

Chapter 1

Introduction

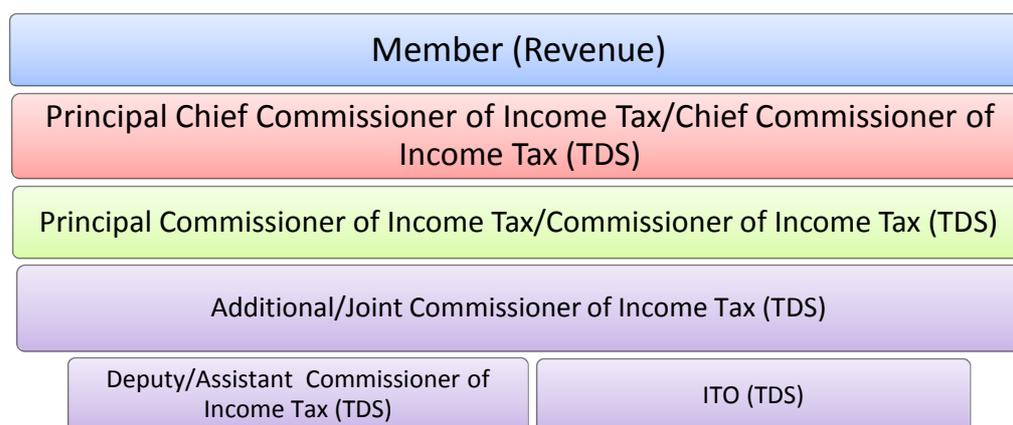
1.1 Tax revenue resources of the Union Government consist of revenue receipts from direct and indirect taxes. Direct Taxes levied by the Government comprises of Corporation Tax, Income Tax and other direct taxes. Direct taxes collected prior to assessment may be classified as follows:

- (i) Tax deducted at source (TDS),
- (ii) Tax collected at source (TCS),
- (iii) Advance tax and
- (iv) Self assessment tax

TDS and TCS are tools in the hands of the Income Tax Department (ITD) designed for quick and smooth collection of tax due to the Government from the taxpayer. TDS and TCS help the Government to ensure collection of revenue at the time of the transactions itself and prevent tax evasion. Regular inflow of TDS/TCS collection ensures a good flow of revenue to government accounts and assists treasury management. TDS/TCS provisions also place a responsibility of deducting and depositing tax on the shoulders of persons other than the payees.

1.2 Organizational Set-up and Functions

There is a dedicated set-up in the ITD for administering provisions relating to TDS/TCS of the Income Tax Act, 1961 (the Act) comprising of a Principal Chief Commissioner of Income Tax supported by Commissioners of Income Tax/Additional Commissioners of Income Tax/Joint Commissioners of Income Tax/Deputy Commissioners of Income Tax/Assistant Commissioners of Income Tax and Income Tax Officers. At Central Board of Direct Taxes (CBDT), the Member (Revenue) monitors and coordinates the administration and implementation of TDS provisions. The functions of TDS units, *inter alia*, include identification of new tax deductors through surveys and to detect stop filers/non-filers for strengthening the tax base. Chart 1.1 shows the organogram of ITD.

Chart 1.1: Organogram of Central Board of Direct Taxes (CBDT)

1.3 Why we chose the topic

There has been a steady growth in TDS/TCS collection which contributes about 33 *per cent* to the total direct taxes collection. TDS/TCS collection has gone up to ₹ 2.59 lakh crore in Financial Year (FY) 2014-15 from ₹ 1.69 lakh crore in FY 2010-11, an increase of 53.6 *per cent* during the period. Details are shown in the table 1.1 below:

FY	Total Collection (Corporation tax and Income tax)	TDS/TCS	TDS/TCS as percentage of total collection
2010-11	5,13,898	1,68,669	32.82
2011-12	5,79,499	1,98,679	34.28
2012-13	6,36,932	2,10,654	33.07
2013-14	7,21,604	2,48,547	34.44
2014-15	7,99,459	2,59,106	32.41

Source- Pr. CCA, CBDT

We had conducted a performance audit on “Implementation of TDS/TCS Schemes” for the year ending March 2006. Our major audit finding highlighted inadequate surveys, issues related to e-TDS returns and several mistakes in implementing the provisions of TDS/TCS. The lapses continued as evidenced from the observations raised during the compliance audits.

Further, there have been changes/amendments in TDS/TCS provisions since the last performance audit undertaken in 2006 such as (i) any person responsible for making payment in respect of consideration for acquisition of any immovable property liable to deduct tax at source at the rate of one *per cent* with effect from 1 July 2013, (ii) it is now mandatory from 1 April 2010, for the tax payer/deductee to furnish his PAN to the deductor, failing which the deductor shall deduct tax at source at the rate of 20 *per cent* or the rate in force whichever is higher, (iii) Certificate under section 197 (for non-deduction/deduction at lower rate) will not be issued unless the application

contains the PAN of the applicant etc. It was considered necessary to assess the measures initiated by the ITD on the efficacy of the compliance of TDS/TCS provisions for strengthening the TDS administration.

1.4 Objectives of the performance audit

The objectives of the performance audit were to assess the:

- a. efficacy of all stakeholders in complying to the provisions of the Act relating to TDS/TCS;
- b. efforts made by the ITD for widening the TDS/TCS net;
- c. implementation of e-TDS scheme; and
- d. correctness of accounting procedure in TDS/TCS.

1.5 Legal framework

Chapter XVII-Collection and recovery of tax of the Act deals with the law and procedure with regard to TDS and TCS.

1.6 Audit scope and coverage

For this performance audit (i) verification orders processed by respective AO (TDS) on TDS returns filed by the tax deductors and (ii) assessment orders completed by jurisdictional Assessing Officer (AO) on return of income filed by the assessee processed/completed during financial years (FYs) 2012-13 to 2014-15 which were test checked during the period November 2015 to March 2016.

1.6.1 For selection of verification orders in TDS units:-

We divided states into two clusters Category 'A'¹ and Category 'B'² states based on the volume of direct taxes collection. Further, details of sample collection are given below:

- Two tier statistical sampling was employed while conducting the performance audit.

Level-1-Selection of TDS units; and

Level-2-Selection of verification orders in the selected TDS units.

1 States with direct taxes collection of ₹ 15,000 crore and more (Andhra Pradesh, Gujarat, Delhi, Karnataka, Maharashtra, Tamil Nadu, West Bengal and Uttar Pradesh)

2 States with direct taxes collection less than of ₹ 15,000 crore (Assam, Bihar, Chhattisgarh, Goa, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Madhya Pradesh, Odisha, Punjab, Rajasthan, Uttarakhand and UT Chandigarh)

- Selection of TDS units:- 100 *per cent* coverage for TDS circles in Category 'A' and Category 'B' states was done. For TDS wards, 25 *per cent* and 33.33 *per cent* coverage for Category 'A' and 'B' states respectively was done as indicated in *Appendix-I*.
- Selection of verification orders:- Within the selected TDS unit, 100 *per cent* records with respect to TDS circles and 50 *per cent* of orders of TDS wards were selected for conducting the audit

1.6.2 For selection of assessment orders in assessment units:-

- We selected 200/100 assessment cases with turnover exceeding ₹ 100 crore in case of the main/branch audit offices during regular audit in order to examine the efficacy of TDS provisions.

1.6.3 Based on the above, 7,489 verification orders in 150 selected TDS circles/wards were selected for this study. Of these, 6,699 verification orders representing nearly 90 *per cent* of the selection were provided to audit. The remaining verification orders of TDS circles/wards were not produced to audit. In addition, we could verify 2,332 assessment orders completed by jurisdictional AO in the assessment charges with reference to TDS provisions for the same period.

1.7 Audit Methodology

Audit examined the verification cases of TDS circles/wards and scrutiny assessments of assessment charges for efficacy in complying the TDS/TCS provisions. Audit also test-checked the property registration documents maintained at the office of the Registrar/Sub Registrar of the States to verify the tax deductible at source on sale/purchase of Immovable property (Chapter II).

Audit examined the efforts made by the ITD for widening the TDS/TCS base. The information with regard to number of tax deductors and number of e-TDS returns filed was collected from CPC (TDS). The information with respect to survey by TDS units was collected from selected units (Chapter III).

Audit examined the issues relating to implementation of e-TDS schemes. The information was called for from selected units and CPC (TDS) on the basis of Standard operating procedure (SOP) of CBDT for un-consumed challans, resolvable demand and tax defaulter report. The facilities available to AO(TDS) on AO portal of CPC(TDS) were examined from AO manual in order to ascertain the utilization of various facilities available for AO portal (Chapter IV).

Audit examined the issue of G-OLTAS reconciliation for which the information was called for from the selected TDS units and CPC (TDS) for adherence to SOP of CBDT. The information of TDS collection for the state was also obtained from AG office of the respective states (Chapter V).

An entry conference with the CBDT was held on 20 November 2015 wherein audit objectives, scope of audit and main areas of audit examination were explained. The draft report was communicated to the CBDT on 08 November 2016. The response of the CBDT to the recommendations made by audit were received on 13 December 2016. The exit conference was held on 15 December 2016 with the CBDT wherein the report was discussed. The views expressed by the Board in the exit conference have suitably been incorporated in this report.

1.8 Acknowledgement

We acknowledge the co-operation of ITD in facilitating the audit by providing necessary records and information/response to audit observations in connection with the conduct of this performance audit. We also acknowledge the co-operation of Pr. CCA, CBDT for providing information related to collection of taxes.

