

Report of the Comptroller and Auditor General of India

for the year ended March 2016



Union Government
Department of Revenue – Direct Taxes
Report No. 2 of 2017

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Preface

This Report for the year ended March 2016 has been prepared for submission to the President under Article 151 of the Constitution of India.

The Report contains significant results of the compliance audit of the Department of Revenue-Direct Taxes of the Union Government.

The instances mentioned in this Report are those, which came to notice in the course of test audit for the period 2015-16 as well as those which came to notice in earlier years but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2015-16 have also been included, wherever necessary.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

Highlights

The Comptroller and Auditor General of India conducts the audit of Receipts from Direct Taxes of the Union Government under section 16 of the Comptroller Auditor General of India (Duties, Power and Conditions of Service) Act, 1971. This Report discusses direct taxes administration, audit mandate, products & impact and findings of compliance audit including fictitious sales and purchases by shell companies/hawala operators, functioning of Directorate of Income Tax (Infrastructure) and Centralised Processing Centre, Bengaluru.

Chapter I: Direct Taxes Administration

Direct tax receipts of Union Government in FY 2015-16 was ₹ 7,42,012 crore which represented 5.5 *per cent* of the GDP. Share of direct taxes in Gross Tax Revenue decreased to 51.0 *per cent* in FY 2015-16 from 55.9 *per cent* in FY 2014-15.

Two major components of Direct taxes viz. Corporation Tax increased from ₹ 4.29 lakh crore in FY 2014-15 to ₹ 4.53 lakh crore in FY 2015-16 and Income Tax increased from ₹ 2.58 lakh crore in FY 2014-15 to ₹ 2.80 lakh crore in FY 2015-16.

The number of non-corporate assesseees increased from 360.55 lakh in FY 2014-15 to 398.04 lakh in FY 2015-16 registering an increase of 10.4 *per cent*.

The number of corporate assesseees increased from 6.75 lakh in FY 2014-15 to 6.88 lakh in FY 2015-16 registering an increase of 1.9 *per cent*.

Out of total 7.05 lakh scrutiny assessment cases, the Department had disposed of 3.39 lakh cases (48.06 *per cent*) in FY 2015-16 resulting in decrease in disposal rate.

The arrears of demand increased from ₹ 7.00 lakh crore in FY 2014-15 to ₹ 8.24 lakh crore in FY 2015-16. The Department indicated that more than 97.3 *per cent* of uncollected demand is difficult to recover in FY 2015-16.

Appeals pending with CIT(A) increased from 2.32 lakh in FY 2014-15 to 2.95 lakh in FY 2015-16. The amount locked up in these cases with CIT(A) was ₹ 5.16 lakh crore in FY 2015-16. The amount locked up at higher levels (ITAT/High Court/Supreme Court) increased from ₹ 1.9 lakh crore (77,448 cases) in FY 2014-15 to ₹ 3.0 lakh crore (70,371 cases) in FY 2015-16.

Chapter II: Audit Mandate, Products and Impact

ITD completed 2.28 lakh scrutiny assessments in FY 2014-15 in those units which were audited during audit plan of FY 2015-16, of which we checked 2.19 lakh cases. Apart from this, we have also audited 0.25 lakh cases completed in previous financial years, during FY 2015-16. The incidence of errors in assessment checked in audit during FY 2015-16 was 0.18 lakh cases (7.3 per cent).

The Report discusses 463 high value and important cases reported to the Ministry, which have been included in Chapter III and IV. Out of these, the Ministry/ITD accepted 298 cases (89 per cent) while it did not accept 37 cases as of 20 December 2016. In remaining cases the Ministry/ITD did not furnish replies. Besides, one long para on 'Fictitious sales and purchases by shell companies/hawala operators' has been included in Chapter V. The Report also discusses two subject specific compliance audit on 'Functioning of Directorate of Income Tax (Infrastructure)' and 'Centralised Processing Centre, Bengaluru' which have been included in Chapter VI and VII respectively.

The accretion in pendency in replies to audit findings each year has resulted in accumulation of 48,106 cases involving revenue effect of ₹ 72,391.68 crore as of 31 March 2016.

ITD recovered ₹ 525.68 crore in FY 2015-16 from demands raised to rectify the errors in assessments that we pointed out.

During FY 2015-16, 2,074 cases with tax effect of ₹ 1,230.72 crore became time-barred for remedial action.

Chapter III: Corporation Tax

We pointed out 320 high value cases pertaining to corporation tax with tax effect of ₹ 3,298.93 crore. We classified these cases in four broad categories namely quality of assessments involving tax effect of ₹ 1,442.94 crore (105 cases), administration of tax concessions/exemptions/deductions involving tax effect of ₹ 1,433.82 crore (145 cases), income escaping assessments due to omissions involving tax effect of ₹ 245.44 crore (47 cases) and over-charge of tax/interest involving ₹ 176.73 crore (23 cases).

Chapter IV: Income Tax and Wealth Tax

We pointed out 136 high value cases pertaining to income tax with tax effect of ₹ 460.70 crore. We classified these cases in four broad categories namely quality of assessments involving tax effect of ₹ 107.27 crore (68 cases), administration of tax concessions/exemptions/deductions involving tax effect of ₹ 63.28 crore (38 cases), income escaping assessments due to omissions involving tax effect of ₹ 15.02 crore (21 cases) and over charge of tax/interest involving ₹ 275.13 crore (nine cases). Besides, we also pointed out seven cases of Wealth Tax involving tax effect of ₹ 0.47 crore.

Chapter V: Fictitious sales and purchases by Shell Companies/Hawala Operators

This deals with the fictitious transactions which took place between Bogus Entry Providers and their beneficiaries which led to generation of unaccounted income. Audit noticed failure of the ITD to effectively use various tools at its disposal to carry out suo motu detailed investigation of the facts and take up cases for scrutiny in order to bring to book the severe economic offenders.

Chapter VI: Functioning of Directorate of Income Tax (Infrastructure)

We pointed out weakness in planning and implementation of infrastructural works by the Directorate/Pr. CCsIT. The CCsIT did not send proposals for acquisition of land complete in all respect resulting in delays in according approvals. Cases were noticed where construction of office/residential buildings did not take place as acquired land was incapable of being used for construction. Unsuitability of land indicates poor due diligence before acquiring the land. There were delays in according administrative approval for construction leading to projects not taking off. There is a need to improve planning and approval process to complete the projects in a time bound manner. There was weakness in financial management in implementing the works project by the Directorate. The Directorate was not able to utilize the budgeted allocation fully although there was shortage of office space. Audit came across cases where approval by the competent authority was not given for spending money and lease rent was being paid without renewing the lease deed.

Chapter VII: Centralised Processing Centre, Bengaluru

We pointed out mistake in business rules relating to matching of TDS with offered income. Full potential of CPC such as AST-CPC interface for accessing demand/refund information, information available with AO not used in processing returns, non-linking of previous years' ITRs resulting in excess deduction, was not realised due to not changing the definition of 'processing'. During execution of the project, deviations from agreed processes were noticed. One of the deviations was related to matching of TDS/Tax payment claims which resulted in increased rectification due to non-matching of tax credit. Rectification process in contravention of the Master Service Agreement resulted in irregular payment of ₹ 5.86 crore. Service Level Agreement (SLA) metrics were not achieved by the Service Provider during FY 2012-13 in respect of processing of physical ITRs. Though the number of e-filing of ITR had been increased as compared to projected, however, SLA was not revised and the performances of the SP continued to be compared against the original targets.

Chapter I

Direct Taxes Administration

1.1 Resources of the Union Government

1.1.1 The Government of India's resources include all revenues received by the Union Government, all loans raised by issue of treasury bills, internal and external loans and all moneys received by the Government in repayment of loans. Tax revenue resources of the Union Government consist of revenue receipts from direct and indirect taxes. Table 1.1 below shows the summary of resources of the Union Government for the Financial Year (FY) 2015-16 and FY 2014-15.

Table 1.1: Resources of the Union Government	₹ in crore)	
	FY 2015-16	FY 2014-15
A. Total Revenue Receipts	19,42,353	16,66,717
i. Direct Taxes Receipts	7,42,012	6,95,792
ii. Indirect Taxes Receipts including other taxes ¹	7,13,879	5,49,343
iii. Non-Tax Receipts	4,84,581	4,19,982
iv. Grants-in-aid & contributions	1,881	1,600
B. Miscellaneous Capital Receipts²	42,132	37,740
C. Recovery of Loan & Advances³	41,878	26,547
D. Public Debt Receipts⁴	43,16,950	42,18,196
Receipts of Government of India (A+B+C+D)	63,43,313	59,49,200

Source: Union Finance Accounts of respective years. Direct Tax receipts and Indirect tax receipts including other taxes have been worked out from the Union Finance Accounts. Total Revenue Receipts include ₹ 5,06,193 crore in FY 2015-16 and ₹ 3,37,808 crore in FY 2014-15, share of net proceeds of direct and indirect taxes directly assigned to states.

1.1.2 In FY 2015-16, the increase of 16.5 *per cent* in total revenue receipts mainly contributed increase of total receipts of the Government of India. The Direct Taxes accounted for 38.2 *per cent* of total revenue receipts and increased by 6.6 *per cent* in FY 2015-16 over the last year.

1.2 Nature of Direct Taxes

1.2.1 Direct taxes levied by the Parliament mainly comprises,

- i. **Corporation Tax** levied on income of the companies;
- ii. **Income Tax** levied on income of persons (other than companies);
- iii. **Other direct taxes** including Securities Transactions Tax⁵, Wealth Tax⁶ etc.

1 Indirect taxes levied on goods and services such as customs duty, excise duty, service tax etc.;

2 This comprises of value of bonus share, disinvestment of public sector and other undertakings and other receipts;

3 Recovery of loans and advances made by the Union Government;

4 Borrowing by the Government of India internally as well as externally;

5 Tax on the value of taxable securities purchased and sold through a recognized stock exchange in India. However, no rebate under section 88E is allowable with effect from Assessment Year 2009-10.

6 Tax chargeable on the net wealth comprises certain assets specified under section 2(ea) of the Wealth Tax Act, 1957. The Wealth Tax has been abolished through Finance Act, 2015.

1.2.2 Table 1.2 provides a snapshot of direct taxes administration.

Table 1.2: Direct Taxes Administration					
	2011-12	2012-13	2013-14	2014-15	2015-16
₹ in crore					
1. Direct taxes collection	4,93,987	5,58,989	6,38,596	6,95,792	7,42,012
2. Refunds	93,814	83,766	89,060	1,12,163	1,22,596
3. Interest on refunds	6,486	6,666	6,598	5,332	6,886
Number in lakh					
4. Assesseees on record ⁷	363.5	373.8	470.3	607.6	644.01
5. Actual returned filed by					
a. Non-corporate Assesseees	357.6	367.9	304.0	360.6	398.0
b. Corporate Assesseees	5.9	5.9	6.4	6.8	6.9
6. Scrutiny assessments completed	3.7	3.1	2.9	5.35	3.39
7. Scrutiny assessment pending	4.1	2.9	4.2	4.96	3.66

Source: Sl. No. 1 – Union Finance Accounts; Sl. No. 2 – Pr. CCA, CBDT, Sl. No. 3 to 7 – DGIT (Logistics), CBDT.

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

1.2.3 Table 1.3 below gives the details of non-corporate assesseees in different categories of income.

Table 1.3: Non-Corporate Assesseees						(Figures in lakh)
Financial Year	A ⁸	B ₁ ⁹	B ₂ ¹⁰	C ¹¹	D ¹²	Total
2011-12	267.68	60.26	21.23	6.57	1.87	357.61
2012-13	276.13	58.21	23.94	6.59	3.00	367.87
2013-14	117.23	135.79	34.24	16.72	0.05	304.03
2014-15	76.32	216.31	46.11	21.80	0.01	360.55
2015-16	55.93	264.47	52.94	24.69	0.01	398.04

Source: Directorate General of Income Tax (Logistics), Research & Statistics Wing. These figures are based on actual returns filed during the respective year.

The non-corporate assesseees registered an increase of 10.4 *per cent* in FY 2015-16 in comparison to increase of 18.6 *per cent* in FY 2014-15. As can be seen from the table 1.3 above and Chart 1.1, there has been a steady shift of the number of assesseees from the lower income category 'A' to the middle income and higher income categories B₁, B₂ and C during the five years period FY 2011-12 to FY 2015-16.

7 Includes cases where non-zero TDS-26AS exist but no ITR entered in the record of ITD (159.93 lakh - FY 2013-14, 169.35 lakh - FY 2014-15 and 163.45 lakh - FY 2015-16. The figures of FY 2014-15 and FY 2015-16 includes all assesseees covered by DGIT (Systems) during previous two years.

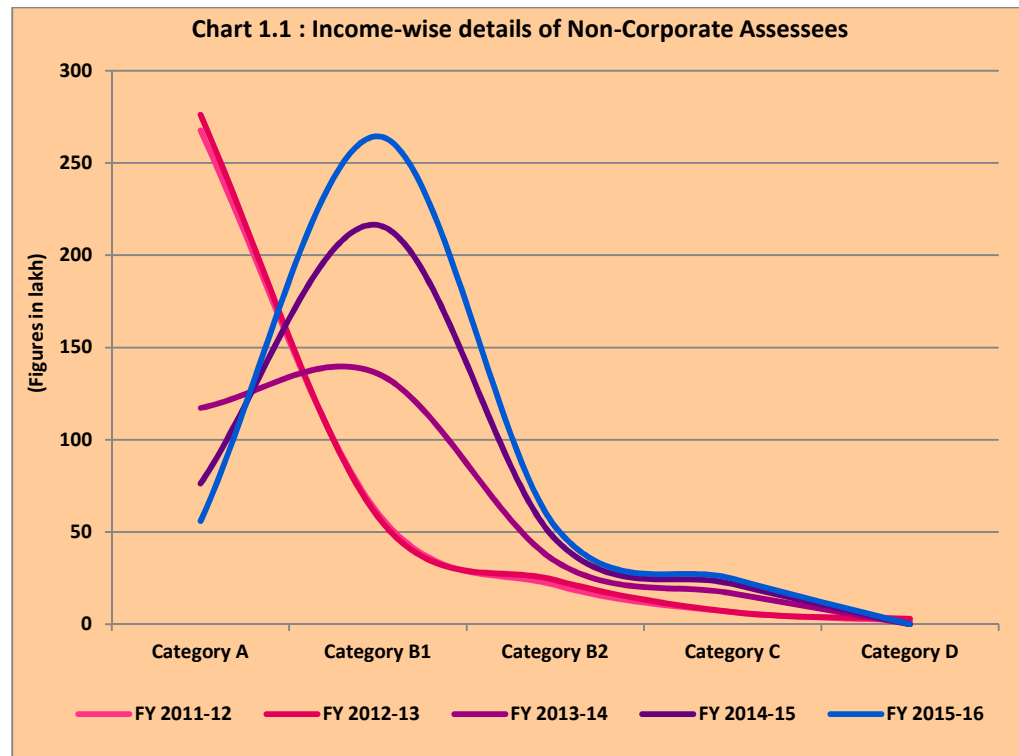
8 Category 'A' assesseees – Assessments with income/loss below ₹ two lakh;

9 Category 'B₁' assesseees (lower income group) - Assessments with income/loss above ₹ two lakh and above; but below ₹ five lakh;

10 Category 'B₂' assesseees (higher income group) - Assessments with income/loss above ₹ five lakh and above; but below ₹ 10 lakh;

11 Category 'C' assesseees - Assessments with income/loss of ₹ 10 lakh and above;

12 Category 'D' assesseees – Search and seizure assessments;



1.2.4 Table 1.4 below gives the details of corporate assesseees in different categories of income.

Table 1.4: Corporate Assesseees							(Figures in lakh)	
Financial Year	A ¹³	B ₁ ¹⁴	B ₂ ¹⁵	C ¹⁶	D ¹⁷	Total	Assesseees having income above ₹ 25 lakh	Working companies as per RoC as on 31 st March
2011-12	2.95	0.91	0.96	1.00	0.03	5.85	0.14	8.01
2012-13	3.05	0.97	0.83	1.02	0.03	5.90	0.14	8.84
2013-14	4.14	0.89	0.31	1.01	0.01	6.36	0.65	9.52
2014-15	3.20	1.51	0.48	1.56	0.00*	6.75	0.69	10.16
2015-16	3.08	1.59	0.50	1.71	0.00^	6.88	0.76	10.82

Source: Directorate General of Income Tax (Logistics), Research & Statistics Wing. These figures are based on actual returns filed during the respective year.

* 256 assesseees; ^ 337 assesseees.

The corporate assesseees registered an increase of 1.9 *per cent* in FY 2015-16 in comparison to increase of 6.1 *per cent* in FY 2014-15. As in the case of non-corporate assesseees there is a steady change in the income profile of the assesseees with more entering the higher income brackets over the five years period of FY 2011-12 to FY 2015-16.

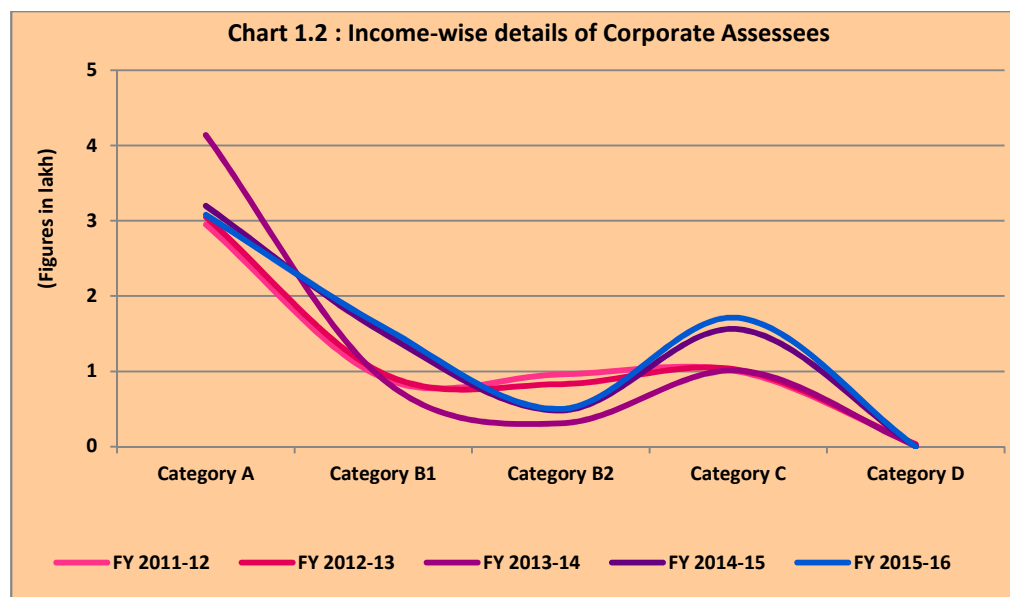
13 Category 'A' assesseees – Assessments with income/loss below ₹ 50,000;

14 Category 'B₁' assesseees (lower income group) – Assessments with income/loss of ₹ 50,000 and above; but below ₹ five lakh;

15 Category 'B₂' assesseees (higher income group) - Assessments with income/loss above ₹ five lakh and above; but below ₹ 10 lakh;

16 Category 'C' assesseees - Assessments with income/loss of ₹ 10 lakh and above;

17 Category 'D' assesseees – Search and seizure assessments;



1.3 Functions and responsibilities of the CBDT

1.3.1 The Central Board of Direct Taxes (CBDT) under Department of Revenue (DOR) in the Ministry of Finance provides essential inputs for policy and planning of direct taxes in India. At the same time, it is also responsible for administration of direct taxes laws through Income Tax Department (ITD). ITD deals with matters relating to levy and collection of direct taxes and *inter alia* the issues of tax evasion, revenue intelligence, widening of tax-base, providing tax payers services, grievance redressal mechanism.

1.3.2 As on 31 March 2016, the overall staff strength and working strength of the ITD is 78,552 and 45,045 respectively. The sanctioned and working strength of the officers¹⁸ is 11,052 and 9,200 respectively. The revenue expenditure for the year 2015-16 is ₹ 4,688.6 crore¹⁹.

1.4 Budgeting of Direct Taxation

1.4.1 The Budget reflects the Government's vision and intent. The revenue budget consists of the revenue receipts of the Government (tax revenues and other revenues) and the expenditure met from these revenues. Comparison of budget estimates with the corresponding actuals is an indicator of quality of fiscal marksmanship. Actuals may differ from the estimates because of unanticipated and random external events or methodological inadequacies or at times it may be convenient to under project/over project some critical parameters.

¹⁸ Pr. CCIT/Pr. DGIT, CCIT/DGIT, Pr. CIT/Pr. DIT, CIT/DIT, Addl. CIT/Addl. DIT/JCIT/JDIT, DCIT/DDIT/ACIT/ADIT and ITOs.

¹⁹ Union Finance Accounts for FY 2015-16.

1.4.2 Table 1.5 below shows the details of Budget Estimates (BE), Revised Estimates (RE) and Actual collection of Direct Taxes during FY 2011-12 to FY 2015-16.

Table 1.5: Budget Estimates, Revised Estimates vis-à-vis Actual							(₹ in crore)	
Financial Year	Budget estimates	Revised estimates	Actual	Actual minus budget estimates	Actual minus Revised estimates	Difference as per cent of budget estimates	Difference as per cent of Revised estimates	
2011-12	5,32,651	5,00,651	4,93,987	(-) 38,664	(-) 6,664	(-) 7.3	(-) 1.3	
2012-13	5,70,257	5,65,835	5,58,989	(-) 11,268	(-) 6,846	(-) 2.0	(-) 1.2	
2013-14	6,68,109	6,36,318	6,38,596	(-) 29,513	2,278	(-) 4.4	0.4	
2014-15	7,36,221	7,05,628	6,95,792	(-) 40,429	(-) 9,836	(-) 5.5	(-) 1.4	
2015-16	7,97,995	7,52,021	7,42,012	(-) 55,983	(-) 10,009	(-) 7.0	(-) 1.3	

Note: BE and RE figures are as per respective Receipts Budget and Actual are as per respective Finance Accounts

1.4.3 The RE were found realistic as variation in actual collection ranged from (-) 1.4 per cent to 0.4 per cent of RE in comparison to the BE during the FY 2011-12 to FY 2015-16.

1.5 Growth of Direct Taxes

1.5.1 Table 1.6 below gives the relative growth of direct taxes (DT) with reference to Gross Tax Receipts (GTR)²⁰ and Gross Domestic Products (GDP) during FY 2011-12 to FY 2015-16.

Table 1.6: Growth of Direct Taxes						(₹ in crore)
Financial Year	DT	GTR	DT as per cent of GTR	GDP	DT as per cent of GDP	
2011-12	4,93,987	8,89,118	55.6	90,09,722	5.5	
2012-13	5,58,989	10,36,460	53.9	99,88,540	5.6	
2013-14	6,38,596	11,38,996	56.1	1,13,45,056	5.6	
2014-15	6,95,792	12,45,135	55.9	1,25,41,208	5.5	
2015-16	7,42,012	14,55,891	51.0	1,35,76,086	5.5	

Source: DT and GTR – Union Finance Accounts, GDP-Central Statistical Office (CSO), Ministry of Statistics and Programme Implementation; GDP for FY 2015-16 – Press note released by CSO on 31 May 2016. The Figures of GDP are continually being revised by CSO.

1.5.2 Though the DT increased by 6.6 per cent in FY 2015-16 as compared to FY 2014-15, there was decrease of 4.9 per cent in the share of DT to GTR in FY 2015-16 as compared to FY 2014-15. This is because of growth of 30 per cent in Indirect Taxes during FY 2015-16 as shown in Table 1.1.

1.5.3 Table 1.7 below gives the growth of direct taxes and its major components i.e. Corporation Tax (CT) and Income Tax (IT) during FY 2011-12 to FY 2015-16.

²⁰ It includes all direct and indirect taxes.

Table 1.7: Growth of Direct Taxes and its major components						(₹ in crore)
Financial Year	Direct Taxes	Per cent growth over previous year	Corporation Tax	Per cent growth over previous year	Income Tax	Per cent growth over previous year
2011-12	4,93,987	10.8	3,22,816	8.1	1,64,525	18.3
2012-13	5,58,989	13.2	3,56,326	10.4	1,96,843	19.6
2013-14	6,38,596	14.2	3,94,678	10.8	2,37,870	20.8
2014-15	6,95,792	9.0	4,28,925	8.7	2,58,374	8.6
2015-16	7,42,012	6.6	4,53,228	5.7	2,80,390	8.5

1.5.4 The compound annual growth rate of DT, CT and IT was 10.7 per cent, 8.9 per cent and 14.3 per cent respectively during FY 2011-12 to FY 2015-16.

1.5.5 There are different modes of direct taxes collection such as Tax deducted at source (TDS), advance tax, self assessment tax, and regular assessment tax in respect of both corporation and income tax. The pre-assessment collection through TDS, advance tax and self assessment tax is indicative of voluntary compliance in the system. The collection of tax through regular assessment mode occurs post assessment.

1.5.6 Table 1.8 below shows the pre-assessment and post-assessment collection of Corporation Tax and Income Tax during FY 2011-12 to FY 2015-16.

Table 1.8: Collection of Corporation Tax and Income Tax					(₹ in crore)
Financial Year	Pre-assessment collection	Post assessment collection	Other receipts including surcharge and cess	Total Collections	
2011-12	4,77,853	51,512	50,134	5,79,499	
2012-13	5,25,918	62,418	48,596	6,36,932	
2013-14	5,85,192	72,528	63,884	7,21,604	
2014-15	6,37,681	80,189	81,589	7,99,459	
2015-16	6,95,171	63,814	96,940	8,55,925	

Note: The above figures were received from the Pr. CCA, CBDT during the respective years. The figures of collection comprises of refunds also.

1.5.7 The voluntary compliance of corporation tax and income tax during FY 2015-16 was 81.2 per cent as compared to 79.8 per cent in FY 2014-15.

1.6 Revenue impact of tax incentives

1.6.1 The primary objective of any tax law and its administration is to raise revenue for the purpose of funding government expenditure. The revenue raised is primarily dependent upon the collective tax base and the effective tax rates. The determinant of these two factors is a range of measures which includes special tax rates, exemptions, deductions, rebates, deferrals and credits. These measures are collectively called as “tax incentives or tax preferences”. These are also referred as tax expenditure.

1.6.2 The Income-tax Act, *inter alia*, provides for tax incentives to promote exports, balanced regional development, creation of infrastructure facilities, employment, rural development, scientific research and development, the cooperative sector, accelerated depreciation for capital investment and encourages savings by individuals and donation for charity. Most of these tax benefits can be availed of by both corporate and non-corporate taxpayers.

1.6.3 Union Receipt Budget depicts statement of revenue impact of major incentives on corporate taxpayers and non-corporate taxpayers based on returns filed electronically. The table 1.9 below shows the revenue impact of major tax incentives for FY 2011-12 to FY 2015-16.

Financial Year	Total Revenue impact of tax incentives	Revenue impact as <i>per cent</i> of		
		GDP	DT	GTR
2011-12	1,01,140	1.1	20.5	11.4
2012-13	1,02,256	1.0	18.3	9.9
2013-14	93,047	0.8	14.6	8.2
2014-15	1,18,593	0.9	17.0	9.5
2015-16	1,28,693	0.9	17.3	8.8

Note: The figures of revenue impact of tax incentives are actuals except FY 2015-16 (projected) as per Receipt Budget. These do not cover Charitable Institutions. However, as per Receipt Budget 2016-17, the amount applied by Charitable Institutions is ₹ 2,36,326 crores in respect of 1,19,317 electronically filed returns till November 2015.

1.6.4 The revenue impact of tax incentives is increasing in absolute terms over the years (except FY 2013-14). The Public Accounts Committee (PAC) in their 87th Report (15th Lok Sabha) noticed that the Government ‘though belatedly’ had proposed some measures in this direction but felt that the Government need to consider some interim measures to phase out unwarranted tax exemptions/deductions. The Finance Minister in his Budget speech of 2015 had announced that exemption for corporate would be rationalized and removed. In pursuance, the Government has taken certain measures to rationalize the deduction under section 35, 35AC, 35AD, 35CCC, 35CCD, 80IA, 80IAB and 80IB(9) through the Finance Act, 2016.

1.7 Widening of tax base

1.7.1 The ITD has different mechanisms available to enhance the assessee base which includes survey, information sharing with other tax departments and third party information available in annual information returns (AIRs). In the Central Action Plan 2015-16 of ITD, key result areas for widening of tax base are:

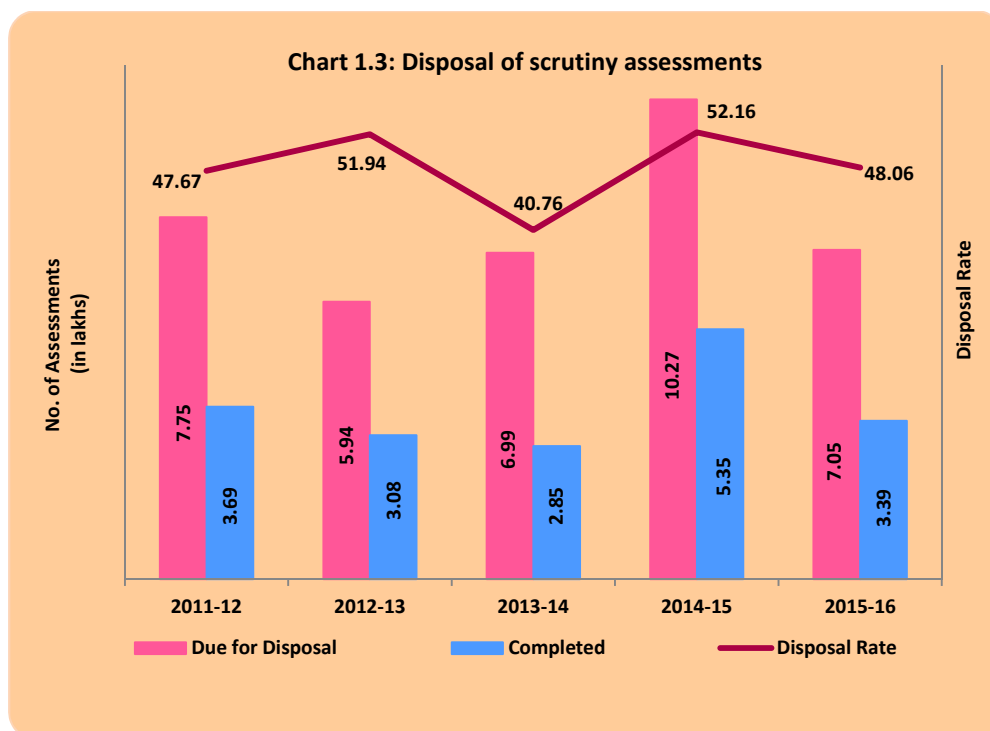
- a. Improving compliance to TDS/TCS provisions;
- b. Effective collection of information about high value transactions;
- c. Efficient handling of information without valid PAN; and
- d. Ensuring compliance from identified non-filers through various methods.

1.7.2 The data of TDS as shown in *Appendix 1* indicates increase of 44.7 per cent over the period from FY 2011-12 to FY 2015-16, which suggest improvement in compliance to TDS/TCS provisions. A comparison of the figure on total working companies as per the Registrar of Companies (ROCs)²¹ data with the total filers as per the ITD would suggest that ensuring compliance by indentifying non-filers has not been effective. As in FY 2014-15, there were 10.16 lakh companies registered with ROC as against which it is observed that in FY 2015-16, 6.88 lakh companies only are the filers of income tax returns. Since all working companies (whether profit earning or loss incurring) are required by the provision of the Income Tax Act, 1961 to file their return of income, 47.7 per cent of such working companies in FY 2014-15 did not file their return of income.

1.8 Disposal of Scrutiny assessments

1.8.1 Chart 1.3 gives the trend of disposal of scrutiny assessments during FY 2011-12 to FY 2015-16.

21 Source: Ministry of Corporate Affairs (Statistics Division).



1.8.2 The disposal of scrutiny assessment cases in FY 2015-16 has decreased to 48.06 per cent as compared to 52.16 per cent in FY 2014-15.

1.9 Disposal of Refund cases

1.9.1 Table 1.10 below gives the trend of disposal and pendency of direct refund cases during FY 2011-12 to FY 2015-16.

Table 1.10: Disposal of Direct Refund Cases				(Number in lakh)
Financial Year	Direct Refund cases due for disposal	Direct Refund cases disposed of	Direct Refund cases pending	Pendency in percentage
2011-12	52.8	40.3	12.5	23.7
2012-13	38.8	27.6	11.2	28.9
2013-14	34.5	25.7	8.8	25.5
2014-15	31.5	22.6	8.9	28.1
2015-16	38.9	33.4	5.5	14.2

Source: Directorate General of Income Tax (Logistics), Research & Statistics Wing.

1.9.2 There has been significant reduction in pendency of direct refund cases during FY 2015-16.

1.9.3 The Government has refunded ₹ 1,22,596 crore which includes interest of ₹ 6,886 crore (5.6 per cent) in FY 2015-16. The interest paid on refunds in FY 2014-15 was ₹ 5,332 crore (4.8 per cent ₹ 1,12,163 crore the amount refunded).

1.10 Arrears of demand

1.10.1 Table 1.11 below gives the trend of arrears of demand pending during the period FY 2011-12 to FY 2015-16.

Table 1.11: Arrears of Demand				(₹ in crore)
Financial Year	Arrears of earlier year's demand	Current year's demand	Total arrears of demand	Demand difficult to recover
2011-12	2,65,040	1,43,378	4,08,418	3,87,614
2012-13	4,09,456	76,724	4,86,180	4,66,854
2013-14	4,80,066	95,274	5,75,340	5,52,538
2014-15	5,68,724	1,31,424	7,00,148	6,73,032
2015-16	6,67,855	1,56,356	8,24,211	8,02,256

Source: CAP I Demand & Collection Statement alongwith Analysis for the month of March of respective FY provided by Directorate of Income Tax (Organisation & Management Services)

1.10.2 Demand & Collection Statement for the month of March of respective FY analysed various factors viz. inadequate assets for recovery, cases under liquidation/BIFR, assessee not traceable, demand stayed by various authorities etc. leading to demand difficult to recover. This demand is increasing year after year and accounted for 97.3 per cent of the total arrear of demand in FY 2015-16 as against 96.1 per cent in FY 2014-15.

1.10.3 Defaults in payment of tax are referred to Tax Recovery Officers (TROs) who draw up a certificate specifying the amount of arrears due from the assessee and proceed to recover the amount. The certified demand remaining uncollected was stagnant to ₹ 2.40 lakh crore in FY 2015-16 in comparison to ₹ 2.36 lakh crore in FY 2014-15. TROs could dispose off 8.5 per cent (₹ 22,089.31 crore) of pending certified demand in FY 2015-16.

1.11 Disposal of Appeal cases

1.11.1 Table 1.12 below gives the trend of disposal and pendency of appeal cases before CIT(Appeals) during FY 2011-12 to FY 2015-16.

Table 1.12: Disposal of Appeal Cases by CIT(A)					
Financial Year	Appeal cases due for disposal	Appeal cases disposed of	Appeal cases pending	Pendency in percentage	Amount locked up in Appeal cases
					(₹ in crore)
(Number in lakh)					
2011-12	3.06	0.76	2.30	75.3	2,42,182
2012-13	2.84	0.85	1.99	70.1	2,59,556
2013-14	3.03	0.88	2.15	71.0	2,87,444
2014-15	3.06	0.74	2.32	75.8	3,83,797
2015-16	3.53	0.94	2.59	73.3	5,16,250

Source: Directorate General of Income Tax (Logistics), Research & Statistics Wing.

1.11.2 The amount locked up in appeal cases with CIT(Appeals) is equivalent to 1.5 times approximately of the revised revenue deficit of Government of India in FY 2015-16 against 1.1 times of revised revenue deficit in FY 2014-15.

1.11.3 Table 1.13 below gives the position of Appeals/Writs and other matters pending with Income Tax Appellate Tribunals (ITATs)/High Courts and Supreme Court as on 31 March 2016.

Table 1.13: Appeals/Writs and other matters pending with ITATs/High Courts/Supreme Court		
Authority with whom pending	Cases pending (Numbers)	Amount locked up (₹ in crore)
ITATs	32,834	1,35,984
High Courts	32,138	1,61,418
Supreme Court	5,399	7,092
Total	70,371	3,04,494

Source: Directorate General of Income Tax (Logistics), Research & Statistics Wing.

1.11.4 The amount locked up at higher levels (ITATs/High Courts/Supreme Court) increased to ₹ 3.0 lakh crore (70,371 cases) as on 31 March 2016 in comparison to ₹ 1.9 lakh crore (77,448 cases) as on 31 March 2015.

1.12 Search & Seizure and Survey

The Search & seizure and survey are amongst the main evidence collecting mechanisms that are used in cases where credible information about tax evasion is in possession of the ITD. Table 1.14 below shows the details of search & seizure and survey conducted and the undisclosed income admitted/detected during FY 2011-12 to FY 2015-16.

Table 1.14: Status of search & seizure and survey cases				(₹ in crore)
Financial Year	Number of groups searched	Undisclosed income admitted	Number of survey conducted	Undisclosed income detected
2011-12	621	15,071	3,706	6,573
2012-13	422	10,292	4,630	19,337
2013-14	569	10,792	5,327	90,391
2014-15	545	10,288	5,035	12,820
2015-16	447	11,226	4,428	9,700

Source: Investigation Wing, CBDT

The undisclosed income admitted during search & seizure increased by 9.1 per cent in FY 2015-16, however, the undisclosed income detected during survey decreased by 24.3 per cent in the same period.

1.13 Status of prosecution cases

1.13.1 Table 1.15 below shows the status of prosecution proceedings launched, proceeding decided viz. convicted, compounded and acquitted from FY 2011-12 to FY 2015-16.

Table 1.15: Status of Prosecution proceedings					(Number)
Financial Year	Prosecution proceedings launched	Disposal of cases			Total cases
		Convictions	Compounded	Acquitted	
2011-12	209	14	397	182	593
2012-13	283	10	205	50	265
2013-14	641	41	561	62	664
2014-15	669	34	900	42	976
2015-16	552	28	1,019	38	1,085

Source: Investigation Wing, CBDT

1.13.2 The number of compounded cases increased substantially from 66.9 *per cent* of disposed prosecution cases in FY 2011-12 to 93.9 *per cent* in FY 2015-16 and acquittals in disposed prosecution cases decreased sharply from 30.7 *per cent* in FY 2011-12 to 3.5 *per cent* in FY 2015-16.

1.14 Results Framework Document

The Results Framework Document (RFD) for the ITD for the FY 2015-16 under the objectives includes better communication with Taxpayers, better management of Human Resources for enhancing Taxpayer services, strengthening Taxpayer services by enhancing Information Technology, efficiency in Tax Administration and implementing recommendations of TARC.

1.15 ITD's IT Initiatives

1.15.1 With a view to improving the efficiency and effectiveness of the tax administration and to provide management with reliable and timely information towards effective planning as also broaden the tax base, ITD introduced many ICT applications from time to time.

1.15.2 The ITD has designed an Integrated Taxpayer Data Management System (ITDMS) as a data mining software to build profile of taxpayer. It enables the users to build a near 360 degree profile of taxpayers dealing with high volumes of data and more linkages. The improved version is giving better linkages and handling a higher quantum of data.

1.15.3 The ITD has undertaken a separate project called Income Tax Business Application (ITBA) with which it plans to re-write the existing ITD applications in a new architecture and design. Some of the features of this application are workflow based management system, alert and notification services, consolidated view of tax payers, capability to generate a large number of standard and customized reports for all (authorized users), a uniform mailing solution to all etc. The application is still under development.

1.15.4 The ITD has initiated "Project Insight" on Data Warehouse and Business Intelligence (DW & BI) platform to strengthen the non-intrusive information driven approach for improving compliance and effective

utilization of information in all areas of tax administration. This will integrate data warehouse, data mining, web mining, predictive modeling, data exchange, master data management, centralized processing, compliance risk management and case analysis capabilities. The project is expected to be rolled out in FY 2016-17.

1.15.5 The ITD has taken up a new project, called the “National Judicial Reference System”, with the objective of improving litigation management in the Department with the help of technology. The Computerized database of appeals and judgments will help in identifying issues that have attained finality avoiding litigation on settled issues; bunching of similar cases, prioritization of important cases; capacity building and in tax policy analysis. The software has been developed and implemented. This project utilizes appeal data from the Supreme Court of India/High Courts/ITATs.

1.16 Effectiveness of Internal Audit

1.16.1 Internal audit is an important part of the Departmental control that provides assurance that demands/refunds are processed accurately by correct application of the provisions of the Act. The ITD prepares action plan for conducting internal audit in pursuance of instruction no. 3 of 2007 and completed audit of 1,78,793 cases in FY 2015-16 as against 1,66,229 cases audited in FY 2014-15.

1.16.2 Table 1.16 shows details of internal audit observations raised, settled and pending for each of the five years from FY 2011-12 to FY 2015-16:

Financial Year	Opening balance		Addition		Settled		Pending	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
2011-12	34,940	8,516	13,771	1,880	14,148	1,118	34,563	9,278
2012-13	34,563	9,278	18,275	4,135	16,626	2,736	36,212	10,677
2013-14	36,212	10,677	14,423	8,951	26,322	8,610	24,313	11,018
2014-15	20,834 [^]	8,368	9,927	2,292	15,586	3,805	15,175	6,855
2015-16	19,137 [^]	8,023	13,148	6,463	12,891	2,205	19,394	12,281

Source: Directorate of Income Tax (Income Tax & Audit); [^]Figures revised after verification by respective CsIT(Audit) subsequent to submission of quarterly statement for the quarter ending March

1.16.3 Out of 11,509 major finding cases²² raised by internal audit, the AOs acted upon in 3,730 cases (32.41 per cent) in FY 2015-16 in comparison to 4,973 cases (46.8 per cent) out of 10,624 cases in FY 2014-15.

22 Audit objection above ₹ two lakh in Income tax and above ₹ 30,000 in other taxes.

Chapter II: Audit Mandate, Products and Impact

2.1 Authority of the CAG for audit of receipts

Article 149 of the Constitution of India provides that the Comptroller and Auditor General of India (CAG) shall exercise such powers and perform such duties in relation to the accounts of the Union and of the states and of any other authority or body as may be prescribed by or under any law made by the Parliament. The Parliament passed the Comptroller and Auditor General's DPC Act (CAG's DPC Act) in 1971. Section 16 of the CAG's DPC Act authorises CAG to audit all receipts (both revenue and capital) of the Government of India and of Governments of each State and of each Union Territory having a legislative assembly and to satisfy himself that the rules and procedures are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed. Regulations on Audit & Accounts, 2007 (Regulations) lay down the principles for Receipt Audit.

2.2 Examination of systems and procedures and their efficacy

2.2.1 Audit of receipts includes an examination of the systems and procedures and their efficacy mainly in respect of:

- a. identification of potential tax assessees, ensuring compliance with laws as well as detection and prevention of tax evasion;
- b. exercise of discretionary powers in an appropriate manner including levy of penalties and initiation of prosecution;
- c. appropriate action to safeguard the interests of the Government on the orders passed by departmental appellate authorities;
- d. any measures introduced to strengthen or improve revenue administration;
- e. amounts that may have fallen into arrears, maintenance of records of arrears and action taken for the recovery of the amounts in arrears;
- f. pursuit of claims with due diligence and that these are not abandoned or reduced except with adequate justification and proper authority.

To achieve the above, we examined the assessments completed by the Income Tax Department in financial year 2014-15. In addition, some assessments which were completed in earlier years were also taken up for examination.

2.2.2 ITD completed 2,27,859 scrutiny assessments²³ in FY 2014-15 in those units which were audited during audit plan of FY 2015-16, of which we checked 2,18,957 cases. Apart from this, we have also audited 25,320 cases completed in previous financial years, during FY 2015-16. The incidence of errors in assessment checked in audit during FY 2015-16 was 17,775 cases (7.3 per cent) which was less than the previous year (7.4 per cent). We pointed out mistakes in 12,115 cases where Internal Audit of ITD failed to detect.

2.2.3 State-wise incidence of errors in assessment is given in *Appendix-2.1*. Table 2.1 below shows details of top eight States where more than 10,000 assessments were checked in audit during 2015-16.

State	Assessments completed during 2014-15	Assessments checked in audit during 2015-16	Assessments with errors	Total revenue effect of the audit observations	Percentage of assessments with errors
a. Delhi	41,101	31,573	1,340	2,756.55	4.2
b. Gujarat	26,622	26,055	1,373	1,514.83	5.3
c. Maharashtra	72,610	54,869	3,337	3,581.44	6.1
d. Rajasthan	11,805	11,342	735	77.58	6.5
e. Tamil Nadu	17,084	14,836	1,887	1,285.71	12.7
f. Uttar Pradesh	13,176	12,665	907	971.50	7.2
g. West Bengal	39,997	39,055	3,102	2,460.35	7.9

This indicates that Tamil Nadu has the highest percentage of assessments with errors (12.7 per cent) followed by West Bengal (7.9 per cent). It has also been seen that in the last five years both these states were having the highest percentage of assessments with errors.

2.2.4 Table 2.2 below shows the details of errors noticed in local audit during FY 2015-16.

Category	Cases	Tax effect
a. Corporation tax & Income tax	19,647	16,564.18 ²⁴
b. Wealth tax & Other Direct taxes	552	159.39
Total	20,199	16,723.57

Note: The above findings and all subsequent findings are based exclusively on audit of selected assessments.

2.2.5 Table 2.3 below shows the category-wise details of underassessment in respect of Corporation tax and Income Tax. *Appendix-2.2* indicates details in respect of sub-categories under them.

23 Total scrutiny assessment completed in the ITD during FY 2014-15 was 5,35,444.

24 Includes 1162 cases of over assessments with tax effect of ₹ 841.67 crore

Table 2.3: Category-wise details of errors		(₹ in crore)	
Category		Cases	Tax effect
a.	Quality of assessments	4,616	3,750.99
b.	Administration of tax concessions/exemptions/deductions	8,267	8,542.98
c.	Income escaping assessments due to omissions	2,351	1,684.24
d.	Others	3,251	1,744.29
Total		18,485	15,722.50

2.3 Audit products and response to audit

2.3.1 We elicit response from the audited entities at different stages of audit. As per provision of Regulations 193 on completion of field audit, we issue the local audit report (LAR) to ITD for comments.

2.3.2 Table 2.4 below depicts the position of number of observations included in the Local Audit Reports (LAR) issued during FY 2011-12 to FY 2015-16 and replies received thereto and observations accepted.

Table 2.4: Response to local audit						
Financial Year	Observations raised	Reply received		Reply not received	Percentage of cases accepted	Percentage of reply not received
		Cases Accepted	Cases not accepted			
2011-12	19,624	3,945	2,971	12,708	20.1	64.8
2012-13	18,548	3,343	4,124	11,081	18.0	59.7
2013-14	19,312	3,642	3,131	12,534	18.9	64.9
2014-15	17,626	3,631	3,535	10,450	20.6	59.3
2015-16	20,737	3,281 ²⁵	5,196	12,260	15.8	59.1

2.3.3 Table 2.5 below shows the increasing trend of pendency of observations.

Table 2.5: Details of outstanding audit observations							(₹ in crore)	
Period	CT		IT		ODT		Total	
	No.	TE	No.	TE	No.	TE	No.	TE
Upto March 2012	5,358	17,910.80	7,162	2,182.99	1,594	120.31	14,114	20,214.10
2012-13	2,149	5,005.50	2,975	2,643.19	1,010	112.29	6,134	7,760.98
2013-14	2,997	8,046.35	5,242	1,965.92	1,069	64.77	9,308	10,077.04
2014-15	4,531	20,226.53	5,463	4,395.96	1,034	80.58	11,028	24,703.07
2015-16	2,877	7,880.24	3,954	1,671.23	691	85.02	7,522	9,636.49
Total	17,912	59,069.42	24,796	12,859.29	5,398	462.97	48,106	72,391.68

The accretion in pendency in replies to audit findings each year has resulted in accumulation of 48,106 cases involving revenue effect of ₹ 72,391.68 crore as of 31 March 2016.

25 1,690 - Cases accepted and remedial action taken; 1,591 - Cases accepted but remedial action not taken

The Department's efforts to ensure that replies to audit are sent in the prescribed period have not been satisfactory. The provisions of Regulations 202 and 203 need to be observed in letter and spirit.

2.3.4 We issue significant and high value cases out of these to the Ministry for comments before inclusion in the Audit Report as per provision of Regulations 205 to 209. We give six weeks to the Ministry to offer their comments on cases issued to them before their inclusion in the Audit Report. Four hundred sixty three²⁶ cases are included in the current Audit Report, of which replies were received for 335 cases. The Ministry/ITD accepted 298²⁷ cases (89 per cent) while it did not accept 37²⁸ cases as of 20 December 2016. Replies to remaining 128 cases were not received. Table 2.6 shows category wise details of these cases²⁹.

Table 2.6 Category-wise details of errors of high value cases						(₹ in crore)	
Category	CT		IT		Total		
	No.	TE	No.	TE	No.	TE	
a. Quality of assessments	105	1,442.94	68	107.27	173	1,550.21	
b. Administration of tax concessions/exemptions/ deductions	145	1,433.82	38	63.28	183	1,497.10	
c. Income escaping assessments due to omissions	47	245.44	28*	15.49	75	260.93	
d. Overcharge of tax/ interest	23	176.73	9	275.13	32	451.86	
Total	320	3,298.93	143	461.17	463	3,760.10	

*includes seven cases of under assessment of wealth involving TE of ₹ 0.47 crore.

2.3.5 Chapters III and IV bring out details of above errors in assessments in respect of Corporation Tax, Income Tax and Wealth Tax respectively.

2.3.6 In addition to the above, one long para on 'Fictitious sales and purchases by shell companies/hawala operators' was issued to the Ministry which has been included in this present Report in Chapter V. Chapters VI and VII bring out reports on two subject specific compliance audit 'Functioning of Directorate of Income Tax (Infrastructure)' and 'Centralised Processing Centre, Bengaluru'.

2.4 Audit impact

2.4.1 Recovery at the instance of audit

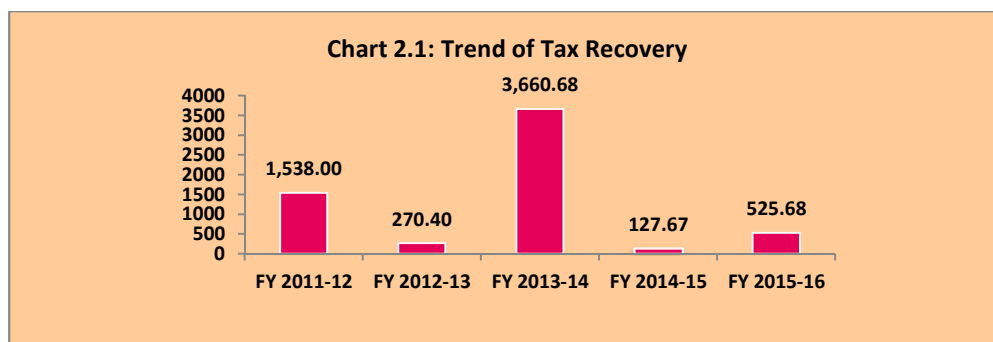
ITD recovered ₹ 6,122.43 crore in the last five years from demands raised to rectify the errors in assessments that we pointed out. This includes ₹ 525.68 crore recovered in FY 2015-16.

26 Appendix 2.3 gives the details of 463 cases issued to the Ministry.

27 Ministry-263 (CT - 184, IT and WT 79) cases; ITD-35 (CT - 23, IT and WT 12) cases

28 Ministry-13 (CT - 11, IT and WT - 2) cases; ITD-24 (CT - 23, IT -1) cases

29 Sub-categories-wise details are given in Appendix-2.4



2.5 Time barred cases

2.5.1 Table 2.7 below shows the details of time-barred cases during FY 2011-12 to 2015-16.

Table 2.7: Details of time-barred cases			(₹ in crore)
Year of Report	Cases	Tax effect	
2011-12	3,907	1,083.0	
2012-13	2,207	899.9	
2013-14	2,427	1,121.2	
2014-15	3,881	2,490.8	
2015-16	2,074	1,230.72	

2.5.2 During FY 2015-16, 2,074 cases with tax effect of ₹ 1,230.72 crore became time-barred for remedial action, of which Tamil Nadu alone account for 69 per cent amount. Appendix-2.5 indicates state-wise details of such cases for FY 2015-16. Responsibility may be fixed for not taking remedial action in time in such cases. The Department should ensure that remedial action is taken in time so that such incidences do not recur in future.

2.6 Non-production of records

2.6.1 We scrutinize assessment records under section 16 of the C&AG's (DPC) Act, 1971 with a view to securing an effective check on the assessment, collection and proper allocation of taxes and examining that regulations and procedures are being observed. It is also incumbent on ITD to expeditiously produce records and furnish relevant information to audit.

2.6.2 We requisitioned from ITD the data of income tax/corporation tax assesseees selected for scrutiny assessment through CASS for the last four financial years to strengthen and facilitate the risk analysis for selection of scrutiny cases for the purpose of audit planning in June 2015. However, despite persistent reminders, incomplete and aggregated summary data in respect of few items only as against the granular data requested for, were provided in September 2016. We also requested to provide information/data of search, seizure and surveys conducted during the period 2010-11 to 2015-16 and data/information in respect of assesseees with the agricultural

income of more than ₹ 5 lakh for the assessment years 2005-06 to 2015-16. However, the data was not provided by ITD until November 2016 inspite of several reminders. Non-furnishing of data has caused inordinate delay in the finalisation of Annual Audit Plan of the CAG for the year 2017-18 and therefore impeded CAG in carrying out his mandate.

2.6.3 Non-production of records has increased in Himachal Pradesh, Odisha, Rajasthan Tamil Nadu and Uttar Pradesh significantly over previous years during FY 2015-16. ITD did not produce 29,513 records out of 2,74,974 records requisitioned during FY 2015-16, (10.74 per cent) which is less than from FY 2014-15 (12.02 per cent).

Table 2.8 shows details of records not produced to audit pertaining to same assessee in three or more consecutive audit cycles. *Appendix 2.6* shows the details of non-production of records during FY 2013-14 to FY 2015-16.

Table 2.8: Records not produced to audit in three or more audit cycles	
States	Records not produced
a. Maharashtra	24
b. Odisha	9
Total	33

In FY 2015-16, 33 records pertaining to same assesseees in two states were not produced to audit in last three or more consecutive audit cycles, details of which are given in *Appendix 2.6*.

Chapter III: Corporation Tax

3.1 Introduction

3.1.1 This chapter discusses 320 significant and high value corporation tax cases referred to the Ministry during May 2016 to October 2016. Of these 297 cases involve undercharge of ₹ 3,122.20 crore and 23 cases involve overcharge³⁰ of ₹ 176.73 crore. These cases of incorrect assessment point towards weaknesses in the internal controls in the assessment process being exercised by the Income Tax Department.

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

- Quality of assessments
- Administration of tax concessions/ exemptions/ deductions
- Income escaping assessments due to omissions
- Others – Overcharge of tax/ Interest etc.

Table 2.6 (Para 2.3.4) shows the details of broad categories of mistakes and their tax effect (refer *Appendix 2.3*).

3.1.3 The Ministry has conveyed its acceptance in 184 cases involving tax effect of ₹ 1,345.80 crore. The Ministry has not accepted 11 cases involving tax effect of ₹ 167.24 crore. In the remaining 125 cases, the Department (ITD) has accepted 23 cases involving tax effect of ₹ 251.02 crore while not accepting 23 cases involving tax effect of ₹ 488.50 crore. Out of 320 cases, ITD has effected recovery of ₹ 3.99 crore in one case, completed remedial action in 252 cases involving tax effect of ₹ 2,426.96 crore and initiated remedial action in 25 cases involving tax effect of ₹ 191.95 crore.

3.2 Quality of assessments

3.2.1 AOs committed errors in the assessments despite clear provisions in the Act. These cases of incorrect assessments point out weaknesses in the internal controls on the part of ITD which need to be addressed. Table 3.1 shows the sub-categories of mistakes which impacted the quality of assessments.

³⁰ Overcharge is on account of mistakes in adoption of correct figures, arithmetical errors in computation of income, incorrect application of rates of tax/interest etc.

Table 3.1: Sub-categories of mistakes under Quality of assessments				(₹ in crore)
Sub-categories	Cases	Tax effect	States	
a. Arithmetical errors in computation of income and tax	45	922.95	Andhra Pradesh (AP), Bihar, Delhi, Karnataka, Kerala, Madhya Pradesh (MP), Maharashtra, Odisha, Tamil Nadu (TN), and West Bengal (WB).	
b. Application of incorrect rate of tax and surcharge	5	15.73	Gujarat, Maharashtra and Uttar Pradesh (UP)	
c. Mistakes in levy of interest	39	163.84	AP, Delhi, Gujarat, Haryana, MP, Maharashtra, Odisha, TN, UP and WB.	
d. Excess or irregular refunds/interest on refunds	6	49.46	AP, Karnataka, Kerala and Maharashtra.	
e. Mistakes in assessment while giving effect to appellate order	10	290.96	Delhi, Maharashtra, UP and WB.	
Total	105	1,442.94		

3.2.2 Arithmetical errors in computation of income and tax.

We give below seven such illustrative cases:

Section 143(3) provides that AOs have to determine and assess the income correctly. Different types of claims together with accounts, records and all documents enclosed with the return are required to be examined in detail in scrutiny assessments. CBDT has also issued instructions from time to time in this regard.

3.2.2.1 In Maharashtra, Pr. CIT-6 Mumbai charge, AO completed the assessment of **M/s Essar Capital Ltd.** for the AY 2011-12 under section 144 read with section 144C of the Act in March 2015, determining income at ₹ 4,208.31 crore. While computing the taxable income, AO did not add back the amount of ₹ 379.57 crore on account of “discounting charges on debenture” although the claim was disallowed during the assessment. The same was also not added back while passing rectification order under section 154 in September 2015. The mistake resulted in underassessment of income of ₹ 379.57 crore involving short levy of tax of ₹ 126.09 crore. *Ministry has accepted the audit objection and rectified the mistake (May 2016) under section 154³¹.*

3.2.2.2 In Tamil Nadu, CIT-1 Chennai charge, AO completed the scrutiny assessment of **M/s Tamil Nadu State Marketing Corporation Ltd.** for the AY 2012-13 in March 2015 determining income at ₹ 4,199.24 crore. While computing the taxable income, AO did not add back the amount of ₹ 307.53 crore on account of “vend fee paid/payable by the assessee to the Government of Tamil Nadu” although the claim was disallowed during the scrutiny assessment. The mistake resulted in underassessment of income of

31 Mistakes apparent from records in any order passed by the Assessing Officer can be rectified under section 154 of the Income Tax Act.

₹ 307.53 crore involving short levy of tax of ₹ 99.78 crore. *Ministry has accepted the audit objection and rectified the mistake (May 2015) under section 154.*

3.2.2.3 In Odisha, CIT Bhubaneswar charge, AO completed the scrutiny assessment of **M/s Paradeep Phosphate Ltd.** for the AY 2011-12 in March 2015 determining income at ₹ 2,706.47 crore. While computing taxable income, the AO erroneously adopted returned income at ₹ 24.08 crore instead of correct amount of ₹ 240.77 crore and levied surcharge at the rate of 10 *per cent* instead of admissible rate of 7.5 *per cent*. Further, the assessed income was wrongly computed at ₹ 2,706.47 crore³² instead of ₹ 2,944.83 crore. The mistakes resulted in underassessment of income of ₹ 238.36 crore involving short levy of tax of ₹ 86.24 crore. *Ministry has accepted the audit objection and rectified the mistake (January 2016) under section 154.*

3.2.2.4 In Maharashtra, CIT-14 Mumbai charge, AO completed the scrutiny assessment of **M/s 9X Media Private Ltd.** for the AY 2009-10 in December 2011 determining total loss at ₹ 83.39 crore which was subsequently revised to ₹ 89.43 crore in March 2015. While computing taxable income in the revised assessment, the AO erroneously adopted starting figure at loss of ₹ 266.34 crore as per return of income instead of correct amount of loss of ₹ 83.39 crore arrived at after scrutiny assessment. The mistake resulted in over-assessment of loss of ₹ 182.94 crore involving potential short levy of tax of ₹ 62.18 crore. *Ministry has accepted the audit objection and rectified the mistake (April 2016) under section 154.*

3.2.2.5 In West Bengal, Pr. CIT-2 Kolkata charge, AO completed the scrutiny assessment of **M/s Spoxy Investment Consultants Private Ltd.** for AY 2012-13 in March 2015 determining income of ₹ 10.04 crore. While finalizing the assessment, the AO added back the amount of share premium of ₹ 9.99 crore to income instead of actual amount of share premium of ₹ 99.86 crore as unexplained investment under section 68. The mistake resulted in underassessment of income of ₹ 89.87 crore involving tax effect of ₹ 39.66 crore including interest. *Ministry has accepted the audit objection and rectified the mistake (May 2015) under section 154.*

3.2.2.6 In Delhi, CIT (Central)-1 Delhi charge, AO completed the scrutiny assessment of **M/s Sahara India Commercial Corporation Ltd.** for AY 2011-12 in November 2014 determining income of ₹ 4,920.93 crore and tax of ₹ 1,634.61 crore thereon. While finalizing the assessment, the AO considered the total amount of all the disallowances as ₹ 5,312.72 crore instead of

32 Income of ₹ 2,706.47 crore included disallowances of ₹ 2,701.99 crore and ₹ 2.06 crore.

correct amount of ₹ 5,355.54 crore. The mistake resulted in underassessment of income of ₹ 42.82 crore involving short levy of tax of ₹ 20.48 crore. *ITD rectified the mistake (December 2015) under section 154.*

3.2.2.7 In Maharashtra, Pr. CIT-14 Mumbai charge, AO completed the scrutiny assessment of **M/s East Hyderabad Expressway Ltd.** for AY 2012-13 in March 2015 determining a loss of ₹ 61.02 crore. While finalizing the assessment, the AO erroneously computed loss as ₹ 61.02 crore instead of correct amount of loss of ₹ 19.92 crore after considering various disallowances as per assessment order. The mistake resulted in overassessment of loss of ₹ 41.10 crore involving potential tax effect of ₹ 13.33 crore. *Ministry has accepted the audit objection and rectified the mistake (February 2016) under section 154.*

3.2.3 Application of incorrect rates of tax and surcharge

We give below three such illustrative cases:

Section 143(3) provides that AOs have to determine and assess the income correctly. Different types of claims together with accounts, records and all documents enclosed with the return are required to be examined in detail in scrutiny assessments. CBDT has also issued instructions from time to time in this regard.

3.2.3.1 In Maharashtra, Pr. CIT-2 Mumbai charge, AO completed the scrutiny assessment of **M/s LIC Housing Finance Ltd.** for the AY 2009-10 in December 2011 determining income of ₹ 592.67 crore including short term capital gains of ₹ 53.86 crore. While computing tax liability, AO erroneously computed tax of ₹ 9.15 crore on short term capital gains on account of liquid funds, money market funds, cash management funds etc. on which securities transaction tax was not payable on redemption, at the rate of 15 *per cent* instead of 30 *per cent*. The mistake resulted in short levy of tax of ₹ 9.15 crore. *Reply from ITD was awaited (November 2016).*

3.2.3.2 In Maharashtra, Pr. CIT-5 Mumbai charge, AO completed the reassessment of **M/s Kalsaria Diamonds Pvt. Ltd.** for AY 2008-09 in March 2015 determining income of ₹ 140.03 crore. While computing tax liability, AO erroneously levied surcharge at one *per cent* instead of correct rate of surcharge of 10 *per cent*. The mistake resulted in short levy of tax of ₹ 3.89 crore. *Ministry has accepted the audit objection and rectified the mistake (May 2015) under section 154.*

3.2.3.3 In Gujarat, Pr. CIT-2 Ahmedabad charge, AO completed the scrutiny assessment of **M/s Ganeshsagar Infrastructure Private Ltd.** for AY 2012-13 in December 2014 determining income of ₹ 69.57 crore including long term capital gain (LTCG) of ₹ 69.55 crore and book profit of ₹ 69.70 crore under

special provisions of the Act. While computing tax liability in ITNS-150, AO charged the tax at the rate of 18.5 per cent on book profit of ₹ 69.70 crore instead of normal rate of 30 per cent on income of ₹ 1.60 lakh and 20 per cent on LTCG of ₹ 69.55 crore. The omission resulted in short levy of tax of ₹ 1.24 crore including interest. *Ministry has accepted the audit objection and rectified the mistake (September 2015) under section 154.*

3.2.4 Mistakes in levy of interest

We give below five such illustrative cases:

Act provides for levy of interest for different omissions on the part of the assessee at the rates prescribed by the Government from time to time. Section 234A provides for levy of interest on account of default in furnishing return of income at specified rates and for specified time period. Section 234B provides for levy of interest on account of default in payment of advance tax at specified rates and for specified time period.

3.2.4.1 In Uttar Pradesh, Pr. CIT-Noida charge, AO completed the scrutiny assessment of **M/s New Okhla Industrial Development Authority** for AYs 2010-11 to 2012-13 in February 2015. While computing tax liability, the AO levied interest of ₹ 31.61 crore, ₹ 30.11 crore and ₹ 5.22 crore under section 234A for default in furnishing return of income instead of correct amount of ₹ 39.14 crore, ₹ 40.64 crore and ₹ 8.12 crore for three years respectively. Further, AO levied interest of ₹ 35.38 crore, ₹ 35.13 crore and ₹ 6.67 crore under section 234B for default in payment of advance tax instead of correct amount of ₹ 44.41 crore, ₹ 47.75 crore and ₹ 10.16 crore for these AYs respectively. The mistake resulted in short levy of interest aggregating ₹ 46.09 crore (₹ 20.96 crore³³ under section 234A and ₹ 25.14 crore³⁴ under section 234B). *Ministry has accepted the audit objection and rectified the mistakes (November 2015) under section 154.*

3.2.4.2 In Maharashtra, Pr. CIT-2 Mumbai charge, AO completed the scrutiny assessment of **M/s Bharat Petroleum Corporation Ltd.** for AY 2009-10 in December 2011 determining income at ₹ 1,644.79 crore. Subsequently the case was reassessed under section 143(3)³⁵ read with section 147³⁶ read with section 250 of Income Tax Act in March 2014 revising income to ₹ 1,574.71 crore after relief given by CIT(Appeals) vide order passed in April 2013. As per computation of income enclosed with the return, the assessee claimed TDS of ₹ 35.67 crore and self assessment tax of ₹ 460.43 crore and ₹ 49.03 crore paid on 29.05.2009 and 25.09.2009 respectively against the tax payable. Audit examination of Form ITNS 150A revealed that the department

33 ₹ 20.96 crore = (₹ 39.14 crore + ₹ 40.64 crore + ₹ 8.12 crore) – (₹ 31.61 crore + ₹ 30.11 crore + ₹ 5.22 crore)

34 ₹ 25.14 crore = (₹ 44.41 crore + ₹ 47.75 crore + ₹ 10.16 crore) – (₹ 35.38 crore + ₹ 35.13 crore + ₹ 6.67 crore)

35 Section 143(3) refers to scrutiny assessment completed by an AO.

36 The provisions of section 147 of the Income Tax Act empower the Assessing Officer to reopen an assessment if he has "reasons to believe" that income has escaped assessment.

wrongly considered the self assessment tax aggregating ₹ 509.47 crore shown as paid by the assessee as advance tax. The mistake resulted in non levy of interest of ₹ 20.20 crore under section 234B and withdrawal of interest of ₹ 2.63 crore under section 244A(1)(b). *ITD accepted the audit observation (September 2014) and stated that remedial action would be taken in due course.*

3.2.4.3 In Delhi, CIT (International Taxation)-2 charge, AO completed the assessment of **M/s Nokia Corporation** for AY 2010-11 under section 144C read with section 143(3) in January 2015 determining income of ₹ 5,149.35 crore and tax of ₹ 689.83 crore thereon. The assessee filed the Corporation Tax Return on 18 August 2011 against the due date of filing on 30 September 2010 (extended upto 15 October 2010). While computing tax demand, interest for the delay in furnishing return of income was levied for ten months only as against 11 months. The mistake resulted in short levy of interest of ₹ 6.9 crore. *Ministry has accepted the audit objection and rectified the mistake (February 2016) under section 154.*

3.2.4.4 In Tamil Nadu, CIT-1 Chennai charge, AO completed the scrutiny assessment of **M/s Cholamandalam Investment and Finance Ltd.** for AY 2012-13 in March 2015 determining income of ₹ 175.72 crore and gross tax of ₹ 57.01 crore excluding interest. While computing tax liability, the net tax payable was arrived at ₹ 17.37 crore excluding interest after adjusting the tax deducted at source and advance tax paid by the assessee. However, interest under section 234B(1) for 36 months amounting to ₹ 6.25 crore from April 2012 to March 2015 was not levied. *Ministry has accepted the audit objection and rectified the mistake (May 2015) under section 154.*

3.2.4.5 In Madhya Pradesh, CIT (Central)-Bhopal charge, the assessment of **M/s Ajitnath Reality Pvt. Ltd., Indore** for AYs 2009-10 to 2012-13 was completed under section 153A read with section 143(3) in March 2015 at incomes of ₹ 42.97 crore, ₹ 89.10 crore, ₹ 16.70 crore and ₹ 13.47 crore respectively. The assessee filed its return of income on 27 March 2014 for AYs 2009-10 to 2012-13 in response to notice issued under section 153A to file the return of income by 30 June 2013 for all these AYs. While computing tax liability, no interest was levied for delayed filing of return of income under section 234A(3) although there was a delay of 9 months³⁷ in furnishing the return. The mistake resulted in non levy of interest of ₹ 4.78 crore. *Ministry has accepted the audit objection and rectified the mistake (January 2016) under section 154.*

³⁷ July 2013 to March 2014

3.2.5 Excess or irregular refunds/interest on refunds

We give below two such illustrative cases:

Section 143(3) provides that AOs have to make correct assessment of the total income after making additions and allowing deductions as per the provisions of the Act and determine exact sum payable or refundable, as the case may be.

3.2.5.1 In Kerala, CIT-Thrissur charge, AO completed the assessment of **M/s The South Indian Bank Ltd.** for AY 2004-05 after scrutiny in December 2005 which was subsequently modified several times. The last revision was completed in March 2013 determining income at ₹ 140.15 crore and refund of ₹ 39.05 crore authorized after adjusting demands and refunds at various stages. While computing refund of ₹ 39.05 crore, a credit of ₹ 33.43 crore was given by adjusting a refund relating to AY 2010-11 in December 2010. As the entire refund of ₹ 48.49 crore due to the assessee for AY 2010-11 in December 2010 had been adjusted against the demands for AYs 2003-04 and 2008-09, the credit of ₹ 33.43 crore was not admissible. The mistake resulted in determination of excess refund of ₹ 37.94 crore. *ITD did not accept the observation (June 2015) stating that while passing order dated 9 August 2011 and 11 March 2013, credit was rightly taken as per AST system. However, ITD took remedial action under section 254 read with section 143(3) in March 2015. Reply was not tenable as the order dated 9 August 2011 for AY 2004-05 specified ₹ 33.43 crore credit as refund adjustment from AY 2010-11 whereas no credit was available as per challan details register for the year 2004-05. In AY 2010-11, a refund of ₹ 48.49 crore was authorised by refund adjustment to AY 2003-04 and 2008-09 as per ledger details for the year 2010-11.*

Section 220(2) provides that, if the amount specified as payable in any notice of demand under section 156 is not paid within a period of 30 days of the service of notice, the assessee shall be liable to pay simple interest as per prescribed rates and for the period specified in the Act.

3.2.5.2 In Andhra Pradesh and Telangana, CIT-5 Hyderabad charge, AO completed the assessment of **M/s Viom Networks Ltd.** for AY 2009-10 after scrutiny in December 2011 determining loss of ₹ 55.64 crore. Since a refund order for ₹ 60.21 crore was already issued in March 2011, no refund was arrived at in the Assessment order of December 2011. The net amount of ₹ 25.23 crore³⁸ was refunded to the assessee in March 2011 after adjusting the outstanding demands of ₹ 34.98 crore for the AYs 2006-07 and 2008-09. However, while issuing refund, the interest leviable under section 220(2) on outstanding demand for AYs 2006-07 and 2008-09 was not levied. The omission resulted in excess refund of ₹ 1.18 crore to the assessee. *Ministry has accepted the audit objection and took remedial action (October 2015) under section 220(2).*

³⁸ ₹ 25.23 crore = (₹ 60.21 crore – ₹ 34.98 crore)

3.2.6 Mistakes in assessment while giving effect to appellate orders

We give below five such illustrative cases:

Under section 254, an aggrieved assessee can appeal to the CIT (Appeals) against the order of AO who shall comply with the directions given in the appellate order. Further appeal is also permitted to be made on questions of fact and law to ITAT. Any mistake in implementation of an appellate order results in under assessment/over assessment of income.

3.2.6.1 In Delhi CIT-2 charge, AO completed the scrutiny assessment of **M/s BSES Rajdhani Power Ltd.** for AY 2010-11 in October 2013 determining income of ₹ 838.38 crore after setting off of brought forward business losses and unabsorbed depreciation of ₹ 796.57 crore. The assessed income was further rectified to ₹ 816.59 crore in January 2014. While giving effect to appeal order under section 250 (July 2014), the assessment was completed at a loss of ₹ 564.52 crore after allowing relief of ₹ 1,402.90 crore. As the assessed income was computed after allowing set off of brought forward losses of ₹ 796.57 crore, the income in the current year was required to be assessed at 'nil' after setting of brought forward losses to the extent of available income. The mistake resulted in over assessment of loss of ₹ 564.52 crore involving potential tax effect of ₹ 191.88 crore. *ITD rectified the mistake (May 2016) under section 154.*

3.2.6.2 In Uttar Pradesh, CIT-Noida charge, AO completed the scrutiny assessment of **M/s L. G. Electronics India Pvt. Ltd.**, for AY 2008-09 in November 2012 at an income of ₹ 654.97 crore. Subsequently, the assessment was rectified in January 2013 at income of ₹ 740.72 crore and was re-assessed under section 263 in March 2015 at income of ₹ 704.35 crore. While giving effect to the appellate order passed under section 263 read with section 143(3) in March 2015, the AO erroneously adopted the income of ₹ 654.97 crore assessed under section 143(3)/144C in November 2012 instead of ₹ 740.72 crore revised under section 154 in January 2013. The omission resulted in underassessment of income of ₹ 85.75 crore³⁹ involving tax effect of ₹ 45.47 crore including interest. *ITD accepted the audit observation and rectified the mistake (June 2015) under section 154 read with sections 263 and 143(3).*

3.2.6.3 In Delhi, CIT-2 Charge, AO completed the scrutiny assessment of **M/s BSES Yamuna Power Ltd.** for AY 2010-11 in October 2013 determining income of ₹ 687.27 crore after setting off of brought forward business loss and unabsorbed depreciation of ₹ 86.21 crore. The assessed income was revised to ₹ 674.87 crore after rectification under section 154 (January 2014).

³⁹ ₹ 85.75 crore = ₹ 740.72 crore – ₹ 654.97 crore

While giving effect to appeal order under section 250 (July 2014), the assessment was completed at a loss of ₹ 53.65 crore after allowing relief of ₹ 740.92 crore. As the assessed income was computed after allowing set off of brought forward losses of ₹ 86.21 crore, the income in the current year was required to be assessed at 'nil' after allowing set off of brought forward losses to the extent of available income. The mistake resulted in over assessment of loss of ₹ 53.65 crore involving potential tax effect of ₹ 18.24 crore. *ITD rectified the mistake (May 2016) under section 154 of the Act.*

3.2.6.4 In Maharashtra, Pr. CIT (Central)-3, Mumbai charge, AO completed the scrutiny assessment of **M/s Gannon Dunkerely & Co. Ltd.** for AY 2010-11 in March 2013 determining income of ₹ 160.84 crore. The income was revised to ₹ 149.18 crore while giving effect to the order of CIT(Appeals) in March 2015. While computing tax liability, surcharge at the rate of 10 *per cent* of the tax demand was not levied. The omission resulted in short levy of tax of ₹ 4.61 crore. *ITD rectified (January 2016) the mistake under section 154 of the Act.*

3.2.6.5 In West Bengal, Pr. CIT-2, Kolkata charge, AO completed the scrutiny assessment of **M/s Ginza Industries Ltd.** for AY 2011-12 in March 2014 determining income of ₹ 5.15 crore after setting off of brought forward losses of ₹ 5.26 crore. As per assessment order giving effect to appeal orders for the assessment years 2009-10 and 2010-11, business loss of ₹ 77.32 lakh only was available for set off. The mistake resulted in excess set off of losses of ₹ 4.48 crore involving tax effect of ₹ 1.49 crore. *ITD rectified (August 2014) the mistake under section 154 of the Act.*

3.3 Administration of tax concessions/exemptions/deductions

3.3.1 The Act allows concessions/exemptions/deductions to the assessee in computing total income under Chapter VI-A and for certain categories of expenditure under its relevant provisions. We observed that the assessing officers have irregularly extended benefits of tax concessions/exemptions/deductions to beneficiaries that were not entitled to the same. These irregularities point out weakness in the administration of tax concessions/deductions/exemptions on the part of ITD which need to be addressed. Table 3.2 shows the sub-categories which have impacted the Administration of tax concessions/exemptions/deductions.

Table 3.2: Sub-categories of mistakes under Administration of tax concessions/exemptions/deductions			(₹ in crore)
Sub-categories	Nos.	TE	States
a. Irregularities in allowing depreciation/ business losses/ capital losses	71	590.75	AP, Bihar, Delhi, Gujarat, Haryana, Jharkhand, Karnataka, Kerala, Maharashtra, Odisha, Rajasthan, TN and WB.
b. Irregular exemptions/ Deductions/ Rebates/ Relief/ MAT Credit	27	328.98	Delhi, Karnataka, Kerala, Maharashtra, TN, UP and WB.
c. Incorrect allowance of business expenditure	47	514.09	AP, Assam, Delhi, Gujarat, Haryana, Karnataka, Maharashtra, Odisha, Punjab, TN and WB.
Total	145	1,433.82	

3.3.2 Irregularities in allowing depreciation and set off and carry forward of business/capital losses

We give below 10 such illustrative cases:

CBDT has clarified⁴⁰ that the cost of construction on development of infrastructure facility of roads/highways under Build-Operate-Transfer (BOT) projects may be amortized and claimed as allowable business expenditure under the Income Tax Act. Further, while deciding the issue of claim of depreciation on toll road, ITAT Mumbai held⁴¹ that provision of section 32(1) will not apply in the case of assessee holding leasehold rights in respect of land on which construction had been carried out. The Bombay High Court upheld the decision of the Tribunal (ITA No. 499 of 2012) in its judgement pronounced on 14 October 2014.

3.3.2.1 In Maharashtra, Pr. CIT-8 Mumbai charge, AO completed the assessments of **M/s Western MP Infrastructure & Toll Roads Private Ltd.** for AYs 2010-11 to 2012-13 after scrutiny in December 2012, February 2014 and March 2015 determining loss of ₹ 48.96 crore, ₹ 79.59 crore and ₹ 191.66 crore respectively. The assessee was awarded a project by MPRDC⁴² on 30 August 2007 for construction, development and maintenance of State Highway No. 31 on BOT⁴³ basis for 25 years (concession rights). Phase-I and Phase-II of the project were completed in November 2009 and June 2011 respectively and the cost of ₹ 372.39 crore and ₹ 528.59 crore incurred thereon was capitalized as 'concession rights' under the block of intangible assets. The assessee claimed and was allowed depreciation of ₹ 193.24 crore⁴⁴ at the rate of 25 per cent on written down value of aforesaid intangible assets as on 1 April 2011 which was not in order in view of judicial decisions cited above. Instead, the construction cost should have been

40 CBDT Circular No. 09 dated 23/04/2014

41 M/s North Karnataka Expressway Ltd. vs. CIT (ITA No.3978/Mum/2010)

42 Madhya Pradesh Road Development Corporation

43 Build-Operate-Transfer

44 ₹ 193.24 crore = ₹ 61.09 crore (Phase I) + ₹ 132.15 crore (Phase II)

amortised over the agreement period of 25 years, which worked out to ₹ 36.04 crore⁴⁵ as against depreciation of ₹ 193.24 crore allowed. The incorrect allowance of depreciation resulted in underassessment of income of ₹ 157.20 crore involving short levy of tax of ₹ 83.87 crore. *ITD did not accept the observation (July 2015) for AY 2012-13 stating that CBDT circular No. 09 of 23 April 2014 was effective from AY 2014-15 onwards.* The reply is not tenable as assessment order was passed subsequent to High Court judgement delivered on 14 October 2014, cognizance of which was mandatory.

3.3.2.2 In Maharashtra, Pr. CIT(Central)-4 Mumbai charge, AO completed the scrutiny assessment of **M/s Mumbai Nasik Expressway Ltd.** for AY 2012-13 in March 2015 determining loss at ₹ 153.88 crore under the normal provisions of the Act and book profit of ₹ 7.57 crore under the special provisions. The assessee was awarded NHAI project on NH-3 on BOT basis. The assessee had capitalized the cost of the project in its books of accounts and written it off over the period of the BOT contract of 19 years from the completion of the construction of the same. While computing the taxable income, the assessee had claimed and was allowed depreciation of ₹ 182.79 crore, at the rate of 25 per cent applicable to an intangible asset, instead of allowable expenditure of ₹ 38.48 crore⁴⁶ based on amortization of the expenditure for a period of 19 years in view of the judgement referred above. The mistake resulted in over assessment of loss of ₹ 144.31 crore involving potential short levy of tax of ₹ 46.82 crore. *ITD did not accept the observation (August 2016) stating that the AO finalised the assessment for the AY 2013-14 after disallowing the claim of depreciation of ₹ 139.67 crore for the current year and, after taking into consideration the depreciation allowed in earlier years and amortised the balance expenditure of ₹ 555.49 crore over the remaining concessional period of 15 years allowing an amount of ₹ 32.28 crore. Therefore no further action was required for AY 2012-13.* The reply was not tenable in view of judicial decision⁴⁷ on the issue of depreciation on toll road wherein it was held that provision of section 32(1) will not be applicable in the case of assessee holding lease rights in respect of land on which construction had been carried out. Further, the Department rectified the assessment of AY 2013-14 instead of rectifying the assessment for AY 2012-13 to which audit observation pertained.

45 ₹ 36.04 crore = ₹ 14.90 crore (Phase I) + ₹ 21.14 crore (Phase II)

46 (Opening WDV of ₹ 415.29 crore + Project cost of ₹ 334.40 crore - Capital grant received of ₹ 18.52 crore)/19 years contract period

47 M/s North Karnataka Expressway Ltd. (ITA No. 499 of 2012 – Bombay High Court judgement- 14 October 2014)

Section 35ABB of the Act provides that deduction shall be allowed for each of the relevant previous years, in respect of any capital expenditure incurred for acquiring any right to operate telecommunication services and for which payment has actually been made to obtain a licence. The amount of deduction shall be equal to the appropriate fraction of the amount of such expenditure.

3.3.2.3 In Maharashtra, Pr. CIT-8 Mumbai charge, AO completed the scrutiny assessment of **M/s Tata Teleservices (Maharashtra) Ltd.** for AY 2012-13 in March 2015 determining loss of ₹ 668.47 crore. The assessee had paid one time licence fee of ₹ 1,257.82 crore to the Government to obtain 3G spectrum for provisioning of telecom access services during the previous year. In the books of accounts, the assessee amortised the expense of ₹ 1,257.82 crore along with borrowing costs over the period of 19.25 years. However, for income tax purpose, the assessee claimed and was allowed depreciation of ₹ 249.35 crore under section 32 admissible to intangible assets which was not in order and should have been disallowed. The amortization allowable for the relevant previous year worked out to ₹ 68.71 crore as against the depreciation of ₹ 249.35 crore allowed on the aforesaid fee. The omission resulted in under assessment of income of ₹ 180.64 crore involving short levy of tax of ₹ 58.61 crore.

ITD did not accept the observation (August 2015) stating that the fee was paid for purchase of 3G Spectrum on winning the bids for Maharashtra Circle (including Goa and excluding Mumbai) and not to acquire any new license as possession. The reply was not tenable as the assessee would not have been able to provide 3G services had their license not been modified by the Department of Telecommunication (DOT), in September 2010 consequent upon their winning the bids. Thus the DoT's license modification letter of September 2010 was as good as a license for 3G services. Further the Company had paid one time fee of ₹ 1,257.82 crore for use of 3G spectrum over the period of 19.25 years. Hence, it should have been treated as capital expenditure incurred for acquiring right to operate telecommunication services as per the provisions of section 35ABB of the Income Tax Act, 1961. As the Act has a specific provision for treatment of expenditure on telecommunication services, depreciation claimed by the assessee should have been disallowed. Further, as per Notes to accounts⁴⁸ the bid price paid towards related license fees aggregating to ₹ 1,257.82 crore was capitalized as License fee under Fixed Assets and the same should have been amortised over the period of contract.

48 Note 24.12 forming part of Financial Statements

As per section 71(3) of the Income Tax Act, if the net result of computation under the head capital gains is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to have such loss set off against income under the other head.

3.3.2.4 In Delhi, Pr. CIT-5 charge, AO completed the scrutiny assessment of **M/s Powerlinks Transmission Ltd.** for AY 2010-11 in December 2012 at 'nil' income after setting off brought forward unabsorbed depreciation of ₹ 86.91 crore relating to AY 2007-08 and allowing of balance of ₹ 63.15 crore relating to AY 2007-08 and ₹ 45.18 crore relating to AY 2008-09.. As per the assessment records pertaining to AYs 2007-08 and 2008-09, unabsorbed depreciation of ₹ 55.26 crore pertaining to AY 2007-08 only was available for carry forward and no amount was available for carried forward in AY 2008-09. These mistakes resulted in incorrect carry forward of loss of ₹ 53.07 crore⁴⁹ involving potential tax effect of ₹ 18.04 crore. *ITD rectified the mistake (February 2016) under section 154.*

3.3.2.5 In Maharashtra, Pr. CIT-16 Mumbai charge, AO completed the scrutiny assessment of **M/s 9X Media Pvt. Ltd.** for AY 2010-11 in March 2013 determining income of ₹ 50.17 crore and rectified it in August 2013 after allowing set off of losses of ₹ 45.72 crore to the extent of income available. The losses set off included brought forward loss of ₹ 83.39 crore pertaining to AY 2009-10. Further, the assessment case of the assessee for AY 2009-10 was re-opened under section 147 in March 2015 determining income of ₹ 89.43 crore. Thus, 'nil' loss pertaining to AY 2009-10 was available for carry forward and set off in AY 2010-11. The incorrect set off of losses of ₹ 45.72 crore resulted in underassessment of income to the same extent involving short levy of tax of ₹ 15.54 crore. *ITD accepted the observation and initiated remedial action for rectification (April 2016) under section 154.*

Section 143(3) provides that AOs have to determine and assess the income correctly including set off of brought forward losses of earlier years and determine the tax payable or refundable, as the case may be. Different types of claims together with accounts, records and all documents enclosed with the return are required to be examined in detail in scrutiny assessments. CBDT has also issued instructions from time to time in this regard.

3.3.2.6 In Karnataka, CIT-3 Bangalore charge, AO completed the scrutiny assessment of **M/s The Mysore Paper Mills Pvt. Ltd.** for AY 2011-12 in January 2014 determining loss at ₹ 105.70 crore after making addition of ₹ 17.79 crore to the returned loss of ₹ 87.90 crore. While completing the assessment, the current year loss was incorrectly determined at ₹ 105.70 crore instead of ₹ 70.10 crore. The mistake resulted in excess computation of loss by ₹ 35.59 crore which was allowed to be carried

⁴⁹ ₹ 53.07 crore = (₹ 63.15 crore + ₹ 45.18) – ₹ 55.26 crore

forward having a potential tax effect of ₹ 11.82 crore. *Ministry has accepted the audit objection and rectified the mistake (March 2016) under section 154.*

3.3.2.7 In Tamil Nadu, CIT-LTU Chennai charge, AO completed the scrutiny assessment of **M/s Axles India Ltd.** for AY 2010-11 in February 2014 after scrutiny read with section 92CA determining 'nil' income, after set off of brought forward loss of ₹ 59.05 lakh under the normal provisions and book profit of ₹ 55.60 lakh under special provisions of the Act. While completing the assessment, AO allowed carry forward of business loss of ₹ 13.35 crore and unabsorbed depreciation loss of ₹ 10.14 crore relating to AY 2010-11. As per the records no amount of loss relating to AY 2010-11 was available for carry forward and set off. The mistake resulted in excess carry forward of loss of ₹ 23.50 crore⁵⁰ involving potential tax effect of ₹ 7.99 crore. *ITD rectified (April 2015) the mistake under section 154.*

3.3.2.8 In Tamil Nadu, CIT-1 Chennai charge, AO completed the scrutiny assessment of **M/s Ambattur Clothing Ltd.** for AY 2011-12 in March 2015 determining loss of ₹ 4.26 crore. The assessee claimed and was allowed amount of ₹ 6.92 crore towards share of loss from partnership firm under the head "selling, administration and other expenses" in the profit and loss account. As the loss from partnership firm is not an expenditure of the assessee, the deduction on account of the same was required to be disallowed. The incorrect allowance resulted in excess computation of loss of ₹ 13.84 crore with consequential excess carry forward of loss to the same extent and potential tax effect of ₹ 4.60 crore. *Ministry has accepted the audit objection and rectified the mistake (October 2015) under section 154.*

3.3.2.9 In Maharashtra, Pr. CIT-7 Mumbai charge, AO completed the scrutiny assessment of **M/s Tata Teleservices (Maharashtra) Ltd.** for AY 2009-10 in December 2011 determining income of ₹ 11.48 crore. The assessment was rectified in February 2012 reassessing the income at 'nil' after set off of brought forward unabsorbed depreciation of ₹ 11.48 crore. The assessment was further rectified on 20 March 2013 revising income to ₹ 20.16 crore which was adjusted against the brought forward losses. The assessment was again re-opened and reassessment was completed on 25 March 2013 assessing loss at ₹ 20.46 crore. While computing taxable income in the reassessment order (March 2013), the AO considered income at 'nil' as per rectification order passed on 20 March 2013 instead of ₹ 11.48 crore arrived at in the initial assessment order passed in December 2011, before set off of brought forward losses. The mistake resulted in excess allowance of loss of ₹ 11.48 crore involving potential tax effect of ₹ 3.90 crore. *Ministry has*

⁵⁰ ₹ 23.50 crore = (₹ 13.35 crore + ₹ 10.14 crore)

accepted the audit objection and rectified the mistake (March 2016) under section 154.

Section 70 provides that if the net result for any assessment year in respect of any source under any head of income is a loss, the assessee is entitled to have the amount of such loss set off against the income from any other source under the same head of income with the exception that from the assessment year 2003-04, long term capital loss can be set off only against long term capital gain.

3.3.2.10 In Delhi CIT-3 Charge, AO completed the scrutiny assessment of **M/s DLF Utilities Ltd.** for AY 2012-13 in March 2015 determining loss at ₹ 5.17 crore under normal provisions and book profit of ₹ 216.76 crore under special provisions of the Act. The assessee had filed return at 'nil' business income (after setting off brought forward unabsorbed depreciation to the extent of available income of ₹ 71.32 crore) and at long term capital loss of ₹ 9.87 crore which was carried forward. While computing the taxable income, the AO set off the long term capital loss of ₹ 9.87 crore against business income of ₹ 4.70 crore (on account of disallowance made during assessment) and completed the assessment at a loss of ₹ 5.17 crore instead of 'nil' income (after setting off brought forward unabsorbed depreciation of ₹ 4.70 crore to the extent of addition). This mistake resulted in overassessment of loss of ₹ 5.17 crore and underassessment of income of ₹ 4.70 crore involving potential tax effect of ₹ 3.20 crore. *Ministry has accepted the audit objection and rectified (March 2016) the mistake under section 154.*

3.3.3 Irregular exemptions/deductions/rebate/relief/MAT credit

We give below six such illustrative cases:

Section 10A of the Act allows deduction of profits and gains which are derived by an undertaking from the export of articles or things or computer software. As per first proviso to Section 92C(4) of the Act, if the total income having regard to arms length price is enhanced, no deduction under Section 10A, 10B or Chapter VI-A shall be allowed in respect of the increased quantum of income. The CBDT has clarified⁵¹ that section 10A deduction to be allowed after applying the provisions of Section 71/72 of the Act and the circular not being struck down by Courts is binding on the Department so as to keep the issue alive in appeals.

3.3.3.1 In Maharashtra, Pr. CIT-2 Mumbai charge, AO completed the scrutiny assessment of **M/s Satyam Computer Services Ltd.** for AY 2010-11 under section 143(3) read with sections 153 and 144C(4) in January 2015 determining loss of ₹ 250.87 crore under normal provisions of the Act after allowing deduction of ₹ 559.47 crore under section 10A of the Act. AO made various disallowances including Transfer Pricing adjustment of ₹ 24.02 crore

⁵¹ Circular No 07 of 2013 dated 16 July 2013

and the income before deduction under section 10A included an amount of Short Term Capital Gain of ₹ 22.08 crore. Allowance of deduction on Short Term Capital Gain and Transfer Pricing adjustment was not in order. Irregular allowance of deduction resulted in underassessment of income of ₹ 46.10 crore and irregular carry forward of loss of ₹ 250.87 crore involving short levy of tax of ₹15.67 crore and potential tax effect of ₹ 85.27 crore. *ITD did not accept the observation (October 2015) stating that section 10A was anterior to the application of the provisions of section 72 of the Act.* The reply not acceptable as the circular number 07 of 2013 issued by CBDT prescribing allowance of 10A deduction after aggregation of losses was binding on the Assessing Officers.

Section 115JAA of the Income Tax Act allows carry forward of MAT credit to an assessee when tax payable under normal provisions is more than tax under special provisions. However, such credit shall be limited to the difference of tax under normal provisions of the Act and tax under special provisions of the Act.

3.3.3.2 In Maharashtra, Pr. CIT-2 Mumbai charge, the return of income of **M/s State Bank of India** for AY 2012-13 was processed in summary manner in March 2014 determining refund of ₹ 6,335.59 crore. Further, rectification order under section 154 was passed in March 2014 determining refund of ₹ 8,471.56 crore. AO allowed MAT credit of ₹ 53.32 crore pertaining to AY 2011-12 which was not available at all as the assessment for AY 2011-12 was completed after scrutiny under normal provisions in March 2013 followed by rectification order passed under section 154 in May 2014. This mistake resulted in irregular grant of MAT credit of ₹ 53.32 crore. *ITD accepted (March 2015) the audit observation and completed remedial action (February 2015) under section 143(3) read with section 144C(13) withdrawing the MAT credit.*

Section 143(3) provides that AOs have to determine and assess the income correctly. Different types of claims together with accounts, records and all documents enclosed with the return are required to be examined in detail in scrutiny assessments. Further, as per section 35AD the assessee shall be allowed a deduction in respect of expenditure of capital nature incurred on specified business carried on by him in which such expenditure is incurred by him subject to fulfilment of conditions prescribed in the Act.

3.3.3.3 In Delhi Pr.CIT-2 charge, AO completed the assessment of **M/s Boutique Hotels India Pvt. Ltd.** for AY 2011-12 under section 143(3) read with section 144C in February 2015 determining loss of ₹ 125.86 crore after allowing a deduction of ₹ 124.34 crore under section 35AD. The assessee had withdrawn (January 2014) its claim of deduction of ₹ 124.34 crore under

section 35AD as the required conditions⁵² were not fulfilled. While computing the taxable income, the AO did not disallow deduction of ₹ 124.34 crore despite of the self-withdrawal of the claim. The mistake resulted in over assessment of loss by ₹ 124.34 crore involving potential tax effect of ₹ 41.30 crore. *ITD rectified the mistake (February 2016) under section 154.*

Section 115JAA of the Income Tax Act allows carry forward of MAT credit to an assessee when tax payable under normal provisions is more than tax under special provisions. However, such credit shall be limited to the difference of tax under normal provisions of the Act and tax under special provisions of the Act.

3.3.3.4 In Maharashtra, Pr. CIT-8 Mumbai charge, AO completed the scrutiny assessment of **M/s Vodafone India Ltd.** for AY 2010-11 in February 2015 determining income of ₹ 850.70 crore. The assessee was allowed MAT credit of ₹ 29.81 crore whereas verification of earlier years' records disclosed that the assessee had paid tax under normal provisions of the Act and there was no MAT credit available for carry forward and set off in subsequent years. The incorrect allowance of set off of MAT credit ₹ 29.81 crore resulted in short levy of tax of ₹ 29.81 crore. *Reply from ITD was awaited (November 2016).*

CBDT has clarified⁵³ that section 10A deduction is to be allowed after applying the provisions of Section 71 and 72 of the Act. The Bombay High Court has also upheld that section 10A is a deduction section. Further, as per section 92C (4), no deduction under section 10A is allowable on the Transfer Pricing additions made

3.3.3.5 In Maharashtra, Pr. CIT-15 Mumbai charge, the scrutiny assessment of **M/s 3i Infotech Ltd.** for AY 2010-11 was completed in January 2015 determining total loss at ₹ 23.30 crore. While completing the assessment, AO made additions of ₹ 88.03 crore which *inter alia* included addition of ₹ 43.78 crore on account of transfer pricing adjustments. The income of ₹ 59.84 crore, before allowance of deduction under section 10A, included other income of ₹ 2.25 crore and Transfer Pricing addition of ₹ 43.78 crore on which section 10A deduction was not available. While computing the taxable income, the AO allowed deduction of ₹ 85.26 crore under section 10A as against allowable deduction of ₹ 13.81 crore⁵⁴. The mistake resulted in irregular allowance of deduction of ₹ 71.45 crore under section 10A involving potential tax effect of ₹ 24.29 crore. *Reply from ITD was awaited (November 2016).*

52 The assessee had applied for the issuance of star category certificate from Ministry of Tourism, Central Government for its two hotel properties at Jaipur which was not yet received. Thus the assessee withdrew its claim under section 35AD vide letter dated 3 January 2014.

53 CBDT Circular number 07 of 2013 dated 16 July 2013 (para 5).

54 ₹ 13.81 crore = (₹ 59.84 crore - ₹ 2.25 crore - ₹ 43.78 crore).

The Finance Act, 2009; effective from 19 August 2009, imposed a condition that deduction under section 80IB(10) would not be available in cases where more than one units were allotted to an individual or their specified family members. The Explanatory notes to the Finance Act, 2009 while explaining the rationale for extending 80IB to housing projects clarified that the objective of the tax benefit to said projects was to build housing stock for low and middle income households and towards this end, the Government provided for restriction on size of residential units⁵⁵.

3.3.3.6 In Maharashtra, Pr. CIT Central-2 Mumbai charge, the scrutiny assessment of **M/s Runwal Realty Pvt. Ltd.** for AY 2011-12 was completed in March 2014 determining income of ₹ 35.66 crore under normal provisions of the Act after allowing deduction of ₹ 56.14 crore under section 80IB(10). As per the records deduction under section 80IB(10) was allowed to the assessee on the basis of carpet area in respect of each flat and not on the basis of built up area. Further, a submission of the assessee revealed that it had allotted multiple units to an individual or their specified family members in contravention of the above provisions and in one case, the date of booking and date of agreement were both posterior to the effective date of amendment in the Act. The AO allowed deduction on the basis of occupation permission dated 2 November 2010 whereas the Act specifies that there should be a completion certificate issued by Local Authority. As the assessee did not fulfill the mandatory requirements of the Act for availing the deduction of ₹ 56.14 crore under section 80IB(10), the deduction allowed was irregular. Irregular allowance of deduction resulted in underassessment of income of ₹ 56.14 crore involving short levy of tax of ₹ 18.65 crore. *ITD initiated remedial action (June 2016) under section 148 of the Act.*

3.3.4 Incorrect allowance of business expenditure

We give below eleven such illustrative cases:

Section 36(1)(vii) of the Income-tax Act, 1961 (the Act) allows deduction of the amount of any bad debt or part thereof, which is written off as irrecoverable in the accounts of the assessee during the previous year. The amount of the deduction relating to any such debt or part thereof shall be limited to the amount by which such debt or part thereof exceeds the credit balance in the provision for bad and doubtful debts account made under that clause. For the purpose of this clause, any bad debt or part thereof written off as irrecoverable in the accounts of the assessee shall not include any provision for bad and doubtful debts made in the accounts of the assessee.

3.3.4.1 In Andhra Pradesh & Telangana, CIT-3 Hyderabad charge, AO completed the assessments of **M/s State Bank of Hyderabad** for AYs 2010-11 and 2011-12 after scrutiny in February 2013 and March 2013 determining incomes at ₹ 1,792.35 crore and ₹ 1,551.19 crore respectively. The assessee

⁵⁵ Some of the developers having been circumventing the provisions on size restriction by entering into sale agreements of multiple adjacent units to a single buyer, the amendment was brought in.

had NPA provision of ₹ 345.27 crore and ₹ 662.58 crore for these AYs against which advances of ₹ 88.41 crore and ₹ 170.23 crore were written off in the books of accounts respectively. However, as per computation of income, assessee claimed ₹ 75.03 crore and ₹ 186.75 crore towards non rural branch advances separately, which resulted in double deduction of advances to the extent of ₹ 75.03 crore and ₹ 170.23 crore respectively for the two AYs. Further, the assessee claimed and was allowed the amounts of ₹ one crore and ₹ 2.48 crore towards loss on sale of land, building and other assets for these AYs respectively, which was not in order as the loss was incurred on capital assets. Further, the AO did not levy interest of ₹ 13.08 lakh and ₹ 7.47 lakh under section 115P during AYs 2010-11 and 2011-12 respectively. The omissions resulted in underassessment of income of ₹ 76.03 crore and ₹ 172.71 crore involving short levy of tax aggregating ₹ 118.02 crore including interest for the AYs involved. *ITD took remedial action for the AYs 2010-11 and 2011-12 in February 2014 and January 2015 respectively.*

As per proviso to section 36(1)(vii) of the Act, the amount of deduction allowed in respect of bad debts written off shall be limited to the amount by which such debt exceeds credit balance in the provision for bad and doubtful debt account made under section 36(1)(viii).

3.3.4.2 In Maharashtra, Pr. CIT-2 Mumbai charge, AO completed the scrutiny assessment of **M/s ICICI Bank Ltd.** for AY 2011-12 in March 2015 determining income of ₹ 6,738.07 crore. The assessee claimed and was allowed deduction of ₹ 146.62 crore under section 36(1)(vii) which was arrived at after adjusting earlier years provision of ₹ 409.43 crore made towards bad and doubtful debts as per original return of income against bad debts of ₹ 556.05 crore written off during the relevant previous year under section 36(1)(viii). The AO allowed deduction of ₹ 738.02 crore on account of provision for bad debts under section 36(1)(viii) during assessment⁵⁶ for AY 2010-11. As the bad debts written off during the year was less than the opening credit balance of ₹ 738.02 crore allowed under section 36(1)(viii) of the Act, deduction under section 36(1)(vii) of the Act was not allowable to the assessee. The omission resulted in under assessment of income of ₹ 146.62 crore involving short levy of tax of ₹ 48.70 crore.

ITD replied (October 2015) that assessee was in appeal in the preceding assessment year on the additions made and the credit balance in the provision for bad and doubtful debts would change on disposal of the appeal for AY 2010-11. Hence, the provision for bad and doubtful debts was taken at ₹ 409.43 crore as per the original return of income for AY 2010-11. The reply was not tenable as the scrutiny assessment for AY 2010-11 was completed in March 2014 i.e. one year before the scrutiny assessment for AY 2011-12 was

⁵⁶ Assessment order completed under section 143(3) read with section 144C(3) of the Act, dated 12 March 2014.

completed (March 2015). The scrutiny assessment needs to be completed taking into account all the facts available on record as on the date of assessment. As the appeal order for AY 2010-11 was not passed as on the date of assessment for AY 2011-12, the amount of deduction of ₹ 738.02 crore allowed under section 36(1)(viiia) should have been considered as opening balance available for set off against bad debts claim.

As per proviso (c)(iv) to section 35D(2) of the Act, where an assessee, being an Indian company, after commencement of its business for the extension of its undertaking or for setting up a new unit, incurs expenditure in connection with the issue for public subscription of shares in or debentures of the company, being underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus, shall be allowed a deduction of an amount equal to one-fifth such expenditure for each of the five successive previous years.

3.3.4.3 In Maharashtra, Pr. CIT-LTU Mumbai charge, AO completed the scrutiny assessment of **M/s Tata Motors Ltd.** for AY 2010-11 in December 2014 determining book profit of ₹ 3,031.84 crore under section 115JB. The assessee claimed and was allowed expenditure of ₹ 139.62 crore related to issue of non-convertible debentures (NCD); being processing fees, legal and professional charges, underwriting fees, bank guarantee commission etc. As per records⁵⁷, the NCDs were issued to raise funds to expand the automotive business globally to enhance the technical capabilities of the company and for acquiring the Jaguar and Land Rover business. Thus, these expenses were incurred in connection with the extension of the undertaking. As per provisions of section 35D, the assessee was entitled to claim expenditure of ₹ 27.92 crore only (one fifth of ₹ 139.62 crore) instead of entire amount of ₹ 139.62 crore. The incorrect allowance of expenditure resulted in underassessment of income of ₹ 111.70 crore involving potential tax effect of ₹ 37.96 crore.

Ministry did not accept the audit observation (August 2016) stating that the assessee was already in automobile manufacturing business and during the year there was neither extension of any existing undertaking or setting up of any new unit. The Jaguar and Land Rover (JLR) are already businesses which were acquired by the assessee. Further reliance was placed on clarification⁵⁸ issued by CBDT in this regard and judicial rulings⁵⁹ and wherein it was held that expenditure incurred in connection with raising of loan was allowable as business expenditure Therefore expenditure incurred for raising of debts was an allowable expenditure and not covered under provisions of section 35D of the Act. The reply was not acceptable as the assessee has disclosed in Note

57 Note 27 to the computation of income

58 CBDT Circular number 56 dated 19 March 1971

59 Honorable Supreme Court judgement in the case of India Cement Ltd. (60 ITR 52) and Honorable Rajasthan High Court judgement in the case of Secure Meters Ltd. (321 ITR 611)

No. 27 to computation of income that it had raised these funds to expand automotive business globally and to acquire Jaguar and Land Rover business. It is an established fact that the Company acquired Jaguar and Land Rover business during the year. Therefore the expenditure incurred in connection with raising of debts for expansion of business of the undertaking would be governed by provisions of section 35D of the Act. Further, it has been judicially held⁶⁰ that expenditure incurred for extension which includes expansion of undertaking will fall within the ambit of section 35D of the Income Tax Act. In the court's view when the legislature (the Act) makes a special provision for claiming deduction in respect of specified category of expenditure incurred by the assessee in their business activity, then in that event, it excludes the applicability of general provision dealing on the subject.

The deductions allowable under the Income Tax Act, 1961 are specified under sections 30 to 43 of the Act. The expenses which are merely provisions and not incurred wholly and exclusively for the purpose of business are not allowable. CBDT clarified⁶¹ that losses determined on marked to market basis are contingent in nature and hence should not be allowed.

3.3.4.4 In Maharashtra, Pr. CIT-12 Mumbai charge, AO completed the scrutiny assessment of **M/s Deutsche Investment India Pvt. Ltd.** for AY 2010-11 in January 2014 determining income of ₹ 58.57 crore under normal provisions of the Act. As per profit and loss account, the assessee booked loss of ₹ 87.63 crore on account of 'revaluation of non-convertible debenture on marked to market basis' and ₹ 6.31 crore on account of 'revaluation on Index Options net of premium received' under the head 'other Income'. As per the notes to accounts⁶², the expenses were not booked on actual basis but on marked to market basis on the valuation date. Hence, the expenses being contingent in nature were required to be disallowed. The omission resulted in underassessment of income of ₹ 93.94 crore involving short levy of ₹ 31.93 crore. *Ministry has accepted the audit objection and took remedial action (March 2016) under section 263.*

As per section 14A of the Act, no deduction would be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income. Further, Rule 8D of the Income Tax Rules, 1962 prescribes the method of computation of the disallowance.

3.3.4.5 In Maharashtra, CIT-9 Mumbai charge, AO completed the scrutiny assessment of **M/s Aditya Birla Retail Ltd.** for AY 2010-11 in March 2013 at loss of ₹ 477.33 crore disallowing of ₹ 23.40 crore under section 14A towards earning of exempt income, suo moto considered by the assessee. While

60 Shree Synthetics Ltd. vs CIT (303 ITR 451), Madhya Pradesh High Court judgement

61 CBDT Instruction number 3 of 2010 dated 23 March 2010

62 Schedule 2.8 and 2.11 of Notes to Accounts

arriving at the figure of disallowance of ₹ 23.40 crore, the assessee had included 'Profit and loss Account - Debit Balance' of ₹ 1,551.65 crore for the year ending 31 March 2010 and ₹ 1,010.50 crore for the year ending 31 March 2009 to determine the value of average asset which was not in order. These represented the contra figures for adjustments and were not backed by any tangible assets. The total disallowance under section 14A would work out to ₹ 89.39 crore as against ₹ 23.40 crore suo moto considered by the assessee. The mistake resulted in short disallowance of ₹ 65.99 crore involving potential tax effect of ₹ 22.43 crore. *Ministry accepted the objection and completed remedial action under section 143(3) read with section 263 of the Act in March 2016.*

As per section 37 of the Act, the expenditure incurred or accrued for business is an allowable expenditure. However, the provision set aside to meet the unascertained liability is not an allowable deduction while computing profits and gains of business. It has been judicially held⁶³ that provision for slow moving inventories is not an allowable deduction.

3.3.4.6 In Maharashtra, Pr. CIT-LTU Mumbai charge, AO completed scrutiny assessments of **M/s Ambuja Cements Ltd.** for AYs 2010-11 and 2011-12 in February 2014 and March 2015 determining income at ₹ 994.53 crore and ₹ 1,426.79 crore respectively. The assessee claimed and was allowed ₹ 52.80 crore and ₹ 9.60 crore on account of provision made for slow moving inventories during these AYs respectively. The provision created for diminution in value of spares of plant and machinery being contingent in nature should have been disallowed. Incorrect allowance resulted in under assessment of income of ₹ 62.40 crore involving tax effect of ₹ 21.14 crore.

Ministry did not accept the audit observation (August 2016) in view of Accounting Standard 1 and judicial decision⁶⁴ holding that it was a well recognised principle of commercial accounting to consider in the profit and loss account the value of stock in trade at the beginning and at the end of accounting year at cost or market price, whichever was lower. It was further held that the correct principle of accounting was to enter the stock in the books of account at cost. Ministry's reply was not acceptable on the grounds that the decision quoted by the Ministry is not relevant as audit has challenged the provision created for diminution in the value of spares of plant and machinery and not the valuation thereof or the anticipated loss due to fall in the market value of the goods below the original cost as discussed by the Ministry. In this case the decision of ITAT Ahmedabad in the case of Molex Mafatlal Micron Ltd. vs ITO Gandhinagar and M/s Zeepelin

63 Molex Mafatlal Micron Ltd. vs ITO Gandhinagar and Zeepelin Mobile System (India) vs ACIT Cir-8 Ahmedabad-ITAT Ahmedabad (7 December 2006)

64 CIT vs British Paints India Ltd. (1991), 188 ITR 44 (SC)

Mobile System (India) Ltd. vs ACIT Circle-8 Ahmedabad are relevant wherein it was held that provision for slow moving inventories is not an allowable deduction. Further, ITD has initiated remedial action (March 2016) for AY 2010-11 under section 263 of the Act.

As per section 43B(f) of the Act, any provision made for leave encashment is allowable only when it is actually paid. It has been judicially held⁶⁵ that the provision made under section 43B(f) is not an allowable deduction and the provision was struck down considering it as arbitrary and unconscionable.

3.3.4.7 In Maharashtra, Pr. CIT-LTU Mumbai charge, AO completed the scrutiny assessments of **M/s Tata Motors Ltd.** for AYs 2007-08 and 2010-11 in May 2011 and December 2014 determining income at ₹ 1,287.74 crore under normal provisions and ₹ 3,031.84 crore under special provisions of the Act respectively. The assessee claimed and was allowed ₹ 30.14 crore and ₹ 29.61 crore on account of 'provision for leave encashment' for AYs 2007-08 and 2010-11 respectively. The amounts were not considered for disallowance under section 43B on the basis of judicial ruling cited above. This resulted in underassessment of income of ₹ 30.14 crore and ₹ 29.61 crore for AYs 2007-08 and 2010-11 respectively involving short levy of tax ₹ 10.15 crore for AY 2007-08 and potential tax effect of ₹ 10.06 crore for AY 2010-11 due to excess carry forward of MAT credit. *ITD has partially accepted the observation (October 2012) for AY 2007-08 and rectified the mistake (January 2015) under section 154.* The assessee filed appeal before the CIT (Appeals) against the order under section 154 (January 2015). *ITD did not accept the observation for AY 2010-11 (June 2015) stating that claims of deduction of leave encashment was based on the judicial ruling of Honourable Kolkata High Court.* Reply was not tenable as deduction under section 43B(f) was to be allowed only when tax was actually paid and not on the basis of provision made. Further, the decision of the Kolkata High Court has been stayed by the Supreme Court.

Section 36(1)(viia) of the Act provides for deduction in respect of any provision for bad and doubtful debts made by a scheduled bank or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, of an amount not exceeding seven and one-half *per cent* of the total income (computed before making any deduction under this clause and Chapter VI-A) and an amount not exceeding ten *per cent* of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner. Further, CBDT has clarified⁶⁶ that provision in respect of any unascertained liability or a liability which has not accrued, do not qualify for deduction.

65 M/s Exide Industries Ltd. vs Union of India (292 ITR 470-Kolkata HC)

66 CBDT Instruction number 17 of 2008 dated 26/11/2008.

3.3.4.8 In Maharashtra, Pr. CIT-2 Mumbai charge, AO completed the scrutiny assessment of **M/s Kotak Mahindra Bank Ltd.** for AY 2012-13 in January 2015 determining income of ₹ 1,466.12 crore after allowing deduction of ₹ 211.02 crore under section 36(1)(viiia) towards provision for doubtful debts. The assessee claimed and was allowed provision of ₹ 197.55 crore⁶⁷ for bad and doubtful debts which included provision of ₹ 25.57 crore for standard assets. As provision for standard assets was not eligible for deduction⁶⁸, the deduction allowed under section 36(1)(viiia) should have been restricted to ₹ 171.98 crore instead of ₹ 211.02 crore. The mistake resulted in underassessment of income of ₹ 39.05 crore involving short levy of tax of ₹ 12.67 crore. *Reply from ITD was awaited (November 2016).*

As per section 37 of the Act, any expenditure, not being in the nature of capital expenditure or personal expenses of the assessee, laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head 'Profits and gains of business or profession'.

3.3.4.9 In Maharashtra, Pr. CIT-8 Mumbai charge, AO completed the scrutiny assessment of **M/s Vodafone India Ltd.** for AY 2009-10 in January 2014 determining income of ₹ 749.96 crore. The assessee claimed and was allowed expenditure of ₹ 5.42 crore⁶⁹ on account of 'share based payment reserve'. As per the Tax Audit Report, the Auditor had certified ₹ 5.42 crore as liability of a contingent nature, which was required to be disallowed. The omission to disallow resulted in underassessment of income of ₹ 5.42 crore involving short levy of tax of ₹ 1.84 crore. *Ministry accepted the audit objection and rectified the mistake (March 2016) under section 154.*

3.3.4.10 In West Bengal, Pr. CIT-1 Kolkata charge, AO completed the scrutiny assessment of **M/s Burn Standard Company Ltd.** for AY 2012-13 in March 2015 determining loss of ₹ 69.94 crore. The assessee debited ₹ 55.91 crore towards exceptional items from the loss for the year before tax to arrive at the net loss before tax amounting to ₹ 76.10 crore. As per the Notes on Financial Statements, the aforesaid exceptional items included amount of ₹ 14.57 crore on account of deferred tax asset (written off). As the same was not an allowable expenditure, it should have been disallowed while finalising the assessment. The omission resulted in over assessment of loss of ₹ 14.57 crore involving potential tax effect of ₹ 4.73 crore. *ITD initiated remedial action (August 2016) under section 263 of the Act.*

67 Para 10- Provisions and Contingencies-Schedule 18 of Notes to Account read with profit and loss account for the year ended 31 March 2012.

68 Clause (xi) of CBDT Instruction number 17 of 2008 dated 26/11/2008.

69 As per schedule 2 of Balance Sheet – Reserves and Surplus

Section 37 of the Act provides that any expenditure (not being in the nature of expenditure described in sections 30 to 36 or in the nature of capital expenditure or personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of business or profession shall be allowed in computing the income under the head Profits and Gains of business or profession. The term wholly and exclusively for the purpose of business, has been clarified by inserting an Explanation 2 to Section 37(1) by the Finance Act 2014, which reads that any expenditure incurred by an assessee on the activities relating to Corporate Social Responsibility (CSR) referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.

3.3.4.11 In West Bengal, Pr. CIT-2, Kolkata charge, AO completed the scrutiny assessment of **M/s Balmer Lawrie & Company Ltd.** for AY 2012-13 in February 2015 determining income of ₹ 189.86 crore. The assessee claimed and was allowed deduction of ₹ 3 crore on account of expenditure incurred on various CSR activities. As this expenditure was not incurred wholly and exclusively for the purpose of business of the assessee, it should have been disallowed. The omission to disallow resulted in underassessment of income of ₹ 3 crore involving tax effect of ₹ 1.31 crore including interest. *ITD did not accept the observation (September 2015) stating that explanation 2 of Section 37(1) was effective from 01 April 2015 i.e. in relation to AY 2015-16 and subsequent years, and it was not applicable prior to AY 2015-16. Hence, the question of disallowance of such expenses during AY 2011-12 did not arise.* Reply was not acceptable as any expenditure incurred by an assessee on the activities relating to CSR shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession. Further, explanation 2 to Section 37(1) was clarificatory in nature and not amendatory as it was inserted for removal of doubts.

3.4 Income escaping assessments due to omissions

3.4.1 The Act provides that the total income of a person for any previous year shall include all incomes from whatever source derived, actually received or accrued or deemed to be received or accrued. We observed that the AOs did not assess/under assess total income that require to be offered to tax. Table 3.3 shows the sub-categories which have resulted in Income escaping assessments.

Table 3.3: Sub-categories of mistakes under income escaping assessments due to omissions				(₹ in crore)
Sub-categories	Nos.	TE	States	
a. Income not assessed/under assessed under special provision	13	62.35	Delhi, Gujarat, Maharashtra, Rajasthan, TN, UP and WB	
b. Income not assessed/under assessed under normal provision	19	140.76	Gujarat, Karnataka, MP, Maharashtra, Odisha, TN, UP and WB	
c. Incorrect classification and computation of capital gains	4	6.47	Andhra Pradesh, Karnataka, TN and WB	
d. Incorrect estimation of Arms Length Price	9	23.28	AP, Gujarat, Karnataka, Maharashtra and WB.	
e. Unexplained investment cash credit	2	12.58	Delhi and Maharashtra	
Total	47	245.44		

3.4.2 Income not assessed/under assessed under special provisions

We give below six such illustrative cases:

Section 115JB provides for levy of Minimum Alternate Tax (MAT) at prescribed percentage of the book profit if the tax payable under the normal provisions is lesser than MAT.

3.4.2.1 In Uttar Pradesh, Pr. CIT-Noida charge, AO completed the scrutiny assessment of **M/s Jubilant Enpro Private Ltd.**, for AY 2012-13 in March 2015 determining income of ₹ 23.22 crore under normal provisions and book profit of ₹ 66.46 crore under special provisions. The assessee debited ₹ 118.45 crore on account of 'loss on transfer/ write-off of investments' in the profit and loss account and added it back to income under normal provisions of the Act and claimed it as long term capital loss on sale of shares. AO rejected the claim of 'capital loss on sale of shares' but did not add back ₹ 118.45 crore⁷⁰ to the book profit considering it as diminution in value of assets⁷¹. The omission resulted in short levy of tax of ₹ 32.23 crore including interest. *ITD accepted the observation (December 2015) and initiated remedial action (November 2015) under section 236 of the Act.*

70 ₹ 118.45 crore = ₹ 25.53 crore on account of "loss on sale of investment" and ₹ 92.91 crore on account of "loss on cancellation of investments (capital deduction)"

71 As held by Principal Bench of ITAT, Mumbai in case of ITO Vs. TCFC Finance Ltd ITA No. 1299/Mum./2009 dated 09.03.2011

Section 143(3) provides that AOs have to determine and assess the income of the assessee correctly and determine the correct sum payable by him or refundable to on the basis of such assessment. Different types of claims together with accounts, records and all documents enclosed with the return are required to be examined in detail in scrutiny assessments.

3.4.2.2 In Maharashtra, Pr. CIT-10 Mumbai charge, AO completed the scrutiny assessment of **M/s Oracle Financial Services Software Ltd.** for AY 2010-11 in March 2014 determining income of ₹ 240.82 crore under normal provisions and book profit of ₹ 748.25 crore under special provisions of the Act. As per the assessment records, the AO allowed deduction of ₹ 587.76 crore to the assessee under section 10A. While computing taxable income under normal provisions, AO wrongly considered deduction under section 10A at ₹ 630.80 crore instead of correct amount of deduction of ₹ 587.76 crore. As the assessment was completed under special provisions of section 115JB, the excess allowance of deduction resulted in underassessment of income by ₹ 43.04 crore involving excess carry forward of MAT credit of ₹ 14.63 crore. *ITD accepted the audit observation and rectified (February 2016) the mistake under section 154.*

Section 115JB provides for levy of Minimum Alternate Tax (MAT) at prescribed percentage of the book profit if the tax payable under the normal provisions is lesser than MAT. As per Explanation [1] under section 115JB, "book profit" means the net profit as shown in the profit and loss account for the relevant previous year prepared under sub-section (2) subject to certain additions/ deletions. The additions, inter alia, include amounts set aside to provisions made for meeting liabilities, other than ascertained liabilities.

3.4.2.3 In Gujarat, Pr.CIT-III Ahmedabad charge, AO completed the scrutiny assessment of **M/s Nirma Ltd.** for AY 2006-07 in December 2008 determining income of ₹ 449.08 crore, which was rectified under section 154 in March 2011 determining income at 'nil' under normal provisions after setting-off of brought forward losses and unabsorbed depreciation of ₹ 449.08 crore to the extent of income and book profit of ₹ 343.85 crore. The assessment was again rectified (June 2013) under section 154 determining the book profit of ₹ 343.49 crore. Further, while giving effect to appellate order of December 2013, AO revised income at 'nil' under normal provisions after setting-off of brought forward losses and unabsorbed depreciation to the extent of income of ₹ 270.78 crore and book profit of ₹ 343.49 crore in March 2014. While computing book profit in rectification order (June 2013) and appeal effect order (March 2014), provision for doubtful advances of ₹ 48.96 crore was not added in view of provisions *ibid*. The mistake resulted in underassessment of book profit by ₹ 48.96 crore involving short levy of tax of ₹ 4.12 crore. *Ministry accepted the observation and rectified the mistake (March 2015) under section 154.*

As per section 115JB, 'Book Profit' means the net profit as shown in the Profit and Loss account for the relevant previous year as increased amongst others, by the amount of expenditure relatable to any exempt income if such income is not subject to MAT. Further, as per section 14A no deduction is allowable in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under the Act. As per Rule 8D of Income Tax Rules, 1962 the Assessing Officer is required to determine the quantum of such expenditure in accordance with the provisions of the Rule.

3.4.2.4 In Tamil Nadu, CIT-4 Chennai charge, AO completed the scrutiny assessment of **M/s L&T Infrastructure Development Projects Ltd.** for AY 2012-13 in March 2015 determining income at 'nil' under normal provisions of the Act after setting off the brought forward depreciation loss of ₹ 14.20 crore and book profit of ₹ 4.09 crore under special provisions of the Act. While completing the assessment, although the amount of ₹ 8.92 crore was disallowed under section 14A read with Rule 8D, it was not considered for computing 'Book Profit'. The omission to disallow the expenditure resulted in underassessment of book profit by ₹ 8.92 crore involving short levy of tax of ₹ 1.79 crore. *Reply from ITD was awaited (November 2016).*

3.4.2.5 In Rajasthan, CIT-2 Jaipur charge, AO completed the scrutiny assessment of **M/s Safeflex International Ltd.** for AY 2012-13 in February 2015 determining income of ₹ 15.64 lakh and tax of ₹ 4.83 lakh under the normal provisions of the Act. As the Minimum Alternative Tax (MAT) of ₹ 1.36 crore, leviable at the rate of 18.5 *per cent* of the book profit of ₹ 6.84 crore, was higher than the tax payable under the normal provisions of the Act, the assessee was liable to pay MAT under special provisions of the Act. The mistake resulted in non-assessment of book profit of ₹ 6.84 crore under special provisions involving short levy of tax of ₹ 1.78 crore including interest. *ITD accepted the mistake and initiated remedial action (May 2016).*

3.4.2.6 In CIT-7 Delhi charge, AO completed the scrutiny assessment of **M/s Pawan Hans Helicopters Ltd.** for AY 2011-12 in December 2013 determining loss of ₹ 28.10 crore under normal provisions and book profit of ₹ 50.86 crore under special provisions of the Act. The assessee claimed and was allowed expenditure of ₹ 3.12 crore towards provision for non-moving inventory/ shortage of inventory and ₹ 98.78 lakh towards provision for bad and doubtful debts in the profit and loss account. As the provisions of ₹ 4.10 crore were made towards unascertained liabilities, these expenses should have been disallowed and added to the book profit. The omission resulted in underassessment of book profit by ₹ 4.10 crore involving short levy of tax of ₹ 1.09 crore including interest. *Ministry accepted the observation and rectified the mistake (July 2015) under section 154.*

3.4.3 Income not assessed/under assessed under normal provisions

We give below six such illustrative cases:

Section 14A of the Act provides for disallowance of expenses incurred for earning exempt income in accordance with Rule 8D of Income Tax Rules, 1962. It has been judicially held⁷² that where investment had been made in shares, which did not yield any dividend in year under consideration, expenditure incurred for earning income was not deductible notwithstanding the fact that no such income had been earned. Section 14A read with Rule 8D prescribes the working for disallowance for earning exempt income. Further CBDT had also clarified⁷³ that Rule D read with section 14 A of the Act provides for disallowance of the expenditure even where taxpayer in particular year has not earned any exempt income.

3.4.3.1 In Maharashtra, Pr. CIT-2 Mumbai charge, AO completed scrutiny assessment of **M/s ICICI Bank Ltd.** for AY 2011-12 in March 2015 determining income at ₹ 6,738.07 crore, inter alia, making disallowance of ₹ 531.40 crore under section 14A. While computing average investment for disallowance, the assessee considered the opening balances of 'investment in shares (equity and preference share)' and in 'subsidiary and joint ventures' as ₹ 2,755.74 crore and ₹ 6,222.68 crore respectively as per the balance sheet. In respect of closing balance of investments, the assessee considered only those investments of ₹ 1,049.46 crore and ₹ 2,870.95 crore from which exempt income was actually received during the year instead of ₹ 2,813.41 crore and ₹ 6,479.69 crore as per the Balance Sheet. The computation was not in conformity with judicial ruling and CBDT circular cited above. The mistake resulted in underassessment of income of ₹ 131.80 crore due to short disallowance under section 14A involving short levy of tax of ₹ 43.79 crore. *ITD did not accept the observation (October 2015) stating that as per provisions of Section 14A, expenses were to be disallowed in relation to the income which did not form part of the total income under the Act.* Reply was not acceptable as it contradicted its own circular of May 2014 clarifying the legislative intent, which having not been struck down by Courts was a binding on the Department to be complied with.

Section 41(1) of the IT Act provides that where allowance has been made in respect of loss, expenditure or trading liability and assessee has subsequently obtained some benefit in respect of such trading liability by way of remission or cessation thereof it shall be deemed to be profit and gains of business or profession of that previous year. Further, it has been judicially held⁷⁴ held that the expression expenditure under section 41(1) is wide enough and would include not only revenue but also capital expenditure.

3.4.3.2 In Maharashtra, Pr. CIT-IV Mumbai charge, AO completed the scrutiny assessment of **M/s Stainless India Private Ltd.** for AY 2011-12

72 M/s Technopak Advisors P Ltd 18 Taxmann.com 146 (Delhi ITAT)

73 CBDT circular no. 5/2014 dated 11/02/2014

74 M/s Nector Beverages Pvt. Ltd. vs CIT 2004 (139 Taxman 70-Bombay HC)

determining income of ₹ 2.70 crore. As per notes to accounts⁷⁵, the assessee suspended its operations in October 2008. Further, the assessee received trade advances of ₹ 53.50 crore from M/s Mukund Ltd. which was a group company and held 44.09 per cent shares of the assessee. Mukund Ltd. had written off trade advances of ₹ 53.50 crore in its books of accounts. It continued to claim its debts as the same were not written back by the assessee. The cross verification of records of M/s Mukund Ltd. for AY 2011-12 revealed that these write offs had actually been made in the books and partly claimed during FY 2010-11 and partly adjusted against provision for bad debts made in earlier years. Thus it was apparent that the creditor has claimed the deduction by way of bad debts and written it off from their accounts. The write off of bad debts by creditors amounted to remission or cessation of liability and thereby attracted the provisions of section 41(1) of the Act. The omission resulted in underassessment of income by ₹ 53.50 crore involving potential short levy of tax by ₹ 17.77 crore.

ITD did not accept the observation (June 2016) stating that provisions of section 41(1) were not attracted in this case as the amount in question was not allowed as trading liability in any previous year. Further, M/s Mukund Ltd. was not a creditor of the assessee and had given only advance to the assessee. In support of the contention, ITD also quoted few case laws not relevant to the case. Reply was not acceptable as assessee had shown it as advance against job work/ supplies. Further, it has been judicially held⁷⁶ that the trade deposits were capital in nature at the time of receipt and with the afflux of time their character was changed to trading receipts. Further, there existed no provision in the Act to protect the interests of revenue in such cases where companies were related and one of the companies claims deduction of bad debts from income but the other company did not offer such income. ITD initiated remedial action (March 2016) under section 147 of the Act.

3.4.3.3 In PCIT- Noida charge, AO completed the scrutiny assessment of **M/s L. G. Electronics India Pvt. Ltd.** for AY 2007-08 in October 2011 determining income of ₹ 583.91 crore. The case was reassessed in March 2015 under section 147 read with section 143 (3) of the Act at revised income of ₹ 597.80 crore. The assessee had received subsidy (tax incentives) of ₹ 20.58 crore from the Government of Maharashtra and ₹ 61.01 crore from the Government of Uttar Pradesh. While computing taxable income, AO disallowed and added back subsidy received from the Government of Uttar Pradesh treating them as revenue receipts. However, the subsidy received

75 Note 8B to Schedule 18 of notes to accounts

76 in the case of T V Sundaram Iyengar and Sons Ltd.

from the Government of Maharashtra was not disallowed and added back to the taxable income. The omission resulted in underassessment of income by ₹ 20.58 crore involving short levy of tax of ₹ 10.74 crore including interest. *ITD accepted the audit observation and initiated (February 2016) remedial action under section 263.*

Section 143(3) provides that AOs have to determine and assess the income of the assessee correctly and determine the correct sum payable by him or refundable to on the basis of such assessment. Different types of claims together with accounts, records and all documents enclosed with the return are required to be examined in detail in scrutiny assessments.

3.4.3.4 In Odisha, CIT-Sambalpur charge, AO completed the scrutiny assessment of **M/s Mahanadi Coal Field Ltd.** for AY 2011-12 in January 2014 determining income at ₹ 5,772.71 crore after disallowing all the provision of ₹ 110.67 crore shown in the profit and loss account. The provision of ₹ 110.67 crore disallowed by the AO included minus figure of ₹ 23.85 crore towards reclamation of land, which was not brought to tax. This resulted in underassessment of income by ₹ 23.85 crore involving tax effect of ₹ 10.61 crore. *Ministry accepted the observation and completed remedial action (April 2015) under section 147 read with section 143(3).*

3.4.3.5 In West Bengal, Pr. CIT-4 Kolkata charge, AO completed the scrutiny assessment of **M/s Subir Sirkar Jewellers Private Ltd.** for AY 2012-13 in March 2015 determining loss of ₹ 5.42 lakh. As per the profit and loss account, the opening stock for AY 2012-13 was shown at ₹ 21.22 crore whereas the closing stock for AY 2011-12 was shown at ₹ 74.31 lakh only. Hence, the opening stock for AY 2012-13 was overstated by ₹ 20.48 crore which was allowed in the assessment. The mistake in allowing excess debit of opening stock resulted in underassessment of income of ₹ 20.48 crore involving tax effect of ₹ 9.01 crore. *Ministry accepted the observation and took remedial action under section 154 read with sections 144 and 143(3) in December 2015.*

Section 28 provides that the profits and gains of any business or profession which was carried on by the assessee at any time during the previous year shall be chargeable to income tax under the head 'profits and gains of business or profession'.

3.4.3.6 In Gujarat, Pr. CIT-2 Ahmedabad charge, AO completed the scrutiny assessment of **M/s Ganesh Housing Corporation Ltd.** for AY 2009-10 in December 2011 determining income of ₹ 63.55 crore including LTCG of ₹ 34.17 crore. The assessee engaged in real estate development and construction activities sold land which was originally purchased in 2002-03 by the amalgamating company (Nachiket Properties Private Ltd.). Thereafter, the assessee converted the land into non-agricultural land by paying

conversion tax. This shows that the land was not purchased or acquired as an investment but for resale and earning of profit as per the business of the company. Hence, the land acquired was stock-in-trade of the assessee and the profits earned was business income instead of capital gain. The omission has resulted into short levy of tax of ₹ 5.29 crore including interest. *ITD accepted the objection and took remedial action under section 143(3) read with section 147 in November 2014.*

3.4.4 Incorrect computation/classification of capital gains

We give below two such illustrative cases:

Section 143(3) provides that AOs have to determine and assess the income of the assessee correctly and determine the correct sum payable by him or refundable to on the basis of such assessment. Different types of claims together with accounts, records and all documents enclosed with the return are required to be examined in detail in scrutiny assessments.

3.4.4.1 In Karnataka, CIT-1 Bangalore charge, AO completed the scrutiny assessment of **M/s Hinduja Realtors Pvt. Ltd.** for AY 2010-11 in March 2013 determining income at ₹ 1.91 crore and tax of ₹ 83.38 lakh thereon. The assessee had declared long term capital gains of ₹ 7.08 crore from the sale of equity shares in its statement of computation. While completing the assessment, AO did not consider income of ₹ 7.08 crore on account of long term capital gains. The omission resulted in underassessment of income of ₹ 7.08 crore involving short levy of tax of ₹ 2.18 crore including interest. *ITD has accepted the observation and rectified the mistake (June 2014) under section 154.*

Section 45 of the Act provides that any profits or gains arising from the transfer of a capital asset effected in the previous year shall be chargeable to income-tax under the head Capital Gains and shall be deemed to be the income of the previous year in which the transfer took place. Further as per Section 48 of the Act, the income chargeable under the head Capital gains shall be computed by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts namely;

(i) Expenditure incurred wholly and exclusively in connection with such transfer (ii) the cost of acquisition of the asset and the cost of any improvement thereto.

3.4.4.2 In West Bengal, Pr. CIT-1 Kolkata charge, AO completed the scrutiny assessment of **M/s Bata India Ltd.** for AY 2007-08 in December 2010 determining business income as 'nil' and short term capital gains of ₹ 66.49 crore. The assessment was revised under section 154 read with section 251 in February 2012 determining business income as 'nil' and long term capital gains of ₹ 28.26 crore. The assessment was again revised under

section 263 read with section 143(3) in March 2014 determining short term capital gains of ₹ 47.77 crore. The assessment was further rectified (July 2014) under section 154 determining long term capital gains of ₹ 47.77 crore. The capital gains determined in different assessment orders (either the short term capital gain or the long term capital gain) was due to transfer of rights by the assessee to its joint venture namely Riverbank Holding Private Ltd. (RHPL) for developing 262 acres of land into an integrated modern township. The assessee adopted the full value of consideration for transferring the rights of land at ₹ 77.53 crore, which was further revised (March 2014) to ₹ 97.02 crore. The consideration value, inter alia, included cost of construction of ₹ 55.94 crore of housing project for employees after claiming discount at the rate of eight *per cent* for two years on the value determined by the approved valuer. The transfer of rights of land was done through a development agreement made in May 2006. The approved valuer evaluated land at ₹ 65.28 crore in September 2007 along with the cost of construction of housing project while determining the consideration received against the transfer of rights of land. As the period between the transfers of the rights (May 2006) and determination of value of construction (September 2007) was only one year, the discount of eight *per cent* was admissible for one year instead of two years as claimed by the assessee. Thus, the cost of construction was required to be determined at ₹ 60.44 crore instead of ₹ 55.94 crore allowed to the assessee. The mistake resulted in underassessment of long term capital gains of ₹ 4.50 crore involving excess allowance of MAT credit of ₹ 1.01 crore. *Ministry accepted the observation and took remedial action (March 2016) under section 263.*

3.4.5 Incorrect estimation of Arm's Length Price

We give below three such illustrative cases:

The computation of Arm's Length Price (ALP) under section 92C of Income Tax Act, 1961, should be referred to the Transfer Pricing Officer (TPO), if the value of international transaction as defined under section 92B of IT Act exceeds rupees 15 crore. The TPO, after hearing the assessee, after considering the evidence produced by him as required on any specified points and after taking into account all relevant materials which he has gathered, shall by order in writing determine the ALP in relation to the international transaction in accordance with provisions of section 92C(3) and send a copy of his order to the Assessing Officer and to the assessee.

3.4.5.1 In Karnataka, Pr.CIT-6 Bangalore charge, the transfer pricing adjustment of the **M/s SKF Technologies India Pvt. Ltd.** for AY 2011-12 was concluded under section 92CA in January 2015 determining the total Transfer Pricing adjustment at ₹ 13.74 crore. The TPO recomputed the Operating Cost (OC) at ₹ 131 crore as against ₹ 107.13 crore computed by the assessee.

While computing the ALP, the TPO wrongly adopted OC as ₹ 107.13 crore as against ₹ 131 crore. The mistake resulted in short adjustment by ₹ 23.87 crore under section 92CA involving tax effect of ₹ 7.93 crore. *Ministry accepted the observation and rectified the mistake (March 2016) under section 154 read with section 92CA.*

3.4.5.2 In Karnataka, Pr.CIT-3 Bangalore charge, the transfer pricing adjustment of **M/s Google India Pvt. Ltd.** for AY 2011-12 was completed under section 92CA in January 2015. While computing the ALP, the TPO wrongly adopted the operating cost and price received at ₹ 205.31 crore and ₹ 241.43 crore respectively instead of ₹ 325.49 crore and ₹ 383.76 crore resulting in short adjustment by ₹ 10.51 crore under section 92 CA involving short levy of tax of ₹ 5.55 crore. *ITD stated that the TPO rectified the mistake, which was considered by the AO while completing the assessment under section 143(3) read with section 144C in February 2016.*

3.4.5.3 In Andhra Pradesh and Telangana, CIT(IT&TP) Hyderabad charge, the transfer pricing adjustment of **M/s Vivimed Labs Ltd.** for AY 2012-13 was completed under section 92CA(3) in January 2016 determining the total Transfer Pricing adjustment at ₹ 17.13 crore towards advances and corporate guarantee. While computing the ALP, the TPO wrongly computed corporate guarantee fee at the rate of 2 per cent on ₹ 522.95 crore instead of the correct amount of corporate guarantee of ₹ 196.13 crore. The mistake resulted in excess adjustment by ₹ 6.54 crore⁷⁷ involving tax effect of ₹ 2.12 crore. *Ministry accepted the observation and rectified (March 2016) the mistake under section 92CA(5) read with section 154.*

3.4.6 Unexplained Investment/cash credit

We give below one such illustrative case:

Section 68 provides that if assessee offers no explanation about the nature and source of any sum credited in the books of the assessee, the sum so credited may be charged to income tax as income of the assessee.

3.4.6.1 In Pr.CIT-6 Delhi charge, AO completed the assessment of **M/s North West Sales And Marketing Ltd.** for AY 2011-12 under section 144 (March 2014) determining income at ₹ 8.71 crore and tax of ₹ 2.87 lakh thereon. While completing the assessment, the AO sought details of unsecured loan raised of ₹ 32.48 crore from the assessee against which list of unsecured loans of ₹ 8.64 crore only was provided without the necessary details viz. PAN, address and other particulars of the parties. In the absence of necessary details AO treated the amount of unsecured loan of ₹ 8.64 crore as unexplained income of the assessee. As necessary details of unsecured loans

⁷⁷ ₹ 6.54 crore = (₹ 10.46 crore - ₹ 3.92 crore)

of ₹ 32.48 crore were not provided the entire amount was required to be treated as unexplained income. This omission resulted in underassessment of income by ₹ 23.83 crore⁷⁸ involving short levy of tax of ₹ 11.72 crore including interest. *Ministry accepted the observation and rectified the mistake (December 2015) under section 154.*

3.5 Over-charge of tax/Interest

3.5.1 We noticed that AOs over assessed income in 23 cases involving overcharge of tax and interest of ₹ 176.73 crore in Andhra Pradesh, Delhi, Goa, Haryana, Odisha, Tamil Nadu, UT Chandigarh, Uttarakhand and West Bengal. We give below five such illustrative cases:

Section 234B provides for levy of interest on account of default in payment of advance tax at specified rates and for specified time period.

3.5.1.1 In CIT-LTU Delhi charge, AO completed the scrutiny assessment of **M/s Rural Electrification Corporation Ltd.** for AY 2012-13 in March 2015 at income of ₹ 2,871.64 crore and tax of ₹ 931.62 crore thereon. While computing tax demand, the AO levied interest of ₹ 42.29 crore under section 234B of the Act despite the fact that the amount of advance tax of ₹ 957 crore deposited by the assessee was more than the assessed tax (₹ 931.62 crore). The mistake resulted in excess levy of interest of ₹ 42.29 crore under section 234B. *Ministry accepted the observation and rectified the mistake (July 2015) under section 154.*

Section 143(3) provides that AOs have to determine and assess the income correctly. Different types of claims together with accounts, records and all documents enclosed with the return are required to be examined in detail in scrutiny assessments.

3.5.1.2 In CIT(Central) Delhi charge, the scrutiny assessment of **M/s Pixion Media Pvt. Ltd.** for AY 2011-12 was completed in March 2013 determining an income at ₹ 792.04 crore and tax of ₹ 263.09 crore thereon. While computing the taxable income, AO wrongly adopted the returned income at 'nil' instead of correct amount of loss of ₹ 48.53 crore. This mistake resulted in over assessment of income by ₹ 48.53 crore involving potential overcharge of tax of ₹ 22.73 crore. *Ministry accepted the observation and rectified the mistake (February 2016) under section 154.*

3.5.1.3 In CIT-7 Delhi charge, the scrutiny assessment of **M/s Religare Securities Ltd.** for AY 2011-12 was completed in March 2014 determining income at ₹ 39.37 crore and raising tax demand of ₹ 16.96 crore including interest under section 234B. While computing tax demand, AO wrongly levied interest of ₹ 3.88 crore under section 234B on net tax of ₹ 13.08 crore. The

⁷⁸ ₹ 23.83 crore = (₹ 32.48 crore - ₹ 8.65 crore)

assessee paid TDS of ₹ 11.64 crore and advance tax of ₹ 7 crore, which was more than ninety *per cent* of assessed tax, interest under section 234B was not leviable. The mistake resulted in excess levy of interest of ₹ 3.88 crore. *Ministry accepted the observation (August 2016) and rectified the mistake (August 2015) under section 154.*

Section 143(3) provides that AOs have to determine and assess the income or loss of the assessee correctly. Different types of claims together with accounts, records and all documents enclosed with the return are required to be examined in detail in scrutiny assessments. Further, section 139(5) provides that if any person, having furnished a return under section 139(1), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

3.5.1.4 In Delhi CIT-3 charge, AO completed the scrutiny assessment of **M/s Delhi Transport Corporation** for AY 2011-12 in March 2014 determining loss at ₹ 2,419.80 crore. The assessee filed revised return of income on 28 September 2012 at loss of ₹ 2,618.40 crore as against loss of ₹ 2,422.69 crore as per original return of income filed on 27 September 2011. While computing the assessed loss, AO did not consider the revised statement of loss although both original and revised returns were filed by the assessee within the stipulated time. This resulted in underassessment of loss by ₹ 195.71 crore involving potential tax effect of ₹ 65.01 crore. *Ministry accepted the observation and rectified the mistake (March 2016) under section 154.*

3.5.1.5 In Delhi CIT (Central)-1 Charge, AO completed the assessment of **M/s Pearl Studio Ltd.** for AY 2011-12 under section 144 of the Act in March 2013 determining income at ₹ 144.12 crore and tax of ₹ 47.87 crore thereon. While computing the taxable income, AO wrongly adopted the returned income at 'nil' against correct amount of returned loss of ₹ 46.53 crore. The mistake resulted in overassessment of income by ₹ 46.53 crore involving overcharge of tax of ₹ 21.79 crore. *ITD rectified the mistake (February 2016) under section 154.*

Chapter IV: Income Tax and Wealth Tax

4.1 Introduction

4.1.1 This chapter discusses 136 income tax and seven wealth tax cases, of which 133 cases involving undercharge of ₹ 183.53 crore and 10 cases involve overcharge of ₹ 277.64 crore which were issued to the Ministry during May 2016 to October 2016. These cases of incorrect assessment point towards weaknesses in the internal controls on the assessment process being exercised by the Income Tax Department.

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

- Quality of assessments
- Administration of tax concessions/exemptions/deductions
- Income escaping assessments due to omissions
- Others-Overcharge of tax/interest etc

4.1.3 The Ministry has conveyed its acceptance in 79 cases involving tax effect (TE) of ₹ 365.51 crore while not accepting two cases involving tax effect of ₹ 3.06 crore. ITD has completed remedial action in 132 cases involving tax effect of ₹ 451.93 crore and initiated remedial action in one case involving tax effect of ₹ 0.16 crore.

Table 2.6 (para 2.3.4) of this report shows the details of broad categories of mistakes and their tax effect (refer *Appendix 2.3*).

4.2 Quality of assessments

4.2.1 AOs committed errors in the assessments despite clear provisions in the Act. These cases of incorrect assessments point out continuing weaknesses in the internal controls on the part of ITD which need to be addressed on the priority.

Table 4.1 shows the sub-categories of mistakes which impacted the quality of assessments.

Table 4.1: Sub-categories of mistakes under quality of assessments				(₹ in crore)
Sub-categories	Cases	TE	States	
a. Arithmetical errors in computation of income and tax	19	33.44	Bihar, Delhi, Madhya Pradesh (MP), Maharashtra, Odisha, Punjab, Rajasthan, and Uttar Pradesh (UP).	
b. Incorrect application of rates of tax, surcharge etc.	11	11.39	Delhi, Gujarat, Maharashtra, Rajasthan, Tamil Nadu (TN) and UP.	
c. Mistakes in levy of interest	36	61.97	Andhra Pradesh (AP), Delhi, Goa, Gujarat, Haryana, Kerala, Maharashtra, Punjab, Rajasthan, TN, UP and West Bengal (WB).	
d. Mistake in assessment while giving effect to appellate orders	02	0.47	Maharashtra, Rajasthan	
Total	68	107.27		

4.2.2 Arithmetical errors in computation of income and tax

We give below five such illustrative cases:

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

4.2.2.1 In Delhi, CIT(Central)-2 charge, AO completed⁷⁹ the assessment of an individual, **Ramesh Chand** for AY 2012-13 in March 2015 at an income of ₹ 38.89 crore and tax of ₹ 12 crore thereon. While computing taxable income, AO computed the total disallowance on account of unexplained deposits in different bank accounts of the assessee at ₹ 38.79 crore instead of ₹ 44.12 crore. Further, AO did not levy interest under section 234A of the Act for non filing of return of income within due date. The mistakes resulted in under assessment of income of ₹ 5.33 crore involving short levy of tax and interest of ₹ 6.38 crore. *ITD rectified the mistake under section 154 of the Act (June 2015).*

4.2.2.2 In Odisha, CIT Sambalpur charge, AO completed the assessment of an AOP, **Bolangir District Central Co-operative Central Bank Ltd.** for AY 2012-13 after scrutiny in March 2014 at a loss of ₹ 29.77 crore. While computing the total income of the assessee, AO adopted returned income of ₹ (-)50.72 crore instead of ₹ (-)37.58 crore. Further, AO adopted the net profit as per profit and loss account at 'Nil' instead of ₹ (-)50.72 crore while quantifying the deduction under section 36(1)(vii) of the Act. The mistakes resulted in excess determination of loss of ₹ 16.94 crore involving potential tax effect of ₹ 5.24 crore. *The Ministry accepted the audit observation*

⁷⁹ Under section 153A read with section 144 of the Act

(December 2016) and rectified the mistake under section 147/143(3) (December 2015) and under section 154/147/143(3) (April 2016).

4.2.2.3 In Maharashtra, CIT Central IV charge, AO completed the assessment of an individual, **Manoj Kumar Babulal Punamiya** for AY 2010-11 after scrutiny in December 2011 at an income of ₹ 198.84 crore. AO made additions of ₹ 9.38 crore and ₹ 5.51 crore to the total income of the assessee on account of unexplained investment and short term capital gain respectively. However, only ₹ 5.51 crore had been considered for addition at the time of computation of total income and tax of the assessee. The mistake resulted in underassessment of income of ₹ 9.38 crore involving short levy of tax of ₹ 2.80 crore including interest. *The Ministry accepted the audit observation (November 2016) and rectified the mistake under section 154 (March 2016).*

4.2.2.4 In Delhi, CIT(Central)-1 charge, AO while completing the assessment of a company, **Sahara India** for AY 2011-12 after scrutiny in November 2014 at an income of ₹ 5.95 crore and tax of ₹ 1.84 crore thereon, computed the disallowances at ₹ 177.66 crore instead of ₹ 183.99 crore. The mistake resulted in underassessment of income of ₹ 6.33 crore involving short levy of tax of ₹ 1.95 crore. *ITD rectified the mistake under section 154 of the Act (December 2015).*

4.2.2.5 In Madhya Pradesh, CIT-1, Bhopal charge, AO completed⁸⁰ the assessment of an individual, **R. K. Lalwani** for AY 2010-11 in March 2015 at an income of ₹ 6.47 crore. While computing tax liability of the assessee, AO erroneously computed income tax at ₹ 0.93 crore instead of ₹ 1.93 crore resulting in short levy of tax of ₹ 1.56 crore including interest. *The Ministry accepted the audit observation and rectified the mistake under section 154 in August 2015.*

80 Under section 144/147 read with section 143(3) of the Act

4.2.3 Incorrect application of rates of tax and surcharge

We give below three such illustrative cases:

Section 115AD(1)(B) provides that where the total income of a foreign institutional investors (FII) arises by way of short term capital gain (STCG) or long term capital gain (LTCG) from the transfer of securities, the tax payable by the assessee on such total income shall be calculated at the rate of 30 per cent. Further, section 111A provides that if such transaction is chargeable to securities transactions tax (STT), the amount of income tax, calculated on income by way of STCG shall be at rate of 15 per cent.

4.2.3.1 In Maharashtra, CIT(IT) III charge, AO completed the assessment of trust, **Platinum Investment Management Ltd. A/c Platinum International Fund** for AY 2009-10 after scrutiny in November 2011 accepting the returned income of ₹ 19.47 crore with STCG derived at concessional rate of 15 per cent as per section 111A of the Act. As the STCG of ₹ 19.47 crore derived from trading activity in derivatives did not attract any STT and hence, the same was required to be charged at the rate of 30 per cent instead of 15 per cent, omission resulted in under assessment of income of ₹ 19.47 crore involving short levy of tax of ₹ 4.37 crore including interest. *ITD accepted and rectified the mistake under section 154 of the Act (March 2016).*

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

4.2.3.2 In Uttar Pradesh, CIT Ghaziabad charge, AO while completing the assessment of an individual, **Ram Kumar Tyagi** for AY 2008-09 under section 143(3) read with section 147 in February 2015 at an income of ₹ 7.91 crore including income from long term capital gain of ₹ 7.89 crore levied the tax on long term capital gain at the rate of 10 per cent instead of applicable rate of 20 per cent. The mistake resulted in short levy of tax of ₹ 3.04 crore including interest. *The Ministry accepted the audit observation (November 2016) and rectified the mistake under section 154 of the Act (January 2016).*

4.2.3.3 In Maharashtra, Pr. CIT III(Central) charge, AO completed the assessment of an AOP, **The Board of Control for Cricket in India** for AY 2005-06 after scrutiny in November 2007 at 'Nil' income. The income was reassessed under section 147 in May 2012 at an income of ₹ 168.60 crore. While computing tax liability of the assessee, AO did not levy education cess applicable⁸¹ for the AY 2005-06 resulting in short levy of tax of ₹ 1.11 crore. *ITD rectified the mistake under section 154 of the Act (January 2016).*

81 For AY 2005-06, education cess at the rate of two per cent leviable on the amount of income tax and surcharge

4.2.4 Mistakes in levy of Interest

We give below five such illustrative cases:

The Act provides for levy of interest for different omissions on the part of the assessee at the rates prescribed by the Government from time to time.

4.2.4.1 In erstwhile Andhra Pradesh, CIT-IV Hyderabad charge, AO while completing the assessment of **Andhra Pradesh Housing Board** for AY 2010-11 under section 144 read with section 147 in November 2014 at an income of ₹ 466.65 crore, levied interest under section 234A at ₹ 42.76 crore for 30 months as against the leviable interest of ₹ 57.01 crore for 40 months, resulting in short levy of interest of ₹ 14.25 crore. *The Ministry accepted the audit observation (December 2016) and rectified the mistake under Section 154 of the Act (September 2015).*

4.2.4.2 In Delhi, CIT (C)-2 charge, AO completed the assessment of an individual, **Ramesh Chand** for AYs 2007-08, 2008-09, 2009-10, 2010-11 and 2011-12 under section 153A read with section 144 of the Act in March 2015 at income of ₹ 0.55 crore, ₹ 15.23 crore, ₹ 135.93 crore, ₹ 13.44 crore and ₹ 57.86 crore respectively. Consequent upon the search, notices under section 153A had been issued to the assessee on 19 September 2013 to furnish his return of income for AYs 2007-08 to 2011-12 within sixteen days of service of notice. Even though the returns of income of these assessment years were not filed by the assessee till the completion of assessment, AO did not levy interest under section 234A of the Act. Further, for AY 2011-12, assessed income of ₹ 56.86 crore was rounded off to ₹ 57.86 crore. The mistakes resulted in non levy of interest of ₹ 12.75 crore. *ITD rectified the mistake under section 154 of the IT Act (June 2015).*

4.2.4.3 In Haryana, Pr. CIT Panchkula charge, AO completed the assessment of **Haryana State Pollution Control Board** for AYs 2006-07, 2008-09, 2009-10, 2010-11 and 2011-12 under section 143(3) read with section 148 of the Act in January 2013 at income of ₹ 9.60 crore, ₹ 14.18 crore, ₹ 18.96 crore, ₹ 34.06 crore and ₹ 12.67 crore respectively. In response to notices issued under section 148 on 31 October 2012, assessee filed its returns of income for AYs 2006-07, 2008-09 to 2011-12 on 30 November 2012 and hence interest under section 234A was leviable from due date of filing of return till the actual date of filing of return for all the AYs. However, AO levied interest of ₹ 0.12 crore for these AYs instead of leviable interest of ₹ 10.86 crore resulting in short levy of interest of ₹ 10.74 crore. *ITD rectified the mistake under section 154 of the IT Act (January 2016).*

4.2.4.4 In Gujarat, Pr. CIT-III Ahmedabad charge, AO completed the assessment of an individual, **Rajeshsingh G Rajput** for AY 2011-12 under section 144 read with section 147 of the Act in March 2015 at an income of ₹ 23.88 crore. Though the assessee had not filed its return of income in response to the notice issued under section 148(March 2014), AO did not levy interest under section 234A of the Act for non filing of return of income. The mistake resulted in non levy of interest of ₹ 3.24 crore. *The Pr. CIT-3, Ahmedabad had given approval (January 2016) for taking remedial action under section 154.*

4.2.4.5 In Tamil Nadu, CIT-I Chennai charge, AO completed the assessment of a firm, **Rathna Stores** for AYs 2007-08 to 2012-13 under section 143(3) read with section 147 of the Act in March 2015. The assessee neither filed its return of income as required under section 139(1) nor filed the same in response to the notice issued under section 148(January 2014). However, AO levied interest under section 234A from the date of issue of notice instead of levying it from the due date of filing of returns. The mistake resulted in short levy of interest of ₹ 1.97 crore. *The Ministry accepted the audit observation and rectified the mistake under section 154 in February 2016.*

4.2.5 Mistakes in assessment while giving effect to appellate orders

We give below two such illustrative cases:

Under the Income Tax Act 1961, an aggrieved assessee can appeal to the Commissioner of Income tax (Appeals) against the order of assessing officer who shall comply with the direction given by him in the appellate order. At the time of giving appeal effect under section 250 of Income Tax Act, the Assessing officer has to compute correct total income after going through the appellate order and determine tax payable after effect of relief.

4.2.5.1 In Maharashtra, Pr CIT I Nagpur Charge, AO completed the assessment of co-operative society (Bank), **The Washim Urban Co-op. Bank Ltd.** for the assessment year 2010-11 after scrutiny in March 2013 at an income at ₹ 3.56 crore which was revised to ₹ 3.68 crore while giving effect to CIT(A)'s order in February 2015. The total income computed after giving effect to CIT(A)'s order was wrongly entered into the ITD system at ₹ 2.86 crore and hence tax was levied at ₹ 88.47 lakh instead of correct amount of ₹ 1.14 crore resulting in short levy of tax of ₹ 25.35 lakh including interest. *The Ministry accepted the audit observation and rectified the mistake under section 154 in December 2015.*

4.2.5.2 In Rajasthan, CIT-III Jaipur charge, AO completed the assessment of an individual **Manoj Kumar Johari** for AY 2010-11 after scrutiny at an income of ₹ 1.34 crore in December 2012 which was revised at an income of

₹ 1.03 crore under section 250 in November 2013. The CIT(Appeals) vide his order of September 2013, allowed relief of ₹ 29.62 lakh against the disallowance made under section 80IB of ₹ 31.17 lakh, and dismissed the assessee's appeal regarding income of duty draw back of ₹ 1.80 crore and sale of import license of ₹ 4.68 lakh aggregating to ₹ 1.85 crore for forming part of net profit for claiming deduction under section 80IB. Further, the profit and loss account showed that there was net profit of ₹ 1.32 crore including duty draw back and sale of import license of ₹ 1.85 crore. Since the income of duty draw back and sale of import license is not eligible for exemption under section 80IB, there was a net loss of ₹ 53.11 lakh for claiming deduction under section 80IB. The deduction/relief of ₹ 29.62 lakh allowed under section 80IB was therefore not in order. The omission resulted into incorrect allowance of exemption of ₹ 29.62 lakh involving short levy of tax of ₹ 12.26 lakh including interest. *The Ministry accepted the audit observation and rectified the mistake under section 154 in October 2015.*

4.3 Administration of tax concessions/exemptions/deductions

4.3.1 The Act allows concessions/exemptions/deductions to the assessee in computing total income under Chapter VI-A and for certain categories of expenditure under its relevant provisions. We observed that the assessing officers have irregularly extended benefits of tax concessions/exemptions/deductions to beneficiaries that are not entitled to them. These cases point out weaknesses in the administration of tax concessions/deductions/exemptions on the part of ITD which need to be addressed. Table 4.2 shows the sub-categories which have impacted the Administration of tax concessions/exemptions/deductions.

Table 4.2: Sub-categories of mistakes under Administration of tax concessions/exemptions/deductions			(₹ in crore)		
Sub-categories	Nos.	TE	States		
a. Irregular exemptions/deductions/relief given to individuals	06	3.92	Andhra Pradesh, Gujarat, Haryana, Jharkhand, UP and WB.		
b. Irregular exemptions/deductions/relief given to Trusts/Firms/Societies/AOPs	17	41.09	AP, Delhi, Gujarat, Haryana, Himachal Pradesh (HP), Jharkhand, MP, Maharashtra and WB.		
c. Incorrect allowance of Business Expenditure	06	2.56	Bihar, Delhi, Odisha, UT Chandigarh, Uttrakhand and WB.		
d. Irregularities in allowing depreciation/business losses/capital losses	09	15.71	Gujarat, Karnataka, Maharashtra, Odisha, UT Chandigarh and WB.		
Total	38	63.28			

4.3.2 Irregular exemptions/deductions/relief to Individuals

We give below four such illustrative cases.

Section 54F of the Income Tax Act provides that to claim the exemption under this section, the assessee should not own more than one residential house, other than the new asset, on the date of transfer of the original asset.

4.3.2.1 In AP, CIT-Central, Hyderabad charge, AO completed the assessment of an individual, **Sabbineni Surendra** for AY 2010-11 under section 143(3) read with section 153A in March 2014 at an income of ₹ 22.31 crore. Though the assessee had seven residential house properties on the date of transfer of shares held in M/s Coastal Projects Ltd., AO allowed deduction of ₹ 9.54 crore under section 54F of the Act. The mistake resulted in under assessment of income of ₹ 9.54 crore involving short levy of tax of ₹ 2.91 crore including interest. *ITD did not accept the audit objection stating that the properties were let out for commercial purpose and the term residential house was not defined in the Act and the same was to be interpreted as per usage of the property.* The reply of ITD is not tenable, because, as per the agreements, the nature of the properties was residential only and the assessee has further shown the income from these units under the head 'Income from House Property'. *ITD rectified the mistake under section 263 of the Act (March 2016).*

Section 54EC(1) of the Income Tax Act provides that where the capital gain arises from the transfer of a long-term capital asset (the capital asset so transferred being hereafter in this section referred to as the original asset) and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of capital gains in the long-term specified asset, the capital gain to the extent is exempt from tax. Further, in the Judgment of jurisdictional ITAT in the case of Smt. Dakshaben R. Patel v/s ACIT Circle-2(1), Vadodara [(2012) 22 Taxmann.com 237 (Ahd.)] where in it was held that "where the assessee purchased REC Bonds prior to the date of sale of property, exemption under section 54EC is not allowable".

4.3.2.2 In Gujarat Pr. CIT III Ahmedabad charge, AO completed the assessment of an individual, **Rajendra H. Prajapati** for AY 2011-12 after scrutiny in February 2014 at an income of ₹ 28.53 lakh. The assessee had earned long term capital gain of ₹ 8.04 crore by sale of three units of land and claimed deduction of ₹ 1.50 crore under section 54EC as investment in REC bonds despite the fact that REC bonds valuing ₹ 50 lakh were purchased on 31 March 2010, i.e. prior to the date of transfer of properties which was not admissible. Further, the assessee had purchased REC bond for ₹ 50 lakh each on 21 July 2010 and 08 April 2011, whereas capital gain of ₹ 55.10 lakh only was available for investment at the time of purchase of REC bonds. Hence, deductions claimed and allowed for investments in REC Bonds of

₹ 94.90 lakh was irregular. The mistake resulted in underassessment of income of ₹ 94.90 lakh involving short levy of tax of ₹ 26.39 lakh including interest. *The Pr. CIT-3, Ahmedabad had given approval (July 2015) for taking remedial action under section 263 of the Act.*

4.3.2.3 In West Bengal, CIT-17, Kolkata charge, AO completed the assessment of an individual, **Manas Roy Chowdhury** for AY 2012-13 after scrutiny in March 2015 at an income of ₹ 28.07 lakh. The assessee converted the value of flat as capital asset from stock in trade at the total consideration of ₹ 76.40 lakh and AO assessed the conversion of stock in trade into capital asset as short term capital gain of ₹ 76.40 lakh and allowed deduction of ₹ 50 lakh under section 54EC for investing the same into taxable bonds of REC. However, since the capital gain was not due to transfer of any long-term capital asset, deduction of ₹ 50 lakh was not admissible to the assessee. The irregular deduction resulted in underassessment of income of ₹ 50 lakh involving short levy of tax of ₹ 21.94 lakh. *The Ministry accepted the audit observation and rectified the mistake under section 154 in January 2016.*

Section 10B of the IT Act, 1961, provides a deduction of such profits and gains as are derived by a hundred *per cent* export-oriented undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years. Moreover, it was clarified that deduction to such units in any case will not be available after assessment year 2009-10

4.3.2.4 In UP, Pr. CIT-1, Kanpur charge, AO completed the assessment of an individual **Upendra Singh** for AY 2010-11 after scrutiny in March 2015 at an income of ₹ 3.90 lakh after allowing deduction of ₹ 49.12 lakh under section 10B. The assessee commenced operation as Domestic Tariff Area (DTA) unit and was accorded the status of 100 percent EOU in November 2002. However, deduction of ₹ 49.12 lakh under section 10B was allowed even though eligible period was over by AY 2009-10. Irregular allowance of deduction beyond the permissible period resulted in under assessment of income of ₹ 49.12 lakh involving short levy of tax including interest of ₹ 20.33 lakh. *ITD rectified the mistake under section 147 of the IT Act (February 2016).*

4.3.3 Irregular exemptions/deductions/relief to Trusts/Firms/Societies/AOPs

We give below four such illustrative cases.

4.3.3.1 In AP Pr. CIT, Vijayawada charge, AO completed the assessment of an assessee, **V. G. T. M. Urban Development Authority** for AYs 2009-10 and 2010-11 after scrutiny in November 2011 and December 2012 respectively at

'Nil' income. The assessee had claimed and was allowed the deduction of amounts of ₹ 11.02 crore and ₹ 9.72 crore for AY 2009-10 and 2010-11 respectively towards sinking fund. As the amount debited towards sinking fund was merely a provision to meet the future expenditure, the same was required to be added back to taxable income. Omission resulted in short computation of income of equal amounts for the AYs 2009-10 and 2010-11 with a short levy of tax of ₹ 3.83 crore and ₹ 4.14 crore respectively including interest besides potential tax effect of ₹ 1.10 crore for the AY 2009-10. *ITD accepted the audit observations and rectified the mistakes 147 (March 2015).*

4.3.3.2 In Maharashtra, Pr. CIT-III Nagpur charge, AO completed the scrutiny assessment of a co-operative bank, **The Gondia District Central Co-operative Bank Ltd.** for the AYs 2007-08, 2008-09, 2009-10 and 2010-11 in January 2013 and November 2011⁸² at an income of ₹ 5.63 crore, ₹ 8.14 crore, ₹ 9.94 crore and ₹ 14.05 crore respectively. While computing total income, AO allowed deduction under section 36(1)(viiia) of ₹ 0.62 crore, ₹ 0.66 crore, ₹ 0.81 crore and ₹ 1.14 crore being 7.5 per cent of the total income as claimed by the assessee but disallowed deduction of ₹ 7.61 crore, ₹ 8.14 crore, ₹ 9.94 crore and ₹ 14.05 crore being 10 per cent of aggregate average advances made by rural branches of the bank for the respective years on the ground that the assessee is not a schedule bank. Against the appeal filed by the assessee, CIT(A) in March 2014 held that the deduction under section 36(1)(viiia) to be limited to the actual amount debited on account of provisions of bad and doubtful debts to the books of accounts of the appellant. However, while giving effect to CIT(A) order, AO allowed entire deduction as claimed by the assessee of ₹ 8.23 crore, ₹ 8.80 crore, ₹ 10.75 crore and ₹ 15.19 crore as against ₹ 5.39 crore, ₹ 6.13 crore, ₹ 2.99 crore and ₹ 5.81 crore debited on account of provisions for bad and doubtful debts in the books of accounts for the respective years. This resulted in excess deduction of ₹ 22.65 crore (₹ 2.84 crore + ₹ 2.67 crore + ₹ 7.76 crore + ₹ 9.38 crore) involving short levy of tax of ₹ 7.37 crore excluding interest. *ITD accepted the objection and rectified the mistake under section 154 (March 2015) and demand raised of ₹ 6.99 crore was recovered in March 2015 as against ₹ 7.37 crore as worked out by audit for all the assessment years. ITD further replied (December 2015) that notice under section 154 has been issued for differential amount of ₹ 0.38 crore.*

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Section 11(1)(a) of the Act provides for the accumulation of 15 *per cent* of the income derived from property held under trust wholly for charitable or religious purposes. Further section 11(4A) provides that if any business is incidental to the attainment of the objectives of the trust and a separate books of account are maintained by such trust or institution in respect of such business, then the profits and gains of business should be included in the income of such trust and 15 per cent of total income including the profits and gains from business should be allowed to accumulated under the provisions of Section 11(1)(a) of the Act.

4.3.3.3 In WB, DIT-Exemption charge, AO completed the assessment of a trust, **Sunmarg Welfare Society** for AY 2011-12 was under section 144 in March 2014 at an income of ₹ 24.96 lakh. While finalizing the assessment, AO allowed exemption (15 *per cent*) on gross receipt of ₹ 38.83 crore instead of income of ₹ 7.82 crore from different heads. The mistake resulted in under assessment of income of ₹ 4.65 crore involving tax effect of ₹ 1.96 crore. *ITD stated (June 2014) that accumulation under section 11(1) should be allowed on the gross income from finance activity plus income from other sources.* Reply of ITD is not tenable on the grounds that as per section 11(4A), the profits and gains of business activity should be included in the total income of the assessee and the accumulation should be provided on the total income of the assessee considering the gains from the business activity and not the total receipts from the business activity. *The Ministry accepted the audit observation and rectified the mistake under section 144/147 in March 2016.*

Section 40(b) of the Act provides that interest on partner's capital and remuneration to working partners are allowable for computation of income of a firm, if the Partnership Deed permits such payments to the partners. These are taxable in the hands of the partners, but the share of profit received from the firm is exempt in the hands of the partners. Further, as per section 80IB(10) of the Act, deduction in the case of an undertaking developing and building housing projects approved before the 31st day of March 2008 by a local authority shall be hundred per cent of the profits derived in the previous year relevant to any assessment year from such housing project.

4.3.3.4 In Gujarat, Pr. CIT-1, Surat charge, AO completed the assessment of a Firm, **Nilkanth Developers** for AY 2010-11 after scrutiny in March 2013 at 'Nil' income. It was noticed from clause 6 and 7 of Partnership Deed that provision had been made for payment of interest to Partners at the rate of 12 *per cent* and remuneration to its three working partners at the rate of 33 *per cent*, 33 *per cent* and 34 *per cent*. However, in the Profit & Loss Account, assessee had not debited any amount towards Interest or remuneration to partners though such payments were required to be made

by the firm as per the Partnership Deed. Further, the assessee firm had claimed and was allowed the entire profit of ₹ 3.18 crore as deduction under section 80IB(10) of Act. Had the profit been calculated after allowing deduction of interest on capital and remuneration to partners, the profit of the firm would have been less to that extent and the partners would have been liable for payment of tax on interest and remuneration received. The mistake resulted into excess deduction to the extent of unpaid interest of ₹ 37.19 lakh and remuneration of ₹ 1.69 crore aggregating to ₹ 2.07 crore involving short levy of tax of ₹ 63.85 lakh in the hands of the partners. *ITD accepted the audit observation and took remedial action under section 143(3) read with section 147 (February 2016).*

4.3.4 Incorrect allowance of Business Expenditure

We give below three such illustrative cases.

Section 43B of the Income Tax Act 1961 provides that any sum payable by the assessee by way of tax, duty, cess or fee, by whatever name called, under any law for the time being in force, shall be allowed as deduction only on actual payment.

4.3.4.1 In Delhi, Pr. CIT 21 charge, AO while completing the scrutiny assessment of **Brij Gopal Construction Company** for AY 2009-10 in December 2011 at an income of ₹ 1.37 crore and a tax of ₹ 46.62 lakh, allowed deduction of ₹ 2.08 crore on account of provision for sales tax debited to the Profit and Loss account. As the said amount was not actually paid during the year, it was required to be disallowed and added back to the taxable income. The omission resulted in underassessment of income of ₹ 2.08 crore involving short levy of tax of ₹ 70.65 lakh. *The Ministry accepted the audit observation and rectified the mistake under section 154 in August 2015.*

Section 40A(3) of the Act provides that where one incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day otherwise than by an account payee cheque drawn on a bank or account payee bank draft exceeds ₹ 20,000, no deduction shall be allowed in respect of such expenditure except in the cases and circumstances specified below Rule 6DD of Income Tax Rules, 1962.

4.3.4.2 In Uttaranchal Pr. CIT, Dehradun charge, while completing the assessment of an individual, **Itisha Goyal** for AY 2012-13 after scrutiny in February 2015 at an income of ₹ 40.13 lakh, AO allowed expenditure of ₹ 1.33 crore on account of purchase of land, cost of which was paid in cash. Audit noticed that the assessee was engaged in the business of development of land and sale of plots and hence was not allowed to make cash payment for such activity in excess of ₹ 20,000. The claim of expenditure for payment made in cash should have been disallowed by the AO at the time of assessment and expenditure added to the taxable income of the assessee.

The omission resulted in short levy of tax of ₹ 55.48 lakh including interest. *The Ministry did not accept the observation stating that the land purchased were agricultural land which were converted into stock in trade after purchase and were a capital asset at the time of purchase. Further, since the lands were purchased as a capital asset it was investment and not the expenditure, hence provisions of section 40A(3) are not applicable. The reply was not tenable as the assessee deals in sale and purchase of land/plots and after purchase of the said agricultural land, the assessee got it converted into residential plots in a colony, which clearly transpires the intention and modus operandi of the assessee to conduct its business for a good profit attracting the provisions of the section 40A(3). Further, the transactions for which payments were made were not covered by cases and circumstances specified below Rule 6DD of Income Tax Rules 1962. Judicial decision⁸³ that if the transaction is in the assessee line of business even a single transaction of dealing in land estate is an adventure in nature of trade, is also relevant.*

4.3.4.3 In Pr.CIT-1 Chandigarh charge, AO while completing the assessment of an individual, **Sewak Ram** for AY 2009-10 after scrutiny in December 2011 at income of ₹ 11.33.crore, allowed expenditure of ₹ 94.86 lakh under the head purchases which was paid in cash. As the payments were made in contravention of provision of section 40A(3) of the Act, the same was required to be disallowed and added back to the taxable income of the assessee. The omission resulted in under assessment of income of ₹ 94.86 lakh involving tax effect of ₹ 45.46 lakh including interest. *The Ministry accepted the audit observation (December 2016) and rectified the mistake under section 143(3) read with section 147 (March 2016).*

4.3.5 Irregularities in allowing depreciation/business losses/capital losses

We give below four such illustrative cases:

CBDT vide instruction no. 09/2007 dated 11.09.2007 has highlighted the instances in which substantial loss of revenue has occurred due to incorrect allowance of depreciation and incorrect set off of brought forward losses. Therefore, the Board directed that AOs should carry out necessary verifications at the time of undertaking scrutiny assessments with reference to physical records and the claims related to losses including unabsorbed depreciation should be linked with the assessment records so as to ensure correctness of the allowance of claims of brought forward losses and depreciation.

4.3.5.1 In Maharashtra, Pr. CIT 6 Pune Charge, AO completed the assessment of a co-operative society, **Loknete Baburao Patil SSK Ltd.** for AY 2010-11 after scrutiny in December 2012 at an income of ₹ 53.63 crore. The assessee filed its return of income for AY 2010-11 at 'Nil' after setting off of brought

83 Saroj Kumar Majumdar Vs CIT (371 ITR 242) (SC)

forward business losses and depreciation aggregating ₹ 8.29 crore pertaining to AYs 2005-06, 2007-08, 2008-09 and 2009-10. However, the losses pertaining to AYs 2005-06 and 2007-08 were already set off against income of AYs 2008-09 and 2009-10. Hence, incorrect set-off of losses resulted in underassessment of income of ₹ 8.29 crore involving short levy of tax of ₹ 2.56 crore. *The Ministry accepted the audit observation (November 2016) and rectified the mistake under section 154 (June 2014).*

Section 72 provides for carry forward and set off of net loss of an assessment year against profits and gains of the following eight AYs. Under the Act, an Assessing Officer is required to determine and assess the income or loss correctly in scrutiny assessment and allow set off and carry forward of losses accordingly. Further, CBDT vide instruction No.574 dated 27-07-1973 to all Assessing Officer directed that over assessment resulting into exaggerated demands unnecessarily inflating arrear figures needed to be avoided.

4.3.5.2 In Odisha, CIT Cuttack charge, AO completed the assessment of a co-operative bank, **Cuttack Central Co-operative Bank Ltd.** for AY 2012-13 after scrutiny in March 2015 at an income of ₹ 35.79 crore. It was noticed that the brought forward losses of ₹ 5.71 crore of AY 2011-12 were not allowed to set off against the income of AY 2012-13 resulting in over assessment of income to that extent involving tax effect of ₹ 2.51 crore. *ITD rectified the mistake under section 154 of the Act (July 2015). However, Ministry did not accept (August 2016) the audit observation stating that order under section 154 was made on 03 July 2015 suo moto, before the objection was communicated.* The reply of the Ministry is not factually correct as the audit observation was communicated to the AO on 02 July 2015 and after going through the observation, the AO rectified the mistake on 03 July 2015.

4.3.5.3 In Gujarat, Pr. CIT Valsad Charge, AO completed the scrutiny assessment of an AOP, **Maroli Vibhag Khand Udhog Sahkari Mandali Ltd.** for AY 2011-12 in February 2014 at 'Nil' income after setting off of unabsorbed business losses of ₹ 27.60 crore to the extent of income. AO further allowed carry forward of business loss of ₹ 4.29 crore pertaining to AY 2009-10 and unabsorbed depreciation of ₹ 13.24 crore pertaining to AYs 2003-04 to 2009-10. However, business loss of AYs 2003-04 to 2006-07 had already been set-off against the income of AY 2008-09 and amount of ₹ 18.12 crore (₹ 2.33 crore for AY 2006-07 + ₹ 15.79 crore for AY 2009-10) was only available for set-off instead of ₹ 27.60 crore in AY 2011-12. Hence, carry forward of business loss of ₹ 4.29 crore of AY 2009-10 was incorrect as the loss should have been set off against the income of AY 2011-12. The mistake resulted into excess carry forward of losses of ₹ 4.29 crore involving short levy of potential tax of ₹ 1.21 crore and positive tax of ₹ 12.22 lakh

aggregating to ₹ 1.33 crore. ITD rectified the mistake under section 155(4) (February 2015).

4.3.5.4 In Karnataka, CIT-Central Bangalore charge, AO completed the assessment of an individual, **B. V. Sreenivasa Reddy** for AY 2012-13 under section 143(3) read with section 147 in March 2015 at an income of ₹ 1.30 crore. The assessee filed its return of income of ₹ 0.34 lakh after setting off of brought forward business loss of ₹ 1.64 crore even though there was no loss available for set off. Incorrect setting off of loss of ₹ 1.64 crore resulted in short levy of tax of ₹ 81.06 lakh including interest. ITD accepted the audit objection and rectified the mistake under section 154 (March 2016).

4.4 Income escaping assessments due to omissions

4.4.1 The Act provides that the total income of a person for any previous year shall include all incomes from whatever source derived, actually received or accrued or deemed to be received or accrued. We observed that the assessing officers did not assess/under assessed total income that was required to be offered to tax. There were also omissions in implementing TDS/TCS provisions which led to escapement of tax. Table 4.3 shows the sub-categories which have resulted in income escaping assessments.

Table 4.3: Sub-categories of mistakes under income escaping assessments due to omissions				(₹ in crore)
Sub-categories	Nos.	TE	States	
a. Incorrect classification and computation of capital gains	07	5.60	Gujarat, Rajasthan, TN and UP	
b. Incorrect computation of income	08	6.27	Gujarat and Maharashtra	
c. Omissions in implementing provisions of TDS/TCS	03	1.18	Chhattisgarh, Jharkhand and UP	
d. Unexplained Investment/cash credit	02	0.33	Chhattisgarh and Haryana	
e. Incorrect estimation of Arm's Length Price	01	1.64	AP	
f. Non-levy/short levy of Wealth Tax	07	0.47	Gujarat, Karnataka, Rajasthan and WB	
Total	28	15.49		

4.4.2 Incorrect classification and computation of Capital Gain

We give below two such illustrative cases:

Section 50C provides that where the consideration received or accruing, as a result of the transfer by an assessee of a capital asset being land or building or both, is less than the value adopted by any Stamp Value Authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, the value determined by state Government be deemed to be full value of consideration received or accruing as a result of such transfer.

4.4.2.1 In Rajasthan, CIT-I Jaipur charge, AO completed the assessment of an individual, **Sunil Sankhala** for AY 2011-12 after scrutiny in March 2014 at an income of ₹ 27.94 lakh. The assessee purchased agriculture land during FY 2006-07 for ₹ 19.27 lakh and incurred ₹ 5.62 lakh for conversion of land use from agriculture purpose to residential purpose and hence the total cost of acquisition was ₹ 24.89 lakh. The assessee sold the land for a total sale consideration of ₹ 53.00 lakh during FY 2010-11 and shown transaction under the head of income from business for ₹ 27.94 lakh. The value of converted residential land for the purpose of stamp duty was determined at ₹ 8.23 crore by Stamp Registration Department. This sale transaction has resulted into long term capital gain of ₹ 7.90 crore. The omission resulted in under computation of long term capital gain by ₹ 7.62 crore involving tax effect of ₹ 2.12 crore including interest. *ITD rectified the mistake by passing order under section 263 prejudicial to interest of revenue and set aside for afresh orders (February 2016).*

Section 45(1) of the Act provides that any profit and gains arising from the transfer of a capital asset shall be chargeable to income tax under the head 'capital gains' and is taxable in the year in which the transfer took place.

4.4.2.2 In Gujarat, Pr. CIT-III, Ahmedabad Charge, AO completed the assessment of an Individual, **Ileshbhai P. Shah** for AY 2012-13 after scrutiny in June 2014 at returned income of ₹ 2.82 crore. The assessee had purchased two agriculture lands at Gandhinagar for ₹ 7.61 lakh and ₹ 10.51 lakh in March 2009 and sold both lands for ₹ 84.00 lakh and ₹ 1.16 crore respectively in May 2011. The assessee had declared short term capital gain (STCG) of ₹ 64.81 lakh from the sale of land at Gandhinagar after deducting acquisition cost of ₹ 19.19 lakh (of both the lands) from sale value of ₹ 84.00 lakh. However, the assessee had not offered for taxation the sale consideration of ₹ 1.16 crore received from the second land. The mistake resulted in underassessment of STCG of ₹ 1.16 crore involving short levy of tax of ₹ 45.52 lakh including interest. ITD stated that the objection is acceptable and proposal for remedial action had been submitted to Pr. CIT-3 Ahmedabad.

4.4.3 Incorrect computation of income

We give below two such illustrative cases:

4.4.3.1 In Maharashtra, Pr CIT I Pune Charge, AO completed the scrutiny assessment of an AOP (co-operative society), **Vridheshwar Sahakari Sakhar Karkhana Ltd.** for AY 2009-10 in November 2011 at 'Nil' income after setting off of brought forward losses. In the assessment order, AO did not make any addition on account of excess cane purchase price stating that the assessee paid the price below Statutory Minimum Price (SMP) for both the seasons 2007-08 and 2008-09. Further, the assessee had paid additional sugarcane price of ₹1600 PMT to the members and ₹ 1595.63 PMT to non-members for season 2008-09. However, the sugar cane price worked out as per Government's instructions⁸⁴ of ₹ 1300.03 only should have been considered for 165832 MT (57804 MT to members and 108028 MT to Non members) the sugar cane purchased during season 2008-09. Adjustment of extra cane price was not in accordance with the formula prescribed for sugar cane price under clause 5A by Sugarcane (Control) Order 1966. The excess payment of sugar cane price of ₹ 4.93 crore resulted in underassessment of income to that extent involving potential short levy of tax of ₹ 1.52 crore. *The Ministry accepted the audit observation (December 2016) and rectified the mistake by passing order under section 143(3) r.w.s. 147 (March 2015).*

4.4.3.2 In Gujarat, Pr. CIT Valsad Charge, AO completed the assessment of an individual, **Sanjit J. Biswas** for AY 2011-12 after scrutiny at an income of ₹ 26.13 lakh in January 2014. In the assessment order, it was noticed that the assessee had failed to record job work receipt of ₹ 64.23 lakh. Further, AO assessed that cash deposit of ₹ 84.75 lakh in the bank was the unrecorded receipts and the same was required to be taxed. However, AO had added profit of ₹ 16.80 lakh only on account of suppressed receipt not recorded in the books of account and cash deposit, Since, the assessee did not produce any evidence in support of said cash deposit and admitted suppression of job work receipt, the total amount of ₹ 1.49 crore was required to be disallowed. The omission resulted in under assessment of income of ₹ 1.32 core (₹ 1.49 crore - ₹ 16.79 lakh) with consequent short levy of tax of ₹ 54.74 lakh. *The Ministry accepted the audit observation and rectified the mistake under section 144 read with section 147 in March 2016.*

84 Clause 5A of the Sugarcane (Control) Order 1966 (SMP+5A)

4.4.4 Omissions in implementing provisions of TDS/TCS

We give below one such illustrative case.

Section 40(a)(ia) provides that deduction of expenditure towards payments where TDS has not been deducted or after deduction, has not been deposited on or before due date, shall not be allowed.

4.4.4.1 In Pr. CIT Allahabad charge, AO while completing the assessment of an individual, **Lal Chand Yadav**, for AY 2009-10 in November 2011 at an income of ₹ 55.91 lakh allowed expenses made by assessee amounting to ₹ 1.83 crore towards 'Crain Hire Charges' on which tax has not been deducted while making payments. The mistake resulted in under assessment of income of ₹ 1.83 crore having a tax effect of ₹ 82.30 lakh including interest. *The Ministry accepted the audit observation and rectified the mistake under section 143(3)/263 in March 2015.*

4.4.5 Unexplained Investment

We give below two such illustrative cases.

Section 69C of Income Tax Act provides that where in any financial year, an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the Assessing officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year.

4.4.5.1 In Pr. CIT Gurgaon charge, AO completed the assessment of an individual, **Naresh** for AY 2009-10 after scrutiny in December 2015 at an income of ₹ 128.61 lakh. During assessment proceedings, the assessee did not provide explanation in respect of the cash deposits of ₹ 59.50 lakh in Axis Bank, Sector-14, Gurgaon and ₹ 111.89 lakh in State Bank of Hyderabad, VPO Narsingpur. While completing the assessment, AO added back unexplained deposit of ₹ 1.12 crore treating it as 'income from undisclosed sources' whereas the amount of ₹ 59.50 lakh remained to be added back. The omission resulted into under assessment of income of ₹ 59.50 lakh including tax effect of ₹ 20 lakh. *ITD rectified the mistake under section 154 (December 2015).*

4.4.5.2 In Chhattisgarh CIT Bilaspur charge, AO completed the assessment of an individual, **Bishambhar Dayal Agrawal** for AY 2010-11 after scrutiny in March 2013 at an income of ₹ 10.00 lakh and the source of receipt of assessee was mainly from State Government Department i.e. from PWD. Examination of details annexed with Form 16A issued by the PWD revealed that the department has deducted a sum of ₹ 30.45 lakh towards

Performance Guarantee and other deposit from the gross amount of bill. These deductions are depository in nature and refundable after a period of time mutually agreed upon. Thus the same should have been shown under deposit head in asset side of balance sheet. It was however seen from the Balance Sheet that these deductions were not accounted for at all which indicates that these deductions are met out of other source of income which should have been disallowed and added back to the income of the assessee as undisclosed investments under section 69 of the Act. Omission to do so resulted in under assessment of income to that extent involving short levy of tax of ₹ 12.80 lakh including interest. *ITD rectified the mistake under section 143(3)/147 of the Act (January 2015).*

4.4.6 Incorrect estimation of Arm's Length Price

The Computation of Arms Length Price (ALP) under section 92C of Income Tax Act 1961, should be referred to the Transfer Pricing Officer (TPO). The TPO, after hearing the assessee, the evidence produced by him after considering the evidence as required on any specified points and after taking into account all relevant materials which he has gathered, shall by order, in writing, determine the ALP in relation to the international transaction in accordance with provisions of Section 92C(3) and send a copy of his order to the Assessing Officer and to the assessee. Further, under section 92E, the person who entered into an international transaction shall obtain a report from an Accountant in prescribed form 3CEB showing all details relevant to international transactions.

4.4.6.1 In AP, CIT(IT & TP) charge, the Transfer Pricing Officer (TPO-3) made adjustment of ₹ 2.96 crore for AY 2012-13 in January 2016 in the case of **Value Labs LLP**. The adjustments were made in respect of transactions with three Associated Enterprises (AE's) reported in Form 3CEB. However, an International transaction of ₹ 67.41 crore with AE M/s Value Lab FZ LLC, UAE was not reported in 3CEB and hence not included in the Operating Revenue of ₹ 42.14 crore. The value of sale (operating Revenue) to AEs thus worked out to ₹ 109.54 crore (₹ 42.14 + ₹ 67.41). After considering the Arm Length Price, proportionate operating cost comes to ₹ 117.41 crore and price received against this amounted to ₹ 109.54 crore. Hence adjustment under section 92CA comes to ₹ 7.87 crore and not ₹ 2.81 crore made by the TPO. The omissions resulted in short adjustment of ₹ 5.05 crore involving short levy of tax of ₹ 1.64 crore. *The Ministry accepted the audit observation (December 2016) and rectified the mistake under section 154 (March 2016).*

4.4.7 Non-levy/short levy of Wealth Tax

Seven cases of Wealth Tax involving tax effect of ₹ 0.47 crore were reported to the Ministry during May 2016 to October 2016. We found that AO did not comply with CBDT's instructions⁸⁵ in these cases in Gujarat, Karnataka, Rajasthan and West Bengal. We give below one such illustrative case.

4.4.7.1 The Income-Tax scrutiny assessments of an individual, **A. Abdul Rafeekh** for AYs 2008-2009 to 2012-2013 were completed by the Deputy Commissioner of Income Tax, Central Circle-2(2), Bangalore in March 2014. It was noticed that the assessee had a net wealth of ₹ 18.46 crore for AYs 2008-2009 to 2012-2013. However, neither the assessee filed the return nor the department initiated any wealth tax assessment proceedings. The omission resulted in wealth escaping assessment of ₹ 18.46 crore with a consequential tax effect of ₹ 23.45 lakh including interest under section 17 B of the Act. *ITD rectified the mistake under section 16(3) r.w.s. 17 of the Wealth tax Act, 1957 (October 2015).*

4.5 Over Charge of Tax/Interest

4.5.1 We noticed over assessment of income in nine cases involving overcharge of tax/interest of ₹ 275.13 crore in Assam, Delhi and Punjab. We give below two such illustrative cases.

4.5.1.1 In Punjab, CIT Central Ludhiana charge, AO completed the assessment of **Tilak Raj Bedi**, Proprietor of Puneet Exports for AY 2007-08 under section 144 read with section 153 in November 2013 at an income of ₹ 34.02 crore. While computing the tax demand, AO charged interest of ₹ 9.07 crore under section 234B for the period of 80 months instead of correct amount of ₹ 5.33 crore for the period of 47 months. The mistake resulted in excess levy of interest of ₹ 3.74 crore under section 234B. *ITD rectified the mistake under section 154 (December 2015).*

4.5.1.2 In Assam, Pr. CIT-2, Guwahati charge, AO while completing the assessment of an individual **Sovinder Singh Sethi** for AY 2008-09 under Block assessment in March 2014 at an income of ₹ 22.58 lakh, computed tax liability at ₹ 31.55 lakh instead of ₹ 6.86 lakh. The mistake resulted in over charge of tax of ₹ 24.69 lakh. *The Ministry accepted the audit observation and rectified the mistake under section 154 in October 2015.*

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

Chapter V: Fictitious sales and purchases by Shell Companies/Hawala Operators

This Chapter deals with the fictitious transactions which took place between Bogus Entry Providers and their beneficiaries which led to generation of unaccounted income. Audit noticed failure of the ITD to effectively use various tools at its disposal to carry out suo motu detailed investigation of the facts and take up cases for scrutiny in order to bring to book the severe economic offenders.

5.1 Fictitious transactions

The White paper on Black Money defines Black money “as assets or resources that have neither been reported to the public authorities at the time of their generation nor disclosed at any point of time during their possession”. Significant amount of black money is generated through legally permissible economic activities, which are not accounted for and disclosed or reported to the public authorities as per the law or regulations. The fundamental reason for the generation of black money is to evade payment of taxes by reducing profits.

One of the most common ways to reduce profits is by inflating the purchase/ raw material cost, expenses like labour charges, entertainment expenses and commission. In such cases, bogus bills may be prepared to show inflated expenses in the books. It involves obtaining bogus or inflated invoices from the so called 'bill masters', who make bogus vouchers and charge nominal commission for this facility. Such a practice also involves the 'hawala' operators, who operate shell entities in the form of proprietorship firms, partnership firms, companies and trusts for accepting cheques for payments claimed as expense in exchange of cash after charging some commission and give rise to the black money in the market.

5.2 Role of Income Tax Department

The ITD is primarily responsible for combating the menace of black money. For this purpose, it uses the tools of scrutiny assessment as well as information-based investigations for detecting tax evasion and penalizing those found guilty of tax evasion as per provisions of the Income Tax Act, with the objective of creating deterrence against tax evasion. In doing so, ITD plays an important role in preventing generation, accumulation and consumption of unaccounted black money⁸⁶.

86 White paper on Black Money dated 16 May 2012

5.3 Audit findings

During financial year 2008-09, Maharashtra Sales Tax Department (MSTD) disclosed⁸⁷ before Bombay High Court that it had investigated about 1,555 hawala operators involving about 39,488 beneficiary dealers, who during the course of the previous three years had passed on an input tax credit of ₹ 1333 crore. The modus operandi was to claim and obtain input tax credit against the declaration of fake tax invoices without actual transactions involving the sale and purchase of goods. In order to show the transaction genuine, payments were made against the invoices by cheque or bank transfer and later on the amounts were reversed/withdrawn from the bank accounts of the hawala dealers.

The MSTD started putting the “**list of suspicious dealers who has issued false bills without delivery of goods**” on its website from 21 November 2011 onwards. At present the list contains around 2,059 dealers who had issued invoices involving tax evasion of more than ₹ 10,640 crore (including the maximum VAT at the rate of 12.5 per cent in Maharashtra).

In order to verify the efficacy of the ITD in using the tools of scrutiny assessment as well as information based investigation, we requested the Investigation wing of ITD as well as the Pr. CCIT Mumbai (November 2015) to share the data of assesseees whose names figured in the list put forth by MSTD as having issued bogus accommodation invoices⁸⁸ and the related beneficiaries. No such data was shared with Audit despite a reminder and a meeting with them (May 2016). Consequently, we undertook verification of the assessment records of the suspicious accommodation entry providers and the beneficiaries as disclosed by MSTD on their website. Findings of audit are discussed in subsequent paragraphs.

5.4 Bogus entry providers⁸⁹

We examined records pertaining to AYs 2009-10 to 2013-14 of 35 cases (*Appendix 5.1*) having PANs in the bogus purchases list of MSTD. Audit noticed that the assesseees either (i) did not file the return or (ii) filed returns with meager income or (iii) nil income or (iv) stopped filing return in later years. ITD took up the cases for scrutiny only those cases where income was reported. ITD did not take any action to examine the veracity of the facts reported therein nor did they fully follow the information provided by their own Investigation wing. Two cases are illustrated below:

87 M/s Timex Art Décor Pvt. Ltd. vs. the State of Maharashtra & Others. Judgement delivered by Bombay High Court on 25 March 2013.

88 Accommodation invoice is a bill of exchange endorsed by a reputable third party (called an accommodation party or accommodation endorser) acting as a guarantor, as a favour and without compensation, which can be discounted on the strength of the guarantor who remains liable until the bill is paid.

89 Companies/individuals who issue fictitious accommodation invoices

5.4.1 In CIT Central IV, Mumbai, **M/s Superfine Trading Co. Pvt. Ltd.** (PAN-AAJCS3337G) had shown sales/ gross receipts of business or profession aggregating ₹ 95.38 crore against accommodation invoices issued during the years relevant to AYs 2009-10 and 2010-11. In its computation of income, the assessee worked out returned income at ₹ 12.07 lakh and ₹ 10.05 lakh respectively for the two AYs, but did not pay any tax thereon. The ITD did not scrutinize the returns filed by the assessee despite the indication from the list put out by MSTD of a large number of the fake accommodation invoices issued by the firm that were indicative of generation black income.

The Ministry⁹⁰ accepted the observation (20 September 2016) stating that the cases for AY 2009-10 and 2010-11 were scrutinized under section 144/153C at incomes of ₹ 1.77 crore and ₹ 1.14 crore as against returned income of ₹ 12.07 lakh and ₹ 10.05 lakh respectively. Turnover was taken as per all credits in the bank accounts. The assessee did not attend the assessment proceedings; hence identification of beneficiaries of accommodation entries could not be made.

The Ministry's reply reflects the perfunctory approach of the ITD as the AO did not use the information available with the Investigation wing while checking the bank accounts nor made any attempt to establish the flow back of funds to the beneficiaries. The possibility of higher taxable income escaping assessment can not be ruled out against the assessed income.

5.4.2 In CIT Nasik, in the case of **M/s Ketna Engineers** (PAN-DASPS1751R) and **M/s Brij Corporation** (PAN-BBYPS6024G), AO made additions of ₹ 1.06 crore and ₹ 7.43 crore respectively for AYs 2010-11 and 2011-12 in January 2015, based on the information received from DGIT (Investigation) Pune though the assessee did not file any return/detail. The department could not trace the whereabouts of the proprietors of these concerns despite service of statutory notices and hence the recovery of the demands raised was doubtful.

The Ministry stated (16 November 2016) that the department raised demand of ₹ 78.67 lakh and ₹ 5.80 crore respectively in two cases in AY 2011-12 under section 143(3)/147 after making, additions on account of bogus purchases/hawala transactions. Various efforts including department field enquiries, police enquiries at Nashik and Mumbai, and enquiries from Sub-Registrar-Nashik, have not yielded any information about the present whereabouts of the assesseees.

The Ministry has not given any reasons for the delay in taking action when the MSDT had put the details of the firms in public domain in 2012 itself. The

90 Ministry of Finance, Central Board of Direct taxes

scrutiny assessment for a solitary AY 2011-12 was completed in January 2015. The assessee being not traceable and the department having not been able to establish the money trail and the beneficiaries of bogus purchases, the inordinate delay on the part of ITD led to permanent loss of revenue.

5.5 Beneficiaries of bogus entry providers

We examined records pertaining to AYs 2009-10 to 2012-13 of another 13 cases appearing in the MSTD list who were beneficiaries of bogus entry providers and had received accommodation entries from Utkantha group which was also appearing in the MSTD list. Audit found that ITD did not properly scrutinize returns of their income, books of accounts and bank accounts and other transactions that should have been the main links in the chain of evasion of taxes by booking of bogus purchases. The cases are given below:

5.5.1 Disallowance not made by AO

ITD did not make any disallowance in the case of M/s Hiren Orgochem Ltd. (₹ 13.19 crore) and M/s Hitech Engineers (₹ 15.17 crore). In the case of M/s Birla Cotsyn, ITD reopened assessment under section 153A specifically for looking into bogus purchases but did not disallow bogus purchase of ₹ 27.68 crore. In case of M/s Elder Pharmaceuticals Ltd., ITD did not make any addition on the ground that the total accommodation purchases was ₹ 76.39 crore and sale was ₹ 77.40 crore.

The Ministry accepted the observation in all the four cases (20 September 2016 and 16 November 2016) stating as below:

- *In case of M/s Hiren Orgochem Ltd., 12.5 per cent of the alleged purchase was added to the income in AY 2009-10 in view of the ratio laid down in the case of CIT versus Simit P. Seth⁹¹.*
- *In case of M/s Hitech Engineers, there was no information of accommodation entries of ₹ 15.17 crore in AY 2009-10 as pointed out by audit. Information has been received for accommodation entries of ₹ 26.25 crores from four group companies of Utkantha Group (as against Audit's information of ₹ 15.16 crores from two companies of Utkantha Group) pertaining to AY 2010-11. Remedial action under section 147 for AY 2010-11 has been initiated by issuing notice under section 148 issued on 07 November 2016.*
- *In case of M/s Birla Cotsyn, assessment under section 153A was completed on 28 March 2016 for AY 2008-09 to 2013-14. Additions on account of bogus purchases of ₹ 81.91 core were made, but no*

91 356 ITR 451 (Gujarat High Court 2013)

addition could be made regarding bogus purchases from M/s Utkantha Group *in the absence of any information. Remedial action was being taken by the AO.*

- *In case of M/s Elder Pharmaceuticals Ltd., revised assessment order was passed on 29 December 2015 creating additional demand of ₹ 95.78 lakh.*

Audit however found that action on the part of the AO in four above cases was not in order as is evident from the below:

- (i) In case of M/s Hiren Orgochem Ltd., the assessee was a manufacturer of chemicals. In such cases the whole purpose of obtaining the accommodation entries was to reduce the taxable income and siphon the money from the company. The case law quoted for disallowing 12.50 *per cent* is applicable for the trading concerns and not to manufacturing concerns. The assessee in this case was still benefiting being able to reduce its income by ₹ 11.54 crores (i.e. 87.5 *per cent* of bogus purchases).
- (ii) In case of M/s Hitech Engineers, the assessee had shown bogus purchases of ₹ 9.95 crore in AY 2009-10 from M/s Realstone in which no action has been taken by the department as yet.
- (iii) In the case of M/s Birla Cotsyn, ITD should have used the assessment of the accommodation entry providers (The Utkantha Group in this case) as a tool to obtain details and use the said evidence to disallow the purchases made by the beneficiaries after adducing all evidence including the flow back of funds from the entry providers instead of merely making addition on the basis of the details submitted by the MSTD. The assessee thus succeeded in concealing the bogus purchase of ₹ 27.68 crores made from Utkantha group even after the search at its premises.
- (iv) In the case of M/s Elder Pharmaceuticals Ltd., ITD made a minuscule adjustment of mere 1.25 *per cent* of the fictitious purchases accepting assessee's contention that he had made corresponding fictitious sales of ₹ 77.40 crores. It meant that the assessee passed on the fictitious entry to other concerns helping them to evade tax of ₹ 23.22 crores. The ITD should have identified those assessees who made bogus purchases of ₹ 77.40 crores from Elder Pharmaceuticals Ltd. and taken action to complete the loop of the transactions of the fictitious purchases till the ultimate beneficiary of the bogus purchases is

brought to tax. Further, as per regulations by FDA⁹², pharma companies are required to mention the batch number and the name of the actual manufacturer in their records. The AO should have verified these stock records with a view to collecting requisite evidence about the actual beneficiaries

5.5.2 Jurisdictional AOs of the final beneficiaries not informed about fictitious purchases

In case of the other major beneficiaries M/s Gebi Steel Corporation (₹ 61.77 crore), M/s Indian Drape Pvt. Ltd. (₹ 12.52 crore), M/s Aristone Trading Pvt. Ltd. (₹ 6.58 crore), M/s Bhavishya Electrical Lamination (₹ 13.20 crore) and M/s Mital Corpn. Ltd. (₹ 16.54 crore), the jurisdictional AOs of the final beneficiaries were not intimated about the fictitious purchases made by the assessee with a view to bringing them to tax appropriately.

The Ministry did not accept the observation (16 November 2016) in the case of M/s Mital Corpn. Ltd., stating that the records were supplied to the AO of M/s Mital Corpn. Ltd., which was assessed in Circle 1(1), Indore (now in Circle 3(1), Indore). From the information available in the statement of Sri Abhishek S. Morarka, Director of M/s Utkantha Trading Ltd., addition was made in the case of M/s Mital Corpn. Ltd., in AY 2010-11 on account of commission paid on bogus billing.

The reply was not tenable as the department did not intimate whether the assessee was the ultimate beneficiary of the bogus purchase or an intermediary. It is still not clear as to when the information was passed on to the AO of Mital Corpn. and when the addition was made. Quantum and sections of the Act under which the addition was made and whether the department had established the money trail which was crucial to know the ultimate beneficiary were also not provided by the Ministry.

5.5.3 Non production of record to audit for cross verification

ITD did not furnish the requisite records to audit for cross verification of the bogus purchases made by M/s Mandhana Industries Ltd. (₹ 18.10 crores), M/s Varshraj Exports (P) Ltd. (₹ 5.12 crores), M/s Lakshmi Velvete (I) Ltd. (₹ 1.49 crore) and M/s Nemani Steels (P) Ltd. (₹ 1.64 crore).

The Ministry did not accept the observation (20 September 2016) in the case of M/s Mandhana Industries Ltd. stating that the assessee moved application before Settlement Commission and Commission passed its order on 30 August 2014, which had been given effect for AY 2006-7 to 2013-14. Consequently

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AO had no jurisdiction over the case as case records were not available at that time.

Audit is of the opinion that Ministry has not specified whether the bogus purchases pointed out in audit were declared in the course of the settlement under section 245H(2)⁹³ of the Act. In this case, it was imperative for the AO to verify whether the assessee had made truthful disclosure of the fictitious purchase. In case of false disclosure, ITD should have moved to Settlement Commission for withdrawal of immunity.

The Ministry has accepted the observation (20 September 2016) in the case of M/s Varshraj Exports (P) Ltd. stating as follows:

- *For AY 2009-10, files were furnished to audit and rectification order under section 154 was passed at the instance of audit.*
- *For AY 2010-11, files were not located in post restructuring ward 11(3)(4), order under section 143(3) was passed by pre-restructuring ward 8(3)(4).*
- *For AY 2011-12, no scrutiny was made, hence files could not be made available.*
- *For AY 2012-13, the cases records were provided to audit and were available with the AO.*

The AO's action in this case was not tenable on the grounds that the audit of the case records for AY 2009-10 was made in June 2012 whereas fresh evidence regarding assessee having obtained bogus accommodation entries from Utkantha group was found in July 2012. It was still not clear whether the ITD had taken remedial action to disallow the bogus purchase by reopening the assessment under section 147 or review under section 263. The department neither furnished the records to audit nor gave any categorical reply whether the bogus purchases of ₹ 5.12 crores made during the years relevant to AY 2009-10 and AY 2012-13 were disallowed.

5.6 Non-linking of fictitious transactions

ITD restricted its assessment to the assessment records of the concerned assessee only instead of cross linking/covering the whole chain of such fake transactions with forward and backward linkages so as to find out the ultimate beneficiaries and tracing the paper and money trail to establish the flow back of funds to the beneficiaries. Four illustrations are given below:

⁹³ Section 245H(2) provides that any immunity granted to the person can be withdrawn by the Settlement Commission, if such person in the course of settlement proceedings has concealed any particulars material to the settlement or had given false evidence and thereupon such person may be tried for the offence with respect to which immunity was granted and become liable for penalty.

5.6.1 M/s Loha Ispaat Ltd. (PAN-AAACL1583C) accounted for bogus purchases⁹⁴ and brought back the cash generated therefrom as investment in shares through bogus entry provider. In FY 2012-13, the AO received post search additional information that the assessee had accounted for bogus purchases of ₹ 2999.01 crore and sales of ₹ 3031.79 crore pertaining to AY 2006-07 to AY 2012-13 from M/s Utkantha Trading Pvt. Ltd. and other group of companies. ITD accepted contention of the assessee that the said purchases/sales were accommodation purchases for turnover purposes without investigating or cross-checking with the central excise records of the assessee.

The assessee admitted during the assessment process (FY 2013-14) that bogus sales were made to companies like M/s Aeroflex Industries Ltd. (₹ 141.62 crore), M/s Forward Export Trading (₹ 403.29 crore) and M/s Hemeara India (P) Ltd. (₹ 111.05 crore), which were not reported to the AO concerned. Verification of the assessment records of M/s Aeroflex Industries Ltd. for AY 2009-10 and AY 2010-11 showed that ITD did not take any action to disallow the bogus purchases.

The Ministry accepted the observation (20 September 2016) stating as under:

- *Considering the bogus purchases/sale with M/s Utkantha Trading Pvt. Ltd., the AO worked out the income of ₹ 107.60 crore from such accommodation entry. Further, AO also made addition of ₹ 202 crore on account of unaccounted money introduction in the books of the assessee for bogus share application money. Further, assessee was not even given the benefit of telescoping as the unaccounted income from accommodation turnover was added separately from the addition of such income in form of share application money since the assessee failed to provide one to one linkage between the two. Adverse finding of the audit thus was not acceptable as AO made additions appropriately in the respective assessment years.*
- *As regards the transactions with M/s Aeroflex Industries Ltd. and others, AO had duly considered the issue of bogus purchases/sales made by the assessee including bogus share premium and completed the assessment for AY 2013-14 in March 2016 making additions on account of:*
 - (i) *bogus/unexplained share premium money under section 68 of ₹ 48 crore.*

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- (ii) bogus accommodation entries of ₹ 77.04 crores as commission income (@1.5 per cent of total accommodation entries of ₹ 5136.56 crore).*
 - (iii) depreciation on bogus purchase of fixed assets of ₹ 94.31 crore.*
 - (iv) making payment without account payee cheque for amounts exceeding twenty thousand rupees under section 40A(3) of ₹ 1.47 lakh, and*
 - (v) late payment of employee provident fund under section 36 of ₹ 5.06 lakh.*
- *Ministry further stated that there was no loss of revenue as each bogus purchase involved bogus sales also. They are generally issued in order to inflate the balance sheet and turnover figures so as to avail increased bank loan by showing higher net worth and inflated turnover. The AO while making assessment for AY 2013-14 added back the commission income earned by the assessee for this cyclic bogus transaction. As a matter of fact, the assessee had shown sales at lower rate and sold the actual goods in grey market at higher price and thus reduced this turnover and his net profit. There was no evidence on record to substantiate the claim that goods have been sold in grey market at higher value. As regards non communication of the bogus sales made to companies such as M/s Aeroflex Industries Ltd. to respective AOs, the respective jurisdictional AOs of M/s Aeroflex Industries Ltd., M/s Forward Export Trading and M/s Hemeara India (P) Ltd., have been informed and remedial measures taken up.*

The contention of the Ministry is not acceptable as the ITD should not have accepted the contention of the assessee that the bogus purchases were backed by corresponding bogus sales, without making a proper investigation. The assumption that the assessee had recorded bogus purchases and sales only to inflate the turnover and to obtain the bank loans should not have been ab-initio accepted by the AO. Further such claim was not substantiated with any evidence on record. The ITD merely relied on the statements made by the assessee. Cross check of the data on bogus sales said to have been made by the assessee would reveal that the beneficiaries who had obtained the entries, had used it to reduce their profit and the ITD did not take any action to disallow the purchases in the hands of the beneficiaries. Consequently the beneficiaries took undue benefit of accommodation entries.

Further, the disallowance of ₹ 107.60 crores was not on account of bogus purchase per se but the value of the difference of the quantity (26,147.96 MT) of the bogus purchases and the bogus sales which the assessee claimed to be the bogus unsold purchases as shown in the closing stock. The ITD had made addition of ₹ 11.47 crores on account of commission paid to brokers in cash for making arrangements for bogus purchases and did not make any addition against total bogus purchases of ₹ 2,999.01 crores made from Utkantha Group. The AO made addition of ₹ 202 crore of share premium without mapping the flow back of funds, said to be generated from the bogus purchases. In the case of Ganayaka Steels Pvt Ltd commented in the subsequent paragraph, the ITD simply accepted the contention of the assessee that both the purchases as well as the corresponding sales were bogus, without cross checking the veracity of this statement or making proper analysis of the bank account of the companies from whom the assessee obtained accommodation entries. The buyers of these bogus sales were established companies but the ITD did not notify the AO of the beneficiaries to disallow the bogus sales of ₹ 3031.79 crores during the period AY 2006-07 to 2012-13.

Moreover, if there was no evidence to prove that the ITD had crossed checked the sales claimed to be non genuine. Further, if the Gross Profit (GP) ratio for the genuine sales was 28.72 *per cent*, the minimum addition should have been the GP ratio of 28.72 *per cent* and not 1.5 *per cent* as added by the ITD. The ITD did not make any verification of the central excise records and stock record which ascertained the actual gap in the quantity of sales and purchases based on actual evidence of the statutory records required to be made under Central Excise Act, 1944. In the absence of any appropriate evidence or such verification of mismatch in the quantitative data of the stock account, conclusion drawn by the ITD was not proper. Besides, ITD did not verify the bank accounts to verify the flow of funds in regard to fictitious purchases and sales.

5.6.2 M/s Ganayaka Steels Ltd. (PAN-AADCG3686N) had two Directors for merely signing the papers of the company., The directors of M/s Loha Ispaat Ltd accepted during investigation (February 2012) that their group had effectively managed M/s Ganayaka Steels Ltd., which had shown sales of ₹ 111.75 crore to M/s Loha Ispaat Ltd. and others in AY 2010-11. Assessee's bank account disclosed that it had received ₹ 26.30 crore only from M/s Loha Ispaat Ltd. Difference of ₹ 76.29 crore receivable from Loha Ispaat and others was reduced from Sundry debtor without any receipt, indicating that it was either diverted or written off without receipt of money. Transfers of ₹ 9.38 crores (AY 10-11) and ₹ 13.41 crore (AY 12-13) were made to a

Director and family member of M/s Loha Ispaat Ltd. without assigning any reasons. This was indicative of a systematic diversion of money to the family members of Directors of M/s Loha Ispaat Ltd. ITD did not look into the above discrepancies and made additions of merely two *per cent* of the sales of ₹ 111.75 crore i.e. ₹ 2.24 crore (AY 10-11) and 2 *per cent* of ₹ 19.04 crore i.e. ₹ 38.07 lakh (AY 12-13).

5.6.3 M/s SKM Real Infra Ltd. (PAN-AAFCS2659R) was a group company of M/s Shree Ram Mills. During survey of M/s Shree Ram Mills group conducted in February 2013 it was found that the assessee company had taken accommodation invoices for purchases of value of ₹ 32.46 crore from hawala operators and made corresponding sale of ₹ 21.38 crore and balance of ₹ 11.06 crore was included in closing stock. ITD disallowed only five *per cent* of sales of ₹ 21.38 crore i.e. ₹ 1.07 crore (AY 2009-10) being accommodation entries. Cross check of one of the recipient M/s Krishna Trading Corporation of the bogus sales (₹ 3.00 crore) who did not file return of income, revealed that the department did not go after the ultimate beneficiaries of such bogus sales that passed through several business concerns.

5.6.4 M/s Gini & Jony Ltd. accepted that the purchase of ₹ 14.52 crore in AY 2012-13 was bogus without any movement of goods which was in turn passed on to its subsidiary **M/s G. J. Freedom Fashions Pvt. Ltd.** (PAN-AACCG5427E). The ITD made addition of ₹ 29.06 lakh only two *per cent* of the purchase amount to the returned income of M/s Gini & Jony Ltd. However, no disallowance was made in the subsidiary company, the ultimate beneficiary.

The Ministry accepted the observation (20 September 2016) stating that the issue of bogus sales of ₹ 14.52 crore was under verification, the assessment records were not readily available. After verification, remedial action shall be initiated.

5.7 Inconsistency in disallowing/making additions in cases involving Bogus entries/purchases

We analyzed 845 cases of beneficiaries who had obtained bogus invoices aggregating ₹ 1167.11 crore against which addition of ₹ 210.55 crore at an average of 18.04 *per cent* of the bogus purchases was made to the return income. In 344 cases, AOs did not record any section of Income Tax Act in support of the disallowance made. Section 37, 68 and 69 of the Income Tax Act were quoted in 231 cases, 44 cases and 170 respectively for making disallowances. AO made proportionate disallowance under section 68 and 69 though these sections provided for disallowance of entire amount if it was unexplained. AOs rejected the books of accounts under section 145(3) in

19 cases, making disallowance of 12.5 per cent in 17 cases and full disallowance in two cases. Percentage of disallowance varied from 2 to 30 per cent in 536 cases involving bogus purchase of ₹ 1021.02 crore (87.48 per cent by value). Full disallowance was made in 279 cases involving ₹ 124.61 crore. The method of disallowance involved ad-hoc percentage, gross profit margin or peak credit method without applying any logical pattern pertaining to a particular type of industry or nature of operation.

5.7.1 Audit examined the link of beneficiaries of M/s Utkantha Trading Pvt. Ltd and found as follows:

- Assessment of M/s Utkantha Trading Pvt. Ltd. for the AY 2009-10 was completed in December 2011. We noticed from the affidavit given to MSTD in January 2010 by Shri Abhishek S. Morarka, Director of M/s Utkantha Trading Pvt. Ltd. that the company along with other companies were giving accommodation invoices only without actual sales or purchases. The payment was received through the banks and after retaining the commission, the payments were made back to beneficiary. MSTD declared the company as a suspicious dealer. This was also pointed out to the ITD (July 2012). AO accepted the observation and made additions after reopening the assessment under section 263 (January 2014) as below:

AY	Sales	Purchases	Basis of disallowance	(₹ in crore)
				Addition made
2009-10	179.68	178.77	0.5 per cent of the purchases	0.89
2010-11	43.54	61.77	Peak credit method	0.66
2011-12	56.14	38.15	Peak credit method	0.24

Banks informed the AO in 2013 that the assessee had either closed the bank accounts or left a nil balance or a very meager balance in the account. Thus the department was not in a position to recover the demands.

- Similarly, ITD made additions in the other group companies of M/s Utkantha Group without applying any uniform pattern of action as below:

AY	Sales	Purchases	Basis of disallowance	(₹ in crore)
				Addition made
M/s Citybase Multitrade P. Ltd., (PAN-AADCC4376R) - ITO 4(1), Thane				
2010-11	405.03	Data not available	5 per cent of ₹ 405.03 crore	20.25
2011-12	122.56	122.44	1.25 per cent of ₹ 8.78 crore	0.11
2012-13	42.15	8.06	No disallowance	nil
M/s Candy Filters (Bombay) Ltd. (PAN-AAACC4124C) - ITO(1)(1)(2), Mumbai				
2009-10	113.06	112.85	0.25 per cent of ₹ 113.06 crore	0.28
2010-11	182.86	182.77	0.25 per cent of ₹ 56.80 cror	0.14

2011-12	5.81	8.31	Not assessed	nil
2012-13	6.5	6.47	No disallowance	nil
M/s Realstone Exports Ltd. (PAN-AACCR8504K) - ITO 11(1)(2), Mumbai				
2010-11	273.22	290.59	1 per cent of ₹ 279.76 crore	2.78
2011-12	59.85	85.55	1 per cent of ₹ 115.90 crore	1.16
2012-13	68.57	68.2	1 per cent of ₹ 30.07 crore	0.3
M/s Siddhpad Trading Pvt. Ltd. (PAN-AAMCS2192L) - ITO 1(3)(2), Mumbai				
No disallowance were made in any assessment years.				
M/s Duralloy Cutters P Ltd. (PAN-AABCD4127B) - ITO 6(2)(3), Mumbai				
Files were not furnished to audit.				

It is seen from the above that M/s Citybase Multitrade Pvt. Ltd. made purchases of ₹ 8.06 crore for AY 2012-13. Cross check of records of M/s Realstone Exports Pvt. Ltd. for AY 2012-13 revealed that total sales made to M/s Citybase Multitrade Pvt. Ltd. were ₹ 44.76 crore as against ₹ 8.06 crore. ITD did not make any attempt to reconcile the difference.

- Further, Utkantha Group created a chain of 23 companies (including six companies investigated by the MSTD) which were engaged in intricate circular trading, a very serious economic offence, without actual sales and purchases to help the beneficiaries evade the payment of income tax over ₹ 647 crore by booking fictitious expenses in their books. No action was taken to prosecute the Directors of the companies under the provisions of section 276 of the Act and their companies got away with meager addition. As per the records made available to audit, against the total amount of sales of ₹ 2,183.72 crore, the department made a disallowance of ₹ 26.94 crore only which worked to on average of 1.23 per cent.

The Ministry accepted the observation (20 September 2016) stating as below:

In the case of M/s Utkantha Trading Pvt. Ltd., the income of the assessee was estimated on the basis of the facts of each year. Audit has not pointed out any specific method on use of such method for estimating the income.

In the case of M/s Candy Filters (Bombay) Ltd., for AYs 2009-10 and 2010-11, additions of 0.25 per cent commission income were made based on report received from Investigation wing. Proposal for reopening the case for AY 2011-12 is being sent. No such circular/entry providing transactions was found in AY 2012-13 and the assessee had changed its trade.

In the case of M/s Realstone Exports Ltd., additions were made uniformly at the rate of one per cent on sales and purchases. Penalty had also been levied.

In the case of M/s Siddhpad Trading Pvt. Ltd., there was no information for bogus purchases in AY 2009-10. Proposal for reopening cases pertaining to AYs 2010-11 and 2011-12 has been sent.

As regards action taken by the ITD in four cases, audit is of the opinion as below:

In the case of M/s Utkantha Trading Pvt. Ltd., there was total lack of consistency in the additions made in regards to the disallowance made in same assessment charge from year to year even when the assessee was following same practice of giving accommodation entries. The speaking order did not specify as to why a specific method, peak credit method, was used in respective assessment years and how the percentage of disallowance was arrived at. For the use of peak credit method, clear evidence of rotation of funds was required whereas the ITD did not obtain even the bank accounts in this case to ascertain the flow of funds. The peak credit method was worked out on the basis of data supplied by the assessee, which was neither verified with the bank accounts nor cross-checked with the records of the beneficiaries.

In the case of M/s Candy Filters (Bombay) Ltd., in the same group company the ITD had made disallowance of five *per cent*. All the aspects having remained same, in this company the ITD made a addition of only 0.25 *per cent* in this case without elaborating as to how the disallowance of 0.25 *per cent* was arrived at and the methodology used to arrived at this percentage. For AY 2012-13, cross check of the records of M/s Gini & Jony Ltd. (as discussed in preceding para 5.6.4 of this report) revealed that the assessee had given accommodation entries involving ₹ 49.82 lakh. Hence the assessee had not made any circular/entry nor changed its trade in AY 2012-13. No person can sell goods without a valid registration⁹⁵. The assessee was continuing to give bogus entries even after the registration was cancelled. The ITD did not verify the complete loop of the transactions even when there was evidence to the contrary. Their conclusion that there was no circular/entry transaction in AY 2012-13, was not based on facts and not in order.

In the case of M/s Realstone Exports Ltd., the basis for working out disallowance at the rate of one *per cent* was also not mentioned in the speaking order. The ITD did not verify the bank accounts to ascertain the flow of funds. Further, the information on bogus sales was not passed on to the AOs of the beneficiaries for making disallowance defeating the very purpose of scrutiny of the entry providers.

In the case of M/s Siddhpada Trading Pvt. Ltd., the reply was factually incorrect and given without looking into the evidence, the affidavit given to MSTD in January 2010 by Shri Abhishek S. Morarka, Director of M/s Utkantha

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Trading Pvt. Ltd., which stated that the company along with other companies including M/s Siddhpad Trading (P) Ltd. were giving accommodation invoices without actual sales or purchases which established that the company was indulging in giving accommodation entries. Despite this clear evidence, the assessee had given accommodation entries of ₹ 176.18 crore in the AY 2009-10 to the beneficiaries enabling them to evade taxes by reducing their income but ITD did not take any action against the assessee. The assessment for AY 2009-10 became time barred resulting in loss of revenue. In the subsequent AYs 2010-11 and 2011-12, the ITD initiated action only at the instance of audit. No action has been initiated for the AY 2012-13 which involved accommodation entries of ₹ 48.63 crores.

5.7.2 MSTD declared **M/s Colourshop Trading (P) Ltd.** (PAN-ACCC6822H) as a hawala dealer. The Directors of this company Mr. Rajiv Rajendra Mody and Mr. Rajendrabhai Mody were Directors in five other companies also. The Assessment of the AY 2012-13 was completed under section 144 on 20 March 2015 by making addition of merely ₹ 1.33 crore i.e. 0.50 *per cent* of the sales ₹ 266.08 crore. The ITD did not initiate any action to identify whether the other associated companies were being assessed or not. We noticed that only one company of the group M/s Orbit Products Private Ltd. had filed its return for the AY 2010-11 onwards but scrutiny assessment of this company was not carried out to find out the recipients of the bogus invoices.

5.8 Inconsistent additions in case of other intermediaries and beneficiaries

We noticed that in cases pertaining to intermediaries and beneficiaries, the ITD lacked consistency in making additions and disallowances involving bogus purchases

5.8.1 **M/s Dev Steels** (PAN-AAFD9093M) had given accommodation bills of ₹ 108.61 crores given to M/s Unity Infra projects Ltd., for which AO made disallowance at two *per cent* (AY 2006-07 to 2010-11) as against five *per cent* recommended by investigation wing as the GP ratio of 1.54 shown by the assessee was very low.

The Ministry accepted the observation (20 September 2016) stating that order under section 263 has been passed for AYs 2006-07 to 2010-11 and assessments afresh will be completed by December 2016.

5.8.2 In the case of **Smt. Suman Vijay Gupta** (PAN-AHQPG0220P), the AO had disallowed ₹ 67.52 lakh i.e. only 25 *per cent* of the bogus purchases of ₹ 2.70 crore during AY 2010-11 (March 2013). However, in an identical case,

the AO disallowed the full amount of bogus purchases. ITD accepted the audit observation (January 2014).

The Ministry accepted the observation (20 September 2016) stating that action under section 153A for AY 2010-11 was under way and would be completed by 31.12.2016, disallowing total bogus purchases of ₹ 2.70 crores as pointed out in audit.

5.8.3 Shri Mohit Jain (PAN-AFAPJ6477R) as an intermediary had obtained purchase bills of ₹ 9.69 crore from hawala parties and then forwarded the same to Readymade Steel India Ltd. who passed it to the actual beneficiaries. The AO estimated the gross profit at three *per cent* of the sales (AY 2010-11) as against 12.50 *per cent* normally being adopted in case of trading concerns. The AO also did not report the matter to the AO of Readymade Steel so as to complete the loop of disallowance.

The Ministry did not accept the observation (16 November 2016) stating that the assessee was only a part of the link of entry providers of fictitious bills and not a self beneficiary of the bills arranged by him for M/s Readymade Steel India Ltd. The assessee had declared a GP of 1.56 per cent on the amount of bogus bills issued by him during the year. As such no further disallowance on this score, than the disallowance of three per cent as has been done by the AO in the assessment order, can be justifiably made. The Department, however, initiated remedial action in the light of the Board's Instruction, and disallowed the assessee's transactions with M/s Readymade Steel India Ltd. aggregating to ₹ 5.75 crore in their entirety.

The reply was not tenable for the following reasons:

- (i) Normally in trading concerns, department has been making additions of 12.5 *per cent* to 25 *per cent* whereas in this case the addition made was only 3 *per cent*. The objective of audit was to highlight the inconsistency of the department.
- (ii) The department having identified the assessee as a bogus entry provider ideally should have completed the loop by tracing the ultimate beneficiary of these bogus entry providers. However, the record furnished to audit did not reveal that any such efforts were made by the department.

5.8.4 M/s Siddivinayak Marketing (PAN-ABGFS8797K) and **M/s Ravi Realtors** (PAN-AAEFR0239C) had made bogus purchases of ₹ 6.86 crore and ₹ 7.21 crore from three hawala dealers but AO did not make any addition (AY 2011-12).

The Ministry accepted the observation (20 September 2016) stating that it was not ascertainable whether information regarding bogus purchases were made available on records at the time of passing order under section 263 of the Act. Suitable remedial action will be initiated in due course.

Audit is of the opinion that in the case of M/s Siddivinayak Marketing, there was evidence on record in the assessment files that the ITD had received requisite information about the bogus purchases from the sales tax department. However, the ITD did not make any additions or disallowances. The ITD needs to improve the system. The assessment of the accommodation entry providers (The Utkantha Group in this case) should have been used as a tool to obtain details and use the said evidence to disallow the purchases made by the beneficiaries after adducing all evidence including the flow back of funds from the entry providers. Lack of co-ordination and proper data sharing between respective AOs would result in loss of revenue to the Government exchequer. In case of Ravi Realtors, no action was taken even after it was pointed out in audit in March 2015.

5.9 Other compliance issues of suspicious purchases

We noticed miscellaneous issues of suspicious purchases where ITD did not make any disallowance or failed to make the correct disallowance. Five cases are given below:

5.9.1 In the case of **M/s Shree Ram Urban Infrastructure Ltd.** (PAN-AACCS0454P), the AO disallowed (March 2014) an aggregate amount of ₹ 38.43 crore during AY 2009-10 and 2010-11 on account of bogus purchases disclosed during the survey action (February 2013) and reduced the same from the work in progress but the same was not reduced from work in progress in subsequent AY 2011-12.

The Ministry accepted the observation (20 September 2016) stating that the assessee was following percentage completion method of accounting and has recognized revenues only in AY 2012-13, since less than 30 per cent of the project was completed. Therefore, though the closing WIP was inadvertently worked out by not considering the disallowances made in the assessment orders for AY 2009-10 and 2010-11, the same has no revenue impact on the income of the relevant assessment year i.e. AY 2011-12, as there was no sales in the AY 2011-12 and the revenue was not recognized in the said assessment year. Subsequently, when the revenues were recognized in AY 2012-13, the closing WIP was correctly worked out by considering the disallowances made in AY 2009-10 to AY 2012-13. However, in order to correct the inadvertent mistake occurred in the assessment order for AY 2011-12, necessary rectification will be carried out so as to reflect the closing WIP correctly.

Audit is of the opinion that the department assessed the case of AY 2011-12 without considering the reduction in WIP in the previous assessments. This was indicative of the fact that the department did not correlate their own records while framing the Assessment order. It cannot be said that the mistake did not have any tax effect. If the matter was not pointed in audit, the assessee would have been able to reduce the taxable profit by including the bogus purchases in the WIP in the subsequent AYs.

5.9.2 M/s Erica Healthcare Private Ltd. (PAN-AABCN5831E) had made purchase of ₹ 18.35 crore from 4 hawala dealers. The AO did not make any addition on the ground (March 2013) that the assessee had made circular trade in which ₹ 37.89 lakh was offered to tax (AY 2010-11). However, we noticed that the assessee had in fact booked a loss of ₹ 1.99 crores through circular entries with the hawala parties.

The Ministry accepted the observation (20 September 2016) stating that notice u/s 148 has been issued, scrutiny proceedings are underway, final report shall be submitted on completion of scrutiny.

5.9.3 M/s Gopal Krishna Papers Pvt. Ltd. (PAN-AAACG3597M) had made purchases of ₹ 4.89 crore from two hawala operators. AO did not make any disallowance in the assessment order pertaining to AY 2010-11 though the assessee made sale of ₹ 79.46 lakh only against the purchases of ₹ 4.89 crore. The assessee extinguished the liability of ₹ 2.77 crore by making adjustment in sundry debtors and unsecured loans without giving any cogent reason.

5.9.4 In the case of **M/s Indigo Edutainment Pvt. Ltd.** (PAN-AABCI2949E), ITD made an addition (March 2014) of unexplained purchase (AY 2008-09) from dummy company M/s Database Software Technology Pvt. Ltd. of ₹ 16.18 crore instead of actual amount of ₹ 42.13 crore booked in the accounts. Thus there was an underassessment of ₹ 25.95 crore. Besides, bogus purchase aggregating ₹ 82.05 crore from two more companies M/s Basant Marketing Pvt. Ltd. and M/s Himachal Futuristic Communications Ltd. was also not disallowed.

The Ministry accepted the observation (20 September 2016) stating that order under section 143(3)/263 has been passed on 18.03.2016 making additions of ₹ 112.97 crore of unexplained purchases.

5.9.5 In the case of **Mr. Siddarth Praful Mehta** (PAN-AEXPM2847Q), while computing bogus purchases for AY 2010-11, ITD inadvertently made disallowance of purchases of ₹ 1.40 crore (March 2013) pertaining to FY 2008+09 instead of ₹ 3.78 crore informed by MSTD against the purchases from hawala operators during FY 2009-10. Even this disallowance was not in

conformity with the figures reported by MSTD for FY 2008-09 and corrective action was required to be taken for AY 2009-10 also.

The Ministry accepted the observation (20 September 2016) stating that order under section 154 passed on 21.11.2013 wherein purchases were taken at ₹ 3.78 crore instead of ₹ 1.40 crore.

5.10 Additions set aside in appeal

We analysed 25 cases (*Appendix 5.2*) decided by ITAT and found that the additions made were set aside in 18 cases, three cases were returned for fresh decision and additions in four cases were partly sustained in the range of 6 to 20 *per cent* of the bogus purchases. The major reason for setting aside the additions was that the additions were made merely on the basis of information obtained from the MSTD without conducting any independent enquiries or detailed investigation.

Lack of suitable guidelines/instructions to strengthen the investigation, scrutiny process and evidence gathering mechanism covering whole chain of bogus transactions in coordination with authorities of the State Tax/Central Excise Departments to establish the additions led to their unsustainability and setting aside in appeal.

Ministry stated (20 September 2016) that there are adequate measures, provisions in the Income Tax Act to deal with and curb the practices of introducing bogus purchases, hawala transactions, etc. Further, effective monitoring would do the needful for the field authorities to act. Regional Economic Intelligence Committees (REIC) have been formed for better coordination gathering and exchange of information as well as dealing with the information and the defaulter in best possible ways. There cannot be uniform law to deal with such information and there is no need either as the Statute contains enough provisions to deal with them. The hindrance of actionable intelligence is being removed with the advancement of technology and provisions of the Act for gathering of information relating to the Specified Financial Transactions. There are provisions relating to levying of penalties and launching of prosecution in the suitable cases. The effective monitoring will tackle this problem also.

Audit findings however did not corroborate the optimism of the Ministry as the department did not carry out any meaningful investigation subsequent to the receipt of information from MSTD and merely made additions based on such information without adducing any evidence which could be upheld in the appellate forum.

5.11 Conclusion

Audit examination of ITD's manner of dealing with non reporting with unaccounted income and generation of black money with specific reference to case of fictitious sales and purchases reported in the public domain by MSTD revealed that the tools available at the disposal of the department have not been put to any effective use. The department did not even scrutinize all the assessees featuring in the list of MSTD indulging in giving accommodation entries for bogus purchases. The information regarding bogus purchases were not passed on to AOs who were assessing the beneficiaries when the entry providers were assessed. The current provisions have not acted as a deterrent as there are no disincentive for giving and receiving accommodation entries. Established companies have also resorted to practice of obtaining bogus purchases which shows that present system of gathering evidence and acting thereon is ineffective. The information received by the department is not complete and the information is being used selectively and many assessees go scot free without any action from the department. The present system of making adhoc disallowance would only lead to generation of black money through such fictitious sales and purchases⁹⁶.

96 Second Report of Tax Administration Reforms Commission headed by Dr. Parthasarathi Shome, furnished to Government of India on 26 September 2014

Chapter VI: Functioning of Directorate of Income Tax (Infrastructure)

6.1 Introduction

The availability and expansion of infrastructure in the Income Tax department (ITD) did not keep pace with the exponential growth in the number of assesseees, revenue collection and the consequent growth in the volume of work of ITD. This led to serious infrastructure bottlenecks in smooth functioning of ITD over a period of time.

The Central Board of Direct Taxes (CBDT), Department of Revenue, Ministry of Finance constituted a three member Task Force on Infrastructure (TFI) in November 2002 to assess the situation and recommend ways and means to improve it. The TFI in its report, presented to CBDT in June 2003, noted that the requirement of ITD had greatly increased. Manifold increase in the number of tax payers was putting pressure on physical resources as well as on expenditure budget. Further, greater use of modern technology necessitated re-engineering of business processes, re-deployment of man-power, up-gradation of skills of the work-force and their intensive training. The layout of offices which was geared to functioning in a manual environment was not found suitable in the present context. While the demand on the existing infrastructure had greatly increased, augmentation of the infrastructure had lagged behind. The TFI suggested several measures to make good the gap in infrastructure.

Against this backdrop, the Directorate of Infrastructure (Directorate) under the CBDT, Department of Revenue, Ministry of Finance was created vide Gazette Notification dated 21st November 2005. The Directorate is responsible for drawing up of construction programmes for ITD and their implementation on all India basis, which includes examination of individual proposals including drawing up a schedule of accommodation, scrutiny of plans and estimates and securing requisite approvals from the competent authority. The Directorate is also responsible for the scrutiny of proposals regarding acquisition of land for construction of building, finalization of budget proposals in respect of construction, purchase of buildings. Examination of proposals regarding repair of departmental buildings and minor works, hiring of office/office cum residential accommodation, purchase and hiring of vehicles for ITD including replacement are also being dealt with by the Directorate.

The Directorate is divided into three wings headed by ADG (Infra)-I, ADG (infra)-II and ADG (infra)-III. ADG (Infra)-I is responsible for all India infrastructure projects including hiring of office buildings. ADG (Infra)-II is responsible for all India budget including allocation of capital and revenue

budget. ADG (Infra)-III is responsible for conducting of various studies and preparation of result framework document.

6.2 Audit Objectives

This audit was conducted with a view to ascertaining whether:

- a) the instructions contained in the Manual on Infrastructure of the ITD and CPWD Manual were followed while planning and executing works relating to development of infrastructure in the ITD;
- b) the provisions of the General Financial Rules, 2005 and instructions of the ITD were followed while spending public money.

6.3 Audit Criteria

The following sources of criteria were relied upon for evaluating the activities of the Directorate:

- a) Manual on Infrastructure issued by the Directorate of Infrastructure.
- b) General Financial Rules, 2005.
- c) Circulars/instructions issued by the Ministry/CBDT from time to time.
- d) CPWD Manual.

6.4 Audit Scope and Methodology

This audit covered the period from the financial year 2012-13 to 2015-16. All projects sanctioned, completed as well as those in progress during the audit period were examined. The audit methodology consisted of scrutiny of records/documents of the Directorate and offices of Principal CCsIT/CCsIT, where works projects were under implementation. Out of 838 files/records requisitioned, the ITD produced 712 records, which were examined in the audit. The ITD did not produce the remaining 126 files/records (15 per cent).

6.5 Planning and execution of projects

6.5.1 Non furnishing of complete information along with proposals for acquisition of land

A proposal mooted for purchase of land by Pr. CCIT/CCIT should reach finality within a reasonable time. Para 2.4 of 'Manual on Infrastructure' (Manual) prescribes that space requirement may be computed as per prescribed norms, full justification may be given for purchase of land and required certificates/checklists may be submitted by Pr. CCsIT/CCsIT along with the proposal. The Manual⁹⁷ provides that the proposal for acquisition of land should inter alia accompany a certificate from CPWD about the suitability of

97 Annexure XVI(b) of Manual on Infrastructure of ITD

land which includes topography, shape, accessibility, availability of necessary civic infrastructure viz. water, electricity, sewerage, etc. having a bearing on the suitability of the plot. As per the prescribed checklist, the proposal should also accompany a non-encumbrance's certificate from the district/local authority. The Manual also required that SFC/CNE⁹⁸ Memorandum (for proposal above ₹ 20 crore) may also be sent with the proposal.

The Audit observed in 21 proposals for acquiring land pertaining to 17 commissionerates in 11 states⁹⁹ that the Pr. CCsIT/CCsIT did not send proposals complete in all respects (*Appendix 6.1*). Required information/documents including certificates, checklist, certified layout plan, period of validity of offer, etc. were not sent by the CCsIT with the proposals. As a result, these proposals could not be cleared and were pending with the Directorate.

Audit noticed that out of these 21 proposals, 13 proposals were pending for a period ranging from one year to nine years of which eight proposals were two to five years old and two proposals were more than seven years old.

There were delays in according Administrative Approval & Expenditure Sanction (AA & ES) due to non-observance of the due procedure at the very initial stage of acquiring of land itself.

6.5.2 Poor scrutiny of land acquisition proposals

Audit noticed 54 cases (*Appendix 6.2*) pertaining to 25 Commissionerates in 16 states¹⁰⁰ where the ITD acquired land during the period 1973 to 2014 without following the guidelines prescribed in the Manual, as a result these were lying unutilized. Scrutiny revealed that despite shortcomings in the proposals sent by the Pr.CCsIT/CCsIT, the Directorate accorded AA&ES for acquisition of land. This led to non-utilization of land which defeated the intended purpose of acquisition of land.

Three cases are illustrated below:

6.5.2.1 Land at Finance City, Bengaluru – Acquisition of land not having basic civil infrastructure and resultant non-utilization

Proposal of the Pr. CCIT, Bengaluru for purchase of two acres of land at newly developed Finance City Project, Devanahalli, near Bengaluru Rural District, developed by M/s IFCI Infrastructure Development Ltd. (IIDL) on lease cum sale basis, for construction of office building at a cost of ₹ 7.50 crore was approved (January 2013) by DIT(I). Possession certificates was obtained after

98 SFC- Standing Finance Committee, CNE – Committee for Non-plan Expenditure

99 Chandigarh-1, Chhattisgarh-1, Gujarat-1, Haryana-2, Jharkhand-3, Maharashtra-3, MP-3, Rajasthan-2, Tamil Nadu-2, UP-2, Uttarakhand-1

100 Andhra Pradesh & Telengana-3, Assam-2, Bihar-3, Delhi-1, Goa-3, Gujarat-6, Haryana-5, Jharkhand-2, Karnataka- 2, Maharashtra-4, MP-1, Odisha-5, Rajasthan-4, UP-4, Uttarakhand-1 and West Bengal-8

paying the amount to M/s IIDL and getting registered the lease cum sale agreement in October 2013 after paying a stamp duty of ₹ 18.83 lakh. The Department subsequently decided (May 2014) not to go ahead with the construction owing to non-availability of basic infrastructure like water, electricity, etc.

Thus the Pr. CCIT/Directorate overlooked the land acquisition guidelines given in the Manual and proceeded for acquisition of land in a newly developed area where basic civil infrastructure facilities were yet to be provided. This resulted in non utilization of land which led to non fulfillment of the purpose viz. to meet the acute shortage of office space.

In addition, the Pr. CCIT, Bengaluru paid ₹ 18.83 lakh towards stamp duty for execution of lease cum sale agreement deed though it was exempt under Article 285(1) of the Constitution of India which exempts the Union Government from payment of taxes.

The Department replied (March 2016) that it was not a case of idle investment as the investment on land would appreciate in future and further the land was in the vicinity of Bangalore International Airport. The reply is a poor attempt to rationalize the decision to acquire the land without taking into account the infrastructural facilities. Meanwhile, the Departmental offices continued to operate from hired building.

6.5.2.2 Land at Saket, New Delhi – acquisition of land with encumbrance and resultant non utilization

The Pr. CCIT, Delhi purchased (February 1997) a piece of land measuring 2100 sq. metres located at Saket, New Delhi at a cost of ₹ 15.30 crore from Delhi Development Authority (DDA) which was reduced to 1320 sq meters due to encumbrance. This land was purchased without checking that there was no encumbrance on the land which was a basic requirement, as per Manual, for the proposal for acquiring of land. DDA allowed ITD to increase the height of the building to compensate the encumbrance.

Pr. CCIT approached CPWD for construction of office building on the land but CPWD did not show any interest in taking up the work due to reduced size of the land. Thereafter, Pr. CCIT approached NBCC to give estimate for construction of the office building on the land. NBCC submitted its comprehensive proposal in May 2008 for construction of office building including furniture and fixtures at a total cost of ₹ 54.70 crore. No decision has been taken by the Directorate on the proposal. Thus even after a lapse of more than 18 years the Directorate was yet to work out the modalities for construction of office space leading to non-utilization of land and incurring of rent on hiring of office space and running offices in places which has been

declared unsafe e.g. Mayur Bhawan. The preliminary cost of construction which was ₹ 54.70 crore (May 2008) has been escalated to ₹ 71.31 crore (February 2015) which may further increase by the time construction is started.

The Department stated (May 2016) that the main reason for delay was on account of CPWD which did not show any interest in the project and raised so many objections such as (i) reduction of plot size leading to insufficient basement parking, (ii) building a centrally air conditioned building not possible, (iii) need to resort to costlier cantilever construction, etc. This led to revision of proposal. Subsequently, it was decided to get the work done through NBCC. Later on, it was decided that the matter may be kept in abeyance till a final decision on RSRI (Revenue Services Research Institute) was taken by the Finance Minister. The Department also attributed procedural formalities as the reason for delays in concluding the construction activity and that such procedural delays are a regular feature in government projects.

The reply of the Department is very general and vague and did not give any reasonable justification for not doing due diligence at the time of acquiring the land and for prolonging the matter for more than 18 years thereafter. It clearly indicates the casual approach of the Department in resolving the issues.

6.5.2.3 Purchase of landlocked property without ensuring approach road

The CCIT Panaji, Goa was allotted land measuring 3130 sq. metre by the Government of Goa possession of which was taken in April 2000. The CCIT sent (November 2000) a proposal for construction of office building. The Directorate after a lapse of nearly six years approved (August 2006) the proposal for construction of office building in 961 sq. metre. While preparing the lay out plan CPWD noticed the land did not have any approach road. The land for approach road was yet to be acquired as of March 2016.

Audit observed that while acquiring the land from the State Government and getting the proposal of the building approved, the CCIT, Panaji and the Directorate failed to notice that the land in question did not have any approach road, resulting in non utilization of land even after 16 years of the acquisition. Further, the offices of Department continued to operate from rented premises which were avoidable.

The Department replied (March 2016) that it was resolving the issue with the Government of Goa which does not take away the fact that there was poor scrutiny of proposal at the acquisition stage.

6.5.2.4 Failure on the part of the Directorate in exercising due diligence at the planning and designing stage of the projects led to acquisition of land that was incapable of being used for construction of much needed office accommodation.

6.5.3 Deficiencies in construction of office and residential buildings

Para 3.1 of the Manual requires the freezing of specifications/features proposed at the time of preparation of estimates to avoid time/cost overrun before sending for consideration by competent authority, keeping close liaison with CPWD at the stage of preparation of comprehensive estimates, drawings/ designs.

Audit noticed 54 cases under 27 CCsIT in 21 states¹⁰¹ of various deficiencies in execution of works viz. delay in completion of works due to non compliance of the above and consequent cost escalation, avoidable payments and non-maintenance/improper maintenance of records, etc. These cases had a financial implication of ₹ 287.07 crore. Two cases are illustrated below:

6.5.3.1 Failure to follow guidelines with regard to specifications and lack of monitoring resulted in cost escalation

Charge: Pr. CCIT West Bengal & Sikkim

The work for the construction of office building and RTI/car park in Aayakar Bhavan, Poorva at Shanti Pally, Kolkata, West Bengal was approved (November 1998) at a preliminary estimate of ₹ 35.12 crore. The work, stipulated to be completed by March 2005 (administrative block) and March 2006 (RTI/car parking), was completed in October 2012 and August 2015 respectively. The cost of the project was revised to ₹ 60.15 crore in December 2012 (actual expenditure incurred on the project could not be ascertained in audit as the same was not available with the Department). There was time overrun of more than seven years and cost escalation of ₹ 25.03 crore.

The delay in completion was mainly due to failure of the CCIT, Kolkata to get the approval for the structural drawings for taking up of the pile foundation work from CDO, CPWD till 2000, failure to get approval of Building Plan from Kolkata Municipal Corporation (KMC) and late clearance of height of multi-storied buildings from KMC, late submission of fees for drainage system by CCIT, changes in drawings/specifications, inadequate monitoring of the progress of work which were mostly controllable. Failure of the CCIT, Kolkata

¹⁰¹ Andhra Pradesh & Telengana-2, Assam-2, Chandigarh-1, Chattisgarh-1, Delhi-2, Goa-1, Gujarat-3, Haryana-1, Himachal Pradesh-3, Jammu & Kashmir-2, Karnataka-3, Kerala-2, Maharashtra-7, Madhya Pradesh-3, Odisha-2, Punjab-2, Rajasthan-4, Tamil Nadu-1, Tripura-1, Uttarakhand-1 & West Bengal-10

and the Directorate to monitor the progress and freezing of design specifications resulted in delay in completion of the project.

The Department stated (February 2016) that the delay in completion of the project was beyond its control and was wholly attributable to the executing agency. It was also stated that the decision taken for the changes of the specifications was justified and that its pre-planned and organized approach has resulted in construction of one of the finest, modern and aesthetically beautiful buildings of any Government Department.

The reply is not tenable as requirements and specifications of the building should have been finalized by the Pr. CCIT before taking up construction of the office building. Thus, failure to freezing the specifications and proper monitoring led to cost and time overrun.

6.5.3.2 Lack of monitoring resulted in delay in the construction of the building

The CCIT Chandigarh purchased 3008.33 Sq.Yds. of land for construction of residential quarters for CIT rank officers in Sector 39-B, Chandigarh in March 2006. The construction was to be completed in three years i.e. by March 2009.

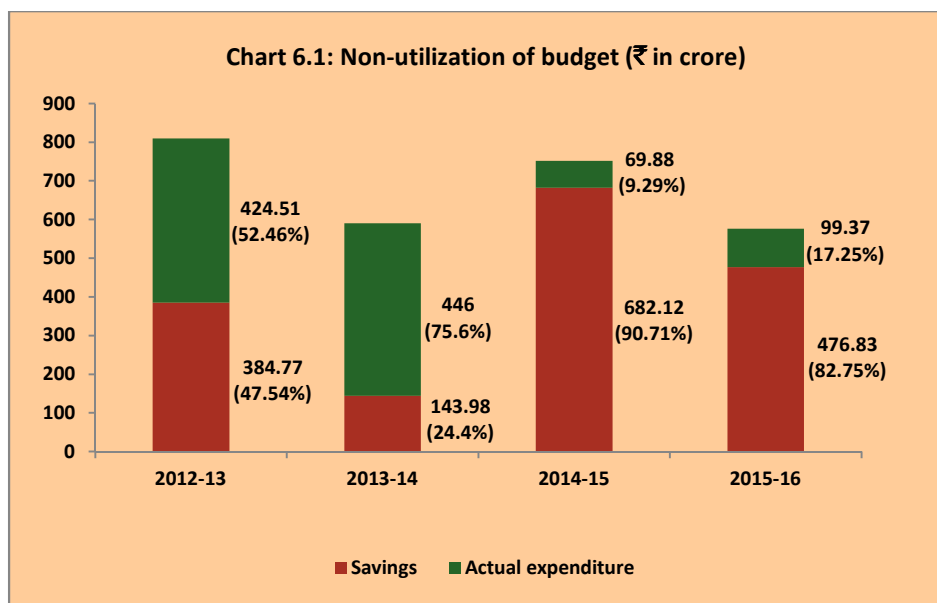
The administrative approval and expenditure sanction for construction was received in March 2009 and building plans were got approved from PAC, UT, Chandigarh in March 2011 and as such, the construction did not even commence till the time by which it was supposed to be completed. Work for construction of residential quarters was awarded in July 2015.

Lack of monitoring and follow up by the Directorate/CCIT concerned resulted in delay in construction of the residential quarters and non utilization of land for the intended purpose. Further, due to delay in construction within the stipulated period, the Estate Officer, UT, Chandigarh imposed extension fee of ₹ 1.67 crore.

6.6 Financial Management

6.6.1 Poor budgeting and non utilization of available budget

The year-wise budget and actual expenditure incurred by ITD under capital outlay M.H. 4059 – Acquisition of office accommodation, M.H. 4075 – Acquisition of property and M.H. 4216 – Acquisition of Residential accommodation during the period from 2012-13 to 2015-16 are given in Chart 6.1 below:



The Directorate failed to utilize the entire budget in each of the years under review despite the fact that there were several proposals where AA&ES were already given and several were waiting for AA&ES. Though the shortage of space increased from 32 *per cent* in 2012-13 to 45 *per cent* in 2015-16, percentage of utilization of budgeted allocation decreased from 76 *per cent* in 2013-14 to 17 *per cent* in 2015-16.

6.6.2 Poor financial management

General Financial Rule 21 provides that every officer incurring or authorizing expenditure from public money should be guided by high standards of financial propriety. Every officer should also enforce financial order and strict economy and see that all relevant financial rules and regulations are observed, by his own office and by the subordinate.

Audit noticed 51 cases pertaining to 25 CCsIT in 17 states¹⁰² of non utilization of funds, sanctions not obtained from the competent authority, inordinate delay in purchase of land, non-deduction of tax on purchase of land, avoidable payment on account of interest on delayed payment, stamp duty, etc. involving an amount of ₹ 246.81 crore.

6.6.3 Not obtaining approval of the competent authority

As per General Financial Rule 220, no authority may incur any expenditure or enter into any liability involving expenditure or transfer of moneys for investment or deposit from Government account unless the same has been sanctioned by a competent authority. Further as per Rule 23, the financial

¹⁰² Andhra Pradesh & Telengana-1, Bihar-6, Chattisgarh-1, Delhi-3, Gujarat-6, Haryana-4, Jharkhand-2, Karnataka-3, Kerala-2, Maharashtra-3, Odisha-2, Punjab-1, Rajasthan-2, Tamil Nadu-8, Uttarakhand-1, Uttar Pradesh-4 & West Bengal-2

powers of the Government have been delegated to various subordinate authorities vide Delegation of Financial Powers Rules, 1978 as amended from time to time.

As per para 1.2 of Manual on Infrastructure, proposals requiring sanction of expenditure beyond the delegated power of Chairman, CBDT are to be submitted for approval of Competent Authority as specified vide O.M. No. 1(9)/E.II(A)/07 dated 6th April 2010. Test check of records of the Directorate relating to sanctions revealed that in three cases expenditure amounting to ₹ 190.33 crore were not sanctioned by the competent authority, as given in Table 6.1 below:

Table 6.1: Details of sanctions not sanctioned by the competent authority						
Sl. No.	Subject	CCIT Charge	Amount (₹ in crore)	Date of sanction	Competent authority for sanction	Sanctioned by
1	Hiring of office space on lease/ rental basis, Nariman Point, Mumbai	Mumbai	107.47 (₹ 2.98 crore p.m. for initial period of three years)	20.3.2015	Minister in -Charge/ finance Minister	Revenue Secretary
2.	Extension of contract to M/s BVG, Civic Centre, Delhi	Delhi	49.21	24.6.2015	Minister in charge	Revenue Secretary
3.	Hiring of additional operational vehicles	All Principal CCITs/ DGITs	33.65	16.01.2015	Minister in -Charge	Revenue Secretary

The Department replied (May 2016) that in case of sanction amounting to ₹ 33.65 crore relating to hiring of additional operational vehicles, the Revenue Secretary (RS) had presumed that he was the competent authority to approve this subject. Reply is not acceptable as the hierarchy below RS was fully aware of the provisions of the Manual and should have informed RS about the appropriate competent authority for sanction in question.

6.6.4 Irregularities in hiring of accommodation on lease/rental basis

As per the Department of Revenue OM dated 15.9.2011 the Head of the Departments under the control of CBDT can hire/revise the rent of office accommodation up to ₹ 3,00,000/- per month in A-1 and A class cities and ₹ 1,50,000/- per month in respect of other cities. As per Manual on Infrastructure, the rent revision proposals should be submitted to the CBDT for sanction through the Directorate in respect of the cases where the proposed rent after revision exceeds the financial limits of the HOD.

During the course of audit, irregularities of ₹ 59.57 crore in 32 rent revision cases pertaining to 11 CCsIT in nine states¹⁰³ relating to unauthorised payment of rent, non fixation of rent in accordance with Standard Lease Agreement, delay in rent revision/lease agreement, excess payment of rent were noticed.

6.6.5 Continuation of accommodation on lease without renewal of lease agreement

Chapter 6 of the Manual on Infrastructure provides that the procedure for continuation of hiring of leased premises at the same rate or at altered rates should be initiated at least six months before the expiry date of original/current hiring agreement/deed.

A test check of records of the Directorate revealed that there were 136 cases where sanctions of revision of rent were pending from one to 23 years. Forty lease cases were pending for revision for more than 10 years, of which seven cases are more than 20 years old. Two cases are illustrated below:

6.6.5.1 Irregular expenditure on lease rent

In Delhi under the Pr. CCIT, Delhi charge, the Department hired premises at Mayur Bhawan and Jhandewalan on lease. The Audit observed that the lease agreements in respect of Mayur Bhawan and Jhandewalan Building since 30.03.2009 and 07.08.2013 respectively were pending for approval of the competent authority. The rental outgo at the existing rate in the case of Mayur Bhawan was ₹ 21.31 crore (April 2009 to March 2016) and of Jhandewalan was ₹ 17.95 crore (September 2013 to March 2016). Further, any increase in the existing rate of rent for the lease period under renewal will have further outgo due to retrospective impact.

In response to the audit observation the Department replied (May 2016) that the process of renewal of lease agreement was a lengthy process as this involved securing 'Non Availability Certificate' and 'Rent Reasonability Certificate', etc. The certificates had been submitted to DIT (Infra) for obtaining 'Administrative Approval and Expenditure Sanction' which was yet to be received. It was further stated that clause 14 of Standard Lease Agreement (SLA) as given in the Infrastructure Manual provided that rent at old rate shall continue to be paid on provisional basis till the date of final decision on renewal or the date of eviction, as the case may be and in case of renewal at different rate, suitable adjustment by extra payment or deduction shall be permitted, to the lessee.

103 Andhra Pradesh & Telengana-1, Bihar-3, Delhi-1, Gujarat-3, Jharkhand-7, Kerala-2, Maharashtra-3, Tamil Nadu-7, West Bengal-5

Accordingly the Department had continued paying the monthly rent of the premises hired at the last approved rates until the approval from CBDT is obtained.

The reply is not tenable as clause 14 of SLA also states that “provided the lessee shall take action so far practicable to take a new lease of the said premises within a period of six months after expiry of the term hereby granted”. The Department was unable to conclude the required formalities despite passage of three to six years period. Thus the amount spent on above said lease was irregular in the absence of approval by the competent authority.

6.6.5.2 Non renewal of lease agreement and delay in shifting of offices led to avoidable payment of rent

In West Bengal under the Pr. CCIT, West Bengal and Sikkim charge, the Department hired office premises (134664 sq. ft.) in 1971 spreading over third to fifth floor and eighth floor of Poddar Court Building, Kolkata. Lease agreement after August 2002 was pending for renewal.

The Department completed (October 2012) the construction of an administrative building at Shanti Pally, Kolkata. The CCIT (CCA), Kolkata after completion of new building in October 2012 asked concerned CsIT to make all arrangements for shifting in new building within a week. Audit observed that CsIT did not comply with the direction of CCIT(CCA). Failure of the concerned CsIT to shift and de-hire the entire leased space in Poddar Court building immediately resulted in avoidable expenditure of ₹ 5.46 crore towards idle rent as shown in Table 6.2 below:

Table 6.2: Details of avoidable payment of rent						
Shifting from Poddar Court building to new building	Date of completion of ABP at Shanti pally	Date of shifting	Date of surrender	Delay in shifting	Delay in surrender	Payment of avoidable rent (₹ in lakh)
				from completion of new building (No. of months)		
Third and fifth floor	October 2012	October 2012	June 2013	Nil	7	113.41
Fourth and eighth floor		July 2015	July/August 2015	33	Nil	432.35
Total						545.76

The Department replied (February 2016) that the reasons for delay were non completion of scrutiny assessment proceedings till 31 March 2013, limited man power specialized in shifting huge volume of old records, to avoid grievance of the assesseees in receipt of returns and regular correspondences and installation and operation of Nodes in the new building which were essential for completion of proceedings was not appropriate at the fag-end of the year.

The reply of the Department is not tenable as the Department has not been complying with the provisions of Chapter 6 of Manual of Infrastructure and further, could have planned for its requirements in advance.

6.6.6 Delay in repair and maintenance works

Construction activities in CCsIT had resulted in creation of large number of capital assets viz. office and residential buildings, guest houses, etc. After taking over of buildings, maintenance of the same is essential for its proper up-keep and extended life span. Inadequate maintenance in the building leads to deterioration of building prematurely and can even pose safety challenges. Timely completion of works needs to be ensured in a coordinated manner to gainfully utilize the scarce resources. Chapter 7 of the Manual lays down procedure for repair and maintenance works, which state that proposals for repair and maintenance should be complete in all respect and after following the prescribed checklists.

Audit noticed that the Department did not comply with the provisions of the Manual which resulted in irregularities of ₹ 5.92 crore in 25 cases pertaining to eight¹⁰⁴ states. The delay in completion of repair work ranged from one year to 22 years. In nine cases, delays were more than three years. In one case, delay of more than 22 years was noticed. One case is illustrated below:

6.6.6.1 Pending repair work of Residential Towers

Para 5.2.1 of Manual on Policies and Procedure for procurement of works states that a system of project monitoring for each work procurement shall be prepared before start of the work and same shall be available at site of work. The work shall be monitored quarterly/monthly basis by the Works committee and a status report should be submitted to the Secretary in charge of the concerned Ministry/Department.

In Delhi under the Pr. CCIT, Delhi charge, the Department proposed (December 2010) for comprehensive special repair/upgradation of Ghagra, Saraswati and Sharda Towers in Vaishali, Ghaziabad. These residential towers were in poor condition. An estimate of ₹ 12.78 crore was given by CPWD for repair work of these towers. The CBDT accorded approval in May 2011 for ₹ 14.18 crore (including ₹ 1.40 crore for electrical work). The work was to be completed within 18 months i.e. by October 2012.

The Audit observed that CPWD did not complete the above mentioned work in time as the work was not completed by April 2014. Current status of the project was not available with the Pr. CCIT, Delhi. This indicates that there

104 Andhra Pradesh & Telengana-1, Assam-1, Bihar-1, Delhi-9, Gujarat-1, Karnataka-4, Tamil Nadu-1 and West Bengal-7

was lack of effective monitoring mechanism for ongoing works projects in the Pr. CCIT, Delhi/Directorate.

6.6.7 Irregularities in maintenance of Guest House, non maintenance of stock register, etc.

Audit found irregularities like improper maintenance of guest house, non maintenance of stock register, non-conducting of inspection etc. in 15 cases pertaining to six states¹⁰⁵.

6.6.8 Non maintenance of fixed assets register, central database of immovable assets, etc.

6.6.8.1 Rule 190(2)(i) of General Financial Rules requires that separate accounts shall be kept for fixed assets such as plant, machinery, equipment, furniture, fixtures etc. in the Form GFR - 40.

Audit noticed that Register of Fixed Assets was not being maintained as required in GFR 190(2)(i) in four¹⁰⁶ commissionerates. Other commissionerates did not produce the fixed assets register.

6.6.8.2 In May 2000, the ITD decided to create a central database of all immovable assets of the Department. For this purpose ITD directed all CCsIT/DGsIT vide its letter no. F. no. 208/2/2000-Ad-VIII(DT) dated 08.05.2000 to send an annual report on the availability and shortage of immovable assets of the department as on 31 March of each year by each charge. As per the information provided by the Directorate in February 2016, there were 75 pieces of land in possession of the Department. However, the current status of these plots of land was not available with the Directorate (April 2016). During the examination of records, the Audit noticed that 22 more pieces of land (*Appendix 6.3*) were in the possession of ITD which were not recorded in the information provided by the Directorate to the Audit. This indicates that the instructions dated 08.05.2000 were not complied with and no centralized database of assets was created by the Directorate.

6.6.8.3 The list of pending and ongoing infrastructure projects were not made available to the Audit in absence of which, the Audit was unable to check the details of actual fixed assets with the ITD.

6.7 Conclusion

Audit noticed weakness in planning and implementation of infrastructural works by the Directorate/Pr. CCsIT. We noticed cases where CCsIT did not send proposals for acquisition of land complete in all respect resulting in

105 Gujarat-5, Himachal Pradesh-1, Jharkhand-4, Kerala-1, Tamil Nadu-3, West Bengal-1,

106 Delhi, Ludhiana, Mumbai and Ranchi

delays in according approvals. Cases were noticed where construction of office/residential buildings did not take place as acquired land was incapable of being used for construction. Unsuitability of land indicates poor due diligence before acquiring the land. There were delays in according administrative approval for construction leading to projects not taking off. There is a need to improve planning and approval process to complete the projects in a time bound manner. Audit also noticed weakness in financial management in implementing the works project by the Directorate. The Directorate was not able to utilize the budgeted allocation fully although there was shortage of office space. We came across cases where approval by the competent authority was not given for spending money and lease rent was being paid without renewing the lease deed.

We referred this to the Ministry of Finance in October 2016 for its comments. Response of the Ministry was awaited (December 2016).

Chapter VII: Centralised Processing Centre, Bengaluru

7.1 Introduction

The Government of India (GOI) on the recommendations of Business Process Re-engineering Committee (BPR Committee) approved (February 2009) establishment of Centralised Processing Centre (CPC) for bulk processing of income tax returns (ITR) at a total project cost of ₹ 255 crore. The Finance Act, 2008 amended the Income Tax Act, 1961 (the Act) by inserting a sub-section 1A under Section 143 empowering the Central Board of Direct Taxes (the Board) to make a scheme for centralized processing of income tax returns (ITRs) with a view to expeditiously determining the tax payable by, or the refund due to the assessee. Accordingly, Income Tax Department (ITD) established CPC in Bengaluru for centralized processing of income tax returns received through e-filing website and paper returns at Karnataka and Goa.

The work relating to establishing and operating CPC at Bengaluru was awarded to a consortium led by M/s Infosys Technologies Ltd., Service Provider (SP) by executing a 'Master Services Agreement' (MSA). The contract was for five years starting from October 2010. The contract for CPC Bengaluru was extended (December 2014) for two years i.e. upto September 2017.

7.2 Organisational structure

CPC was under the overall control of the Director General of Income Tax (Systems), New Delhi. A Project Management Unit (PMU) headed by Director of Income Tax (DIT) has been set up at CPC site for implementation and day-to-day monitoring of the Project. DIT was assisted by Additional/Joint, Deputy/ Assistant Directors, Income Tax Officers, Inspectors of Income Tax and Tax Assistants. The role of ITD is that of user management and involves, *inter alia*, strategic control of CPC and laying down policy and metrics of success relating to CPC, budgetary control, authorizing business rule changes including changes based on Finance Acts, system upgrades and monitoring the activities of the Service Provider.

7.3 Audit Objectives

The audit was conducted with a view to ascertaining whether:

- a. CPC has achieved its intended objectives of efficient and effective processing of ITRs, establishing scientific and systematic record storage and retrieval management system; and establish a robust, reliable and scalable accounting system;
- b. Application Controls in the system were adequate to ensure data integrity and mapping of business rules into the system;

- c. IT General Controls in the system were adequate to ensure security, reliability and integrity of the system;
- d. MSA and SLA entered into with SP follow the principles of financial propriety.

7.4 Audit criteria

The following sources of criteria were considered for evaluating the performance of CPC:

- a. Master Service Agreement with Service Provider;
- b. Service Level Agreements with Service Provider;
- c. Income Tax Act, 1961 and Income Tax Rules, 1962;
- d. Information Technology Act, 2000;
- e. Comptroller and Auditor General's Information Technology Audit Manual;
- f. General Financial Rules, 2005;
- g. Ist Cabinet note of 2009.
- h. IInd Cabinet note of 2014.
- i. eSAFE-GD 210 & e-SAFE-GD 220– Assessment Guidelines Ver 1.0 issued by the Department of Information Technology, Government of India;
- j. ITD's Manual of Procedures and relevant Notifications / Circular instructions issued by CBDT from time to time.

7.5 Scope of audit and methodology

This report covers the functioning of CPC Bangalore which was evaluated after conducting systems audit and audit of contract management. The proposed audit methodology consisted of examination of the system documentation comprising of Software Requirement Specifications (SRS), System Design Document (SDD), Standard Operating Procedures (SOPs), User Manuals, Administration Manuals and other deliverables prescribed in the MSA/SLA; running queries on dump data to check inconsistencies, errors, omissions, exception reports and to examine the data pending reconciliation; examination of Departmental records relating to areas covered in audit viz. outsourcing policy, contract documents, Master Service Agreement, Service Level Agreements, application controls, general controls, record management, etc.

However, above methodology could not be adopted as processed data in the form of 'dump' and about 40 *per cent* of the records requisitioned were not provided by the ITD. The CPC allowed limited access to 'Form View' (read only) of processed individual returns (from the sample made available) in CPC portal, wherein individual PAN-based returns were test checked.

Further, during the course of audit 138 audit requisition memos were issued to the ITD calling various records/information necessary for the audit of CPC, Bengaluru. Against these, reply to only 87 audit requisition memos were furnished (some of them partly). Even the main records like (i) change request documents (partly), (ii) records related to service level agreements (partly), (iii) tendering documents, (iv) business continuity policy and disaster recovery policy, (v) details of payments including invoice raised by the service provider from July 2013 (vi) sanctioned strength and men in position with respect to CPC Bengaluru, (vii) training provided to ITD staff for processing of IT returns, etc. were not provided to audit despite correspondence, meetings and verbal requests at various levels. Non-production of records/information proved a major impediment in conducting the audit.

We held Exit Conference with CBDT on 28 October 2016 wherein audit findings were discussed. We have duly incorporated the comments of the Ministry in the Report.

7.6 Selection of Sample Size

With a view to reviewing whether the procedures and processes adopted at CPC are in conformity with the provisions of the Act and the Rules, Audit sought 'Data Dump' relating to returns processed during the three years from 2012-13 to 2014-15. However, the data dump was not made available. Instead, the DIT-CPC suggested, during the Entry Conference on 29.07.2015, that the audit team may examine a few specific cases of processed returns to understand the operational aspects of CPC.

Even though this suggestion was considered to be constraining, the Audit Department to carry out its mandate sought list of PAN (50 cases each) covering a cross section of different types of assessee, required to file returns under all the prescribed ITR Forms, of ITRs processed during the three years from 2012-13 to 2014-15 on the basis of ten parameters comprising of high value refund/demand cases, returns with 'NIL' income, loss returns, cases of belated/revised returns, cases where refund/demand has been increased/decreased after rectification.

Against this, DIT-CPC provided list of only 58 PANs under the parameters defined *ibid*. In addition, the Audit was provided with list of 13 PANs against another query. With a view to expanding the sample size, the Audit also

selected some cases from the records of compliance audit conducted by the office of the Principal Director of Audit (Central), Bengaluru.

Accordingly, 557 PANs in all pertaining to different AYs between 2011-12 and 2014-15 were checked in the “Form-view access” (read-only), provided to the Audit in CPC server. The limited access to the CPC server and the non production of records/data acted as major constraints in the effective conduct of audit.

Major audit findings are discussed below.

7.7 Processing of ITRs, record storage and retrieval management system, accounting system and taxpayers’ services

7.7.1 Processing of ITRs

CPC processed 9.04 crore returns since its inception in October 2010 to January 2015, with a peak processing capacity of 3.78 lakh returns per day. Average processing time during 2014-15 was 65 days which was less than that specified in citizen’s charter (six months) and much less than the average processing time of manual processing (approx. 14 months). CPC has processed more than the projected 2.7 crore e-filed returns that CPC was to process in five years. Faster turnaround time in processing contributed to reduction of interest outflow on refunds.

7.7.2 Record Management

According to SR 13 under Clause 2.3.1 of Appendix-A of MSA, the objective of Record Management was to store all returns securely and scientifically to ensure lifespan till destruction and to facilitate easy and quick retrieval when needed. Detailed procedures and responsibilities of SP in this regard have been defined under Clause 5.1.3 there under.

Nearly seven crore physical records consisting of ITR-Paper Returns, ITR-V, Metadata pertaining to the three years i.e. 2012-13 to 2014-15 have been stored at the warehouse, the bulk of which constitute ITR-V pertaining to electronic returns filed without digital signature.

The need of such a large, safe and scientifically managed record system for ITRs is not clear when pre-validated scanned images of ITRs/ITR-V that are available in CPC database could satisfy legal or verification requirements and would be on par with production of physical records.

The Ministry replied (October 2016) that this (storage of records) is an integral part of the contract with the Service Provider and has to be maintained till the end of the Contract. The transaction cost under the CPC Contract is an all encompassing cost including the cost of storage of physical documents. No additional cost is paid for such storage. Further, if the

documents are stored at CPC then additional cost towards rental of office space would become payable by CPC. It was further stated that the Department has taken several steps to eliminate the need for submission of ITR-V, by enabling Electronic Verification of ITRs. In FY 2015-16 nearly 25 *per cent* of ITRs were verified using Electronic Verification Code (EVC) or DSC. This percentage has increased in FY 2016-17 till date to over 39 *per cent*.

Reply of the Ministry is not acceptable. Verification of ITRs using EVC or DSC shows that there is no need to store physical copy of ITR V. As regards the cost, the ITD will continue to pay charges for storage to the SP which is inbuilt in per transaction cost.

7.7.3 Establishing a Tax Accounting System

Audit sought (October 2015) information on related areas, viz., Final Chart of Accounts defining primary and secondary accounting codes, integration with external application such as OLTAS, TDS/TCS, PAN/TAN, Refund Banker, etc., tax claims reconciliation, TDS / tax credit accounting and reconciliation in respect of demands and refunds, rectification, interface with field officers and audit logs/trails.

However, the DIT-CPC furnished (November 2015) only two design documents viz., FAS¹⁰⁷ Global Design and FAS Design Specifications, along with screen shot of FAS accounting entries relating to a single PAN under each ITR Form type on sample basis.

In the absence of required information, the Audit could not check whether the accounting system in place actually conformed to the prescribed norms and whether the collection figures as shown by CPC tallied with those of ZAO.

The Ministry stated (October 2016) that Global Design of the Financial Accounting system submitted by ITD contained all the information relating to Final Chart of Accounts defining primary and secondary accounting codes, integration with external application such as OLTAS, TDS/TCS, PAN/TAN, Refund Banker, etc., tax claims reconciliation, TDS / tax credit accounting and reconciliation in respect of demands and refunds, rectification, interface with Field Officers, etc. The Ministry further stated that it has provided MIS and other reports that are generated and used in the processing of return to give the Audit a view into the implementation of the accounting policy.

The reply of the Ministry that documents relating to Global Design of the Financial Accounting System (FAS) submitted by ITD contained all the information called for by Audit is incorrect since the design document specifies only the design of the FAS application whereas audit query was

107 Financial Accounting System

regarding implementation of the said application. Audit was not able to review the FAS application as details of the implementation of the application and the reports/output generated were not provided to Audit. The MIS report stated to be furnished was only a sample screenshot of the report from which review of the implementation process and verification of outputs/reports of the application was not possible.

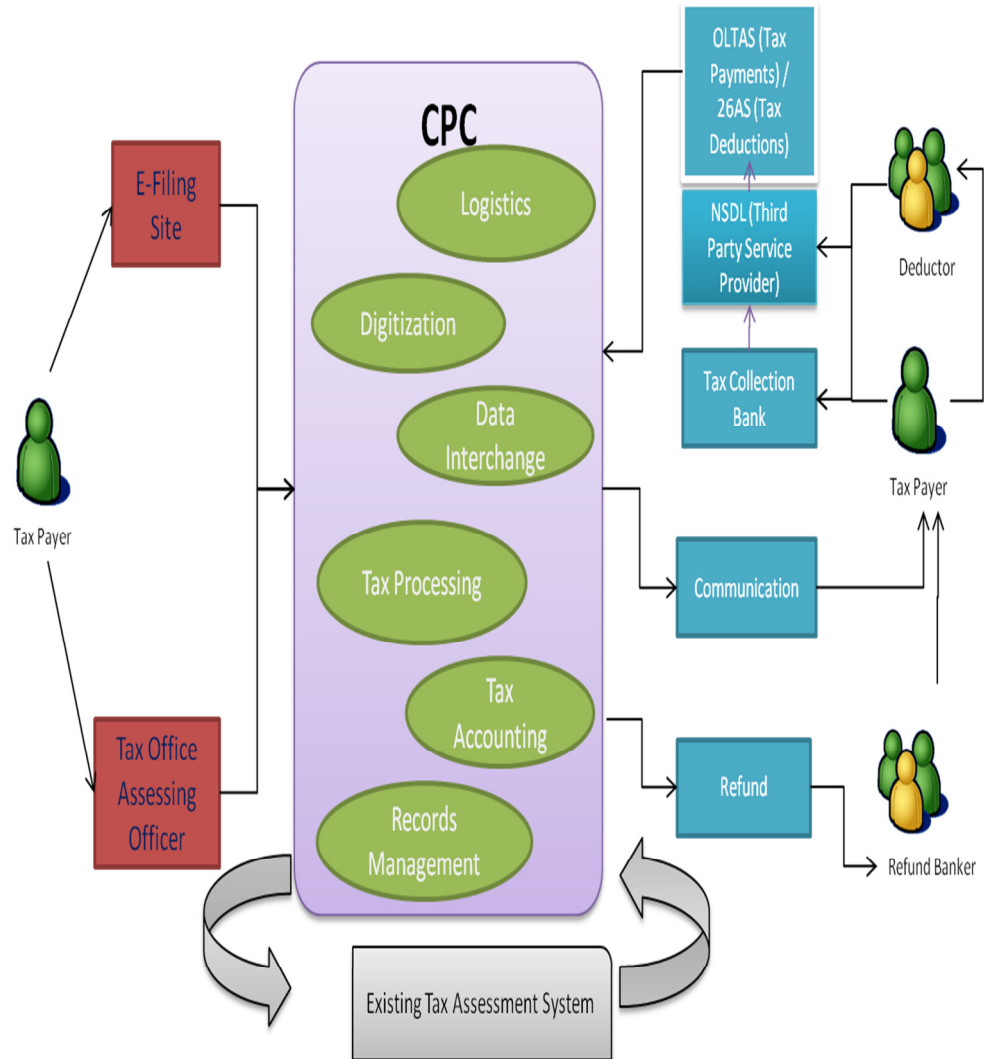
7.8 Application Controls

7.8.1 In exercise of powers conferred under section 143(1A) of the Act, CBDT (Board) notified (January 2012) “Centralised Processing of Returns Scheme, 2011” for the purpose of centralised processing of Income tax returns. The Scheme accorded powers to the Director General and the Commissioner for specifying/adopting appropriate procedures and processes for processing of ITRs. In addition, the Central Government notified (January 2012), in exercise of powers conferred under section 143(1B) of the Act, another Scheme viz., “Centralised Processing of Returns Scheme, 2011 – Application of certain provisions of Act” for the purpose of giving effect to the former and to specify that any of the provisions of the Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations.

For the purpose of processing of ITRs, the provisions of the Act and Rules are implemented as business rules at the back-end of the CPC application. For front-end users, a “Form-view” has been designed in conformity with the ‘Schedules’ prescribed under different ITR Forms applicable to different types of assesseees.

7.8.2 Processing of returns

Process flow of existing tax assessment system is given below:



(Source: CPC, Bengaluru)

Review of processed ITRs in 'Form view' was undertaken with a view to ascertaining the availability of Application Controls in the CPC application software, which revealed the following deficiencies:

7.8.3 Mistake in business rule relating to matching of TDS with offered income

Clause 3.1 of ITD's SOP on "Defective Return" while defining "Core Defects – Notice to be sent" (Rule_cd 2) prescribes that a return shall be treated as core defective if "No Income details or tax computation has been provided in ITR, but details regarding taxes paid have been provided". We observed a case where the assessee did not offer any income but claimed credit for TDS. However, this Clause of ITD's SOP was not followed at the time of processing of return in CPC.

Box 7.1: Illustrative case on mistake in business rule relating to matching of TDS with offered income

Assessee: M/s Salma Dam Joint Venture; PAN: AACAS6491C

AY: 2014-15

The assessee filed (September 2014) digitally signed e-return of income for AY 2014-15 by declaring 'Nil' income and claimed a refund of ₹ 6.84 crore against TDS credit and also claimed current year's business loss of ₹ 14,113 to be carried forward, which was processed (July 2015) as such and a refund of ₹ 7.39 crore (including interest u/s 244A) was issued (August 2015) to the assessee.

On verification of the Schedule – ITR Collection Report under the assessee's processed data, it was seen that during the relevant financial year the assessee received an income of ₹ 342.02 crore, being contract receipts against which TDS of ₹ 6.84 crore u/s 194C was made which was claimed by the assessee in the Schedule Part B-TTI, without offering any income under Schedule Part A – P & L and Part B – TI. Despite this, the return was processed and refund of ₹ 6.84 crore along with interest was allowed.

The omission on the part of assessee in claiming TDS refund without declaring the corresponding income rendered the return of income as defective as per ITD's SOP *ibid*. This was further compounded by the failure on the part of CPC to put the processing on hold at Status Code 21 (Defective Return) and issuing a notice to the assessee as required.

The Ministry replied (October 2016) that the data given in 26AS pertains to receipts and the TDS done on the same. This may not necessarily constitute income as for example TDS is being done on advances in the cases of contractors which is not income and cannot be brought to tax. In cases of mismatch between receipts shown in collection report and receipt shown in return, it would be beyond the purview of Section 143(1) to tax the difference amount, as also the head under which the same has to be brought to tax. Income disclosed in other forms are not directly deductible and comparable with the income offered in the ITR. The observations of the Audit that CPC system should have used the income details available in other systems/records of the department in processing of ITR u/s.143 (1) is untenable as the same is not envisaged as a prima facie adjustment within the meaning of Sec. 143(1).

CPC reply is not acceptable as it is not addressing the audit observation of failure of CPC in applying business rules relating to defective returns. This should have been kept on hold as 'defective return' and a notice issued to the assessee as required.

7.8.4 Full potential of CPC not realised due to not changing the definition of “processing”

The Finance Act, 2008 amended the Income Tax Act, 1961 by inserting a sub-section 1A under section 143, empowering the CBDT to make a scheme for centralised processing of ITRs to determining expeditiously the tax payable by, or the refund due to the assessee. After this amendment, the ITD has the mandate and the opportunity to exploit the benefits of technology for determining tax/refund payable instead of merely replicating rules that were designed for a manual system with inbuilt limitations. However, ITD so far has failed to exploit this opportunity resulting in non utilisation of information available with ITD. Few such cases are detailed below:

7.8.4.1 AST – CPC interface for Accessing Demand/Refund Information

On scrutiny of records and form-view access, it was seen that ITD has developed interface between AST and CPC 'ITR collection Reports' containing specific fields for accessing the demand/refund data uploaded by the assessing officers on AST database, which was an outcome of scrutiny/appellate proceedings. This data could be used for processing the returns, especially where the outstanding tax demands were required to be adjusted against the refunds due as per the provisions of Section 245 of the Act. However, it was observed that there was no interface between CPC and AST for updating the position of income/loss determined by the Assessing Officers during scrutiny assessments or on the basis of appellate proceedings.

Box 7.2: Illustrative case on AST-CPC interface for accessing demand/refund information

Assessee: GMR Projects Pvt. Ltd.;

PAN: AAACN6998D; AY: 2014-15

Returned/ Processed Income – Nil

Loss for AY 2012-13 was assessed at ₹ 2.83 crore as against the returned loss of ₹ 6.05 crore. It was, however, seen from Form View of Schedule CFL¹⁰⁸ for AY 2014-15 that the returned loss for above mentioned AYs have been considered as carried forward loss instead of considering the assessed position resulting in excess carried forward of loss.

7.8.4.2 Information available with AO not used in processing returns u/s 10(23C), 10A, 10AA, 12A(1)(b), 44AB, 44DA, 50B, 80IA, 80IB, 80IC, 80ID, 80JJAA, 80LA, 92E, 115JB and 115VW

As per the proviso to Rule 12(2) of Income Tax Rules, 1962, where assessee is required to furnish a report of audit specified under sub-clause (iv), (v), (vi) or (via) of clause (23C) of Section 10, Section 10A, Section 10AA, clause (b) of sub-section (1) of section 12A, section 44AB, section 44DA, section 50B, section 80IA, section 80IB, section 80IC, section 80ID, section 80JJAA, section 80LA, section 92E, section 115JB, 115VW, notice under clause (a) of sub-section (2) of section 11, he shall furnish the same electronically.

CPC processed 3339, 3989 and 6398 returns containing claims under above sections during the financial years 2012-13, 2013-14 and 2014-15 respectively. However, the information available in the reports furnished electronically in compliance of the above sections was not available to CPC and thus CPC was not able to make use of the available data in processing returns

It was informed (December 2015) that as per the instructions by the system directorate and CBDT above reports were to be made available only to the Assessing Officers and CPC was not to be made privy to these reports. Hence

¹⁰⁸ Details of Losses to be carried forward to future years

as the reports were not made available to CPC, the information in these reports could not be made use of, while processing the returns in CPC. It was further informed by CPC that possibilities were being explored by CPC for accessing these forms/reports where the data presented in the returns appears to be incomplete or inconsistent.

7.8.4.3 Non-Linking of previous years' ITRs resulting in excess deduction

The existing database of CPC system could be used for pre-filling the returns to make use of taxpayers' claim for deductions such as brought forward loss, unabsorbed depreciation, MAT¹⁰⁹ credit etc., made in previous years. On verification of following cases through Form-View we, however, observed that no such facility was available in the CPC software to use the data of previous years' processed returns, available in the CPC database.

Box 7.3: Illustrative cases on non-linking of previous years' ITRs

**(i) Assessee: M/s Corporate Infrastructure Services Pvt. Ltd.; PAN: AAACH9815K;
AY: 2013-14; Returned/ Processed Income – Nil**

As per processed record of AY 2012-13, there was no carry forward loss and unabsorbed depreciation for AY 2009-10. However, in the processed record of AY 2013-14 carry forward loss of ₹ 2.08 crore and unabsorbed depreciation of ₹ 60.75 lakh had been considered for AY 2009-10. This carry forward loss and unabsorbed depreciation pertained to AY 2008-09.

(ii) Assessee: M/s GMR Projects Pvt. Ltd. PAN: AAACN6998D

AY: 2014-15 Returned/ Processed Income – Nil

Carried forward loss for AY 2009-10 as per schedule CFL of previous year i.e. AY 2013-14 was ₹ 1.70 crore. However, this carried forward loss in schedule CFL of current assessment year was changed and shown as ₹ 2.47 crore.

(iii) Assessee: M/s GMR Kamalanga Energy Ltd. PAN: AADCG0436E

AY: 2014-15: Returned/Processed Income – (-)₹ 1717.28 crore

As per depreciation Schedule (schedule DPM¹¹⁰ & schedule DOA¹¹¹) it was seen that while computing depreciation for current year on plant and machinery total opening WDV has been considered at ₹ 136.09 crore. But it is seen from the schedule BS¹¹² of previous year (i.e. AY 2013-14) the gross block of asset was ₹ 180.08 crore (as the depreciation has been claimed first time in the current AY). Reason for this difference is not appearing in the processed return data.

109 Minimum Alternate Tax payable

110 Depreciation on Plant and Machinery

111 Depreciation on Other Assets

112 Balance Sheet

(iv) Assessee: M/s Chayadeep Properties Pvt. Ltd. PAN: AACCC3489Q

AY: 2013-14; Returned/ Processed Income – Nil

As per Sch. CFL of AY 2012-13, total loss to be carried forward was ₹ 22.11 crore {₹ 17.12 crore-Business Loss (BL), ₹ 1.61 crore-Short Term Capital Loss (STCL), ₹ 3.39 crore-Long Term Capital Loss(LTCL)} which, however, was considered in Sch. CFL of AY 2013-14 as ₹ 22.90 crore (₹ 18.01 crore-BL; ₹ 1.51 crore-STCL; ₹ 3.39 crore-LTCL). Thus, there was an excess carry forward of BL of ₹ 78.62 lakh. Similar issues have been noticed in case of PAN AACCC4259J for AY 2012-13 and AY 2013-14.

The Ministry replied (October 2016) that relevant reports of all the mentioned sections are filed separately and not along with the return itself. Allowing claim of deduction based on the forms which are filed separately does not come under the purview of Section 143(1). The Ministry further stated that CPC does only summary assessment and linking of previous years' ITRs with current year does not come under the purview of Section 143(1). During the Exit Conference it was stated by the Ministry that the objective of the CPC was to process the ITRs and issue the refunds to assesseees quickly rather than to deal with the compliance issues. CPC was established as a bulk processing centre and it never intended to investigate the taxpayer. Business Processing Re-engineering (BPR) objective was only to segregate the compliance from processing.

It is true that CPC was established as a bulk processing centre. But it is also true that while developing a new system, attempts may be made to avail the benefits of all the systems available with the ITD. AST is a part of ITD and information with AST should be available to CPC for processing the returns so that correct amount of loss, unabsorbed depreciation, etc. may be taken into account for processing the return. However, as stated at the outset of this para, the ITD used this opportunity to do only a very limited BPR.

7.9 Project execution and performance

7.9.1 The work relating to establishing and operating CPC at Bengaluru was awarded (February 2009) to a consortium led by M/s Infosys Technologies Ltd. {Service Provider (SP)}. A 'Master Services Agreement' (MSA) was executed in October 2009. The contract was for five years starting from the date of acceptance i.e. October 2010 which was extended (December 2014) for two years i.e. upto September 2017 at a cumulative project cost of ₹ 1,078.59 crore. The scope of work of SP includes *inter alia* (i) establishing CPC in the building provided by ITD; (ii) providing technical infrastructure and its related functions, including software, hardware and networking requirements; (iii) Operation and maintenance of entire CPC system environment; (iv) sourcing, training and administration of personnel for the operation and management of back-end processes for ITD including digitisation of physical ITRs, scanning of physical ITRs and supporting taxpayer accounting, tax credit accounting, ITR processing and rectification processes; (v) establishment and operation of a comprehensive record management system for the CPC, including management of records at an off-site storage.

On examination of the documents/records provided by the ITD, related to the Contract Management of the CPC Bengaluru, following non-adherence/deviations were observed.

7.9.2 Deviation from agreed processes relating to matching of TDS/Tax payment claims resulted in increased rectification due to non matching of tax credit

According to MSA any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the 'Services', may only be made by written agreement between the parties to the contract viz., ITD and SP. It was further stipulated that no amendment, variation or other changes to this contract or the Service Level Agreements (SLA) shall be valid unless authorised in accordance with the change control procedure as set out in 'Change Control Schedule' vide Appendix-G of MSA.

A list of 25 deviations (process enhancement - 13, additional scope of work - 03, modification to existing terms - 06 and deletion of existing terms - 03) approved prior to commencement of operation in May 2009, was made available to Audit. No records, however, in support of following proper process in making deviations and making written agreement between the parties were made available to the Audit.

We observed that two deviations were related to deletion of two of the main prescribed processes, viz., "Reconciliation of OLTAS collection at bank branch/RBI level" and "Reconciliation of TDS payments including interaction with deductors, CIT (TDS) and exception handling" from the scope of services at the commencement stage itself. As per contract conditions¹¹³, SP was required to reconcile the taxpayers payments and TDS amounts claimed by taxpayers in their ITRs with those amounts uploaded by bank branches/RBI and deductors respectively. It was also prescribed¹¹⁴ that OLTAS and TDS verification officers are to verify 'false positives' and 'false negatives' and work with banks and CIT(TDS) for their reconciliation. However, these procedures were dispensed with, for which DIT-CPC reasoned (May 2015) that access to data feed from banks/RBI as well as TDS return data was not available to CPC. It was further stated that pre-matching of credits was done by ITD (other than CPC) and only clean Tax/TDS payment data was provided to CPC from OLTAS/TDS database.

In the absence of documentary evidence, Audit could not verify whether due procedures were followed in approving the said deviations. There was no evidence to show that the payment terms were re-negotiated to reduce the

113 SR 08 under Clause 2.3 – Functional Requirements of Appendix A – Description of Services forming part of MSA read with Clause 8.4 – Process Flow for "Taxpayer payment and TDS accounting" described in RFP – Volume I.

114 SR 09 of MSA read with Clauses 9.4.4 – 9.4.20 of RFP *ibid*.

charges payable to SP on 'per return' basis though these deviations may result in significant savings to SP, both in terms of processes and cost. In addition, the said deviation has also resulted in increased percentage of assessee-triggered rectification on account of 'non-matching of tax credits'. Out of total 10,57,381 rectification requests processed during the three financial years 2012-13 to 2014-15, 5,69,915 cases of rectifications were on account of 'non-matching of tax credits', averaging nearly 54 per cent of total rectifications.

Thus, the said deviation not only proved costly to ITD as failure to negotiate rates for reduction for overall ITR processing on account of scaled down scope of work but it also resulted in additional financial burden on ITD by way of payments of ₹ 2.93 crore made to SP towards rectification of 5,69,915 cases on account of non-matching of tax credits for the period 2012-13 to 2014-15. This additional burden will also be applicable in coming years leading to the additional recurring expenditure.

The Ministry replied (October 2016) that the Department had re-negotiated the transaction rate with the MSP and the reduction was 25 per cent in the FY 2016-17. Regarding non-reconciliation of OLTAS collection at bank branch/ RBI level and increase percentage of assessee triggered rectifications on account of TDS mismatching, it has been replied that the reconciliation of OLTAS collection at Bank Branch/RBI level had no bearing on the availability of complete tax credit to the account of a PAN holder since such reconciliation was at a gross level for total fund matching. Such reconciliation is currently within the scope of ZAO. It was also replied that the objection for increased percentage of assessee – triggered rectification was not accepted. CPC has brought about a number of process improvements which had resulted in reduction of rework/ rectification.

The reply is not tenable as re-negotiation was not done at the time of reduction of scope of work. It has been done only at the end of the contract period while extending the contract for two additional years and after audit has pointed this out. Duties of ZAO relate to accounting and reconciliation of tax revenues of ITD under different heads of account whereas the MSA envisaged accounting and reconciliation of tax credits with reference to individual tax payers' accounts. Further, mistakes attributed to taxpayers were purely on account of control weakness in the relevant fields of the prescribed ITRs while the mistakes on the deductors' part could be due to lack of effective follow-up by the Department.

7.9.3 Rectification process in contravention of the Master Service Agreement (MSA)

CPC Project was planned to be implemented as a 'service' complete with all the components and infrastructure required for delivery of the envisaged activities of the CPC. SP was to be paid for the services provided on per transaction basis i.e. per ITR basis. As per MSA, SP was responsible for handling rectification requests which was part of scope of work as defined in Appendix A of MSA. No separate payment was to be made for rectification requests. The ITD, however, on the requests of the SP agreed to pay for handling the rectification requests on the ground that the rectification constitutes processing of returns and was at par with any other ITRs and approved following rates for handling rectification requests:

Description	Type	Quote of rate by SP (₹ per ITR)	Rate approved by ITD (₹ per ITR)
Rectification request rejected	e-return	8.25	8.25
	ITR P		3.88
Rectification	e-return	56.97	56.97
	ITR P		25.84

Thus, the ITD made irregular payment of ₹ 5.86 crore upto June 2013 to the SP for assessee triggered rectifications which otherwise was part of the 'service' as detailed in Appendix A of MSA. Further, this expenditure is of a recurring nature.

The Ministry replied (October 2016) that the reference to first level rectification at CPC in the RFP was mandated primarily for the processing of the physical returns. With the increased e-filing of returns, a new system of rectification was designed with a provision for online filing of rectification through the e-filing portal. The scope of the service changed drastically and also involved increased manpower deployment by the SP to facilitate the rectification services for the e-filed returns. Due to change in the scope of services, the rate for processing of rectification was fixed by the Contract Negotiation group after taking into account the scope of rectification for e-filed returns as new service. During the Exit Conference it was also stated by the Ministry that as per recommendations of CBDT Committee on Rectifications, rectification is at par with processing.

Reply of the Ministry is not acceptable in view of enabling provisions in the RFP/MSA at several places viz., Para 5.3.5.1 of RFP Vol. II, Para 1.1.5 – Scope of work (Section I of RFP Vol. II), MSA's Appendix A – Description of services para (1.1) (a)(v) and Appendix H, which prescribes 'Rectification' as part of MSP's scope of contract based on which the quoted rates were

finalised/accepted. First level rectification as defined in Appendix H does not distinguish between physical and e-filed returns. Hence contention of the Ministry that the first level rectification was mandated primarily for rectification of physical returns is factually incorrect. Also the process flow of the first level rectification clearly defines the process of rectification, both suo-moto and assessee triggered. Considering this, the contention of the Ministry that scope of the said service changed drastically is not acceptable.

7.9.4 Performance measurement

Clause 12 of Appendix-A of MSA outlined the key service level requirements of CPC Project to be achieved by the SP and strictly imposed by ITD during the operation and maintenance period, subject to Quarterly Third Party certification. The operational part of MSA was in the form of Service Level Agreement (SLA). SLA specified the expected level of service, called baseline service level, to be provided by the SP to various stakeholders of the CPC. The Periodic Transaction Charges (PTC)¹¹⁵ payable to the SP were linked to the compliance with the SLA metrics as defined in the 'Table' there under. MSA further prescribed that SLA monitoring was to be done on a daily/weekly/ monthly/quarterly, as the case may be.

An analysis of the information revealed the following:

7.9.4.1 Processing of Physical ITRs

The SLA prescribed, *inter alia*, that "Physical ITRs considered for pick-up at the office of the AO but rejected as not "CPC Ready" will also be included in count of number of ITRs for the purposes of this SLA. Not 'CPC Ready' will include rejections for all reasons". As per SLA, the SP was required to process 4 lakh/2 lakh ITRs or the number of ITRs available for processing whichever was lower, during peak/non-peak months.

Out of 2,11,741¹¹⁶ Physical ITRs received during FYs 2012-13 and 2013-14, 1,71,173 returns had been processed as at the end of March 2014¹¹⁷. Processing status of the balance 40,568 paper returns was not known. In FY 2012-13, 1.59 lakh paper return were received by the SP, against these the SP processed only 1,21,634 returns from the period April 2012 to March 2013. Number of returns processed by the SP was much lower than the specified limit despite the availability of returns. However, no penalty was imposed for not achieving the target as ITD waived the SLA. Though majority of the physical ITRs received at CPC had been processed, the related SLA metrics viz., error rate in data entry of ITRs, volume and time lag of receipt of ITRs at

115 Payments made to SP for services rendered on 'per return' basis vide Appx. F to MSA – Terms of Payment.

116 FY 2012-13: 1,59,541 and FY 2013-14: 52,200.

117 FY 2012-13: 1,21,634 and FY 2013-14: 49,539.

CPC from AOs' location had neither been measured by ITD nor subjected to audit by M/s STQC.

The Ministry replied (October 2016) that due to resistance of ITD staff, as against the process defined in the RFP, pickup of physical returns was allowed only for CPC ready returns (returns where prima facie all the critical information for processing in an automated environment was available). Returns with insufficient information were not allowed to be picked and left to be handled at AO location. The SLAs related to this aspect of the services were not possible for implementation as the process was redesigned with changes to pick up strategy.

The reply is not tenable as this was a significant deviation from the defined parameters and consequently the SLA metrics relating to physical ITRs remained unmonitored and uncertified at any time during the review period.

7.9.4.2 Processing of Electronic ITRs

The monthly SLA metrics prescribed overall processing of 5 lakh and 2.50 lakh e-ITRs during peak months¹¹⁸ and non-peak months¹¹⁹ respectively. During the period under review the count of e-ITRs processed ranged from 2.57 lakh (July 2012) to 51.31 lakh (December 2014) in non-peak months and 12.04 lakh (August 2012) to 30.41 lakh (October 2014) in peak months.

The achievement far exceeded the defined monthly targets which led to skewed results while measuring achievement of SLA metrics resulting in unrealistic comparison. It has been observed that though the number of e-filing of ITR had been increased as compared to projected, however, SLA was not revised and the performances of the SP continued to be compared against the original targets. ITD had not considered revising the monthly targets in line with real time capacity to facilitate realistic comparison.

The Ministry has replied (October 2016) that the review of the existing SLA is in progress and will be applicable for the extended period of the Contract.

7.9.4.3 High percentage of data entry errors in respect of physical ITRs

According to SLA 16, the baseline metric 'mismatch cases' was fixed at less than one *per cent*, whereas the performance was considered as 'breach' if it exceeds five *per cent*. Mismatch cases were defined as "the number of cases sent to the Mismatch Operator, after being determined as 'mismatch' based on comparison of completed data entry of the first and second Data Entry Operator". The breach performance attracted a negative score of two.

118 August, September and October

119 April to July and November to March

It was seen that in all the months in which the paper ITRs were received and processed, the mismatch cases referred to Mismatch Operator constituted a very high percentage viz., between 12.9 per cent and 42.7 per cent in FY 2012-13 and more than 55 per cent and 63 per cent in FY 2013-14.

The Ministry replied (October 2016) that the application has a facility called the mismatch operator which will compare the digitization of both the data entry operators and highlight mismatch. The SLA parameter discussed in SLA 16, mandates the error rate after the record is moved further and submitted to ITD Nominee for QC.

The reply is not acceptable since mismatch cases have been defined as 'the number of cases sent to mismatch operator', not the number of errors identified by ITD-QC.

New Delhi
Dated: 25 January 2017


(SANJAY KUMAR)
Principal Director (Direct Taxes)

Countersigned

New Delhi
Dated: 25 January 2017


(SHASHI KANT SHARMA)
Comptroller and Auditor General of India

APPENDICES

Appendix 1 (Reference: Paragraph 1.2.2)

Details of Direct Taxes Administration					
	(₹ in crore)				
1. Direct Taxes Collection	2011-12	2012-13	2013-14	2014-15	2015-16
i) Corporation Tax	3,22,816	3,56,326	3,94,678	4,28,925	4,53,228
ii) Income Tax	1,64,525	1,96,843	2,37,870	2,58,374	2,80,390
iii) Other Direct Taxes	6,646	5,820	6,048	8,493	8,394
iv) Total	4,93,987	5,58,989	6,38,596	6,95,792	7,42,012
2. Assessee profile¹²⁰	(Figure in lakh)				
i) Non-corporate assessees	357.61	367.87	463.57	599.88	636.04
ii) Corporate assessees	5.85	5.90	6.75	7.72	7.97
Total assessees	363.46	373.77	470.32	607.60	644.01
3. Stages of collection in respect of Corporation Tax and Income Tax					
a. Pre-assessment collection	(₹ in crore)				
i) Tax deducted at source	1,98,679	2,10,654	2,48,547	2,59,106	2,87,412
ii) Advance tax	2,51,526	2,75,794	2,92,522	3,26,525	3,52,899
iii) Self assessment Tax	27,648	39,470	44,123	52,050	54,860
Total pre-assessment collection	4,77,853	5,25,918	5,85,192	6,37,681	6,96,171
b. Post-assessment collection (regular assessment tax)	51,512	62,418	72,528	80,189	63,814
Other receipts including surcharge and cess	50,134	48,596	63,884	81,589	96,940
Total collection	5,79,499	6,36,932	7,21,604	7,99,459	8,55,925
Pre-assessment collection as <i>per cent</i> of gross collection	82.5	82.6	81.1	79.8	81.2
4. Position of Assessments	(Number)				
i) Scrutiny assessments due for disposal	7,74,807	5,93,761	6,98,652	10,26,575	7,05,177
ii) Scrutiny assessments completed (<i>per cent</i>)	3,69,320 (47.67)	3,08,398 (51.94)	2,84,750 (40.76)	5,35,444 (52.16)	3,38,898 (48.06)
iii) Non-scrutiny assessments due for processing	3,92,32,628	2,90,37,299	2,68,22,541	1,99,59,846	2,46,16,760
iv) Non-scrutiny assessments processed (<i>per cent</i>)	2,77,21,088 (70.66)	1,70,47,634 (58.71)	1,75,37,405 (65.38)	1,25,58,932 (62.92)	1,76,18,292 (71.57)
v) No. of officers deployed for assessment duty	3,737	3,657	4,033	6,576	6,311

Source: Sl. no. 1 – Union Finance Accounts of respective years. In FY 2015-16, there is a difference of ₹ 289.07 crore in Income Tax and ₹ 0.57 crore in other direct taxes as compared with the figure provided by Pr. CCA, CBDT; Sl. no. 2 and 4 – DGIT (Logistics), CBDT; Sl. no. 3 - Pr. CCA, CBDT.

120 Includes cases where non-zero TDS-26AS exist but no ITR entered in the record of ITD (159.93 lakh - FY 2013-14, 169.35 lakh - FY 2014-15 and 163.45 lakh - FY 2015-16. The figures of FY 2014-15 and FY 2015-16 includes all assessee covered by DGIT(Systems) during previous two years.

5. Direct refund cases					(No. in lakh)
	2011-12	2012-13	2013-14	2014-15	2015-16
i) Claims due for disposal	52.83	38.84	34.53	31.53	38.99
ii) Claims disposed of (per cent)	40.33 (76.34)	27.65 (71.19)	25.76 (74.60)	22.68 (71.93)	33.45 (85.79)
iii) No. of claims pending	12.50	11.19	8.77	8.85	5.54
6. Refunds and Interest on refunds					(₹ in crore)
i) Refunds	93,814	83,766	89,060	1,12,163	1,22,596
ii) Interest on refunds	6,486	6,666	6,598	5,332	6,886
iii) Interest as per cent of refunds	6.9	8.0	7.4	4.8	5.6
7. Efficiency of collection					(₹ in crore)
i) Demand of earlier year's pending collection	2,65,040	4,09,456	4,80,066	5,68,724	6,67,855
ii) Current year's demand pending collection	1,43,378	76,724	95,274	1,31,424	1,56,356
Total demand pending	4,08,418	4,86,180	5,75,340	7,00,148	8,24,211
8. Position of appeals at CIT(A) levels					(Number)
i) Appeals due for disposal	3,06,134	2,84,439	3,02,944	3,05,862	3,52,989
ii) Appeals disposed of (per cent)	75,518 (24.67)	85,049 (29.90)	87,770 (28.97)	73,736 (24.20)	94,091 (26.66)
iii) Appeals pending	2,30,616	1,99,390	2,15,174	2,32,126	2,58,898
iv) Amount locked up in appeal	2,42,182	2,59,556	2,87,443	3,83,797	5,16,250
9. Tax Recovery Officers					(₹ in crore)
i) Total certified demand	1,23,288.08	1,60,582.32	2,27,950.21	2,43,330.96	2,61,714.00
ii) Certified demand recovered (per cent)	9,756.39 (7.91)	6,764.65 (4.21)	6,703.02 (2.94)	7,391.07 (3.04)	22,089.31 (8.44)
iii) Certified Demand pending (per cent)	1,13,531.7 (92.09)	1,53,817.7 (95.79)	2,21,247.2 (97.06)	2,35,939.8 (96.96)	2,39,624.69 (91.56)
10. Cost of collection					(₹ in crore)
Cost of collection	2,976	3,284	3,642	4,101	4,620

Source: Sl. no. 5, 6(ii), 8 and 9 – DGIT (Logistics), CBDT; Sl. no. 6 (i) and 10 - Pr. CCA, CBDT, Sl. No. 7 - CAP I Demand & Collection Statement alongwith Analysis for the month of March of respective FY provided by Directorate of Income Tax (Organisation & Management Services).

Appendix 2.1 (Reference: Paragraph 2.2.3)

State	Assessments completed during 2014-15 in units selected for audit during 2015-16 (including those completed in earlier years)	Assessments checked in audit during 2015-16 (including those completed in earlier years)	Assessments with errors	Total revenue effect of the audit observations made in the scrutiny assessments (₹ in crore)	Percentage of assessments with errors (Col. 4/Col. 3x100)
1	2	3	4	5	6
Andhra Pradesh	NA	NA	NA	NA	NA
Assam	2,971	2,962	345	44.33	11.65
Bihar	2,916	2,612	280	95.14	10.72
Chhattisgarh	2,222	1,847	79	178.82	4.28
Delhi	41,101	31,573	1,340	2,756.54	4.24
Goa	1,648	1,602	78	158.66	4.87
Gujarat	26,622	26,055	1,373	1,514.83	5.27
Haryana	5,322	4,908	586	370.96	11.94
Himachal Pradesh	1,427	1,207	355	208.05	29.41
Jammu & Kashmir	866	861	67	2.83	7.78
Jharkhand	870	828	100	28.99	12.08
Karnataka	8,558	8,037	679	859.66	8.45
Kerala	6,742	5,817	579	297.28	9.95
Madhya Pradesh	9,934	9,741	609	602.19	6.25
Maharashtra	72,610	54,869	3,337	3,581.44	6.08
Odisha	3,156	2,860	372	563.48	13.01
Punjab	7,750	6,949	669	98.24	9.63
Rajasthan	11,805	11,342	735	77.58	6.48
Tamil Nadu	17,084	14,836	1,887	1,285.71	12.72
UT Chandigarh	2,262	2,093	222	59.49	10.61
Uttarakhand	1,981	1,558	74	32.08	4.75
Uttar Pradesh	13,176	12,665	907	971.50	7.16
West Bengal	39,997	39,055	3,102	2,460.35	7.94
Total	2,81,020	2,44,277	17,775	16,248.15	7.28

Appendix 2.2 (Reference: Paragraph 2.2.5)

Category wise details of underassessment in respect of Corporation tax and Income tax detected during local audit		
	(₹ in Crore)	
Sub category	Cases	Tax effect
A. Quality of assessments	4,616	3,750.99
a. Arithmetical errors in computation of income and tax	1,453	2,234.38
b. Incorrect application of rate of tax, surcharge etc.	309	167.05
c. Non/short levy of interest/penalty for delay in submission of returns, delay in payment of tax etc.	2,668	1,219.13
d. Excess or irregular refunds / interest on refunds	145	111.70
e. Mistake in assessment while giving effect to appellate orders	41	18.73
B. Administration of tax concessions/exemptions/ deductions	8,267	8,542.98
a. Irregular exemptions/deductions/reliefs given to Corporate	861	1,398.77
b. Irregular exemptions/deductions/reliefs given to Trusts/Firms/Societies	420	65.30
c. Irregular exemptions/deduction/reliefs given to individuals	338	306.51
d. Incorrect allowance of Business Expenditure	5,385	5,189.57
e. Irregularities in allowing depreciation/business losses/Capital losses	1,253	1,533.87
f. Incorrect allowance of DTAT relief	10	48.96
C. Income escaping assessments due to omissions	2,351	1,684.24
a. Under Special Provisions including MAT/Tonnage Tax etc.	206	118.95
b. Unexplained investments/ cash credits etc.	445	370.09
c. Incorrect classification and Computation of Capital Gains	487	216.08
d. Incorrect estimation of arm's length price	62	223.88
e. Omission to club income of spouse, minor child etc.	10	4.16
f. Incorrect computation of Income from House Property	139	33.20
g. Incorrect computation of salary income	75	7.33
h. Omission in implementing provisions of TDS/ TCS	927	710.55
D. Others	3,251	1,744.29
Total	18,485	15,722.50

Appendix 2.3 (Reference: Paragraphs 2.3.4, 3.1.2 and 4.1.3)

Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	TE (₹in lakh)
Corporation Tax						
Quality of assessments - Arithmetical errors in computation of income and tax						
1	9-CT	Maharashtra	Pr. CIT-1, Mumbai	M/s SBI Life Insurance Co. Ltd.	2010-11	1180.29
2	12-CT	Maharashtra	Pr. CIT-10, Mumbai	M/s Paton Fashions Pvt. Ltd.	2010-11	50.14
3	19-CT	Delhi	CIT (Central)-1, Delhi	M/s Aamby Valley Ltd.	2011-12	549.58
4	20-CT	Delhi	Pr. CIT-3, Delhi	M/s Epitome Travel Solutions (India) Pvt. Ltd.	2012-13	96.86
5	21-CT	Delhi	Pr. CIT-3, Delhi	M/s Eduwizards Infosolutions Pvt. Ltd.	2012-13	86.99
6	22-CT	Delhi	Pr. CIT-1, Delhi	M/s Airline Allied Services Ltd.	2012-13	373.05
7	32-CT	Madhya Pradesh	CIT-1, Indore	M/s GNext Telecom Pvt. Ltd.	2011-12	568.03
8	43-CT	Maharashtra	Pr. CIT 14, Mumbai	M/s East Hyderabad Expressway Ltd.	2012-13	1333.44
9	44-CT	Maharashtra	Pr. CIT 5, Mumbai	M/s Air India Ltd.	2012-13	2920.05
10	45-CT	Maharashtra	Pr. CIT 6, Mumbai	M/s Essar Capital Ltd.	2011-12	12608.59
11	55-CT	Delhi	Pr. CIT 1, Delhi	M/s Alcatel Lucent India Ltd.	2009-10	290.86
12	58-CT	Delhi	CIT (Central)-1, Delhi	M/s Sahara India Commercial Corporation Ltd.	2011-12	2048.25
13	64-CT	West Bengal	Pr. CIT 4 Kolkata	M/s India Glycols Ltd.	2008-09	64.52
14	70-CT	West Bengal	Pr. CIT (Central)-1, Kolkata	M/s EMC Ltd.	2010-11	118.45
15	73-CT	West Bengal	Pr. CIT-1, Kolkata	M/s Intellisys Technologies & Research Ltd.	2012-13	133.6
16	74-CT	West Bengal	Pr. CIT-2, Kolkata	M/s Spoxy Investment Construction Pvt. Ltd.	2012-13	3965.71
17	79-CT	West Bengal	CIT-2 Kolkata	M/s Vikash Metal and Power Ltd.	2009-10	56.2
18	86-CT	Tamil Nadu	CIT-II, Chennai	M/s Esaf Micro Finance and Investments Private Ltd.	2012-13	57.19
19	91-CT	Tamil Nadu	CIT-3, Chennai	M/s Tamil Nadu State Marketing Corporation Ltd.	2012-13	9977.77
20	100-CT	Maharashtra	Pr. CIT (Central) 4, Mumbai	M/s Sear Trading Private Ltd.	2012-13	506.93
21	125-CT	West Bengal	Pr. CIT-2, Kolkata	M/s Jekyll Vintrade Pvt. Ltd.	2009-10	51.42
22	135-CT	Odisha	CIT Bhubaneswar	M/s Paradeep Phosphates Ltd.	2011-12	8624.04
23	138-CT	Odisha	CIT Bhubaneswar	M/s Orissa Hydro Power Corporation Ltd.	2012-13	1164.5
24	140-CT	Andhra Pradesh	Pr. CIT-Central, Hyderabad	M/s AMR Constructions Ltd.	2010-11	187.13
25	143-CT	Maharashtra	Pr. CIT-3, Mumbai	M/s Bajaj Power Ventures Pvt. Ltd.	2012-13	481.45
26	146-CT	Delhi	CIT(Central)-1, Delhi	M/s Global Heritage Venture Ltd.	2012-13	2102.54
27	162-CT	Delhi	Pr. CIT-2, Delhi	M/s Bharat Sanchar Nigam Ltd.	2012-13	30,011.95
28	165-CT	Delhi	CIT-2, Delhi	M/s BSES Rajdhani Power Ltd.	2012-13	306.23
29	173-CT	Kerala	Pr. CIT Kochi-1	M/s Lakshadweep Development Corporation Ltd.	2012-13	1694.8
30	175-CT	Bihar	Pr. CIT (Central) Patna	M/s Gangotri Iron and Steel Company Ltd., Patna	2004-05	428.24
31	176-CT	Bihar	Pr. CIT (Central) Patna	M/s Gangotri Electrocasting Ltd., Patna	2008-09	437.79

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Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	TE (₹in lakh)
32	188-CT	Andhra Pradesh	CIT-3, Hyderabad	M/s Shriram Chits Private Ltd.	2010-11	189.17
33	197-CT	Karnataka	Pr. CIT-Central, Bangalore	M/s A B Gold Pvt. Ltd.	2013-14	69.17
34	201-CT	Delhi	Pr. CIT-3, Delhi	M/s FIS Global Business Solutions India Pvt. Ltd.	2010-11	674.81
35	203-CT	Maharashtra	Pr. CIT-16, Mumbai	M/s 9X Media Pvt. Ltd.	2009-10	6218.3
36	208-CT	Delhi	CIT-9, Delhi	M/s Vigneshwara Developers Pvt. Ltd.	2011-12	788.8
37	214-CT	Delhi	Pr. CIT-3, Delhi	M/s Energy Infratech Pvt. Ltd.	2010-11	190.97
38	216-CT	Delhi	CIT-7, Delhi	M/s RLF Ltd.	2010-11	113.69
39	229-CT	Maharashtra	Pr. CIT-3, Mumbai	M/s Albina Real Estate Ltd.	2012-13	105.49
40	236-CT	Karnataka	CIT-2, Bangalore	M/s Cisco Systems Capital India Pvt. Ltd.	2008-09	819.31
41	247-CT	Delhi	CIT-4, Delhi	M/s Imagine Pictures Ltd.	2010-11	77.03
42	269-CT	Maharashtra	Pr. CIT (Central)- 1, Mumbai	M/s Parinee Developers Pvt. Ltd.	2012-13	302.96
43	283-CT	Maharashtra	Pr. CIT-10, Mumbai	M/s Pfizer Products India Pvt. Ltd.	2011-12	77.61
44	286-CT	Madhya Pradesh	CIT-Bhopal	M/s M. P. Laghu Udyog Nigam Ltd.	2010-11	69.49
45	312-CT	Maharashtra	Pr. CIT- 15, Mumbai	M/s Pranav Construction systems Pvt. Ltd.	2012-13	121.55
Quality of assessments – Incorrect Application of rate of tax, surcharge, etc.						
46	6-CT	Gujarat	Pr. CIT-2, Ahmedabad	M/s Ganeshsagar Infrastructure Pvt. Ltd.	2012-13	124.18
47	8-CT	Maharashtra	Pr. CIT-2, Mumbai	M/s LIC Housing Finance Ltd.	2009-10	915.31
48	36-CT	Maharashtra	Pr. CIT Central-1, Mumbai	M/s Shruti Arts Pvt. Ltd.	2010-11	77.98
49	250-CT	Maharashtra	Pr. CIT -5, Mumbai	M/s Kalsaria Diamonds Pvt. Ltd.	2008-09	389.41
50	296-CT	Uttar pradesh	PCIT- Central Kanpur	M/s Swarn Overseas Pvt. Ltd.	2011-12	65.96
Quality of assessments – Non/short levy of interest/penalty for delay in submission of returns, delay in payment of tax, etc.						
51	2-CT	Tamil Nadu	Pr. CIT-3, Chennai	M/s Teledata Marine Solutions Ltd.	2007-08	384.57
52	5-CT	Gujarat	Pr. CIT-3, Ahmedabad	M/s Reckitt Benckiser Healthcare India Ltd.	2011-12	61.7
53	14-CT	Maharashtra	Pr. CIT-2, Mumbai	M/s Bharat Petroleum Corporation Ltd.	2009-10	2282.5
54	15-CT	Haryana	Pr. CIT (Central) Gurgaon	M/s Asian Colour Coated Ispat Ltd.	2006-07 & 2007-08	43.86
55	18-CT	Delhi	Pr. CIT-9, Delhi	M/s Transactions India Pvt. Ltd.	2006-07	210.38
56	23-CT	Delhi	CIT (Central)-2, Delhi	M/s SR Iron Pvt. Ltd.	2010-11, 2011-12 and 2012-13	89.5
57	24-CT	Delhi	Pr. CIT-6, Delhi	M/s MB Power (Madhya Pradesh) Ltd.	2012-13	50.42
58	27-CT	Delhi	Pr. CIT (central)-2, Delhi	M/s Believe Construction Pvt. Ltd.	2012-13	56.09
59	31-CT	Madhya Pradesh	CIT-Gwalior	M/s K S City Pvt. Ltd. Indore	2007-08, 2008-09 & 2009-10	341.86
60	35-CT	Maharashtra	DIT (IT)-1, Mumbai	M/s AIG Asian Infrastructure LP	2005-06	1513.21
61	37-CT	Maharashtra	Pr. CIT (Central) 4, Mumbai	M/s Rajat Pharmachem Ltd.	2007-08	520.27

Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	TE (₹in lakh)
62	38-CT	Maharashtra	Pr. CIT 10, Mumbai	M/s India Medtronic Pvt. Ltd.	2007-08	120.91
63	54-CT	Delhi	Pr. CIT 1, Delhi	M/s Acorus Unitech Wireless Pvt. Ltd.	2009-10	246.12
64	57-CT	Delhi	Pr. CIT 9, Delhi	M/s Tulip Telecom Ltd.	2011-12	177.73
65	72-CT	West Bengal	Pr. CIT (Central)-1, Kolkata	M/s EMC Ltd.	2011-12	71.03
66	78-CT	West Bengal	Pr. CIT-1 Kolkata	M/s S.H. Trading and Credit Pvt. Ltd.	2009-10	56.37
67	87-CT	Tamil Nadu	CIT-1, Chennai	M/s Cholamandalam Investment and Finance Ltd	2012-13	625.41
68	99-CT	Maharashtra	Pr. CIT (Central) 1, Mumbai	M/s Reliable Paper India Ltd.	2010-11	697.97
69	108-CT	Madhya Pradesh	CIT, Gwalior	M/s K.S. Finlease Ltd.	2006-07, 2007-08 & 2008-09	149.88
70	121-CT	Tamil Nadu	CIT-6, Chennai	M/s Sutherland Global Services Pvt. Ltd.	2011-12	190.01
71	123-CT	Uttar pradesh	CIT-Noida	M/s New Okhla Industrial Development Authority	2010-11 & 2011-12	4609.44
72	131-CT	Delhi	CIT (Central)-1, Delhi	M/s Indian Technometal Company Ltd.	2011-12	72.67
73	136-CT	Odisha	CIT- Bhubaneswar	M/s National Aluminium Company Ltd.	2008-09	126.87
74	147-CT	Delhi	CIT-7, Delhi	M/s Punjab and Sind Bank	2006-07	230.06
75	148-CT	Andhra Pradesh	CIT-Central, Hyderabad	M/s Shimoga Airport Developers Pvt. Ltd.	2012-13	100.53
76	155-CT	Uttar pradesh	Pr. CIT-Noida	M/s Diligent Real Estates Pvt. Ltd.	2011-12	281.38
77	161-CT	Madhya Pradesh	CIT-Gwalior	M/s Chambal Valley Agro Products Pvt. Ltd.	2008-09 & 2009-10	194.21
78	184-CT	West Bengal	Pr. CIT, Central-1, Kolkata	M/s Rashmi Metaliks Ltd.	2012-13	65.24
79	185-CT	West Bengal	Pr. CIT-3, Kolkata	M/s Ganeshvani Suppliers Private Ltd.	2012-13	344.22
80	186-CT	West Bengal	Pr. CIT Central-1, Kolkata	M/s Centralzone Retail Marketing Ltd.	2012-13	140.82
81	192-CT	Maharashtra	Pr. CIT Central 1, Mumbai	M/s Speciality Paper Ltd	2009-10	203.61
82	199-CT	Maharashtra	Pr. CIT-Central-3, Mumbai	M/s Raj Oil Mills Ltd.	2010-11	329.36
83	204-CT	Maharashtra	Pr. CIT-13, Mumbai	M/s Siroya FM Construction Pvt. Ltd.	2011-12	156.03
84	210-CT	Delhi	CIT-Intl. Tax.-2	M/s Nokia Corporation	2010-11	689.83
85	244-CT	Delhi	CIT (Central)-2, Delhi	M/s SR Iron Pvt. Ltd.	2013-14	74.44
86	282-CT	Maharashtra	Pr. CIT-14, Mumbai	M/s Indian Oil Corporation Ltd.	2011-12	267.84
87	285-CT	Madhya Pradesh	CIT(Central) Bhopal	M/s Ajitnath Reality Pvt. Ltd. Indore	2009-10, 2010-11, 2011-12 & 2012-13	477.92
88	303-CT	Tamil Nadu	CIT-1, Chennai	M/s Bajrangbali Iron and steel Co. Pvt. Ltd.	2011-12	78.55
89	305-CT	Tamil Nadu	CIT-1, Chennai	M/s City Lubricants Pvt. Ltd.	2007-08	51.26
Quality of Assessments - Excess or irregular refunds/ interest on refunds						
90	4-CT	Kerala	CIT-Thrissur	M/s The South Indian Bank Ltd.	2003-04	87.84

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Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	TE (₹in lakh)
91	42-CT	Maharashtra	Pr. CIT 2, Mumbai	M/s State Bank of India	1995-96	439.4
92	93-CT	Kerala	CIT Thrissur	M/s The South Indian Bank Ltd.	2004-05	3794.28
93	132-CT	Andhra Pradesh	CIT-5, Hyderabad	M/s Viom Networks Ltd.	2009-10	118.02
94	190-CT	Maharashtra	Pr. CIT 2, Mumbai	M/s Bank of Baroda Ltd	2003-04	381.19
95	196-CT	Karnataka	Pr. CIT-Mangalore	M/s Syndicate Bank	2004-05	125
Quality of assessments - Mistakes in assessment while giving effect to appellate orders						
96	11-CT	Maharashtra	CIT-LTU, Mumbai	M/s Asian Paints Ltd.	2007-08	92.1
97	76-CT	West Bengal	Pr. CIT-2, Kolkata	M/s Ginza Industries Ltd.	2011-12	148.89
98	116-CT	Uttar pradesh	CIT-Noida	M/s L.G. Electronics India Private Ltd., Noida	2008-09	4546.96
99	191-CT	Maharashtra	Pr. CIT (Central) 3, Mumbai	M/s Gannon Dunkerely and Company Ltd	2010-11	460.97
100	194-CT	Delhi	CIT-LTU, Delhi	M/s Dalmia Bharat Sugar and Industries Ltd.	2008-09	144.6
101	239-CT	Delhi	CIT-2, Delhi	M/s BSES Yamuna Power Ltd.	2010-11	1823.64
102	240-CT	Delhi	CIT-2, Delhi	M/s BSES Rajdhani Power Ltd.	2010-11	19187.94
103	264-CT	Delhi	CIT-2, Delhi	M/s BSES Rajdhani Power Ltd.	2010-11	67.15
104	266-CT	Maharashtra	Pr. CIT- 1, Pune	M/s Bank of Maharashtra	2010-11	622.11
105	321-CT	Maharashtra	Pr. CIT-2, Mumbai	M/s State Bank of India Ltd.	2005-06	2002.34
Administration of tax concessions/exemptions/deductions - Irregular exemptions/deductions/ reliefs						
106	39-CT	Maharashtra	Pr. CIT (Central) 2, Mumbai	M/s Oricon Enterprises Ltd.	2009-10	110.29
107	46-CT	Maharashtra	Pr. CIT 2, Mumbai	M/s State Bank of India Ltd.	2012-13	5332.12
108	51-CT	Maharashtra	Pr. CIT 8, Mumbai	M/s Vodafone India Ltd.	2010-11	2980.56
109	56-CT	Delhi	Pr. CIT 2, Delhi	M/s Boutique Hotels India Pvt. Ltd.	2011-12	4130.17
110	59-CT	Kerala	CIT Trivandrum	M/s Eyme Technologies Pvt. Ltd.	2010-11	172.82
111	98-CT	Maharashtra	Pr. CIT 16, Mumbai	M/s Star India Private Ltd.	2010-11	620.02
112	106-CT	Maharashtra	Pr. CIT-1, Mumbai	M/s LIC of India	2007-08, 2008-09 & 2009-10	492.25
113	109-CT	West Bengal	Pr. CIT Central-1, Kolkata	M/s RamKrishna Forgings Ltd.	2012-13	227.61
114	124-CT	West Bengal	Pr. CIT-2, Kolkata	M/s Orient Paper and Industries Ltd.	2012-13	68.3
115	128-CT	Tamil Nadu	CIT-3, Chennai	M/s Zylog Systems Ltd.	2010-11	523.9
116	129-CT	Tamil Nadu	Pr. CIT-1, Madurai	M/s Fenner India Ltd.	2011-12	414.51
117	130-CT	Delhi	Pr. CIT-3, Delhi	M/s Fresenius Kabi Oncology Ltd.	2011-12	103.59
118	157-CT	West Bengal	Pr. CIT-Central-2, Kolkata	M/s Concast Bengal Industries Ltd.	2011-12	58.9
119	166-CT	Delhi	CIT-2, Delhi	M/s BSES Rajdhani Power Ltd.	2011-12	78.03
120	174-CT	Tamil Nadu	CIT-4, Chennai	M/s MPS Ltd.	2010-11 & 2011-12	348.13
121	182-CT	West Bengal	Pr. CIT 2, Kolkata	M/s Apeejay Tea Ltd.	2012-13	107.44
122	200-CT	Uttar pradesh	CIT-Central, Kanpur	M/s Rama Medicares Ltd.	2011-12	333.89
123	207-CT	Maharashtra	Pr. CIT-1, Mumbai	M/s SBI Life Insurance Co. Ltd.	2009-10	649.15
124	243-CT	Delhi	Pr. CIT-6, Delhi	M/s Mantec Consultants Pvt. Ltd.	2011-12	84.08
125	255-CT	Karnataka	CIT- LTU, Bangalore	M/s Toyota Kirloskar Auto Parts Pvt. Ltd.	2010-11	215.51
126	268-CT	Maharashtra	Pr. CIT-15, Mumbai	M/s 3i InfoTech Ltd.	2010-11	2428.55

Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	TE (₹in lakh)
127	275-CT	Maharashtra	Pr. CIT- 3, Mumbai	M/s Life Insurance Corporation of India	2010-11 & 2011-12	838.67
128	277-CT	Maharashtra	Pr. CIT (Central)- 2, Mumbai	M/s Runwal Realty Pvt. Ltd.	2011-12	1864.76
129	292-CT	Karnataka	CIT-2, Bangalore	M/s Continental Automotive Components Pvt. Ltd.	2009-10	459.98
130	302-CT	Tamil Nadu	CIT-1, Chennai	M/s Blow Packaging (India) Ltd.	2012-13	67.91
131	304-CT	Tamil Nadu	CIT-4, Chennai	M/s Newgen Imaging systems Pvt. Ltd.	2009-10	93.20
132	316-CT	Maharashtra	Pr. CIT-2, Mumbai	M/s Satyam Computer Services Ltd.	2010-11	10094.00
Administration of tax concessions/exemptions/deductions - Incorrect allowance of business expenditure						
133	10-CT	Maharashtra	Pr. CIT-2, Nagpur	M/s Manganese Ore (I) Ltd.	2009-10 & 2010-11	237.62
134	34-CT	Tamil Nadu	CIT-LTU, Chennai	M/s EID Parry (India) Ltd.	2010-11	301.74
135	40-CT	Maharashtra	Pr. CIT 1, Pune	M/s Ganage Pressings Pvt. Ltd.	2009-10	73.78
136	60-CT	Gujarat	Pr. CIT, Gandhinagar	M/s Gujarat State Land Development Corporation Ltd.	2009-10	929.07
137	68-CT	West Bengal	Pr. CIT-4, Kolkata	M/s Ershisanye Construction Group India Pvt. Ltd.	2009-10	97.83
138	69-CT	West Bengal	Pr. CIT-2, Kolkata	M/s Coal India Ltd.	2012-13	449.98
139	71-CT	West Bengal	CIT-LTU Kolkata	M/s Hindustan Copper Ltd.	2012-13	197.73
140	83-CT	Andhra Pradesh	CIT-1, Hyderabad	M/s Andhra Bank	2009-10	3464.94
141	90-CT	Tamil Nadu	CIT-4, Chennai	M/s Kal Cables Private Ltd.	2012-13	62.39
142	97-CT	Maharashtra	Pr. CIT LTU, Mumbai	M/s Tata Motors Ltd.	2010-11	3796.41
143	104-CT	Maharashtra	Pr. CIT LTU, Mumbai	M/s Ambuja Cements Ltd.	2010-11 & 2011-12	2113.56
144	107-CT	Delhi	CIT-4, Delhi	M/s Interglobe Aviation Ltd.	2010-11	259.87
145	111-CT	West Bengal	Pr. CIT-2, Kolkata	M/s Balmer Lawrie and Company Ltd.	2012-13	131.4
146	114-CT	West Bengal	Pr. CIT-2, Kolkata	M/s Indian Pulp and Paper Private Ltd.	2012-13	83.44
147	115-CT	West Bengal	Pr. CIT-1, Kolkata	M/s Burn Standard Company Ltd.	2009-10	55.81
148	119-CT	Tamil Nadu	Pr. CIT-3, Chennai	M/s Tamilnadu Civil Supplies Corporation	2012-13	403.84
149	122-CT	Assam	CIT-Shillong	M/s North Eastern Electric Power Corporation Ltd.	2011-12	71.51
150	144-CT	Maharashtra	Pr. CIT-5, Mumbai	M/s Taj Air Ltd.	2009-10	184.34
151	172-CT	West Bengal	Pr. CIT-2, Kolkata	M/s Allahabad Bank	2010-11	5200.47
152	181-CT	West Bengal	Pr. CIT 2, Kolkata	M/s The West Bengal Power Development Corporation Ltd.	2012-13	277.32
153	183-CT	West Bengal	Pr. CIT 4, Kolkata	M/s Reliance Chemotex Industries Ltd.	2010-11	52.37
154	187-CT	Odisha	Bhubaneswar	M/s Orissa Mining Corporation Ltd.	2012-13	118.85
155	198-CT	Haryana	CIT-Panchkula	M/s Haryana State Electronics Development Corporation Ltd.	2009-10	158.28
156	205-CT	Maharashtra	Pr. CIT-LTU, Mumbai	M/s Tata Motors Ltd.	2007-08, 2010-11	2021.06
157	218-CT	Delhi	CIT-VI, Delhi	M/s MMTTC Ltd.	2009-10	210.13
158	223-CT	Odisha	CIT- Bhubaneswar	M/s North Eastern Electricity Supply Company of Orissa	2011-12	243.19

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Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	TE (₹in lakh)
159	224-CT	Odisha	CIT- Bhubaneswar	M/s Western Electricity Supply Company of Orissa Ltd.	2012-13	103.1
160	233-CT	Tamil Nadu	CIT-4, Chennai	M/s L and T Interstate Road Corridor Ltd.	2011-12	183.53
161	252-CT	Maharashtra	Pr. CIT -8, Mumbai	M/s Vodafone India Ltd.	2009-10	184.13
162	259-CT	Tamil Nadu	CIT-1, Chennai	M/s Beardsell Satec Ltd.	2012-13	120.76
163	260-CT	Tamil Nadu	CIT- 1, Chennai	M/s Agnice Fire Protection Pvt. Ltd.	2012-13	77.51
164	261-CT	Tamil Nadu	CIT- 2, Chennai	M/s Equitas Holdings Pvt. Ltd. (Formerly Equitas Micro Finance India Pvt. Ltd.)	2011-12	200.46
165	265-CT	Tamil Nadu	Pr. CIT-2, Chennai	M/s Indian Bank Ltd.	2009-10 & 2010-11	1233.16
166	267-CT	Maharashtra	Pr. CIT-2, Mumbai	M/s State Bank of India Ltd.	2005-06	247
167	270-CT	Maharashtra	Pr. CIT-2, Mumbai	M/s ICICI Bank Ltd.	2011-12	4870.39
168	271-CT	Maharashtra	Pr. CIT- 3, Mumbai	M/s National Bank for Agriculture and Rural Development	2012-13	2554.72
169	273-CT	Maharashtra	Pr. CIT- 2, Mumbai	M/s Kotak Mahindra Bank Ltd.	2012-13	1266.82
170	276-CT	Maharashtra	Pr. CIT-9 , Mumbai	M/s Aditya Birla Retail Ltd.	2010-11	2243.18
171	278-CT	Maharashtra	Pr. CIT-12, Mumbai	M/s Deutsche Investment India Pvt. Ltd.	2010-11	3192.88
172	284-CT	Maharashtra	Pr. CIT-3, Pune	M/s New Phaltan Sugar Works Ltd.	2010-11	67.34
173	289-CT	Karnataka	CIT-6, Bangalore	M/s Subramanya Constructions and Development Company Ltd.	2011-12	153.71
174	298-CT	Punjab	Pr. CIT- 1 Chandigarh	M/s Recorders and Medicare Systems Pvt. Ltd.	2012-13	48.06
175	299-CT	Odisha	CIT- Bhubaneswar	M/s National Aluminium Company Ltd.	2012-13	978.81
176	301-CT	Tamil Nadu	CIT-4, Chennai	M/s L & T Krishnagiri Thopur Toll Road Ltd.	2011-12	98.99
177	317-CT	Maharashtra	Pr. CIT-2, Mumbai	M/s Bank of Baroda Ltd.	2004-05	113.23
178	319-CT	West Bengal	Pr. CIT-1, Kolkata	M/s Burn Standard Company Ltd.	2012-13	472.81
179	320-CT	Andhra Pradesh	CIT-3, Hyderabad	M/s State Bank of Hyderabad	2010-11 & 2011-12	11801.46
Administration of tax concessions/exemptions/deductions - Irregularities in allowing depreciation/ business losses/ capital losses						
180	3-CT	Rajasthan	CIT-2, Jaipur	M/s Vivek Pharma Chem India Ltd.	2012-13	95.17
181	13-CT	Maharashtra	Pr. CIT-6, Mumbai	M/s Agarwal Textile Industries Pvt. Ltd.	2009-10	4250.61
182	26-CT	Delhi	Pr. CIT-3, Delhi	M/s EFS Facilities Services (India) Pvt. Ltd.	2012-13	260.46
183	41-CT	Maharashtra	Pr. CIT 2, Mumbai	M/s DSP Investment Pvt. Ltd.	2010-11	50.73
184	47-CT	Maharashtra	Pr. CIT (Central) 4, Mumbai	M/s Mumbai Nasik Expressway Ltd.	2012-13	4682.17
185	48-CT	Maharashtra	Pr. CIT 8, Mumbai	M/s Tata Teleservices Maharashtra Ltd.	2012-13	5860.79
186	50-CT	Maharashtra	Pr. CIT 2, Nashik	M/s Jain Irrigation Systems Ltd.	2008-09	4705.94
187	61-CT	Gujarat	Pr. CIT IV, Ahmedabad	M/s Suyojit Enterprises Private Ltd.	2008-09	121.07
188	62-CT	Tamil Nadu	CIT-5, Chennai	M/s RR Donnelly Publishing India Pvt. Ltd.	2007-08	122.89

Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	TE (₹in lakh)
189	63-CT	Tamil Nadu	CIT LTU, Chennai	M/s Axles India Ltd.	2010-11	798.62
190	66-CT	West Bengal	Pr. CIT-2, Kolkata	M/s The West Bengal Power Development Corporation Ltd.	2007-08	1781.02
191	80-CT	West Bengal	CIT-Central 1, Kolkata	M/s Orissa Manganese and Minerals Ltd.	2012-13	71
192	85-CT	Haryana	CIT (C), Gurgaon.	M/s Brahma City Private Ltd.	2011-12	113.96
193	88-CT	Tamil Nadu	CIT-1, Chennai	M/s Ambattur Clothing Ltd.	2011-12	459.89
194	89-CT	Tamil Nadu	CIT-4, Chennai	M/s Kal Airways Private Ltd.	2012-13	1199.3
195	96-CT	Maharashtra	Pr. CIT 10, Mumbai	M/s Patel KNR Infrastructure Ltd.	2011-12	2738.93
196	101-CT	Maharashtra	Pr. CIT 1, Pune	M/s Electracard Services Private Ltd.	2012-13	984.11
197	102-CT	Maharashtra	Pr. CIT 3, Mumbai	M/s Asian Electronics Ltd.	2008-09	486.03
198	105-CT	Maharashtra	Pr. CIT-9 Mumbai	M/s Future Generali India Life Insurance Company Ltd.	2009-10	633.15
199	110-CT	West Bengal	Pr. CIT Central-1, Kolkata	M/s Orissa Manganese and Minerals Ltd.	2012-13	154.67
200	112-CT	West Bengal	Pr. CIT-3, Kolkata	M/s Winsome Breweries Ltd.	2012-13	111.21
201	117-CT	Karnataka	CIT-LTU, Bangalore	M/s Karnataka Power Transmission Corporation Ltd.	2011-12	2607.33
202	118-CT	Tamil Nadu	CIT-4, Chennai	M/s Nissan Motor India Pvt. Ltd.	2011-12	78.91
203	127-CT	West Bengal	Pr. CIT-2, Kolkata	M/s Sublime Agro Ltd.	2011-12	53.28
204	133-CT	Andhra Pradesh	CIT-4, Hyderabad	M/s Leather Industries Development Corporation of Andhra Pradesh Ltd.	2009-10	817.99
205	139-CT	Odisha	CIT- Bhubaneswar	M/s Aditya Sponge and Power Pvt. Ltd.	2012-13	26.86
206	141-CT	Andhra Pradesh	CIT-2, Hyderabad	M/s Intense Technologies Ltd.	2012-13	182.18
207	142-CT	Maharashtra	Pr. CIT-3, Mumbai	M/s TCFC Finance Ltd.	2011-12	499.37
208	145-CT	Maharashtra	Pr. CIT-1, Thane	M/s Metso Minerals Mumbai Pvt. Ltd.	2005-06	365.92
209	149-CT	Maharashtra	CIT-8, Mumbai	M/s Transmart India Pvt. Ltd.	2012-13	348.23
210	150-CT	Gujarat	Pr. CIT-3, Baroda	M/s Heuback Colour Pvt. Ltd.	2008-09, 2009-10, 2010-11 & 2011-12	1330.5
211	152-CT	Kerala	Pr. CIT Kochi-1	M/s Patspin India Ltd.	2012-13	155.53
212	153-CT	Tamil Nadu	Pr. CIT-6, Chennai	M/s Srinivasa Fashions Pvt. Ltd.	2012-13	102.75
213	158-CT	West Bengal	Pr. CIT-2, Kolkata	M/s Kamarhatty Power Ltd.	2012-13	73.08
214	159-CT	West Bengal	Pr. CIT-5, Kolkata	M/s Sree Maa Sarada Ores and Forgings India Pvt. Ltd.	2011-12	54.71
215	163-CT	Delhi	CIT-3, Delhi	M/s Fujifilm India Pvt. Ltd.	2010-11	104.33
216	164-CT	Delhi	CIT-6, Delhi	M/s Mausam Films Ltd.	2012-13	957.63
217	167-CT	Rajasthan	CIT-2, Jaipur	M/s Maharaja Shree Umaid Mills Ltd.	2012-13	168.69
218	169-CT	Gujarat	Pr. CIT-3, Ahmedabad	M/s Rajshri Packagers Ltd.	2010-11	589.64
219	170-CT	Gujarat	Pr. CIT-3, Baroda	M/s Heubach Colour Pvt. Ltd.	2010-11 & 2011-12	276.35
220	178-CT	West Bengal	Pr. CIT 2, Kolkata	M/s West Bengal Infrastructure Development Finance Corporation Ltd.	2012-13	57.49
221	189-CT	Maharashtra	Pr. CIT 7, Mumbai	M/s Ganjam trading Co. Pvt. Ltd	2009-10	374.76
222	209-CT	Delhi	CIT-3, Delhi	M/s DLF Utilities Ltd.	2012-13	320.42

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223	212-CT	Delhi	Pr. CIT-4, Delhi	M/s Indepay Networks Pvt. Ltd.	2011-12	62.13
224	217-CT	Delhi	Pr. CIT-III, Delhi	M/s Escorts Construction Equipment Ltd.	2010-11	298.22
225	220-CT	Delhi	CIT-LTU, Delhi	M/s Mahanagar Telephone Nigam Ltd.	2012-13	2123.29
226	221-CT	Delhi	CIT-9, Delhi	M/s Voith Hydro Pvt. Ltd.	2011-12	78.94
227	222-CT	Odisha	CIT-Cuttack	M/s Orissa Stevedors Ltd.	2011-12	74.98
228	230-CT	Tamil Nadu	CIT-3, Chennai	M/s TVS E Service Tec Ltd.	2012-13	71.88
229	232-CT	Tamil Nadu	CIT-Central-2, Chennai	M/s SNJ Distillers Pvt. Ltd.	2011-12	116.03
230	235-CT	Karnataka	CIT-Hubli	M/s Hubli Electricity Supply Company Ltd.	2011-12	389.87
231	241-CT	Delhi	CIT-3, Delhi	M/s Federal Mogul Automotive products (India) Pvt. Ltd.	2011-12	133.74
232	242-CT	Gujarat	Pr. CIT-2, Ahmedabad	M/s Elitecore Technologies Private Ltd.	2010-11	276.34
233	246-CT	Delhi	Pr. CIT-5, Delhi	M/s Powerlinks Transmission Ltd.	2010-11	1803.93
234	251-CT	Maharashtra	Pr. CIT-7, Mumbai	M/s Laxmi Ventures India Ltd.	2009-10	73.78
235	253-CT	Jharkhand	CIT-Jamshedpur	M/s TRF Ltd.	2010-11	58.96
236	254-CT	Bihar	Pr. CIT-1, Patna	M/s Bharat Wagon and Engineering Company Ltd.	2011-12	240.48
237	257-CT	Odisha	CIT-Bhubaneswar	M/s Western Electricity Supply Company of Orissa Ltd.	2011-12	910.13
238	272-CT	Maharashtra	Pr. CIT-8, Mumbai	M/s Tata Housing Development Company Ltd.	2010-11	108.3
239	274-CT	Maharashtra	Pr. CIT-5, Mumbai	M/s Laxmi Diamonds Pvt. Ltd.	2011-12	144.06
240	279-CT	Maharashtra	Pr. CIT-7, Mumbai	M/s Tata Teleservices Maharashtra Ltd.	2009-10	390.19
241	290-CT	Karnataka	CIT-LTU, Bangalore	M/s Dell International Services India Pvt. Ltd.	2009-10	79.84
242	291-CT	Karnataka	Pr. CIT-7,	M/s The Mysore Paper Mills Pvt. Ltd.	2011-12	1182.31
243	293-CT	Karnataka	CIT-1, Bangalore	M/s BPL Ltd.	2011-12	522.67
244	306-CT	Tamil Nadu	Pr. CIT-1, Madurai	M/s Theni Gurukrishna Textile Mills Pvt. Ltd.	2010-11	137.1
245	307-CT	Maharashtra	Pr. CIT -8, Mumbai	M/s Western MP Infrastructure and Toll Roads Pvt. Ltd.	2010-11, 2011-12 & 2012-13	8387.48
246	308-CT	Maharashtra	Pr. CIT -16, Mumbai	M/s 9 X Media Pvt. Ltd.	2010-11	1553.95
247	311-CT	Maharashtra	Pr. CIT-16, Mumbai	M/s Flamingo Pharmaceuticals Ltd.	2010-11	300.9
248	313-CT	Maharashtra	Pr. CIT- 1, Pune	M/s Innoventive Industries Ltd.	2011-12	179.78
249	314-CT	Gujarat	Pr. CIT- Rajkot	M/s Rajiv Manji Sorathia & Company	2011-12	81.11
250	322-CT	Maharashtra	CIT-15, Mumbai	M/s VKS Projects Ltd.	2011-12	66.59
Income escaping assessments due to omissions - Income not assessed/under assessed under special provisions including MAT/Tonnage Tax etc.						
251	1-CT	Tamil Nadu	Pr. CIT-3, Chennai	M/s Virgo Properties Pvt. Ltd.	2011-12	107.46
252	29-CT	Delhi	CIT-(Central)-1, Delhi	M/s Panacea Biotec Ltd.	2010-11	145.55
253	33-CT	Gujarat	Pr. CIT-3, Ahmedabad	M/s Nirma Ltd.	2006-07	412.04

Sl. No.	CAG DP No.	State	CIT Charge	Assessee Name	AY	TE (₹in lakh)
254	52-CT	Delhi	CIT-7, Delhi	M/s Pawan Hans Helicopters Ltd.	2011-12	108.78
255	65-CT	West Bengal	Pr. CIT Central-1, Kolkata	M/s MBL Infrastructures Ltd.	2013-14	106.86
256	120-CT	Tamil Nadu	CIT-2, Chennai	M/s The India Cements Ltd.	2011-12	98.85
257	154-CT	Tamil Nadu	Pr. CIT-4, Chennai	M/s L&T Infrastructure Development Projects Ltd.	2012-13	178.57
258	156-CT	West Bengal	Pr. CIT-2, Kolkata	M/s TMT Viniyogan Ltd.	2012-13	77.02
259	168-CT	Rajasthan	CIT-2, Jaipur	M/s Derewala Jewellery Manufacturing Company Ltd.	2012-13	71.68
260	206-CT	Maharashtra	Pr. CIT-10, Mumbai	M/s Oracle Financial Services Software Ltd.	2010-11	1462.92
261	234-CT	Rajasthan	CIT-2, Jaipur	M/s Safeflex International Ltd.	2012-13	178.19
262	294-CT	Uttar pradesh	Pr. CIT-Noida	M/s Jubilant Enpro Pvt. Ltd.	2012-13	3222.96
263	300-CT	Tamil Nadu	CIT-4, Chennai	M/s L & T Urban Infrastructure Ltd.	2012-13	64.13
Income escaping assessments due to omissions - Incorrect classification and computation of capital gains						
264	84-CT	Andhra Pradesh	CIT-4, Hyderabad	M/s Maheswari Mega Ventures Ltd.	2009-10	144.66
265	94-CT	Karnataka	Pr. CIT-3, Bengaluru	M/s Hinduja Realtors Private Ltd.	2010-11	218.22
266	231-CT	Tamil Nadu	CIT-5, Chennai	M/s Renault Nissan Technology and Business Centre India Pvt. Ltd.	2011-12	183.36
267	318-CT	West Bengal	Pr. CIT-1, Kolkata	M/s Bata India Ltd.	2007-08	100.97
Income escaping assessments due to omissions – incorrect computation of income						
268	7-CT	Gujarat	Pr. CIT-3, Ahmedabad	M/s Reckitt Benckiser Healthcare India Ltd.	2011-12	432.34
269	67-CT	West Bengal	Pr. CIT (Central)-1 Kolkata	M/s Bengal Energy Ltd.	2011-12	444.74
270	75-CT	West Bengal	Pr. CIT-2, Kolkata	M/s R.P.Info systems Ltd.	2012-13	73.94
271	77-CT	West Bengal	Pr. CIT-3, Kolkata	M/s Vinar System Pvt. Ltd.	2009-10	64.88
272	95-CT	Karnataka	CIT, Central, Bengaluru	M/s Brindavan Beverages Private Ltd.	2010-11	62.41
273	103-CT	Maharashtra	Pr. CIT-14, Mumbai	M/s Infrastructure Leasing and Financial Services Ltd.	2009-10	641.05
274	126-CT	West Bengal	Pr. CIT-3, Kolkata	M/s Britannia Industries Ltd.	2009-10	258.27
275	171-CT	Gujarat	Pr. CIT, Gandhinagar	M/s Tourism Corporation of Gujarat Ltd.	2012-13	86.73
276	177-CT	West Bengal	Pr. CIT 2, Kolkata	M/s Darjeeling Organic Tea Estates Private Ltd.	2012-13	60.31
277	180-CT	West Bengal	Pr. CIT 4, Kolkata	M/s Subir Sirkar Jewellers Private Ltd.	2012-13	901.48
278	256-CT	Odisha	CIT-Sambalpur	M/s Mahanadi Coal Field Ltd.	2011-12	1061.45
279	258-CT	Gujarat	Pr. CIT-2, Ahmedabad	M/s Ganesh Housing Corporation Ltd.	2009-10	528.73
280	262-CT	Tamil Nadu	CIT-2, Chennai	M/s Equitas Holdings Pvt. Ltd. (Formerly Equitas Micro Finance India Pvt. Ltd.)	2010-11 & 2011-12	242.88
281	263-CT	Tamil Nadu	CIT-2, Chennai	M/s Equitas Holdings Pvt. Ltd. (Formerly Equitas Micro Finance India Pvt. Ltd.)	2010-11 & 2011-12	147.03
282	287-CT	Madhya Pradesh	CIT-1, Indore	M/s SEZ Indore Ltd.	2006-07	415.45

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283	295-CT	Uttar pradesh	Pr. CIT- Noida	M/s L G Electronics India Pvt. Ltd.	2007-08	1073.90
284	309-CT	Maharashtra	Pr. CIT- 2, Mumbai	M/s State Bank of India Ltd.	2010-11	1425.03
285	310-CT	Maharashtra	Pr. CIT-2, Mumbai	M/s ICICI Bank Ltd.	2011-12	4378.07
286	315-CT	Maharashtra	Pr. CIT-4, Mumbai	Stainless India Pvt. Ltd.	2011-12	1777.00
Income escaping assessments due to omissions - Unexplained investment/ cash credits etc.						
287	245-CT	Delhi	Pr. CIT-6, Delhi	M/s North West Sales and Marketing Ltd.	2011-12	1171.66
288	249-CT	Maharashtra	Pr. CIT-10, Mumbai	M/s Polydrill Engineers Pvt. Ltd.	2010-11	85.94
Income escaping assessments due to omissions – Incorrect estimation of Arm’s Length Price						
289	225-CT	Andhra Pradesh	CIT (IT & TP), Hyderabad	M/s Zuari Cements Ltd.	2012-13	81.87
290	226-CT	Andhra Pradesh	CIT (IT & TP), Hyderabad	M/s Prithvi Information Solutions Ltd.	2012-13	246.87
291	227-CT	Andhra Pradesh	CIT (IT & TP), Hyderabad	M/s Vivimed Labs Ltd.	2012-13	212.07
292	237-CT	Karnataka	Pr. CIT-3, Bangalore	M/s Google India Pvt. Ltd.	2011-12	555.28
293	238-CT	Karnataka	Pr. CIT-6, Bangalore	M/s SKF Technologies India Pvt. Ltd.	2011-12	792.97
294	280-CT	Maharashtra	Pr. CIT (TP) 4- Mumbai	M/s Standard Chartered Bank India Branch	2012-13	153.38
295	281-CT	Maharashtra	Pr. CIT (TP)- 1, Mumbai	M/s Capgemini India Pvt. Ltd.	2012-13	92.04
296	288-CT	Gujarat	CIT1 &TP, Ahemedabad	M/s AIA Engineering Ltd.	2011-12	104.14
297	297-CT	West Bengal	Pr. CIT-IT and TP	M/s Gujarat NRE Coke Ltd.	2009-10	89.91
Over-charge of tax/ interest - Overcharge of tax						
298	17-CT	Delhi	CIT-7, Delhi	M/s Puri Oil Mills Ltd.	2008-09	58.77
299	25-CT	Delhi	Pr. CIT-8, Delhi	M/s Shri Parasram Industries Pvt. Ltd.	2006-07	78.56
300	81-CT	West Bengal	Pr. CIT-3, Kolkata	M/s Baljit Agrotech (P) Ltd.	2011-12	55.68
301	82-CT	Uttarakhand	Pr. CIT, Dehradun	M/s Patanjali Food and Herbal Park Pvt. Ltd.	2012-13	47.22
302	92-CT	Tamil Nadu	CIT-4, Chennai	M/s Nissan Ashok Leyland Powertrain Ltd.	2012-13	163.28
303	113-CT	West Bengal	Pr. CIT-1, Kolkata	M/s Nampa Electricals Private Ltd.	2011-12	67.48
304	134-CT	Andhra Pradesh	CIT-1, Hyderabad	M/s Andhra Pradesh State Warehousing Corporation Ltd.	2010-11	268.36
305	137-CT	Odisha	CIT-Bhubaneswar	M/s North Eastern Electricity Supply Company of Orissa Ltd.	2011-12	289.83
306	151-CT	Goa	CIT-Panaji	M/s Salitho Ores Pvt. Ltd.	2012-13	89.42
307	160-CT	UT Chandigarh	Pr. CIT-1, Chandigarh	M/s Mukul Sales Pvt. Ltd.	2012-13	96.3
308	179-CT	West Bengal	Pr. CIT-4, Kolkata	M/s Khaitan India Ltd.	2011-12	140.79
309	195-CT	Delhi	CIT (Central)-1, Delhi	M/s Pixion Media Pvt. Ltd.	2011-12	2273.21
310	211-CT	Delhi	Pr. CIT-7, Delhi	M/s Rio Tinto Exploration India Pvt. Ltd.	2011-12	298.96
311	213-CT	Delhi	CIT (Intl. Tax.)-2, Delhi	M/s MTR Corporation Ltd.	2011-12	110.22
312	215-CT	Delhi	Pr. CIT-9, Delhi	M/s Today Merchandise Pvt. Ltd.	2011-12	69.01

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313	219-CT	Delhi	CIT (Central)-I, Delhi	M/s Pearl Studio Private Ltd.	2011-12	2179.43
314	248-CT	Delhi	CIT-3, Delhi	M/s Delhi Transport Corporation	2011-12	6501.04
Over-charge of tax/ interest - Overcharge of interest						
315	16-CT	Haryana	Pr. CIT (Central) Gurgaon	M/s Dwarkadhish Buildwell Pvt. Ltd.	2006-07	80.64
316	28-CT	Delhi	Pr.CIT-9, Delhi	M/s Volvo Properties Pvt. Ltd.	2012-13	50.14
317	30-CT	Delhi	CIT-LTU, Delhi	M/s Rural Electrification Corp Ltd.	2012-13	4229.10
318	53-CT	Delhi	CIT-7, Delhi	M/s Religare Securities Ltd.	2011-12	388.36
319	193-CT	Delhi	Pr.CIT-8, Delhi	M/s Subway Systems India Pvt. Ltd.	2012-13	106.37
320	228-CT	Haryana	Pr.CIT (Central) Gurgoan	M/s Vee Gee Industrial Enterprises Pvt. Ltd.	2009-10	30.79
Income Tax and Wealth Tax						
Quality of assessments-Arithmetical errors in computation of Income and tax						
321	1-IT	Bihar	CIT-II, Patna	Shri Amit Kumar Singh	2011-12	11.23
322	3-IT	Maharashtra	Pr. CIT-I, Kolhapur	Sadashivrao Mandlik Kagal Taluka SSK Ltd.	2009-10	497.14
323	7-IT	Maharashtra	Pr. CIT-III, Nagpur	The Chandrapur Distt. Central Co-operative Bank Ltd.	2011-12	139.05
324	8-IT	Maharashtra	CIT-Central-IV, Mumbai	Shri Manoj Kumar Babulal Punamia	2010-11	289.69
325	9-IT	Maharashtra	Pr. CIT-III, Nagpur	Nagpur District Central Co-operative Bank Ltd.	2010-11	356.49
326	18-IT	Delhi	CIT-Exemption	Society for Promotion of Indian Classical Music and Cilture Amongst Youth (SPIC MACAY)	2011-12	20.44
327	22-IT	Madhya Pradesh	CIT-I, Bhopal	Shri R. K. Lalwani	2010-11	156
328	25-IT	Uttar Pradesh	CIT-Bareilly	The Kisan Sakhari Chini Mills Ltd.	2008-09	130.36
329	28-IT	Delhi	Pr. CIT-9, Delhi	Smt. Maninder Bedi	2011-12	79.7
330	29-IT	Delhi	Pr. CIT(Cent)-I	M/s Sahara India	2011-12	195.44
331	58-IT	Maharashtra	Pr. CIT-I, Pune	M/s Agasti SSK Ltd.	2009-10	175.69
332	63-IT	Rajasthan	CIT-II, Jaipur	M/s Vinayak Developers	2009-10	13.25
333	71-IT	Maharashtra	Pr. CIT-I, Nagpur	The Malkapur Urban Co Op Bank Ltd.	2012-13	29.56
334	74-IT	Punjab	Pr. CIT(Central) Ludhiana	Shri Phuman Singh	2009-10	20.89
335	75-IT	Punjab	Pr. CIT(Central) Ludhiana	Shri Avtar Singh	2009-10	18.32
336	76-IT	Delhi	DIT(Exemption) Delhi	M/s India Vision Foundation	2010-11	39.06
337	106-IT	Delhi	CIT- Central-II, Delhi	Shri Ramesh Chand	2012-13	637.83
338	112-IT	Punjab	Pr. CIT (Cent)-Ludhiana	Shri Harpal Singh	2010-11	10.22
339	127-IT	Orissa	CIT-Sambalpur	M/s Bolangir District Central Cooperative Bank Ltd.	2012-13	523.56
Quality of assessments- Incorrect application of rate of tax, surcharge, etc.						
340	2-IT	Gujarat	Pr. CIT-Central,Surat	Shri Piyush Ranchhodbhai Patel	2012-13	26.33

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341	4-IT	Maharashtra	CIT(IT)-III, Mumbai	Platinum Investment Management Ltd. A/c	2009-10	50.64
342	15-IT	Delhi	CIT-19, Delhi	Shri Vishal N Pawan Aggarwal	2006-07	49.62
343	23-IT	Rajasthan	CIT-I, Jaipur	Narayanan Heights and Towers	2012-13	23.12
344	24-IT	Gujarat	Pr. CIT-I, Ahmedabad	Shri Aiyubkhan Doulatkhan Pathan	2012-13	24.41
345	33-IT	Gujarat	Pr. CIT Central, Surat	Vimal Ranchhodbhai Patel	2012-13	26.3
346	43-IT	Maharashtra	Pr. CIT (C), Pune	Shri Hari Bachubhai Muzat	2012-13	44.1
347	46-IT	Maharashtra	CIT (IT)-III, Mumbai	M/s Platinum Investment Management Ltd. A/c. Platinum International Fund	2009-10	436.69
348	55-IT	Tamil Nadu	CIT-VI, Chennai	Shri Y Meera Reddy	2007-08	43.08
349	92-IT	Uttar Pradesh	CIT-Ghaziabad	Ram Kumar Tyagi	2008-09	304.15
350	93-IT	Maharashtra	Pr. CIT-III (Central), Mumbai	The Board of Control for Cricket In India	2005-06	111.27
Quality of assessments-- Non/short levy of interest/penalty for delay in submission of returns, delay in payment of tax, etc.						
351	12-IT	Haryana	CIT-Faribabad	Shri Jagroop Singh	2006-07	11.77
352	16-IT	Delhi	Pr. CIT(Cent)-I, Delhi	Shri Vikram Dhirani	2012-13	39.85
353	17-IT	Delhi	Pr. CIT(Cent)-2	Shri Antesh Kumar Pandey	2010-11 & 2012-13	51.52
354	19-IT	Delhi	CIT(C)-II, Delhi	Ramesh Chand	2013-14	113.74
355	20-IT	Delhi	Pr. CIT(Central)-II, Delhi	Shri Paraminder Singh Kalra	2011-12	23.06
356	21-IT	Delhi	CIT (C)-II, Delhi	Shri Sanjeev Sharma	2012-13	35.7
357	31-IT	Andhra Pradesh	CIT-I, Hyderabad	M/s Bhavana Co-operative Housing Society Ltd.	2009-10	235.31
358	37-IT	West Bengal	CIT-12, Kolkata	M/s Sital Varma	2009-10	60.52
359	38-IT	Punjab	Pr. CIT-1, Chandigarh	Shri Ajit Singh	2006-07	62.47
360	39-IT	Punjab	Pr. CIT-2, Amritsar	Shri Subash Chander Saggi	2008-09, 2009-10, 2010-11	64.84
361	40-IT	Punjab	Pr. CIT-II, Amritsar	Shri Dalbir Singh	2007-08	13.78
362	41-IT	Punjab	Pr. CIT-3, Ludhiana	Shri Rajesh Bagga	2010-11, 2011-12	23.42
363	45-IT	Maharashtra	Pr. CIT (C), Pune	M/s Sonam Builders	2013-14	66.87
364	50-IT	West Bengal	CIT-12, Kolkata	Ms Sital Varma	2009-10	57.68
365	53-IT	Tamil Nadu	CIT-IV, Chennai	Shri Mukesh P Hemdev	2007-08	68
366	54-IT	Tamil Nadu	CIT(IT), Chennai	Shri Mafaz Mohamed	2010-11	55.1
367	56-IT	Delhi	CIT-(Central)-II, Delhi	Shri Surender Modi	2012-13	66.07
368	60-IT	Gujarat	Pr. CIT-III, Ahmedabad	M/s Abhishree Villa Co-op. Housing Society Ltd.	2010-11	52.56
369	61-IT	Gujarat	Pr. CIT-III, Ahmedabad	Shri Rajeshsingh G Rajput	2011-12	324.08
370	64-IT	Rajasthan	CIT-II, Jaipur	Shri Babu Lal Meena	2007-08	88.37
371	65-IT	Kerla	CIT(Central) Ernakulam	Shri P A Jose	2013-14	119.08
372	77-IT	Delhi	CIT-XXI, Delhi	Anuradha Overseas	2006-07	95.31
373	81-IT	Goa	Pr. CIT, Panaji	Sri Eknath Ashok Valavoikar Tari	2009-10 & 2010-11	23.68

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374	82-IT	Goa	Pr. CIT, Panaji	Smt. Madhuri Eknath Tari	2009-10 & 2010-11	24.05
375	83-IT	Tamil Nadu	Pr. CIT-I, Chennai	M/s Rathna Stores	2007-08 to 2012-13	196.81
376	84-IT	West Bengal	Pr. CIT-Cent-3, Kolkata	Shri Puspesh Kumar Baid	2007-08 & 2009-10	23.02
377	85-IT	West Bengal	Pr. CIT, Cent-2, Kolkata	Ms Kanika Maiti	2010-11	25.4
378	94-IT	Tamil Nadu	Pr. CIT-I, Trichy	The Tiruchirapalli District Central Coop. Bank Ltd.	2007-08	183.83
379	95-IT	Tamil Nadu	Pr. CIT-VI, Chennai	Shri A Lalichan	2009-10, 2010-11 & 2011-12	82.77
380	96-IT	Andhra Pradesh	CIT-IV, Hyderabad	Ms Andhra Pradesh Housing Board	2010-11	1425.25
381	101-IT	Punjab	Pr. CIT (Cent) Ludhiana	S. K Textiles, C/o Puneet Fashion Group Ludhiana	2009-10 & 2010-11	31.63
382	107-IT	Delhi	CIT- Central-II, Delhi	Shri Ramesh Chand	2007-08 to 2011-12	1275.27
383	111-IT	Uttar Pradesh	CIT-I, Kanpur	Shri Prakash Chandra Arora	2009-10	23.38
384	113-IT	Punjab	Pr. CIT (Cen) - Ludhiana	Shri Puneet Bedi, Prop M/s Nikhil Exports	2011-12	26.94
385	115-IT	Haryana	Pr. CIT- Panchkula	M/s Haryana State Pollution Control Board	2006-07, 2008-09, 2009-10, 2010-11, 2011-12	1073.71
386	123-IT	Uttar Pradesh	Pr. CIT-Central, Kanpur	Mradul Garg	2006-07 to 2011-12	52.11
Quality of assessments-Mistakes in assessment while giving effect to appellate order						
387	35	Rajasthan	CIT-III Jaipur	Manoj Kumar Johari	2010-11	12.26
388	69	Maharashtra	Pr. CIT-I, Nagpur	M/s Washim Urban Co-op Bank Ltd.	2010-11	34.47
Administration of tax concession/exemption deduction-Irregular exemptions/deductions/reliefs given to Trusts/ Firms/Societies						
389	26-IT	Maharashtra	Pr. CIT-I, Pune	M/s Kukadi Sahakari Sakhar Kharkhana Ltd.	2009-10	106.28
390	49-IT	West Bengal	DIT-Exemption, Kolkata	M/s Sunmarg Welfare Society	2011-12	195.56
391	68-IT	Maharashtra	Pr. CIT-I, Pune	M/s Sahakarmaharshi Bhausaheb Thorat SSK Ltd.	2009-10	1101.53
392	70-IT	Maharashtra	Pr. CIT-I, Kolhapur	Rajarambapu Patil SSK Ltd.	2011-12	55.09
393	72-IT	Gujarat	Pr. CIT-I, Baroda	M/s Fine Line Circuit Company	2004-05	23.37
394	73-IT	Andhra Pradesh	Pr. CIT-Vijayawada	M/s VGTM Urban Development Authority	2009-10, 2010-11	906.06
395	78-IT	Gujarat	Pr. CIT- Gandhinagar	Gandhinagar Urban Development Authority	2009-10 & 2010-11	499.26
396	80-IT	Gujarat	Pr. CIT-II, Ahmedabad	M/s Vinayak Corporation	2010-11	23.07
397	88-IT	Jharkhand	CIT-Jamshedpur	M/s B N Tractor	2010-11	15.31
398	104-IT	Delhi	CIT-Exemption, Delhi	Gurdwara Baba Jorawar Singh Ji Baba Feteah Singh Ji	2010-11	20.54
399	105-IT	Delhi	CIT- Exemption	Shri Robin Raina Charitable Trust	2011-12	41.18

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400	116-IT	Himachal Pradesh	CIT- Shimla	M/s Shree Ganesh Concast Group of Undustries Kangra HP	2011-12	12.77
401	117-IT	Andhra Pradesh	CIT- Kurnool	M/s Andhra Pragathi Grameena Bank	2009-10	193.38
402	121-IT	Madhya Pradesh	CIT- Gwalior	Jlla Sahakari Kendriya Bank Maryadit	2010-11	96.23
403	128-IT	Haryana	Pr. CIT- Panchkula	M/s Haryana State Cooperative Apex Bank Ltd.	2009-10	18.38
404	134-IT	Maharashtra	Pr. CIT,III, Nagpur	M/s Gondia District Central Co-op. Bank	2007-08 to 2010-11	736.93
405	135-IT	Gujarat	Pr. CIT-I,Surat	M/s Nilkanth Developers	2010-11	63.85
Administration of tax concession/exemption deduction-Irregular exemptions/deductions/reliefs given to individual						
406	67-IT	West Bengal	CIT-XVII, Kolkata	Shri Manas Roy Chowdhury	2012-13	21.94
407	79-IT	Gujarat	Pr. CIT-III, Ahmedabad	Shri Rajendra H Prajapati	2011-12	26.39
408	87-IT	Jharkhand	Pr.CIT-Rachi	Shri Om Prakesh Singh	2009-10	13.18
409	124-IT	Uttar Pradesh	Pr.CIT-I, Kanpur	Shri Upendar Singh	2010-11	20.33
410	126-IT	Andhra Pradesh	CIT-Central, Hyderabad	Shri Sabbineni Surender	2010-11	290.89
411	133-IT	Haryana	CIT Gurgaon Central	Vinod Jain, Proprietor Nikki Jewellers	2011-12	19.2
Administration of tax concession/exemption deduction-Incorrect allowance of business expenditure						
412	14-IT	Delhi	Pr. CIT-21, Delhi	M/s Brij Gopal Construction Company	2009-10	70.65
413	52-IT	Bihar	Pr. CIT Bhagalpur	M/s K.D.Company, Supaul	2012-13	22.65
414	86-IT	West Bengal	Pr. CIT-12,Kolkata	Kishan Gopal Mohta	2010-11	29.32
415	90-IT	Orissa	CIT-Cuttack	M/s Kalinga Gramya Bank	2012-13	31.95
416	99-IT	Chandigarh	Pr. CIT-I, Chandigarh	Shri Sewak Ram	2009-10	45.46
417	109-IT	Uttrakhand	Pr. CIT- Dehradun	Ms Itisha Goyal	2012-13	55.48
Administration of tax concession/exemption deduction-Irregularities in allowing depreciation/business loss/capital loss						
418	5-IT	Maharashtra	Pr. CIT-III, Mumbai	Shri K V Adbul Nazar	2010-11	96.38
419	6-IT	Maharashtra	Pr. CIT-VI, Pune	Loknete Baburao Patil SSK Ltd	2010-11	256.23
420	11-IT	Maharashtra	CIT-VI, Pune	Shri Vitthal Sahakari Sakhar Karkhana Ltd.	2009-10	240.16
421	48-IT	West Bengal	Pr. CIT-3, Kolkata	Harshavardhan Himatsingka	2012-13	21.01
422	57-IT	Orissa	CIT-Cuttack	M/s Cuttack Central Co-operative Bank Ltd.	2012-13	250.93
423	91-IT	Maharashtra	CIT-II, Aurangabad	Dr. Babasaheb Ambedkar Sahakari Sakhar Karkhana Ltd.	2009-10	481.21
424	102-IT	Gujarat	Pr. CIT-Valsad	Maroli Vibhag Khand Udhhyog Sahkari Mandi Ltd.	2011-12	132.77
425	125-IT	Karnataka	CIT- Central, Bangalore	Shri B V Sreenivasa Reddy	2012-13	81.06
426	129-IT	Chandigarh	Pr. CIT-I, Chandigarh	M/s Thukral Regal Shoes	2011-12	11.78
Income escaping assessments due to omissions-Incorrect classification and computation of capital gains						
427	34-IT	Rajasthan	CIT-1 Jaipur	Sunil Sankhala	2011-12	211.55
428	66-IT	Uttar Pradesh	CIT-Meerut	Shri Praveen Gupta	2010-11	21.88
429	103-IT	Gujarat	Pr. CIT-III, Ahmedabad	Shri Ileshbhai P. Shah	2012-13	45.52
430	119-IT	Gujarat	Pr. CIT- III, Ahmedabad	Shri Harish Pannalal Shah	2010-11	33.77
431	130-IT	Rajasthan	CIT-I, Jodhpur	Shri Bhanwar Singh Rathore	2010-11	17.32

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432	131-IT	Tamil Nadu	CIT-IV, Chennai	Smt. Deepa Vijay	2012-13	206
433	132-IT	Tamil Nadu	CIT-VI, Chennai	Shri Natarajan Neelamegan	2012-13	23.81
Income escaping assessments due to omissions-Incorrect computation of Income						
434	10-IT	Maharashtra	Pr. CIT-I, Pune	Kopargaon Sahakari Sakhar Karkhana Ltd.	2009-10	98.96
435	32-IT	Gujarat	Pr. CIT-I, Ahmedabad	Keshavdayal Sitadas Jadwani	2010-11	44.64
436	42-IT	Maharashtra	Pr. CIT-1, Pune	M/s Vrideshwar Sahakari Sakhar Karkhana Ltd.	2009-10	152.22
437	44-IT	Maharashtra	Pr. CIT-I, Kolhapur	M/s Krantiagrani Dr.G.D. Babu Lad SSK Ltd.	2012-13	41.98
438	62-IT	Gujarat	Pr. CIT-Valsad	Shri Sanjit J. Biswas	2011-12	54.74
439	97-IT	Maharashtra	Pr. CIT-2, Mumbai	Bharat Co-operative Bank Ltd.	2010-11	55.84
440	98-IT	Maharashtra	Pr. CIT-I, Pune	Parner Taluka SSK Ltd.	2009-10	53.8
441	136-IT	Maharashtra	Pr. CIT, Aurangabad	Majalgaon Sahakari Sakhar Karkhana Ltd.	2009-10	125.09
Income escaping assessments due to omissions-Omissions in implementing provisions of TDS/TCS						
442	36-IT	Uttar Pradesh	Pr. CIT Allahabad	Shri Lal Chand Yadav	2009-10	82.3
443	110-IT	Jharkhand	Pr. CIT- Ranchi	Shri Sanjay Kumar Sharma	2010-11	11.64
444	120-IT	Chhattisgarh	CIT-Bilaspur	M/s Basant Kumar Mishra	2009-10	23.5
Income escaping assessments due to omissions-Non/short levy of Wealth Tax						
445	1-WT	Gujarat	Pr. CIT-II, Ahmedabad	Madhuram Traders Pvt. Ltd.	2011-12	2.52
446	2-WT	west Bengal	CIT-11, Kolkata	Shri Shawkat Ali	2010-11	2.29
447	3-WT	Gujarat	Pr. CIT-II, Ahmedabad	Mudra Finvest Gujarat Ltd.		2.6
448	4-WT	Karnataka	CIT-Gulbarga	Shri Prabhakar Pathikonda	2011-12	5.45
449	5-WT	Karnataka	CIT (Central) Bangalore	Shri A Abdul Rafeekh	2008-09 to 2012-13	23.45
450	6-WT	Rajasthan	CIT-I, Jodhpur	Marudhar Hotels Pvt. Ltd.	2007-08	5.52
451	7-WT	Gujarat	Pr. CIT-II, Ahmedabad	Manpasand Builders Pvt. Ltd.	2010-11	5.58
Income escaping assessments due to omissions-Unexplained investment/cash credits etc.						
452	114-IT	Haryana	Pr. CIT- Gurgaon	Shri Naresh	2009-10	20
453	122-IT	Chhattisgarh	CIT-Bilaspur	Shri Bishambhar Dayal Agrawal	2010-11	12.8
Income escaping assessments due to omissions-Incorrect estimation of Arm's Length Price						
454	118-IT	Andhra Pradesh	CIT- (IT & TP) Hyderabad	M/s Value Labs LLP	2012-13	163.94
Over-charge of tax/Interest-Over-charge of tax/interest						
455	13-IT	Punjab	CIT(Central) Ludhiana	Shri Tilak Raj Bedi	2007-08	374.2
456	27-IT	Delhi	CIT(Intl.Tax)-12, Delhi	M/s Persys Punj Lloyd Joint Venture	2011-12	111.76
457	30-IT	Delhi	CIT(Central)-I	Shri Sanjay Kumar Singh	2010-11	229.46
458	47-IT	Delhi	CIT (Central)-III, Delhi	Virendra Jain	2009-10	26585.6
459	51-IT	Assam	Pr. CIT-2, Guwahati	Shri Sovinder Singh Sethi	2008-09	24.69
460	59-IT	Delhi	CIT(Central)-I, Delhi	Shri Dev Kant Vashistha	2010-11	20.54
461	89-IT	Delhi	Pr. CIT-XIV,Delhi	Shri Tahar Singh Through Legal Heir, Smt Sunita Kumari	2007-08	116.46
462	100-IT	Punjab	Addl. CIT- Khanna	Shri Barinder Pal Singh	2008-09	21.92
463	108-IT	Delhi	CIT- Exemption	Innovative Welfare and Educational Society	2011-12	28.25

Appendix 2.4 (Reference: Paragraph 2.3.4)

Category wise details of observations in respect of Draft Paragraphs sent to Ministry		
Sub category	Cases	Tax Effect (₹ in crore)
A. Quality of assessments	173	1,550.21
a. Arithmetical errors in computation of income and tax	64	956.39
b. Incorrect application of rate of tax, surcharge etc.	16	27.12
c. Non/short levy of interest/penalty for delay in submission of returns, delay in payment of tax etc.	75	225.81
d. Excess or irregular refunds/interest on refunds	6	49.46
e. Mistake in assessment while giving effect to appellate orders	12	291.43
B. Administration of tax concessions/exemptions/deductions	183	1497.10
a. Irregular exemptions/deductions/reliefs given to Corporate	27	328.98
b. Irregular exemptions/deductions/reliefs given to Trusts/ Firms/Societies	17	41.08
c. Irregular exemptions/deductions/reliefs given to individuals	6	3.92
d. Incorrect allowance of Business Expenditure	53	516.65
e. Irregularities in allowing depreciation/business losses/ Capital losses	80	606.47
C. Income escaping assessment due to omissions	75	260.93
a. Under special provisions including MAT/Tonnage Tax etc.	13	62.35
b. Incorrect classification and Computation of Capital Gains	11	12.07
c. Incorrect Computation of Income	27	147.03
d. Omission in implementing provisions of TDS/TCS	3	1.18
e. Non/short levy of wealth tax	7	0.47
f. Unexplained investment/ cash credit	4	12.91
g. Incorrect estimation of Arm's Length Price	10	24.92
D. Others	32	451.86
Over charge of tax/interest	32	451.86
Total	463	3760.10

Appendix 2.5 (Reference: Paragraph 2.5.2)

Cases where remedial action has become time barred in FY 2015-16		
State	Audit observations where remedial action became time barred	
	Cases	Tax effect (₹ in crore)
Andhra Pradesh	NA	NA
Assam	1	0.30
Bihar	91	4.02
Chhattisgarh	25	4.41
Delhi	3	0.06
Goa	4	2.81
Gujarat	168	31.03
Haryana	86	10.81
Himachal Pradesh	0	0
Jammu & Kashmir	19	27.12
Jharkhand	50	13.78
Karnataka	12	3.08
Kerala	0	0
Madhya Pradesh	23	8.04
Maharashtra	243	50.61
Odisha	117	93.26
Punjab	59	4.63
Rajasthan	78	24.10
Tamil Nadu	952	851.98
UT Chandigarh	10	0.80
Uttarakhand	0	0
Uttar Pradesh	103	88.03
West Bengal	30	11.85
Total	2,074	1,230.72

Appendix 2.6 (Reference Paragraph 2.6.3)

States	Records requisitioned in FY 2015-16	Records not produced in FY 2015-16	Percentage of records not produced in FY 2015-16	Percentage of records not produced in FY 2014-15	Percentage of records not produced in FY 2013-14
Andhra Pradesh	NA	NA	NA	10.43	17.38
Assam	2,518	9	0.36	1.21	0.34
Bihar	3,367	473	14.05	13.42	13.52
Chhattisgarh	1,859	0	0.00	26.84	1.32
Delhi	41,101	9,536	23.20	24.81	18.24
Goa	1,648	46	2.79	0.39	0.00
Gujarat	27,190	736	2.71	6.43	13.59
Haryana	5,258	414	7.87	7.64	3.10
Himachal Pradesh	1,521	270	17.75	11.03	7.94
Jammu & Kashmir	360	5	1.39	16.01	13.19
Jharkhand	876	47	5.37	12.09	6.55
Karnataka	8,699	636	7.31	9.56	25.44
Kerala	5,203	591	11.36	11.76	9.90
Madhya Pradesh	11,880	2,086	17.56	20.06	16.87
Maharashtra	68,049	4,589	6.74	5.79	4.85
Odisha	4,697	1,379	29.36	9.78	31.62
Punjab	8,160	1,264	15.49	15.10	17.47
Rajasthan	13,929	888	6.38	8.75	8.27
Tamil Nadu	17,084	2,248	13.16	25.03	22.51
UT Chandigarh	3,240	1,487	45.90	41.49	17.09
Uttarakhand	1,981	423	21.35	0.69	4.29
Uttar Pradesh	14,001	681	4.86	3.11	5.30
West Bengal	32,173	1,705	5.30	7.01	10.56
Total	2,74,794	29,513	10.74	12.02	13.44

Appendix 5.1 - (Reference paragraph 5.4)

List of 35 PANs listed in bogus purchases list of Sales Tax Department																		₹ in lakh
Sl. No.	Assessing Charge	Dealer Name/PAN	AY 2009-10			AY 2010-11			AY 2011-12			AY 2012-13			AY 2013-14			
			Purchase	Sales	Income	Purchase	Sales	Income	Purchase	Sales	Income	Purchase	Sales	Income	Purchase	Sales	Income	
1	ITO 2(3) Thane	Shri Vinayak Sales Corp./ AQYPP4297J	Not filed			Not filed			0	0.99		83.32	94.36		Not filed			
2	ITO 2(3) Thane	Padm Enterprises/ AVCPK2080R	Not filed			Not filed			Not filed			Not filed			Not filed			
3	ITO 2(3) Thane	Amees Enterprises/ AZPPP4568E	0	0	0	0	0	2.47	13.30	22.59	3.50	14.06	24.78	5.51	Not filed			
4	ITO 2(3) Thane	Samkit Trading Corp./ BJHPS7560L	0	0	0.76	114.70	122.55	2.25	0	0	3.16	Not filed			Not filed			
5	ITO 2(3) Thane	R N Enterprises/ ARKPK5303K	Not filed			Not filed			Not filed			Not filed			Not filed			
6	ITO 2(3) Thane	Sam Enterprises/ ADGPJ1815K	Not filed			0	0		0	0	1.59	0	0	1.79	0	0	1.79	
7	ITO 2(3) Thane	Avinash Trading Corp./ APPPP0806F	Not filed			Not filed			Not filed			Not filed			Not filed			
8	ITO 2(3) Thane	Bramahani Enterprises/ AHCPN7516K	Not filed			Not filed			0	0	1.60	0	2.26	1.60	Not filed			
9	ITO 2(3) Thane	Manki Enterprises/ AMHPK9422F	0	0	0	0	0	0	0	4.39	4.39	Not filed			Not filed			
10	ITO 2(3) Thane	N S Enterprises/ AIGPA4700P	72.22	88.49	3.84	114.82	125.47	2.53	Not filed			Not filed			\$			
11	ITO 2(3) Thane	Maulik Enterprises/ BMCPS0117D	0	0	1.12	Not filed			Not filed			Not filed			Not filed			
12	ITO 2(3) Thane	Deep Enterprises/ AMTPS9884P	0	0	0	Not filed			Not filed			Not filed			Not filed			
13	ITO 2(3) Thane	Nimesh Trading Corporation/ ALVPK4383L	0	0	0	125.30	130.52	3.31	Not filed			Not filed			Not filed			
14	ITO 2(3) Thane	Geeta Sales Corp./ APLPM2731A	24.18	25.51	1.63	35.57	39.91	1.88	82.69	94.85	3.46	Not filed			Not filed			
15	ITO 2(3) Thane	Aryan Enterprises/ AAAPQ1933G	30.47	37.09	5.32	0	0	0	0	0	0	38.02	48.39	7.99	Not filed			

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Sl. No.	Assessing Charge	Dealer Name/PAN	AY 2009-10			AY 2010-11			AY 2011-12			AY 2012-13			AY 2013-14		
			Purchase	Sales	Income	Purchase	Sales	Income	Purchase	Sales	Income	Purchase	Sales	Income	Purchase	Sales	Income
16	ITO 2(3) Thane	Adinath Trading Co/AYIPP6959R	Not filed			0	0	0	Not filed			Not filed			Not filed		
17	ITO 2(3) Thane	Shree Steel Corporation/AHLPD8520C	0	0	0	0	0	0	0	0	0	Not filed			Not filed		
18	ITO 2(3) Thane	Universal Enterprises/ABPPV9606H	Not filed			Not filed			Not filed			Not filed			Not filed		
19	ITO 2(3) Thane	S R Enterprises/AFQPG0676P	0	3.50	1.69	0	5.81	2.12	0	5.74	2.01	0	25.09	4.23	0	0	0
20	DCCC 8(1)	Superfine Trading Co. Pvt Ltd/AAJCS3337G	6549.39	6575.17	12.08	2938.96	2962.58	10.06	Not filed			Not filed			Not filed		
21	DCIT 3(1)(1)	Rim Associates/AQXPS9886P	Not filed			Not filed			Not filed			Not filed			Not filed		
22	DCIT 5(1)(1)	Aniket Steel Pvt Ltd./AAGCA0417J	66.66	70.24	0.07	Not filed			Not filed			Not filed			Not filed		
23	DCIT 5(1)(1)	Bhavikh Steels Private Ltd./AADCB1554G	Not filed			Not filed			Not filed			Not filed			Not filed		
24	DCIT 5(1)(1)	Anmol Feromet Pvt. Ltd./AAGCA4069C	Not filed			Not filed			Not filed			Not filed			Not filed		
25	DCIT 5(1)(1)	Adarsha Trading Company Pvt Ltd/AAGCA1090D	Not filed			Not filed			Not filed			Not filed			Not filed		
26	ITO 26(2)(3)	Snehal Enterprises/ALOPR3012J	Filed manually\$			Not filed			Not filed			Not filed			Not filed		
27	ITO 26(2)(3)	Jindal Steel Corporation/ALEPB6133C	Filed manually\$			Not filed			Not filed			Not filed			Not filed		
28	ITO 26(2)(3)	Neda Enterprises/AMPPP9048Q	Filed manually\$			Filed manually\$			Not filed			Not filed			Not filed		
29	ITO 26(2)(3)	Selection Enterprises/AFVPA6789G	Filed manually\$			Filed manually\$			Return E-filed#			Not filed			Not filed		
30	ITO 2(1) Nasik	Ketna Engg.*/DASPS1751R	Not filed			0	0	0	Not filed			Not filed			Not filed		
31	ITO 2(1) Nasik	Brij Corporation*/BBYPS6024G	Not filed		0	0	0	7.92	Not filed			Not filed			Not filed		

Sl. No.	Assessing Charge	Dealer Name/PAN	AY 2009-10			AY 2010-11			AY 2011-12			AY 2012-13			AY 2013-14		
			Purchase	Sales	Income	Purchase	Sales	Income	Purchase	Sales	Income	Purchase	Sales	Income	Purchase	Sales	Income
32	ITO 1(3) Thane	Bath Classic / AGAPA9867F	0	0		Not filed			Not filed			Not filed			22.1 8	24.2 5	
33	ITO 1(3) Thane	Prathmesh Sales Corporation/ AJGPR5975E	Not filed			Not filed			Not filed			Not filed			Not filed		
34	ITO 1(3) Thane	Classic Enterprises/ BACPM0311H	Not filed			Not filed			Not filed			Not filed			Not filed		
35	ITO 1(3) Thane	Shree Ganesh Enterprises/ ANHPP0684M	Complete return not made available									111.79	Not filed			92.26	

\$ Copy of return not readily available, will be furnished subsequently. # Notice u/s 148 issued, assessment pending, copy of return not furnished.

Additions made of entire bogus purchases of Rs 2.90 crore and Rs 4.52 crore for AY 2010-11 and 2011-12 in case of M/s Brij Corporation and Rs 1.06 crore of M/s Ketna Engineering for AY 2011-12 respectively on the basis of information received from Investigation wing

Appendix 5.2 (Reference paragraph 5.10)

List of Case Laws for Bogus Purchases for sustainability of additions							
Sl. No.	ITA No./Date of pronouncement	AO charge	Name of the assessee/AY	Amount disallowed by AO	Decided by CIT(A)	Decided by ITAT	Sustained
1	4547/Mum/2014 /01.01.2016	ITO 14(1)(4)	Shri Hiralal Chunilal Jain/ 2009-10	The department disallowed entire bogus purchases of Rs 7.21 lakh	The CIT(Appeals) restricted disallowance to 20 per cent of bogus purchases	The appellant having produced all the records and evidences for such purchases, additions deleted.	0
2	2826/Mum/2013 /5.11.2014	ACIT 15(3)	Shri Ganpatraj A Sanghavi/ 2009-10	The department disallowed entire bogus purchases of Rs.174.01 lakh	Confirmed the addition made by AO.	Additions being based only on surmises, were, deleted the additions.	0
3	2959/Mum/2014 /28.11.2014	ACIT 21(1)	Ramesh Kumar & Co./ 2010-11	The department disallowed entire bogus purchases of Rs.498.80 lakh	confirmed the addition made by AO.	The additions have been made merely on the report of the Sales tax Department, were deleted.	0
4	6727/Mum/2012 /20.08.2014	DCIT 25(3)	Shri Rajeev G. Kalathil/ 2010-11	The department disallowed entire bogus purchases of Rs.13.69 lakh	Assessee produced all the records regarding purchases, additions deleted.	The ITAT upheld the findings of CIT(A)'s order	0
5	5246/Mum/2013 /5.3.2015	DCIT 25(2)	Shri Ramila Pravin Shah/2010-11	The department disallowed entire bogus purchases of Rs. 28.08 lakhs	The appellant produced all the records and evidences for such purchases, additions deleted.	The ITAT upheld the findings of CIT(A)'s order	0
6	5295/Mum/2013 /2.2.2016	DCIT 25(2)	Tarla R Shah/2010-11	The department disallowed entire bogus purchases of Rs. 74.09 lakh	Confirmed the addition.	Appellant produced all the records and evidences for such purchases made and not cash trail. ITAT asked the AO to adjudicate afresh.	afresh
7	5920/Mum/2013 /27.3.2015	ITO 25(3)(2)	Shri Deepak Popatlal Gala/2010-11	The department disallowed entire bogus purchases of Rs. 74.09 lakh	Additions deleted as the assessee produced the relevant records.	The ITAT upheld the findings of CIT(A)'s order	0
8	5163/Mum/2013 /24.02.2016	ACIT Cir 6(1)	Jaybharat Textiles and Real Estate P Ltd./ 2010-11	The department disallowed entire bogus purchases of Rs. 118.64 crore	Deleted the addition as the assessee produced the relevant records.	The ITAT upheld the findings of CIT(A)'s order	0

Sl. No.	ITA No./Date of pronouncement	AO charge	Name of the assessee/AY	Amount disallowed by AO	Decided by CIT(A)	Decided by ITAT	Sustained
9	3823/MUM/2014/09.03.2016	JCIT (OSD), Central Circle 39	M/s Maruti Impex/ 2009-2010	The department disallowed entire bogus purchases of Rs. 7.56 crores	The Id. CIT(A) confirmed the addition made by AO.	Deleted the additions as the appellant produced all the records and evidences for such purchases made	0
10	Writ petition no. 2860 of 2012/18.06.2014	ACIT Range 1(2)	Nickunj Eximp Enterprises Pvt. Ltd./ 2005-06 to 2010-11	The department reopened the case and disallowed entire bogus purchases of Rs. 35 crores.		High Court rejected the issue of notice u/s 148 on the basis of bogus purchases	0
11	5706/Mum/2013/13.5.2015	ITO 25 (2)(2)	Shri Paresh Arvind Gandhi/2010-11	The department disallowed entire bogus purchases of Rs. 1.38 crores	Deleted the addition as the purchases were genuine	The ITAT upheld the action of CIT(A).	0
12	5248/Mum/2013/16.7.2015	ACIT-25(2)	M/s Shivam Textile & Proofing Industries/ 2010-11	The department disallowed entire bogus purchases of Rs. 1.27 crores	The appellant produced all the records and evidences for such purchases, hence additions deleted.	The ITAT upheld the action of CIT(A).	0
13	2239/Mum/2012/5.12.2014	ACIT 22(1)	- M/s G V Sons/ 2007-08	The department disallowed entire bogus purchases of Rs. 16.57 lakh	The additions deleted	Sustained the order of CIT(A)	0
14	2240/Mum/2012/5.12.2014	ACIT 22(1)	- M/s G V Sons/ 2008-09	The department disallowed entire bogus purchases of Rs. 83.61 lakh	The additions deleted."	Sustained the order of CIT(A)	0
15	5427/MUM/2015/18.3.2016	ITO 20(1)(5)	M/s Imperial Imp & Exp/2009-10	The department disallowed entire bogus purchases of Rs.77.51 lakh and profit was calculated at the rate of 12.5 per cent of Rs.9.69 lakh.	The CIT(Appeals) also noticed that assessee could not prove the existence of the suppliers, however, restricted the additions at the rate of 5.41 per cent of Rs. 4.19 lakh.	The ITAT observed that no such opportunity have been allowed to cross examine the suppliers, hence, the entire additions needs to be deleted.	0

Sl. No.	ITA No./Date of pronouncement	AO charge	Name of the assessee/AY	Amount disallowed by AO	Decided by CIT(A)	Decided by ITAT	Sustained
16	7593/Mum/2011/31.7.2015	DCIT 18(3)	Tristar Jewellery Exports Private Ltd./2006-07	The department disallowed 25 <i>per cent</i> of bogus purchases of Rs. 409.12 lakh.	The CIT(A) restricted the addition to 7 per cent	Entire additions deleted.	0
17	964/M/2015/19.06.2015	CIT Central I	M/s Shoreline Hotel Pvt. Ltd./ 2011-12	The department disallowed 15 per cent of bogus purchases of Rs.360.24 lakh.	The entire alleged bogus purchase should have been disallowed by the AO.	The ITAT restored the matter back to the AO for deciding afresh after making necessary inquiry	afresh
18	5038/M/2014/2 4.06.2016	DCIT 5(3)	CMS Info Systems Private Ltd. /2010-11	The department disallowed bogus purchases of Rs.11.57 lakhs	The Id. CIT(A) confirmed the addition made by AO.	Deleted the additions.	0
19	582 & 610/AHD/2012/ 14.03.2016	ACIT, Central Circle-1(1), Surat	Shri Jagdish H. Patel/2008-09	The department disallowed bogus purchases of Rs. 566.81 lakh.	The Id. CIT(A) directed the A.O to disallow 25 <i>per cent</i> of bogus purchases	The ITAT directed the A.O to disallow 8 <i>per cent</i> of bogus purchases	8 <i>per cent</i>
20	583 & 611/AHD/2012/ 14.3.2016	ACIT, Central Circle-1(1), Surat	Shri Jagdish H. Patel/2009-10	The department disallowed bogus purchases of Rs. 303.29 lakh.	The Id. CIT(A) directed the A.O to disallow 25 <i>per cent</i> of bogus purchases	The ITAT directed the A.O to disallow 8 <i>per cent</i> of bogus purchases	8 <i>per cent</i>
21	1055/Kol/2013/1 0/6/2016	ITO Ward-1(2), Hooghly	Kalin Dutta/2008-09	The department disallowed bogus purchases of Rs. 29.11 lakh	Delete the additions made	The ITAT upheld the action of CIT(A).	0
22	ITA No.2434/Mum/2 013/8/7/2015	CIT-24(3)	Amitabh Bachchan/200 5-06	The assessment in this case was completed u/s.143(3) on 31-12-2007 by making addition of Rs.18.76 lakh towards disallowance of 10 <i>per cent</i> of G.P. on the alleged bogus purchases	The CIT(A) vide order No.CIT(A)-34/IT-20/ 2007-08 dated 23/02/2010 by relying on the decision of ITAT Ahmedabad in the case of M/s Vijay Proteins has enhanced the ITA No. 2434/13 disallowance to 25 <i>per cent</i> out the	The Hon'ble ITAT while setting aside the order of the lower authorities had given the specific direction to the AO. to recompute the income by substituting GP rate at 6 per cent.	6 <i>per cent</i>

Sl. No.	ITA No./Date of pronouncement	AO charge	Name of the assessee/ay	Amount disallowed by AO	Decided by CIT(A)	Decided by ITAT	Sustained
					disallowance of Rs. 46.91 lakh with an enhancement of Rs.28.15 lakh.		
23	ITA Nos.5120 and 5121/11/1/2016	CC-4(3)	M/s Jaya Jewellery Pvt. Ltd./ 2010-11 and 2011-12	The department disallowed 30 per cent of bogus purchases for AY 2010-11 and 2011-12	The first Appellate authority disallowed 30 per cent of bogus purchases for AY 2010-11 and 2011-12	The ITAT restricted the disallowance to 20 per cent.	20 per cent
24	ITA No. 136/MUM/2015 /29/02/2016	ITO 12(2)(1)	M/s Desire Jewels Pvt. Ltd./ 2008-09	The department disallowed 25 per cent of bogus purchases by issuing notice u/s 148.	CIT(Appeals) quashed the reassessment proceedings.	The ITAT affirmed the action of the CIT(Appeals) of quashing the reassessment proceedings	0 per cent
25	ITA Nos.232/Mum/2009 &1297/Mum/2012/19/08/2015	Range-9(1)	Dharmik Exim P. Ltd./ 2000-01 & 2001-02	The department disallowed 75 per cent of the bogus purchases	The CIT(A) deleted the additions.	The ITAT confirmed the addition of bogus purchases. The department appealed before High Court and High Court referred the matter back to ITAT for fresh consideration of the issue. Tribunal. The matter is restored back to the file of AO for deciding afresh.	afresh

Appendix 6.1 (Reference paragraph 6.5.1)

Delays due to non furnishing of complete information along with the proposals for acquisition of land						
Sl. No.	Station/ CCIT	Project Description	Amount (₹ in crore)	Size of land	Date of proposal	Reasons for pendency
1	Hardoi/ Bareilly	Purchase of land for office and residential purpose for ITD from Shri Naresh Kumar Agarwal & others	NA	3,680 sq. mtrs	03.06.2015	Directorate asked (June 2015) CCIT to provide the detailed proposal with all relevant certificates and duly filled in checklists including calculation sheet of space, certificates from CPWD with regard to availability of Government land, suitability/feasibility, layout plan of land, non-encumbrance certificate from District/local authorities and cost benefit analysis. Reply to queries awaited from CCIT.
2	Faizabad/ Lucknow	Purchase of land for office cum residential building at Faizabad	NA	NA	22.12.2015	CCIT, Lucknow was asked (January 2016) to provide the estimated cost of the land including registration charges, stamp duty, Non-encumbrance certificate from the District/local authority, details of existing hired building in which office is being run now, period of validity of offer for purchase of land, Government land certificate from CPWD, Land Suitability/feasibility certificate from CPWD, Cost reasonability certificate from CPWD for construction on the proposed land, Cost benefit analysis , land lay out plan. Reply to queries awaited from CCIT.
3	Haridwar / Dehradun	Purchase of land for construction of office building at Roshnabad, Haridwar	405.77	3,771 sq. mtrs	02.08.2013	Directorate asked (April 2015) CCIT (i) to furnish confirmation regarding non-escalation with validity (date/month) of estimate as the offer was valid upto Sept. 2013 only, (ii) to confirm provisions of 15% future expansion and 10% economic cut as per norms in the calculation of office space, (iii) to confirm the availability of budget with CPWD for the current FY 2015-16. Reply awaited from CCIT.
4	Mohali/ Chandigarh	purchase of land for office building and residential quarters at Mohali	14.52	4,840 sq. yards	25.05.2015	Revised AA & FS has been sought for official and residential purpose. Directorate has asked as to how additional piece of land will mitigate the space requirement in specific terms. Response not received from CCIT.
5	Fatehabad/ Hisar	Purchase of land for office building at	241.80	826.77 sq. mtrs	23.02.2012	Directorate asked (May 2015) CCIT to provide fresh and valid offer from HUDA as the present offer was to

Delays due to non furnishing of complete information along with the proposals for acquisition of land						
Sl. No.	Station/ CCIT	Project Description	Amount (₹ in crore)	Size of land	Date of proposal	Reasons for pendency
		Fatehabad				expire on 31.03.2015. In case of any change in the price a revised proposal was to be sent. Requisite information was awaited from CCIT.
6	Rewari/R ohtak	Proposal for purchase of land of Nagar Parishad Rewari for additional office space	2.03		07.11.2014	Directorate raised query (Dec. 2015) to CCIT to provide the reason for huge delay in utilization of fund allotted and as to how A/A & F/S could be sought for revalidation of already sanctioned proposal in view of increased circle rate of the land when original fund allocated has not been utilized . Reply to queries awaited from CCIT.
7	Ramnath puram/ CCIT, Madurai	Purchase of land for IT Office, Ramnathpuram	3.01	1 acre	26-05-2014/ 03.11.2014	The Directorate asked (Aug. 2015) CCIT to reconcile Sanctioned and working strength of manpower, validity of offer, requirement of space for residential quarters, to check rate offered by the Government of T.N with the market rate/ rate offered by Govt. of T.N to other Depts., available FSI/FAR, certificate of non-availability of land/buildings to be obtained from CPWD, vacant land under the charge of ITD, etc. Reply to the observations awaited from CCIT, Madurai.
8	Tambara m/ Pr. CCIT, Chennai	Purchase of land for construction of office building and residential qtrs. For I.T. Deptt. At Tambram, Chennai.	11.56	NA	10.06.2011	Directorate called for the following information from Pr. CCIT, Chennai (i) duly filled Checklist in the prescribed format. (ii) Copy of minutes of the committee constituted for the purchase of land (iii) Non-availability certificate from CPWD with regard to non-availability of Govt. land (iv) Certificate of cost reasonableness from CPWD (v) Certificate of suitability from CPWD on account of construction purpose (vi) Systematic calculation of office space as per norms along with area of special components as per enclosed guide-lines (vii) Methodical calculation of residential space in view of satisfaction ratio (viii) Documentary submission from the concerned army authorities for sale of the proposed land as

Delays due to non furnishing of complete information along with the proposals for acquisition of land						
Sl. No.	Station/ CCIT	Project Description	Amount (₹ in crore)	Size of land	Date of proposal	Reasons for pendency
						reference for further development. (ix) Copy of letter received from CEO St. Thomas Mount cum Pallavaram Cantonement, being jurisdictional authority of the proposed land. Reply awaited from Pr. CCIT.
9	Yavatmal / Nagpur	Purchase of land for construction of office building and staff quarters	3.51	5574.18 sq. mtr.	24.9.2012	Directorate raised (Nov. 2015) queries on terms and conditions of offer, confirmation on non-escalation of cost, layout plan of land, non-availability of GPA certificate etc. Reply awaited from CCIT.
10	Nagpur	Acquisition of land at Bungalow No.43A and 43B owned at civil lines, Nagpur for construction of office building & quarters	102.74	5.77 acres	30.9.2015	Observations of the Directorate with regard to the validity of offer for payment which already expired on 16.10.15, breakup of amount under the proposed head 4059 & 4216 etc. were communicated to CCIT. Reply awaited from CCIT.
11	Pune	Purchase of plot of land at Kharadi, Pune allotted by Govt. of State of Maharashtra	3.20	3000 sq. mtr.	2.12.2013	Directorate observations (Sept. 2015) on the finality of cost of land, validity of offer, shortage of office space and obtaining afresh land requirement certificate from the CPWD were communicated to Pr. CCIT. Reply to queries awaited.
12	Surat	Purchase of plot no. 128 of TPS-7 for construction of staff quarters at Surat	21.81 (SFC)	7789 sq. mtr.	15.01.2016	Reply received on 24.11.2015 regarding shortage of office space and residential quarters on the basis of existing sanctioned strength plus sanctioned strength post restructuring was under examination.
13	Bundi/ Udaipur	Purchase of land for construction of office building and residential quarters at Bundi.	1.96	2700 sq. mtr.	7.7.2008	Reply on the Directorate observations (May 2015) regarding validity of the cost of land, sanctioned strength at the station and availability of funds with MoUD were received from CCIT on 20.11.2015. Proposal was under consideration.
14	Udaipur	Purchase of land for residential quarters/ office building, guest house etc. for Income Tax Department, Udaipur	42.78 (SFC)	30000	11.8.2015	CCIT was asked (28.08.2015) to re-submit (i) afresh proposal with duly filled in checklists along with relevant documents/details. (ii) Calculation of space should be made on the basis of consolidated sanctioned strength at the station rather than separate calculation for each offices (iii) Space

Delays due to non furnishing of complete information along with the proposals for acquisition of land						
Sl. No.	Station/ CCIT	Project Description	Amount (₹ in crore)	Size of land	Date of proposal	Reasons for pendency
						for ASK to be as per norms (iv) calculation of space for special components should be calculated on the basis of Category of Building rather than for each offices at Udaipur (ii) Minimum requirement of land certificate to be obtained from CPWD and be submitted. Reply awaited from CCIT.
15	Jamshed pur	Purchase of land for construction of office & residential bldg.	22.03	4.17 Acre	3.11.2006	Directorate observed that land could be purchased at the rate concurred by CPWD in June, 2012. If that was not possible, purchase of land from State Govt. could be explored along with other options. CCIT, Ranchi was requested (20.07.2015) for action taken on observation of Directorate and availability of fund. Reply from CCIT was awaited.
16	Bokaro/ Ranchi	Proposal for the grant of A/A and F/S for purchase of land for office building for the Income Tax Department at Bokaro- reg.	4.92	0.89 acres	09.11.2015	Pr. CCIT, Ranchi was asked (26.11.2015) to seek extension of validity of offer price expiring on 08.12.2015,, clarify on nature of services charges and non feasibility of payment of security deposit under the capital head. Reply awaited from CCIT.
17	Bokaro/ Ranchi	Purchase of land for residential quarters	12.76	4 acres	09.11.2015	Pr. CCIT, Ranchi was asked (26.11.2015) to seek extension of validity of offer price expiring on 08.12.2015, clarify on nature of services charges and non feasibility of payment of security deposit under the capital head. Reply awaited from Pr. CCIT.
18	Chhindw ara/ Bhopal	Purchase of 30000 sq.ft. of land from State Government for construction of Office building and Staff Quarters.	2.81 (lease rent)	30000 sq. ft.	7.9.2009/ 5.03.2013	CCIT, Bhopal was asked (04 02.2014) to work out the requirement of office space as per norms prescribed in Infrastructure Manual and submit the duly filled in checklist with all supporting documents. Reply awaited from CCIT.
19	Shajapur/ Indore	Acquisition of land for construction of office and residential quarters	0.02	2 acre	23.2.2010	Directorate asked (20.12.2012) CCIT Bhopal to confirm from the state government whether a smaller plot of land can be allotted as there is no adequate justification for acquiring 2 acre plot. The proposed size of plot is much more than norms for a single ITO station. Reply awaited.
20	Seoni/ Bhopal	A/A & F/S for purchase of land (measuring 0.34	0.25	0.34 Hectare	29.11.2013	Information/ clarifications sought for by the Directorate in August 2015 w.r.to duly filled proforma for

Delays due to non furnishing of complete information along with the proposals for acquisition of land						
Sl. No.	Station/ CCIT	Project Description	Amount (₹ in crore)	Size of land	Date of proposal	Reasons for pendency
		hectare) from MP Govt., for construction of office and residential accommodation at Seoni.				residential accommodation, rental space and rent being paid, details of land i.e. cost of land, rate per sq. mtr., any other charges; suitability/feasibility certificates from CPWD, site map, requirement of office space and residential quarters, willingness to occupy staff quarters, revenue collection at Seoni, sources of funds, etc are awaited from CCIT.
21	Raipur	Allotment of land measuring 23,372 Sq. mtrs. from New Raipur Development Authority for the I. Tax department at New Raipur	17.31	23,372 sq. mtrs.	6.11.2008/ 19.3.2014	CCIT, Raipur was asked (30.4.2014) to provide the following details (i) Requirement of office and residential space as per actual strength and duly filled check list alongwith all supporting documents, (ii) to confirm how the budget for the proposal will be met and availability of the same. Reply is awaited from CCIT.

Appendix 6.2 (Reference paragraph 6.5.2)

Poor scrutiny of land acquisition proposals leading to non utilization of acquired land							
Sl. No.	Pr. CCIT/ CCIT Charge	Address of land	Size of land	Purpose	Cost of land (₹ in lakh)	Date of possession	Whether land included in database of DIT (Infra)/if no, Sl. no. in Appendix - 6.3
1	Pr. CCIT, Mumbai	Plot No. 196, Backbay Reclamation, Nariman Point, Mumbai	2786.2 sq. mtr.	Construction of office/ residential building	100.34	1973	No/8
2	Pr. CCIT, Pune	Ichalkaranaji, Pune	7800 sq. mtr.	Construction of office building and residential quarters	53	1985	Yes
3	Pr. CCIT, Pune	Satara	2295 sq. mtr.	Construction of office/ residential building	13	1999	Yes
4	Pr. CCIT, Pune	Kudal	865 sq. mtr.	Construction of office/ residential building	5	2003	Yes
5	Panchkula	Bhiwani	549.05 sq. mtr.	Construction of office/ residential building	47.43	20.01.2011	Yes
6	Panchkula	Sirsa	900 sq. mtr.	Construction of office/ residential building	8.75	08.01.1996	Yes
7	Panchkula	Bays site no. 25 to 26 Distt Shopping Centre, Jind	549 sq. mtr.	Construction of office/ residential building	21.27	17.09.2008	No/1
8	Gurgaon	Plot no. 2-2 Bays-Sector-32 Gurgaon	539.5 sq. mtr.	Construction of office/ residential building	17.64	01.02.1996	No/2
9	Kurushetra	Plot No.4& 5, Sector-5 , Urban Estate, Kurukshetra	1200 sq. mtr.	Construction of office/ residential building	45.58	05.04.2010	No/3
10	Baroda	S.No. 31/1 & 31/2, Moje Kanbivage, Tal, Bharuch	8506 sq. mtr.	Construction of office building and residential houses	NA	07.28.2011	Yes
11	Baroda	Aurono-day Society, Alkapuri, Baroda	606.04 sq. mtr.	Construction of office building and residential houses	NA	More than 30 years	Yes
12	Rajkot	S.No.351, Nr. Railway Station, Amreli	979.37 sq. mtr.	Construction of office building and residential houses	28.74	03.16.2006	Yes
13	Rajkot	Plot No. 97 to 101 & 142 to 144, Ward No. 9/A (E), Bharatnagar, Gandhidham	2675.8 sq. mtr.	Construction of office building and residential houses	190.49	18.03.1999	Yes
14	Rajkot	S.No.191/1, Junagadh	3122.4 4 sq. mtr.	Construction of office building and residential houses	109.29	25.01.2001	Yes

Poor scrutiny of land acquisition proposals leading to non utilization of acquired land							
Sl. No.	Pr. CCIT/ CCIT Charge	Address of land	Size of land	Purpose	Cost of land (₹ in lakh)	Date of possession	Whether land included in database of DIT (Infra)/if no, Sl. no. in Appendix - 6.3
15	Rajkot	Race Course Circle, Rajkot	1310.14 sq. mtr.	Construction of office/ residential building	589.56	08.04.2009	Yes
16	Udaipur	Village Piplod, Opposite ITI, Mahidam Road, Banswara	2537.18 sq. mtr.	Construction of office building and staff quarters	83.66	13.08.2007	No/4
17	Jodhpur	Village Mandore, Balsamand, Jodhpur	15144.65 sq. mtr.	Construction of staff quarters	125.79	12.06.2000	No/5
18	Jodhpur	Jaisalmer	4118 sq. mtr.	Construction of office building, staff quarters and guest house	110.78	23.06.2007	No/6
19	Jaipur	Tonk	2391.66 sq yard	Construction of office building and residential houses	7.18	24.07.1997 & 16.02.2015	No/7
20	CCIT, Bhopal	Plot No. 47, Arear Hills, Bhopal	7082 sq. mtr.	Construction of office/ residential building	Free of cost	2005	Yes
21	Pr.CCIT, Bengaluru	Finance city, Bangalore	8096 sq. mtr.	Construction of office building	750	31.10.2013	Yes
22	Pr.CCIT, Bengaluru	No. 4 & 5, Infantry Road, Bangalore.	4023.5 sq. mtr.	Construction of office/ residential building	184	14.06.1993	No/ 11
23	CCIT, Panaji	No. 680, Athani Road, Bijapura	4046.85 sq. mtr.	Construction of office/ residential building	0.71	29.09.1996	No / 13
24	CCIT, Panaji	Margoa	3130 sq. mtr.	Construction of office/ residential building	0.85	19.04.2000	No /10
25	CCIT, Panaji	NA	NA	Construction of office/ residential building	NA	full possession not taken	Yes
26	Bhubaneswar	Ambapua Berhampur	2023.43 sq. mtr.	Construction of office/ residential building	13.75		Yes
27	Bhubaneswar	Bhawanipatna	8093.72 sq. mtr.	Construction of office/ residential building	28.04	31.03.2006	Yes
28	Bhubaneswar	Khurda	6313.1 sq. mtr.	Construction of office/ residential building	5.42	12.05.2005	Yes
29	Bhubaneswar	Charampa Bhadrak	5665.6 sq. mtr.	Construction of office/ residential building	28.49		Yes
30	Bhubaneswar	Gadakana Bhubaneswar	20234.3 sq. mtr.	Construction of office/ residential building	125		Yes

Poor scrutiny of land acquisition proposals leading to non utilization of acquired land							
Sl. No.	Pr. CCIT/ CCIT Charge	Address of land	Size of land	Purpose	Cost of land (₹ in lakh)	Date of possession	Whether land included in database of DIT (Infra)/if no, Sl. no. in Appendix - 6.3
31	Delhi CCIT	Plot No.D-3, Distt. Centre, Saket, New Delhi	1320 sq. mtr.	Construction of office/ residential building	1530	11.02.1998	No/ 22
32	Hyderabad	Ananthapur	2105 sq. mtr.	Construction of office/ residential building	65	June 1994	Yes
33	Hyderabad	Nellore	970.59 sq. mtr.	Construction of office/ residential building	166.98 [12.26 (cost of land 154.71 (Rent))]	26.11.1996	Yes
34	Hyderabad	Hindupur	809.37 sq. feet	Construction of office/ residential building	10.93 [3.00 (cost of land) 7.93 (rent)]	05.02.1996	Yes
35	PCCIT, WB & Sikkim	46, Moore Avenue, Kolkata	228960 sq feet	Construction of office and residential building	160.00	Not taken over	Yes
36	PCCIT, WB & Sikkim	Plot No. 20 under KIT Scheme No. VIIIIM, Ultadanga Main Road, Kolkata-700067	14354 sq feet	Construction of residential building	23	Aug. 1981	No/ 14
37	PCCIT, WB & Sikkim	Gopalpur, Assansol West Bengal	57456 sq feet	Construction of office building	1.31	NA	No /16
38	PCCIT, WB & Sikkim	Port Blair, A & N Islands	10763.91 sq feet	Construction of office building and guest house	Free of cost	Oct 2005	Yes
39	PCCIT, WB & Sikkim	Gangtok, Sikkim	5705 sq feet	Construction of office building	31.67	NA	Yes
40	PCCIT, WB & Sikkim	Krishnanagar, West Bengal	13824 sq feet	Construction of office building	38.48	2009	Yes
41	PCCIT, WB & Sikkim	Balurghat, West Bengal	14256 sq feet	Construction of office building and guest house	26.26	Feb 2008	Yes
42	PCCIT, WB & Sikkim	Plot No. 397(P), 3672(P), 3673(P), 3837(P), Mouza- Faridpur, JL No. 74, Touzi No. 1, Sub-, Durgapur-16 Dist Burdwan, West Bengal	41948.28 sq feet	Construction of residential building	33.28	June 2007	No /15
43	Guwahati	Village Dimoruguni, Mouza- Niz Sahar, Naogaon	1 Bigha 3 katha 10 lachha	Construction of office building and staff quarters	1.91	NA	No/ 18

Poor scrutiny of land acquisition proposals leading to non utilization of acquired land							
Sl. No.	Pr. CCIT/CCIT Charge	Address of land	Size of land	Purpose	Cost of land (₹ in lakh)	Date of possession	Whether land included in database of DIT (Infra)/if no, Sl. no. in Appendix - 6.3
44	Shillong	Dibrugarh, Assam	7.5 Bigha	Construction of office building and staff quarters	49.09	1995	No /19
45	Ranchi	P.S. No.-189, Mauza-Daltonganj, Holding No.-580, Plot No.-853 & 850	5665.6 sq. mtr.	Construction of office building/residential quarters	43.56	10.03.2008	No /20
46	Ranchi	P.S. No.-134, Mauza-Kolghati,Hazaribagh, Khata No.-8, Plot No.- 54 & 55	74907.3 sq. mtr.	Construction of office/ residential building	208	01.09.2014	No /21
47	Patna	Gaya	2146 sq. mtr.	Construction of office building/residential quarters	155.07	20.12.2013	Yes
48	Patna	Bhagalpur	7284 sq. mtr.	Construction of office building/residential quarters	189.56	Deed pending	Yes
49	Patna	Begusarai	1942 sq. mtr.	Construction of office building/residential quarters	18	31.12.2002	Yes
50	Allahabad	NA	2048 sq. mtr.	Construction of office building	60.42	11.03.2010	Yes
51	Kanpur	NA	6000 sq. mtr.	Construction of office building and staff quarters	340.61	17.10.2012	Yes
52	Kanpur	NA	9908 sq. mtr.	Construction of office cum residential building	122	18.07.1995	Yes
53	Lucknow	NA	9160 sq. mtr.	Construction of office cum residential complex	241.29	13.02.2001	Yes
54	Dehradun	NA	2471.02 sq. mtr.	Construction of office building, guest house and staff quarters	123.55	09.02.2000	Yes

Appendix 6.3 (Reference paragraph 6.6.8.2)

Immovable assets not in central database of DIT (Infra)						
Sl. No.	CCIT Charge	Detailed Address	Size of the plot (in sqmts)	Amount (Rs in lakh)	Date of purchase of land	Date of possession
1	Panchkula	Bays site no. 25 to 26 Distt Shoppig Centre Jind	549.045	21.27	08.01.2008	17.09.2008
2	Panchkula	Plot no. 2-2 Bays-Sector-32 Gurgaon	539.5	17.65	01.02.1996	01.02.1996
3	Panchkula	Plot No.4& 5, Sector-5 , Urban Estate, Kurukshetra	1200	45.58	27.10.2009	05.04.2010
4	Udaipur	Village Piplod, Opposite ITI, Mahidam Road, Banswara	2537.18	83.66	Aug. 2007	13.8.2007
5	Jodhpur	Village Mandore, Balsamand, Jodhpur	15144.65	125.79	17.12.1999	12.06.2000
6	Jodhpur	Jaisalmer	4118	110.78	30.5.2007	23.6.2007
7	Jaipur	Tonk	2391.66	7.18	14.9.1994	24.7.1997 &16.2.2005
8	Mumbai	196, Backbay Reclamation, Nariman Point, Mumbai	2784	100.34	1973	1973
9	Mumbai	C 41 to 43, Bandra Kurla Complex, Mumbai	9500	4750	31.05.2002	31.05.2002
10	Panaji	PTS/ Ch. No.71/1/1, 71/1/2, 71/1/3, 71/2/1, 71/2/2, 71/2/3, Marga City	3130	0.85	19.4.2000	19.4.2000
11	Bangalore	No. 4 & 5, Infantry Road, Bangalore.	4023.5	184	14.6.1993, acquired u/s. 269D of IT act	14.6.1993, acquired u/s. 269D of IT act
12	Panaji	Plot no. 324, near Belgaum Fort, Belgaum	18217	16.02	02.02.1982	01.04.1984
13	Panaji	No. 680, Athani Road, Bijapura	4046.85	0.71	29.3.1996	26.9.1996
14	Pr.CCIT (WB & Sikkim)	Plot No. 20 under KIT Scheme No. VIIIIM, Ultadanga Main Road, Kolkata-700067	1333.53	23	March 1980	August 1981
15	Pr.CCIT (WB & Sikkim)	Plot No. 397(P), 3672(P), 3673(P), 3837(P), Mouza-Faridpur, JL No. 74, Touzi No. 1, Sub-division Durgapur, Thana- Durgapur,	3897.12	33.28	May 2007	Jan 2007

Immovable assets not in central database of DIT (Infra)						
Sl. No.	CCIT Charge	Detailed Address	Size of the plot (in sqmts)	Amount (Rs in lakh)	Date of purchase of land	Date of possession
		Durgapur-16 Dist Burdwan , West Bengal				
16	Pr. CCIT (WB & Sikkim)	Gopalpur, Assansol West Bengal	5337.84	1.31	Nov. 1980	N.A.
17	Pr. CCIT (WB & Sikkim)	Plot No. 43/70, JL No. 171, Mouza- Narampur PS- Medinipur, Paschim Medinipur	983.29	7.86	N. A.	08.08.2005
18	CCIT Guwahati	Village Dimoruguni, Mouza- Niz Sahar, Naogaon	One Bigha 3 Katha, 10 lachas	1.91	Payment made on 27.01.1989 & Nov. 1990	Land is yet to be handed over
19	CCIT, Shillong	Dibrugarh, Assam	7.5 Bigha	49.09	1995	1995
20	Ranchi	P.S. No.-189, Mauza- Daltonganj, Holding No.-580, Plot No.-853 & 850	5665.599	43.56	19.03.2008	19.03.2008
21	Ranchi	P.S. No.-134, Mauza-Kolghati, Hazaribagh, Khata No.-8, Plot No.- 54 & 55	74907.312	208	Feb-04	Sep-14
22	Delhi	Plot No.D-3, Distt. Centre, Saket, New Delhi	1320 sq.m	1530	25.02.1997	11.02.1998

Abbreviations

AA & ES	Administrative approval & Expenditure sanction
ACIT	Assistant Commissioner of Income Tax
Act	Income Tax Act, 1961
ADCR	Arrear Demand Collection Register
ADG	Addl. Director General
ALP	Arm's Length Price
AO	Assessing Officer
AST	Assessment Information System
AY	Assessment Year
BPR	Business Processing Re-engineering
CBDT	Central Board of Direct Taxes
CCIT	Chief Commissioner of Income Tax
CIT	Commissioner of Income Tax
CPC	Central Processing Centre, Bengaluru
CPC Scheme 1	Centralised Processing of Returns Scheme, 2011 notified vide CBDT Notification No. S.O.16 €, dated 4-1-2012
CPC Scheme 2	Centralised Processing of Returns Scheme, 2011 – Application of certain provisions of Act notified vide CBDT Notification No. S.O.17 €, dated 4-1-2012
CPC – TDS	Centralised Processing Centre – TDS, Vaishali, Ghaziabad, U.P.
CPWD	Central Public Works Department
CSO	Central Statistical Office
CT	Corporation Tax
DGIT (Systems)	Director General of Income Tax (Systems)
DIT – CPC	Director of Income Tax –CPC, Bengaluru
DIT (Infra)/DIT(I)	Director of Income Tax (Infrastructure)
DOR	Department of Revenue
DT	Direct Taxes
DW&BI	Data warehouse and business intelligent
ECB	External Commercial Borrowing
FAS	Financial Accounting System of CPC Portal
FTA	Fast Track Approval
FY	Financial Year
GDP	Gross Domestic Product
GFR	General Financial Rules
GTR	Gross Tax Receipts
HOD	Head of Department
ICAI	Institute of Chartered Accounts of India
ICT	Information and Communication Technology
IT	Income Tax
ITAT	Income Tax Appellate Tribunal
ITBA	Income Tax Business Application
ITD	Income Tax Department
ITDMS	Integrated Taxpayer Data Management System
ITO	Income Tax Officer
ITR-P	Income Tax Return-Physical
ITR/Return	Income Tax Return
JCIT	Joint Commissioner of Income Tax
PAC	Public Accounts Committee
PAN	Permanent Account Number
Pr. CCA	Principal Chief Controller and Accounts
Pr. CCIT	Principal Chief Commissioner of Income Tax
MAT	Minimum Alternate Tax
MOP	Manual of Office Procedure

MSA	Master Services Agreement dated 30 October 2009 between ITD & SP
NRND	No Refund No Demand
OLTAS	Online Tax Accounting System
PCM	Process Control Master
PDC	Primary Data Centre (Located at O/o DGIT (Systems), Vaishali, Ghaziabad, U.P.
PDT	Processed Data Transfer
PMU	Project Management Unit
QC	Quality Control
RBI	Reserve Bank of India
RFD	Results Framework Documents
RFP	Request for Proposal (3 volumes) forming part of MSA
ROC	Registrar of Companies
Rules	Income Tax Rules, 1962
SFC	Standing Finance Committee
SIT	System Integration Testing
SLA	Service Level Agreement – Metrics designed under 44 Parameters to measure performance of SP on a monthly basis and subject to Quarterly Audit by a Third Party Agency (viz. M/s STQC)
SOP	Standard Operating Procedures–Defining operation procedures
SP	Service Provider – M/s Infosys Technologies Ltd.
STQC	Standardisation Testing and Quality Certification Directorate
TARC	Tax Administration Reforms Commission
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
TFI	Task Force on Infrastructure
TRO	Tax Recovery Officer
ZAO	Zonal Accounts Office

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