huge and phenomenal having an adverse impact upon the tax buoyancy. In the considered view of the Committee, continuance of such exemption not only leaves tremendous scope for evading tax but also prompts people to resort to unwarranted tax planning. The Committee would therefore, like to be apprised of the areas where revenue loss has occurred owing to huge revenue foregone during these years. They should also like to be informed about the extent to which these exemptions are contributing to improvement in the savings-investment ratio as spurt to the economic growth process. The Committee note that the matter concerning exemptions has also engaged the attention of various Committees/ Advisory Groups such as Shome Committee and Kelkar Committee set up by the Government. The Committee were apprised that as a follow up action on the recommendations of these Committees and Advisory Groups, many deductions which were profit-linked had been allowed to sunset or phased out from the Income Tax Act. The Committee appreciate that though belatedly, the Government have proposed some measures in this direction, but they feel that as the implementation of the recommendations contained in the Report on Direct Taxes Code would take some time, the Government need to consider some interim measures to phase out unwarranted tax exemptions/deductions.

**4. Growth of taxpayers:** The Assessee base, being composed of an incredible small number, has been a cause for serious concern to the Committee. Considering the growth in economy and an increase in the number of persons filing their returns, the Committee feel that the number of tax assessees could be much higher than the existing number. The Committee are constrained to observe that over the last five years, the assessee base grew from 313 lakh taxpayers in 2006-07 to 335.8 lakh taxpayers in 2010-11, registering an increase of 7.3% with an average annual rate of growth of 1.8% only. Further, from the latest figures provided by the Ministry it is seen that the assessee base has declined from 340.84 lakh taxpayers in 2009-10 to 337.38 lakh taxpayers in 2010-11. Surprisingly, when the number of corporate assessees has increased from 3.67 lakh in 2009-10 to 4.96 lakh in 2010-11, the

number of non-corporate assesseees has decreased from 337.17 lakh in 2009-10 to 332.42 lakh in 2010-11. It is a matter of concern that the Department which is otherwise aiming towards widening the tax base could not manage to retain the existing tax base. Furthermore, the number of new assesseees added has reduced from 17.84 lakh assesseees in 2008-09 to 14.82 lakh assesseees in 2010-11. Again the targets for addition of new assesseees have also not been achieved during the years 2007-08 to 2010-11. While seeking to justify this, the Ministry stated that the targets could not be achieved because of emphasis on voluntary compliance by the taxpayers, consistent acute shortage of manpower at all levels, increase in basic exemption limit and increase in deductions admissible. The Committee feel that either the targets were unrealistic or there is something lacking in the efforts of the Department. Keeping in view that the Department has been laying emphasis on voluntary compliance by the taxpayers, the target of putting new assesseees has also not undergone any significant change and has thus been pegged at a meagre growth of 15% over the new assesseees added in the preceding five years. The Committee feel that as reliance on voluntary tax compliance has not yielded the desired results, Government should focus on non-intrusive but penetrating methods of tax collections for being able to widen the tax base. The Committee also recommend that the tax evaders should be dealt with strictly. The Committee would also like the Department to suitably augment their staff strength so that the work of widening the tax base does not suffer on this count. If required, additional posts may also be created for this purpose and as an *ad interim* measure certain percentage of retired Government employees having relevant experience could be hired pending filling up the posts in due course.

5. The Committee note that in order to identify new assesseees the Department has been taking several steps such as collection of information from Banking Companies and Registrar/Sub-Registrar of properties, expanding the ambit of TDS, issuing instructions to field authorities to initiate action against non-filers of ITRs, compulsory quoting of PAN, technological improvements, collection of information from third parties by Central Information Branch, etc. However, the results of increase in assessee base have been far from encouraging. As the increase in collection of direct taxes largely depends upon the growth of taxpayers, the Committee feel that considering the growth rate being witnessed in the economy and the resultant spurt in both corporate and individual incomes, the number of tax assesseees should have been much higher than the existing number. The Committee, therefore, urge upon the Government to undertake a focused study to augment the number of new assesseees so that the tax base remains wide and dispersed, reflecting truly the increase in per capita income as also the diversified nature of our economy. For this, the Ministry should also devise an analytical model for widening of tax base, based on the increase in per capita income, both in nominal and real terms as assured by the Secretary (Revenue) during the evidence.

6. Processing of returns and scrutiny Assessments: Another disquieting trend observed by the Committee is the increase in number of pendency of cases selected

for summary/scrutiny assessment. The Committee observe that out of total 8.5 lakh scrutiny assessment cases for disposal, the Department had disposed of only 4.6 lakh (53.7 per cent) cases in 2010-11. Therefore, the pendency of cases of scrutiny assessment had increased from 2.8 lakh in 2006-07 to 3.9 lakh in 2010-11. Again, out of 2,87,953 cases of scrutiny assessments, the disposal of the same in Financial Year 2012-13 upto June, 2012 is merely 8165. Further, with regard to disposal of summary assessment cases, the Committee find that out of 5.2 crore summary assessment cases for disposal, the Department had disposed of 3.1 crore cases only in 2010-11. As a result the pendency of summary assessment cases had also significantly increased from 33.2 per cent, in 2006-07, to 41.4 per cent in 2010-11. The Committee are further constrained to find that the targets of cases to be disposed of had also not been changed for the years 2008-09 to 2010-11. The Ministry have tried to explain such a pendency on shortage of Assessing Officers. The Committee have been apprised that in order to clear the pendency and timely disposal of such cases, targets as per Central Action Plan were fixed for financial year 2012-13 wherein 100% cases had been proposed to be disposed of upto March, 2013. According to the Ministry out of total pendency of 2,87,953 scrutiny cases, as in June 2012, a large number of cases would be time-barred in the year ending 31.3.2013 and would necessarily be completed by March, 2013. The Committee would like to be apprised about the current position with regard to disposal of time barred cases as well as achievement of target as stipulated in Central Action Plan for disposal of scrutiny/summary assessment cases. Also keeping in view the increasing number of returns being filed, the Committee strongly express the urgency for increasing the number of Assessing Officers for this purpose, by simultaneously enhancing the disposal target for each assessing officer, which should be finalized and completed within a stipulated time-frame.

7. Uncollected Demands: The Committee are further concerned to note that at the end of FY 2011-12, as much as ₹ 4.0 lakh crore remained uncollected. This comprised demand of ₹ 2.6 lakh crore of earlier years and current demand (2011-12) of ₹ 1.4 lakh crore. Further, the trends of percentage increase in uncollected demands indicate that the demand which had decreased from 61.96% in 2008-09 to 13.79% in 2009-10 has again increased to 40.04% in 2011-12. The Committee are further surprised to find that there are as many as 69 cases (51 cases of Corporate assesseees and 18 cases of individual assesseees) of demand of above ₹ 400 crore and above having uncollected demand of ₹ 2.08 lakh crore. The contributory factors as stated by the Ministry for this huge pendency are that the taxpayer has no assets, taxpayer is not traceable, recovery is stayed by the court or ITAT, company is under liquidation etc. With regard to demand pending against 25 top defaulters, the Committee find that most of the cases were pending with various judicial fora and the proceedings for the same are continuing. The Committee further find that out of these approximately 45% of the demands pertains to Money laundering and security scam cases where according to Department it may not possible to collect huge demands as seized assets were inadequate to meet the demands. The Committee would expect the Department of Revenue to vigorously

pursue such cases and apprise the Committee of the outcome thereof. Another reason attributed by the Ministry for slow recovery of uncollected demands is that the Tax Recovery Wing in the Department has been functioning with depleted staff strength. The Committee cannot but express their concern over the lack of sustained follow up by the Ministry towards such a vital area of tax recovery and recommend that urgent steps be taken to depute adequate staff strength so that the recovery work does not suffer on that account. Suitable arrangements should also be made to impart training to the personnel deployed in the field of tax recovery with a view to optimizing their level of efficiency. With regard to pendency of demand due to assessee's not being traceable, the Committee recommend the Government further strengthen their institutional and procedural safeguards so that traceability of assessee's could be managed well and revenue due to the Government could be recovered. The Committee also express the need for publishing the names of defaulters in the media so as to reduce the number of assessee's not traceable. The Committee have since been informed that a two-pronged strategy has been adopted by the Department to enhance disposal of pending demands. A special Cell has been constituted in the Directorate of Recovery to monitor undisputed demand. Further, a detailed target is laid out *vide* Central Action Plan for year 2012-13 to monitor all areas of arrear demand collection. The Committee hope that the Ministry will closely monitor the achievement of these recovery targets in a time-bound manner. The Committee may be apprised about the outcomes achieved as a result of these steps.

8. Cases pending with Appellate authorities: The Committee are also given to understand that a sizeable number of demands are pending with IT authorities/ Appellate Tribunals/Courts. With a view to reducing litigation at various levels so as to ensure quick settlement of the arrear demand cases several steps are stated to have been taken like increasing the monetary limits for filing appeals, issuing new guidelines for engagement of standing counsels to represent the cases of Income Tax Department before High Courts and other judicial forums, setting up of a National Judicial Reference System (NJRS) to contain judicial pronouncements and database on all appeals pending before various appellate authorities, etc. The Ministry of Law and Justice is also considering establishing e-benches of ITAT at eight stations which would help in reducing the pendency at small towns. However, the reply of the Ministry is silent regarding the status of creation of these e-Benches. The Committee feel that the belief of the assessee's to approach these benches with a positive attitude is dependent on the extent to which these benches are able to function efficiently and effectively. The Committee would, therefore, like to be informed about the status of establishment of these Benches and, if these Benches are successful in mitigating the pendency, the Ministry may consider requesting Ministry of Law and Justice for establishing of more e-benches at various other stations as and where required .

9. Refunds: Another shortcoming the Committee noticed in the functioning of the Income Tax Department is increase in pendency rate of disposal of refund



claims. It is seen from the data available that out of total 59.9 lakh direct refund claims the Department had disposed of 40.4 lakh (67.4%) claims in 2010-11. Therefore, the pendency rate for disposal of refund claims had increased to 32.6 per cent in 2010-11 from 24.1 per cent in 2006-07. Further, the Government had refunded ₹ 75,169 crore including interest of ₹ 10,499.4 crore (13.9 percent) out of gross collection of corporation and Income tax in 2010-11. While justifying the reasons for the same, the Ministry have attributed this to increase in processing of pending returns of income claiming refunds, increase in processing of e-returns at CPC Bengaluru, increase in the ambit of Refund Banker Scheme, giving effect to the appellate orders etc. The Committee observe that the department needs to carefully monitor the issue of refunds although several steps have been initiated by the Ministry to ensure completion of assessments having refunds as soon as possible. The steps taken by the Department so far have not been fruitful in tackling effectively the backlog of such claims together with consequent heavy interest burden. They, therefore, desire that in addition to these steps the Department should fix targets in respect of each charge for quick disposal of refund cases and fix responsibility on those officials who fail to fulfil the same. Simultaneously, a Special Cell may also be set up in the Department to ensure that refund claims once received are positively settled within the prescribed time limit thereby reducing the interest burden thereon.

10. Appeals: The Committee observe that CsIT(A) were required to dispose of 2,57,656 cases during 2010-11. Out of this, only 70,474 appeals (27.4 per cent) were disposed of and the average annual disposal per CIT(A) during 2010-11 was only 479 appeals. The Committee are shocked to find that the amount locked up in appeal cases with CIT(A) was ₹ 2.9 lakh crore in 2010-11 which is equivalent to 108.8 per cent of the revised revenue deficit of Government of India. It is further seen that the amount locked up in appeal at ITAT/High Court/Supreme Court was ₹ 2.1 lakh crore in 72,196 cases as on 31 March 2011. The factors as stated by the Ministry for huge pendency of appeals with the CIT(A) are shortage of manpower at the level of CsIT(A) and support staff, complexities involved in the appeals, requirement of further enquiry, delay in representation of case by the assessee etc. The Committee desire the Ministry to plan any viable strategy to clear this pendency and to augment the staff requirement in the Department.

11. Targets for disposal of Appeals: The Committee taken note of the particular efforts taken by the department in minimizing the number of appeals like formulating Central Action Plan, setting up targets of disposal of appeals by CsIT(A), proposing to get additional posts of CsIT(A) in the restructuring plan, increasing monetary limits for filing of appeals before Appellate Tribunal, High Courts and Supreme Court etc. The Committee urge the Government to follow these steps vigorously to get the cases settled. Revision in the monetary limits may also be reviewed after a period of every three years.

12. Avoidance of adventurous assessments: The Committee again perturbed to find that in the year 2009-10, 21.81 per cent cases, in 2010-11, 20% cases and

in 2011-12, 32.33 per cent cases were went in appeal to CIT (Appeal). This confirmed the Committee's belief that a very large percentage of assesseees remained dissatisfied with the outcome of assessment order made by the Assessing Officer. As the huge amount of revenue is locked up in these appeals and causing undue harassment to the tax payers, the Committee desire the Ministry to take remedial steps to discourage the assessing officers for making an adventurous assessment orders which result into arbitrary additions leading to appeals. The problem of huge pendency cannot be effectively tackled unless generation of too many appeals is resolved. The Assessing Officers responsible should be held accountable for wastage of time and resources of the Department by making frivolous assessments which ultimately resulted into piling of appeals at various levels.

13. Need for engaging proven counsels: The Committee are seriously concerned over the manner in which Government cases were represented at various judicial fora. From the information furnished, the Committee note that the success rate of cases decided in favour of Department at various levels of judiciary does not speak well of the Department. It is revealed from the information provided by the Department for the last five years, that more than 35-40% of the appeals filed in the ITAT/High Court/Supreme Court had been decided against the Department. These figures give credence to the opinion that Government cases are represented in a routine manner at the higher levels of the judiciary. In order to increase the success rate of settlement of cases in favour of the Department, the Committee desire the Department to be more cautious while filing their appeals, which should not be filed in a routine manner. At the same time, the Department should engage special counsels with proven expertise in taxation matters to represent the complex cases in the Tribunals, High courts and the Supreme Court.

14. Internal Audit: The Committee are perturbed to find that only 14.9% of major findings raised by internal audit were acted upon by the Assessing Officers during the year 2010-11. Therefore, total pendency increased from 6,688 cases having tax effect of ₹ 412.9 crore in 2006-07 to 34,940 cases having tax effect of ₹ 8,516.4 crore in 2010-11. However, there is a time limit of 3 months from the receipt of audit para for settlement thereof. Specifying the reasons for acting upon only 14.9% cases of major findings by the Assessing Officers, the Ministry have attributed it mainly to acute shortage of officers and staff in the Department and overriding priorities in other key areas which receives very high priority. The Committee is deeply concerned by the absence of sustained effort by the Ministry. Now, as a remedial measure to clear such pendency, first fortnight of August, 2012 was declared as 'Audit Fortnight' to take up a special drive to settle maximum number of internal audit objections. It is quite evident that Ministry have become alive to the problem rather late and only when the facts were brought to light by the C&AG and issue taken up by the Public Accounts Committee for detailed examination. Moreover, the Committee are surprised to find that only 14.71% of the pending cases were disposed of in the Audit Fortnight. Still, 26,068 cases are lying pending for settlement as on 30.9.2012. With a view to disposing the pending

cases, the Department has given a time frame of 4 months in the FY 2012-13 and the CCsIT from the entire country have given assurance of completing this work expeditiously. The Committee would like to be apprised of the latest position in this regard. Since a substantial amount of revenue is locked up in these cases, the Committee recommend that the Ministry should exercise more effective supervision over the CCsIT to ensure disposal of these cases expeditiously and the progress may be monitored on a monthly basis.

**15. Sanctioned and Working Strength of Officers:** The Committee observe that there has been shortage of manpower to a large extent over the years in the Income Tax Department. Shortage of staff is stated to be affecting the entire administration of revenue collection by this Department. The Committee are perturbed to find that as on 31.3.2012 there was an overall shortage of 17,037 posts in the staff strength of the Department. Out of which 1151 posts at Group 'A' level, 971 posts at Group 'B' level and 14,915 posts at Group 'C' level remained unfilled. The Committee are deeply concerned about such a large number of posts remaining unfilled for such a long period. The Committee are shocked to know that no cadre restructuring has been done in the Department during the period from 2002 to 2013. The last restructuring was done in the year 2001, and as testified by the Secretary (Revenue) before the Committee, it should have been done periodically. As staff shortage in the Income Tax Department over the years had created manifold problems such as increase in arrears of taxes, increase in uncollected demands, delay in issue of refunds, decrease in tax buoyancy, decline in assessee base etc., the Committee recommend that the Ministry should take up the matter with DoPT for expeditious approval of the cadre restructuring of the Department. The Committee want the Government to earnestly implement the same when it is approved. Staff may also be deployed efficiently after the approval of the proposed restructuring so that the operational efficiency of the Department is maximized. Opportunity cost in terms of *inter-se* deployment of personnel between different activities of the Department may also be considered. Further, the vacancies that exist in the various cadres may also be filled up at the earliest either by promotions or recruitments. The Committee is concerned that a delay in the cadre restructuring of the Department particularly at senior levels is serious handicap in the realization of the revenue target. The Committee recommend that the Committee of Secretaries under the Cabinet Secretary should comprehensively review the cadre and take appropriate decision. The present situation is untenable.

**16. Drive for filling vacancies:** The Committee are dismayed to find that besides Cadre restructuring of the Income Tax Department, the position of filling up of the vacancies in the Department is also very critical. No sincere efforts seem to have been made by the Department to fill up the same. Although, 11,000 shortages are stated to be filled up through the direct recruitment by the Staff Selection Commission, a large number of vacancies are still lying vacant. Ministry have, however, reportedly been assured by the Staff Selection Commission for early replenishment of the same. The Committee would like to be apprised of the present

position of filling the vacancies in the Department and urge the Ministry to come out with a clear cut policy in so far as filling of vacant posts in future.

**17. Restructuring overdue:** The Committee are shocked to find that as the restructuring of Income Tax Department was overdue, the Department of Personnel & Training (DoPT) failed to remind the Income Tax Department to send their Cadre review proposal at the end of five years after the previous cadre review. However, as late as in 2009, DoPT had issued a communication to this effect. The Committee cannot but deprecate the casual approach displayed by the DoPT. The Committee are again concerned to note that the approval of the proposal was still pending at various stages with the DoPT. The DoPT has now shifted the onus for delay in approval of the same to the economy instructions issued by the Department of Expenditure. The Committee feel that the purpose of any economy instruction should be to ensure that the outgo from the Government's non-plan expenditure is minimised. Such restrictions do not hold good for a department like the Department of Revenue which is designed to augment the revenue for the Government. The Committee, therefore desire that the DoPT should take up the matter of restructuring the Income Tax Department vigorously and get the same approved at the earliest.

**18. Audit Paragraphs:** The Committee note several cases of errors committed by the Assessing Officers during the assessment of Corporation tax. The major mistakes in the assessments were on account of arithmetical errors in computation of income and tax, irregularities in allowing depreciation/business losses/capital losses, income not/under assessed, mistakes in assessment while giving effect to appellate orders etc. These cases of incorrect assessment point towards the weaknesses in the internal controls on the assessment process being exercised by the Income Tax Department. The Committee are constrained to observe that the said irregularities were incurred despite the fact that in most of the cases, the assessments were completed under scrutiny assessment. The Committee are surprised to find the claim of the Department that most of the mistakes were *bonafide* in nature and had been committed inadvertently by the Assessing Officers. The Committee are perturbed to note that even the Internal Audit Wing in the Department had failed to detect such irregularities. The Committee would like to be apprised of the reasons for the failure on the part of Internal Audit to detect these omissions and steps proposed to be taken to avoid the recurrence of such lapses in future.

**19. Fixing individual responsibility:** With regard to fixing responsibility on the officials concerned for their acts of omission and commission, the Committee are concerned to find that in most of the cases explanation of the Assessing Officers concerned had been called for by the CIT. However, the Ministry have not offered any explanation on the role of the various officers higher up in the hierarchy. The Committee are unable to understand as to why the Ministry chose not to seek explanation from the senior officers for their failure to exercise the required supervision. The Committee would like to be informed of the action taken by the

Ministry in this regard and the present position of recovery of the amount of tax so short/non-recovered due to such lapses.

The Assessing Officers function as *quasi judicial* authority and whose independence and autonomy must not be interfered with. Nonetheless it is obligation of supervisory officers to ensure that there is no miscarriage of justice. Assessing Officers often in order to meet revenue targets make unrealistic assessments knowing that these orders will be set aside in the appellate process. Even if appeals have been upheld this does not adversely impact the service or career prospects of Assessing Officers. Over a period of time dissatisfaction level of assesseees have gone up substantially since a high percentage of appeals are being preferred against the initial assessment order and substantial percentage of appeals preferred by assesseees also succeeded. The department needs to seriously examine and inculcate attitude which will ensure that while no legitimate revenue is failed to be realized, the orders of Assessing Officers are fair and judicious and do not result in a very high percentage of dissatisfaction on the part of the assesseees. The Department need to seriously examine these suggestions and come up with appropriate suggestions and strict instructions to ameliorate the present situation and growing dissatisfaction.

NEW DELHI;  
26 August, 2013  

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4 Bhadrapada, 1935 (Saka)

DR. MURLI MANOHAR JOSHI  
Chairman,  
Public Accounts Committee.

ANNEXURE I

**Details regarding the Cases of Demand pending against 25 top defaulters**

(Ref. Para 48)

Sl. No.	CCIT/DGIT	CIT	Name of the assessee	Year since when the demand pending	Net demand at the end of the qr. 31.03.2012 (in lakh)	Remarks
1	2	3	4	5	6	7
1.	MUMBAI (CENTRAL)-I	MUMBAI (CENTRAL)-I	HASSAN ALI KHAN	2007-08 to 2011-12	11677377	After adjustment of seized cash, there are no known assets of the assessee in India. During the quarter, fresh demand of ₹ 5319995.19 lakh has been raised by imposing penalty. All known immovable properties are under attachment.  The references have been made to various countries through FT&TR CBDT to obtain further information in this regard. ED has been requested to share the information relating to assets gathered during investigation.
2.	MUMBAI (CENTRAL)-I	MUMBAI (CENTRAL)-I	CHANDRIKA TAPURIAH	2008-09 to 2011-12	4704099	Linked to Hassan Ali Case. Sufficient assets are not available for recovery. The references have been made to various countries through FT&TR CBDT to obtain further information in this regard. ED has been requested to share the information relating to assets gathered during investigation.
3.	MUMBAI (CENTRAL)-II	MUMBAI (CENTRAL)-II	HARSHAD S. MEHTA (LATE)	1993-94 to 2011-12	1846313	It is a security scam related case and assessee is a notified person. All assets of notified person are dealt with exclusively under Special Court (TORTS) Act 1992. No recovery can be made directly from these persons. The proceedings before Special Court are in progress and being continuously monitored.
4.	MUMBAI-I	MUMBAI-I	LIFE INSURANCE CORP. OF INDIA	2010-11 to 2011-12	1046827	After recent collection of ₹ 1825 crore, the demand is at ₹ 1046827 lakh. The demand of ₹ 10397.83 crore related to A.Y. 08-09 and 09-10 is under appeal before CIT (A). The CIT (A) has been requested to dispose of the case early. The balance demand has been recently raised.
5.	DELHI DG (INT TAX)	MUMBAI DIT (INT TAX)-I	VODAFONE INTER-NATIONAL HOLDING BV	2010-11 to 2011-12	789996	The penalty demand u/s. 271C of ₹ 7899.96 crore is not enforceable in view of the stay granted by the Hon'ble Supreme court and recent decision of the Apex Court in SLP No. 26529 of 2010 (Civil Appeal No. 733 of 2012).
6.	MUMBAI (CENTRAL)-II	MUMBAI (CENTRAL)-II	A.D. NAROTTAM (IT)	1994-95 to 2011-12	583051	The latest position of the outstanding demand has been intimated to the custodian. Since the assessee is a notified person, the recovery depends on the orders to be passed by the Hon'ble Special Court for distribution of the assets. A claim for priority demand was made before the Custodian on 23.12.2005 in the form of an affidavit. Claim for non priority demand was also made to Custodian on 22.03.2006. The proceedings before

1	2	3	4	5	6	7
						Special Court are continuing and are being continuously monitored by the AO. The Special Court has released ₹ 1.5 cr. and the same has been adjusted against the arrear demand for AY 1992-93.
7.	MUMBAI-II	MUMBAI-II	STATE BANK OF INDIA	2006-07 to 2011-12	453090	During the quarter ending March 2012 the assessee has paid ₹ 2439.88 crore for the A.Y. 10-11. The balance demand of ₹ 4530.90 crore is protective in nature. The assessee's appeal is pending before (CIT(A)).
8.	MUMBAI (CENTRAL)-II	MUMBAI (CENTRAL)-II II	HITEN P. DALAL (I.T.)	1994-95 to 2011-12	423739	The assessee belongs to Dalal Group. The latest position of the Group. The latest position of the outstanding demand has been intimated to the custodian. Since the assessee is a notified person, the recovery depends on the orders to be passed by the Hon'ble Special Court for distribution of the assets. A claim for priority demand was made before the Custodian on 23.12.2005 in the form of an affidavit. Claim for non priority demand was also made to Custodian on 22.03.2006. The proceedings before Special Court are continuing and are being continuously monitored by the AO.
9.	MUMBAI-VI	MUMBAI-10	MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO. LTD.	2010-11 to 2011-12	372971	There has been a collection of ₹ 13.68 crore and remission of ₹ 37.92 crore during the quarter ending March 2012. The demand of ₹ 3271.79 crore is stayed by the ITAT and High Court. Balance demand covered by stay by field authority till disposal of first appeal.
10.	MUMBAI (CENTRAL)-II	MUMBAI (CENTRAL)-II	ASHWIN S. MEHTA	1992-93 to 2011-12	252779	During the quarter ending March 2012 demand of ₹ 79177.74 lakh was raised for A.Y 1992-93. This is a security scam related case of Harshad Mehta Group. the assessee is a notified person. All the assets of the notified person stand attached and are to be dealt with exclusively by the custodian as per the directions of the Special Court (TORTS) Act, 1992. The Custodian has been informed regarding IT Demands. The Priority u/s. 11(2) (a) of Special Court (TORTS) Act, 1992 is available only for tax component of the demand for the statutory period i.e. 01.04.1991 to 06.06.1992. The recovery in this case would be possible only if Special Court releases some funds. The proceedings before Special Court are continuing and are being continuously monitored.
11.	MUMBAI (CENTRAL)-II	MUMBAI (CENTRAL)-II	JYOTI H. MEHTA (IT)	1993-94 to 2011-12	225024	During the quarter ending March 2012, demand of ₹ 54.84 lakh was raised for A.Y. 2002-03. This is a security scam related case of Harshad Mehta Group. The assessee is a notified person. All the assets of the notified person stand attached and are to be dealt with exclusively by the Custodian as per the directions of the Special Court (TORTS) Act, 1992. The Custodian has been informed regarding Income Tax demands. The priority u/s 11(2)(a) of special court (TORTS) Act, 1992 is

1	2	3	4	5	6	7
						available only for tax component of the demand for the statutory period <i>i.e.</i> 01.04.1991 to 06.06.1992. Special Court releases some funds. The proceedings before special court are continuing and are being continuously monitored.
12.	MUMBAI (CENTRAL)-II	MUMBAI (CENTRAL)-II	B.C. DALAL(LT)	1995-1996 to 2011-12	215063	The assessee belongs to Dalal Group. During the quarter ending March 2012, pendalty demand of ₹ 28930.18 lakh was levied for A.Y. 1987-87. The assessee is a notified person. The recovery of demand depends on the order to be passed by the Hon'ble Special Court for distribution of assets.
13.	DELHI-I	DELHI-I	BHARAT SANCHAR NIGAM LTD.	2005-2006 to 2011-2012	204901	From an opening arrear demand of ₹ 3415 crore on 1.4.2011, the demand is down to ₹ 2049 crores. The balance demand is stayed by the Hon'ble High Court. However efforts are on to revisit the stay.
14.	HYDERABAD-I	HYDERABAD-I	ANDHRA PRADESH BEVERAGES CORPORATION LTD.	2010-11 to 2011-2012	177605	Cash collection of ₹ 60 crore and reduction of ₹ 1296.03 crore has been made till date. Hon'ble High Court has directed the assessee to pay ₹ 160 crore in 8 instalments. Balance demand is stayed by High Court and ITAT.
15.	PATNA DGIT(INV.)	PATNA (CENTRAL)	MADHU KODA	2011-12	163396	These demands have been created as a result of Assessments made after search and seizure u/s 153A All known movable and immovable assets have been attached already u/s 281B. The appeal is pending before the CIT(A).
16.	MUMBAI-V	MUMBAI-9	MAJESTIC INFRACTION (PVT. LTD. (FORMERLY KNOWN AS TIGER TRUSTEES PVT LTD.)	2011-12	144882	The appeal is pending before the CIT (A). In this case the demand was certified to TRO and to TRO had issued ITCP-1. TRO attached shares in M/s Etisalat DB Telecom Pvt. Ltd. Further bank accounts, FD, Debtor M/s New Ideas Real Estate and Demat account of the company with the stock broker have also been attached by the TRO. Possibility of recovery through proceedings u/s 179 are also being examined.
17.	MUMBAI (CENTRAL)-I	MUMBAI (CENTRAL)-IV	TRIUMPH INTERNATIONAL FINANCE (I) LTD.	2002-03 to 2011-12	144453	The case is connected with Ketan V. Parekh Group. There is reduction of ₹ 69.15 crore due to the appeal effect. The total demand is treated as demand difficult to recover in the absence of realizable assets for recovery and in view of the various ongoing litigations and prohibitions issued by various authorities The TRO has also attached the stock exchange card along with other assets. For having the valuation of the property attached, a reminder has been issued to the AVO. Further, the matter is being pursued with the Custodian of Special Court to take the companies controlled by Sh. Ketan V. Parekh (who is a Notified Person under the TORTS Act) under the ambit of Special Court.
18.	MUMBAI (CENTRAL)-I	MUMBAI (CENTRAL)-IV	TRIUMPH SECURITIES LTD.	2003-04 to 2011-12	134732	The case is connected with Ketan V. Parekh Group. There is reduction of ₹ 22.47 lakh due to the appeal effect. The total demand is treated as demand difficult to recover in the absence of



1	2	3	4	5	6	7
						realizable assets for recovery and in view of the various ongoing litigations and prohibitions issued by various authorities. The TRO has also attached the stock exchange card along with other assets. For having the valuation of the property attached, a reminder has been issued to the AVO. Further, the matter is being pursued with the Custodian of Special Court to take the companies controlled by Sh. Ketan V. Parekh (who is a Notified Person under the TORTS Act) under the ambit of Special Court.
19.	MUMBAI (CENTRAL)-I	MUMBAI (CENTRAL)-IV	MANOJ B. PUNAMIA	2011-12	132878	The assessee belongs to the Balaji Group of companies and is a known Hawala Operator of Mumbai and had earlier been in prison under COFEPOSE. He had played a crucial role to disguise the laundering of the funds of Sh. Madhu koda and associates generated from jharkhand. Out of the total demand of ₹ 1328.78 crore raised, demand of ₹ 1172.13 crore is protective demand. All the known bank accounts are attached for recovery.
20.	MUMBAI (CENTRAL)-I	MUMBAI (CENTRAL)-IV	RAJAT PHARMACHEM Ltd.	2008-09 to 2011-12	128647	The demand of ₹ 57655.40 lakh has been created u/s 144 r.w.s. 153A. BIFR had abated the reference filed by the assessee <i>vide</i> their order dated 23.12.2009. The assessee was in appeal before Appellate Authority for Industrial & Financial Reconstruction (AAIFR), New Delhi against the decision of BIFR and the AAIFR has reverted back the matter to the BIFR for reconsideration A remission of Rs. 10.16 crore on account of rectification has been made for the A.Y. 07-08. Recovery cannot be enforced for the outstanding demand as per the section 22(1) of SICA, during the pendency of the proceedings.
21.	MUMBAI	MUMBAI-7	SOUNDCRAFT INDUSTRIES LTD.	2003-04 to 2009-10	121272	The claim of the department has been lodged before the Custodian of the MPID Court.
22.	DELHI DG(INT-TAX)	DELHI DIT(INT TAX)-I	ERICSSON RADIO SYSTEMS AB	2002-03 to 2010-11	115062	All the demand is under stay. The demand of ₹ 82861 lakh outstanding against the assessee is stayed by various authorities. Assessee's case for 1997-98 have been decided in favour of the assessee by Delhi High Court on 22.12.2011. Department is in the process of filing SLP. Demands for subsequent years are on account of same issues. The demand of ₹ 23133 lakh for A.Y 06-07 has been stayed by the ITAT. Further, for all the A.Ys the assessee is under MAP. The demand of ₹ 27515 lakh for A.Y 2007-08 has been stayed by Addl.DIT Range-I New Delhi.
23.	MUMBAI (CENTRAL)-II	MUMBAI (CENTRAL)-II	S. RAMASWAMY	1993-94 to 2011-12	112655	The assessee belongs to Dalal Group. The assessee is a notified person. The outstanding demand in the case of the assessee for various assessment years has been intimated to the custodian. Position of outstanding demand <i>i.e.</i> priority demand and non priority demand as on 28.02.2011 was informed to the Custodian.

1	2	3	4	5	6	7
24.	MUMBAI (CENTRAL)-I	MUMBAI (CENTRAL)-I	KASHINATH TAPURIAH	2008-09 to 2011-12	110019	<p>Linked to Hassan Ali Case. All known assets have been attached including bank account and bank locker.</p> <p>The references have been made to various countries through FT&amp;TR CBDT to obtain further information in this regard. ED has been requested to share the information relating to assets gathered during investigation.</p>
25.	DELHI DG (INT TAX)	DELHI DIT (INT TAX)-II	ORACLE SYSTEMS CORPORATION	2003-04 to 2011-12	109868	<p>The appeals are pending before CIT(A) and ITAT. Further, the Assessee has invoked MAP and submitted bank guarantee therefore the demand has become non-collectible.</p>

**Details of the two pronged strategies adopted by the Department to dispose off the pending demand**

*(Ref. Para 51)*

- Actionable cases are those wherein there is no non-actionable demand or a very small amount of non-actionable demand. The actionable cases are being taken up for constant monitoring during the year. Steps are to be taken to collect the arrear demand applying all the possible recovery modes laid down under the Act. Not merely the collectible portion of demands in actionable cases, but also the difficult to recover portion *i.e.* the amounts under instalment plan/demands wherein stay petitions have been filed by the assessee are to be focused on. While granting instalment for payment of arrear demand, the amount of instalment should be commensurate *vis a vis* the total arrear so that the instalment is not of a meagre amount. In cases where there is a default in payment of instalments a review of the instalments granted must be done.
- Stay petitions to be reviewed from time to time, especially when granted by IT authorities. Carte blanche stay by the field officers should not be given. Initial stay should be for 3 to 4 months and thereafter it should be reviewed from time to time in case, stay is given as 'stay upto a particular date or disposal of appeal by CIT (A), whichever is earlier', attempt is to be made to make collection of some portion of the demand at the time of considering stay petition and also an undertaking be taken from the assessee that he/it will not seek any adjournment before the CIT (A). List of such cases to be sent to CIT (A) separately with the intimation that assessee has given such undertaking. Normally, no stay is to be given after CIT (A) has sustained the additions unless it falls within limited parameter of Instruction No. 1914 of the CBDT. Request is to be made to the ITAT for vacation of stay and early hearing of cases especially in high demand cases.
- In a case of a company, the Apex Court had directed that the company to pay 25% of the taxes and balance 75% by the bank guarantee before even admitting the appeal. The underlying principle is that the Government needs funds in public interest and there should be no impediments in recovery of taxes. The field authorities have been asked to brief the Standing Counsels to take up the matter of vacation of the stay before the High Court/Supreme Court on such lines. The Standing Councils are advised to explore the possibility of filing caveats in cases where taxpayer is likely to seek stay from High Court for preventing granting of stays in large number of cases. Similarly, the Departmental representatives are advised to plead for payment of taxes in the cases of stay before the ITAT. Monitoring the progress of hearing in high demand cases and ensuring that Departmental representatives do not seek adjournment in such cases without prior approval of the respective Chief Commissioner.
- In the case of non-actionable demands, at least twice in a year, an in-depth review in each of these cases to be done to determine the status of the case and make efforts to convert these from the non-actionable to the actionable category.

- Cases of 'assessee not traceable' or 'No assets' be reviewed urgently to see whether further efforts can locate the assessee or assets. All avenues of information should be explored. In these cases action to be taken as per the detailed procedure laid down in instruction dated 29.9.2011 and revised instruction dated 27.12.2011 of the CBDT.
- In the category of 'Demand not under dispute' identification of the amount 'recoverable' and 'difficult to recoverable' should be done, by placing them in separate baskets as per the proforma devised by the Directorate of Recovery and communicated to the field authorities. Thereafter, the recoverable portion of the demand is to be collected.
- For BIFR cases, the website to be checked as wherever cases have been abated/discharged from the BIFR, where rehabilitation period has expired; there is no bar on the recovery. In Liquidation cases claims should be promptly lodged with the official liquidator.
- AOs are to maintain a recovery folder containing the details of assessee's all bank accounts, debtors, details of assets (movable and immovable) and immediately start the recovery proceedings.
- Access to Individual Transaction Statement (ITS) has been provided to all Range Heads. The ITS can be used especially in cases where demands are difficult to recover. Attachments of movable assets u/s 226(3) of the IT Act, 1961 and of immovable property under Rule 48 of Schedule-II should be resorted to.
- TROs are to take action to dispose-off properties under attachment in suitable cases. The TROs to be further trained specifically for their work in order to increase their effectiveness. The CsIT should effectively monitor the work of TROs especially in the area of attachment and sale of property and ensure that all the attached properties are reviewed every quarter and the attached properties are sold within one year. TROs may exercise the powers for appointment of a receiver for business under the provisions of Rule 69, Schedule-II of the Income Tax Act for effecting recovery in suitable cases. In respect of non-compliant defaulters, the provisions of arrest and detention as per the provisions of rules 73 to 81 of Schedule-II should be invoked by the TRO.
- AO should ensure that the operational bank accounts are attached so that there is effective recovery of cash from the bank accounts.
- Assets of partners/Directors of defaulter Firm/companies may be ascertained and considered for attachment.
- Attachment of debtors can be pursued more actively.
- Summons to be issued to assessee and their statement recorded regarding immovable and movable assets owned by them to examine possibility of collection.
- Recovery surveys to be mounted to enforce collection.

- The help of the Investigation Wing can be taken in important cases for recovery, by way of conducting surveys and/or secret enquiries regarding the identification of assets. Mechanism for making field enquiries, enquiries from the Directors/ Partners/Promoters/Legal Heirs/Legal Representatives/Authorized Representatives etc. should be activated. This practice should be effectively continued and enquiries made should cover the office of the ROC and the sub registrar office also.
- Files may be examined for use of provisions of sections 281(1) of IT Act, 1961 to declare transfers of properties as void if made to avoid claims in respect of taxes or sums payable on account of pendency of any proceeding under the IT Act or after completion thereof but after service of notice under rule 2 of the Second Schedule.
- Stringent action to be taken in suitable cases including use of the provisions for prosecution u/s 276C(2).
- For tax defaulters who have expired, legal heirs should be located and in case of firms/private companies efforts to be made to trace the Partner/Directors for further recovery.
- Identification of high demand cases pending before the Commissioners (Appeals), particularly the ones where recovery of substantial demand is likely on disposal of appeal. The Commissioners (Appeals) are requested for early disposal of such cases.
- Remand Report to be sent on time to CIT (A) so that there is no delay in disposing of the appeal. ITAT Benches may also be requested for early disposal.
- Special attention to be given to pass rectification orders (for removing TDS mismatches), to pass appeal effect orders, so that arrear can be collected/reduced straight away.
- Write-off of outstanding dues have been included in the Central Action Plan for the first time.

II. Some of the specific measures advised to the field authorities for improving quality of assessments and subsequent recovery are as follows:—

- Each JCIT/Addl. CIT to monitor the investigations and assessments of 10 most potential cases of each A.O. working with them. In appropriate cases provisions of section 281B may be resorted to.
- During the course of scrutiny assessment proceedings relevant details regarding immovable and movable assets (including all types of Bank Accounts and deposits as well as Credit Cards of the Assessee) must be brought on record, which will help in recovery of outstanding demands in the cases of the evasive assessees.
- The A.Os. to issue work allocation order to the staff working with them to fix accountability of the staff.

- Detailed Questionnaire u/s 142(1) of the IT Act in each time barring Scrutiny Case to be issued by the 31st March of the previous financial year (a year before the time barring date).
- The A.Os. should send the Remand Report after giving due attention to the additional evidences and new line of arguments taken by the assessee before the CIT(A). The A. Os. should seize this as an opportunity for strengthening of the Assessment Order on one hand and on the other hand due verification of the contentions of the assessment.
- The Commissioner of Income Tax and the Addl./Joint CIT should ensure equitable distribution of workload amongst the available Assessing Officers in their jurisdiction at the beginning of the Financial Year. This will ensure manageable workload amongst the Officers with sufficient time on hand for their completion. However, for the current Financial Year, this exercise has to be completed before the end of June, 2012.
- The A.Os. in metro charges have been advised to carryout trade/business specific investigation for 100% verification for creating data base for bench marking of profitability respect of each trace/business.
- The A.Os. while recording reasons under section 147 for issue of notice under section 148, should clearly record their satisfaction that the income chargeable to tax has escaped assessment instead of writing verification of information.
- Surveys as a tool for augmenting tax collections to be used more frequently and effectively. The cases for conducting surveys should be selected with due diligence. A close coordination between the Assessment Wing and the TDS Wing and *vice-versa* should be maintained to effectively curb evasion of tax.
- A.Os. and Addl. CIT have to identify cases during scrutiny for referring to the Valuation Cell for estimating cost of Investment u/s 142A or Fair Market Value u/s 55A or for special audit u/s 142(2A).
- In case of foreign companies attention to be paid on the Liaison Offices being operated in India, so that no tax liability escapes.
- The Administrative Commissioners should ensure that proper assessments are made after collecting all relevant material evidences and correct marshaling of the facts to arrive at a logical conclusion. The CIT have been advised to carry out review of the assessments and give specific findings whether it is a case of under assessment, proper assessment or over assessment.
- Remedial action in the cases where Major Audit Objection has been accepted by the Department are to be expeditiously passed and appropriate recovery to be made within the year itself.

**Details of the Targets for CCSIT and TROs for Recovery of Arrear Demand as given in Action Plan for 2012-13**

*(Ref. Para 58)*

Recovery of Arrear demand	<p>(a) 100% of the target fixed as given regarding cash collection out of arrear demand (₹ 20,478 crore) (In Sept., 2012 revised to ₹ 40,000 crore approx.).</p> <p>(b) Quarterly targets of cash collection are as under:—  Upto June, 2012 20% of the target.  Upto Sept., 2012 50% of the target.  Upto Dec., 2012 80% of the target.  By 31st March, 2013 100% of the target.</p> <p>(c) The "demand not under dispute" as reflected in column 12 of CAP-I of March, 2013 should be less by at least 10% of the corresponding demand in CPA-I of March, 2012.</p>
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\*As per Central Action Plan 2012-13.

An action plan for TROs was given in the instruction dated 08.08.2012. This was for the sustained monitoring of their performance. For FY 2012-13, the Action Plan for the TROs, sets the basic parameters for measuring the performance of TROs. This measure shall help the CCIT Charges to achieve the targets of cash collection by them. The same is provided as under:—

**Action Plan for TRO for FY 2012-13**

Sl. No.	Area	Action	Target to be completed by	Responsibility
1	2	3	4	5
1.	Deficiency in tax recovery certificates (TRCs) noticed by TRO	<i>Cases brought forward as on 01.04.2012 and as indicated in the quarterly report of January-March 2012 of TRO: Correction in data of TRCs drawn</i>	30.09.2012	CCIT/CIT/Range Heads/AOs/TRO
		<i>Cases received during the current year as indicated in the quarterly report of TRO: Correction in data of TRCs drawn</i>	30.09.2012 or within 30 days of the receipt of the TRC, whichever is later	-do-
2.	Issue of ITCP-I	Issue the notice of demand to the assessee in default by the TRO	Within 15 days of the receipt of the TRC from the AO	Range Head/TRO

1	2	3	4	5
3.	Disposal of TRCs	Minimum 150 TRCs per TRO	31.03.2013	CCIT/CIT/Range Heads/TRO
	<p><i>Note 1:</i> The local CCIT may adjust the disposal numbers per TRO under their charge, if the pendency for some TROs does not justify this target. But the overall Target (minimum) for the local CCIT region will remain to be the same (<i>i.e.</i> 150 Number of TROs).</p> <p><i>Note 2:</i> It is desirable that at least one immovable property is disposed of by sale by each TRO.</p>			
4.	Cash Collection	5% of outstanding arrears under TRCs brought forward as on 01.04.2012 as shown in the Quarterly report of January-March 2012 of TRO	31.03.2013	CCIT/CIT/Range Heads/TRO
	<p><i>Note 1:</i> The cash collection made for the purposes of their target shall be independent of the action of the AO <i>i.e.</i> clearly attributable to the action of the TRO.</p>			
5.	Monitoring of TRCs	₹ 25 crore and above	Quarterly Monitoring	CBDT
		₹ 10 crore and above	Quarterly Monitoring	DIT (Recovery), New Delhi
		₹ 10 crore to 50 Lakh	Quarterly Monitoring	Local CCIT
		₹ 50 Lakh to 10 Lakh	Quarterly Monitoring	CIT
		Below ₹ 10 Lakh	Quarterly Monitoring	Range Head



ANNEXURE IV

**Present status of sanctioned and working strength of Income Tax Department  
(From SR. PS to other Gr-C)**

<b>Group 'B'</b>								
Sr. PS	PB-2	9300-34800	4800	GP 'B'/Gazetted	117			23.93
Private Secretary	PB-2	9300-34800	4600	GP 'B'/Gazetted	706	626	197	
Addl.-Asstt. Director	PB-2	9300-34800	4800	GP 'B'/Gazetted	10	8	2	20
Asstt. Director (OL)	PB-2	9300-34800	4800	GP 'B'/Gazetted	70	45	25	35.7
Admn. Officer Gr.-III	PB-2	9300-34800	4600	GP 'B'/Gazetted	774	701	73	94.3
DPA Gr.-B	PB-2	9300-34800	4600	GP 'B'/Gazetted	34	26	8	23.52
DPA Gr.-A/PACO	PB-2	9300-34800	4200	GP 'B'/Gazetted	113	18	95	84
Office Suptd.	PB-2	9300-34800	4200	GP 'B'/Non-Gazetted	2530	2182	348	13.75
Other Group 'B'		Misc.			2	4	+2	(EXCESS)
<b>Group 'C'</b>								
Sr. Hindi Translator	PB-2	9300-34800	4600	GP 'C'/Non-Gazetted	52	51	1	1.92
Superintendent	PB-2	9300-34800	4200	GP 'C'/Non-Gazetted	9	12	+3	(EXCESS)
Steno Gr.-II (Old)	PB-2	9300-34800	4200	GP 'B'/Non-Gazetted	3059	919	2140	69.55
Sr. Technical Asstt.	PB-2	9300-34800	4200	GP 'C'/Non-Gazetted	13	10	3	23.07
Sr. Tax Assistant	PB-2	9300-34800	4200	GP 'C'/Non-Gazetted	8581	6291	2290	26.68
S. Car Driver (SO)	PB-2	9300-34800	4200	GP 'C'/Non-Gazetted	38	32	6	15.78
Research Asstt.	PB-2	9300-34800	4200	GP 'C'/Non-Gazetted	6	3	3	50
Jr. Hindi Translator	PB-2	9300-34800	4200	GP 'C'/Non-Gazetted	75	42	33	44
Income Tax Inspector	PB-2	9300-34800	4200	GP 'C'/Non-Gazetted	9061	8192	869	9.59
S. Car Driver (Gr.-I)	PB-1	5200-20200	2800	GP 'C'/Non-Gazetted	265	214	51	19.24
Technical Asstt.	PB-1	5200-20200	2400	GP 'C'/Non-Gazetted	12	4	8	60.66

Tax Assistant	PB-1	5200-20200	2400	GP 'C'/Non-Gazetted	9812	5041	4771	48.62
TA/UDC(Dtes.)	PB-1	5200-20200	2400	GP 'C'/Non-Gazetted	85	80	5	5.88
Steno Gr.-II (Old Gr.-III)	PB-1	5200-20200	2400	GP 'B'/Non-Gazetted	1991	366	1625	81.61
S. Car Driver (Gr.-II)	PB-1	5200-20200	2400	GP 'C'/Non-Gazetted	227	197	30	13.21
S. Car Driver OG	PB-1	5200-20200	1900	GP 'C'/Non-Gazetted	197	202	+5 (EXCESS)	
Assistant	PB-2	9300-34800	4200	GP 'C'/Non-Gazetted	57	52	5	8.77
Sr. G. Operator	PB-1	5200-20200	1900	GP 'C'/Non-Gazetted	14	5	9	64.28
Notice Server	PB-2	5200-20200	1900	GP 'C'/Non-Gazetted	2843	2480	363	12.76
LDC	PB-1	5200-20200	1900	GP 'C'/Non-Gazetted	345	315	30	8.69
Multi Tasking Staff & erst while Group D	PB-1	5200-20200	1800	GP 'C'/Non-Gazetted	7633	5085	2548	33.38
Other Gr.-C		Misc.			149	16	133	89.26
<b>Grand Total</b>					<b>57793</b>	<b>40756</b>	<b>17037</b>	<b>29.47</b>

## APPENDIX I

### MINUTES OF THE FIRST SITTING OF SUB-COMMITTEE IV (DIRECT TAXES) OF PUBLIC ACCOUNTS COMMITTEE (2012-13) HELD ON 25th JULY, 2012

The Sub-Committee-IV (Direct Taxes) of Public Accounts Committee sat on Wednesday, 25th July, 2012 from 1430 hrs. to 1600 hrs. in Committee Room 'E', Parliament House Annexe, New Delhi.

#### PRESENT

Shri N.K. Singh — *Convener*

#### MEMBERS

##### *Lok Sabha*

2. Shri Shripad Yesso Naik
3. Shri Sanjay Brijkishorlal Nirupam

##### *Rajya Sabha*

4. Prof. Saif-ud-Din Soz

#### SECRETARIAT

1. Shri Devender Singh — *Joint Secretary*
2. Shri Abhijit Kumar — *Director*

#### **Representatives of the Office of the Comptroller and Auditor General of India**

1. Shri R.S. Mathrani — Director General (Central Expenditure)
2. Shri Jayant Sinha — Principal Director (Report Central)
3. Shri S. Manish Kumar — Principal Director (Direct Taxes)
4. Shri B.D. Basantia — Principal Director (Direct Taxes)

#### **Representatives of the Ministry of Finance (Department of Revenue)**

1. Shri R.S. Gujral — Finance Secretary
2. Shri Lakshman Das — Chairman, CBDT

2. At the outset, the Convener welcomed the Members and the Audit Officers to the Sitting of the Sub-Committee. The Convener then apprised the Members that the Sitting was convened to take oral evidence of the representatives of the Ministry of Finance (Department of Revenue) on the points arising out of Chapter-I and Audit Paragraph Nos. 3.2.1A, 3.3.1, 3.4.1 and 3.5.1 of the C& AG Report No. 27 of 2011-12. Union Government, Department of Revenue-Direct Taxes. Thereafter, the representatives of the Ministry of Finance (Department of Revenue) were called in. Before commencing the examination, the Convener made it clear that the deliberations of the Sub-Committee were confidential and were not to be divulged to any outsider until the Report on the subject was presented to the Parliament. The Sub-Committee then proceeded with the examination of the subject.

3. During the course of examination, the Members raised queries regarding the deficiencies in the tax administration such as decrease in collection of Direct Taxes; reasons for fall in Tax GDP ratio and tax buoyancy increase in revenue foregone on account of tax exemptions increase in interest on refunds. The other issues that were discussed were the limited widening of tax base over the years, increase in pendency of scrutiny/summary assessment cases, rise in uncollected demand, slow disposal of appeals pending at CIT (A) level, decrease in deployment of officers on assessment duty etc. The representatives of the Ministry clarified many issues raised by the Members and assured that the information which was not readily available with them would be furnished to the Sub-Committee expeditiously.

4. At the end, the Convener thanked the representatives of the Ministry of Finance (Department of Revenue) and also asked them to furnish the requisite information that was sought by the Members. The Convener also thanked the representatives of the office of the C&AG of India for providing valuable assistance to the Sub-Committee in the examination of the subject.

*The witnesses then withdrew.*

A copy of the verbatim proceedings of the Sitting was kept on record.

*The Sub-Committee then adjourned.*

## APPENDIX II

### MINUTES OF THE THIRD SITTING OF SUB-COMMITTEE-IV (DIRECT TAXES) OF PUBLIC ACCOUNTS COMMITTEE (2012-13) HELD ON 17th SEPTEMBER, 2012

The Sub-committee—IV (Direct Taxes) of Public Accounts Committee sat on Monday, 17th September, 2012 from 1400 hrs. to 1615 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

#### PRESENT

Shri N.K. Singh — *Convener*

#### MEMBERS

*Rajya Sabha*

2. Prof. Saif-ud-in Soz

#### SECRETARIAT

1. Shri Devender Singh — *Joint Secretary*
2. Shri Abhijit Kumar — *Director*
3. Smt. A. Jyothirmayi — *Deputy Secretary*

#### **Representatives of the Office of the Comptroller and Auditor General of India**

1. Shri Manish Kumar-III — *Principal Director (Direct Taxes-I)*
2. Shri Shourjo Chatterjee — *Director (Direct Taxes)*

#### **Representatives of the Ministry of Finance (Department of Revenue)**

1. Shri Sumit Bose — *Secretary (Revenue)*
2. Dr. Poonam Kishore Saxena — *Chairperson, CBDT*
3. Shri S.C. Jaini — *Member (R), CBDT*
4. Dr. Sudha Sharma — *Member (L&C), CBDT*
5. Shri K. Madhavan Nair — *Member (Inv.), CBDT*
6. Shri R.K. Tiwari — *Member (IT), CBDT*
7. Shri K.V. Chowdhry — *Member (A & J), CBDT*
8. Shri S.S. Rana — *Member (P & V), CBDT*

2. At the outset, the Convener welcomed the Members and Audit Officers to the Sitting of the Sub-committee. The Convener then apprised the Members that the Sitting was convened to take further oral evidence of the representatives of the Ministry of Finance (Department of Revenue) on Chapter-I, Para Nos. 3.2.1A, 3.3.1, 3.4.1 and 3.5.1 based on the C&AG Report No. 27 of 2011-12, Union Government, Department of Revenue—(Direct Taxes). Thereafter, the representatives of the Ministry of Finance (Department of Revenue) were called in. Before commencing the examination, the Convener made it clear that the deliberations of the Sub-committee

were confidential and were not to be divulged to any outsider until the Report on the subject was presented to the Parliament. The Sub-committee then proceeded with the examination of the subject.

3. Members sought clarifications on various issues which *inter-alia* included the efforts of the Department for widening and deepening of the tax base, steps taken for augmentation of staff strength and outsourcing of certain non-core functions. The Sub-committee also wanted to know if any study had been conducted on the pattern and methodology of giving exemptions and its impact on growth. The representatives of the Ministry clarified many issues raised by the Members and assured that the information which was not readily available with them would be furnished to the Sub-committee expeditiously.

4. Before concluding, the Convener thanked the representatives of the Ministry of Finance (Department of Revenue) and also asked them to furnish the requisite information that was sought by the Members. The Convener also thanked the representatives of the office of the C&AG of India for providing valuable assistance to the Sub-committee in the examination of the subject.

*The witnesses then withdrew.*

A copy of the verbatim proceedings of the Sitting was kept on record.

*The Sub-committee then adjourned.*

### APPENDIX III

#### MINUTES OF THE FOURTH SITTING OF SUB-COMMITTEE-IV (DIRECT TAXES) OF THE PUBLIC ACCOUNTS COMMITTEE (2012-13) HELD ON 7TH FEBRUARY, 2013

The Sub-committee-IV (Direct Taxes) sat on Thursday, 7th February, 2013 from 1500 hrs. to 1630 hrs. in Committee Room 'E', Parliament House Annexe, New Delhi.

#### PRESENT

Shri N.K. Singh — *Convenor*

#### MEMBERS

*Lok Sabha*

2. Shri Shripad Yesso Naik

#### SECRETARIAT

1. Shri Abhijit Kumar — *Director*
2. Smt. A. Jyothirmayi — *Deputy Secretary*
3. Smt. Anju Kukreja — *Under Secretary*

#### **Representatives of the Office of the Comptroller and Auditor General of India**

1. Shri Swarup Nand Keolyar — Director General (Direct Taxes & CRA Coordination)
2. Shri Manish Kumar — Principal Director (Direct Taxes)

#### **Representatives of the Ministry of Finance (Department of Revenue)**

1. Shri Sumit Bose — Secretary (Revenue)
2. Dr. Poonam Kishore Saxena — Chairperson (CBDT)
3. Shri S.S. Rana — Member (P & V), CBDT
4. Dr. Sudha Sharma — Member (L&C), CBDT
5. Shri R.K. Tiwari — Member (IT), CBDT
6. Shri K.V. Chowdhry — Member (Inv.), CBDT
7. Ms. Anita Kapur — Member (A & J), CBDT

#### **Representatives of the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training)**

1. Shri Manoj Joshi — Joint Secretary
2. Smt. Mona Singh — Director

2. At the outset, the Convener welcomed the Members, the representatives of the Office of the C&AG of India, the representatives of the Ministry of Finance (Department to Revenue) and the Ministry of Personnel, Public Grievances and

Pensions (Department of Personnel and Training). The Convenor then apprised the Members that the Sitting had been convened to take further oral evidence of the representatives of the Ministry of Finance (Department of Revenue) on Chapter-I of the C&AG Report No. 27 of 2011-12, Union Government, Department of Revenue—Direct Taxes with particular reference to widening of tax base, uncollected demands, disposal of appeal cases and cadre restructuring in the Income Tax Department. He further observed that the Sub-committee would also here the views of the representatives of the Department of Personnel and Training on the issue of cadre restructuring in the Income-Tax Department. It was made clear that the deliberations of the Sub-committee were confidential and were not to be divulged to any outsider until the Report on the subject was presented to Parliament. The Sub-committee then proceeded with examination of the subject.

3. Permission was granted to the Revenue Secretary for making a Power Point Presentation on the subject.

4. The Chairperson, CBDT who made the Presentation spoke on various issues of cadre restructuring in the Income Tax Department which included chronology of events with regard to cadre review proposal, additional posts sought in the proposal, benefits that would accrue after restructuring etc.

5. Thereafter, the representatives of the Department of Personnel and Training briefed the Committee about the cadre restructuring proposal of the Income Tax Department, constraints being faced by them in approving the same and time-frame by which it would be approved. He also responded to the various queries raised by the Members of the Sub-committee. He assured that the information sought by the Members would be furnished to the Sub-committee at the earliest. The Convenor then desired to have one more sitting with the representatives of the DoPT when the Secretary DoPT would also be present.

*The witnesses of the DoPT then withdrew.*

6. The representatives of the Ministry of Finance (Department of Revenue) also made a Power Point Presentation on other issues like measurement of productivity per assessing officer and disposal of appeals by CIT(A).

7. Members sought clarifications on various issues which *inter-alia* included productivity in terms of collection of regular assessment tax per Assessing Officer, decrease in disposal of scrutiny assessment cases, reduction in number of Assessing Officers on assessment duty per one lakh assesseees. Further, clarifications were also sought with regard to sharp rise in pendency of appeals at CIT(A) level, steps taken for fast disposal of high demand appeals and outcome thereof, measures initiated for disposal of time-barred cases, success rate of appeals in Supreme Court and High Court etc. The representatives of the Ministry clarified many issues raised by the Members and assured that the information which was not readily available with them would be furnished to the Sub-committee.

8. Before concluding, the Convenor thanked the representatives of the Ministry of Finance (Department of Revenue) and also asked them to furnish the requisite



information that was sought by the members. Further, he informed the Ministry that the Sub-committee would have one more sitting to finalise the subject. The Convener also thanked the representatives of the office of the C&AG of India for providing valuable assistance to the Sub-committee in the examination of the subject.

*The witnesses then withdrew.*

A copy of the verbatim proceedings of the Sitting was kept on record.

*The Sub-committee then adjourned.*

## APPENDIX IV

### MINUTES OF THE THIRD SITTING OF THE PUBLIC ACCOUNTS COMMITTEE (2013-14) HELD ON 14TH JUNE, 2013

The Public Accounts Committee sat on Friday, the 14th June, 2013 from 1500 hrs. to 1640 hrs. in Room No. 'G-074', Parliament Library Building, New Delhi.

#### PRESENT

Dr. Murli Manohar Joshi — *Chairman*  
*Lok Sabha*

2. Shri Anandrao Vithoba Adsul
3. Shri Jayaprakash Hegde
4. Shri Bhartruhari Mahtab
5. Shri Abhijit Mukherjee

#### *Rajya Sabha*

6. Shri Prakash Javadekar
7. Dr. E.M. Sudarsana Natchiappan
8. Smt. Ambika Soni

#### SECRETARIAT

1. Shri Devender singh — *Joint Secretary*
2. Smt. A. Jyothirmayi — *Deputy Secretary*
3. Ms. Miranda Ingudam — *Under Secretary*
4. Shri A.K. Yadav — *Under Secretary*

#### **Representatives of the Office of the Comptroller and Auditor General of India**

1. Ms. Usha Shankar — Dy. CAG
2. Shri Gautam Guha — DG Commercial-I
3. Ms. Ila Singh — DG (Railway Board Audit)
4. Ms. Sarita Kumari — DG (DT)
5. Shri P. Tiwari — Principal Director (PAC)
6. Shri Manish Kumar III — Principal Director (DT-I)
7. Shri A.M. Bajaj — Pr. Director (E&SM)

#### **Representatives of the Ministry of Finance (Department of Financial Services)**

1. Shri Rajiv Takru — Secretary
2. Smt. Snehlata Shrivastava — Additional Secretary
3. Shri Umesh Kumar — Joint Secretary (BA)

**Representatives of Nabard**

1. Shri M.I. Ganagi — Chief General Manager, CPD
2. Shri P.V.S. Surya Kumar — Chief General Manager, Delhi Office

**Representatives of RBI**

1. Shri Ramesh Kumar — General Manager, RPCD, Mumbai  
Moolchandani
2. Shri A.K. Bera — Principal CGM, UBD, Mumbai
3. Shri P.K. Arora — General Manager, UBD, Mumbai
2. \*\*\* \*\*
3. \*\*\* \*\*
4. \*\*\* \*\*

*The witnesses, then withdrew.*

5. The Committee thereafter, took-up for consideration the following two Draft Reports and adopted the same with minor modifications:

- (i) **"Tax Administration"** based on Chapter-I and Para Nos. 3.2.1A, 3.3.1, 3.4.1 and 3.5.1 of C&AG Report No. 27 of 2011-12, Union Government (Direct Taxes) relating to Ministry of Finance (Department of Revenue).
- (ii) \*\*\* \*\*

6. The Committee then authorized the Chairman to finalize the adopted Draft Reports in light of the views expressed by the Members and factual verifications made by Audit and present them to Parliament on a date convenient to him.

7. The Chairman thanked the Members for their active participation in the discussion and valuable suggestions.

8. A copy of the verbatim proceeding was kept on record.

*The Committee then adjourned.*