



Report of the Comptroller and Auditor General of India for the year ended March 2011



**Union Government
Department of Revenue - Direct Taxes
*No. 27 of 2011-12***

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PREFACE

This Report for the year ended March 2011 has been prepared for submission to the President under Article 151(1) of the Constitution of India.

Audit of Revenue Receipts – Direct Taxes of the Union Government is conducted under section 16 of the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971.

The Report presents the results of audit of receipts under direct taxes comprising Corporation Tax, Income Tax, Fringe Benefit Tax and Wealth Tax and is arranged in the following order: -

- (i) Chapter I: tax administration;
- (ii) Chapter II: audit impact of direct taxes and mentions the results thereof;
- (iii) Chapter III: our findings on assessments of Corporation Tax and;
- (iv) Chapter IV: our findings on assessments of Income Tax in Part A, Fringe Benefit Tax in Part B and Wealth Tax in Part C.

The cases included in this Report are the results of audit conducted during 2010-11 and in earlier years which could not be covered in the previous reports.

OVERVIEW

The Comptroller and Auditor General of India conducts the audit of revenues from direct taxes of the Union Government under section 16 of the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971.

CHAPTER I: TAX ADMINISTRATION

Direct taxes levied by the Parliament mainly comprise Corporation Tax on companies, Personal Income Tax and other direct taxes including Fringe Benefit Tax, Securities Transactions Tax and Wealth Tax etc. Corporation Tax constituted 66.8 *per cent* of net direct tax collection in 2010-11.

In the Budget 2010-11, the Government amended the provisions relating to direct taxes in order to: (i) lower the tax burden on individual taxpayers by widening the tax slabs; (ii) facilitate small businesses; (iii) promote investment in Research and Development (R&D) to enhance the competitive ability of the economy and (iv) encourage savings for funding infrastructure by providing a tax deduction on investment in long-term infrastructure bonds.

We noticed that the direct tax collection exceeded the budget estimates in all the years over the period 2006-07 to 2010-11 except 2008-09. The extent of actual collection exceeding the budget estimates ranged from 2.2 *per cent* in 2009-10 to 16.7 *per cent* in 2007-08.

Direct tax collection increased from ₹ 2,30,181 crore in 2006-07 to ₹ 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) has increased from ₹ 41,45,810 crore in 2006-07 to ₹ 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.

We found that the revenue foregone on account of tax exemptions has increased by 111.8 *per cent* from ₹ 65,587 crore in 2006-07 to ₹ 1,38,921 crore in 2010-11. Corporate sector accounted for 63.5 *per cent* of revenue foregone in 2010-11. The revenue foregone on account of tax exemptions in respect of corporate taxpayers 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.

In the case of the corporate assesseees, net collection increased from ₹ 1,44,318 crore in 2006-07 to ₹ 2,98,687 crore in 2010-11 at an average annual rate of growth of 26.7 *per cent* and in the case of non-

corporate assessees, net collection increased from ₹ 75,079 crore in 2006-07 to ₹ 1,40,042 crore in 2010-11 at an average annual rate of growth of 21.6 *per cent*.

Voluntary compliance by assessees (pre-assessment stage) accounted for 81.4 *per cent* of the gross collections in 2010-11.

We observed 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 *per cent*. The total direct tax collection has increased by 94.2 *per cent* during the same period. The increase in tax collection was around thirteen times as compared to increase in the taxpayers' base. This indicates a very limited widening of tax base over the years.

Out of total 8.5 lakh scrutiny assessment cases, the Department had disposed off 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.

The certified demand remaining uncollected was ₹ 1,06,990.8 crore (96.3 *per cent*) in 2010-11 as compared to ₹ 95,122.4 crore in 2009-10 registering an increase of 12.5 *per cent*.

In 2010-11, only 64.1 *per cent* of the total demands cumulatively raised in assessments upto that year had been collected.

We noticed that the Government refunded ₹ 75,169 crore including interest of ₹ 10,499.4 crore (13.9 *per cent*) in 2010-11. Interestingly number of pending direct refund cases has gone up from 4.4 lakh in 2006-07 to 19.5 lakh in 2010-11.

Only 70,474 appeals (27.4 *per cent*) were disposed off by the CIT(A) during 2010-11. The amount locked up in appeal cases with CIT(A) was ₹ 2.9 lakh crore in 2010-11. The amount locked up in appeals at ITAT/High Court/Supreme Court's level was ₹ 2.1 lakh crore in 72,196 cases as on 31 March 2011.

Cost of collection showed a uniform trend of about 0.6 *per cent* during 2006-07 to 2010-11 except 2008-09 and 2009-10, where it was 0.7 *per cent*.

Internal Audit Wing of the Income Tax Department completed 66 *per cent* of the targeted audits. We detected mistakes in the assessments previously checked in Internal Audit. This indicates a need for improvement in the quality of Internal Audit.

CHAPTER II: AUDIT IMPACT

We reported 464 cases involving tax effect of ₹ 3,641.7 crore to the Ministry for comments. Ministry/ Department has accepted our observations in 46 *per cent* cases. Delayed departmental response to our findings in the interest of protecting revenue, is an area of concern. It may be mentioned that 7,942 cases were rendered time barred due to delay in taking timely action on erroneous cases as on 31 March 2011 leading to loss of revenue of ₹ 5,334.5 crore.

Our analysis shows that incidence of errors in scrutiny assessments completed in 2009-10 was 5.6 *per cent*. Tax effect of the erroneous demands was ₹ 12,815.7 crore which would impact the total tax demand raised by the Department by 17.5 *per cent*.

The Department recovered ₹ 2,605.1 crore in the last five years from demands raised to rectify the errors in assessments pointed out by us. This includes ₹ 311.7 crore recovered in 2010-11.

The Department failed to produce 11.5 *per cent* of the records requisitioned by us during 2010-11.

CHAPTER III: CORPORATION TAX

We referred 302 cases involving tax effect of ₹ 3,548.4 crore to the Ministry of Finance between June and October 2011 for their comments. The Ministry/Department have accepted the observations in 148 cases involving tax effect of ₹ 2,083.3 crore. Out of these accepted cases, the Department effected recovery of ₹ 2.1 crore in four cases, completed remedial action in 91 cases involving tax effect of ₹ 419 crore and initiated remedial action in 30 other cases involving tax effect of ₹ 817.5 crore.

This Chapter discusses 177 cases of which 173 cases involve undercharge of ₹ 2,297.1 crore and four cases involve overcharge of ₹ 12.7 crore. Irregularities/mistakes/omissions were classified in four broad categories namely 'errors and omissions in computation' involving tax effect of ₹ 1,408.7 crore, 'ineligible concessions given to assesses' (tax effect of ₹ 578.8 crore), 'income not/under assessed' (tax effect of ₹ 197 crore) and 'others' involving tax effect of ₹ 125.3 crore.

CHAPTER IV:

PART A – INCOME TAX

We reported 122 cases involving tax effect of ₹ 82,9 crore to the Ministry for their comments. The Ministry/Department has accepted our findings in 46 cases involving tax effect of ₹ 48 crore. Out of these, the Department effected recovery of ₹ 83,6 lakh in three cases, completed remedial action in 35 cases involving tax effect of ₹ 33,6 crore and initiated remedial action in eight other cases involving tax effect of ₹ 13,6 crore.

This chapter discusses 76 cases involving tax effect of ₹ 34,9 crore. The mistakes have been classified in four broad categories namely 'Errors and omissions in computation, Ineligible concessions given to assesses, Income not assessed/under assessed and others'. In terms of tax effect, 65 *per cent* of the mistakes pertained to 'Ineligible concessions given to assesseees'.

PART B – FRINGE BENEFIT TAX

We reported 23 cases involving tax effect of ₹ 9,7 crore issued to the Ministry for their comments. The Ministry/ Department has accepted our findings in 11 cases involving tax effect of ₹ 68 lakh. Out of these, the Department effected recovery of ₹ 4 lakh in two cases and completed remedial action in nine cases involving revenue impact of ₹ 64 lakh.

PART C – WEALTH TAX

We reported 17 cases involving tax effect of ₹ 71,6 lakh to the Ministry for their comments. The Ministry/Department has accepted 10 cases involving aggregate revenue impact of ₹ 45,9 lakh. Out of these, the Department effected recovery of ₹ 13,2 lakh in four cases and completed remedial action in five cases involving tax effect of ₹ 31,6 lakh. The Department has initiated remedial action in one case involving tax effect of ₹ 1,1 lakh.

CHAPTER I
TAX ADMINISTRATION

Chapter Summary

- ♦ The direct tax collection exceeded the budget estimates in all the years over the period 2006-07 to 2010-11 except 2008-09. The extent of actual collection exceeding the budget estimates ranged from 2.2 *per cent* in 2009-10 to 16.7 *per cent* in 2007-08.

(Paragraph 1.2.2)
- ♦ Direct tax collection increased by 94.2 *per cent* from ₹ 2,30,181 crore in 2006-07 to ₹ 4,46,934 crore in 2010-11 whereas total Gross Domestic Product (GDP) has increased by 90.0 *per cent* from ₹ 41,45,810 crore in 2006-07 to ₹ 78,75,627 crore in 2010-11 indicating a significantly higher growth rate of tax collection over five years period. During the period 2006-07 to 2010-11, the average rate of growth of direct tax collection was 23.6 *per cent*. The annual rate of growth ranged from 6.9 *per cent* in 2008-09 to 35.6 *per cent* in 2007-08.

(Paragraph 1.2.3)
- ♦ In the case of the corporate assesseees, net collection increased from ₹ 1,44,318 crore in 2006-07 to ₹ 2,98,687 crore in 2010-11 at an average annual rate of growth of 26.7 *per cent* and in the case of non-corporate assesseees, net collection increased from ₹ 75,079 crore in 2006-07 to ₹ 1,40,042 crore in 2010-11 at an average annual rate of growth of 21.6 *per cent*.

(Paragraph 1.3.1)
- ♦ Voluntary compliance by assesseees (pre-assessment stage) accounted for 81.4 *per cent* of the gross collections in 2010-11. The collection by way of voluntary compliance in 2010-11 was higher than 2006-07 but marginally lower as compared to 2007-08 to 2009-10.

(Paragraph 1.3.3)
- ♦ The assessee base grew over the last five years from 313 lakh taxpayers in 2006-07 to 335.8 lakh taxpayers in 2010-11 at average annual rate of growth of 1.8 *per cent*.

(Paragraph 1.3.5)
- ♦ The pendency of scrutiny assessments increased from 2.8 lakh in 2006-07 to 3.9 lakh in 2010-11.

(Paragraph 1.3.7)

- ◆ 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.

(Paragraph 1.3.8)

- ◆ Cost of collection showed a uniform trend of about 0,6 *per cent* during 2006-07 to 2010-11 except 2008-09 and 2009-10, where it was 0,7 *per cent*.

(Paragraph 1.5.4)

- ◆ Internal Audit completed 66 *per cent* of the targeted audits. Only 14,9 *per cent* of major findings raised by Internal Audit were acted upon by the assessing officers in 2010-11. Departmental response to Internal Audit was clearly inadequate.

(Paragraph 1.6.1)

CHAPTER I

TAX ADMINISTRATION

1.1 INTRODUCTION

1.1.1 Direct taxes levied by the Parliament mainly comprise:

- **Corporation Tax** on companies which constitutes 66.8 per cent of direct tax collection¹. The corporates also pay **Wealth Tax** on the assets owned by them. In addition, tax is payable on **capital gains** made on the sale of assets.
- **Personal Income Tax** which is required to be paid if the income level reaches above ₹ 1.6 lakh².

1.1.2 Other direct taxes include **Fringe Benefit Tax**³, **Securities Transactions Tax**⁴ and **Wealth Tax**⁵ etc.

1.1.3 Table 1.1 provides a snapshot of tax administration.

	2006-07	2007-08	2008-09	2009-10	2010-11
1. Gross Collection	2,67,416	3,53,498	3,72,915	4,35,164	5,22,103
2. Refunds	37,235	41,285	39,097	57,101	75,169
3. Net Collection	2,30,181	3,12,213	3,33,818	3,78,063	4,46,934
4. Tax-GDP Ratio	5.6	6.6	6.3	6.1	5.7
5. Buoyancy ⁶	2.5	2.6	0.5	0.8	0.7
6. No. of effective assesseees (in lakh)	312.9	336.6	326.5	340.9	335.8
7. Pre-assessment collection	2,05,741	2,83,986	3,02,341	3,51,660	4,18,094
8. Post-assessment collection	50,891	52,865	56,188	73,053	95,804
9. No. of scrutiny assessments due for disposal	5,27,005	9,97,813	9,53,767	8,70,620	8,47,196
10. No. of scrutiny assessments completed	2,41,983	4,07,239	5,38,505	4,29,585	4,55,212
11. No. of officers deployed for assessment duty	3,954	3,218	3,106	3,605	3,687
12. Direct refund claims pending (in lakh)	4.4	8.3	15.5	19.4	19.5
13. Interest on refunds	3,693	4,444	5,778	6,876 ⁷	10,499
14. Demand pending	1,17,370	1,24,274	2,01,276	2,29,032	2,91,629
15. No. of appeals pending with CIT(A)	1,07,841	1,30,358	1,58,031	1,80,991	1,87,182
16. Certified demand recovered	8,521.4	8,612.6	4,035.8	3,322.3	4,074.6
17. Certified demand pending	26,703.9	27,444.9	27,461.0	95,122.4	106,990.8
18. Cost of collection	1,343	1,713	2,286	2,774	2,698

The details of tax administration are given in *Appendix-1*.

¹ Net direct tax collection for the financial year 2010-11.

² The base above which income tax is payable is revised from time to time. It is ₹ 1.6 lakh for the AY 2011-12 (₹ 1.9 lakh in case of resident women and ₹ 2.4 lakh in case of resident Sr. citizens).

³ Tax on the value of certain benefits offered by the employers to their employees. Fringe Benefit Tax is abolished from the assessment year 2010-11 onwards.

⁴ Tax on the value of taxable securities purchased and sold through a recognized stock exchange in India.

⁵ Tax chargeable on the net wealth comprises certain assets specified under section 2(ea) of the Wealth Tax Act.

⁶ Tax buoyancy is measured by the ratio of percentage change in tax revenues to percentage change in GDP.

⁷ The Department initially intimated the figure as ₹ 12,951 crore. Subsequently after the report was placed in the Parliament, the department intimated this figure as ₹ 6,876 crore.

1.2 POLICY

1.2.1 MAJOR POLICY INITIATIVES BY THE GOVERNMENT

In the Budget 2010-11, the Government sought to amend the provisions relating to direct taxes in order to : (i) lower the tax burden on individual taxpayers by widening the tax slabs; (ii) allow small companies to convert into Limited Liability Partnerships without attracting capital gains tax liability; (iii) reduce the compliance burden on small business enterprises by raising the turnover limits beyond which audit is compulsory; (iv) promote investment in Research and Development (R&D) to enhance the competitive ability of the economy; (v) encourage savings for funding infrastructure by providing a tax deduction on investment in long-term infrastructure bonds; and (vi) simplify and rationalize the provisions relating to Tax Deduction at Source (TDS).

The Government also introduced the Direct Taxes Code (DTC) with a view to revise, consolidate and simplify the language and structure of the Direct Taxes Laws. The DTC Bill, 2010 was presented in the Parliament in August 2010. The Bill is presently with the Standing Committee,

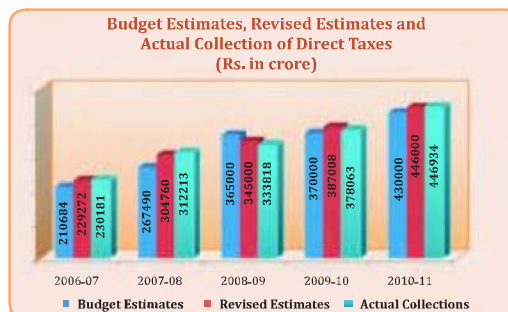
1.2.2 BUDGET VIS-À-VIS REVISED ESTIMATES OF DIRECT TAX COLLECTION

The Budget reflects the Government's vision and intent. The revenue budget consists of the revenue receipts of the Government (Tax revenues and other revenues) and the expenditure met from these revenues. Tax revenues comprise proceeds of taxes and other duties levied by the Government.

Comparison of budget estimates with the corresponding actuals is an indicator of quality of fiscal marksmanship. Actuals may differ from the estimates because of unanticipated and random external events or methodological inadequacies or at times it may be convenient to under project/over project some critical parameters,

The direct tax collection exceeded the budget estimates in all the years over the period 2006-07 to 2010-11 except 2008-09 (details in Chart 1.1). The extent of actual collection exceeding the budget estimates ranged from 2.2 per cent in 2009-10 to 16.7 per cent in 2007-08,

Chart 1.1 : Growth in Collection



The revised estimates were found realistic during 2006-07 to 2010-11

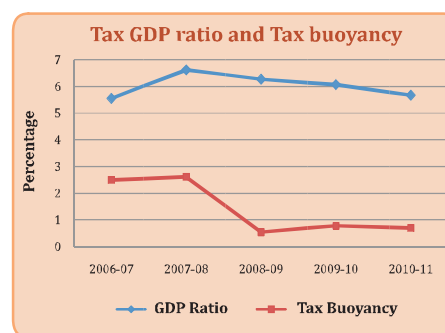
as the actual collection was within 3.2 *per cent* of the revised estimates,

1.2.3 TAX-GDP RATIO AND TAX BUOYANCY

The direct tax collection (net) has increased by 94.2 *per cent* from ₹ 2,30,181 crore in 2006-07 to ₹ 4,46,934 crore in 2010-11 whereas total Gross Domestic Product⁸ (GDP) has increased by 90.0 *per cent* from ₹ 41,45,810 crore in 2006-07 to ₹ 78,75,627 crore in 2010-11 indicating a significantly higher growth rate of tax collection over five years period. During the period 2006-07 to 2010-11, the average rate of growth of direct tax collection was 23.6 *per cent*. The annual rate of growth ranged from 6.9 *per cent* in 2008-09 to 35.6 *per cent* in 2007-08,

Chart 1,2: Tax GDP ratio and Tax buoyancy

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. 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 (details in Chart 1,2). Buoyancy value less than one is not a healthy indicator given the overall growth in the GDP. The decline in buoyancy is a matter of concern.



1.2.4 EFFECTIVE RATE OF TAXATION

The effective tax rate for companies⁹ was 23.5 *per cent*¹⁰ in 2009-10¹¹ which was substantially lower than the statutory tax rate of 33.9 *per cent*¹². We found that 216 companies with profits before taxes (PBT) of ₹ 500 crore and above accounted for 55.8 *per cent* of the total PBT and 53.4 *per cent* of the total corporate tax payable. However, their effective tax rate was only 22.6 *per cent* while the effective tax rate was 25.7 *per cent* for companies having PBT of upto ₹ one crore. This indicates that tax concessions are being availed of mainly by large companies,

⁸ At market prices (Source: Ministry of Statistics, National Statistical Organisation)

⁹ Source: Receipts Budget 2011-12

¹⁰ Effective tax rate in the case of companies is the ratio of total taxes paid (including surcharge and education cess but excluding Dividend Distribution Tax) to the total profits before taxes (PBT) and expressed as a percentage,

¹¹ The effective tax rate was 22.78 *per cent* in 2008-09.

¹² Corporation tax rate-30 *per cent*, Surcharge-10 *per cent* on tax, in case income exceeding ₹ 10 lakh, Education cess-two *per cent* on tax and surcharge and secondary & higher education cess-one *per cent* on tax and surcharge,

1.2.5 REVENUE FOREGONE

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 base 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”.

The Income-tax Act, inter-alia, provides for tax preferences to promote savings by individuals; exports; balanced 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.

The revenue foregone on account of tax exemptions has increased by 111.8 *per cent* from ₹ 65,587 crore in 2006-07 to ₹ 1,38,921 crore in 2010-11. Corporate sector accounted for 63.5 *per cent* of revenue foregone in 2010-11.

The revenue foregone on account of tax exemptions in respect of corporate taxpayers 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 as indicated in the following Table 1.2.

Table 1.2: Revenue Foregone# (₹ 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
3. Total	65,587	1,00,816	1,08,467	1,20,483	1,38,921

As per Receipts Budget of respective year.

Revenue foregone in case of corporate taxpayers in 2010-11 was mainly on account of accelerated depreciation under section 32 (₹ 35,494 crore) followed by section 80IA¹³/IB¹⁴/IC¹⁵ (₹ 28,315 crore) and 10A¹⁶/10B¹⁷ (₹ 20,559 crore). In the case of Non-corporate tax payers, revenue foregone was mainly on account of section 80C¹⁸ applicable to individual taxpayers (₹ 37,424 crore).

¹³ Deduction to an undertaking providing infrastructure facility

¹⁴ Deduction to certain industrial undertakings other than infrastructure development undertakings

¹⁵ Deduction to certain undertakings in Himachal Pradesh, Sikkim, Uttaranchal and North-Eastern States

¹⁶ Deduction in respect of newly established undertakings in free trade zone, etc.

¹⁷ Deduction in respect of newly established hundred *per cent* export-oriented undertakings.

¹⁸ Deduction in respect of specified qualifying amounts paid or deposited by the assessee.

1.3 FUNCTIONS OF THE DEPARTMENT

1.3.1 COLLECTION OF TAXES

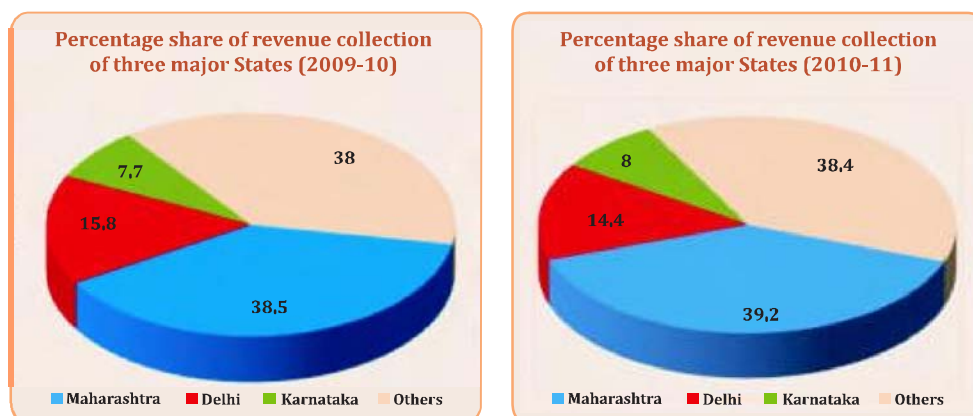
During the last five years direct tax collections (net) have increased from ₹ 2,30,181 crore in 2006-07 to ₹ 4,46,934 crore¹⁹ in 2010-11 at an average annual rate of growth of 23.6 *per cent*.

In the case of the corporate assesseees, net collection increased from ₹ 1,44,318 crore in 2006-07 to ₹ 2,98,687 crore in 2010-11 at an average annual rate of growth of 26.7 *per cent* and in the case of non-corporate assesseees, net collection increased from ₹ 75,079 crore in 2006-07 to ₹ 1,40,042 crore in 2010-11 at an average annual rate of growth of 21.6 *per cent*.

1.3.2 CONTRIBUTION OF STATES IN DIRECT TAX COLLECTION

The state-wise collection of direct tax has been compiled by Pr. CCA, CBDT, New Delhi. The collection in respect of each state/union territory has been correlated with the Permanent Account Number of the assessee/Tax Collection Account Number of the deductor²⁰. Three major States of Maharashtra, Delhi and Karnataka had contributed 61.6 *per cent* of direct tax collection in 2010-11 against 62.0 *per cent* in 2009-10 (Chart 1.3). Karnataka, Maharashtra and Delhi registered increase of 22.4 *per cent*, 20.2 *per cent* and 7.7 *per cent* respectively in collection over the previous year.

Chart 1.3: Relative-share in collection



Growth in direct tax collection was unevenly spread across the country. Positive growth was reported in all states/union territories

¹⁹ Head wise/State/UT wise break up of direct tax collection is given in *Appendix-2*.

²⁰ The state-wise collection shown in the Audit Report no. 26 of 2010-11 was based on collections reconciled by ZAO through nodal branches of banks wherein e-collection was reported. For e-collection only one Nodal Branch of each Bank in a particular state has been authorized for reporting collections. Nodal branches for e-collection for most of the banks are located in Mumbai, Delhi, Kolkata, Bengaluru and Nagpur. Therefore most of the e-collection got reported to those ZAOs showing higher collection for the States of Karnataka, Maharashtra and West Bengal as mentioned in the report *ibid*.

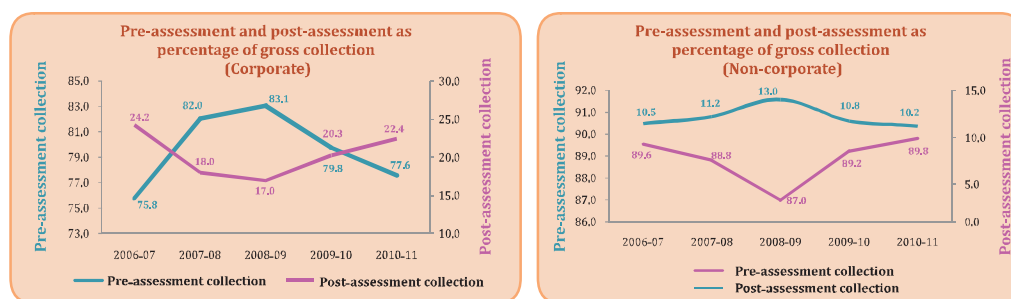
except Mizoram, Sikkim and Uttarakhand in 2010-11 vis-a-vis 2009-10 (Appendix 3).

1.3.3 TAX COLLECTION FOR CORPORATE AND NON-CORPORATE ASSESSEES AT PRE-ASSESSMENT AND POST-ASSESSMENT STAGES

The details of over-all tax collected at the pre-assessment and post-assessment level during last five years are given in Appendix-4.

Voluntary compliance by assessees (pre-assessment stage) accounted for 81.4 *per cent* of the gross collections in 2010-11. The collection by way of voluntary compliance was higher than 2006-07 but marginally lower as compared to 2007-08 to 2009-10.

Chart 1.4: Extent of voluntary compliance by Corporate and non-corporate assessees



During 2010-11 in the case of corporate assessees, 77.6 *per cent* of gross collection was made at the pre-assessment stage (Tax deducted at source, Advance tax, Self assessment tax) of which 51.9 *per cent* was by way of advance tax. Similarly, in the case of non-corporate assessees, 89.8 *per cent* of gross collection was made at the pre-assessment stage (Tax deducted at source, Advance tax, Self assessment tax) of which 63.3 *per cent* was by way of Tax deducted at source.

1.3.4 IDENTIFICATION OF THE TAX PAYERS

The Department has different mechanism available to enhance the assessee base which includes survey, information sharing with other tax departments and third party information available in annual information returns. Automation also facilitates greater cross linking²¹. Most of these mechanisms are available at the level of the assessing officers.

1.3.5 GROWTH OF TAX PAYERS

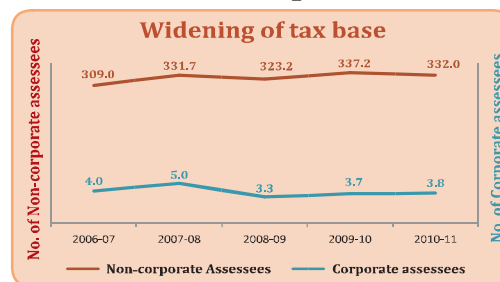
Over the past few years, the Board in their Central Action Plans (CAPs) has been advocating for a 15 *per cent* increase in the addition of new

²¹ Information about non-filers of TDS returns from e-TDS, Annual comparative figures of TDS deposited by big corporate & non-corporate deductors, linking TAN data in order to ensure better compliance from them, linking tax returns with the PAN data base and linking return submitted by deductors on TDS deductions with the returns of the deductee.

assessee vis-à-vis the assessee added during the previous financial year.

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 (Chart 1.5) registering an increase of 7.3 *per cent* with an average annual rate of growth of 1.8 *per cent*. However, the assessee base declined from 340.9 lakh taxpayers in 2009-10 to 335.8 lakh taxpayers in 2010-11.

Chart 1.5: Widening of tax base



The total direct tax collection has increased by 94.2 *per cent* during the period 2006-07 to 2010-11. The increase in tax collection was around thirteen times as compared to increase in the taxpayers' base. This indicates a very limited widening of tax base over the years.

1.3.6 CORPORATE ASSESSEES BASED ON ROC FIGURES

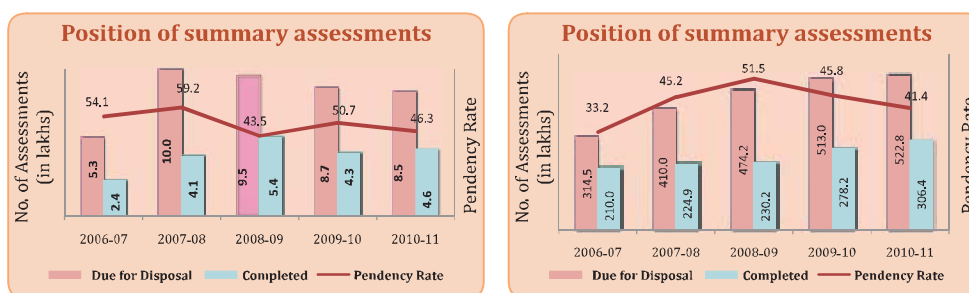
There were 7.2 lakh working companies²² in the country registered with Registrar of Companies (ROC) as on 31 March 2011. However, the corporate assesseees on the Income-Tax Department's records are only 3.8 lakh, leaving an un-reconciled list of 3.4 lakh companies whereas all of them are legally obliged to file returns mandatorily. The difference was same as in 2005-06. It had been marginally reconciled in 2007-08 (2.8 lakh). The Board needs to reconcile the discrepancy for accurate assessment of the filing gap.

The Board in their Central Action Plan 2011-12 has instructed the field formations to issue notices to non-filers and take necessary action under the Act.

1.3.7 PROCESSING OF RETURNS AND SCRUTINY ASSESSMENTS

The number of summary and scrutiny assessments due and disposed off during 2006-07 to 2010-11 has been given in *Appendix-1*.

Chart 1.6: Position of Summary and Scrutiny assessments



²² Source: Ministry of Corporate Affairs (R&A Division).

High-risk tax returns are selected and examined with reference to collateral data by the assessing officers (AOs) in scrutiny assessments. Out of the total 8.5 lakh scrutiny assessment cases for disposal (Chart 1.6), the Department has 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. 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. It may be mentioned that summary assessments are processed through Assessment Information System (AST).

The Department introduced e-filing of annual returns in 2007 for corporate and in 2008 for individuals. The Central Processing Centre at Bengaluru established by the Department to process e-filed returns is in operation since 2009.

It should be the constant endeavour of the Department to ensure that the entire assessee base, once correctly identified is duly meeting the entire tax liability. However, assurance could not be obtained that the tax liability on the assessees is being assessed and collected properly.

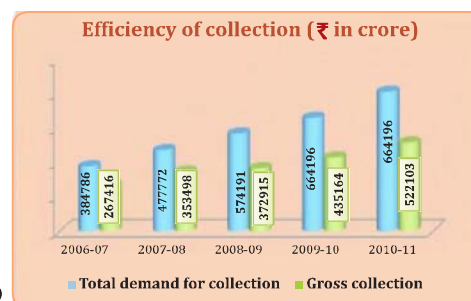
This comment is corroborated in para 2.3.1 of Chapter 2 of this report where we have mentioned about our detection of under/over charge of tax amounting to ₹ 14,475.4 crore in 20,130 cases audited during 2010-11. However, given the fact that ours is a test audit, Department needs to take firm steps towards strengthening the controls available in the existing statutes towards deriving an assurance on the tax collections and assessments.

1.3.8 UNCOLLECTED DEMAND

In 2010-11, only 64.1 per cent of the total demands cumulatively raised in assessments upto that year had been collected (Chart 1.7).

The performance was identical as in 2008-09 and 2009-10. However, there was a decline as compared to collection of 74 per cent for 2007-08. 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

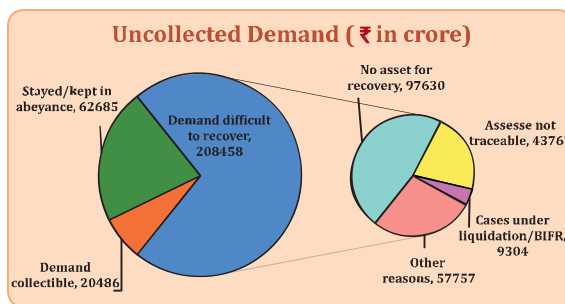
Chart 1.7: Efficiency of collection



₹ 0.9 lakh crore. However, in 2009-10, earlier years pending demand was ₹ 1.8 lakh crore and current demand was ₹ 0.5 lakh crore.

Chart 1.8: Details of uncollected demand

The Department intimated that various factors contributed to the uncollected demand (Chart 1.8). An amount of ₹ 1,06,934 crore (36.7 *per cent*) remained uncollected as there were no assets for recovery or the companies were under liquidation/BIFR.



The uncollected demand is rising despite clear provisions in the Act to enforce collection and recovery of outstanding demand viz, attachment and sale of assessee's movable and immovable property, appointment of a receiver for the management of assessee's properties and imprisonment. Tax demands remain irrecoverable for a long period in spite of exercise of the powers of recovery conferred under the Act. Write-off of such arrears may be considered as per the Departmental instructions laid down on the subject.

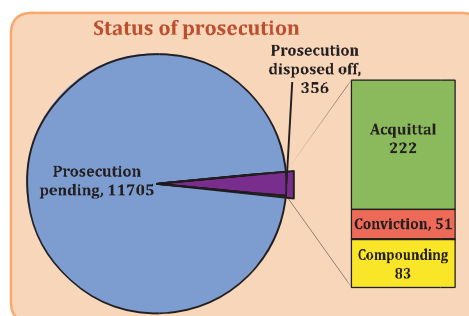
Defaults in payment of tax are referred to the Tax Recovery Officers (TROs) who draw up a certificate specifying the amount of arrears due from the assessee and proceed to recover the amount. The recovery mechanism is inefficient as certified demand remaining uncollected increased to ₹ 1,06,990.8 crore (96.3 *per cent*) in 2010-11 from ₹ 26,703.9 crore (75.8 *per cent*) in 2006-07.

Board may like to prepare a time bound action plan for recovery of current and arrear demands by fixing targets for each assessing officer. Recovery proceedings can be made effective by increasing the accountability of the TROs and incentivizing achievements.

1.3.9 STATUS OF PROSECUTION

The Department had launched prosecution in 11,705 cases of tax evasion upto 2010-11. Only 356 cases (3 *per cent* of the total cases) were disposed off, of which 222 cases resulted in acquittal (Chart 1.9). The Board needs to analyse the reasons for slow pace of disposal. The high rate of acquittal also needs to be analysed to ensure greater effectiveness of prosecution as a deterrent.

Chart 1.9: Status of prosecution



1.3.10 REFUND CASES AND INTEREST PAID ON REFUNDS

Where the amount of tax paid exceeds the amount of tax payable, the assessee is 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,

Out of total 59.9 lakh direct refund claims, the Department had disposed off 40.4 lakh (67.4 *per cent*) claims in 2010-11. The pendency rate has increased to 32.6 *per cent* in 2010-11 from 24.1 *per cent* in 2006-07,

The Government has refunded ₹ 75,169 crore which includes 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*,

1.3.11 INCORRECT ACCOUNTING OF INTEREST ON REFUNDS

We had earlier commented²³ that the Government was following an incorrect procedure of accounting for interest paid on refunds. Interest payment is a charge on the Consolidated Fund of India and is, therefore, payable through a proper budgetary mechanism. Accordingly, Minor Head “interest on refunds” is to be operated under the Major Head “2020-Collection of Taxes on Income and Expenditure”. However, no budget provision for ‘interest on refund’ was made in the Budget Estimates for 2010-11 and the expenditure on interest on refunds amounting to ₹ 10,499.4 crore was treated as reduction in revenue. Accounting of interest on refund as reduction in revenue is incorrect as this interest was never collected in the first instance. Interest on belated refunds of excess tax should be budgeted as an expenditure item which, in fact, was done in the Budget Estimates 2001-02 when ₹ 92 crore was provided in the demand of ‘Direct Taxes’ under the Major Head ‘2020 – Collection of taxes on Income & Expenditure’ towards interest on belated refund of excess tax. However, subsequently at the Revised Estimates stage the earlier practice of showing the interest on excess refund as deduct receipt was reverted to. This practice is still being followed. In response the

²³ in Audit Reports of 2004, 2005, 2006, 2007, 2008, 2009, 2009-10 and 2010-11

Department stated that this is a policy decision taken at the highest level,

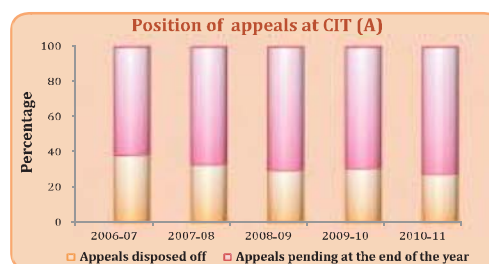
1.3.12 APPEAL CASES

An aggrieved tax payer 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.

1.3.12.1 APPEALS PENDING AT CIT(A)

Chart 1.10: Appeals disposed off and pending

As per the instructions of the Board, each CIT(Appeal) is required to dispose off a minimum of 60 appeals per month, 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). CIT(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 (Chart 1.10) and the average annual disposal per CIT(A) during 2010-11 was only 479 appeals. 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.

1.3.12.2 Further, the amount locked up in appeals at higher levels (ITAT/High Court/Supreme Court) was ₹ 2.1 lakh crore in 72,196 cases as on 31 March 2011.

1.4 IT INITIATIVES TAKEN BY THE INCOME TAX DEPARTMENT

The Task Force on Direct Taxes headed by Vijay Kelkar (December 2002) recommended that Tax Information Network (TIN) should be established to computerize vital arteries of the tax assessment and collection system. In pursuance of the Task Force recommendations, the Department had taken number of IT initiatives over the years.

ITD's current system is a result of several years' effort and it has been continually going through the process of modification. Comprehensive computerisation project of the ITD contains modules such as Assessee Information System (AIS), Assessment Information System (AST), On

line Tax Accounting System (OLTAS), Electronic Tax Deducted System (e-TDS), Individual Running Ledger Accounting System (IRLA), Computer Aided Scrutiny System (CASS) and Enforcement Information System (EFS) for functional areas of the ITD. Besides, several other internal management and house keeping modules such as pay roll System (PAS), Manpower Management System (MMS), Judicial Reference System (JRS), Financial Resource System (FRS), Management Information System (MIS) are also working.

Business Processing Re-engineering report submitted in April 2008 recommended functional segregation of the working of the Department across two broad lines; a Bulk Operations Division (BOD) handling routine, repetitive activities not requiring exercise of discretion in individual cases and a Compliance Operations Division (COD) to carry out specialized enforcement activities for a smaller number of taxpayers.

Based on the above recommendations ITD established a Central Processing Centre (CPC) at Bengaluru to process e-filed returns of All India and paper returns of Karnataka and Goa. This CPC became operational in October 2009.

We had earlier commented on IT initiatives taken by the Department in our Audit Reports {No. 10 of 2006 relating to performance audit of Assessment Information System (AST) and No. PA 25 of 2009 relating to IT audit of e-TDS system}.

Similarly, in our Audit Report No. 7 of 2009-10 relating to Income Tax Refunds, we had also commented on the CPC, verification of credits through OLTAS, AST and Refund Banker Scheme. Deficiencies in these modules were resulting in delayed refunds. The Department needs to address the deficiencies pointed out in these reports.

1.5 RESOURCE GAP

The overall responsibility for the administration of direct taxes lies with the Department of Revenue which functions through the Income Tax Department (ITD). The ITD has staff strength of 61,463. The organizational structure of the Income Tax Department is at *Appendix-5*.

1.5.1 SANCTIONED AND WORKING STRENGTH OF OFFICERS

Table 1.3 below shows the sanctioned and working strength of the officers of the ITD as on 31 March 2011.

Table 1.3: 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

1.5.2 DEPLOYMENT OF OFFICERS ON ASSESSMENT AND NON-ASSESSMENT CHARGE

The deployment of officers on assessment duty in 2010-11 decreased to 3,687 from 3,954 in 2006-07. This could be one of the reasons for backlog in assessments referred to in para 1.3.7.

1.5.3 EXPENDITURE BUDGET

The revenue and capital expenditure (budgeted and revised) of the Department as per Expenditure Budget²⁴ for the last five years vis-à-vis actual are shown in the following Table 1.4:

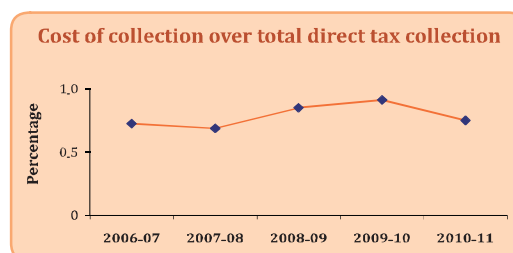
Table 1.4: Expenditure Budget						
₹ in crore)						
Financial Year	Revenue expenditure			Capital expenditure		
	Budgeted	Revised	Actual	Budgeted	Revised	Actual
2006-07	1,306.0	1,371.0	1,348.5	28.0	10.3	4.9
2007-08	1,521.5	1,742.2	1,687.3	10.5	10.2	35.7
2008-09	1,772.0	2,327.1	2,248.4	203.0	190.5	83.5
2009-10	2,884.0	2,819.4	2,725.9	618.0	21.0	9.3
2010-11	2,845.0	2,735.3	NA	1,679.0	1,610.0	NA

It is observed that savings on the revenue expenditure were marginal. However, there were huge deviations between budget estimates, revised estimates and actuals in case of capital expenditure.

1.5.4 COST OF COLLECTION OF TAXES

Total cost of direct tax collection (Chart 1.11) showed a uniform trend from 0.58 per cent in 2006-07 to 0.60 per cent in 2010-11 except 2008-09 and 2009-10.

Chart 1.11: Cost of collection of taxes



²⁴ Demand no. 42 of the Expenditure budget

1.6 MISCELLANEOUS

1.6.1 INTERNAL AUDIT

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. Under each CIT(Audit) there shall be one Addl. CIT who would be responsible for internal audit of high value cases and supervision of the audit work of special audit party (SAP) headed by Dy./Asstt. CsIT and the internal audit party (IAP) headed by ITOs. The minimum number of cases to be audited by each Addl. CIT, SAP and IAP in a year shall be 50, 300 and 1,300 (600 corporate cases & 700 non-corporate cases) respectively.

Internal audit wing had planned 2,62,000 cases for audit during 2010-11 based on the working strength of wing. Out of which, 1,73,040 cases were completed thereby achieving 66 *per cent* 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 with money value of ₹ 921.9 crore.

However, we detected numerous observations in the assessments previously audited by Internal Audit. We noticed that internal audit had audited 2,999 assessments in 2010-11, where we pointed out the mistakes but the same were not detected by them. This indicates a need for improvement in the quality of Internal Audit.

Out of 464 draft paragraphs included in this report, only 29 cases (6.3 *per cent*) were seen by internal audit and no mistakes were detected by them, which indicates need for improvement in quality of internal audit.

Departmental response to internal audit needs improvement. 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 findings²⁵ 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.

²⁵ Audit objection above ₹ 1 lakh in Income tax and above ₹ 30,000 in other taxes

CHAPTER II

AUDIT IMPACT

Chapter Summary

- ◆ The Department recovered ₹ 311,7 crore in cases pointed out by us in 2010-11.

(Paragraph 2.2)

- ◆ We detected errors in 20,130 assessments completed by the Department having a tax effect of ₹ 14,475.4 crore. Incidence of errors in scrutiny assessments completed by the Department in 2009-10 was 5.6 *per cent*. Tax effect of such erroneous demands was ₹ 12,815.7 crore, which would impact the total tax demand raised by the Department by 17.5 *per cent*.

(Paragraph 2.3 and Appendix 6)

- ◆ This report contains 464 high value cases. Ministry/Department has accepted 46 *per cent* of them.

(Paragraph 2.3.3)

- ◆ We noticed that 7,942 cases were rendered time-barred due to delay in taking timely action on erroneous cases resulting in loss of revenue of ₹ 5,334.5 crore.

(Paragraph 2.4.2)

- ◆ The Department did not produce 11.5 *per cent* of the records requisitioned by us during 2010-11.

(Paragraph 2.5.1)

CHAPTER II

AUDIT IMPACT

2.1 STATUTORY AUDIT

Our audit involves examination of individual assessments in field offices of the Income Tax Department to seek an assurance on:

- Accuracy in tax demands and;
- Efficacy and adequacy of systems and procedures in tax administration.

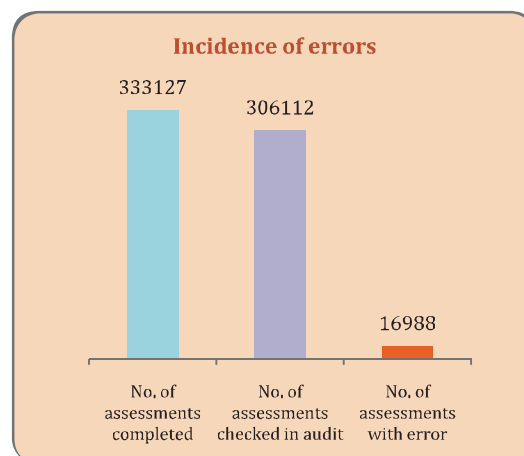
2.2 RECOVERY AT THE INSTANCE OF AUDIT

The Department recovered ₹ 2,605.1 crore in the last five years from demands raised to rectify the errors in assessments pointed out by us. This includes ₹ 311.7 crore recovered in 2010-11.

2.3 INCIDENCE OF ERRORS

It was our attempt to audit all scrutiny assessments completed by assessment units that fall in the audit sample selected for field audit on the basis of pre-defined parameters of risk analysis. We found that the incidence of errors in the scrutiny assessments completed during 2009-10 averaged to 5.6 *per cent*. The revenue impact of these errors works out to 17.5 *per cent* of the total demand raised by the Department (*Appendix-6*).

Chart 2.1 Incidence of errors



2.3.1 The tax effect of errors during 2010-11 was ₹ 14,475.4 crore as shown below:

Table no, 2.1: Tax wise details of errors (2010-11)			₹ in crore
Sl. No	Category	No. of cases	Tax effect
1	Corporation tax & Income tax	18,711	14,397.8
2	Wealth tax	801	20.1
3	Other Direct taxes	618	57.5
	Total	20,130²⁶	14,475.4

2.3.2 The category-wise details of underassessment (sub-categories have been given in *Appendix-7*) in respect of Income tax and Corporation tax are given below:-

Table no, 2.2: Category-wise details of errors			(₹ in crore)
Sl. No.	Category	No. of cases	Tax effect
1	Errors/ omissions in computation	4,823	2,566.2
2	Ineligible concessions given to assesseees	8,190	7,842.5
3	Income not assessed	2,169	2,023.9
4	Others	3,289	1,461.6
	Total	18,471	13,894.2

Out of 18,711 cases with tax effect of ₹ 14,397.8 crore, 240 cases with tax effect of ₹ 503.5 crore related to over assessments,

2.3.3 High value and important cases among the errors detected in local audit are included in the Audit Report. The present Audit Report contains 464 cases reported to the Ministry of Finance. While 192 of these cases, which were accepted by the Ministry, have been included in this Chapter²⁷, remaining cases have been discussed in detail in Chapters III and IV of this Report. In respect of five of these 464 cases, provisions of the Act were open to interpretation, while in all the other cases, the AOs issued erroneous assessment orders despite clear provisions. 'Errors/Omissions in computation' accounted for 41.9 per cent of the tax effect of the errors whereas 26.5 per cent of the tax effect (sub-categories have been given at *Appendix-8*) was due to 'Ineligible concessions given to assesseees' as detailed below in Table 2.3,

²⁶ No. of assessments with errors as shown in Chart No, 2.1 relates to scrutiny assessments completed during 2009-10 and audited during 2010-11. 20,130 cases shown in Table 2.2 relates to all cases audited during 2010-11 which includes assessments completed during earlier years also.

²⁷ Paragraphs 2.4.4, 2.4.5 and 2.4.6, Appendices - 11, 12 and 13

Table no, 2.3: Category-wise details of errors of high value cases

Sl. No.	Category	No. of cases	Tax effect (₹ in crore)	Percentage of tax effect of errors
1	Errors/ omissions in computation	113	1,525.5	41.9
2	Ineligible concessions given to assesseees	230	964.9	26.5
3	Income/Wealth not assessed	53	323.4	8.9
4	Others	68	827.9	22.7
	Total	464	3,641.7	100.0

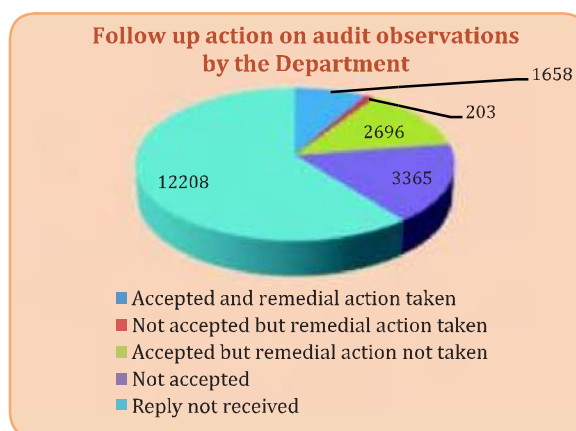
2.4 RESPONSE TO AUDIT

We elicit response from the audited entities at different stages of audit. On completion of field audit, we issue the local audit report (LAR) to the Department for comments. Important and high value cases are referred to the Ministry for comments before inclusion in the Audit Report.

The Board issued instructions (2006) that replies to LARs should be provided within six weeks. The assessing officers are required to initiate remedial action within two months of receipt of a LAR to correct errors in demands lest the case becomes time barred leading to loss of revenue.

2.4.1 RESPONSE: INITIAL AUDIT

We received replies in respect of 39 per cent of the cases issued this year (2010-11). The Department accepted 21.6 per cent of the issued cases and remedial action was completed²⁸ in 9 per cent cases. The Department did not reply to 61 per cent of the cases. This issue needs to be followed up by the Department.

Chart 2.2 Follow up action on audit observations

²⁸ The Assessing Officer (AO) *initiates remedial action* by issuing a notice to the assessee, who is then given an opportunity to present his case. After considering all the facts, the AO issues a rectificatory order raising the rectified demand for tax/refund, whichever be the case. At this stage, *remedial action* is said to have been *taken*.

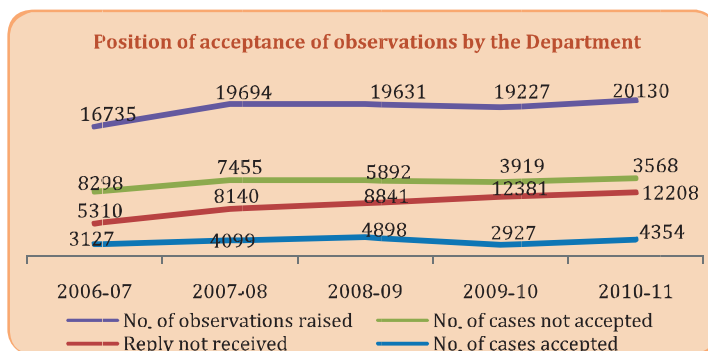
Chart 2.3 Position of acceptance of observations

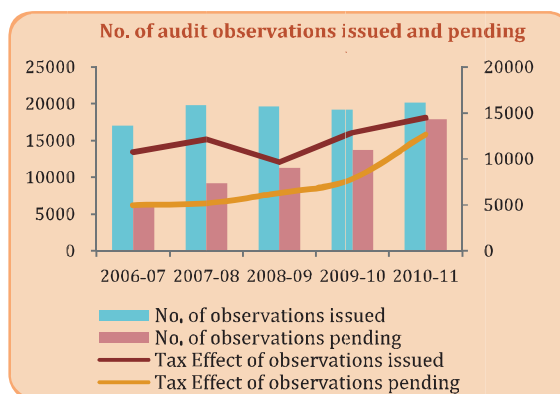
Chart No. 2.3 depicts the position of acceptance at the end of each of the last five years (*Appendix-9*) over the period 2006-07 to 2010-11. Responsiveness of Department to the audit observations

has deteriorated over the years.

2.4.2 REMEDIAL ACTION TIME BARRED

Chart 2.4 No. of audit observations issued and pending

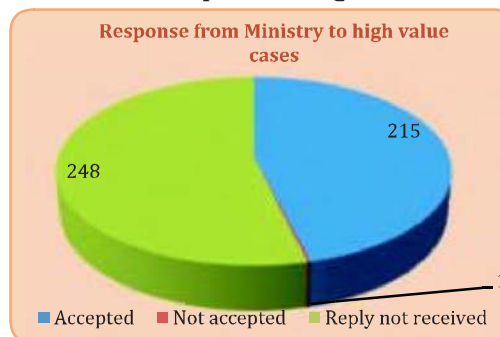
The accretion in pendency in replies to audit findings each year has resulted in pile-up of 72,020 cases involving revenue effect of ₹ 43,751 crore as of 31 March 2011. Chart 2.4 depicts the increasing trend of pendency of observations.



We conducted a review of the above pending cases and found that 7,942 cases with tax effect of ₹ 5,334.5 crore have become time barred for remedial action as on 31 March 2011. Details are given in *Appendix-10*.

2.4.3 RESPONSE: HIGH VALUE CASES

We give six weeks to the Ministry to offer their comments on high value cases before their inclusion in the Audit Report. Out of the 464 Draft Paragraphs for current Report, the Ministry accepted 46 per cent of the cases; in 53 per cent cases, we were yet to receive the response as of December 2011 and one case has not been accepted.

Chart 2.5 Response to high value cases

2.4.4 In 13 cases with tax effect of ₹ 3,1 crore the Ministry accepted the observations, completed the remedial action and recovered the amount. Details are at *Appendix-11*. One case is illustrated below:

Charge : CIT Bangalore-I, Karnataka, AY: 2007-08

In an assessment made under section 143(3), the assessing officer is required to make a correct assessment of the total income or loss of the assessee and determine the correct amount of tax or refund as the case may be.

During scrutiny assessment of **L & T Valdel Engineering Pvt. Ltd.**, the refund of ₹ 71.45 lakh already made during processing²⁹ of the return was not taken into account resulting in short computation of demand of ₹ 0.8 crore.

2.4.5 The Ministry accepted 140 observations with tax effect of ₹ 453.6 crore. Remedial action had also been taken by the Department in these cases. Details are at *Appendix-12*. Two cases are illustrated below:

A. Charge: CIT Madurai-I, Tamil Nadu, AY: 2006-07

Under section 32(2) prior to 1 April 2002, unabsorbed depreciation allowance shall be carried forward to the following assessment years not being more than eight assessment years immediately succeeding the assessment year for which the said allowance was first computed and be set off against business income.

In the case of **Tamil Nadu State Transport Corporation (Madurai) Ltd.** unabsorbed depreciation of ₹ 123.0 crore up to assessment year 1998-99 was quantified and allowed to be set off even though it was more than eight years old. This resulted in potential short levy of tax of ₹ 41.4 crore. The Department accepted the observation and took remedial

action under section 154 of the Act.

²⁹ Returns received by the IT Department are initially processed under section 143(1) towards making prima facie adjustments to the income. Thereafter in selected cases, detailed examination is undertaken through scrutiny assessment.

B. Charge: CIT LTU Chennai Tamil Nadu, AY: 2002-03

Under section 143 (3), the Assessing Officer, while completing the assessment after scrutiny, shall make a correct assessment of the total income of the assessee including the set-off of brought forward losses of earlier years and determine the correct amount of tax payable by the assessee.

In the case of **United India Insurance Company Ltd.** the total income of ₹ 132,5 crore was determined after setting off of unabsorbed loss of ₹ 34,4 crore relating to

assessment year 2001-02. The loss of ₹ 34,4 crore for assessment year 2001-02 was converted into positive income on revision. Thus there was no loss to be set off. The mistake resulted in short computation of business income by ₹ 34,4 crore involving short levy of tax of ₹ 20,4 crore. The Department accepted the observation and took remedial action under section 154 of the Act.

2.4.6 The Ministry accepted 39 observations with tax effect of ₹ 831,0 crore and remedial action had been initiated by the Department. Details are at *Appendix-13*. Two cases are illustrated below:

A. Charge: CIT Trichy, Tamil Nadu, AY 2007-08

Section 36(1)(vii)(a) provides for a deduction not exceeding ten per cent of the aggregate average advances made by the rural branches of a scheduled bank.

Thiruchirapalli District Central Co-operative Bank Ltd. had claimed and was allowed deduction of ₹ 36,6 crore by aggregating 10 *per cent* of the loans and advances pertaining to rural branches and 5 *per cent* of the profits. As the assessee had no rural branches, it was eligible for deduction of 7,5 *per cent* of the income only. The mistake resulted in

underassessment of income of ₹ 17,9 crore and excess carry forward of loss of ₹ 15,7 crore involving positive tax effect of ₹ 5,5 crore and potential tax effect of ₹ 4,8 crore. The Department accepted the observation and initiated remedial action by setting aside the assessment under section 263 of the Act.

B. Charge: CIT Mumbai-X, Maharashtra, AY 2006-07

As per Section 36(l)(vii) read with section 36(2)(v), where any bad debt relates to advances made by an assessee to which clause (viia) of subsection (1) of section 36 applies, no deduction shall be allowed unless the assessee has debited the amount of such debt or part thereof in that previous year to the provision for bad and doubtful debts account made under that clause. In other words, deduction for bad debts can be allowed in the computation only when there is no balance available in the provisions for bad and doubtful debt account created as per the provisions of Section 36(l)(viia).

Bank of Maharashtra claimed and was allowed write off of bad debt of ₹ 42.2 crore in violation of the proviso to section 36(1)(vii) as the bad debt of ₹ 155.1 crore written off by the assessee during the relevant previous year was less than the opening provision of ₹ 233.5 crore for bad and doubtful debts. The Department accepted the observation and initiated remedial action under section 263 of the Act.

2.4.7 RESPONSE: AUDIT REPORT

The Audit Report once presented in the Parliament, stands referred to the Public Accounts Committee. The Ministry intimates to us the status of these cases, through Action Taken Notes (ATN). Replies on 437 cases, representing 5 *per cent* of the cases included, were yet to be received as of December 2011. In addition, 201 cases with tax effect of ₹ 1272.9 crore, included in the Audit Reports during 1999-2006 on which no replies were received/no remedial action was taken, would have become time barred by now. Two cases are given below:

A. Charge: CIT Delhi-V, Delhi, AY. 2003-04

Provision made in the accounts for an accrued or known liability is an admissible deduction, while other provisions do not qualify for deduction.

PNB Guilts Ltd. had reduced ₹ 36.9 crore as provision for diminution in market value of stock from closing stock in trading income. As the loss was notional and had not actually arisen, it could not be claimed as deduction and should have been added back to the taxable income of the assessee. The omission resulted in under assessment of income by ₹ 36.9 crore involving short levy of tax of ₹ 13.5 crore.

B. Charge: CIT Chennai-I, Tamil Nadu, AY. 2001-02 & 2002-03

Provision made in the accounts for an accrued or known liability is an admissible deduction, while other provisions do not qualify for deduction.

HTL Ltd. had provided an estimated amount of ₹ 1.4 crore for assessment year 2001-02 and ₹ 3.5 crore for assessment year 2002-03 towards non moving inventories. As this amount was only a provision towards a future contingent liability, the same was required to be disallowed. Omission to do so resulted in

short computation of income by ₹ 1.4 crore involving short levy of tax of ₹ 64.9 lakh for assessment year 2001-02 and excess determination of loss of ₹ 3.5 crore with potential tax effect of ₹ 1.3 crore for assessment year 2002-03,

2.5 NON-PRODUCTION OF RECORDS

Under section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act 1971, assessment records are scrutinized in revenue audit with a view to securing an effective check on the assessment, collection and proper allocation of taxes and examining that regulations and procedures are being observed. As per section 18 of the same Act, it is incumbent on the Department to expeditiously produce records and furnish relevant information to audit,

2.5.1 Out of 6,35,862 records requisitioned during 2010-11, 73,412 cases (11.5 *per cent*) were not produced to audit. The Table 2.4 below contains State-wise details where records were not produced to audit in three or more consecutive audit cycles,

Table :2.4 Records not produced to audit in three or more audit cycles		
Sl. No.	State	No. of records not produced
1	Andhra Pradesh	197
2	Jharkhand	4
3	Karnataka	60
4	Madhya Pradesh	47
5	Odisha	159
6	Tamil Nadu	15
7	Maharashtra	6
	Total	488

CHAPTER III

CORPORATION TAX

Chapter Summary

This Report includes 302 high value cases with tax effect of ₹ 3,548.4 crore issued to the Ministry between June and October 2011 eliciting their comments. The Ministry/Department has accepted observations in 148 cases involving revenue impact of ₹ 2,083.3 crore as of 15 December 2011.

(Paragraphs 3.1 and 3.1.2)

These cases of incorrect assessment point towards weaknesses in the internal controls on the assessment process being exercised by the Income Tax Department. The major mistakes in assessments were on account of:

- ◆ Arithmetical errors in computation of income and tax in 39 cases involving tax effect of ₹ 1,395.8 crore,

(Paragraph 3.2.1)

- ◆ Mistakes in levy of interest and application of incorrect rates of tax and surcharge in 11 cases involving tax effect of ₹ 12.4 crore,

(Paragraphs 3.2.2 & 3.2.3)

- Mistakes in allowance, carry forward and set-off of depreciation and business loss/capital loss in 39 cases involving tax effect of ₹ 352.8 crore,

(Paragraph 3.3.1)

- ◆ Incorrect allowance of business expenditure in 34 cases involving tax effect of ₹ 213.1 crore,

(Paragraph 3.3.2)

- ◆ Irregular exemptions/deductions in nine cases involving tax effect of ₹ 12.9 crore,

(Paragraph 3.3.3)

- ◆ Income was not assessed/under assessed under normal provisions in eight cases involving tax effect of ₹ 93.2 crore,

(Paragraph 3.4.1)

- ◆ Income was not assessed/under assessed under special provisions in 18 cases involving tax effect of ₹ 98,8 crore,

(Paragraph 3.4.2)

- ◆ Excess tax was levied in four cases involving tax effect of ₹ 12,7 crore,

(Paragraph 3.5.5)

CHAPTER III

CORPORATION TAX

3.1 RESULTS OF AUDIT

This Report includes 302 high value cases pertaining to corporation tax with tax effect of ₹ 3548.4 crore issued to the Ministry³⁰ between June and October 2011 to elicit their comments.

3.1.2 The Ministry / Department has replied in 154 cases³¹ accepting our observations in 148 cases involving aggregate revenue impact of ₹ 2,083.3 crore as of 15 December 2011. Out of these cases, the Department effected recovery of ₹ 2.1 crore in four cases, completed remedial action³² in 91 cases involving tax effect of ₹ 419 crore and initiated remedial action in 30 other cases involving tax effect of ₹ 817.5 crore. These cases have been featured in paragraphs 2.4.4, 2.4.5 and 2.4.6 of Chapter II of this Report. Replies of the Ministry, wherever received, have been examined and suitably incorporated in the report.

3.1.3 This Chapter discusses 177 cases of which 173 cases involve undercharge of ₹ 2,297.1 crore and four cases involve overcharge³³ of ₹ 12.7 crore. The errors in most of the assessments were committed despite clear provisions in the Act. These cases of incorrect assessment point towards weaknesses in the internal controls on the assessment process being exercised by the Income Tax Department.

3.1.4 The categories of mistakes have been broadly classified as follows:

Chart 3.1: Categories of mistakes

- Errors and omissions in computation
- Ineligible concessions given to assesses
- Income not/under assessed
- Others



³⁰ Ministry of Finance, Central Board of Direct Taxes

³¹ The department has not accepted the audit observations in six cases on different grounds which have been appropriately rebutted.

³² The Assessing Officer (AO) initiates remedial action by issuing a notice to the assessee, who is then given an opportunity to present his case. After considering all the facts, the AO issues a rectificatory order raising the rectified demand for tax/refund, as the case may be. At this stage, remedial action is said to have been taken.

³³ Overcharge is on account of arithmetical errors in computation of income, incorrect application of rates and excess levy of interest.

The category wise details (based on tax effect) are depicted in Chart 3.1. In the subsequent paragraphs of this chapter, the first paragraph in respect of each category indicates the nature of mistakes made by the assessing officer (AO). It starts with a preamble followed by the combined revenue impact of all observations of similar nature. The four categories are further sub-divided and the sub-category wise description is also given. Interesting cases are illustrated in the subsequent paragraphs of this Chapter.

3.2 ERRORS/OMISSIONS IN COMPUTATION

The AOs are required to make correct assessment of the total income of the assessee and determine the correct amount of tax payable by assessee.

We found that there were 51 cases in Delhi, Goa, Gujarat, Haryana, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu and West Bengal where the AOs committed arithmetical errors in computation of income and tax, levy of interest, applied incorrect rates and allowed excess or irregular refunds resulting in a tax effect of ₹ 1,408.7 crore as shown in the Table 3.1 below,

Table 3.1: ERRORS/OMISSIONS IN COMPUTATION

Sl. No.	Sub Category	No. of cases	Tax Effect (₹ in crore)
1.	Arithmetical errors in computation of income and tax	39	1395.8
2.	Mistakes in levy of interest	8	9.9
3.	Application of incorrect rate of tax and surcharge	3	2.5
4.	Excess or irregular refunds/Interest on refunds	1	0.5
Total		51	1,408.7

Four sub-categories are discussed below:

3.2.1 ARITHMETICAL ERRORS IN COMPUTATION OF INCOME AND TAX

As per section 143(3) of the Act, AOs are required to make correct assessment of the total income of the assessee and determine the correct amount of tax payable by the assessee.

The AOs committed arithmetical errors in computation of income and tax in 39 cases with tax effect of ₹ 1395.8 crore in Delhi, Haryana, Goa, Gujarat, Jharkhand, Kerala, Maharashtra, Punjab, Tamil Nadu and West Bengal. Five cases are illustrated below:

A. CHARGE: CIT X, MUMBAI, MAHARASHTRA; AY: 2007-08

In the case of **Maharashtra State Electricity Distribution Company³⁴**, while computing the revised income in March 2010, the AO erroneously started computation 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).*

B. CHARGE: CIT PATIALA, PUNJAB; AY: 2007-08

The Board has issued instructions to the assessing officers to ensure correct assessment of the total income or loss of the assessee in a scrutiny assessment.

Punjab State Electricity Board³⁵ was allowed carry forward of brought forward losses of ₹ 6206.4 crore besides current years loss of ₹ 1049.2 crore. The brought

forward losses of ₹ 6206.4 crore were inclusive of returned loss of ₹ 2161.9 crore for the AY 2005-06 as against assessed loss of ₹ 666.6 crore. The mistake resulted in excess carry forward of loss of ₹ 1495.3 crore involving potential tax effect of ₹ 503.3 crore. *The Department rectified the mistake (January 2011).*

C. CHARGE: CIT IV, MUMBAI, MAHARASHTRA; AY: 2007-08

While determining total income of **Hindustan Organic Chemicals Ltd³⁶**, the Department considered returned income at (-) ₹ 38.7 crore as a starting point instead of correct figure of 'Nil' income after setting off brought forward loss of ₹ 38.7 crore. The mistake resulted in excess carry forward of losses of ₹ 77.4 crore involving potential tax effect of ₹ 26.1 crore. *The Department rectified the mistake under section 154 of the Income Tax Act (August 2010).*

D. CHARGE: CIT II, MUMBAI, MAHARASHTRA; AY: 2007-08

Tata Sons Ltd³⁷, had received ₹ 110.6 crore on account of interest on refunds against which it offered the net amount of ₹ 53.4 crore for taxation after reducing the amount of ₹ 57.2 crore being interest charged by the Department. The AO did not accept assessee's claim and decided to add back ₹ 57.2 crore to the income. However, while computing taxable income, the AO omitted to add back the same. Omission resulted in short levy of tax of ₹ 25.6 crore including interest.

³⁴ Assessed at income of ₹ 495.11 crore in December 2009, Revision under section 154 in March 2010 at income of ₹ 30.42 crore allowing set off of unabsorbed depreciation of ₹ 459.90 crore

³⁵ Assessed at 'Nil' income in December 2009,

³⁶ Assessed at a loss of ₹ 34.88 crore in November 2009,

³⁷ Assessed at an income of ₹ 2640.32 crore in December 2009.

E. CHARGE: CIT I, CHENNAI, TAMIL NADU; AY: 2007-08

In the scrutiny assessment of **India Cements Ltd³⁸**, a demand of ₹ 20.2 crore was raised after adjusting ₹ 56.4 lakh and ₹ 10 crore towards TDS and Advance Tax respectively. However, refund of ₹ 12.2 crore made as per the summary assessment in July 2008 was not added back to the demand. Omission resulted in short levy of tax demand of ₹ 13.4 crore including interest.

3.2.2 MISTAKES IN LEVY OF INTEREST

Section 234B provides for levy of interest for default in payment of advance tax at the rates prescribed by the Government from time to time.

We noticed short levy of interest for delays in filing return of income and payment of advance tax in eight cases aggregating tax effect of ₹ 9.9 crore in Delhi and Maharashtra. One case is illustrated below:

CHARGE: CIT V, PUNE; MAHARASHTRA, AY: 2006-07

Thermax Ltd³⁹ was charged the interest under section 234B for 33 months as against 45 months for the period from April 2006 to December 2009. This resulted in short levy of interest for 12 months amounting to ₹ 1.6 crore. *The Department rectified the mistake under section 154 of the Income Tax Act (February 2011).*

3.2.3 APPLICATION OF INCORRECT RATE OF TAX AND SURCHARGE

Under section 4 of the Act, Income Tax is chargeable for every assessment year in respect of the total income of the previous year of an assessee according to the rates prescribed in the relevant Finance Act.

We found that the AOs applied incorrect rates of tax and surcharge in three cases with tax effect of ₹ 2.5 crore in Madhya Pradesh and Maharashtra. One case is illustrated below:

CHARGE: CIT-VI, MUMBAI, MAHARASHTRA; AY: 2006-07

The assessing officer levied surcharge on **Netscape Software Pvt Ltd⁴⁰** at the rate of 2.5 per cent instead of actual rate of 10 per cent applicable for assessment year 2006-07. The mistake resulted in short levy of tax of ₹ 1.0 crore including interest.

³⁸ Assessed at an income of ₹ 229.64 crore in December 2009 under MAT provisions.

³⁹ Assessed at income of ₹ 221.46 crore in December 2009.

⁴⁰ Assessed at an income of ₹ 34.04 crore in November 2008.

3.2.4 EXCESS OR IRREGULAR REFUNDS/INTEREST ON REFUNDS

Section 244A(1) of the Act provides for interest on refund if the refund amount is not less than ten percent of tax determined on regular assessment or in summary manner.

We found that in one case, excess interest of ₹ 53.0 lakh on refund was made in Maharashtra as illustrated below:

CHARGE: CIT I, PUNE, MAHARASHTRA; AY: 2007-08

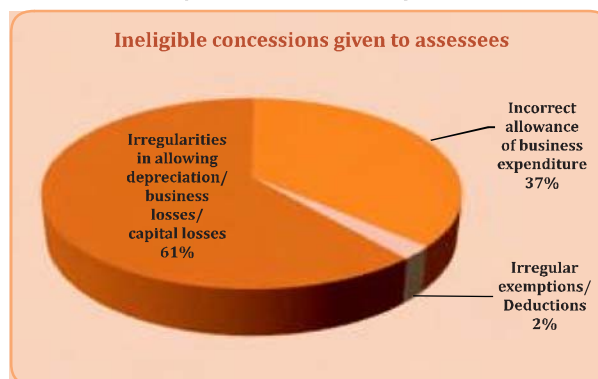
Bharat Forge Ltd.⁴¹ was granted interest of ₹ 53 lakh⁴² on the amount of refund which was less than *per cent* of the tax payable. The interest granted on refund was irregular.

3.3 INELIGIBLE CONCESSIONS GIVEN TO ASSESSEES

Exemptions/deductions are allowed to the assessee in computing the total income under chapter VI A of the Act and for certain categories of expenditure under relevant provisions of the Act.

We noticed that ineligible concessions were given to assessee in 82 cases with tax effect of ₹ 578.8 crore in Andhra Pradesh, Assam, Bihar, Delhi, Gujarat, Goa, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal. The sub-category wise details (based on tax effect) are depicted in Chart 3.2. Sub-categories are discussed below:

Chart 3.2: Ineligible concessions given to assessee



3.3.1 IRREGULARITIES IN ALLOWING DEPRECIATION/BUSINESS LOSSES/CAPITAL LOSSES

The AOs committed mistakes in allowance, carry forward and set off of depreciation and business loss/capital loss. We found 39 such cases having tax effect of ₹ 352.8 crore in Andhra Pradesh, Delhi, Haryana, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. Four cases are illustrated below:

⁴¹ Initially assessed at an income of ₹ 291.04 crore after scrutiny in December was revised in January 2010 to enhance the interest granted under section 234B and 234C, with no change in total income,

⁴² During rectification made in January 2010 due to revision of interest charged under section 234C and 234D

A. CHARGE: CIT X MUMBAI, MAHARASHTRA; AY: 2007-08

Section 74 of the Act provides that where in respect of an AY, the net result of the computation under the head 'Capital gains' is a loss to the assessee, the whole loss shall be carried forward to the following AY for set off against income, if any, under the head 'capital gains' assessable for that AY.

Central Bank of India⁴³, 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).***

B. CHARGE: CIT X MUMBAI, MAHARASHTRA; AY: 2007-08

Section 72 provides for carry forward and set off of net loss of an assessment year against profits and gains of the following eight AYs. As regards carry forward and set off of accumulated loss and unabsorbed depreciation allowance in the case of amalgamation, de-merger, etc provisions of section 72A shall apply where Assessing officer should ensure that claim for set off made by assesses is in accordance with the provisions of law and as per the records of the Department.

Reliance Communications Ltd(RCL)⁴⁴, 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 as per the scheme and arrangement sanctioned by Honourable High Court of Bombay and Ahmedabad. The carried forward losses and unabsorbed

depreciation of RIC from assessment years 2000-01 to 2006-07, 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 revealed that the carried forward loss from RTL to RIC and subsequently from RIC to the assessee required to be reduced by ₹ 233.2 crore. Omission involved potential tax effect of ₹ 78.5 crore. ***The Department rectified the mistake (January 2011).***

⁴³ Assessed at income of ₹ 583.21 crore in December 2008

⁴⁴ Assessed at an 'Nil' income in June 2009.

C. CHARGE: CIT-LTU, BANGALORE, KARNATAKA, AY: 2006-07

Under the Act, an assessing officer is required to determine and assess the income or loss correctly in scrutiny assessments and allow set off and carry forward of losses accordingly.

Canara Bank⁴⁵ claimed and was allowed unabsorbed depreciation/loss of ₹ 126.3 crore relating to AY 2005-06 against positive income of ₹ 1158.6 crore. 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).

D. CHARGE: CIT-IV, HYDERABAD, ANDHRA PRADESH, AY: 2005-06

Under the Act, deduction under Chapter VIA shall be allowed from the income arrived at after setting off unabsorbed depreciation.

Lanco Kondapalli Power (P) Limited⁴⁶ was allowed 100 per cent deduction of ₹ 108.4 crore under section 80IA and thereafter brought forward unabsorbed depreciation was set off against income of ₹ 7.4 crore

from short term capital gains and other sources allowing carry forward of balance unabsorbed depreciation of ₹ 47.7 crore to subsequent AYs. This resulted in excess allowance of deduction of ₹ 55.1 crore under section 80IA 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).*

3.3.2 INCORRECT ALLOWANCE OF BUSINESS EXPENDITURE

We found 34 cases of irregular allowance of expenditure having tax effect of ₹ 213.1 crore in Andhra Pradesh, Delhi, Gujarat, Haryana, Karnataka, Kerala, Maharashtra, Tamil Nadu and West Bengal. Five cases are illustrated below:

A. CHARGE: CIT-VII MUMBAI, MAHARASHTRA; AY: 2006-07

Section 37(1) of the Act stipulates that any expenditure incurred wholly and exclusively for the purpose of business or profession is allowed in computing the business income of the assessee. However, provision for expenses is not allowable.

National Textile Corporation (South Maharashtra) Ltd⁴⁷ being a BIFR case was allowed a provision of ₹ 142.6 crore towards

⁴⁵ Assessed at income of ₹ 1328.84 crore in February 2008.

⁴⁶ Assessed at 'Nil' income in December 2007.

⁴⁷ Assessed at a loss of ₹ 242.24 crore in December 2008.

interest on loans taken from holding company NTC (HC) Ltd. The mistake resulted in potential tax effect of ₹ 48 crore,

B. CHARGE: CIT-IV, AHMEDABAD, GUJARAT, AY: 2003-04 & 2005-06

Under Section 35ABB of the Act, any expenditure of a capital nature for acquiring license/right to operate telecommunication services incurred and paid in any previous year either before the commencement of business or thereafter, shall be allowed a deduction equal to the appropriate fraction of such expenditure paid in each of the relevant previous years.

Facel Limited, [now known as Vodafone Essar (Gujarat) Limited]⁴⁸ was allowed expenditure aggregating ₹ 131.1 crore incurred under the New Telecom Policy 1999 (NTP). This expenditure on license fee was capital in nature and treated as such till

1999. Subsequently, it was incorrectly allowed as revenue expenditure owing to the NTP stipulating the expenditure to be made on revenue sharing basis. Omission resulted in short levy of tax of ₹ 36.9 crore. **The Department took remedial action under section 143(3) read with section 147 of the Income Tax Act for the AY 2005-06.**

C. CHARGE: CIT-LTU, CHENNAI, TAMIL NADU, AY: 2007-08

Section 36(1)(viiia) provides for deduction towards provision for bad and doubtful debts to a scheduled bank of an amount not exceeding seven and one half percent of the total income or of an amount not exceeding ten percent of the aggregate of the advances made by its rural branches computed in the prescribed manner.

Indian Overseas Bank⁴⁹ was allowed deduction of ₹ 211.7 crore towards provisions for bad and doubtful debts which included provisions of ₹ 139.7 crore for bad and doubtful debts, ₹ 79.5 crore for standard assets and ₹ 0.9 crore for

country wise risk and written back amount of ₹ 8.4 crore towards excess provision for restructured accounts. Since provision for bad and doubtful debts only was admissible, other provision should have been disallowed. Omission to do so resulted in short levy of tax of ₹ 24.2 crore,

⁴⁸ Assessed at income of ₹ 73.29 crore in November 2007 for AY 2003-04 under special provisions and at income of ₹ 191.71 crore in December 2007 for AY 2005-06 under normal provisions,

⁴⁹ Assessed at loss of ₹ 1635.59 crore in December 2009 followed by revision in June 2010.

D. CHARGE: CIT-III, MUMBAI, MAHARASHTRA, AY: 2007-08

Section 36(1)(viii) of the Act provides for deduction in respect of a special reserve created and maintained of an amount not exceeding 40 per cent of the profits of an assessee being a financial corporation from the business of long term finance for industrial or agricultural development of infrastructure facility in India.

National Bank for Agriculture and Rural Development (NABARD)⁵⁰ was allowed deduction of ₹ 456.4 crore under section 36(1)(viii) of the Act whereas the amount transferred to the special reserve as per the profit and loss appropriation account was ₹ 410.0 crore

only. Excess allowance of deduction resulted in short levy of tax of ₹ 15.6 crore. **The Department issued notice under section 154 of the Income Tax Act (October 2010).**

3.3.3 IRREGULAR EXEMPTIONS/DEDUCTIONS/REBATE

Chapter VIA and Section 10 of the Act provide for certain deductions/ exemptions in computing total income of an assessee subject to fulfilment of conditions specified therein.

We found that in nine cases, corporate assesseees were given irregular exemptions/ deductions having tax effect of ₹ 12.9 crore in Assam, Gujarat, Haryana, Karnataka, Maharashtra, Odisha, Tamil Nadu and West Bengal. Two

cases are illustrated below:

A. CHARGE: CIT BHUBANESWAR; ODISHA, AY: 2007-08

Section 80G of the Act provides that deduction shall be allowed in respect of any sums paid by the assessee during the relevant previous year as donations to approved authorities specified in the Act.

Orissa Mining Corporation⁵¹ claimed and was allowed deduction of ₹ 14.4 crore under section 80G. Out of this an amount aggregating ₹ 7.5 crore was paid during the years which were not relevant to AY 2007-08. Besides, depreciation of

₹ 44.3 lakh on plant machinery was irregularly allowed. The mistakes involved short levy of ₹ 3.9 crore. **The Department accepted the observation.**

⁵⁰ Assessed at income of ₹ 976.77 crore in December 2009.

⁵¹ Assessed at an income of ₹ 107.02 crore in December 2009. Revision at income of ₹ 107.02 crore in February 2010.

B. CHARGE: CIT I, AHMEDABAD, GUJARAT, AY: 2007-08

Section 88E of the Act provides for deduction on the income arising from the taxable securities transactions entered into in the course of the business of an assessee of an amount equal to the amount calculated by applying the average rate of income tax.

Amrapali Capital & Finance Services Ltd.⁵²

claimed and was allowed tax rebate of ₹ 1,3 crore under section 88E. Income of ₹ 4,4 crore earned from securities transactions included

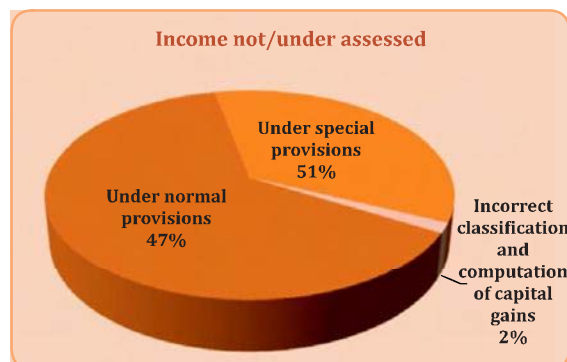
brokerage commission of ₹ 2,7 crore and other income of ₹ 10,7 lakh. The tax rebate allowable with reference to gross income and income from securities transaction worked out to ₹ 46,7 lakh only. The excess allowance of rebate resulted in short levy of tax of ₹ 1,1 crore including interest. *The Department rectified the assessment under section 143(3) r.w.s 147 in May 2010.*

3.4 INCOME NOT/UNDER ASSESSED

The total income of a person for any previous year shall include all incomes from whatever source derived; actually received or accrued or deemed to be received or accrued.

Chart 3,3: Income not/under assessed

Income was not assessed or under assessed in 29 cases with tax effect of ₹ 197 crore in Delhi, Gujarat, Jharkhand, Madhya Pradesh, Maharashtra, Tamil Nadu and West Bengal. The sub-category wise details (based on tax effect) are depicted in Chart 3,3. Sub-categories are discussed below:



3.4.1 INCOME NOT/UNDER ASSESSED UNDER NORMAL PROVISIONS

Section 5 of the Act provides that the total income of a person for any previous year includes all income from whatever source derived which is received or deemed to be received or which accrues or arises during such previous year unless specifically exempted from tax under the provision of the Act.

There was non-compliance with the provisions relating to scope and assessment of income under normal provisions of the Act in eight cases with tax effect of ₹ 93,2 crore in

⁵² Assessed in summary manner in February 2009 at an income of ₹ 4,38 crore including income from house property.

Delhi, Gujarat, Haryana, Jharkhand, Madhya Pradesh, Maharashtra, Tamil Nadu and West Bengal. One case is illustrated below:

CHARGE: CIT LTU, MUMBAI, MAHARASHTRA; AY: 2007-08

Deposit Insurance & Credit Guarantee Corporation⁵³ 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).***

3.4.2 INCOME NOT/UNDER ASSESSED UNDER SPECIAL PROVISIONS

Section 115JB provides for levy of Minimum Alternate Tax (MAT) at prescribed percentage of the book profit if the tax payable on total income under the normal provisions is less than such percentage of the book profit arrived at after certain additions and deletions as prescribed.

There was non-compliance with the provisions relating to assessment of income under special provisions of the Act in 18 cases with tax

effect of ₹ 98.8 crore in Delhi, Gujarat, Haryana, Kerala, Maharashtra, Rajasthan, Tamil Nadu and West Bengal. Three cases are illustrated below:

A. CHARGE: CIT II, MUMBAI, MAHARASHTRA; AY: 2006-07

One of the additions under special provisions is the provision made to the contingent liabilities and the amount or amounts set aside as provision for diminution in the value of any asset, if debited to Profit and Loss Account are to be made with retrospective effect from the date of inception of section 115JB i.e., from 1 April 2001.

Dena Bank⁵⁴ made additions of provisions for depreciation on investment amounting to ₹ 270.6 crore and for amortisation of premium on investment of ₹ 20 crore. Omission to make these additions resulted in short

computation of book profit of ₹ 290.6 crore involving short levy of tax of ₹ 24.5 crore. ***The Department accepted the observation.***

⁵³ Assessed at income of ₹ 3263.70 crore in October 2009

⁵⁴ Assessed at income of ₹ 21.86 crore under normal provisions and at book profit of ₹ 181.24 crore in December 2008.

B. CHARGE: CIT I, DELHI; AY: 2007-08

From 1 April 2007, the book profit shall be increased by the amount of deferred tax and income tax and the provision therefore if debited to the Profit and Loss Account.

The book profit of **Bharat Almunium Company Ltd.**⁵⁵ was reduced by ₹ 109.8 crore and ₹ 3.4 crore on account of 'Deferred Tax' and 'Dividend Distribution Tax' respectively. As these are not allowable

expenses, the mistake resulted in short computation of book profit by ₹ 113.2 crore involving short levy of tax of ₹ 16.9 crore including interest. ***The Department took remedial action under section 154 of the Income Tax Act (October 2010).***

C. CHARGE: CIT II, MUMBAI, MAHARASHTRA; AY: 2007-08

From 1 April, 2006 onwards, sub-section (1A) of section 115JAA of the Act provides that where the tax is paid under sub-section (1) of section 115JB by an assessee, being a company, then credit in respect of tax so paid shall be allowed in accordance with the provisions of section 115JAA.

While revising the assessment of **Tata Sons Ltd.**⁵⁶ in March 2010, the assessee was allowed MAT credit of ₹ 14.4 crore, relevant to AY 2005-06 on the basis of assessee's application. The irregular allowance of MAT credit resulted in short levy of tax of ₹ 14.4 crore.

3.4.3 INCORRECT CLASSIFICATION AND COMPUTATION OF CAPITAL GAINS

We found two cases of incorrect classification and computation of capital gains having tax effect of ₹ 4.3 crore in Maharashtra and Tamil Nadu. One case is illustrated below:

⁵⁵ Assessed at income of ₹ 923.03 crore under special provisions in November 2009.

⁵⁶ Assessed at income of ₹ 2640.32 crore in December 2009, Revision under section 154 at income of ₹ 2640.32 crore in March 2010.

CHARGE: CIT – I MUMBAI, MAHARASHTRA; AY: 2006-07

Section 111A of the Act provides for levy of tax at concessional rate of 10 *per cent* upto assessment year 2008-09 and 15 *per cent* thereafter on short term capital gains arising from sale of equity share in a company or unit of an equity oriented fund through a recognized stock exchange on which securities transaction tax (STT) has been paid. Further, short term capital loss can be carried forward for set off for a period of eight assessment years immediately succeeding the assessment year when the loss was incurred for the first time against income under the head capital gains.

Housing Development Finance Corporation Ltd⁵⁷, set-off short term capital loss (STT paid) of ₹ 12.5 crore from short term capital gain (non-STT paid) of ₹ 14.7 crore instead of setting off the same first from the STT paid short term capital gains and thereafter with the non STT paid capital gains. Omission to do so resulted in short levy of tax of ₹ 2.8 crore. *The*

Department found the observation prima facie acceptable.

3.4.4 UNEXPLAINED INVESTMENT

Under Section 69B of the Act, where an assessee has made investment not fully disclosed in the books of account and the assessee offers no explanation about such investment or the explanation offered by the assessee was not found satisfactory, such amount may be deemed to be the income of the assessee for relevant financial year.

We found one case of unexplained investment having tax effect of ₹ 70.1 lakh in West Bengal as illustrated below:

CHARGE: CIT – CENTRAL II KOLKATA, WEST BENGAL; AY: 2004-05

Higain Consultancy Services (P) Ltd,⁵⁸ as per its books of accounts, had advanced money against purchase of ₹ 151.1 lakh to M/s. Rameswarlal Sajjan Kumar. However, no such reference was found in the books of accounts of the latter. This was required to be considered as income from an undisclosed source and taxed accordingly. *The Department rectified the mistake under section 263 (December 2009).*

⁵⁷ Assessed at income of ₹ 1117.25 crore in December 2008, Assessed income included STCG of ₹ 17.112 crore earned from sale of shares and mutual funds.

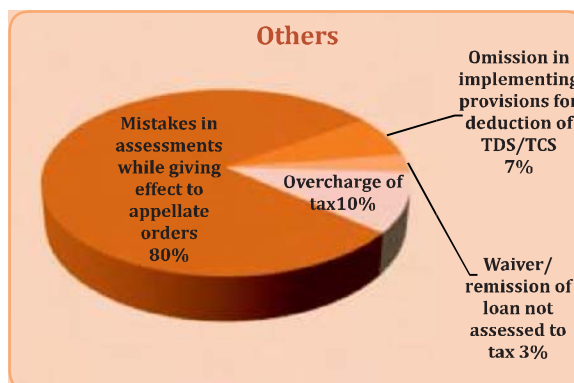
⁵⁸ Assessed at loss of ₹ 12.76 lakh in November 2006, Assessed income included STCG of ₹ 17.112 crore earned from sale of shares and mutual funds.

3.5 OTHERS

The mistakes in assessment while giving effect to the appellate orders, omission in implementing provisions of TDS/TCS and cases relating to remission/waiver of loan/interest on loan not being assessed and overcharge of tax have been discussed in this category.

Chart 3.4: Others

There were 15 other cases with tax effect of ₹125.3 crore (short levy of tax of ₹112.6 crore in 11 cases and excess levy of tax of ₹12.7 crore in 4 cases) in Andhra Pradesh, Delhi, Gujarat, Haryana, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. The sub-category wise details (based on tax effect) are depicted in Chart 3.4. Sub-categories are discussed below:



3.5.1 MISTAKES IN ASSESSMENT WHILE GIVING EFFECT TO APPELLATE ORDERS

Under Section 254 of the Act, an aggrieved assessee can appeal to the Commissioner of Income Tax (Appeals) against the order of an assessing officer who shall comply with the directions given in the appellate order. Further appeal is also permitted to be made on questions of fact and law to Income Tax Appellate Tribunal. Any mistake committed while giving effect to an appellate order results in under assessment/over assessment of income.

We found that in five cases with a tax effect of ₹99.4 crore the appellate orders were not correctly implemented in Delhi, Gujarat, Maharashtra, Rajasthan and Tamil Nadu. Two cases are discussed below:

A. CHARGE: CIT-V, DELHI, AY: 2004-05

While giving effect to the appellate order passed in March 2007 in the case of **Power Grid Corporation of India Ltd.**⁵⁹ under section 250, loss under normal provisions was computed at ₹858.3 crore instead of the correct amount of ₹1002.1 crore⁶⁰. This mistake resulted in underassessment of loss by ₹143.8 crore involving potential tax effect

⁵⁹ Assessed at loss of ₹930.22 crore in November 2006.

⁶⁰ The assessed loss of ₹930,21,57,144 was to be increased by ₹719,00,000 which is the amount of relief allowed by the CIT(A), instead, it was decreased.

of ₹ 51,6 crore. ***The Department rectified the mistake under section 154 of the Income Tax Act (December 2010).***

B. CHARGE: CIT-I, JODHPUR, RAJASTHAN; AYs: 2002-03 & 2003-04

Jodhpur Vidyut Vitran Nigam Ltd.⁶¹ 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.

3.5.2 OMISSION IN IMPLEMENTING PROVISIONS FOR DEDUCTION OF TDS/TCS

Under the provisions of the Act, any person responsible for making payment to other persons shall deduct/collect tax at source while making such payment at the rates prescribed in the Act.

We found that AOs failed to implement provisions for deduction of TDS/TCS in five cases with a tax effect of ₹ 9,2 crore in Gujarat, Haryana, Maharashtra, Uttar Pradesh and Tamil Nadu. One case is discussed below:

CHARGE: CIT-III, MUMBAI, MAHARASHTRA; AY: 2007-08

As per provisions of section 40(a)(ia), deduction of expenditure towards payments where TDS has not been deducted, shall not be allowed.

Tulip Hospitality Services Ltd⁶² claimed and was allowed aggregate deduction of ₹ 17 crore under section 40(a)(ia) including deduction of TDS amounting to ₹ 17,0 crore allowable in

AY 2006-07 and ₹ 5,4 crore on account of interest payment allowable in AY 2008-09. Irregular allowance of deduction in AY 2007-08 involved tax effect of ₹ 5,7 crore. ***The Department rectified the mistake under section 154 of the Income Tax Act (May 2010).***

⁶¹ Assessed at loss of ₹ 85,23 crore and ₹ 78,12 crore respectively in March 2010 after giving effect to appellate order passed in December 2009.

⁶² Assessed at a loss of ₹ 36,23 crore in December 2009

3.5.3 WAIVER/REMISSION OF LOAN NOT ASSESSED TO TAX

The waiver/remission of loan/interest on loan is to be taxed in terms of provisions of section 41(1) of the Act. The cessation of a liability is deemed income as per decisions in T.V. Sundaram Iyenger & Sons Limited vs CIT [222 ITR 344] (SC) and Solid Containers Ltd. vs DCIT [308 ITR 417(Bom)(2009).

The income from waiver/remission of loan was not assessed to tax and the interest was not correctly levied in one case in Maharashtra as discussed below:

CHARGE: CIT-I MUMBAI, MAHARASHTRA; AY: 2007-08

Ashok Alcochem Ltd⁶³ had outstanding working capital loan of ₹ 12,3 crore as on 31 March 2006. During the relevant previous year, Dena Bank waived ₹ 6,6 crore towards principal loan liability and ₹ 8,5 crore towards interest liability under one time settlement scheme (OTS) which should have been treated as income. Instead the assessee credited waiver of principal loan of ₹ 6,6 crore towards capital reserves directly to the balance sheet without bringing the same to profit and loss account and claimed deduction of ₹ 5,3 crore towards interest liability which was already waived by the Bank. The mistakes resulted in underassessment of income of ₹ 11,9 crore involving potential tax effect of ₹ 4 crore.

3.5.4 OVER-CHARGE OF TAX

Cases of over assessment/over charge due to negligence on the part of the assessing officers are being regularly featured in the reports of the Comptroller and Auditor General of India.

We noticed over assessment of income in four cases involving overcharge of tax aggregating ₹ 12,7 crore. One case is discussed below:

CIT II, JABALPUR, MADHYA PRADESH; AY: 2006-07

Northern Coal Fields Limited⁶⁴ was levied interest of ₹ 8,6 crore under section 234C for default in payment of advance tax although the assessee company had already paid the required advance tax in time. The mistake resulted in overcharge of interest of ₹ 8,6 crore. *The Department rectified the mistake under section 143(3)/263 of the Income Tax Act (November 2010).*

⁶³ Assessed at a loss of ₹ 27,17 lakh in December 2009

⁶⁴ Assessed at income of ₹ 2687,25 crore in April 2008

CHAPTER IV

PART A – INCOME TAX

PART B – FRINGE BENEFIT TAX

PART C – WEALTH TAX

Chapter Summary

This Report includes 162 cases pertaining to Income Tax, Fringe Benefit Tax and Wealth Tax with tax effect of ₹ 93.3 crore issued to the Ministry of Finance during August and October 2011 eliciting their comments. The Ministry has accepted 67 observations involving revenue impact of ₹ 49.1 crore.

(Paragraphs 4.1, 4.6 and 4.8)

These cases of incorrect assessment point towards weaknesses in the internal controls on the assessment process being exercised by the Income Tax Department. The major mistakes in assessments were on account of:

- Errors and omissions in computation of income and tax, application of incorrect rates of tax and surcharge and levy of interest in 18 cases involving tax effect of ₹ 7.8 crore.

(Paragraphs 4.2.1, 4.2.2 and 4.2.3)

- Incorrect allowance of business expenditure in 16 cases involving short levy of tax of ₹ 5.8 crore.

(Paragraph 4.3.1)

- Irregular allowance of exemptions and deductions to trusts/firms and societies in 15 cases involving short levy of tax of ₹ 14.5 crore.

(Paragraph 4.3.2)

- Irregular allowance of depreciation and business/capital losses in 10 cases involving short levy of tax of ₹ 2.3 crore.

(Paragraph 4.3.3)

- Income not assessed in 12 cases involving short levy of tax of ₹ 3.2 crore.

(Paragraph 4.4)

- Mistake in computation of fringe benefit in 12 cases involving short levy of Fringe Benefit Tax of ₹ 9 crore.

(Paragraph 4.7)

CHAPTER IV

A – INCOME TAX

4.1 RESULTS OF AUDIT

4.1.1 This report includes 122 cases involving tax effect of ₹ 82.9 crore issued to the Ministry of Finance during August 2011 to October 2011 to elicit their comments.

4.1.2 The Ministry/Department has replied in respect of 46 cases (37.7 *per cent*) accepting our observations involving aggregate revenue impact of ₹ 48 crore as of 15 December 2011. Out of these, the Department effected recovery of ₹ 83.6 lakh in three cases, completed remedial action in 35 cases involving tax effect of ₹ 33.6 crore and initiated remedial action in eight other cases involving tax effect of ₹ 13.6 crore. These 46 cases have been featured in paragraphs 2.4.4, 2.4.5 and 2.4.6 of Chapter II of this Report. Replies of the Ministry wherever received, have been examined and suitably incorporated in the report.

4.1.3 This chapter discusses 76 cases, of which 73 cases involve undercharge of ₹ 31.9 crore and three cases involve overcharge of ₹ 3 crore. The errors in most of the assessments were committed despite clear provisions in the Act. These cases of incorrect assessment point towards weaknesses in the internal controls on the assessment process being exercised by the Income Tax Department.

4.1.4 The categories of mistakes have been broadly classified as follows:

- Errors and omissions in computation
- Ineligible concessions given to assesseees
- Income not assessed/under assessed
- Others

Chart 4.1 : Categories of mistakes



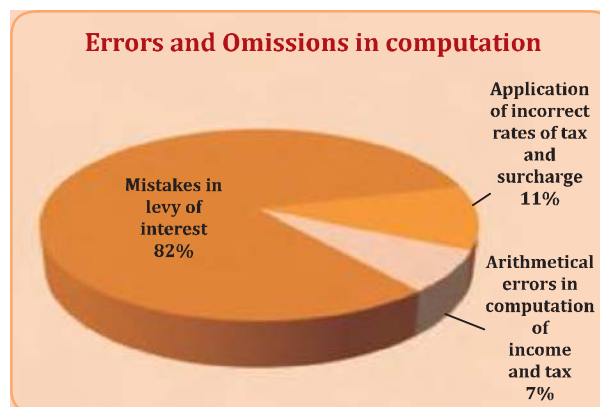
The category wise details (based on tax effect) are depicted in Chart 4.1. In terms of tax effect 65 *per cent* of the mistakes pertained to 'Ineligible concessions given to assesseees'. In the subsequent sections of this chapter, the first paragraph in each category indicates the nature of mistakes made by the Assessing Officer (AO). The four categories are further sub-divided and the sub-category wise description is also given. Interesting cases are illustrated in the subsequent paragraphs of this Chapter.

4.2 ERRORS/OMISSIONS IN COMPUTATION

The AO is required to make a correct assessment of the total income or loss of the assessee and determine correct amount of tax or refunds, as the case may be.

Chart 4.2: Errors and Omissions in computation

We found that there were cases where the AOs adopted incorrect figures, committed arithmetical errors, applied incorrect rates of tax and surcharge and levy of interest in 18 cases involving tax effect of ₹ 7.8 crore in Delhi, Gujarat, Himachal Pradesh, Jharkhand, Maharashtra,



Odisha, Punjab, Uttar Pradesh and West Bengal. Out of these 18 cases, there was short levy of tax of ₹ 4.8 crore in 16 cases and overcharge of tax of ₹ 3.0 crore in two cases. The sub-category wise details (based on tax effect) are depicted in Chart 4.2. Three sub-categories are discussed below:

4.2.1 ARITHMETICAL ERRORS IN COMPUTATION OF INCOME AND TAX

We found arithmetical errors in computation of income and tax in five cases involving tax effect of ₹ 55.3 lakh in Delhi, Gujarat and Jharkhand. Details of these cases have been sent to the Ministry.

4.2.2 APPLICATION OF INCORRECT RATE OF TAX AND SURCHARGE

We found mistakes relating to incorrect application of rates of tax and surcharge in four cases involving tax effect of ₹ 84.3 lakh in Gujarat, Maharashtra and Punjab. There were three cases of short levy of tax of ₹ 58.2 lakh and one case of overcharge of tax of ₹ 26.1 lakh. One case is illustrated below:

CHARGE: CIT- IV, AHMEDABAD, GUJARAT; AY 2007-08

Income tax including surcharge shall be charged at the rates prescribed in the relevant Finance Act.

In case of **Ashish Navnitlal**⁶⁵, an Individual, the assessing officer treated the short term capital gain as business income but charged tax

⁶⁵ Assessment was completed under section 143(3) r.w.s. 147 in December 2009 at income ₹ 197.83 lakh & ₹ 275.55 lakh respectively.

@ 10 per cent on ₹ 81.8 lakh instead of 30 per cent applicable to business income. The mistake resulted in short levy of tax of ₹ 24.4 lakh including interest. ***The Department rectified the mistake under section 154 of the Act in October 2010.***

4.2.3 MISTAKES IN LEVY OF INTEREST

We found eight cases involving short levy of tax of ₹ 3.7 crore and one case involving overcharge of tax of ₹ 2.7 crore relating to mistakes in levy of interest for delay in submission of return, delay in payment of tax etc. in Gujarat, Himachal Pradesh, Maharashtra, Odisha, Punjab, Uttar Pradesh and West Bengal. Two cases are illustrated below:

A. CHARGE: CIT-II, SURAT, GUJARAT; BLOCK PERIOD 1.4.1992 to 17.4.2001

As per explanation 3 below section 234A(1), where the return of income is not furnished and the assessment is made for the first time under section 147 or section 153A, the assessment so made shall be regarded as regular assessment, the assessee is liable to pay interest at the specified rate for every month or part of a month comprised in the period commencing on the date immediately following the due date for filing the return and ending on the date of completion of assessment under section 144.

Jitendra H Modi⁶⁶, an Individual, did not file the original return of income under section 139(1) even after issue of notices under various sections and final show cause notice issued in December 2008. However, interest of ₹ 65.5 lakh leviable

for the period November 1992 to December 2008 was not levied. ***The Department rectified the mistake under section 154 of the Act in May 2010.***

B. CHARGE: CIT-CUTTACK, ODISHA; AY 2005-06

Section 234B(3) provides that where, as a result of an order of re-assessment under section 147, the amount on which interest is payable is increased, the assessee shall be liable to pay simple interest at the rate of one percent for every month or part thereof commencing on the day following the regular assessment till the date of re-assessment on the amount by which tax on the total income determined on the basis of re-assessment exceeds the tax on total income determined in regular assessment.

In case of **Paradeep Port Trust⁶⁷**, tax of ₹ 48 crore levied in the original assessment was raised to ₹ 54.2 crore as a result of re-assessment in December 2009.

⁶⁶ Income of ₹ 36.67 lakh was assessed for block period 1.4.1992 to 17.4.2001 u/s 158BD in December 2008.

⁶⁷ Income of ₹ 1.53 crore assessed in January 2008.

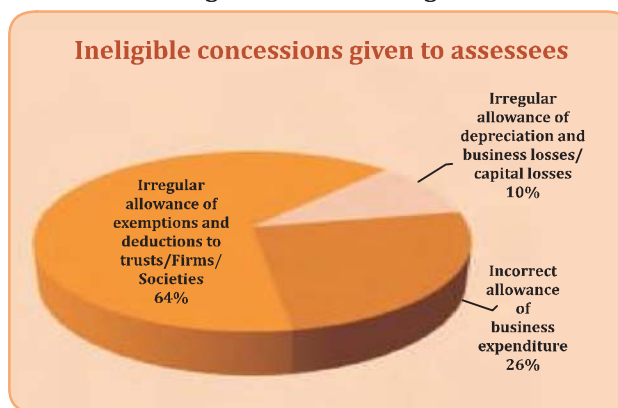
Interest under section 234B on increased tax from the date of original assessment to the date of revised assessment was not levied. Omission resulted in short levy of ₹ 2 crore. **The Department rectified the mistake under section 143(3)/147 of the Act in December 2009.**

4.3 INELIGIBLE CONCESSIONS GIVEN TO ASSESSEES

An assessee can claim deductions under Chapter VIA of the Act and for certain categories of expenditure under relevant provisions of the Act.

Ineligible concessions and deductions were given to assesseees in 41 cases with a tax effect of ₹ 22.6 crore in Andhra Pradesh, Delhi, Gujarat, Haryana, Himachal Pradesh, Karnataka, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. The sub-category wise details (based on tax effect) are depicted in Chart 4.3. Three sub-categories are discussed below:

Chart 4.3 : Ineligible concessions given to assesseees



4.3.1 INCORRECT ALLOWANCE OF BUSINESS EXPENDITURE

We noticed mistakes in allowance of business expenditure in 16 cases resulting in short levy of tax of ₹ 5.8 crore in Andhra Pradesh, Delhi, Gujarat, Himachal Pradesh, Maharashtra, Punjab, Uttar Pradesh and West Bengal. Two such cases are illustrated below:

A. CHARGE: CIT-XIII, DELHI; AY 2005-06 & 2006-07

Section 40A(2) provides for disallowance of so much of the expenditure in the form of payment to any person as defined in clause (b) thereof which in the opinion of the assessing officer is excessive or unreasonable having regard to the fair market value of goods, services for facilities for which payment is made.

Remfry & Sagar⁶⁸, a firm, made payments of ₹ 1.7 crore and ₹ 1.5 crore to IPSS (India) Pvt. Ltd. for secretarial, accounting and other support services besides payment for furnished accommodation. As per the partnership deed, IPSS (India) Pvt. Ltd. was required to provide the

⁶⁸ Income of ₹ 47.9 lakh assessed in January 2007.

furnished accommodation at no cost. Therefore, expenditure in this regard was required to be added back. Omission to do so resulted in underassessment of income involving short levy of tax of ₹ 1.5 crore. ***The Department has taken remedial action under section 147/148 of the Act in December 2010.***

B CHARGE: CIT-SHIMLA, HIMACHAL PRADESH; AY 2005-06

Section 40(a)(ia) provides that any amounts payable to a contractor or sub contractor shall not be deducted in computing the income on which tax is deductible at source under chapter XVII-B of the Act and such tax has not been deducted.

Sarabjit Singh⁶⁹, an individual, was allowed expenses of ₹ 1.5 crore on account of freight paid to truck owners on which tax at source was not deducted as required under section 40(a)(ia) of the Act. Consequently the above expenses of ₹ 1.5 crore was not allowable in computing the

income of the assessee. Omission to do so resulted in short levy of tax of ₹ 69.4 lakh. ***The Department rectified the mistake under section 143(3)/263 of the Act in December 2010.***

4.3.2 IRREGULAR ALLOWANCE OF EXEMPTIONS AND DEDUCTIONS TO TRUSTS/FIRMS/SOCIETIES

Irregular allowance of exemptions under sections 10(20), 10(23B) and 11 of the Act and incorrect allowance of deductions under sections 43B, 80IA, 80IB and 80HHC of the Act resulted in short levy of tax of ₹ 14.5 crore in 15 cases in Gujarat, Haryana, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. One such case is illustrated below:

CHARGE: CIT-I, NAGPUR, MAHARASHTRA; AY 2005-06

Section 43B provides that any sum payable by the assessee by way of tax, duty, cess or fee shall be allowed only in computing the income of that previous year in which sum is actually paid by him.

In case of **Nagpur Improvement Trust⁷⁰**, income on account of premium of plots and from sale of shops amounting to ₹ 9.0 crore and ₹ 3.3 crore respectively were treated as capital receipts though the

corresponding expenditure on development works amounting to ₹ 2.5 crore was treated as revenue expenditure. As these incomes

⁶⁹ Assessment was completed in December 2007 under section 144/145(3).

⁷⁰ Best judgment was completed in December 2007 at a income of ₹ 75.46 lakh and rectified in January 2008 at a loss of ₹ 158.57 lakh.

were derived from commercial activity, these should have been treated as revenue receipts. Further, ₹ 1.1 crore on account of property tax against statutory contribution, though unpaid, was allowed in computing taxable income. The omissions resulted in underassessment of income aggregating to ₹ 13.5 crore with consequent short levy of tax of ₹ 5.8 crore. ***The Department rectified the mistake under section 143(3) read with section 263 of the Act in December 2010.***

4.3.3 IRREGULAR ALLOWANCE OF DEPRECIATION AND BUSINESS LOSSES/ CAPITAL LOSSES

Irregular allowance of depreciation and business losses/capital losses in 10 cases resulted in short levy of tax of ₹ 2.3 crore in Gujarat, Rajasthan, Maharashtra, Karnataka and West Bengal. Two cases are illustrated below:

A. CHARGE: CIT-(C) II MUMBAI, MAHARASHTRA; AY 2004-05

Under sections 80 and 139, a person claiming carry forward of loss under the head 'Capital Gains' is required to file return of income within the due date.

Noshir D Talati⁷¹, an individual, was allowed long term capital loss of ₹ 4.4 crore to be carried forward to next year. As the assessee had filed the return in August 2005 i.e. after the extended due date of 31.10.2004 he was not eligible for carry forward of loss. This resulted

in potential tax effect of ₹ 48 lakh. ***The Department rectified the mistake under section 154 of the Act in August 2010.***

B. CHARGE: CIT-I, BARODA, GUJARAT; AY 2007-08

Section 32 provides for depreciation at the rate of 15 percent of written down value on 'vehicle'. However, 'commercial vehicle' is eligible for higher rate of depreciation.

Kalpesh S Patel⁷², an individual, was allowed depreciation of ₹ 1.3 crore on various assets which included depreciation of ₹ 1.1 crore at higher rate

on commercial vehicles. Assessee was eligible for depreciation on vehicle at normal rate as he was in business of civil construction and not running the vehicles on hire. Thus excess allowance of depreciation of ₹ 69.4 lakh resulted in under assessment of income and short levy of tax of ₹ 31.1 lakh. ***The Department rectified the mistake under section 154 of the Act in November 2010.***

⁷¹ Income of ₹ 88.50 lakh assessed in November 2006.

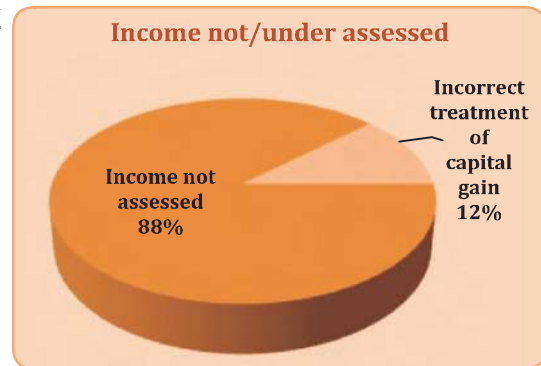
⁷² Income of ₹ 3.10 crore assessed in December 2009.

4.4 INCOME NOT/UNDER ASSESSED

The total income of a person for any previous year shall include all incomes from whatever source derived; actually received or accrued or deemed to be received or accrued.

Income was under assessed in 12 cases involving tax effect of ₹ 3.2 crore in Andhra Pradesh, Bihar, Delhi, Gujarat, Maharashtra, Madhya Pradesh, Punjab, Tamil Nadu and West Bengal. The sub-category wise details (based on tax effect) are depicted in Chart 4.4. One sub-category is discussed below:

Chart 4.4: Income not/under assessed



4.4.1 INCOME NOT ASSESSED

We noticed five cases where income was not assessed resulting in short levy of tax of ₹ 2.1 crore in Delhi, Gujarat, Madhya Pradesh, Punjab and Tamil Nadu. One case is illustrated below:

CHARGE: CIT-IX, DELHI; AY 2006-07

Under section 143(3), the AO is required to make a correct assessment of the total income or loss of the assessee and determine correct amount of tax or refunds, as the case may be.

In case of **Superior Crafts**,⁷³ a firm, the AO, while computing the income, did not consider an addition of ₹ 54.6 lakh made by the assessee in its computation of income. The mistake resulted in overassessment of

loss of ₹ 54.6 lakh involving potential tax effect of ₹ 18.38 lakh.

4.4.2 INCORRECT TREATMENT OF CAPITAL GAIN

The AOs committed mistakes in computation of income in seven cases resulting in short levy of tax of ₹ 1.1 crore in Andhra Pradesh, Bihar, Maharashtra, Tamil Nadu and West Bengal. One case is illustrated below:

⁷³ Assessment was completed after scrutiny determining a loss of ₹ 3.31 crore in June 2008.

CHARGE: CIT II, MUMBAI, MAHARASTHRA; AY 2006-07

Section 48 provides for computation of capital gains by deducting indexed cost of acquisition of the asset and indexed cost of any improvement from the full value of consideration received as a result of transfer of capital asset. However, this benefit is not allowable in case of computation of business income.

In case of **Bharat Khatiwala**⁷⁴, an individual, the AO treated the Long term capital gain on sale of flat as business income. However, indexation benefit on cost of land, cost of improvement and cost

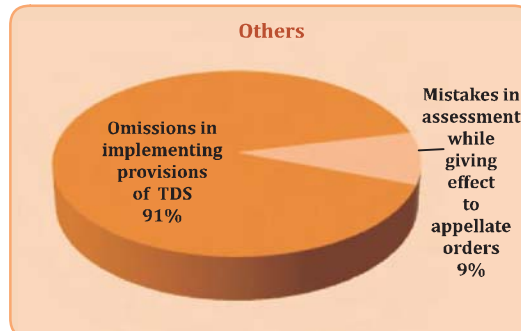
of construction of flat was not withdrawn. Omission resulted in under assessment of income of ₹ 26.3 lakh involving short levy of tax of ₹ 12.2 lakh.

4.5 OTHERS

The issues relating to mistakes in assessments while giving effect to appellate orders and omissions in implementing provisions are discussed in this category.

Other mistakes namely, mistake in assessment while giving effect to the appellate order and mistake in implementation of provisions of tax deduction at source (TDS) resulted in short levy of tax of ₹ 1.3 crore in five cases in Maharashtra, Gujarat, and West Bengal. The sub-category wise details (based on tax effect) are depicted in Chart 4.5. One case is discussed below:

Chart 4.5 : Others



4.5.1 OMISSIONS IN IMPLEMENTING PROVISIONS OF TDS

CHARGE: CIT-X, AHMEDABAD, GUJARAT; AY 2006-07

Section 199 provides that the credit of Tax Deducted at Source (TDS) is to be given in the assessment year in which the income from which the tax deducted at source is assessable.

Jyoti Plastic Industries⁷⁵, a firm, was allowed credit of TDS of ₹ 1.83 lakh for job work. In the profit and loss account, assessee did not offer any income on account of job work. Since the credit of TDS was

⁷⁴ Income of ₹ 157.18 lakh was assessed after scrutiny in December 2008.

⁷⁵ Income of ₹ 13.51 lakh assessed in December 2008.

allowed on the basis of TDS certificate, omission to account for the related income resulted in underassessment of income of ₹ 1.5 crore involving short levy of tax of ₹ 65.9 lakh including interest. ***The Department took remedial action under section 143(3) read with section 147 of the Act in December 2010.***

B – FRINGE BENEFIT TAX

4.6 RESULTS OF AUDIT

4.6.1 We reported 23 cases involving tax effect of ₹ 9.7 crore to the Ministry during August 2011 to October 2011 to elicit their comments.

4.6.2 The Ministry/Department has replied in respect of 11 cases (48 *per cent*) accepting our observations involving aggregate revenue impact of ₹ 68 lakh. The Department effected recovery of ₹ 4 lakh in two cases and completed remedial action in nine cases involving revenue impact of ₹ 64 lakh. These 11 cases have been featured in paragraphs in 2.4.4 and 2.4.5 of Chapter II of this report.

4.6.3 Twelve other cases involving short levy of Fringe Benefit Tax (FBT) of ₹ 9.0 crore have been included in this chapter.

4.7 MISTAKES IN COMPUTATION OF FRINGE BENEFIT

Non-compliance with the provisions related to FBT resulted in fringe benefit escaping assessment and under valuation of Fringe Benefits aggregating ₹ 9.0 crore in 12 cases in Andhra Pradesh, Delhi, Gujarat, Karnataka, Maharashtra, Tamil Nadu and West Bengal. Two cases are illustrated below:

A. CHARGE: CIT -I, TRICHY, TAMIL NADU; AY 2006-07

Under section 115WB(1)(c), fringe benefits, inter alia, include any consideration for employment provided by way of any contribution by the employer to an approved superannuation fund of employees.

The Karur Vysya Bank Ltd⁷⁶ was allowed a deduction of ₹ 9.6 crore towards contribution to approved superannuation fund for employees. However, as per FBT return the assessee had offered only

₹ 1.2 crore towards contribution to pension fund as fringe benefit as against the actual contribution of ₹ 9.6 crore. This resulted in fringe benefit of ₹ 8.4 crore escaping assessment with consequential tax effect of ₹ 2.8 crore.

⁷⁶ Fringe Benefit determined as ₹ 2.87 crore in September 2007 and further revised in August 2008.

B. CHARGE: CIT -III, DELHI; AY 2006-07

Under section 115WB(2)(D) and 115WA(1), fringe benefits shall be deemed to have been provided by the employer to his employees, if the employer has, in the course of his business or profession incurred any expenses on, or made any payment for sales promotion.

Seagram Distilleries Pvt. Ltd.⁷⁷ was allowed deduction of ₹ 19.9 crore under the head 'Advertising, Sales and Rebates'. However, as per FBT return the assessee had offered only

₹ 5.4 crore for FBT as against the total expenditure of ₹ 19.9 crore allowed. This resulted in under assessment of expenditure of ₹ 2.9 crore⁷⁸ for the purpose of FBT involving short levy of tax of ₹ 1.3 crore including interest. ***The Department has taken remedial action under section 154 of the Act in April 2011.***

C – WEALTH TAX

4.8 RESULTS OF AUDIT

4.8.1 We reported 17 cases involving tax effect of ₹ 71.6 lakh to the Ministry during August 2011 to October 2011 to elicit their comments.

4.8.2 The Ministry/Department has replied in respect of 10 cases (59 *per cent*) accepting all these cases involving aggregate revenue impact of ₹ 45.9 lakh. Out of these 10 cases, the Department effected recovery of ₹ 13.2 lakh in four cases and completed remedial action in five cases involving tax effect of ₹ 31.6 lakh. The Department has initiated remedial action in one case involving tax effect of ₹ 1.1 lakh. These 10 cases have been featured in paragraphs 2.4.4, 2.4.5 and 2.4.6 of Chapter II of this report.

4.8.3 Out of 17 cases issued to the Ministry, seven cases involving revenue impact of ₹ 25.7 lakh have been included in this chapter.

4.9 NON-CORRELATION OF ASSESSMENT RECORDS

Non-compliance with the Board's instructions⁷⁹ resulted in non-levy of wealth tax aggregating ₹ 25.7 lakh in seven cases in Delhi, Gujarat, Maharashtra and Tamil Nadu. One case is illustrated below.

⁷⁷ Fringe Benefit determined as ₹ 1.61 crore in December 2009.

⁷⁸ 20 *per cent* of difference (₹ 19.9 crore - ₹ 5.4 crore)

⁷⁹ CBDT's instructions issued to the AOs in November 1973, April 1979 and September 1984.

CHARGE: CIT-III, AHMEDABAD, GUJARAT; AY 2005-06

The Board issued instructions to the AOs to ensure coordination between assessments pertaining to different direct taxes and for simultaneous disposal of wealth tax and income tax assessment cases to prevent tax evasion. The charge of the wealth tax is on the assets net of liabilities.

Rasna Processors Private Ltd.⁸⁰, a company, received rental income of ₹ 2.0 crore during the year on property which attracted the provisions of the wealth tax. However, neither did the assessee file the return of wealth tax nor did the Department initiate

any action to call for the same. The omission resulted in non-levy of wealth tax of ₹ 16.1 lakh including interest. ***The Department has taken remedial action under section 16(5) of the Act in December 2010.***

New Delhi
Dated: 21 March, 2012



(MEENAKSHI GUPTA)
Director General (Direct Taxes)

Countersigned

New Delhi
Dated: 21 March, 2012



(VINOD RAI)

Comptroller and Auditor General of India

⁸⁰ The returned income of ₹ 17.67 lakh was accepted after scrutiny in December 2007.

APPENDICES

Chapter I

Tax Administration

Appendix - 1
(Reference: paragraph 1.1.3)

Details of Tax Administration

1. Collection ⁸¹	2006-07	2007-08	2008-09	2009-10	2010-11 (₹ in crore)
i) Corporation Tax	1,74,935	2,23,941	2,42,304	2,88,162	3,55,267
ii) Income Tax	81,697	1,12,910	1,16,225	1,36,551	1,58,631 ⁸²
iii) Other Taxes	10,784	16,647	14,386	10,451	8,205
iv) Gross Collection	2,67,416	3,53,498	3,72,915	4,35,164	5,22,103
v) Refunds	37,235	41,285	39,097	57,101	75,169
vi) Net Collection	2,30,181	3,12,213	3,33,818	3,78,063	4,46,934
vii) GDP ⁸³	41,45,810	47,13,148	53,21,753	62,31,171	78,75,627
viii) Tax-GDP Ratio	5.6	6.6	6.3	6.1	5.7
ix) Buoyancy ⁸⁴	2.5	2.6	0.5	0.8	0.7
2. Assessee profile ⁸⁵					(No. in lakh)
i) Non-corporate assessees	308.9	331.7	323.2	337.2	332.0
ii) Corporate assessees	4.0	4.9	3.3	3.7	3.8
Total assessees	312.9	336.6	326.5	340.9	335.8
3. Stages of collection					
Pre-assessment collection					(₹ in crore)
i) Tax deducted at source	70,689	1,04,741	1,28,230	1,45,736	1,68,669
ii) Advance tax	1,21,227	1,58,120	1,43,332	1,73,417	2,12,538
iii) Self assessment tax	13,825	21,125	30,779	32,507	36,887
Total	2,05,741	2,83,986	3,02,341	3,51,660	4,18,094
Post-assessment collection					
i) Regular assessment	30,396	25,720	21,337	33,274	51,838
ii) Other receipts	20,495	27,145	34,851	39,779	43,966
Total	50,891	52,865	56,188	73,053	95,804
Pre-assessment collection as % of gross collection (minus other taxes)	80.2	84.3	84.3	82.8	81.4
4. Position of Assessments ⁸⁵					(Number)
i) Scrutiny assessments due for disposal	5,27,005	9,97,813	9,53,767	8,70,620	8,47,196
ii) Scrutiny assessments completed (%)	2,41,983 (45.9)	4,07,239 (40.8)	5,38,505 (56.5)	4,29,585 (49.3)	4,55,212 (53.7)
iii) Summary assessments due for disposal	3,14,45,896	4,09,98,630	4,74,18,334	5,12,97,750	5,22,76,829
iv) Summary assessments completed (%)	2,09,98,629 (66.8)	2,24,89,367 (54.8)	2,30,18,693 (48.5)	2,78,16,036 (54.2)	3,06,36,718 (58.6)
(v) No. of officers deployed for assessment duty ⁸⁵	3,954	3,218	3,106	3,605	3,687
5. Direct refund cases ⁸⁵					(No. in lakh)
i) Claims due for disposal	18.0	27.1	42.2	48.0	59.9
ii) Claims disposed off (%)	13.6 (75.6)	18.8 (69.4)	26.7 (63.3)	28.6 (59.6)	40.4 (67.4)
iii) No. of claims pending	4.4	8.3	15.5	19.4	19.5

⁸¹ Source: Tax collection figures, – Pr. Chief Controller of Accounts, CBDT, New Delhi.⁸² This differs from the figure of ₹ 1,57,692 crore reflected in the Finance Accounts.⁸³ Source: GDP – Central Statistics Office, Press release dated 31 May 2011.⁸⁴ Tax buoyancy is measured by the ratio of percentage change in tax revenues to percentage change in GDP.⁸⁵ Source : Directorate of Income Tax (Legal & Research), Research & Statistics Wing.

6. Interest on refunds⁸⁵	2006-07	2007-08	2008-09	2009-10	2010-11 (₹ in crore)
i) Total Collection in r/o CT and IT	2,56,632	3,36,851	3,58,529	4,24,713	5,13,898
ii) Refunds including interest	37,235	41,285	39,097	57,101	75,169
iii) Interest on refunds	3,693	4,444	5,778	6,876 ⁸⁶	10,499
(iv) Refunds as % of collection at (i)	14.51	12.26	10.90	13.44	14.6
(v) Interest as % of refunds	9.9	10.8	14.8	12.0	13.9
7. Efficiency of collection⁸⁷					(₹ in crore)
i) Demand of earlier year's pending collection	86,203	86,859	93,344	1,81,612	2,02,859
ii) Current year's demand pending collection	31,167	37,415	1,07,932	47,420	88,770
Total demand pending	1,17,370	1,24,274	2,01,276	2,29,032	2,91,629
8. Position of appeals at CIT(A) levels⁸⁵	2006-07	2007-08	2008-09	2009-10	2010-11 (Number)
i) Appeals due for disposal	1,75,201	1,94,003	2,24,382	2,60,700	2,57,656
ii) Appeals disposed off (%)	67,360 (38.5)	63,645 (32.8)	66,351 (29.6)	79,709 (30.6)	70,474 (27.4)
iii) Appeals pending	1,07,841	1,30,358	1,58,031	1,80,991	1,87,182
9. Tax Recovery Officers⁸⁵					(₹ in crore)
i) Total certified demand	35,225.3	36,057.5	31,496.8	98,444.6	1,11,065.4
ii) Certified demand recovered (%)	8,521.4 (24.2)	8,612.6 (23.9)	4,035.8 (12.8)	3,322.3 (3.4)	4,074.6 (3.7)
iii) Certified Demand pending (%)	26,703.9 (75.8)	27,444.9 (76.1)	27,461.0 (87.2)	95,122.4 (96.6)	1,06,990.8 (96.3)
10. Cost of collection⁸¹					(₹ in crore)
i) Net collection	2,30,181	3,12,213	3,33,818	3,78,063	4,46,934
ii) Total cost of collection (%)	1,343 (0.6)	1,713 (0.5)	2,286 (0.7)	2,774 (0.7)	2,698 (0.6)

⁸⁶ The Department initially intimated the figure as ₹ 12,951 crore. Subsequently after the report was placed in the Parliament, the department intimated this figure as ₹ 6,876 crore.

⁸⁷ Source: CAPI Demand & Collection Statement along with Analysis for the month of March 2011.

Appendix – 2
(Reference: paragraph 1.3.1)

States/Union Territories	Break up of Direct Taxes											(₹ in crore)
	Corpn. Tax 0020	Income Tax 0021	HRT 0023	Int. Tax 0024	FBT 0026	Expr. Tax 0028	Estate Duty 0031	Wealth Tax 0032	Gift Tax 0033	STT 0034	BCTT 0036	Total
Andhra Pradesh	15610.74	7459.99	0	0.62	8.55	9.98	0.14	23.88	0.03	0	19.44	23133.37
Arunachal Pradesh	27.30	42.78	0	0	0.03	0	0	0.02	0	0	0	70.13
Assam	1892.09	1043.11	0	0.03	0.40	0.01	0	2.13	0	0	0.02	2937.79
Bihar	1248.01	1331.88	0	0.04	0.20	0.01	0	0.91	0	0	0.04	2581.09
Chhatisgarh	1170.40	710.59	0	0	0.21	0.03	0	1.06	0	0	0	1882.29
Delhi	47676.87	16386.06	0.01	0.27	53.54	3.55	0.02	83.45	0.02	0.22	4.08	64208.09
Goa	3971.39	908.90	0	0.01	0.91	0.08	0	4.96	0	0	0	4886.25
Gujarat	10489.55	6494.17	0.01	0.06	3.33	1.62	0.02	27.69	0.01	0.22	0.30	17016.98
Haryana	5492.60	3712.98	0	0.06	1.33	0.81	0	4.75	0	0	0.07	9212.60
Himachal Pradesh	569.55	324.17	0	0.01	0.08	0.01	0	0.20	0	0	0.05	894.07
Jammu & Kashmir	451.61	259.53	0	0	0.05	0	0	0.44	0	0	0.01	711.64
Jharkhand	517.33	1173.03	0	0.01	0.37	0	0	0.32	0	0	0.37	1691.43
Karnataka	23094.56	12596.64	2.25	0.58	39.10	10.95	0	33.33	0.11	0.04	47.24	35824.80
Kerala	3185.96	2290.10	0.01	0.20	4.07	0.11	0	6.68	0.04	0	6.07	5493.24
Madhya Pradesh	4649.41	2097.91	0.01	0.02	2.78	0.01	0	5.07	0	0	1.19	6756.40
Maharashtra	119699.15	47714.01	0.32	0.42	24.63	0.97	0.02	356.49	0.07	7142.40	30.11	174968.59
Manipur	23.47	20.64	0	0	0	0	0	0.01	0	0	0	44.12
Meghalaya	148.89	218.00	0	0	0.01	0	0	0.11	0	0	0	367.01
Mizoram	0.89	6.00	0	0	0	0	0	0	0	0	0	6.89
Nagaland	4.48	14.66	0	0	0	0	0	0.15	0	0	0	19.29
Odisha	4491.72	1677.22	0.01	0.01	0.65	0.02	0	2.47	0.02	0	0.56	6172.68
Punjab	2197.67	2807.50	0	0.04	2.56	0.05	0	11.37	0	0	0.04	5019.23
Rajasthan	3316.25	2489.15	0.11	0.05	0.45	0.03	0	7.61	0	0	0.14	5813.79
Sikkim	7.20	40.95	0	0	0	0	0	0.02	0	0	0	48.17

States/Union Territories	Break up of Direct Taxes											
	Corpn. Tax 0020	Income Tax 0021	HRT 0023	Int. Tax 0024	FBT 0026	Expr. Tax 0028	Estate Duty 0031	Wealth Tax 0032	Gift Tax 0033	STT 0034	BCTT 0036	Total
Tamil Nadu	18627.98	9658.86	0.44	0.84	16.94	0.29	0	52.93	0.06	9.53	41.58	28409.45
Tripura	33.67	66.80	0	0	0	0	0	0.01	0	0	0	100.48
Uttar Pradesh	14198.33	5635.57	0	0.19	0.63	0.04	0.01	14.67	0.01	0.01	1.41	19850.87
Uttarakhand	473.40	605.52	0	0.01	0.05	0	0	0.64	0	0	0.38	1080.00
West Bengal	14196.52	5206.95	0.01	0.27	2.98	0.38	0.01	42.93	0.01	3.01	4.90	19457.97
Andaman and Nicobar	12.32	24.33	0	0	0.04	0	0	0.06	0	0	0	36.75
Chandigarh	579.30	615.88	0	0	3.78	0	0	2.15	0	0	0.12	1201.23
Dadra and Nagar Haveli	42.01	42.65	0	0	0.02	0	0	0.01	0	0	0	84.69
Daman & Diu	55.28	41.83	0	0	-0.01	0	0.02	0.07	0	0	0	97.19
Lakshadweep	0.25	1.52	0	0	0	0	0	0	0	0	0	1.77
Puducherry	101.15	120.43	0	0	0.30	0	0	0.24	0	0	0	222.12
Total	298257.30	133840.31	3.18	3.74	167.98	28.95	0.24	686.83	0.38	7155.43	158.1	440302.46
CTDS (Prov)	430.59	6201.43	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	6632.02
Grand Total	298687.89	140041.74	3.18	3.74	167.98	28.95	0.24	686.83	0.38	7155.43	158.1	446934.48

HRT-Hotel Receipts Tax, Intt. Tax- Interest Tax, Int. Tax-Interest Tax, FBT- Fringe Benefit Tax, Expr. Tax-Expenditure Tax, STT-Security Transaction Tax, BCTT-Banking Cash Transaction Tax

Appendix 3
(Reference: Paragraph 1.3.2)

(₹ in crore)

Sl. No.	States/Union Territories	Net Direct Tax Collection		Growth in collection (%)
		2009-10	2010-11	
1.	Andhra Pradesh	18,776.67	23,133.37	23.20
2.	Arunachal Pradesh	57.24	70.13	22.52
3.	Assam	2,565.65	2,937.79	14.50
4.	Bihar	1,994.82	2,581.09	29.39
5.	Chhatisgarh	1,608.41	1,882.29	17.03
6.	Delhi	59,621.72	64,208.09	7.69
7.	Goa	3,624.06	4,886.25	34.83
8.	Gujarat	15,001.16	17,016.98	13.44
9.	Haryana	6,366.69	9,212.60	44.70
10.	Himachal Pradesh	795.28	894.07	12.42
11.	Jammu & Kashmir	671.38	711.64	6.00
12.	Jharkhand	1,388.58	1,691.43	21.81
13.	Karnataka	29,270.86	35,824.80	22.39
14.	Kerala	4,618.69	5,493.24	18.94
15.	Madhya Pradesh	5,380.22	6,756.40	25.58
16.	Maharashtra	145,607.62	174,968.59	20.16
17.	Manipur	27.75	44.12	58.99
18.	Meghalaya	281.25	367.01	30.49
19.	Mizoram	9.04	6.89	(-) 23.78
20.	Nagaland	15.84	19.29	21.78
21.	Odisha	5,126.87	6,172.68	20.40
22.	Punjab	3,760.03	5,019.23	33.49
23.	Rajasthan	5,516.16	5,813.79	5.40
24.	Sikkim	50.73	48.17	(-) 5.05
25.	Tamil Nadu	24,265.07	28,409.45	17.08
26.	Tripura	87.18	100.48	15.26
27.	Uttar Pradesh	15,906.02	19,850.87	24.80
28.	Uttarakhand	1,086.60	1,080.00	(-) 0.61
29.	West Bengal	15,862.32	19,457.97	22.67
30.	Anadman & Nicobar	32.32	36.75	13.71
31.	Chandigarh	948.42	1,201.23	26.66
32.	Dadra & Nagar Haveli	79.49	84.69	6.54
33.	Daman and Diu	92.28	97.19	5.32
34.	Lakshadweep	0.92	1.77	92.39
35.	Puducherry	215.77	222.12	2.94

Appendix 4
(Reference: paragraph 1.3.3)

(₹ in crore)

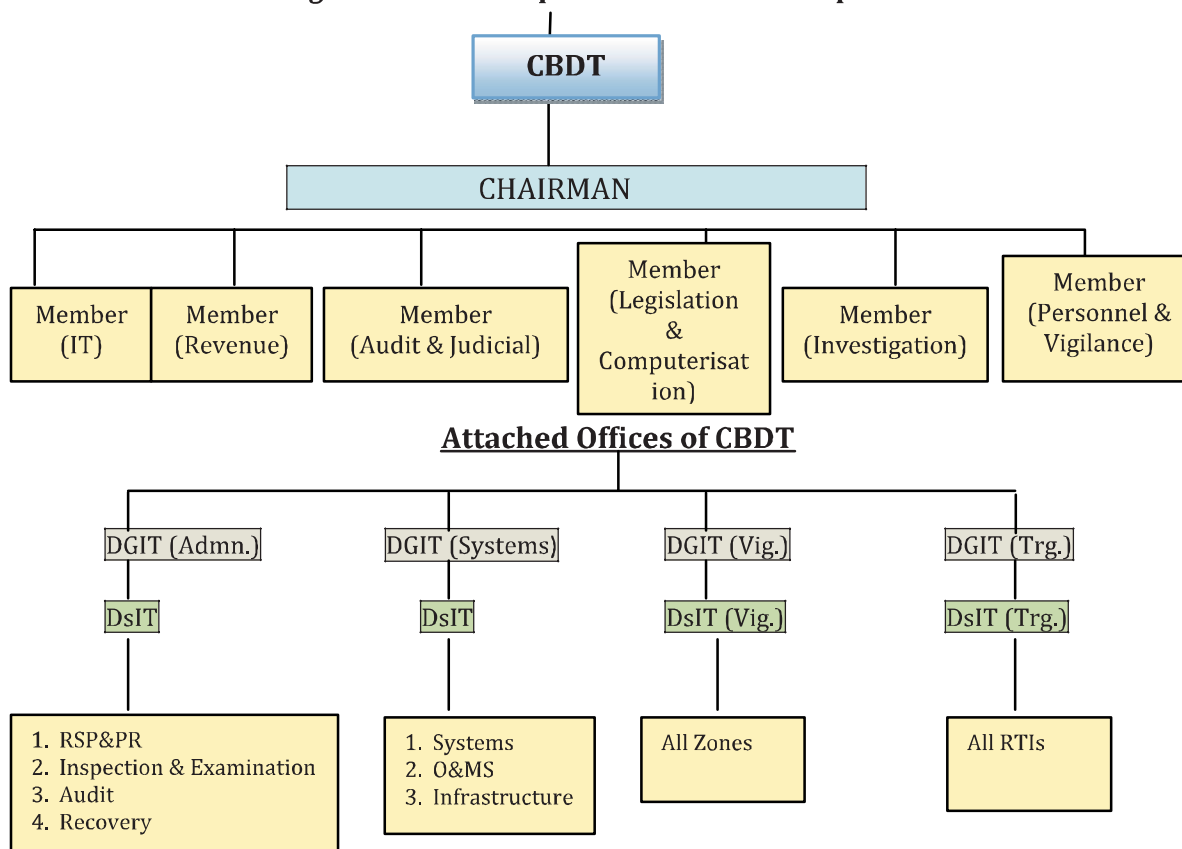
Details of tax collections for corporate and non-corporate at pre- assessment and post-assessment stages								
Financial Year	Tax Deducted at source	Advance Tax	Self Assessment Tax	Regular Assessment	Other Receipts	Total Collections	Refunds	Net Collections ⁸⁸
Corporate Assesseees								
2006-07	29,048 (16.6)	96,568 (55.2)	6,954 (4.0)	24,725 (14.1)	17,640 (10.1)	1,74,935	30,617 (17.5)	1,44,318
2007-08	44,148 (19.7)	1,28,105 (57.2)	11,455 (5.1)	18,518 (8.3)	21,715 (9.7)	2,23,941	31,030 (13.9)	1,92,911
2008-09	60,088 (24.8)	1,22,697 (50.6)	18,451 (7.6)	12,633 (5.2)	28,435 (11.7)	2,42,304	28,909 (11.9)	2,13,395
2009-10	60,850 (21.1)	1,48,791 (51.6)	20,159 (7.0)	24,995 (8.7)	33,367 (11.6)	2,88,162	43,437 (15.1)	2,44,725
2010-11	68,313 (19.2)	1,84,263 (51.9)	23,056 (6.5)	41,916 (11.8)	37,718 (10.6)	3,55,266	56,579 (15.9)	2,98,687
Non-Corporate Assesseees								
2006-07	41,641 (51.0)	24,659 (30.2)	6,871 (8.4)	5,671 (6.9)	2,855 (3.5)	81,697	6,618 (8.1)	75,079
2007-08	60,593 (53.6)	30,015 (26.6)	9,670 (8.6)	7,202 (6.4)	5,430 (4.8)	1,12,910	10,255 (9.1)	1,02,655
2008-09	68,142 (58.6)	20,635 (17.8)	12,328 (10.6)	8,704 (7.5)	6,416 (5.5)	1,16,225	10,188 (8.8)	1,06,037
2009-10	84,885 (62.2)	24,626 (18.0)	12,349 (9.0)	8,279 (6.1)	6,412 (4.7)	1,36,551	13,664 (10.0)	1,22,887
2010-11	1,00,356 (63.3)	28,275 (17.8)	13,831 (8.7)	9,922 (6.3)	6,248 (3.9)	1,58,632	18,590 (11.7)	1,40,042

Figures in brackets indicate percentage of total collection/refunds

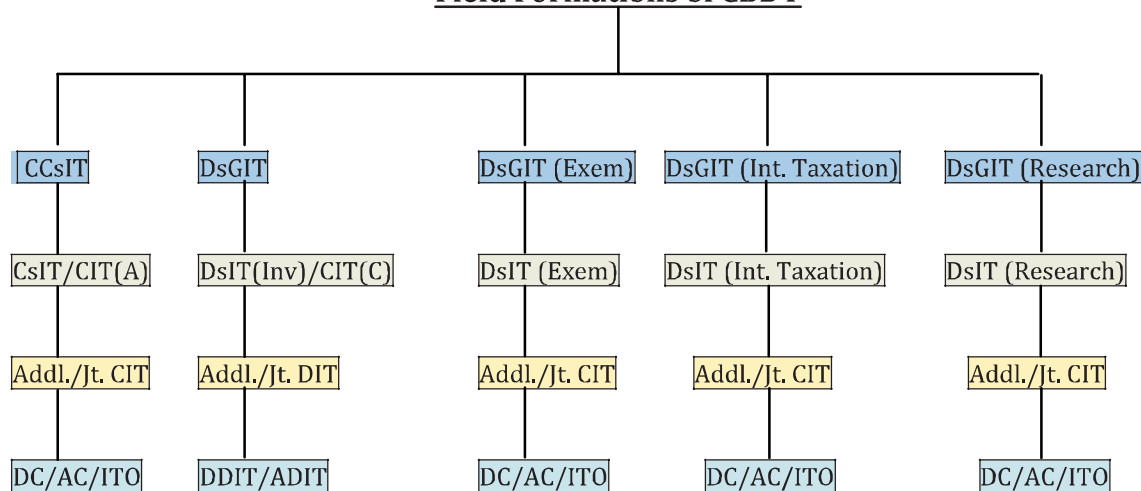
⁸⁸ Net collection = Total collection – Refunds.

Appendix 5
(Reference: Paragraph 1.5)

Organisational set up of the Income Tax Department



Field Formations of CBDT



Chapter 2

Audit Impact

Appendix-6

(Referred to in paragraph 2.3)

Audit observations and revenue effect in audit of scrutiny assessments

State	No. of assessments completed	No. of assessments checked in audit	No. of assessments with errors	Total revenue effect of the audit observations made in the scrutiny assessments (₹ in crore)	Percentage of assessments with errors (Col. 4/ Col. 3x100)
1	2	3	4	5	6
Andhra Pradesh	27,475	26,317	1,315	646.22	5
Assam	1,154	1,117	94	31.09	8
Bihar	1,661	1,541	211	9.04	14
Chhattisgarh	726	2,222	107	5.67	5
Goa	861	745	96	71.91	13
Gujarat	42,574	40,548	2,115	1,425.83	5
Haryana	8,407	7,295	684	44.99	9
Himachal Pradesh	1,747	1,632	367	3.19	22
Jharkhand	1,442	1,089	49	4.63	4
Jammu & Kashmir	3,203	2,998	230	31.95	8
Karnataka	15,359	14,351	427	380.60	3
Kerala	8,063	7,140	855	503.45	12
Madhya Pradesh	7,739	7,285	453	187.08	6
Odisha	3,863	3,272	386	160.95	12
Punjab	17,409	11,509	725	648.25	6
UT Chandigarh	3,843	2,550	166	20.28	7
Rajasthan	16,686	14,644	576	72.07	4
Tamil Nadu	28,128	24,772	2,354	1,543.25	10
Uttar Pradesh	17,214	16,153	898	344.30	6
Uttaranchal	624	541	40	0.74	7
Delhi	37,877	33,236	1,281	2,445.43	4
Maharashtra	50,627	48,710	1,719	1,597.42	4
West Bengal	36,445	36,445	1,840	2,637.35	5
Total	3,33,127	3,06,112	16,988	12,815.69	5.6

Total demand raised during the assessments in 2009-10 = ₹ 73,053 crore

Percentage of error (in terms of revenue) = $\frac{₹ 12,815.69}{₹ 73,053} = 17.5$

₹ 73,053

Appendix-7**(Referred to in paragraph 2.3.2)**

Category wise details of underassessment in respect of Income tax and Corporation tax detected during local audit			
Sl. No.	Sub category	No.	Tax effect (₹ in crore)
1	Errors/Omission in computation	4,823	2,566.22
	i) Arithmetical errors in computation of income and tax	1,876	1,429.53
	ii) Incorrect application of rate of tax, surcharge etc.	758	634.97
	iii) Non/short levy of interest/penalty for delay in submission of returns, delay in payment of tax etc.	1,879	354.10
	iv) Excess or irregular refunds / interest on refunds	310	147.62
2	Ineligible concessions given to assesses	8,190	7,842.51
	i) Irregular exemptions / deduction/ relief given to Corporates	565	881.38
	ii) Irregular exemptions / deduction/ relief given to Trusts/ Firms/ Societies	566	538.56
	iii) Irregular exemptions / deduction/ relief given to individuals	461	23.37
	iv) Incorrect allowance of Business Expenditure	3,936	3,317.84
	v) Irregularities in allowing depreciation/business losses/Capital losses	2,506	2,965.39
	vi) Incorrect allowance of DTAT relief	156	115.97
3	Income not/ under assessed	2,169	2,023.92
	i) Under Special Provisions including MAT/ Tonnage Tax etc.	253	1,274.90
	ii) Unexplained investments/ cash credits etc.	510	346.04
	iii) Incorrect classification and Computation of Capital Gains	496	152.82
	iv) Omission to club income of spouse, minor child etc.	26	10.21
	v) Incorrect computation of Income from House Property	239	76.90
	vi) Incorrect computation of salary income	645	163.05
4	Others	3,289	1,461.61
	i) Mistake in assessment while giving effect to appellate orders	97	309.42
	ii) Omission in implementing provisions of TDS/TCS	1,243	358.21
	iii) Others topics	1,949	793.98
Total		18,471	13,894.20

Appendix-8**(Referred to in Paragraph 2.3.3)**

Category wise details of observations in respect of Draft Paragraphs sent to Ministry			
Sl. No.	Sub category	No.	Tax effect (₹ in lakh)
1	Errors/Omission in computation	113	1,52,546.79
	i) Arithmetical errors in computation of income and tax	63	1,46,994.82
	ii) Incorrect application of rate of tax, surcharge etc.	17	1,180.69
	iii) Non/short levy of interest/penalty for delay in submission of returns, delay in payment of tax etc.	31	4,243.25
	iv) Excess or irregular refunds / interest on refunds	2	128.03
2	Ineligible concessions given to assesses	230	96,488.78
	i) Irregular exemptions / deduction/ relief given to Corporates	20	4,397.88
	ii) Irregular exemptions/deduction/relief given to Trusts/ Firms / Societies	19	1,519.48
	iii) Irregular exemptions/deduction/relief given to individuals	11	185.74
	iv) Incorrect allowance of Business Expenditure	78	33,655.18
	v) Irregularities in allowing depreciation/business losses/ Capital losses	102	56,730.50
3	Income not/ under assessed	53	32,335.01
	i) Under Special Provisions including MAT/Tonnage Tax etc.	26	1,0857.44
	ii) Unexplained investments/ cash credits etc.	2	191.68
	iii) Incorrect classification and Computation of Capital Gains	4	1,060.98
	iv) Incorrect computation of income	21	20,224.91
4	Others	68	82,797.48
	i) Mistake in assessment while giving effect to appellate orders	7	10,009.94
	ii) Omission in implementing provisions of TDS/TCS	12	60,175.33
	iii) Waiver/ remission not assessed to tax	1	401.19
	iv) Over charge of tax	7	11,157.30
	v) Others topics	41	1,053.74
Total		464	3,64,168.06

Appendix-9

(Referred to in paragraph 2.4.1)

A - Details of cases accepted by Department and remedial action taken during 2010-11

No. of cases accepted and remedial action taken	No. of cases accepted but remedial action not taken	No. of cases not accepted but remedial action taken	No. of cases not accepted	No. of cases where reply has not been received	Total replies received (Col. 1+2+3+4)	Percentage of reply received (Col. 6)/ Col. 1+2+3+4+5)	Percentage accepted out of Col. 6 (Col. 1+2/ Col. 6)	Percentage of remedial action taken out of Col. 6 (Col. 1+3/ Col. 6)
1	2	3	4	5	6	7	8	9
1,658	2,696	203	3,365	12,208	7,922	39.4	54.9	23.4

B- Position of acceptance during the last five years

Year of Report	No. of observations raised	No. of cases Accepted	No. of cases not accepted	Reply not received
2006-07	16,735	3,127 (18.7%)	8,298 (49.6%)	5,310 (31.7%)
2007-08	19,694	4,099 (20.8%)	7,455 (37.9%)	8,140 (41.3%)
2008-09	19,631	4,898 (25.0%)	5,892 (30.0%)	8,841 (45.0%)
2009-10	19,227	2,927 (15.2%)	3,919 (20.4%)	12,381 (64.4%)
2010-11	20,130	4,354 (21.6%)	3,568 (17.7%)	12,208 (60.7%)

Appendix-10
(Referred to in Paragraph 2.4.2)

(₹ in crore)

A- Cases where remedial action has become time barred in 2010-11			
Sl. No.	State	Audit observations where remedial action became time barred	
		No.	Tax effect
1	Andhra Pradesh	66	2.41
2	Assam	0	0
3	Bihar	70	0.87
4	Chhattisgarh	32	0.85
5	Goa	16	2.21
6	Gujarat	228	19.46
7	Haryana	63	3.53
8	Himachal Pradesh	161	1.41
9	Jharkhand	625	28.26
10	Jammu & Kashmir	15	0.84
11	Karnataka	36	0.43
12	Kerala	11	0.12
13	Madhya Pradesh	81	19.74
14	Odisha	40	24.13
15	Punjab	9	0.23
16	UT Chandigarh	23	0.25
17	Rajasthan	330	29.17
18	Tamil Nadu	1,347	751.48
19	Uttar Pradesh	97	12.23
20	Uttaranchal	264	612.77
21	Delhi	895	617.68
22	Maharashtra	3,041	2,908.21
23	West Bengal	492	298.10
Total		7,942	5,334.46

(₹ in crore)

B - No. and tax effect of cases that have become time barred during the last five years

Year of Report	No. of cases	Tax effect
2006-07	3,593	1,354.3
2007-08	13,833	33,851.1
2008-09	16,557	5,612.8
2009-10	5,644	2,868.9
2010-11	7,942	5,334.46

Appendix-11**(Referred to in Paragraph 2.4.4)****(₹ in lakh)**

Recovery on cases issued during 2010					
Sl. no.	Name of assessee	CIT charge	Assessment year(s)	Category of mistake	Tax effect
1	M/s L&T Vaidel Engineering Pvt. Ltd.	Bengaluru-I	2007-08	While computing the tax payable in scrutiny order, refund of ₹ 71.45 lakh allowed to the company after processing the return in March 2009 was not added to the total demand.	75.02
2	RSWM Ltd.	Ajmer	2004-05	Tax credit of ₹ 32.23 lakh was allowed against the admissible tax credit of ₹ 13.38 lakh. The mistake resulted in under charge of tax of ₹ 22.88 lakh. .	22.88
3	M/s ECL Engineering & Construction Co. Ltd.	Hyderabad-II	2005-06	i) Depreciation was allowed in excess by ₹ 96.50 lakh. ii) Deduction of ₹ 1.39 crore was allowed in excess towards machinery usage charges. iii) Prior period income of ₹ 11.17 lakh was not offered for taxation.	73.08
4	M/s Advait Motors Pvt. Ltd.	Bengaluru-I	2007-08	The assessee had adopted opening written down value of ₹ 9.93 crore and ₹ 14.49 crore instead of actual WDV of ₹ 8.56 crore and ₹ Rs. 11.12 crore as on 1 April 2006 and 2007. The mistake resulted in excess allowance of depreciation of ₹ 28.27 lakh and ₹ 54.88 lakh for both the assessment years	34.41
5	Shri M. Balasubramaniam	Coimbatore-I	2006-07	The assessee adopted value of 9 acres of non agricultural land owned by him at ₹ 27 lakh instead of ₹ 3.26 crore based on the guideline value of ₹ 83 per square feet. Non adoption of value of asset has resulted in under valuation of ₹ 2.99 crore involving short levy of wealth tax of ₹ 2.99 lakh.	2.99
6	Achintya Kumar	Kolkata-XIV	2006-07	The assessee had incurred	53.83

	Dey			expenditure of ₹ 126.54 lakh on contract works without deducting tax at source. The amount was disallowable, which was not done.	
7	V. Lakshminarayana	Bengaluru-Central	2005-06	Interest for short payment of advance tax was short levied by ₹ 9.58 lakh	9.58
8	M/s Doon Valley Special Area Development Authority	Dehradun	2007-08	Surcharge was levied at the rate of 2 per cent instead of 10 per cent.	20.19
9	Sh. M.P. Somaprasad	Bengaluru Central	2003-04 to 2006-07	The assessee had taxable wealth. Still neither did the assessee file return of wealth nor did the assessing officer initiate any proceeding.	9.06
10	Sri Ravula Sriramachandra	Rajahmundry	2006-07	The assessee had taxable wealth. Still neither did the assessee file return of wealth nor did the assessing officer initiate any proceeding.	0.82
11	Sri Buchepally Subha Reddy	Gundur	2004-05	The assessee had taxable wealth. Still neither did the assessee file return of wealth nor did the assessing officer initiate any proceeding.	0.36
12	M/s J.D. Electronics	Hyderabad-IV	2006-07	₹ 17.83 lakh debited to the profit and loss account as gold and drive lucky scheme was not considered as Fringe benefit.	1.74
13	M/s Teknomin Constructions Ltd.	Vijayawada	2006-07	Instead of ₹ 24.09 lakh debited to profit and loss account towards medical expenses and tours and travels, only ₹ 0.44 lakh was considered for Fringe Benefit tax.	2.22
Total					306.18

Appendix-12

(Referred to in Paragraph 2.4.5)

(₹ in lakh)

Cases issued during 2010 : accepted and remedial action taken

Sl. No.	Name of assessee	CIT charge	Assessment Year(s)	Category of mistake	Tax effect
1	M/s Saga Department Stores Ltd.	Delhi-III	2005-06	Commission expenses of ₹ 1.21 crore was allowed twice.	59.16
2	M/s Aakriti Dwelling (Pvt). Ltd.	Bhopal	2005-06	The assessee claimed and was allowed deduction of ₹ 50.03 lakh under section 80IB(10) without fulfillment of the prescribed conditions. The omission resulted in under assessment of income of ₹ 50.03 lakh.	21.42
3	M/s Curewell (India) Pvt. Ltd.	Delhi-I	2006-07	Loss of ₹ 9.86 lakh was allowed to be set off even though it was more than eight years old and ineligible for set-off against profit of assessment year 2006-07.	85.53
4	M/s Laxmi Sugar Mills Co. Ltd.	Delhi-II	2006-07	Depreciation of ₹ 3.96 crore was allowed against the correct amount of ₹ 2.44 crore. The mistake resulted in over assessment of loss by ₹ 74.81 lakh and under assessment of income by ₹ 77.01 lakh.	59.65
5	M/s City & Guides (South Asis) Pvt. Ltd.	Delhi-I	2006-07	Assessing Officer adopted loss of ₹ 565.75 lakh from the computation of income of the assessee which included the brought forward losses of ₹ 499.90 lakh relating to three previous assessment years whereas the current year's loss was ₹ 91.91 lakh only. The mistake resulted in over assessment of loss of ₹ 499.90 lakh involving potential tax effect of ₹ 168.27 lakh.	168.27
6	M/s Plant Remedies Pvt. Ltd.	Patna-I	2006-07	Deduction under section 80IB was allowed at the rate of 100 <i>per cent</i> instead of 30 <i>per cent</i> in the sixth year. ii) Provision for dealers scheme of ₹ 18.81 lakh and Income tax of ₹ 0.006 lakh were debited to Profit and Loss account. Both mistakes resulted in short computation of income of ₹ 87.86 lakh.	37.35
7	M/s Sajjan India Ltd.	Mumbai-VII	2007-08	₹ 4.37 crore disallowed by the Assessing officer remained to be added back to the income while computing taxable income.	195.76
8	M/s Pancard Clubs Ltd.	Mumbai-VII	2004-05	Arithmetical errors in adoption of figures	524.59
9	M/s Asian Heart Instt. & Research Centre Pvt. Ltd.	Mumbai-X	2006-07	Incorrect computation of income under special provisions of the Act.	68.84

10	M/s Tata Chemicals Ltd.	Mumbai-II	2003-04	Short term capital gain of ₹ 24.17 crore was not considered in the re assessment made under section 143(3)/147. ₹ 30 lakh disallowed under section 36(1)(ii) on account of commission to Directors was reduced from taxable income instead of adding it. The mistakes resulted in under assessment of income of ₹ 24.77 crore.	1173.82
11	Brahma Bazar Hotels Ltd	Pune City-I	2006-07	₹ 3.54 crore towards excess depreciation disallowed for AYs 2001-02 to 2003-04 in scrutiny assessments was to be reduced from carried forward loss which was not done. The omission resulted in excess carry forward of depreciation of ₹ 3.54 crore.	119.31
12	M/s Karthikeya Paper and Boards Ltd.	Coimbatore-I	2006-07	Brought forward loss of ₹ 5.62 crore was allowed to be set off when there was no loss to be set off. Depreciation of ₹ 71.16 lakh was allowed to be carried forward when there was no loss. Both the mistakes resulted in incorrect set off of loss of ₹ 1.03 crore and excess carry forward of depreciation of ₹ 0.71 crore.	58.6
13	M/s Sterlite Industries (India) Ltd.	Chennai-III	2006-07	Interest for short payment of advance tax was levied at ₹ 9.93 crore instead of ₹ 12.36 crore.	243.46
14	M/s United India Insurance Company Ltd.	LTU Chennai	2002-03	Unabsorbed loss of ₹ 34.40 crore was allowed to be set off when there was no loss to be set off.	2038.75
15	M/s Shriram Chits Tamil Nadu Pvt. Ltd.	Chennai-III	2001-02 (ITAT revision order dated 2.2.2009)	Tax demand of ₹ 3.54 crore had been adjusted against various refund orders on different dates and refund of ₹ 2.17 crore was allowed after giving interest under section 24A on refund. The Department did not charge interest u/s 220(2) for default in payment of tax demand on due dates.	104.42
16	ITI Ltd.	Bengaluru-I	2006-07	While determining loss of ₹ 247.89 crore, short term capital gain of ₹ 2.77 crore on sale of M/s FIBCOM Limited shares was not considered, which resulted in excess assessment of loss of ₹ 2.77 crore.	93.19
17	M/s Vivimed Labs Ltd.	Hyderabad-III	2006-07	Depreciation of ₹ 6.59 crore was allowed @ 100 per cent on assets put to use for less than 180 days instead of 50 per cent of the applicable rate.	147.43
18	M/s Fortune Baroda Network Pvt. Ltd.	Baroda-I	2005-06	Payment of ₹ 87.92 lakh made without deducting tax at source was not disallowed. The mistake resulted in over assessment of loss of ₹ 27.58 lakh.	42.1

19	Audichem (India) Ltd.	Ahmedabad-I	2001-02	Though the assessee was having unadjusted MAT credit of ₹ 2.22 lakh only, adjustment of MAT credit of ₹ 19.28 lakh was allowed. This resulted in under assessment of income of ₹ 17.06 lakh.	34.55
20	SNS Textiles Ltd.	Surat-II	2007-08	Unabsorbed depreciation and business loss for the period prior to 1.4.2002 was allowed to be carried forward for more than eight AYs.	224.83
21	Rushabh Capital and Financial Services	Ahmedabad-III	2000-01	Interest income of ₹ 107.48 lakh was not offered for taxation.	79.45
22	M/s Writers and Publishers Ltd.	Bhopal	2005-06	Additional depreciation claimed without furnishing the requisite details was not disallowed.	93
23	M/s The Nizam Sugars Ltd.	Hyderabad-II	2003-04	Of the gratuity payment of ₹ 16.13 crore, ₹ 15.64 crore was allowed as against the allowable amount of ₹ 3.13 crore being 1/5 of the expenditure. The mistake resulted in excess computation of business loss of ₹ 12.51 crore.	459.79
24	M/s Transchem Ltd.	Mumbai-VIII	2007-08	The Assessing Officer adopted the business income as ₹ 1.53 crore instead of ₹ 3.48 crore.	65.38
25	M/s SBI Capital Markets Ltd.	LTU	2005-06	While giving effect to the CIT(A) order, the tax on short term capital gain was computed at concessional rate of 10 per cent instead of normal rate of 35 per cent.	172
26	M/s UTI Asset Management Company Pvt. Ltd.	Mumbai-X	2006-07	The assessee regularly claimed and was allowed scheme expenses aggregating ₹ 7.69 crore. These expenses were incurred on behalf of the mutual fund company and as such being the liability of the Mutual Fund company, should have been disallowed, which was not done.	258.91
27	M/s Lease Plan India Ltd.	Delhi-II	2005-06	₹ 71.45 crore shown under the head 'Lease/ Hire Purchase receivables' was not taken into account while calculating business income.	3776.92
28	M/s Delhi Transport Corporation	Delhi-IV	2006-07	Against ₹ 224.59 lakh paid during the previous year, deduction of ₹ 1335.99 lakh was allowed, which resulted in over assessment of loss of ₹ 1111.40 lakh.	374.1
29	M/s Bharti Cellular Ltd.	Delhi-I	2003-04	₹ 5.82 crore was allowed as 'Billing and software expenses', which was a capital expenditure and hence was to be disallowed after allowing eligible depreciation. The mistake resulted in over assessment of loss of ₹ 2.33 crore.	85.53
30	M/s Arisudana Industries Ltd. Ludhiana	Ludhiana-II	2007-08	Income of ₹ 86.96 lakh was taken as loss and after adding back ₹ 2.23 lakh, loss was assessed at ₹ 84.72 lakh which resulted in irregular carry forward of loss of ₹ 84.72 lakh.	28.52

31	Appeline Cosmetics & Toiletries Ltd.	Kolkata Central-III	2006-07	The assessee was allowed expenditure of ₹ 216.82 lakh as 'loss for inventory (submerged). There was no discussion or evidence in the assessment records for the same. As such the expenditure was not allowable. The omission resulted in under assessment of income of ₹ 216.82 lakh.	72.98
32	M/s McDonalds India Pvt. Ltd.	Delhi-II	2005-06	The Department charged interest u/s 234B for 32 months only instead of 44 months.	83.58
33	M/s Atlas Copco (India) Ltd.	LTU Mumbai	2003-04	The assessee returned long term capital gain of ₹ 2.77 crore allowing the benefit of indexed cost against the amount received for transfer of development rights taking the same as sales consideration. As there was no transfer of land, the benefit allowed towards indexed cost of acquisition of land should have been disallowed, which was not done. The omission resulted in short computation of short term capital gain of ₹ 9.92 crore	610
34	M/s Excellon Software Pvt. Ltd.	Nagpur-I	2007-08	Returned loss of ₹ 1.26 crore was taken as starting point in computation instead of NIL income.	52.26
35	M/s Mattel Toys India Pvt. Ltd.	Mumbai-VI	2001-02	While giving effect to ITAT order, relief of ₹ 2.13 crore was reduced from the assessed loss instead of adding thereto.	168.38
36	M/s ASB International Pvt. Ltd.	Thane-II	2005-06	The assessee was allowed incorrect allowance of exemption of ₹ 11.15 crore and irregular set off of carry forward loss of ₹ 3.17 crore.	524.27
37	Vapi Waste & Effluent Company Ltd.	Valsad	2007-08	Net surplus as per Income and expenditure account after depreciation was taken as ₹ 3.78 crore instead of ₹ 4.47 crore and addition on account of depreciation was taken as ₹ 2.94 crore instead of ₹ 3.09 crore. The mistake resulted in under assessment of income by ₹ 84.86 lakh.	37.99
38	Mansi Builders Ltd.	Ahmedabad Central-I	2004-05	Interest of ₹ 95.33 lakh under section 234A(1) was charged for the period from August 2005 to December 2006 instead of ₹ 145.80 lakh for the period from November 2004 to December 2006.	50.47
39	Lexicon Auto Ltd.	Kolkata-I	2005-06	Out of total receipt of ₹ 288.97 lakh, only ₹ 141.87 lakh was reflected in the Profit and loss account. Credit TDS of ₹ 9.90 lakh on the entire amount was allowed in the assessment. Non consideration of the entire amount of receipt resulted in under assessment of income by ₹ 147.10 lakh.	52.77

40	Inland Vikash Ltd.	Kolkata Central-I	2004-05	₹ 162.22 lakh shown against a debtor company was to be considered as the income of the assessee as the other company was not a debtor to the assessee.	68.67
41	Nilhat Promoters & Fiscals Pvt. Ltd.	Kolkata Central -I	2007-08	In the assessment order the assessing officer had considered the amount of ₹ 11.75 crore as unexplained income. While computing the income, only ₹ 9.88 crore was considered.	83.88
42	Jaganani Textiles Ltd.	Jaipur-I	2007-08	While computing the income, ₹ 58.45 lakh was reduced as depreciation as per Income tax Act, but did not add back ₹ 116.91 lakh as depreciation as per Companies Act.	39.35
43	M/s Ajmer Vidyut Vitran Nigam Ltd.	Ajmer	2002-03 & 2004-05	Surcharge was levied at 5 per cent instead of 2 per cent for Assessment year 2002-03 and at 10 per cent instead of 2.5 per cent for assessment year 2004-05 Education cess was charged for assessment year 2004-05 while it was not applicable.	248.63
44	Ajmer Vidyut Vitran Nigam Ltd.	Ajmer	2003-04	Interest for short payment of advance tax was charged in excess.	74.21
45	M/s HMT Limited	Bengaluru-I	2007-08	As against ₹ 183.86 crore available for set off, ₹ 208.34 crore was allowed to be carried forward for set off in future years. The mistake resulted in excess carry forward of loss by ₹ 24.48 crore.	824
46	M/s Kitply Industries Ltd.	Dibrugarh	2006-07	Loss was carried forward in excess	26.67
47	M/s Andhra Pradesh Mineral Development Corporation Ltd.	Hyderabad-II	2003-04	Deduction towards export profit had also been allowed on Mining franchise fee amounting to ₹ 1.15 crore which was incorrect as the same was not derived from export activity. The mistake resulted in excess allowance of deduction of ₹ 1.15 crore.	74.86
48	M/s Srikrishna Jewellery Mart	Hyderabad Central	2006-07	i) No TDS was made on interest payment of ₹ 36.97 lakh debited to the Profit and Loss account, and as such the amount was to be disallowed under section 40(a)(ia) which was not done. ii) There was an excess debit of ₹ 0.25 lakh towards payment of interest on capital to the partner of the firm. iii) There was no evidence for claim of deduction of ₹ 0.95 lakh under section 80G.	22.01
49	United Breweries Ltd.	Bengalure-III	2004-05	While computing book profit, expenditure of ₹ 7.64 crore disallowed during the assessment under normal provisions was not added back. The mistake resulted in short computation of book profit by	66.1

				₹ 7.64 crore.	
50	M/s Rashtriya Ispat Nigam Ltd.	Visakhapatnam	2007-08	While computing the tax payable, interest under section 234C, leviable for deferment of advance tax was not levied.	44.09
51	M/s Industrial Development Corporation of Orissa Ltd.	Bhubaneswar	2006-07	i) The assessee made provision of ₹ 4.57 crore towards gratuity for its subsidiary companies, which was not an admissible deduction ii) Claimed deduction of leave salary provision of ₹ 53.02 lakh of the chairperson of subsidiary companies iii) Closing stock valuing ₹ 2.18 crore was shown as short in the Tax Audit Report without explanation for the shortage.	244.87
52	M/s Deposit Insurance and Credit Guarantee Corporation Ltd.	LTU Mumbai	2004-05	Refunds pertaining to assessment years 1991-92 and 2003-04 issued in October 2006 and May 2007 respectively were adjusted against the demand of tax for the assessment year 2004-05. However, while giving effect to the CIT(A) s order dated 12 August 2009, the assessing officer did not give credit to the above refunds.	8768
53	M/s Wartsila India Ltd.	Mumbai-III	1996-97 & 1997-98	While finalising the assessment at the total income as arrived at in the order giving effect to ITAT order, the amount set aside for consideration of the claim for deduction under section 80I was not added back.	72
54	M/s Sarita Synthetic and Industries Ltd.	Visakhapatnam -II	2006-07	Loan amount of ₹ 20.44 crore waived by the financial institutions in a scheme of one time settlement was directly credited to reserve account as reduction in liability though the amount became assessee's own money and thus required to be brought to tax.	688.08
55	M/s Cepco Industries Ltd.	Delhi-I	2006-07	Instead of ₹ 703.23 lakh debited to profit and loss account as depreciation as per Companies Act, only ₹ 70.32 lakh was added back. This resulted in over assessment of loss of ₹ 632.91 lakh.	213.04
56	M/s Duncan Industries Ltd.	Kolkata-III	2002-03	₹ 4.97 crore being 40 per cent of ₹ 8.28 crore expended towards operation of growing and manufacturing of tea was admissible against which the full amount was allowed.	177.31
57	M/s Rajesh Exports Pvt. Ltd.	Bengaluru-III	2004-05	While giving effect to Tribunal order, entire deduction of ₹ 31.05 crore under section 10B was allowed and adjusted against the available income of ₹ 24.87 crore and balance of ₹ 6.18 crore was allowed as loss to be carried forward for future adjustment instead of restricting deduction to the extent of income, i.e. ₹	221.76

				24.87 crore and assessing at nil income. This resulted in incorrect computation and carry forward of loss of ₹6.18 crore.	
58	M/s Bharti Cellular Ltd.	Delhi-I	2002-03	In the re-assessment order, there was no change in the book profit and consequently, there was no additional demand for tax. Hence no demand for tax was to be issued. However, in the re-assessment order, tax was incorrectly charged on ₹ 932.67 lakh. The mistake resulted in overcharge of tax of ₹ 121.33 lakh including interest.	121.33
59	M/s Sanghi Spinners India Ltd.	Hyderabad-III	2004-05	i) An amount of ₹ 211.91 lakh which represented deduction in foreign currency term loan liability on assets due to exchange fluctuation was not reduced from written down value of plant and machinery. The omission resulted in excess allowance of depreciation to the extent of ₹ 59.28 lakh. ii) The assessee was allowed ₹ 1.43 crore towards interest on payment basis which was actually disallowed in previous year under section 43B. As per 3CD report no such payment was made. Hence the same should have been disallowed, which was not done.	70.31
60	M/s Heavy Engineering Corporation Ltd.	Ranchi	2006-07	The assessee debited a sum of ₹ 133.46 lakh as provision for Leave Travel Assistance in the Profit and Loss account under the head employees remuneration and benefits. As it was not an ascertained liability, it was not an allowable expenditure. Omission to disallow the amount resulted in short computation of income by ₹ 133.46 lakh.	44.92
61	Calcutta Tramways Company Ltd.	Kolkata-II	2006-07 & 2007-08	Depreciation on buses was allowed at the rate of 40 percent instead of the correct rate of 30 percent which resulted in over assessment of loss of ₹ 159.52 lakh.	53.7
62	M/s Sunrock Construction and Trading Pvt. Ltd.	Chennai-III	2006-07	The total income was determined at ₹ 82.35 lakh as loss which was allowed to be carried forward instead of positive income of ₹ 110.19 lakh after adding back ₹ 13.92 lakh on account of repairs and maintenance of plant and machinery to the returned net profit of ₹ 96.27 lakh. This resulted in under assessment of income of ₹ 110.19 lakh with consequent excess carry forward of loss of ₹ 82.35 lakh for the current year as well as ₹ 82.03 lakh for earlier years, having potential tax effect of ₹ 55.33 lakh.	55.33
63	M/s Bharat Sanchar Nigam	Delhi-I	2002-03	While giving effect to appellate order, refund of ₹ 33.08 crore was allowed to the	3308

	Ltd.			assessee. The Department overlooked the amendment in the provisions of the Act while finalising the case. As per the amendment, provisions for bad and doubtful debts are to be added to book profit under section 115JB of the Act.	
64	M/s Manu Vaniya & Holdings (P) Ltd.	Kolkata-III	2005-06	Loss of ₹ 269.32 lakh incurred from share trading, being speculation business loss was not to be set off against normal business income. The mistake resulted in under assessment of income by ₹ 269.32 lakh.	100.24
65	M/s CEAT Ltd.	Mumbai-VI	2007-08	Loss of ₹ 51.97 crore was allowed to be set off in excess.	2266
66	M/s Hotel Leela Venture Ltd.	Mumbai-VIII	2005-06	While determining the book profit under special provisions of the Act, prior period income of ₹ 1.28 crore was not added back. While computing income under normal provisions, prior period income was not considered resulting in excess carry forward of loss to the extent of ₹ 1.28 crore.	57.05
67	M/s Tamil Nadu State Transport Corporation (Madurai) Ltd.	Madurai-I	2006-07	Prior to AY 2002-03, unabsorbed depreciation was allowed to be set off up to eight assessment years only. Unabsorbed depreciation of ₹ 123.03 crore upto assessment year 1998-99 was allowed to be set off even though it was more than eight year old.	4141.27
68	M/s Ashok Apparels Pvt. Ltd.	Mumbai Central-IV	2001-02	While giving effect to the Appellate orders, the Department started computation from total income instead of computing the income head-wise. The mistake resulted in under assessment of business income of ₹ 2 crore. Short term capital loss of ₹ 31.87 lakh was wrongly allowed to be carried forward.	64
69	The Indian Jute Industries Ltd.	Kolkata-I	2007-08	Unabsorbed depreciation of ₹ 261.32 lakh pertaining to assessment years 1983-84 to 1992-93 was allowed to be set off from current year's profit which was not allowable.	87.96
70	M/s Allwyn Watches Ltd.	Hyderabad-II	2005-06	Depreciation of ₹ 84.15 lakh was allowed on factory building, equipment, Plant and machinery and electrical installation, which were not put to use during the year.	30.79
71	National Jute Manufacturing Ltd.	Kolkata-I	2006-07	Amount of ₹ 1020.67 lakh towards employees contribution of PF/ ESI, which had not been deposited by the assessee, was not disallowed during the assessment.	343
72	M/s Praxair Carbon di oxide	Bengaluru-III	2006-07	During scrutiny assessment, revised return filed by the assessee was not	357

	Pvt. Ltd.			considered which resulted in incorrect computation of income and excess carry forward of loss of ₹ 10.61 crore.	
73	M/s Creative Garments (P) Ltd.	Mumbai-VI	2007-08	Depreciation was allowed in excess.	66.35
74	M/s Carol Info Services Ltd.	Mumbai-Central	2007-08	Mistakes in adoption of figures.	121
75	M/s Bank of Baroda	Mumbai-II	2003-04	Interest under section 234D was short levied.	1355.96
76	Bata India Ltd.	Kolkata-I	2006-07	Amount of ₹ 225.37 lakh deducted from employees towards Provident Fund and ESI, not deposited to Government account was not disallowed.	75.86
77	M/s Mysore Mercantile Company Ltd.	Bengaluru-III	2008-09	Deduction under section 80-IA of ₹ 1.24 crore had been allowed without giving effect to brought forward losses (depreciation loss) of ₹ 9.84 crore. The omission resulted in excess carry forward of loss of ₹ 1.24 crore	42.03
78	M/s Sea Glimpse Investment Ltd.	Mumbai-III	2007-08	Loss was allowed to be carried forward in excess	464.85
79	M/s Famm Private Ltd.	Mumbai-V	2006-07	Opening stock was wrongly debited in the profit and loss account	86
80	Eveready Industries India Ltd.	Kolkata-IV	2007-08	The assessee was allowed full deduction of ₹ 272.29 lakh incurred towards Voluntary Separation Scheme instead of 1/5 amount. Actually allowable under section 35DDA. This lead to excess computation of loss of ₹ 217.83 lakh.	73.32
81	Angus Company Ltd.	Kolkata-III	2005-06	The assessee was allowed set off of brought forward business loss of ₹ 85.04 lakh and ₹ 61.99 lakh pertaining to assessment years 1989-90 and 1991-92 respectively from the current assessment year's profit even though these were more than eight assessment years old.	53.8
82	M/s Tessolve Services Private Ltd.	Bengaluru-III	2007-08	Instead of loss of ₹ 7.96 crore, declared in the return of income, loss was assessed at ₹ 10.25 crore.	77.07
83	M/s Kandla Port Trust	Rajkot-I	2006-07	Brought forward loss of ₹ 134.14 crore was allowed to be set off instead of ₹ 106.63 crore actually available for set off.	1119.76
84	M/s Eastern Power Distribution Company of Andhra Pradesh Ltd.	Visakhapatnam -I	2007-08	Scrutiny assessment was completed without considering the revised loss returned by the assessee which resulted in excess determination of loss of ₹. 81.97 lakh.	75.02
85	M/s Tamil Nadu Power Finance &	Chennai-I	1999-2000	Interest of ₹ 1.50 crore due from M/s NEPC was not recognised as NPA. Which	52.56

	Infrastructure Development Corporation Ltd.			resulted in under assessment of income of ₹ 1.50 crore.	
86	Jharkhand Police Housing Corporation	Ranchi	2007-08	While raising demand, tax was wrongly calculated @40 per cent instead of 30 per cent and surcharge was calculated @2.5 per cent instead of 10 per cent.	391.23
87	M/s Westing House Saxby Farmer Ltd.	Kolkata-I	2005-06	During the previous year the assessee had provided a liability for payment of ₹ 148.63 lakh to sub contractors on receipt of bills. This amount was to be disallowed as it related to earlier years and was required to be disallowed, which was not done.	54
88	M/s Kilburn Office Automation Ltd.	Kolkata-I	2005-06	i) ₹ 50.74 lakh and ₹ 102.81 lakh shown as expenses towards payment of past service gratuity liability and contribution to superannuation fund were not disallowed. ii) ₹ 119.16 lakh shown as provision for shortfall in fund was not disallowed.	99
89	M/s Cimmco Birla Ltd.	Delhi-I	2007-08	Instead of ₹ 1356.02 lakh available for disallowance, ₹ 1577.91 lakh was disallowed which resulted in over assessment of income and simultaneously incorrect set off of loss of ₹ 221.90 lakh.	74.69
90	M/s SICOM Ltd.	Mumbai-III	2007-08	Rental receipt was treated as income from house property and depreciation claimed by the assessee was disallowed, but failed to add back the amount while computing taxable income.	107.32
91	M/s Nirmal Super Markets Pvt. Ltd.	Mumbai-X	2007-08	While determining total income, the returned loss of ₹ 12.87 crore was taken as income. This resulted in over assessment of income by ₹ 25.74 crore.	866
92	M/s Hindustan Shipyard Ltd.	Visakhapatnam	2003-04	i) Total expenditure of ₹ 25.26 crore on voluntary retirement scheme was allowed in one installment instead of five installments. ii) ₹ 8.74 crore being the unspent portion of ₹ 34 crore received from the Government towards VRS expenditure was to be brought to tax, which was not done.	1063.82
93	Rajan Rakesh and Brothers	Mumbai-XX	2004-05	Depreciation was allowed in excess	10.63
94	M/s Ghatte Fabrics	Kohlapur-III	2006-07	While finalising scrutiny assessment, loss of ₹ 54.47 lakh was adopted instead of the correct figure of ₹ 5.47 lakh. This resulted in excess carry forward of loss of ₹ 48.72 lakh.	16.4
95	Shri S. Perumal	Chennai-VIII	2006-07	The capital gains on sale of property was offered at ₹ 60 lakh as against ₹ 1.36 crore fixed by Stamp Valuation Authority. Incorrect adoption of value of the	21.61

				property resulted in underassessment of capital gains of ₹ 75.83 lakh involving short levy of tax of ₹ 21.61 lakh.	
96	M/s Golder Transport	Rajkot-I	2007-08	The assessee was allowed to carry forward unabsorbed loss of ₹ 57.56 lakh instead of available amount of ₹ 7.46 lakh.	16.86
97	M/s Geneva Industries	Rajkot-I	2004-05	Income tax including surcharge worked out to ₹ 19.99 lakh against which only ₹ 14.23 lakh was levied.	5.76
98	M/s Subhlaxmi Petrochemicals	Surat-I	2005-06	₹ 37.72 lakh relating to capital goods was allowed as Manufacturing expenses, which was not admissible.	13.8
99	M/s The Primary Co-operative Agricultural Rural Development Bank	Gulbarga	2007-08	Loss of ₹ 7.01 crore was allowed to be set off against the available loss of ₹ 1.10 crore.	180.79
100	M/s Wadeshwar	Pune-II	2005-06	Business income was incorrectly computed and loss was allowed to be carried forward in excess.	11.55
101	M/s Tara Brothers	Chandigarh-I	2007-08	Depreciation was allowed in excess	8.41
102	Sh. Ashok Kumar Gupta	Delhi CC-II	1-4-1996 to 7-5-2002	Surcharge was levied at 10 <i>per cent</i> instead of 5 <i>per cent</i>	19.49
103	Jaipur Club Ltd.	Jaipur	2007-08	While computing the total income, depreciation of ₹ 25.29 lakh under the Act was allowed but omitted to add depreciation of ₹ 25.65 lakh debited in the Profit and Loss account.	8.64
104	Sh. P.V. Ramakrishna Rao	Vijayawada	2006-07	i) Long term capital gain of ₹ 1.42 crore derived from sale of asset other than 'specified asset' u/s 115c(f) was taxed @10 percent instead of 20 percent. ii) The assessee owned more than two residential houses. Exemption of ₹ 9.47 lakh towards investment on another residential house was required to be disallowed u/s 54F.	22.03
105	Siddhartha Mitra	Kolkata-XVII	2005-06	As against the receipt of ₹ 72.16 lakh as per TDS certificate, only ₹ 11.53 lakh was offered for taxation.	27.14
106	Vijay Kumar Bothre	Kolkata Central-III	2005-06	During the relevant previous year the assessee received loans and advances of ₹ 66.95 lakh from a Private Limited Company. In that company, the assessee had more than 10 <i>per cent</i> shares. The loans and advances was required to be treated as deemed dividend to the extent of the accumulated profit u/s 2(22)(e). During the previous year, the company had accumulated profit of ₹ 35.66 lakh, which was to be treated as deemed dividend. The omission resulted in under	15.84

				assessment of income by ₹ 35.66 lakh.	
107	Premium Writing products	Kolkata Central-III	2004-05	"Today's Writing Product Ltd." was a debtor of ₹ 251.03 lakh. But the assessee company was not shown as a creditor by 'Today's Writing Products Ltd.' during 2003-04. The assessee could not explain this credit satisfactorily. As such the amount was to be treated as unexplained cash credit which was not done.	121.58
108	Master Sundar Das & Sons	West Bengal CIT-Burdwan	2004-05	The assessee had received contractual payments of ₹ 471.48 lakh out of which only ₹ 349.17 lakh was offered for taxation.	60.99
109	Sh. Gopal Das Khandelwal	Jaipur-I	2006-07	Tax was calculated on short term capital gains at the rate of 10 <i>per cent</i> instead of 30 <i>per cent</i> Short term capital gain was wrongly taken as ₹ 25.27 lakh instead of ₹ 25.47 lakh.	7.63
110	Nmetal Fab Silk Industries Ltd.	Surat-III	2006-07	Depreciation of ₹ 22.36 lakh at the rate of 50 percent was allowed on machineries against the admissible amount of ₹ 6.71 lakh at the rate of 15 percent.	7.01
111	M/s Gramin Vidyut Sahakari Samiti, Maryadit, Amarpatan, Satna	Jabalpur-II	2006-07	Instead of loss of ₹ 12.29 crore, loss was assessed at ₹ 65.62 crore.	1631.9
112	Shri Mahendra Kumar Jain	Chennai Central-I	2005-06	The assessee was allowed expenditure of ₹ 1.42 crore on account of interest payment made on which no tax was deducted at source as required under section 194A. The incorrect allowance resulted in short levy of tax of ₹ 89.01 lakh including interest.	89.01
113	M/s Hero Exports	Ludhiana-II	2002-03	Demand of ₹ 10.75 lakh was raised against the correct demand of ₹ 32.58 lakh. This resulted in short computation of tax of ₹ 14.35 lakh excluding interest of ₹ 7.48 lakh under section 234B.	14.35
114	Sh. Abdullabhai	Nagpur-II	2005-06	As the income from the sale of US-64 did not form part of the total income as per the provisions of section 10(33) of the Act, set off and carry forward of the LTCL from the transfer of US-64 bonds was required to be disallowed. Omission to do so resulted in incorrect set off of long term capital loss of ₹ 21.41 lakh.	14.59
115	The Deodurg Taluk Co-op. Agricultural and Rural Devpt. Co-op. Society	Gulbarga	2007-08	The assessee was allowed excess carry forward of loss of ₹ 218 crore.	66.59

116	Sh. Sukhjit Singh	Patna-II	2006-07	Depreciation on vehicles running on hire was allowed at 40 <i>per cent</i> instead of 30 <i>per cent</i> .	14.01
117	Sh. Yogesh Pareriya	Bhopal	2007-08	Total income of the assessee was taken as ₹ 242.05 lakh instead of ₹ 462.56 lakh.	120.52
118	K. Gnaneshwar	Hyderabad-II	2004-05	Total income was taken as ₹ 2,43,31,001 instead of the correct amount of ₹ 2,43,76,001. Interest under section 234B was calculated from 1.4.2005 instead of 1.4.2004.	9.89
119	Sh. Sudhir Sareen	Hyderabad-Central-I	2002-03	Interest under section 234B was excess levied	523
120	M/s Manikchand Giriraj Group	Pune-II	2005-06	Expenses/ Payments were not disallowed though TDS was paid after the due date.	11.79
121	Sri Rao Subha Rao	Hyderabad Central	2006-07	Interest under section 234B was not levied.	13.01
122	Jharkhand Hill Area Lift Irrigation Corporation Ltd.	Ranchi	2007-08	Taxable income was taken as ₹ 322.84 lakh instead of the correct figure of ₹ 613.94 lakh	130.62
123	Shri Raj Kumar Jain	Kolkata-XVII	2006-07	Deduction of ₹ 47 lakh was allowed under section 80-IC even though the deduction was not available for goods produced by the concern.	20.05
124	M/s Sri Gayatri Wines	Hyderabad-VI	2006-07	As per orders of Andhra Pradesh Beverages Corporation Ltd., maximum retail price of liquor was fixed at the rate of 30 <i>per cent</i> over the issue price. As such, goods sold by the assessee worked out to ₹ 191.85 lakh (sales ₹ 147.57 lakh increased by 30 <i>per cent</i> .) The mistake resulted in short computation of income of ₹ 20.18 lakh.	7.68
125	Sri Rao Subba Rao	Hyderabad Central	2006-07 (covering Ays 2001-02, 2002-03, 2004-05 to 2006-07)	Undisclosed amounts of ₹ 11 lakh, ₹ 9.97 lakh and ₹ 15.18 lakh in respect of assessment years 2001-02, 2004-05 and 2005-06 were not brought to tax in full. Interest under section 234B was short levied for all the assessment years.	83.73
126	Late Shri. Saheb Khan	Raipur	2005-06	Closing capital and work in progress for the year 2004-05 were wrongly carried forward for the year 2005-06.	6.85
127	Faze Three Exports Ltd.	Mumbai-VI	2004-05	The assessee had taxable wealth. Still neither did the assessee file return of wealth nor did the assessing officer initiate any proceeding.	1.43
128	Sh. Irfan Razack	Bengaluru Central	2007-08	Urban land valued at ₹ 7.19 crore was not brought to tax.	8.34
129	Sri Grandhi Subba Rao	Gundur	2003-04	The assessee had taxable wealth. Still neither did the assessee file return of wealth nor did the assessing officer initiate any proceeding.	8.02
130	Dr. B.V. Radha Ramana	Rajamundri	2006-07	The assessee had taxable wealth. Still neither did the assessee file return of	1.81

				wealth nor did the assessing officer initiate any proceeding.	
131	Suresh Singh	Kolkata-X	2003-04 & 2004-05	Values of two buildings were not considered for wealth tax assessments.	11.97
132	Metal Engineering & Treatment Co. Pvt. Ltd.	Kolkata-I	2007-08	The assessee was engaged in the business of manufacturing bridge components and not in the business of construction. So 20 per cent of the amount expended as conveyance charges should have been considered as fringe benefit which was not done. The mistake resulted in under valuation of Fringe benefit of ₹ 6.87 lakh.	2.31
133	Megatherm Electronics Pvt. Ltd.	Kolkata-I	2006-07	20 per cent of the expenditure towards staff welfare expenses to be treated as Fringe Benefit tax, which was not done	1.16
134	Neosa Electronics Pvt. Ltd.	Kolkata-III	2008-09	Fringe Benefit was taken as ₹ 64,637 against ₹ 3.23 lakh on the value of ₹ 16.16 lakh on account of the expenditure towards repair, running and maintenance of motor cars including depreciation thereof.	1.01
135	EIHLtd.	Kolkata-III	2006-07 & 2007-08	Amounts of ₹ 363.25 lakh and ₹ 473.35 lakh expended on account of repair, running and maintenance of aircraft and depreciation thereon were not considered as Fringe benefit.	34.75
136	National Jute Manufacturing Corporation Ltd.	Kolkata-I	2006-07	Amounts of ₹ 26.75 lakh expended on account of payment towards employee's welfare, conveyance and travelling, repair, running and maintenance of motor car and depreciation thereon were not considered as Fringe benefit.	10.01
137	Net 4 Communications Ltd.	Kolkata-I	2006-07	Amounts of ₹ 6.59 lakh expended on account of payment towards employee's welfare, conveyance and travelling, use of hotel and boarding and lodging facilities etc. were not considered as Fringe benefit.	1.98
138	M/s Andhra Pradesh Tourism Development Corporation Ltd.	Hyderabad-I	2006-07	Amounts of ₹ 34.94 lakh expended on account of staff welfare was not considered as Fringe benefit.	2.87
139	M/s L.M. Glass fiber (India) Pvt. Ltd.	Bengaluru-I	2007-08	As per the certified statement of fringe benefits enclosed to return of income, total value of fringe benefit was ₹ 81.41 lakh against which only ₹ 68.80 lakh was assessed and brought to tax.	4.24
140	M/s Kohler India Corporation Ltd.	Bengaluru-I	2007-08	As per the certified statement of fringe benefits enclosed to return of income, total value of fringe benefit was ₹ 54.28 lakh against which only ₹ 37.23 lakh was assessed and brought to tax.	5.74
					45354.79

Appendix-13

(Referred to in Paragraph 2.4.6)

(₹ in lakh)

Cases issued during 2010 : accepted and remedial action initiated					
Sl. No.	Name of assessee	CIT charge	Assessment year(s)	Category of mistake	Tax effect
1	M/s Renowned Auto Products & Manufacturers (P) Ltd.	Chennai-III	2004-05	Income of ₹ 66.56 crore was worked out instead of loss of ₹ 2.64 crore which resulted in short computation of loss by ₹ 2.64 crore and over assessment of income by ₹ 66.56 crore and incorrect set off of brought forward loss by like amount.	2482.66
2	M/s Orissa Power Transmission Corporation Ltd.	Bhubaneswar	2007-08	The amount of prior period expenditure to be disallowed was wrongly taken as ₹ 27.71 crore instead of ₹ 12.12 crore.	923
3	M/s Neelachal Ispat Nigam Ltd.	Bhubaneswar	2007-08	The assessee understated the sales by ₹ 6.12 crore. The acceleration of stock was understated by ₹ 2.02 crore.	274
4	M/s Southern Electricity Supply Company of Orissa Ltd.	Bhubaneswar	2007-08	The assessee made provision of ₹ 3.76 crore for payment of gratuity, which was not admissible deduction. Still the amount was not disallowed.	126
5	M/s Trichy Steel Rolling Mills Ltd.	Trichy-I	2006-07	Forfeited amount of sundry creditors of ₹ 6.42 crore was credited into profit and loss account. While computing the total income, it was added back to the net loss. This resulted in underassessment of business income by ₹ 1.45 crore.	216.14
6	M/s Small Industries Promotion Corporation of Tamil Nadu Ltd.	Chennai-III	2007-08	Loss of ₹ 12.35 crore relating to assessment year 2003-04 was set off against profit of assessment year 2007-08 when actually there was a profit of ₹ 11.88 crore for the year 2003-04.	815.82
7	Le Passage To India Tours and Travels Pvt. Ltd.	Delhi-II	2006-07	In the schedules forming part of the annual accounts, Rs. 129.79 crore had been stated to have accrued as receipt from 'sales and services'. In the Profit and loss account, only Rs. 21.03 crore had been shown as income from services. Thus income of ₹ 108.76 crore escaped assessment.	4869.03
8	M/s Delhi Transport Corporation	Delhi-IV	2006-07	An amount of ₹ 131.07 crore being interest on plan loan taken for acquisition of capital assets was	4411.82

				omitted to be added back to the total income.	
9	M/s Bank of Maharashtra	Mumbai-X	2006-07	The assessee was allowed write off of bad debts of ₹ 42.18 crore in violation of provisions of section 36(1)(vii) as the bad debt of ₹ 155.13 crore written off by the assessee during the relevant previous year was less than the opening provision of ₹ 233.52 crore for bad and doubtful debts.	1888.48
10	M/ s Futura Polysters Ltd.	Mumbai-V	2007-08	The assessee while computing book profit, did not add back the deferred tax adjustment of ₹ 4.34 crore and provision for doubtful debts/ advances of ₹ 1.43 crore. Further, the assessee reduced depreciation of ₹ 24.79 crore including depreciation of ₹ 9.08 crore on account of revaluation of assets which was not admissible as per provisions of 115[B(1)(g)(iia).	245.14
11	Allied Resins & Chemicals Ltd.	Kolkata Central -I	2005-06	The assessee had been allowed an expenditure of ₹ 19.06 crore being the interest on MDF term loan. But the said MDF project had not started functioning as on 31 March 2005 and the entire expenditure incurred as on that date was capitalised in the accounts. hence the interest of ₹ 19.06 crore was to be disallowed, which was not done.	697.59
12	West Bengal State Electricity Board (P) Ltd.	Kolkata-I	2007-08	The assessee was allowed ₹ 30.04 crore towards payment made to the Power Grid Corporation on account of transmission charges. As no TDS was made on that payment, the deduction was not regular which resulted in over assessment of loss to the extent of ₹ 30.04 crore.	1011
13	Bata India Ltd.	Kolkata-I	2006-07	The assessee was allowed deduction of ₹1.49 crore which was paid during assessment year 2007-08.	50.01
14	M/s National Aluminium Company Ltd.	Bhubaneswar	2007-08	i)The assessee made provision of ₹ 9.58 crore towards likely liabilities on account of pending finalisation of pay scale which was not an admissible deduction. Still the amount was not disallowed by the AO. ii) Dues on electricity, water charges and royalty are in dispute and not ascertainable and hence interest on the same is also unascertained liability. Provision of	1792

				₹ 43.67 crore made on these items was not disallowed.	
15	M/s National Aluminium Company Ltd.	Bhubaneswar	2006-07	Out of ₹ 12.39 crore proposed for disallowance under section 43B, only ₹ 2.42 crore was offered by the assessee for disallowance. Difference was ₹ 9.95 crore. Further there was excess allowance of depreciation of ₹ 1.68 lakh Both mistakes resulted in under assessment of income of ₹ 9.97 crore.	111.71
16	Gluconate Health Ltd.	Kolkata-IV	2003-04	Interest on Government loan is not covered under the provisions of section 43B of the Act. Still, the assessee was not allowed deduction of ₹ 579.07 lakh being the interest on Government loan because of non payment of the same.	212.81
17	M/s Indian Metals and Ferro Alloys Ltd.	Bhubaneswar	2006-07	As the share value of amalgamated company was de rated, the assessee company had to pay ₹ 7.42 crore which was allowed by the Assessing Officer instead of 1/5 of the amount.	200
18	M/s Shiva Cement Ltd.	Sambalpur	2006-07	Provision for interest of ₹ 2.48 crore not actually paid was not disallowed. This resulted in under assessment of income of ₹ 2.48 crore.	83.49
19	M/s Chaitanya Properties Pvt. Ltd.	Bengalure-I	2005-06	While computing the tax payable, refund of ₹ 95.84 lakh allowed in March 2006 was not considered.	105.9
20	M/s Paradeep Phosphates Ltd.	Bhubaneswar	2006-07	TDS was not made on the value of ₹ 1447.91 crore on imports from Morocco. As such the amount was to be disallowed, which was not done.	58712
21	M/s Rohit Kumar Construction Pvt. Ltd.	Bhubaneswar	2007-08	Value of work in progress was shown as ₹ (-)36.33 lakh as against the correct figure of ₹ 562.52 lakh which resulted in under assessment of profit by ₹ 5.63 crore.	260.46
22	M/s Orissa Sponge Iron Ltd.	Bhubaneswar	2006-07	Loss of ₹ 7.39 crore was allowed to be set off when there was no brought forward loss to be set off.	330.97
23	M/s Kaytee Cotsynth Ind. Ltd.	Mumbai-III	2007-08	The assessee set off unabsorbed depreciation of ₹ 2.90 crore pertaining to assessment years 2002-03 and 2003-04 against short term capital gain. The mistake resulted in under assessment of short term capital gain by ₹ 4.90 crore.	216
24	M/s Patliputra Builders (P) Ltd.	Patna-I	2004-05	Cost of investment as reported by the District Valuation Officer was not considered by the Assessing Officer which resulted in short computation of income of ₹ 13.87 crore.	781.31

25	Jharkhand Tourism Development Corporation Ltd.	Ranchi	2007-08	Interest receipt of ₹ 146.63 lakh was not considered in computation of total income.	65.64
26	Voltas Ltd.	Mumbai-VII	2001-02, 2002-03 to 2005-06	While computing book profit, provision for diminution in the value of investment amounting to ₹ 14.52 crore in assessment year 2001-02, provision for doubtful debt/advances amounting to ₹ 4.61 crore in assessment year 2002-03, provision for diminution in the value of investment of ₹ 2.61 crore and provision for doubtful debt/advances amounting to ₹ 9.84 crore in assessment year 2005-06. The omission resulted in short computation of book profit to the same extent.	363.7
27	M/s Tamil Nadu Electricity Board	Chennai-I	2006-07	Payment of ₹ 10.04 crore towards legal charges, audit fee, consultancy charges, technical fee and other professional charges, paid without deducting tax at source was not disallowed.	337.84
28	M/s Harihar Power and Alloys P Ltd.	Trichy-I	2006-07	Depreciation and additional depreciation on furniture and fittings and Plant and Machinery was allowed at more than applicable rates resulting in excess depreciation of ₹ 1.68 crore.	56.7
29	M/s Indian Oil Corporation Ltd.	Mumbai-X	2006-07	The assessee debited ₹ 146.10 crore to the profit and loss account towards technical fees. ₹ 2.08 crore was also debited towards the same under the head prior period expenses. Even though ₹ 146.10 lakh was disallowed after allowing depreciation at 25 per cent, the amount of ₹ 2.08 crore was not disallowed which resulted in under assessment of income by ₹ 1.56 crore.	69.84
30	M/s Bihar Rajya Pul Nirman Nigam Ltd.	Patna-I	2006-07	Loss of ₹ 15.91 lakh and ₹ 59.92 lakh was allowed to be set off in respect of assessment years 2004-05 and 2005-06 when actually there was no loss to be set off.	34.18
31	Shri. Ram Kandoi	Patna-II	2006-07	Deduction under section 80-IC(2)(ii) is admissible only if the production activity starts after 7 January 2003. Even though the production started well before 7 January 2003, the deduction was allowed.	29.71

32	Kerala State Co-operative Consumer Federation Ltd.	Kochi	2004-05	As the return of loss was filed after the due date, the assessee was not eligible to carry forward unabsorbed business loss of ₹ 6.02 crore, but the same was allowed.	215.76
33	M/s Sahyagiri Constructions	Pune-II	2004-05	Interest receivable on loans to various persons was required to be added to taxable income which was not done. The omission resulted in under assessment of income of ₹ 29.73 lakh.	14.08
34	M/s. Tiruchirapalli District Central Co-operative Bank Ltd	Trichi-I	2007-08	The assessee had claimed and was allowed deduction of ₹ 3655.88 lakh by aggregating 10 <i>per cent</i> of the loans and advances pertaining to rural branches and 5 <i>per cent</i> of the profits. As the assessee had no rural branches as defined under clause (ia) of Explanation to Section 36(1)(vii) it was eligible for deduction of ₹ 293.73 lakh only i.e. 7.5 <i>per cent</i> of the total income. Omission to consider the same resulted in excess allowance of deduction of ₹ 3358.15 lakh with consequential underassessment of business income of ₹ 1789.80 lakh and excess carry forward of loss of ₹ 1568.35 lakh involving positive tax effect of ₹ 547.67 lakh and potential tax effect of ₹ 479.92 lakh respectively.	1027.59
35	Shri Devi Nenshi Palani	Mumbai-XIII	2007-08	Income from other sources remained to be added while computing taxable income, though declared by the assessee in the return of income.	12.89
36	Bhilwara Mahila Urban Co-operative Bank	Ajmer	2007-08	Provision of ₹ 26.40 lakh was allowed on account of unascertained liability	9.77
37	M/s Barmer Central Co-operative Bank Ltd.	Jodhpur	2007-08	Provision of ₹ 90 lakh towards salary which was not ascertained and which was not incurred during the year was not disallowed.	32.19
38	Sh. Vetrival	Madurai-I	2007-08	Income tax payment of ₹ 43.79 lakh debited to the Profit and loss account was not added back while computing total income.	15.53
39	M/s Kundil Alloys (P) Ltd.	Goa	2006-07	The assessee had taxable wealth. Still neither did the assessee file return of wealth nor did the assessing officer initiate any proceeding.	1.11
					83,103.87