

**Report of the
Comptroller and Auditor General
of India**

for the year ended March 2012

**Strengthening the Tax Base
through
use of Information**

**Union Government
Department of Revenue - Direct Taxes
No. 4 of 2013**

Laid on the table of Lok Sabha/Rajya Sabha on_____

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Preface

The Report for the year ended March 2012 containing the results of the performance audit of 'Strengthening the Tax Base through use of Information' has been prepared for submission to the President under Article 151(1) of the Constitution of India.

The 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.

Our findings are based mainly on test audit conducted from November 2011 to June 2012.

Executive Summary

- Strengthening the tax base is arguably one of the most important aspects of the direct tax management. The Income Tax Department (ITD) uses 'pieces of information' arising from different sources to strengthen the tax database, in addition to the information available in the income tax returns/provided by the assessee during assessment.
- Central Information Branch (CIB) of ITD collects, uploads information to the ITD Systems and disseminates to the Assessing Officers (AOs). There are 17 formations of CIB across the Country under the Director General of Income Tax (Intelligence and Criminal Investigation). Agencies submit information to CIB or TIN Facilitation Centres of National Securities Depository Limited (NSDL) on behalf of ITD. This flows through CIB Module of ITD Systems software administered by the Director General of Income Tax (Systems).
- Annual Central Action Plans of ITD target an increase of 15 *per cent* per year in assessee base. Against this, annual increase during the ten year period from FY 02 to FY 11 was only 3.1 *percent* (from 262 lakh to 336 lakh assessees).
- We found several deficiencies in the scheme of flow and utilization of information. ITD did not call for Information from all the sources (*paragraph 2.11*). Some of the information lacked basic information like PAN of assessees thereby rendering it useless (*paragraphs 2.12 & 2.13*). We came across cases where incorrect information was transmitted. ITD made no effort to transfer this incorrect transmitted information to AOs dealing with the correct assessees (*paragraph 2.19 and Box 2.1*). ITD was not following up on notices requisitioning information from the agencies. ITD did not take action against inadequate filing of AIRs (*paragraphs 2.20-2.23 & Box 2.2*). CIB delayed and defaulted on uploading information on ITD Systems (*paragraph 2.32*). They defaulted on classifying and maintaining the data and did not utilize the full functionalities of CIB Module (*paragraphs 2.37-2.39, 2.47-2.57*).
- We found that out of the total cases selected for scrutiny by ITD, an average of 7.7 *per cent* over FY 08 to FY 10 was on the basis of AIR information (*paragraphs 3.1 & 3.2*). We also found 285 high value cases where AOs did not utilize the useful available information during assessments or they finalized the assessments relying on the reply of the assessees without verifying the facts and correctness of the transactions. (*paragraph 3.3*). AOs also did not bring AIR information to tax in cases where the assessee himself had offered the amount (*paragraph 3.5*).

Summary of Recommendations

With reference to Collection and Collation of Information

(Paragraph 2.1 to 2.44)

1. Information from all the compulsory as well as approved optional source codes be collected;
2. Entire collected information be uploaded by CIB/NSDL in the same year and bottlenecks in uploading the information be removed so that it can be used in scrutiny assessment;
3. Suitable system be put in place which ensures correctness and reliability of data received through AIR/CIB before its dissemination to the field. There is also a need for effective penal provisions in the Act for furnishing factually incorrect information in AIR or in reply to notices issued by ITD;
4. Feasibility of developing a web based information collection system be explored to avoid the problems in collecting non-AIR information. This would take care of redundant data and data mismatch;
5. Internal review be initiated to gauge the utility and effectiveness of system of filing of AIR;
6. Time lines for issuing query letters be defined as also for referring back cases to DIT-CIB, as control mechanism to ensure that the query letters are issued by a specified time/date and if the letters return as un-served, the cases are referred to DIT-CIB within a defined time period, enabling effective monitoring of the activity;

With reference to Dissemination of Information

(Paragraph 2.45 to 2.57)

7. Suitable mechanism be devised including business intelligence tools to ensure effective utilization of information collected at high cost, both to ITD and for the agencies tasked with collecting and providing such information to ITD to achieve the objective of deepening and widening of tax base;
8. All available functionalities of CIB module be used;

With reference to utilization of Information

(Paragraph 3.1 to 3.28)

9. Monitoring system put in place by CBDT needs to be ensured at different levels of ITD;
10. Utilization of declarations received in Form 60/61 be ensured by digitizing and disseminating them;
11. Nomination of Designated Assessing Officers on regular basis to deal with non-PAN AIR cases be emphasized;
12. Responsibility on AOs be defined who fail to record or utilize the information available to them in course of their assessments.

Chapter I: Introduction

1.1 Expansion of tax base is necessary to bring more persons under the tax net so that more revenue may be generated. Therefore, the Income Tax Department (ITD) collects, disseminates and utilizes useful information from various sources to curb evasion of tax. Annual Central Action Plans of ITD have aimed at 15 *per cent* annual increase of new assesses.

Central Information Branch (CIB)

1.2 CIB, formed in 1975¹, is the nodal agency of ITD for strengthening tax data base. Its key function areas are: (i) collection, collation of information from internal as well as external sources and its dissemination to Assessing Officers (AOs) and other users in ITD; (ii) widening of tax base through identification of stop filers and non-filers; (iii) deepening of tax base by providing information for proper selection of cases for scrutiny assessments. CIB collects information relating to financial transactions like investment, expenses, payment of taxes, etc. and details of persons who are involved in some specified activities. This information relates to 40 internal and external source codes (**Annex**). Section 139A(5)(c) of the Income Tax Act, 1961 (Act) read with Rule 114B of Income Tax Rules, 1962 (Rules) made quoting of PAN in respect of 16 source codes compulsory. There are 17 CIB offices in ITD. With effect from August 2011², CIB has been placed under newly created Directorate of Income Tax (Intelligence & Criminal Investigation) headed by DGIT-I&CI.

1.3 ITD Systems has CIB module for sorting, collating, managing, organizing and analyzing information coming from various sources. CIB uploads information in CIB module under control of Director General Income Tax (System).

Organization set up

1.4 Member (Investigation) of the Central Board of Direct Taxes (CBDT) has the overall responsibility of investigation management in ITD. There is an attached office of the Director General of Income Tax–(Intelligence and Criminal Investigation (DGIT-I&CI) under him, set up in August 2011, at New Delhi for this purpose. There are 17 field formations - 08 DsIT (I&CI) at Ahmadabad, Chandigarh, Chennai, Delhi, Jaipur, Kolkata, Lucknow and Mumbai; and 09 DsIT (Intelligence) at Bangalore, Bhubaneswar, Bhopal, Guwahati, Hyderabad, Kochi, Kanpur, Pune and Patna. Prior to formation of

¹ CBDT in August 1975 streamlined Information set-up and named it as Central Information Branch

² CBDT's notification no. 42/2011 dated 19.8.2011

DGIT-I&CI in August 2011, the CIB offices functioned under Director General of Income Tax (Investigation) in each state.

1.5 The Directorate of Income Tax (System), created in the year 1981 and headed by Director General-IT System (DGIT-S), coordinates at the apex level all activities relating to introduction of computerization in ITD. DGIT-S is assisted by 05 Directors of Income Tax (DsIT) and 03 Officers on Special Duty (OSD). DIT-II is in-charge of National Securities Depository Limited (NSDL), Online Tax Accounting System (OLTAS) and CIB module.

1.6 The organogram of ITD dealing 'Strengthening of Tax Base through use of Information' and person in position against sanctioned strength (given in brackets) as on 31 March 2012, is as follows:

Central Board of Direct Taxes			
Member Legislation & Computerization	Member Investigation		
DG-IT Systems	DG-IT Intelligence & Criminal Investigation		
DIT-II NSDL & OLTAS	DIT (Admn) 1 (1)	DsIT (I) (9 field offices) 7 (8)	DsIT (I & CI) (8 field offices) 8 (8)
	Addl/JT DsIT 1 (3)	Addl/JT DsIT 6 (9)	Addl/Jt DsIT 6 (12)
	DD/Asstt DsIT 3 (5)	DD/Asstt DsIT 6 (16)	DD/Asstt DsIT 9 (25)
	ITOs 3 (5)	ITOs 44 (57)	ITOs 58 (81)
	AOs DDOs 1 (1)	AOs DDOs 4 (7)	AOs DDOs 6 (7)

1.7 There is overall³ shortage of 599 (53.63 %) persons against sanctioned strength of 1117 in DGIT-I & CI.

³ This includes shortage of 515 persons against sanctioned strength of 868 in other cadres.

1.8 The expenditure incurred against the budget during the last four years ended on 31 March 2012 to I & CI wing is given in Table 1.1 below.

Table 1.1: Budget and Expenditure

Financial Year	Budget	Expenditure	Lakh ₹	
			Unspent budget Amount	(in per cent)
FY 09	2,87,014	1,71,015	1,15,999	40.4
FY 10	2,67,570	2,25,452	42,118	15.7
FY 11	2,72,705	2,32,013	40,692	14.9
FY 12	3,06,197	3,00,585	5,612	1.8

Why we chose the topic?

1.9 It was over 20 years ago that audit had reviewed⁴ the functioning of CIB. The present performance audit on 'Strengthening the Tax Base through use of Information', seeks to study the developments in strengthening of tax database, especially with reference to the scheme of furnishing of Annual Information Return (AIR) through CIB/NSDL under section 285BA of the Act, implemented since 01 April 2005.

Audit Objectives

1.10 The following are the audit objectives:

- a. Evaluation of the process of collection, collation, transmission and utilization of information by ITD towards widening and deepening the tax base;
- b. Evaluation of the effectiveness of working of CIB, NSDL, DGIT-S, CsIT, Assessing Officers and DG (Investigation)/CsIT(TDS) with regards to the flow of information;
- c. Evaluation of the effectiveness of the scheme of furnishing of AIR through CIB/ NSDL under section 285BA as implemented since 01 April 2005.

Audit Scope

1.11 This study covers the period from FY 08 to FY 11. We carried out examination of records of CIB and DGIT-S and cross-checked the utilization of information provided by them to AOs in 16 states, viz. Assam, Andhra Pradesh, Bihar, Delhi, Haryana, Gujarat, Kolkata, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu and Uttar Pradesh. In these states, we examined information collected by 17 CIB offices.

⁴ In C&AG's Report no 5 of 1991, Union Government (Revenue Receipts – Direct Taxes)

Audit Methodology and Sampling for audit

1.12 We examined records of CIB offices and undertook review of procedures to receive and upload AIR information in TIN Facilitation Centres (TIN-FCs) of National Securities Depository Limited (NSDL). We selected five TIN-FCs in each selected state. To see the utilization of information during the assessment, top 30 *per cent* CsIT subject to maximum of five CsIT in each state with all assessment charges under the selected CsIT, (in all 60 CITs) were selected on the basis of risk analysis. Further, we took up a maximum of 100 assessment cases for cross verification on the basis of stratified random sampling per year per selected charge.

Legal Provisions

1.13 The Act contains statutory provisions for collecting the information on specified transactions from specified persons and quotation of PAN. In addition, CBDT has issued various instructions from time to time in this regard. These are as follows:

- a.** Section 285BA is specific to the functioning of CIB. CBDT circular no. 7/2005 dated 29 August 2005 prescribes that AIR is to be filed in terms of Rule 114E by the 'specified persons' in respect of those 'specified transactions' which are registered or recorded by them during financial year. The Board has authorized NSDL as the agency to receive AIRs on behalf of CIB. NSDL has started receiving AIRs from August 2005.
- b.** Section 139A read with Rules 114B and 114C specifies compulsory quoting of PAN in certain transactions.
- c.** Board's instruction no. 1943 dated 22 August 1997, revised instruction vide letter F. no. 414/47/2002 IT (Inv. I) dated 05 September 2002 and further rationalized instructions vide letter no. 414/ 66/2009 (Inv. I) dated 22 December 2009 laid down about importance of sources of information.
- d.** Instruction nos. 6/2006 of 01 August 2006 and 01/2009 of 12 February 2009 etc. deal with utilization of information in AIR during assessment.

Acknowledgement

1.14 We acknowledge the cooperation of ITD in providing the necessary records and information in connection with the conduct of this performance audit. An entry conference was held with CBDT in November 2011. The audit objectives, scope of audit and the main areas of audit examination were explained in the meeting.

1.15 The exit conference was held (January 2013) with CBDT. We have suitably incorporated CBDT's views in this report.

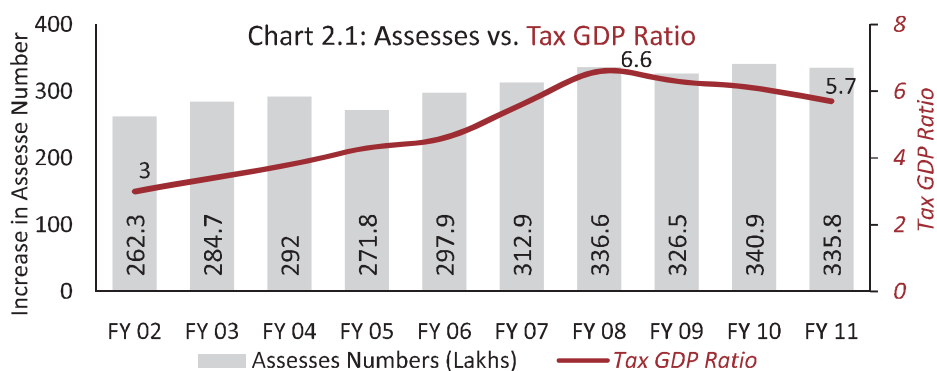
Chapter II: Collection, Collation and Dissemination of Information

- CIB did not collect information from all the compulsory source codes and approved optional source codes. A large number of collected pieces of information were without PAN and had zero value.
- ITD did not take penal action against the persons who did not furnish the required information, did not file AIR, filed AIR belatedly, and who gave incomplete information in AIR.
- ITD did not have any system to ensure the compliance to Rule 114B which requires mentioning of PAN in documents pertaining to specified transaction.
- CIB did not maintain database for collecting the information and for identifying prospective AIR filers/non-filers.
- CIB did not upload collected information in a timely and complete manner to CIB module. It faced problems in uploading information due to technical reasons.
- Information of earlier years was uploaded as information of current year.
- CIB did not digitize and disseminate declarations received in Forms 60/61
- CIB did not use all functionalities available in CIB module.

Importance of information

2.1 ITD collects information on financial transactions from various third party sources which help in identifying potential sources of revenue.

2.2 Tax GDP⁵ ratio which was showing an increasing trend started declining in FY 09 and came down to 5.7 *per cent* in FY 11 from 6.6 *per cent* in FY 08. During the period FY 02 to FY 11 average increase in number of assesseees was 3.1 *per cent* (Chart 2.1).



⁵ GDP at Market Price (Source: Ministry of Statistics; NSO)

2.3 Clearly, there is much scope for widening and strengthening of tax base through collection of information by DGIT-I&CI (formerly CIB).

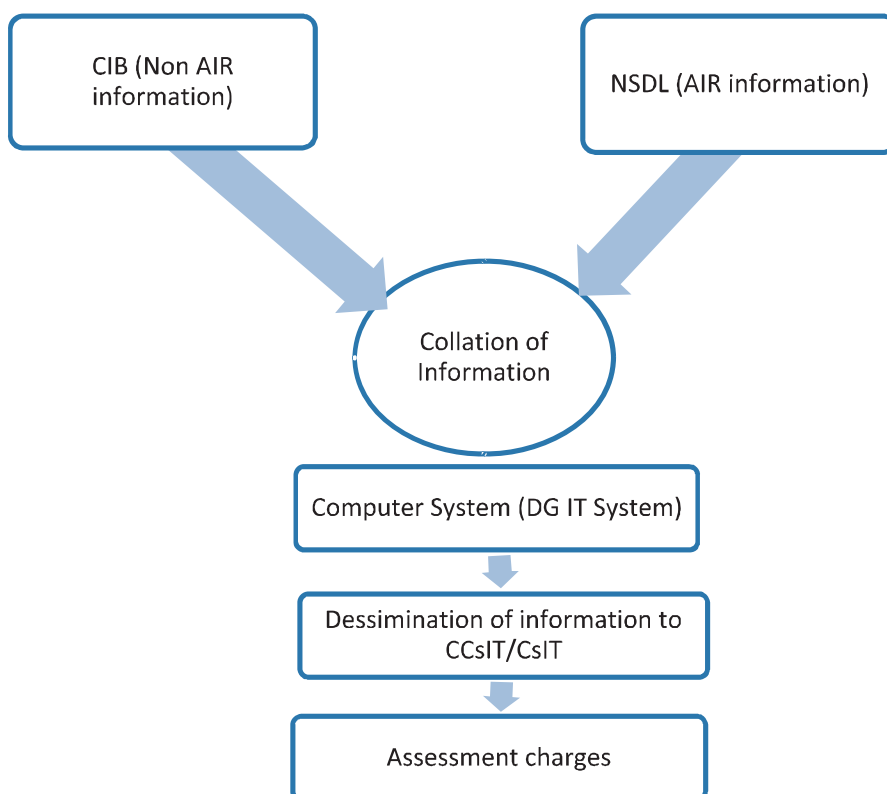
Sources of information

2.4 ITD collects information through AIR and by CIB directly. Various sources like banks, credit card companies, companies, mutual funds, registrar/sub-registrar of properties, Reserve Bank of India, Central Excise/Custom/Sales Tax Departments, Post Office, local authorities, hotels/clubs/caterers, telephone providers, insurance companies, etc. contribute information. CIB collects information from 40 source codes of which 12 is compulsory (**Annex**).

2.5 During FY 05, CIB collected 13.59 lakh pieces of information valuing ₹ 4.38 lakh crore. This increased to 11.17 crore pieces of information valuing ₹ 223.53 lakh crore in FY 12. During FY 05, ITD received 20.08 lakh AIR data valuing ₹ 14.21 lakh crore. This increased to 46.61 lakh AIR data in FY 12 valuing ₹ 94.30 lakh crore.

Flow of information

2.6 The following flow chart illustrates the flow of information:



Annual Information Return (AIR)/CIB information

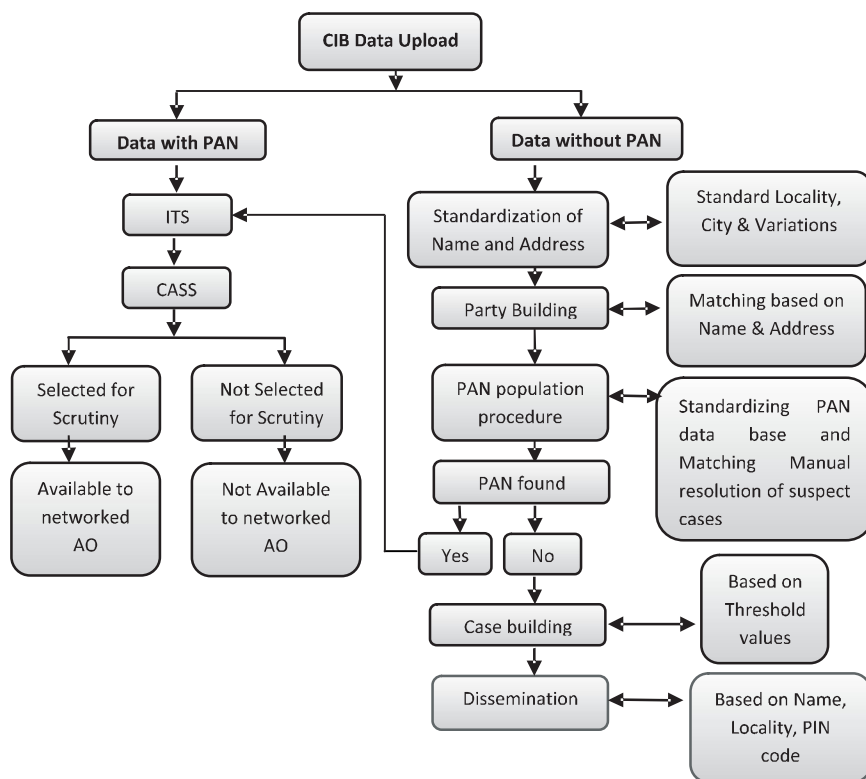
2.7 Section 285BA of the Act and Rule 114E of the Rules, specify that persons are required to furnish AIR immediately following financial year to the prescribed Income Tax authority or agency. CBDT has notified NSDL as prescribed agency to receive AIR from the specified persons. At present, seven categories of persons are required to compulsorily file AIR which are Banks accepting cash deposit of ₹ 10 lakh or more in a year, Bank or company issuing credit card where payment against bill exceed ₹ two lakh in a year, Mutual funds collecting ₹ two lakh or more for sale of units, Company receiving ₹ five lakh or more against issue of bonds/debentures, Company receiving ₹ one lakh or more against issue of shares, Registrars/sub-registrars in respect of sale/purchase of immovable property exceeding ₹ 30 lakh and RBI for issue of bonds exceeding ₹ five lakh or more.

CIB Module of ITD Systems

2.8 CIB module of ITD systems assists in identifying PAN of the transaction. It also allows updating of PAN information in cases where this is obtained by issuing query letter by the Designated Assessing Officer (DAO)/Jurisdictional Assessing Officer (JAO). The information collected from various internal and external sources are thereafter disseminated to AOs and the Investigation wing.

2.9 Assistance to AO at the time of scrutiny is provided in the form of the Individual Transaction Statement (ITS) report, which brings together information from multiple sources against a PAN in a single report and gives a more comprehensive financial profile of a tax payer.

2.10 The flow of CIB information (both PAN as well as non-PAN) through ITD System is as under:



CIB did not collect information from all the compulsory source codes and approved optional source codes. A large number of collected pieces of information were without PAN and had zero value. All the persons were not furnishing the information called for and penal action was not taken against them.

Deficiencies in collection of information

2.11 CIB had collected 2,868.94 lakh⁶ pieces of Information during FY 08 to FY 11. Analysis of information collected by CIB revealed that:

- a. DGIT (Intelligence) accorded sanction (June 2010) for collection of information from 10 optional sources in Kerala. However, information from these sources has not been called for in FY 11.
- b. DIT-CIB, Patna had not called⁷ for information from all the compulsory source codes. The Ministry replied (December 2012) that DIT-CIB, Patna called for information relating to all compulsory source codes and issued notices but did not mention the period to which these pertains to.

⁶ FY 08: 325.58 lakh, FY 09: 517.19 lakh, FY 10: 876.83 lakh and FY 11: 1,149.34 lakh. Information for FY 08 and FY 09 was not provided by the CIB, Tamil Nadu. Information in respect of Chhattisgarh was included.

⁷ FY 10: source codes 009 (i) & (ii), 010 & 011, FY 11: source codes 009 (i) & (ii)

c. CIB did not receive replies to 18,590 notices⁸ out of 56,528 notices⁹ issued during FY 07 to FY 11. DIT-CIB, Pune initiated penal actions only in 10 cases in FY 11 and DIT(CIB), Mumbai has not taken any action except issuing reminders in 2,746 cases. In Andhra Pradesh, ITD did not take penal action against non respondent except in 258 cases as ITD was preoccupied in the process of educating the filers and encouraging compliance. The Ministry replied (December 2012) that due to shortages of Addl.DIT/JDIT, many charges did not initiate penalty proceedings.

d. National Stock Exchange (NSE) did not furnish any information for FY 08 and FY 09¹⁰. ITD did not take any action against NSE for non-furnishing the information. The Ministry replied (December 2012) that from FY 10 onwards data from NSE has been collected and uploaded.

Information received without PAN

2.12 Out of 24.74 lakh and 1.55 lakh pieces of information collected in Kerala and West Bengal respectively, 19.14 lakh and 0.81 lakh pieces of information i.e. 77 *per cent* and 52.2 *per cent* information respectively were without PAN.

2.13 Analysis of data relating to CIB, Karnataka revealed that only 17 *per cent* of the information collected during FY 09 was with PAN whereas in FY 10 it was only 08 *per cent* of the data made available. We also noticed that 21 *per cent* of the information collected in FY 09 has zero value.

Table 2.1: Details of information collected by CIB, Karnataka

Financial Year	Pieces of information collected	Pieces of information made available	Data with zero value	Data without PAN	Data with PAN
FY 09	2300232	2300232	489057 (21%)	1917613 (83%)	382619 (17%)
FY 10	8854011	1788206	152989 (9%)	1645776 (92%)	142430 (8%)

Information not maintained in uniform format

2.14 We observed deficiencies in CIB's maintenance of Information Receipt Register (IRR) in the prescribed format in Rajasthan, Kerala, Odisha and Bihar. CIB was also not recording details about data uploaded in CIB module and disseminated. CIB was not maintaining IRR in a uniform format in Gujarat. It did not maintain IRR at all in Assam; and in FY 08 and FY 09 in Kerala and Odisha.

8 DIT-CIB, Pune: 12,534; DIT-CIB), Mumbai: 2,746; Andhra Pradesh:1,870; Kerala: 1,390; Madhya Pradesh: 58

9 DIT-CIB, Pune: 25,580; DIT-CIB), Mumbai: 7,329. Information in respect of FY 08 to FY 10 was not available in respect of DIT-CIB, Mumbai. Andhra Pradesh 7,296 (FY 11), Kerala: 7,785; Madhya Pradesh: 8,538.

10 Information for FY 10 and FY 11 was made available by CIB.

Collection of information through AIR handled by TIN FCs

2.15 AIR information is received through NSDL to its TIN FCs and uploaded to ITD System. Audit examination of information provided by NSDL revealed difference between count and amount of transactions received and uploaded to TIN Central System.

2.16 The Ministry replied (December 2012) that the difference between count and amount of transactions received and accepted is on account of AIRs rejected at TIN Central System for the reason of duplicate reporting of transactions. Audit, however, has observed that amount of transactions in AIRs accepted at TIN Central System was more than the amount of the transactions received in many cases.

2.17 We observed several deficiencies in AIR information handled by TIN FC which are as follows:

- a.** While extracting AIR data to ITD, NSDL is required to check the presence of PAN in ITD PAN Master. We, however, observed that TIN FCs checked¹¹ only structural validity of PAN before uploading of AIR, i.e. whether PAN contained 10 digits in the specified format. Thus there was no check about the presence of PAN in ITD PAN Master. The Ministry's reply (December 2012) - that ITD's data showed valid and invalid PAN categories and that CIB took remedial action as necessary – does not address the audit observation.
- b.** AIR filer can file Supplementary AIR to correct the incorrect information. ITD had, however, not prescribed any time limit for this. Little purpose is served by supplementary AIRs filed after selection of scrutiny cases. The Ministry's reply (December 2012) - that the use of supplementary AIR information was not limited to scrutiny and was also useful for investigation and drawing 360 degree profile of taxpayer – does not address the audit point as to why a time limit could not be set for supplementary AIR.

Assurance regarding completeness of information

2.18 Under Rule 114E(2), AIR in Form 61A was to be filed in respect of the specified transactions which were registered or recorded by the specified persons during a financial year. We observed that there were little checks in place to ensure that persons furnishing the information had included all the eligible transactions in their report and that reported information was correct.

¹¹ Audit analysed structural validity in Rajasthan at 5 TIN FCs-Shell Jaipur (code no. 07020), Alankrit Jaipur (code no. 01005), Karvy Jaipur (code no. 05016), Alankrit Jodhpur (code no. 01058), Integrated Enterprises Jodhpur (code no. 03160) on the data for the period from FY 08 to FY 11 involving 177 AIRs. Structurally valid PAN was not available in ITD in 1096 cases (9.62 *per cent*) out of 11395 cases of 122 AIRs. Further, there was no structural valid PAN in 55 AIRs.

Furnishing of incorrect information

2.19 We observed during test check that AIR information in 110 cases, selected for scrutiny assessment on the basis of information given in AIR, was found incorrect on verification during assessment process. Often, AOs did not forward reported information pertaining to assesses in other jurisdiction to the concerned jurisdictional AOs in absence of clear instructions, leading to wastages of information resources (see Box 2.1).

Box 2.1: Illustrative cases of incorrect information

A. Charge: DCIT 10(3), CIT 10, Mumbai, AY: 09

Assessee: Infrastructure Leasing and Financial Services Ltd

As per AIR information, the assessee had purchased immovable properties of ₹ 1,333.76 crore in FY 08. Assessee clarified that out of the reported transactions, one transaction of ₹ 1,280 crore pertained to the registration for the debenture trust deed for borrowings by the assessee for its business purposes and did not pertain to any purchase transaction in immovable property. Joint Sub Registrar, Kurla also confirmed the facts.

B. Charge: DCIT 5, CIT- 3, Pune, AY: 09

Assessee: Shri Dara N Damania

As per AIR information the assessee had deposited cash of ₹ 3.07 crore in Cosmos Co-op Bank. Later on it was discovered that the assessee did not have an account with the Bank. The Bank also confirmed this against notice and informed that the cash was deposited by four schools belonging to a Trust where the assessee was only a signatory.

C. Charge: CIT 20, Kolkata, AY: 10

Assessee: Shri Madhuchanda Kar, PAN-AEIPM9031M

As per AIR, the assessee had invested ₹ 20 crore in mutual funds during FY 09. During assessment proceedings, Assets Management Company informed that the investment made by some other person, inadvertently had been mentioned against name of the assessee.

D. Charge: CIT III, Bengaluru, AY: 06

Assessee: Shri Narchi Bhai M Patel, PAN-AAYP7854M

The AIR information wrongly mentioned registration fee payment of ₹ 75,750 as ₹ 75.75 lakh as sale value of the property. As a result, AO reopened the assessment by issue of notice under section 148 and concluded under section 143(3) read with section 147 in December 2010 without any addition. Thus incorrect information lead to reopening the case which otherwise would not have been reopened resulting wastage of manpower.

2.20 Audit also observed that AIR filers did not furnish information in the correct way: names of assessee were wrong or mis-spelt or abbreviated; addresses of the transacting party were clubbed with the names of the transacting parties; addresses of the transacting parties were not correct leading to significant information deficit and non-identification of PAN.

ITD did not levy penalty against the persons who did not file AIR or filed belatedly and against those who gave incomplete information in AIR.

Non-levy of penalty for not filing/late filing of AIR

2.21 271FA of the Act prescribes that if a person who is required to file AIR, failed to file AIR within the prescribed period, then the prescribed income tax authority i.e. DIT-CIB is empowered to levy penalty of ₹ 100 for every day during which the failure continues. The late collection and dissemination of AIR information has very serious consequences as it not only results in non verification of genuineness of the transactions by AO at the time of assessment but also lead to escapement of cases for selection of scrutiny through CASS¹² cycle run for that financial year. This defeats the very purpose for which AIR information is collected and disseminated.

2.22 We observed in 60 cases that AIRs relating to FY 08 (relevant to AY 09) were filed in January/March 2011 i.e. after expiry of the time limit specified under section 153 for assessment.

2.23 CIB sent notices to 2,414¹³ non-filers/late filers of AIR during the period from FY 08 to FY 11 of which 1,296¹⁴ had filed AIR. Penalty had been imposed in 263¹⁵ cases. Regarding less cases of penal action for late filing of AIR as well as delayed response to notices issued under section 133(6), DIT-CIB, Mumbai stated that he was guided by the fact that filers were helping ITD by building up a database at some cost and inconvenience to them, therefore persuasion was preferred to punishment. In Haryana, penalty was not levied in those cases where the delay was less than 100 days. Penalty¹⁶ of ₹ 596.78 lakh for late filing/ defective filing of 2,651 AIR was not levied by ITD.

No action against AIR filers for filing incomplete information

2.24 We observed in 87 cases that AIR filers either have not reported the transaction at all or not reported all the transactions. Though all these cases were selected for scrutiny assessment, AO did not take any action against AIR filer for not filing all the specified transactions in AIR (see Box 2.2).

¹² Computer Assisted Scrutiny System

¹³ Maharashtra: 1,035 cases; Haryana: 369 cases; Kerala: 230 (only for FY 10 and FY 11, no list for FY 08 and FY 09 was generated by CIB, Kerala), Tamil Nadu: 471 (FY 09 and FY 10), Odisha: 116 (FY 09 and FY 10), Andhra Pradesh: 193 (FY 10)

¹⁴ Maharashtra: 811, Kerala: 120, Andhra Pradesh: 64, Odisha: 18, Haryana: 283

¹⁵ Maharashtra: 54 cases, Haryana: 122 cases, Tamil Nadu: 87

Box 2.2: Illustrative cases where no penal action was taken**A. Charge: CIT III, Kolkata, AY: 09****Assessee: Smt. Deria Sarkar, PAN-ALQPS3180C**

As per AIR, the assessee had invested ₹ 49.99 lakh in Mutual funds. During scrutiny proceedings, the assessee disclosed the investment of ₹ 18 lakh in the Mutual funds over and above as disclosed in AIR which did not appear in ITS.

B. Charge: CIT XX, Kolkata, AY: 09**Assessee: Suvaprasanna Bhattacharya, PAN-AEDPD2611R**

Assessee's investment of ₹ 38 lakh in mutual funds did not appear in ITS and since it was not reported in AIR.

C. The Sub Registrar, Haveli 20 (under the jurisdiction of DIT-CIB, Pune reported 14 transactions in AIR for FY 09. Upon verification, DIT-CIB found that five transactions having transaction value of more than ₹ 30 Lakh were not included in AIR.

ITD did not have any system to ensure the compliance of Rule 114B which requires mentioning of PAN in documents pertaining to specified transaction.

Non quoting of PAN

2.25 Rule 114B prescribes that every person is required to quote his/her Permanent Account Number (PAN) in all the documents pertaining to 16 types of transactions specified in the Rule. We found that the ITD did not have any system to ensure the compliance of provisions of Rule 114B though Section 272B of the Act prescribed penalty for not complying with the provisions of the Rule.

2.26 We observed that about 52 and 37 *per cent* of the transactions as reported in AIR to CIB, West Bengal and DIT-CIB, Pune respectively either did not have PAN or had invalid PAN. Similarly, 59 and 20 *per cent* of transactions reported to CIB in Andhra Pradesh and Karnataka respectively in FY 10 were without PAN or had invalid PAN. This indicates that system of collecting the data was not adequate. We took a sample of 150 transactions¹⁷ reported in AIR, where declaration in Forms 60/61 was indicated. We noticed that most of the transacting parties were companies, banks etc. Therefore, there was no question of these transacting parties not having PAN. We tried to find out PAN of these transacting parties and were able to find out PAN in 127 transactions.

¹⁷ Information collected from DIT-CIB, Mumbai relating to the transactions entered in FY 09 for purchase of immovable property exceeding ₹ 30 lakh.

Refusal of Co-operative Banks to furnish information to ITOs (Intelligence)

2.27 Cooperative banks/societies involved in banking business in Kerala had refused to provide information to CIB against notices issued to them under section 133 (6) of the Act saying that they are not governed by this provision of the Act and obtained a stay from the Supreme Court. ITD is required to ensure to bring information possessed by Co-operative Banks in the ITD system. The Board may make necessary amendments in the Act, if necessary.

Disposal of Notices

2.28 We observed that CIB in Rajasthan disposed off the notices issued to non-filers of AIR within six months of issue of notices, by dropping them on the basis of reply or by imposing penalty without ensuring that AIRs had been filed. During FY 10 and FY 11, ITD imposed penalty for failure to furnish AIR on 21 and 34 non-filers respectively.

CIB did not use the database for identifying prospective AIR filers and non-filers.

Data base of AIR filers

2.29 CIB is collecting information by issuing notices to various persons/organizations. For this purpose CIB needs to use a database of the persons/organization. This database may be used for identifying prospective AIR filers and also AIR non-filers. However, it appears that CIB was not using this database for AIR purposes. As a result notices in 48 cases were issued under section 285BA (5) for not filing AIR to the branch offices of the banks in Gujarat who were not required to file AIR. Similarly, in 12 cases in Gujarat where penalty proceedings under section 271FA were initiated, were ultimately dropped as AIR filers ceased to exist. In Hyderabad, one Sub-registrar office did not file AIR during FY 06 to FY 11, but ITD did not take action against it as it was not appearing in non-filers list.

Collation of information and party building based on gathered information

2.30 The information is gathered on annual basis in respect of financial transaction in the immediately preceding financial year from various sources. Board's letter dated September 2006 suggested that the information collected needs to be collated party-wise by CIT-CIB into individual transaction statements (ITS) using PAN of the transacting party. Where PAN is not available, CIB is required to prepare name-wise ITS and send it in CD format to DGIT-S to identify PAN of the transacting parties and update them in ITD system. ITD did not follow above suggested procedure and never send the gathered data to DGIT-S.

CIB did not upload collected information in a timely and complete manner to CIB module. It faced problems in uploading information due to technical reasons.

Uploading of information into ITD System

2.31 Information collected by ITD can be properly utilized only when such information is uploaded to the central system being operated by DGIT-S and disseminated to the field offices (Administrative Commissioners) for scrutiny during assessment. Data from third party sources are useful in verifying declarations made by individual assessees.

2.32 We observed that 588.53 lakh pieces of information collected during FY 08 to FY 10 could not be uploaded due to technical or other reasons such as shortage of manpower, CDs not being readable, proforma not being in prescribed format, late receipt of new software from DGIT-S and stabilizing problems of the software, etc. CIB offices did not make available money value of the information collected and uploaded except Assam, Rajasthan, Kerala and Kolkata.

Table 2.2: Details of information collected and uploaded into ITD Systems

Figures in lakh		
Financial Year	Information collected	Information uploaded
FY 08	325.58	213.19
FY 09	517.19	218.81
FY 10	876.83	667.34
FY 11	1149.34	1181.07
Total	2868.94	2280.41

For FY 08 and FY 09, CIB units at West Bengal, Rajasthan, Tamil Nadu, Assam, Maharashtra (DIT Mumbai) and for FY 10, CIB unit at Assam did not provide data on information uploaded.

Problems related to PAN/TAN

2.33 1,460 pieces of information worth of ₹ 59.49 crore collected from post offices could not be uploaded due to want of TANs of respective post offices. Information gathered having Tax Deduction and Collection Account Number (TAN) issued outside of the State could not be uploaded to ITD System from that State. As a result 17,881 pieces of information for FY 11 valuing ₹ 1,680.82 crore gathered by CIB Kochi under two transaction codes (403 & 410) could not be uploaded to ITD System.

2.34 The Ministry replied (December 2012) that the data pertaining to TANs outside the jurisdiction could be uploaded in the system by the concerned jurisdictional DIT-CIB. However, the audit did not find any system by which such cases could be transferred to the jurisdictional DIT-CIB for uploading.

Delay in uploading information into CIB module

2.35 NSDL uploaded information received from Bombay Stock Exchange for FY 08 and FY 09 in September 2010 and for FY 10 and FY 11 received from Bombay Stock Exchange and National Stock Exchange in October 2011.

2.36 Entire collected information of a year could not be uploaded during the same year except in Andhra Pradesh, Karnataka and Kerala. DIT-CIB, Mumbai informed that the procedure prescribed vide instruction No. 22 dated 17 January 2008 was very cumbersome and only a few CIB officers throughout the country could upload the data. Simplified procedures for uploading was introduced vide instruction no. 29 dated 29 June 2009 following which substantial amount of data was uploaded. We observed that in 171 cases involving ₹ 50.60 crore information was uploaded late as a result these could not be utilized during the scrutiny assessment (see Box 2.3).

Box 2.3: Illustrative case on delayed uploading of information

In CIT-I, Surat charge, CIB source code information containing 21 pieces valuing ₹ 9.63 crore in respect of a company, M/s. Amar Jewellers Limited relating to FY 08 (relevant to AY 09) were uploaded it on 8 March 2011 after the time limit specified under section 153 for completing the assessment.

Lack of uniformity/classification in uploading data

2.37 DIT-S, New Delhi has prescribed digitized data structure¹⁸ for the purpose of uniformity. The source code agencies are required to furnish the information in the prescribed format in CDs. Information received from source code agencies in CDs are required to be checked at the filing stage. Defective/incorrect CDs were to be returned for resubmission.

2.38 A test check of the soft copy of the information furnished by some of the Sub Registrar offices (SRO) in Chennai¹⁹ revealed that the data furnished by SRO was not as per the prescribed data structure but was in a different data structure in respect of 23 columns out of 39 columns. Moreover, the important information such as name of the transacting parties, address was in the regional language. This defeated the very purpose of having a common prescribed data structure. This may result delay in uploading such data received, as translation was required before uploading, involving unnecessary manpower and time delay.

¹⁸ Chapter 7 of the user manual for 'Third Party CIB information upload procedure for new compulsory CIB codes'

¹⁹ SRO Mylapore, Triplicane, Nungambakkam (Joint II Thousand Lights), Teynampet (Joint I Chennai – Central)

2.39 The Ministry replied (December 2012) that considering the spread of agencies providing CIB Data substantial agencies find it difficult to comply with Return Preparation Utility (RPU)/Filed Validation Utility (FVU) requirements. Nevertheless, field officers request agencies to submit data in correct prescribed format.

Information of earlier years was uploaded as information of current year

2.40 We observed that transactions pertaining to earlier years were uploaded as the transactions of current year in 32 cases (see Box 2.4).

Box 2.4: Illustrative cases on uploading of earlier year's information as current year's information.

- A.** A transaction²⁰ of ₹ 13.0 lakh transacted on 22 February 2002 was shown as the transaction of FY 08.
- B.** In one another case²¹ 33 pieces of AIR/ CIB information valued ₹ 70.30 crore disseminated and appearing in ITS of the assessee as transaction of FY 08 were related to FY 07.

2.41 CBDT instruction no. 1943 dated 22 August 1997 and no. 414/66/2009 (Inv. I) dated 22 December 2009 prescribed that DIT-I&CI shall disseminate/upload CIB source code information between 01 September and 15 September immediately following the financial year in which the transaction was registered or recorded. Further, as per first proviso to sub-section (1) of section 153, no order of assessment shall be made under section 143 or 144 after expiry of 21 months from the end of assessment year in which the income was first assessable.

Dissemination of information

2.42 AIR/CIB information uploaded with PAN on the system generates Individual Transaction Statements (ITS) and is available for use in CASS for selection of cases for scrutiny. Such data becomes accessible to AOs concerned in the cases selected for scrutiny which are useful in assessment proceedings. Non-PAN data is, however, organized on the basis of address and sent by DGIT-S to CCIT concerned for further dissemination to jurisdictional DAO/JAO for taking further action.

2.43 CIB, Uttar Pradesh delayed the dissemination of non-PAN information. CIT-I, Agra and CIT Ghaziabad received CD containing non-PAN information for FY 09 in the month of January 2012, i.e. after end of the prescribed period by which assessment for relevant assessment year could have been completed. CIT-I, Lucknow received this CD in May 2011. Similarly, DAO, Agra received a CD containing 9,007 pieces of non-PAN information pertaining to

²⁰ Assessee: M/s. Fair growth Enterprises Private Ltd., Charge: CIT-II, Kolkata, AY: 09

²¹ Assessee: M/s. Amrapali Fincap Private Limited, Charge: CIT-I, Ahmedabad, AY: 09

FY 05 to FY 09 in April 2010. This delay resulted in non utilization of information due to time barring of assessment period, non-tracing of transacting parties, etc.

2.44 Prior to February 2010, information was disseminated by DIT-CIB, Kolkata in consolidated manner without collation or sorting. All CsIT were given copies of same CD. Information received in 10 selected units²² was in such an unorganized manner that these could not be segregated so as to make the retrieval of the desired information at the time of assessment. CIB Kolkata was requested to provide macro level details regarding information disseminated to the five CsIT selected for review. However, CIB Kolkata expressed its inability to retrieve and provide the same on the plea that the data had been arranged pin code wise before sending to respective CCsIT/CsIT and jurisdiction of a CIT had covered numbers of pin code areas. When the concerned wing that has collected, organized and disseminated the data itself cannot retrieve the same, it may be almost impossible for AOs to use the same at the time of the assessment.

CIB did not digitize and disseminate declarations received in Forms 60/61.

Dissemination of information collected through Form 60 & 61

2.45 CBDT²³ instructions recommended that CIT-CIB should get the information contained in Form 60/61 digitized in a pre-determined format, sort them address-wise and range-wise and sent in CD format within one month of receiving the declarations to CCsIT for passing it on to the DAOs who shall with the prior approval of CIT call for information under section 133(6). We observed that different approaches were adopted by CIB offices in this regard. CIB in Karnataka, Kerala, Tamil Nadu, Uttar Pradesh and West Bengal dumped forms²⁴ after receipt whereas Andhra Pradesh, Gujarat, Haryana, Punjab and Rajasthan digitized²⁵ the data contained in Forms 60/61 and disseminated the same to respective CsIT. However disseminated information did not reach to the concerned assessing officers in some states²⁶. As a result large number of information which may be useful in identifying the assesseees remained unutilized to a large extent coupled with wastage of scarce resources of ITD-money and manpower.

22 Out of 75 selected units disseminated information was not received by 65 units. Only 10 units received the disseminated information.

23 Letter no.415/2/97-IT (Inv.) dated September 2006 of CBDT.

24 Kerala: 13,247 (FY 08 to FY 11); Karnataka: NA, Tamil Nadu: NA, Uttar Pradesh (CIB Lucknow): 5,82,251 (FY 09 and FY 10); West Bengal: 73,421 (FY 08 to FY 10).

25 Andhra Pradesh: 9,95,330 pieces digitized and sent; Gujarat: 38,488 Forms received of which 2,264 were disseminated; Punjab:2,50,301 Forms 60/61 received and disseminated; Haryana: 25,695 pieces received and disseminated; Rajasthan: 69,474 Forms digitized however only 46,832 were uploaded

26 Haryana and Punjab

2.46 Information about Forms 60/61 either was not available or not ascertainable in Assam, Odisha, Mumbai and Delhi Regions. CIB, Kanpur did not receive any Form 60/61 from AIR filers. None of the banks of the State Bank group, RTOs/SRTOs and District Registrars/Sub-Registrars have forwarded Form 60/61 to CIB Office in Kerala.

CIB did not use all functionalities available in CIB module

Standardisation of transactions in CIB module

2.47 The functionality of standardization of names and addresses in the transactions where PAN is not available was not being used. The on-line review of all standardized and non-standardized transactions required to be done for checking correctness of the transaction details by ITOs and their staff was not being done. The function of correcting errors in names and addresses due to errors in data entry was not being performed.

2.48 The Ministry replied (December 2012) that the data is voluminous and it requires technical expertise for standardization of Names and Addresses in the transactions where PAN is not available.

City - Regional Computer Centre (RCC) Cross-Reference at National Computer Centre (NCC)

2.49 The functionality of RCC and city cross – linkage required to be used to decide final destination of such transactions was not being maintained in the system. Similarly, the options available in system to transfer all transactions not pertaining to a particular RCC to NCC and also to retrieve from NCC, all transactions belonging to a particular RCC were not being used.

2.50 The Ministry replied (December 2012) that the functionality of RCC – City linkage is available in the system. The data has to be updated by the field CIB Units. Data warehousing & business intelligence project is being envisaged to address these issues.

Collation of transactions based on standardisation of name and address of the party

2.51 The functionality available for collation of transactions received without PAN from third parties on the basis of name and address through interface with AIS module after standardisation of name and locality is not being performed.

2.52 After receiving the transaction from third parties and standardisation in cases where no PAN is available, there is provision in the system to form parties by collating all transactions related to the single assessee at a single place on the basis of standardised names and addresses. However, we observed that no such activities were being performed by using the third party information received during FY 08 to FY 11 by the directorate using functionality of CIB module in order to widen the tax base. Similarly, functionality in the system to locate a unique party and linking of transaction to it, resolving same transaction linking to more than one party are also not being performed. Function of creating new party for each non-standardised transaction was also not being performed. In the absence of formation of parties, the information received from the third party remained unutilised and this defeated the very purpose of computerisation.

Case Generation

2.53 The functionality for generation of cases on the basis of threshold limits or benchmarks to build cases and mark them for sending query letters and also to ascertain whether the party whose case is built has filed the return or not through interface with AST module is available in CIB module. However, we observed that cases were not generated in CIB module. The Directorate did not issue any query letters. The non-generation of cases by using CIB module, resulted in huge number of information remaining unutilised, rendering the objective of widening the tax base using this information unachieved, as this information could not be disseminated to its final destination i.e. concerned Assessing Officer/Range.

Utilisation of information received without PAN

2.54 Major part of the information received remained unutilised due to absence of PAN and no efforts were made by ITD to resolve such cases by using various functionalities of CIB module. Even in cases where ITD successfully disseminated the information, no monitoring was exercised to ascertain whether all the cases where information has been passed on to the concerned Assessing officers/Range have been acted upon, despite this facility being available in the system. The failure on the part of Department to utilise the various functionalities of CIB module resulted in a major part of the information received remaining unutilised and locked in the system which have not been disseminated to concerned assessing officer/Range head.

2.55 Out of a total of 2.69 crore pieces of information valuing ₹ 2,830 thousand crore received during FY 08 to FY 11, 0.71 crore pieces of information valuing ₹ 828 thousand crore received without PAN remained unutilized due to non-collation of transactions. Moreover, the trend of non-

utilization of information received showed increase during FY 10 and FY 11 as compared to earlier years. Hence, due to non-collation of these transactions with PAN by using interface with other ITD Modules, ITD was unable to utilize the information to the final output of CIB Module i.e. ITS report to give a more comprehensive financial profile of a tax payer at the time of scrutiny assessment by AO.

2.56 Further, there is provision in CIB module where progress of each case sent to the concerned AO/Range can be watched through generation of feedback reports. However, no such reports were being generated by ITD. Thus, the tool available in CIB module to monitor utilisation of information to achieve the objective of deepening/ widening tax base remained unutilised.

2.57 The Ministry replied (December 2012) that the approach of the department was to investigate on sample basis. However, 360 degree profile is available to investigation, realization of demand, identifying survey and search cases.

Recommendations

2.58 We recommend that

- a.** ITD may collect Information from all the compulsory as well as approved optional source codes. The Ministry stated (December 2012) information gathering for compulsory as well as approved optional source codes is done as policy-matter considering emerging priorities vis-à-vis available resources. ITD is facing acute shortage of manpower at different levels which poses serious limitations on various intended outcomes.
- b.** CIB/NSDL may upload the entire collected information in the same year so that it can be used in scrutiny assessment, bottlenecks in uploading the information may be removed. The Ministry replied (December 2012) that ITD made consistent efforts to overcome the problems and upload data seamlessly. Specific targets have been assigned in the Central Action Plan 2012-13 for import of financial transactions into CIB module.
- c.** ITD should put in place a system which ensures correctness and reliability of data received through AIR/CIB before its dissemination to the field. There is also a need for effective penal provisions in the Act for furnishing factually incorrect information in AIR or in reply to notices issued by ITD. The Ministry has noted (December 2012) the recommendations and agreed to examine the desirability of legislative change, if any.
- d.** ITD may evaluate the feasibility of developing a web based information collection system to avoid the problems in collecting non-AIR information. This would take care of redundant data and data mismatch. The Ministry informed (December 2012) that the issue was already under consideration of the CBDT.

e. ITD may also initiate internal review to gauge the utility and effectiveness of system of filing of AIR. The Ministry noted the suggestion and informed (December 2012) that from time to time CBDT has set up committee/s to review inter alia the module and functionality in various forms.

f. ITD may define time lines for issuing query letters as also for referring back cases to DIT-CIB, as control mechanism to ensure that the query letters are issued by a specified time/date and if the letters return as unserved, the cases are referred to DIT-CIB within a defined time period, enabling effective monitoring of the activity. The Ministry replied (December 2012) that the query letters issued by DIT (Intelligence) were system generated and were sent within time prescribed in the Action Plan for 2012-13. However, the human resources constraints pose a limitation on the intended outcomes.

g. ITD may devise a suitable mechanism including business intelligence tools to ensure effective utilization of information collected at high cost, both to ITD and for the agencies tasked with collecting and providing such information to ITD to achieve the objective of deepening and widening of tax base. The Ministry replied (December 2012) that a separate project relating to data warehousing was proposed to be undertaken to address these and the related issues by DIT-S. Also, the new application viz. Income Tax Business Application would suitably address the suggestion.

h. ITD use the available functionalities of CIB module. The Ministry replied (December 2012) that with continuous evolution of IT technologies, CIB functionalities are improving. The efforts are further continuing.

Chapter III: Utilization of Information

- CASS system of ITD selected cases for scrutiny out of which only 24 per cent of cases had AIR information.
- AOs did not utilise the useful available information in 285 high value cases or finalize the assessments relying on the reply of the assessee without verifying the facts and correctness of the transactions.
- ITD identified 2,45,843 number of non-filers/stop filers. ITD did not notify Designated Assessing Officers (DAOs) for following up on information in selected CsIT charge in Gujarat, Punjab, Uttar Pradesh and West Bengal.
- ITD identified PANs in 22.7 to 26.2 per cent cases during the period FY 08 to FY 11. ITD did not issue notices in 2,596 non-PAN cases where addresses were incomplete. Notices issued in 5,355 cases returned undelivered.
- AIR information could not be considered during assessment as the jurisdictional CIB did not respond to the request of AO.
- AO did not refer back the information to jurisdictional CIB for confirmation.
- AOs did not have data relating to action taken on the disseminated AIR information. In the selected charge, AOs did not maintain the information in the prescribed register.

Computer Assisted Scrutiny Selection (CASS) system of ITD selected cases for scrutiny out of which only 24 per cent cases had AIR information.

Extent of usage of disseminated information

3.1 Position of cases selected for scrutiny by CASS on the basis of AIR data for all assessment charges across the country is as follows:

Table 3.1: Cases selected for scrutiny by CASS

Assessment Year	PANs for which information was available	Total cases selected in CASS	AIR cases selected		% of PAN cases selected by CASS-AIR	AIR cases completed	
			Number	%		Number	%
AY 08	4,19,879	82,024	14,112	17	3.4	2,959	21
AY 09	5,73,891	2,31,145	36,910	16	6.4	13,747	37
AY 10	7,22,829	2,32,303	80,681	35	11.2	70,433	87
Total	17,16,599	5,45,473	1,31,703	24	7.7	87,139	66

3.2 The above table indicates that only 17 to 35 per cent of cases selected in CASS for scrutiny were related to AIR cases. Further, AIR related cases were on an average only 7.7 per cent of total PAN cases for which AIR information was available. Thus, ITD did not utilize AIR information effectively for scrutiny assessments.

AOs did not utilise the useful available information in 285 high value cases or finalize the assessments relying on the reply of the assessee without verifying the facts and correctness of the transactions.

Disseminated information not used properly

3.3 AIR/CIB information is accessible in AST to AOs in those cases which were selected for scrutiny. We observed high value transactions of ₹ 2,138.80 crore reported in AIR information in 285 cases²⁷ selected for scrutiny where AOs did not consider information during scrutiny proceedings or finalize the assessments relying on the reply of the assessee without verifying the facts and correctness of the transactions from AIR filers, DIT-CIB and DGIT-S. AIR filer rectified wrong information uploaded in the system, by filing supplementary AIR but report generated from the system at the time of assessment did not reflect the updated information. AOs did not utilize information received from other jurisdictional units. (see Box 3.1).

Box 3.1: Illustrative case on non-utilization of disseminated information

A. Charge: CIT-II, Kolkata, West Bengal, AY: 09

Assessee: All Bank Finance Ltd., PAN-AACCA4014D

Assessee denied investment of ₹ 6.45 crore in mutual funds which appeared in ITS. AO issued letter for confirmation under section 133(6) on 27 December 2010 to the Principal Officers of the mutual fund which remained unanswered. AO made assessment on 30 December 2010 without drawing any inference.

B. Charge: CIT-XX, Kolkata, West Bengal, AY: 09

Assessee: Dr. Prasanta Banerjee, PAN-AECPB7012

ITS revealed that assessee deposited cash of ₹ 189.66 crore and ₹ 41 lakh in his saving bank accounts. Assessee denied the deposit of ₹ 189.66 crore. The Bank confirmed the assessee's contention stating that mistake occurred due to error in AIR filed by them. Bank further informed that they had rectified the error by filing supplementary AIR return on 12 August 2009. However, ITS generated during October 2010 by AO at the time of assessment showed transactions based on AIR initially filed by the bank. This shows that the system did not update ITS based on supplementary AIR return.

C. Charge: CIT-I, Chandigarh, AY: 09

Assessee: Rajinder Singh, PAN-ANFPS7614A

ITD selected this case on the basis of AIR information for cash deposit of ₹ 24.95 lakh. The assessment order mentioned that ₹ 8 lakh was from sale of agricultural land, however, the differential amount was not discussed during scrutiny proceedings.

3.4 The Ministry replied (December 2012) that the information as updated are being adequately reflected and being viewed by appropriate authorities. Audit observed that the reply of the Ministry is in variance of the observations noted above.

²⁷ Pertaining to AYs 09 and 10 in Andhra Pradesh, Assam, Bihar, Haryana, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Uttar Pradesh and West Bengal charge,

Inadequate follow up on disseminated information

3.5 We observed in three cases²⁸ that concerned AO had failed to utilize the disseminated information. In these cases scrutiny proceedings were dropped either due to delay in serving of notice or notice was not at all served to the assessee intimating the selection of the case in scrutiny. These cases, however, could be re-opened in terms of para 6 of CBDT instruction no. 1 of 2009. The omission on the part of AO resulted in non-completion of assessment under scrutiny and subsequently non-verification of AIR information (see Box 3.2).

Box 3.2: Illustrative cases on inadequate follow up

A. Charge: CIT-II, Delhi, AY: 10

Assessee: M/s. Maxxfun Buildmart Private Limited

The assessee filed e-return of income on 31 March 2010 at 'nil' income and revised return on 03 April 2010 at a loss of ₹ 0.63 lakh. ITD selected it under CASS for scrutiny on the basis of AIR information of sale of immovable property for ₹ 5.65 crore. AO issued statutory notice under section 143(2) on 26 August 2011. AO dropped the proceedings on 28 December 2012 despite CIT's order dated 23 December 2012 for examining the case for issue of notice under section 148, considering that the assessee was not eligible to file the revised return as original return filed by him was not in time and initiating the proceedings on the basis of the original return was not possible as time for issue of notice was over. Centralized Processing of Returns Scheme, 2011 prescribed that for a valid e-return, it is necessary that Form ITR-V may reach CPC within the period specified. DIT (Systems) informed (May 2012) that CPC did not receive ITR-V of original return filed by the assessee. In absence of ITR-V, original return cannot be processed in ITD application and also cannot be selected in CASS. However, ITR-V of revised return was received on 07 May 2010. Therefore revised return filed by the assessee was processed as original return under section 143(1) by CPC. Further the same return was also selected in CASS on 07 August 2011 for which notice under section 143(2) was issued on 26 August 2011. Since the original return was invalid return, therefore subsequent filed return (revised return) was to be considered as original return and assessment under section 143(3) should have been completed on this subsequent return instead of dropping the proceedings. In addition, penal action for late filing of return should have been taken by AO. Thus the action of AO was totally irregular as he did not take into account the validity of the first (original) return. He also did not follow the instruction of CIT to reopen the case under section 148.

B. Charge: CIT-2, Nagpur, Maharashtra, AY: 09

Assessee: Shri Alope Ambar Basu, PAN-ABNPB7624B

ITD selected this case for scrutiny on the basis of AIR information of sale of immovable property for ₹ 79.99 lakh on 07 September 2007, which was also confirmed by the Sub-Registrar and notice under section 143(2) was issued on 20 August 2009. Scrutiny proceedings were dropped on 09 December 2010 stating that notice was not served on to the assessee.

²⁸ One case each in Haryana, Delhi and Maharashtra.

C. Charge: CIT Panchkula, Haryana, AY: 09
Assessee: Sanjeev Sardana, PAN-ABMPS1166L

ITD selected the case for scrutiny on the basis of AIR information of payment of ₹ 34.49 lakh through credit card and issued notice under section 143(2). In response, the assessee contested that he has filed the return in July 2008 and received notice on 26 August 2010, delayed almost by one year and requested to drop the proceedings. AO dropped the proceedings in December 2010 rather than reopening the case.

AIR information not brought to tax despite being offered by the assessee

3.6 We observed in two cases which were selected for scrutiny under CASS on the basis of AIR information but AO did not consider the information despite the assessee offered the amount of AIR reported information as income in his revised return and paid tax on this amount (see Box 3.3).

Box 3.3: Illustrative case on information not brought to tax

Charge: CIT-Bhopal, Madhya Pradesh, AY: 09
Assessee: Sanjay Shrivastava (PAN-ACNPS5131P) and Pankaj Shrivastava (PAN-ACNPS5129H)

Both assessee filed their return on 29 September 2008 declaring taxable income ₹ 5.44 lakh and ₹ 5.06 lakh respectively. ITD selected these cases for scrutiny under CASS on the basis of AIR information of cash deposit of ₹ 30.01 lakh in each case and issued notices under section 143(2) on 10 September 2009. During scrutiny assessment, AO did not make any specific query about AIR information and also there was no mention in the assessment orders with respect to AIR information. Audit noticed that AO has completed the scrutiny assessment on 16 November 2010, determining original returned income as the taxable income despite AIR information of cash deposit of ₹ 30.01 lakh was shown by both the assessee as income from other sources in their revised returns which were filed on 22 December 2009 and paid tax on said amount under section 140A in October 2009.

Cases selected by CASS for scrutiny on the basis of AIR were not taken up for scrutiny.

3.7 We observed that five selected cases were not taken up for scrutiny by the concerned AOs resulting in non-verification of AIR information of ₹ 8.61 crore.

- a. In Delhi, DGIT-S provided list of cases (soft copy) selected under CASS on the basis of AIR information for scrutiny. We noticed four cases²⁹ involving AIR of ₹ 3.57 crore were selected under CASS-AIR, but respective AOs denied selection of these cases. DGIT-S clarified that notices under section 143(2) had been generated in these cases.

²⁹ pertains to AY 2008-09 and 2010-11

b. CASS selected the case of **Ramchandra Radhakrishna, PAN-AAGPR9058M**³⁰ for scrutiny on the basis of AIR information of ₹ 5.04 crore. Audit noticed that DCR did not have the records of this case and ITD also did not make case records available.

Disseminated information not pertained to the assessee

3.8 AIR filers have to ensure that PAN is quoted correctly in AIR. We observed in 16 cases³¹ that disseminated AIR information did not pertain to the concerned assessee but the quoted PAN was of the assessee (see Box 3.4).

Box 3.4: Illustrative cases on disseminated information not pertaining to the assessee

A. Charge: CIT Panchkula, Haryana; AY: 10

Assessee:-Vir Singh, PAN-ARGPS4907H

During scrutiny proceedings, AO noticed that PAN of the assessee was wrongly quoted in the information supplied for purchase of property for ₹ 43.51 lakh; the transaction was actually related to another assessee (Mihir Chandra Kant Shah).

B. Charge: Ward 11(2), CIT-I, Karnataka; AY: 09

Assessee: B. Nagarajan, PAN-AAFPN1966R

AIR filer provided information of a different entity with identical name of the company as that of the assessee's company. Failure on the part of AIR filers to ensure quoting of correct PAN in AIR resulted in inconveniences to the assessee.

3.9 The Ministry replied (December 2012) that there is facility to identify any mismatch between PAN name and transacting name by way of mismatch flag provided in the system. It can be used by various field authorities. The reply of the Ministry is not addressing the issue pointed out by audit.

ITD identified 2,45,843 number of non-filers/stop filers. ITD did not notify Designated Assessing Officers (DAOs) for following up on information in selected CsIT charge in Gujarat, Punjab, Uttar Pradesh and West Bengal.

Identification of non-filers/stop-filers

3.10 ITD identified³² 2,45,843 number of non-filers/stop filers³³. Since one of the basic purposes of collecting AIR/CIB information was to identify non-filers and widen the tax base, non generation of non-filers list resulted in non-identification of potential non-filers seriously hampering ITD's initiative in strengthening the tax base. We noticed the following issues relating to identification of non-filers/stop-filers:

³⁰ Charge: CIT Ghaziabad (now CIT, Noida), AY: 2008-09

³¹ One case in Haryana, 10 cases in Karnataka and five cases in Rajasthan pertaining to the AYs 2008-09 and 2009-10.

³² Para 3 and 4 of instruction no. 1/2009 dated 12.2.2009.

³³ Andhra Pradesh: 10,327 (FY 10), Delhi: 57,254 (FY 08 to FY 10), Punjab: 21,253 (FY 08 and FY 09), Rajasthan: 10,257, Madhya Pradesh: 17,526, Maharashtra: 1,14,118, Uttar Pradesh: 1,755 and West Bengal: 13,353

- a. In Delhi, CIT-CO forwarded the list of non-filers for FY 08 and FY 09 on 26 December 2011 and for FY 10 on 07 February 2012 to the Co-ordination wing of CCIT-I, Delhi i.e. after lapse of 32 months, 20 months and 10 months respectively. The list of non-filers for FY 11 was yet to be circulated (May 2012).
- b. In Maharashtra, in five selected CsIT, ITD initiated action against 23,051 number of non-filers/stop filers out of 1,14,118 identified and brought 82 new assesseees to tax net. However, ITD did not add new assesseees to tax net in CIT 8 and CIT 11, Mumbai though there were 48,014 and 50,665 non-filers/stop filers respectively.
- c. In Tamil Nadu, CIT-CO, Chennai stated that furnishing of information was in the domain of DGIT-S.
- d. In Haryana, DAOs under the charge of CIT, Panchkula stated that no non-PAN cases were available with them. Data for FY 08 was not received, however, for FY 09 was received in January 2012.
- e. No information/list³⁴ in the selected CIT(CO) charge regarding number of non-filers including stop filers on the basis of transactions in AIR and status of filing of Income Tax Return for the same year was generated and intimated to respective AOs as per instruction.

Appointment of Designated Assessing Officers (DAOs)

3.11 The cadre controlling CCsIT were required to pass orders conferring concurrent jurisdiction to one or more AOs (i.e. designated AO), depending on the workload, at the stations where the assesseees (to whom notices under section 142(1) are to be issued) were located. The Designated Assessing Officers (DAOs) were responsible for identifying assesseees in respect of non-PAN AIR pieces of information. We observed in selected CsIT charge in Gujarat, Punjab, Uttar Pradesh³⁵ and West Bengal that ITD did not notify DAOs during FY 08 to FY 11.

- a. In Delhi, Co-ordination wing of CCIT-I informed that the last batch of DAOs was nominated in November 2008 for AY 07 and AY 08.
- b. In Tamil Nadu, ITO, Business Ward IV(3), Chennai was nominated as DAO for the jurisdiction of CCIT-I to VI, Chennai and DGIT (Investigation) in June 2006. However, for jurisdictions falling under CCIT-Trichy/Madurai/Coimbatore, DAOs were nominated in February 2012. In respect of DAO Chennai jurisdiction, ITD did not take action in identifying assesseees in respect of AIR information without PAN.

³⁴ Assam, Gujarat, Kerala and Odisha

³⁵ Not in CIT - Varanasi, Ghaziabad & CIT-II, Kanpur and appointed in CIT-I, Lucknow in October 2011.

Issuance of query letters to non-filers

3.12 Para 3 (b) and 4(b) of instruction no. 01/2009 of CBDT provides that in case of AIR information with/without PAN, JAO/DAO shall issue query letter in the prescribed proforma to identify the assessee to all non-government transacting parties. If, on the basis of reply to the query letter where information was without PAN, it is found that the person is an existing assessee, the letter along with the reply/return and AIR information should be transferred by DAO to JAO for initiating action in accordance to para 4 (ii) and (iii) of instructions.

- a. In Delhi, there were 96,157 cases of AIR information without PAN during FY 09³⁶. DIT (I & CI) stated that 14,529 query letters were issued to persons who had entered into high value transaction during the FY 11.
- b. In Rajasthan³⁷, query letters to non-filers were not issued by JAOs of the selected units.
- c. In Madhya Pradesh, it was noticed that, two DAOs³⁸ have taken action on 3,388 pieces out of 5,305 pieces of AIR/CIB information without PAN received during the period from FY 08 to FY 11. However, they failed to initiate any action on 1,917 pieces of information till March 2011.
- d. In Odisha, out of 1958 enquiry letters issued during FY 11 in respect of cases of AIR without PAN, 343 letters remained undelivered, replies were received in respect of 680 cases and in respect of 935 cases no reply was received.

ITD identified PANs in 22.7 to 26.2 per cent cases during FY 08 to FY 11. ITD did not issue notices in 2,596 non-PAN cases where addresses were incomplete. Notices issued in 5,355 cases returned undelivered.

Identification of PAN

3.13 In para 10 of instruction no. 6/2006 of August 2006, it was mentioned that to ascertain PAN of persons in respect of transactions where PAN is not quoted by AIR filer, DGIT-S has developed software Multi Iterative Phonetic Pattern recognition Algorithm (MIPPRA) to search PAN. Accordingly, therefore, it was instructed that no fresh notice under section 142 (1) should be issued in pursuance of letter of DIT-S dated 20 December 2005 in respect of cases having AIR information but no PAN. DIT-S, New Delhi informed that ITD never introduced this software. It was a pilot work used in FY 07. The matching percentage was around 20-22 per cent. Based on the above

³⁶ Information for FY 08, FY 10 and FY 11 was not furnished.

³⁷ By 36 JAOs (except six JAOs who issued notices to 121 numbers of non-filers) under the selected CsIT having 10,257 numbers of non-filer during FY 08 to FY 11.

³⁸ DAO/ITO 1(1), Bhopal and DAO/ITO 3(3), Indore.

experience, ITD shelved the use of MIPRA. However, they did not explore any alternatives to meet the important requirement of PAN identification. The Ministry replied (December 2012) that these issues are being explored under data warehousing and business intelligences.

3.14 AIR information without PAN is required to be passed on to DAOs who shall in turn issue query letters thereon to all Non-Government transacting parties in terms of para 4 of the instruction no. 1/2009. The designated Assessing Officers are required to take all possible steps to locate and serve the query letter and subsequent notice, if required. On the basis of replies received from the transacting parties of non-PAN AIR information, DAO is required to intimate PAN of concerned transacting parties, to DIT (CIB) of his region, who shall then update PAN in non-PAN AIR information through AIR module of ITD application. We found that ITD did not make major efforts to identify PAN in following cases:

- a. During FY 11 only in 26.4 *per cent* cases PAN were identified in four States³⁹.
- b. In Assam, only in five cases PAN could be identified during FY 08 in CIT Dibrugarh against 3,763 query letters issued.
- c. In Gujarat, only in 24 per cent cases PAN could be identified during FY 09 and FY 10 against 13,542 query letters.
- d. In Kerala, only in 22.7 *per cent* cases PAN could be identified during FY 09 and FY 11 against 27,292 query letters.
- e. No action for identifying PAN was taken in FY 08 and FY 11 in Gujarat and from FY 08 to FY 10 in Andhra Pradesh and Punjab.
- f. No case of updating PAN was reported by DAO in the selected charge of Maharashtra, Odisha and Rajasthan.

3.15 To ascertain the depth of the action taken by ITD to identify PAN of the persons whose PAN were not quoted in AIR, we collected information from DIT-CIB, Mumbai for FY 09 (AY 10) and selected 150 cases from AIR information pertaining to purchase of immovable property exceeding ₹ 30 lakh, mainly companies and tried to find out PAN. We noticed that ITD had not taken much action to search PAN in these cases as ITD failed to identify PAN in these cases whereas we were able to identify PAN in 127 numbers of transactions. In the absence of PAN, AIR information could not be disseminated to the concerned assessing officer for use during scrutiny assessment. Out of PAN identified in 127 cases we selected 35 cases for test

³⁹ Andhra Pradesh: 5,492 against query letters 26,858; Haryana: 3,659 against query letters 11,562; Madhya Pradesh: 1,156 against query letters 6,086 and Punjab: 4,977 against query letters 13,274.

check to see whether AIR information was disseminated to AOs and whether it was appearing in Individual Transactions Statement (ITS). We found that in none of the test checked cases AIR information was appearing in ITS.

3.16 The Ministry replied (December 2012) that there is difference between manual check and check through software based search engine. Searching through software based search engine is carried through well-defined logical parameters which require the source data on one hand and one target data on the other. As PAN was not available in data, ITS could not be generated. Audit feels that the system may be strengthened with suitable modification in the Software.

3.17 In Tamil Nadu, the total number of 'AIR information without PAN' for FY 09 to FY 11 was 1,31,117 involving ₹ 64,450.42 crore. However, ITD could not identify PAN in respect of the above pieces of AIR information and update in ITD application (March 2012). Thus, in the absence of PAN 1,31,117 cases have escaped scrutiny, as they were not available for CASS. DIT/CIB expressed difficulty in tracing PAN when no correct address was available.

3.18 We observed that ITD did not receive any reply against 7,903 notices issued to AIR filers by DIT (CIB), Haryana during FY 11 for getting PAN of the transacting parties. ITD referred these cases to CCIT (North West Region) but CCIT (NWR)/CCIT Panchkula did not forward to jurisdictional DAOs.

3.19 In non-PAN cases where addresses were incomplete, notices in 2,596 cases⁴⁰ could not be issued and 5,355 cases⁴¹ in which notices were issued returned undelivered. However, ITD did not take action on these cases. From the records available, we observed that DAO did not take follow up action to locate and serve the query letters.

AIR information could not be considered during assessment as the jurisdictional CIB did not respond to the request of AO.

Cases referred back by AO for correct details of the person

3.20 Information collected through AIR/CIB is disseminated to the respective assessing charges on the basis of PAN. In case of wrong PAN, information disseminated cannot be verified. In such cases AO writes to the jurisdictional DIT-CIB for clarification. DIT-CIB is required to correspond with AIR filer and to obtain the correct information and passes it on to AO for use during scrutiny assessment. We noticed that AOs informed the jurisdictional DIT-CIB about the wrong information. However, DIT-CIB did not provide the

⁴⁰ Rajasthan - 189 cases, Madhya Pradesh - 2,407 cases

⁴¹ Rajasthan - 1,008 cases, Madhya Pradesh - 1,035 cases, Kerala - 3,312 cases

correct information to AOs. As a result disseminated information could not be used during assessment. During test check we observed 24 cases in which AIR/CIB information could not be considered during assessment as the jurisdictional CIB did not respond adequately to the request of AO (see Box 3.5).

Box 3.5: Illustrative cases where AIR information could not be considered as the jurisdictional CIB did not respond adequately to the request of AO.

A. Charge: CIT VI Mumbai, AY: 09

Assessee: M/s. Liberty Oil Mills Limited

The assessee had transferred two immovable properties for a consideration of ₹ 156.95 crore each on 28 March 2008 as per CIB information. During scrutiny proceedings the assessee denied any such transfer. AO referred the case to CIT-CO for verification of facts in November 2010 and completed the assessment without considering the information in December 2010.

B. Charge: CIT-4, Pune, AY: 09

Assessee: M/s. Sathe Biscuit & Chocolate Company Limited

The assessee entered into two transactions relating to mutual funds of ₹ 1.00 crore and ₹ 1.50 crore in Mahaveer Co-op Bank, Solapur in the month of March 2008 as per AIR. Both the assessee and Mahaveer Co-op Bank, Solapur denied the transactions. AO sought further clarification from DIT-CIB, Pune. DIT-CIB, Pune stated that clarification should be sought from CIB, Mumbai as it uploaded the information, or with AD (Systems), New Delhi. However, AO completed the scrutiny assessment in December 2010 without confirming the actual facts.

AO did not refer back the information to jurisdictional CIB for confirmation

Information to jurisdictional CIB

3.21 We also observed 30 cases⁴² where AO did not refer back the information to jurisdictional CIB for confirmation (see Box 3.6).

Box 3.6: Illustrative case where AIR information was not referred back to CIB

Charge: CIT-I, Chandigarh, AY: 09

Assessee: Jai Shree Thakur, PAN-AAGPT4333H

ITD received AIR information of investment in mutual funds of ₹ 51 lakh, however, the assessee stated that it was actually ₹ 15 lakh. AO did not refer back to CIB for clarification. There was no documentary evidence from assessee placed in file.

AOs did not have data relating to action taken on the disseminated AIR information. In the selected charge, AOs did not maintain the information in the prescribed register.

Monitoring of disseminated information

3.22 Para 7 of instruction no. 1/2009 dated 12 February 2009 of CBDT stipulates that CsIT/Addl. CsIT/JCsIT shall closely monitor the action taken on AIR information. Further, DAO/JAO is required to maintain a register as per Annex 4 of ibid instruction indicating all the details of the non-filers and the

⁴² One case - Punjab and 29 cases - Andhra Pradesh.

said registers was to be inspected every quarter by the Range head and CIT concerned. In the absence of maintenance of prescribed register the Range Officers and CsIT were unable to monitor and supervise the work on AIR information disseminated to AOs. We noticed the following irregularities with regard to monitoring of disseminated information.

- a. We noticed that data relating to action taken on the disseminated AIR information was either not available with AO or not maintained in the prescribed register by AO in the selected charge⁴³.
- b. In Haryana, JAOs/DAOs did not forward list of cases selected for scrutiny on the basis of AIR information to the range in-charge for monitoring purpose⁴⁴ by Range in-charge Gurgaon.

Generation of revenue through use of information

3.23 In Kerala, in a departure from mere collection, collation, uploading of information, ITO(Intelligence), Kozhikode, holding the additional charge of the Investigation wing, used 6,424 pieces of information to pursue 140 cases of high value transactions in FY 11 resulting in realization of revenue of ₹ 6.29 crore and adding 35 new assesses to the tax net. Similar utilization of information in 94 cases in FY 12 has already resulted in netting ₹ 4.87 crore towards the tax net. This highlights the tremendous potential for detecting the plugging tax evasion on the basis of information gathered if it is put to use. Further, we observed in 2,933 cases that AO has made addition of ₹ 53.78 crore through use of AIR/CIB information.

Other issues

Assessee allowed his PAN to be used by other person

3.24 The case of Sudhakar Nayak, PAN-ADAPN2724K⁴⁵ was selected for scrutiny on the basis of AIR information of cash deposit of ₹ 12.58 lakh. In compliance to the notice issued under section 142(1) in January 2011, the assessee stated that as his brother Bijay Kumar Nayak, PAN-AEBPN6777L (Proprietor of Mahaveer Enterprises) had no bank account at Keonjhar, he made his business income through his bank account. He furnished a declaration from his brother regarding transaction made by him. The assessment was completed on 17 January 2011 without addition on account of AIR information. AIR information was also not referred back to the jurisdictional AO of assessee's brother.

43 During the period FY 08 to FY 11 in Andhra Pradesh, Bihar, Delhi (out of 75 AOs, six AOs have intimated in March 2012 that these were being maintained from the current year and for 2011-12 no such registers were maintained), Gujarat, Kerala, Karnataka, Madhya Pradesh [not maintained by 27 AOs (except by DAO/ITO-1(1), Bhopal and ITO-2(2), Bhopal, but records were not being updated)], Maharashtra (not maintained by AOs of 11 ranges out of checked 15 ranges in five selected CsIT), Odisha, Punjab (not maintained by 59 AOs out of checked 60 AOs), Rajasthan, Uttar Pradesh and West Bengal,

44 Except ACIT Circle 1 Gurgaon; ITO Ward 1(1) & 1(2) Gurgaon on random basis.

45 Charge: ITO, Keonjhar charge, CIT - Sambalpur, Odisha, AY: 10;

Non-initiation of action by AO

3.25 In Uttar Pradesh, ACIT Circle II Ghaziabad received AIR information of sale of property for ₹ 32.47 lakh in the case of Smt. Prakashwati for FY 08. During proceedings, it was held that the property was sold for ₹ 51.63 lakh instead of ₹ 32.47 lakh to Smt. Kailasho Devi, an assessee under jurisdiction of ITO 1(3), Ghaziabad. The information was passed on to ITO 1(3) on 22 June 2010 for necessary action. However, the concerned AO issued notice in February 2012 i.e. after lapse of 20 months.

Information in respect of section 50C cases

3.26 CIB collects information of real estate transactions as a compulsory source code where the difference in the sale consideration as stated in the document presented for registration and the actual consideration on which stamp duty was charged by the registering authority exceeded ₹ 10,000 to supplement the efforts of field agencies to enhance the revenue collection as the difference amount is liable to tax under section 50C. CIB forwarded 11,257 number of transaction involving money value of ₹ 1,302.77 crore for FY 10 and FY 11 pertaining to the section 50C to CCIT, Jaipur and CIT office⁴⁶. ITD forwarded it to assessing units through range offices. ITD could not generate jurisdictional wise break up and utilize the information as in most of the cases PAN was not available and contained jumbled up addresses.

Non-initiation of action on AIR information of earlier years

3.27 Para 2(b) of CBDT instruction no. 01/2009 dated 12 February 2009 provides that, depending upon feedback on scrutiny assessment in a case for a particular AY, AOs may resort to proceedings under section 148 for earlier assessment years, in that case on the basis of AIR information available, if any, if they have reasons to believe that income has escaped assessment.

3.28 In Madhya Pradesh, we observed in 11 cases that AOs did not give cognizance to AIR Information pertaining to FY 08 while assessing the case for AY 10 under section 143(3) and did not initiate proceedings under section 148 for the relevant earlier AYs, despite availability of AIR information giving feedback for reopening the cases. Thus, the non-initiation of proceeding under section 148 resulted in non-assessment of transactions valuing ₹ 7.42 crore involving revenue impact ₹ 2.52 crore.

⁴⁶ AO wise break-up of above information along with the total number of information put to use with amount involved and revenue generated with the help of such information was not available with CIT-1 and CIT-2 Jaipur and CIT-Alwar.

Recommendations

3.29 We recommend that

- a. Compliance to the monitoring system put in place by CBDT needs to be ensured at different levels of ITD. The Ministry replied (December 2012) that with continuous evolution, functionalities are improving. The efforts are further continuing. However, implementation and monitoring issues require additional manpower for which proposal is under consideration.
- b. Utilization of declarations received in Form 60/61 may be ensured by digitizing and disseminating them. The Ministry noted the observations and intimated (December 2012) that high value Form 60/61 were being digitized now.
- c. Nomination of Designated Assessing Officers on regular basis to deal with Non-PAN AIR cases may be emphasized. The Ministry replied (December 2012) that an expert group has been set-up to suggest modalities for better utilization of Non-PAN AIR and CIB data. On receipt of recommendations, further action would be taken.
- d. ITD may fix definite responsibility on AOs who fail to record or utilize the information available to them in course of their assessments. The Ministry replied (December 2012) that the issue of feed-back system in respect of such information was under consideration of the CBDT. The modalities would be worked out to see how the objectives could be taken forward under the given constraints of shortage of manpower.

New Delhi
Dated: 8 April, 2013



(MANISH KUMAR)
Principal Director (Direct Taxes)

Countersigned

New Delhi
Dated: 8 April, 2013



(VINOD RAI)
Comptroller and Auditor General of India

Abbreviations

AIR	Annual Information Return
AIS	Assessee Information System
AO	Assessing Officer
AST	Assessment Information System
AY	Assessment Year
CASS	Computer Assisted Scrutiny Selection
CIB	Central Information Branch
DAO	Designated Assessing Officer
DGIT	Director General of Income-Tax
DIT	Director of Income-Tax
EFS	Enforcement System
FY	Financial Year
ITD	Income Tax Department
ITS	Individual Transaction Statements
MIPPR	Multi Interactive Phonetic Patter Recognition Algorithm
NSDL	National Securities Depository Limited
OLTAS	On-line Tax Accounting Software
PAN	Permanent Account Number
RCC	Regional Computer Centre
RRR	Return Receipt Register
TAN	Tax Deduction and Collection Account Number
TDS	Tax Deducted at Source
TIN	Tax Information Network-Facilitation Centre

Annex

Source Codes of information to be collected by the CIB

Sl. No.	Source code	Source	Item
Compulsory source codes			
1	001	Registrars/Local Municipal Bodies	(i) Sale and purchase of immovable property valued at ₹ 5,00,000 or more (but less than ₹ 30,00,000). (ii) Information relating to transfer of capital assets where value declared for the purposes of stamp duty is more than the sale value. Information collected to include names and addresses of sellers, date of transaction, amount of sale consideration and value adopted for stamp duty purposes
2	002	RTOs/Finance companies/car dealers	Sale and purchase of motor vehicles valued at ₹ 5,00,000 and above
3	003	Banking company/ financial institutions	Time deposit exceeding ₹ 2,00,000 with a banking company
4	004	Post Office	A deposits exceeding ₹ 2,00,000 in any account with Post Office saving bank
5	005	Hotels and Restaurants	Payment to hotels and restaurants against their bills for an amount exceeding ₹ 1,00,000 at any one time
6	006	Banks	Payment in cash for purchase of bank drafts or pay orders or banker's cheques from a banking company of an amount aggregating ₹ 1,00,000 or more during any one day
7	007	Banks	Deposit in cash aggregating ₹ 2,00,000 or more with banking company during any day
8	008	Travel Agents/ Airlines	Payment in cash in connection with travel to any foreign country of an amount exceeding ₹ 1,00,000 at any one time.
9	009	Banks and financial institutions	(i) Payment made by any person against bills raised in respect of credit card issued to that person aggregating to ₹ 1,00,000 or more (but less than ₹ 2,00,000) in a year; (ii) payment made by any person against bills raised in foreign currency in respect of credit card issued to that person aggregating to ₹ 50,000 or more (but less than ₹ 2,00,000) in a year
10	010	Mutual Funds	Names and address of investors investing ₹ 1,00,000 and above but less than ₹ 2,00,000 in Mutual Fund units.
11	011	Registrar of Companies /companies/ institutions	Name and address of Investors investing ₹ 2,00,000 and above but less than ₹ 5,00,000 for acquisition of debentures or bonds issued by a company or institution.

12	012	Reserve Bank of India	Name and address of investors investing ₹ 2,00,000 and above but less than ₹ 5,00,000 for acquisition of bonds issued by RBI.
Optional Source codes			
13	013	Telecom companies	Subscriber to Cellular telephone, landline telephone including internet connections having bill amount exceeding ₹ 1 lakh per annum.
14	014	Clubs, Gymnasiums, Health Centres, Spas, Holiday/ Country Resorts	Any person who is a member of such Club, Gymnasiums, Health Centres, Spas, Holiday/ Country Resorts where entrance fee is ₹ 50,000 or more
15	015	Post office	Purchase of Kisan Vikas Patras/Indira Vikas Patra/ national Savings Certificates of ₹ 1,00,000 or more.
16	016	State Excise Department	Name and address of the liquor shops, license amount paid
17	017	Electricity Boards/ Undertakings	Electricity bills above ₹ 2,00,000 in a year for residential premises and ₹ 5,00,000 in a year for commercial establishments
18	018	Builders & contractors/ Housing Co-operative societies	Name and address of persons who have entered into agreement for purchase and sale and details of transactions ₹ 10 lakh and above.
19	019	Builders & contractors/ Housing Co-operative societies	Names & addresses of persons to whom contracts/ sub-contracts/ material supply contracts/ labour contracts or such other part contracts exceeding aggregate amount of ₹ 10,00,000 during the financial year are awarded.
20	020	Registrar to Issue of shares and debentures.	In respect of issue of shares and debentures including private placements above ₹ one crore, full list of allottees with address and PAN
21	021	Insurance Companies.	Insurance premia --₹ 2 lakh and above.
22	022	Local bodies	Contractors of parking slots in Municipal Area
23	023	Central Excise Department	New registration, excise payments including fines & penalties/list of contracts awarded with name and address of the contractee and contractor, exceeding contract value of ₹ 5 lakh during the financial year
24	024	Customs Department	Confiscation of goods, duty paid including fines and penalties exceeding ₹ 5 lakh.
25	025	Enforcement Directorate	Confiscation, fine & penalties, cases of FEMA violation exceeding ₹ 5 lakh.
26	026	Sales Tax Department/ Professional Tax Department	New Registration, Sales/Professional tax paid including fines and penalties
27	027	Land Acquisition Authority	Compensation paid for acquisition of land exceeding ₹ 5 lakh
28	028	Reserve Bank of India	Foreign remittance/grants etc. received by NGO / Charitable institutions etc. above ₹ 10 lakh

29	029	Big consumer goods dealers, Malls, Shopping complexes	Purchase of high-end consumer goods for ₹ 2,00,000 and above
30	030	Educational Institutions	Payment details of admission in educational institutes under Management Quota and NRI quota and payments exceeding ₹ 2 lakh per year.
31	031	Local Authorities	Public place contracts approval of building plan, new shops, bars, restaurants, cinema houses, clubs etc./list of properties with names and addresses of the owners/promoters/builders, in case where completion certificate have been issued.
32	032	Telephone Directory / Yellow Pages/ Trade. Journals	Nursing homes, clinics, gyms, interior decorators, study circles, coaching classes, guest houses, service sectors such as security services, event managers, providers for marriage venues and infrastructure for functions, professional consultants and interior designers.
33	033	Professional/Institutes / Bodies / IMA / Bar Associations /CAs Association	Names & addresses of Doctors, Chartered Accountants, Cost Accountants, Architects, Engineers etc. Advocates, etc who are member of these associations,
34	034	Local Authorities or any other organization	Name and address of charitable organizations and societies
35	035	Local Authorities or any other organization	Name and address of schools & colleges and educational institutions running for charitable/profit purposes
36	036	Registrar of Companies	New Registration, Certificate of commencement of business
37	037	Directorate of Industries	Registration of new industries
38	038	Export Promotion Council/ DGFT	Names and addresses of exporters and details of exports.
39	039	Stock Exchanges	Holders of Stock Exchange Card, list of brokers and sub-brokers
40	040	Immigration Authority	Details of travel made by holders of Indian Passport to foreign countries showing the destination, date of departure, date of arrival and the relevant passport details