

## Chapter VI: Bogus transactions by assessees

### 6.1 Introduction

The white paper on Black Money<sup>87</sup> 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 neither accounted for nor disclosed to the public authorities as per the law or regulations, in order to evade payment of taxes by artificially reducing profits.

One of the most common ways to reduce profits is by inflating the purchase costs and various expenses. In such cases, bogus bills may be prepared to show inflated expenses in the books. It involves obtaining bogus or inflated invoices from parties, who make bogus vouchers and charge nominal fees for these illegal services. Bogus transaction is also resorted to for receiving donations by the institutions through cheque/RTGS and thereafter routing back the same to the donor in the form of cash, after deducting commissions and routing the transaction through several layers to evade detection. This again gives rise to black money in the market.

### 6.2 Role of Income Tax Department

Income Tax Department (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 the provisions of the Income Tax Act, 1961 (Act). In doing so, ITD plays an important role in preventing generation, accumulation and consumption of unaccounted black money. Investigation Wing of the ITD often collects information from various sources, carries out investigations and conveys its findings to the AOs for them to examine these findings and take necessary remedial actions.

### 6.3 Audit findings

**6.3.1** A detailed examination of bogus transactions/accommodation entries was carried out in audit based on the following information collected during compliance audit:

➤ Based on a survey carried out (January 2015) by the Investigation Wing, Kolkata of the ITD, reports covering 770 donations under section 35(1)(ii)<sup>88</sup> of

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<sup>87</sup> White paper on Black Money issued by Ministry of Finance, Department of Revenue, CBDT dated 16 May 2012

<sup>88</sup> As per provisions of section 35(1)(ii) of IT Act, an assessee is eligible for weighted deduction of any sum paid to an approved scientific research association which has as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research. Deduction under section 35(1)(ii) was increased from “one and one-fourth” of sum paid to “one and three-fourth” of sum paid by the Finance Act, 2010 w.e.f. 01/04/2011.

the Act to three institutions (assesseees)<sup>89</sup> were forwarded (October 2015) to the concerned AOs<sup>90</sup> for further verification. Out of these 770 donors, we had selected 87<sup>91</sup> along with the three donee institutions for detailed examination. The ITD did not furnish assessment records pertaining to 13 donors, where weighted deductions of ₹ 15.94 crore (at the rate of 175 per cent of donations) were allowed. No reasons were given for non-furnishing of the assessment records except in one case<sup>92</sup> in which it was stated that the records were with the Income Tax Settlement Commission (ITSC).

➤ The Investigation Wing, Mumbai sent information to Investigation Wing, Kolkata in February 2014 intimating that 55 assesseees of West Bengal region had availed of entries of bogus purchases from an entry provider<sup>93</sup> of Mumbai. This information was forwarded by the Investigation Wing, Kolkata (February 2014) to the concerned PCsIT to take necessary action as per provisions of the Income Tax Act.

➤ Out of these 55 assesseees who had used the entries for bogus purchases, assessment records in respect of 50 cases<sup>94</sup> were made available to Audit. We observed that the department had disallowed the entire amount of ₹ 18.10 crore of bogus purchases in 17 cases and partial disallowance was made in 18 cases. In two cases, purchases were allowed on being found genuine. However, no action was taken in respect of the remaining 13 cases<sup>95</sup>.

**6.3.2** As per a survey report of the Investigation Wing, three institutions viz., School of Human Genetics & Population Health (School of Human Genetics - SHG&PH), Matrvani Institute of Experimental Research & Education (Matrvani Institute – MIERE) and Herbicare HealthCare Bio Herbal Research Foundation (Herbicare Healthcare – HHBRF), approved u/s 35(1)(ii) of the Act as scientific research organizations for the purpose of deduction on account of expenditure on scientific research, were receiving bogus donations in connivance with

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89 (i) School of Human Genetics & Population Health- PAN: AABAS4570M (ii) Matrvani Institute of Experimental Research & Education - PAN: AABTM0125H and (iii) Herbicare HealthCare Bio Herbal Research Foundation - PAN : AABCH4849J covered in this examination for AYs up to 2013-14.

90 Under PCIT-1 to 5, 8 to 17, 19 to 21, Central-1 and 2, Kolkata, Asansol, Siliguri, Pr. DIT(Inv) Guwahati & DIT (Int. Tax.), Kolkata

91 Out of 770 donors relating to FY 2010-11 to 2014-15 from West Bengal jurisdiction, 440 were related to FY 2010-11 to 2012-13. We selected, 87 assesseees relating to FY 2010-11 to 2012-13 i.e. AY 2011-12 to AY 2013-14 having transaction money value of ₹ 25 lakh or more related to PCIT-1, PCIT-2, PCIT-3, PCIT-4, PCIT Central-1 & PCIT Central-2 (all PCsIT located in Kolkata). We restricted our selection up to AY 2013-14 as scrutiny in most of the cases of AY 2014-15 were not completed till the date of our audit. In the case of three donee institutions, audit examination extended upto AY 2014-15 as the remedial actions in these cases for AY 2014-15 were completed alongwith other AYs.

92 Emta Coal Ltd. for AY 2012-13 & 2013-14.

93 Companies/individuals who issues fictitious accommodation invoices

94 The department did not furnish records in five cases involving bogus purchases of ₹ 319.17 lakh. In one case (M/s Pushkarraj Construction Pvt. Ltd., AY 2011-12), the AO stated that though PAN of the assessee was transferred to Ward 10(4), Kolkata from Circle-3, Guwahati on in June 2015, assessment records of past years was lying with Circle-3, Guwahati.

95 Assessed under different sections 250/143(3)/147 of the IT Act during September 2009 to March 2016 except in case of sl. no. 10 where no return of income was filed by the assessee and in other two cases (Sl. no. 12 and 13) details regarding return of income were not furnished.

donors, brokers and accommodation entry providers. Bogus donations were being taken vide cheques/RTGS and after taking commission, and the same were routed back to the donor in the form of cash as indicated in the survey report of Directorate of Investigation, Kolkata. Share of the donee scientific research organization was 8 to 10 *per cent* of total amount and two to eight *per cent* of total amount was charged by broker.

Investigation wing of ITD conveys its findings to the AOs to take necessary remedial actions. During our examination of selected cases, we noticed that there was no instructions or guidelines from the Central Board of Direct Taxes (CBDT) to the AOs about how to deal with such cases. As a result, in number of cases, AOs either did not act upon the report of the Investigation Wing or did not disallow the claim of deduction of bogus donations by the donors. Audit findings in this regard are discussed in succeeding paragraphs.

### **6.3.3 Short addition of income of assesseees receiving bogus donations**

Out of three assesseees<sup>96</sup> receiving bogus donations, the department had completed the scrutiny in two cases<sup>97</sup> and in one case ('School of Human Genetics') order was passed<sup>98</sup> by the Income Tax Settlement Commission. On examination of assessment records<sup>99</sup> made available to Audit in respect of two assesseees, we observed that the amount of donations disclosed by these institutions in their Profit and Loss (P&L) Accounts were much less than the donations shown in the report of the Investigation Wing. The assessing officer treated only 10 *per cent* of donations mentioned in the respective P&L Accounts as income of the assesseees earned from commission, and did not carry out necessary follow up investigation to explain the differences in all cases. Thus, under reporting of donations in P&L accounts had resulted in suppression of income of ₹ 24.09 crore from donations received as detailed in Table 6.1 below:

96 As per the report of Investigation Wing, donations were received by 'Herbicare Healthcare' during FY 2010-11 to 2014-15, Matrvani Institute during FY 2012-13 to 2014-15 and School of Human Genetics during FY 2011-12 to 2014-15.

97 In respect of Herbicare Healthcare and Matrvani Institute for the FYs up to 2013-14 except for FY 2012-13 in respect of Herbicare Healthcare where a proposal to initiate proceedings under section 263 of the IT Act to revise the order passed (March 2016) under section 143(3) was pending (December 2016).

98 July 2016 in respect of AY 2012-13, 2013-14 and 2014-15.

99 'Herbicare Healthcare' for AY 2011-12, 2012-13 & 2014-15 and 'Matrvani Institute' for AY 2013-14 & 2014-15.

Table 6.1: Suppression of income from donation					(₹ in lakh)	
Sl. no.	Name of assessee	AY	Donation as per P/L Account	Donation as per report of the Investigation Wing	Difference	
1.	Herbicare	2011-12	1,599.78	1,854.80	255.02	
	Healthcare	2012-13	5,145.55	7,236.80	2,091.25	
		2013-14	NA <sup>100</sup>	6,231.17	0.00	
		2014-15	7,426.25	7,149.25	0.00	
2.	Matrvani	2013-14	1,848.66	1,901.04	52.38	
	Institute	2014-15	1,341.02	1,351.02	10.00	
<b>Total</b>					<b>2,408.65</b>	

In the case of M/s Herbicare Healthcare for AY 2011-12, the department stated (January 2017) that the rectification process had been initiated by issuance of notice under section 154 of the Act. Whereas, in the case of M/s Matrvani Institute, the Department stated (January 2017) that during scrutiny, no concrete evidence was found to establish the fact of additional receipt by the assessee in excess of the donation as per audited accounts and there was the possibility of typographical error in total figure in Investigation Report. The reply is not acceptable as Investigation Wing in their report had furnished the complete list of bogus donors in support of total figure and therefore, possibility of typographical error did not arise. Besides, no efforts towards cross-checking of the donors as per the list of the Investigation Wing with the amounts corresponding of donations credited in P&L Account was seen in the assessment records.

#### 6.3.4 Non initiation of action against bogus donors

It was noticed from the assessment records of 74 assesseees<sup>101</sup> that though the report of the Investigation wing had been forwarded long back in October 2015 to the concerned AOs, no action was initiated by the AOs on the basis of the report in the following 18 cases (Table 6.2) where weighted deduction of ₹ 98.22 crore of bogus donations was allowed under section 35(1)(ii)<sup>102</sup> of the Act involving tax effects of ₹ 31.79 crore.

100 The department did not produce the assessment records in case of M/s Herbicare Healthcare (Sl. no. 1 of the table above for AY 2013-14) containing order passed under section 143(3) passed in March 2016 as it was not traceable by them.

101 Out of 87 cases requisitioned by Audit, 13 cases were not furnished.

102 As per provisions of section 35(1)(ii) of IT Act, an assessee is eligible for weighted deduction of any sum paid to an approved scientific research association which has as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research. Deduction under section 35(1)(ii) was increased from "one and one-fourth" of sum paid to "one and three-fourth" of sum paid by the Finance Act, 2010 w.e.f. 01/04/2011.

Table 6.2: Details of cases where no action was initiated by AOs against bogus donors					(₹ in lakh)	
Sl. no.	Name of assessee, PAN, AY	Assessment Charge	Amount of bogus donation (paid to)	Weighted deduction (at the rate of 175 per cent of donation)	Tax effect (excluding interest)	
1	M/s Pragati Viniyog Pvt. Ltd., ABCP4919R, AY 2012-13	PCIT-4, Kolkata {DCIT, Circle-11(2)}	50.00 (SHG&PH)	87.50	28.39	
2	M/s Aryan Mining & Trading Corporation Pvt. Ltd., AADCA7247B, AY 2012-13	PCIT, Central Kolkata-2, {DCIT, Central Circle-4(2)}	1000.00 (SHG&PH) and 1200.00 (HHBRF)	3,850.00	1,249.13	
3	M/s Aryan Mining & Trading Corporation Pvt. Ltd., AADCA7247B, AY 2013-14	PCIT, Central Kolkata-2, {DCIT, Central Circle-4(2)}	950.00 (HHBRF), 850.00 (MIERE) and 900.00 (SHG & PH)	4,725.00	1,533.03	
4	M/s F Harley and Co Pvt. Ltd., AAACF3966D, AY 2012-13	PCIT-1, Kolkata {DCIT, Circle-1(1)}	30.00 (HHBRF)	52.50	17.03	
5	M/s Iserve Solutions and Services Pvt. Ltd., AABCI6158F, AY 2012-13	PCIT-4, Kolkata {DCIT, Circle-12(1)}	25.00 (SHG&PH)	43.75	14.19	
6	M/s Jekay International Track Pvt. Ltd., AABCJ6307K, AY 2012-13	PCIT, Central Kolkata-2, {DCIT, Central Circle-4(2)}	80.00 (SHG&PH)	140.00	45.42	
7	M/s Penguin Trading & Agencies Ltd., AABCP9346E, AY 2012-13	PCIT-3, Kolkata {DCIT, Circle-8(2)}	50.00 (SHG&PH)	87.50	28.39	
8	M/s Penguin Trading & Agencies Ltd., AABCP9346E, AY 2013-14	PCIT-3, Kolkata {DCIT, Circle-8(2)}	150.00 (SHG&PH)	262.50	85.17	
9	M/s Lotus Merchandise Pvt. Ltd., AAACL5376P, AY 2012-13	PCIT, Central Kolkata-1, {DCIT, Central Circle-2(3)}	25.00 (SHG&PH)	43.75	13.52	
10	M/s Associated Minerals Pvt. Ltd., AACCA0754G, AY 2012-13	PCIT-3, Kolkata {DCIT, Circle-7(1)}	30.00 (SHG&PH)	52.50	16.22	
11	M/s Kalash Mercantile Pvt. Ltd., AABCK1537C, AY 2012-13	PCIT-2, Kolkata {DCIT, Circle-4(1)}	42.50 (SHG&PH)	74.38	24.13	
12	M/s Nabaratna Vinimay Pvt. Ltd., AACCN7752P, AY 2012-13	PCIT-3, Kolkata {ITO Ward-6(3)}	40.00 (SHG&PH)	70.00	21.63	
13	M/s Allied Capital & Investment Pvt. Ltd., AABCM8146R, AY 2013-14	PCIT-1, Kolkata {ITO, Ward-1(4)}	25.00 (SHG&PH)	43.75	13.52	

14	M/s Ortem Marketing Pvt. Ltd., AAACO3663L, AY 2013-14	PCIT, Central Kolkata-1, {DCIT, Central Circle-2(3)}	25.00 (SHG&PH)	43.75	13.52
15	M/s Tarini Infrastructure Pvt. Ltd., AACCT3687K, AY 2013-14	PCIT-3, Kolkata {ITO, Ward-9(1)}	25.00 (SHG&PH)	43.75	13.52
16	M/S Shree Venkatesh Films Pvt. Ltd., AAEC8975P, AY 2013-14	PCIT-Central, Kolkata 2 {DCIT, Central Circle 3(3)}	30.00 (SHG&PH)	52.50	16.22
17	M/s Vishnu Kant Mohta AIBPM8796J, AY 2013-14	PCIT-Central, Kolkata 2 {DCIT, Central Circle 3(3)}	60.00 (SHG&PH)	105.00	32.45
18	M/s ABS Vanijya Pvt. Ltd., AACCA7746E, AY 2013-14	PCIT, Central Kolkata-1, {DCIT, Central Circle-2(3)}	25.00 (SHG&PH)	43.75	13.52
<b>Total</b>				<b>9,821.88</b>	<b>3179</b>

In respect of M/s. Nabaratna Vinimay Pvt. Ltd. (Sl. No. 12), the department had accepted (February 2017) the audit observation and stated that the proposal for remedial measure u/s 148 had been sent to Pr. CIT-2, Kolkata. In the case of M/s ABS Vanijya Pvt. Ltd. (Sl. No. 18) also the proposal for remedial action u/s 148 was initiated. Further, in the case of M/s F. Harley & Company Pvt. Ltd. (Sl. No. 4), the department stated that remedial action u/s 147 has been initiated. In the remaining cases, no reply was furnished (February 2017).

### **6.3.5 Remedial action against bogus donors completed without disallowing the weighted deduction for bogus donations**

Scrutiny of assessment records revealed that remedial action against bogus donors were completed without disallowing the weighted deduction for bogus donations in the following cases (Table 6.3):

Table 6.3: Details of cases where remedial action completed by AO without disallowing the weighted deduction for bogus donations					(₹ in lakh)	
Sl. no.	Name of assessee, PAN, AY	Assessing charge	Amount of bogus donation and paid to	Amount of weighted deduction (at the rate of 175 per cent of donation amount)	Tax effect (excluding interest)	
1	M/s Indicon Estate Pvt. Ltd., AAACI5594E, AY 2013-14	PCIT-3, Kolkata {AC/DCIT, Circle-9(1)}	125.00 SHG&PH	218.75	70.97	
2	M/s Chamong Tea Exports Pvt. Ltd., AABCC3553E, AY 2013-14	PCIT-2, Kolkata {AC/DCIT, Circle-4(1)}	100.00 HHBRF	175.00	56.78	
3	M/s Narottamka Commodities Pvt. Ltd., AAACN8807B, AY 2013-14	PCIT-1, Kolkata {AC/DCIT, Circle-2(2) & 4(2)}	100.00 SHG&PH	175.00	56.78	
4	M/s Sycotta Tea Company Pvt. Ltd., AADCS5246A, AY 2013-14	PCIT-2, Kolkata {AC/DCIT, Circle-4(2)}	50.00 HHBRF	87.50	11.36	
5	M/s Tonganagaon Tea Company Pvt. Ltd., AABCT1824D, AY 2013-14	PCIT-2, Kolkata {AC/DCIT, Circle-4(2)}	100.00 HHBRF	175.00	56.78	
6	M/s Chamong Tea Exports Pvt. Ltd. <sup>103</sup> , AABCC3553E, AY 2014-15	PCIT-2, Kolkata {AC/DCIT, Circle-4(1)}	100.00 HHBRF	175.00	56.78	
7	M/s Maud Tea Seed Co. Pvt. Ltd. <sup>103</sup> , AACCN0710C, AY 2014-15	PCIT-2, Kolkata {AC/DCIT, Circle-4(1)}	100.00 HHBRF	175.00	22.71 <sup>104</sup>	
<b>Total</b>			<b>675.00</b>	<b>1,181.25</b>	<b>332.16</b>	

We observed that Herbicare Healthcare, Matrvani Institute and School of Human Genetics (scientific research organizations) had admitted during the assessment proceedings/before the Income Tax Settlement Commission that they had accepted cheques towards donations and refunded similar amounts after retaining the service charges for themselves. During survey operations, Investigation Wing also noticed that donations were routed back to the donors through intermediaries, sometimes more than one. Therefore, in view of the findings of the Investigating Wing and acceptance of donee organizations, there was no scope to allow the deduction claimed by the assesseees.

The department replied (August 2016) in the case of two donors<sup>105</sup> that the information received from the Investigation wing was general in nature and no concrete materials or corroborative evidences were available on record. The

<sup>103</sup> Audit Observations in respect of these assesseees were raised during regular compliance audit.

<sup>104</sup> Tax effect has been computed on the 40 per cent of the business income in terms of Rule 8.

<sup>105</sup> M/s Chamong Tea Exports Private Ltd. (Sl. no. 2 and 6) and M/s Maud Tea Seed Company Private Ltd. (Sl. no. 7)

reply of the department is not acceptable as Herbicare Healthcare accepted not only before the Investigation wing but also during assessment that they were receiving bogus donations. Further, the report of the Investigation wing was not general in nature, it was a comprehensive report detailing the modus operandi and also contained the lists of bogus donors. Further, the ITD stated (February 2017) that both the assessees had preferred Income Declaration Scheme (IDS) 2016 for the said matter. Further, in the case of M/s Sycotta Tea Company (Sl. no 4. in Table 6.3), the department stated that the assessee had declared bogus donation of Rs.50 lakh under the IDS 2016 and offered it for tax. This clearly established the fact that donations were in fact bogus and should have been disallowed during scrutiny assessment itself u/s 143(3).

#### **6.3.6 Approval by the competent authority was not given for remedial action**

We observed that the competent authority did not approve the proposal of the assessing officer (February 2016) to re-open the case of M/S Pioneer Online Ltd. (PAN AACCP7500K, AY 2012-13, assessment charge PCIT-3 (Ward 7(2)), Kolkata) under section 147 to take action on the basis of report of the Investigation wing. As a result, no action could be taken to re-assess the income and disallow the bogus donation. Reasons for such non-approval though called for (November 2016) from the department, was not intimated to the Audit (September 2017).

#### **6.3.7 Partial disallowances for bogus purchases**

As per the provisions of section 69(C) of the Act, where an assessee incurs any expenditure but offers no explanation about the source of such expenditure or explanation offered by him is not satisfactory in the opinion of the AO, the amount of such expenditure may be deemed to be the income of the assessee. Thus, once it is established that the expenditure was unexplained/bogus, the entire amount of bogus expenditure was required to be added. There is no scope for partial disallowance in section 69C. Further, as per provisions of section 37(1), expenditure incurred only for the purposes of the business shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

In the following 18 cases (Table 6.4), bogus purchases in view of the information received from the Investigation wing, Mumbai, were examined by the AOs. Though, it was held by the AOs that the assessees had availed of entries of bogus purchases, the disallowances made were only partial:



Table 6.4: Details of cases for partial disallowance for bogus purchases					(₹ in lakh)
Sl. no.	Name of assessee, PAN, AY	Assessment charge	Amount of bogus purchase	Amount of addition and percentage	
1	M/s Om Forging Engineering Pvt. Ltd., AAACO3336L, AY 2011-12	PCIT-1, Kolkata {ITO, Ward-3(3), Kolkata}	72.84	2.39 (3.27 per cent)	
2	M/s Om Forging Engineering Pvt. Ltd., AAACO3336L, AY 2010-11	PCIT-1, Kolkata {ITO, Ward-3(3), Kolkata}	33.31	1.09 (3.28 per cent)	
3	Anand Mehta AFGPM3766E, AY 2009-10	PCIT-10, Kolkata {ITO, Ward-30(1), Kolkata}	25.02	0.75 (3 per cent)	
4	Premlata Tekriwal ABSPT5997N, AY 2011-12	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	18.02	0.54 (3 per cent)	
5	Promod Kumar Tekriwal ABUPT3079K, AY 2009-10	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	280.94	8.43 (3 per cent)	
6	Sajjan Kumar Bansal ADVPB8045Q, AY 2011-12	PCIT-13, Kolkata {ITO, Ward-37(4), Kolkata}	322.07	10.24 (3.18 per cent)	
7	Sajjan Kumar Bansal ADVPB8045Q, AY 2009-10	PCIT-13, Kolkata {ITO, Ward-37(4), Kolkata}	453.09	14.41 (3.18 per cent)	
8	Sandeep Kumar Tekriwal AAFHS0739F, AY 2009-10	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	103.51	3.11 (3 per cent)	
9	Pramod Kumar Tekriwal <sup>106</sup> ABUPT3079K, AY 2010-11	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	421.37	12.64 (3 per cent)	
10	Sandeep Kumar Tekriwal <sup>106</sup> AAFHS0739F, AY 2010-11	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	195.74	5.87 (3 per cent)	
11	Premlata Tekriwal <sup>106</sup> ABSPT5997N AY 2009-10	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	54.13	1.62 (3 per cent)	
12	Premlata Tekriwal <sup>106</sup> ABSPT5997N, AY 2010-11	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	16.17	0.49 (3 per cent)	
13	Binod Kumar Tekriwal, HUF <sup>106</sup> , AABHT3573Q, AY 2010-11	PCIT-10, Kolkata {ITO, Ward-30(2), Kolkata}	48.85	1.47 (3 per cent)	
14	Binod Kumar Tekriwal <sup>106</sup> ABVPT7683E, AY 2010-11	PCIT-10, Kolkata {ITO, Ward-30(2), Kolkata}	49.54	1.49 (3 per cent)	
15	Binod Kumar Tekriwal <sup>106</sup> ABVPT7683E, AY 2011-12	PCIT-10, Kolkata {ITO, Ward-30(2), Kolkata}	3.11	0.09 (3 per cent)	
16	Satya Prakash Sharma <sup>106</sup> ALSPS5474C, AY 2010-11	PCIT-12, Kolkata (ACIT Circle-36)	165.37	3.72 (2.25 per cent)	
17	Satya Prakash Sharma <sup>106</sup> ALSPS5474C, AY 2011-12	PCIT -12, Kolkata (ACIT Circle-36)	12.68	0.29 (2.25 per cent)	
18	Satya Prakash Sharma <sup>106</sup> ALSPS5474C, AY 2009-10	PCIT -12, Kolkata (ACIT Circle-36)	443.19	9.97 (2.25 per cent)	
<b>Total</b>			<b>2718.95</b>	<b>78.61</b>	

<sup>106</sup> Audit observations in respect of these assesseees were issued during regular compliance audits.

It was noticed from the assessment records that the assessing officer had disallowed only partial amounts either on the basis of his own estimation as per his discretion. In respect of cases of Satya Prakash Sharma (AY 2009-10, to 2011-12), the department stated (November/December 2016) that there was no scope to re-open the case under section 147 for AY 2009-10, as the stipulated time had already expired, whereas for AYs 2010-11 and 2011-12, the assessing officer had scrutinized all the purchases and concluded that those were genuine and partial disallowance was made in the profit ratio as unaccounted purchases. The department on one hand stated that “the purchases are genuine and not bogus as per all the grounds as submitted”, whereas on other hand partial disallowances were made for bogus purchases.

### 6.3.8 No action taken on bogus purchases

The department did not take any action in the following cases despite having information from DGIT (Inv.), Mumbai about availing of entries of bogus purchases by the assesseees

Table 6.5: Details of cases where action was not taken on bogus purchases despite having information				₹ in lakh	
Sl. no.	Name of assessee, PAN, AY	Assessment charge	Amount of bogus purchase as reported by the DGIT (Inv), Mumbai	Tax effect (excluding interest)	
<b>A. Scrutiny cases where no action was taken in respect of bogus purchase</b>					
1.	M/s Tirupati Fibres & Industries Ltd., AABCT1849C, AY 2010-11	PCIT-4, Kolkata {ITO, Ward-10(1), Kolkata}	165.15	56.13	
2.	M/s Kilburn Engineering Ltd., AABCK3421H, AY 2009-10	PCIT-1, Kolkata {DCIT, Circle-1(1), Kolkata}	26.56	9.03	
3.	M/s Kilburn Engineering Ltd., AABCK3421H, AY 2011-12	PCIT-1, Kolkata {DCIT, Circle-1(1), Kolkata}	667.27	221.65	
<b>Total</b>			<b>858.98</b>	<b>286.81</b>	
<b>B. Non-scrutiny cases where no action was taken in respect of bogus purchase</b>					
4.	M/s Goldwin Tracon Pvt. Ltd., AABCG7693R, AY 2009-10	PCIT-2, Kolkata {DCIT, Circle-6(1), Kolkata}	70.38	21.75	
5.	M/s Goldwin Tracon Pvt. Ltd., AABCG7693R, AY 2010-11	PCIT-2, Kolkata {DCIT, Circle-6(1), Kolkata}	43.22	13.35	
6.	M/s Goldwin Tracon Pvt. Ltd., AABCG7693R, AY 2011-12.	PCIT-2, Kolkata {DCIT, Circle-6(1), Kolkata}	0.89	0.28	

7.	Anand Mehta, AFGPM3766E, AY 2010-11	PCIT-10, Kolkata {ITO Ward 30(1), Kolkata}	23.71	7.33
8.	Anand Mehta AFGPM3766E AY 2011-12	PCIT-10, Kolkata {ITO Ward 30(1), Kolkata}	31.03	9.59
9.	Promod Kumar Tekriwal, ABUPT3079K, AY 2011-12	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	230.41	71.20
10.	Quest united, AAAFQ1740P, AY 2011-12	{ITO, Ward-28(2), Kolkata}	0.11	0.04
11.	Sandeep Kumar Tekriwal, AAFHS0739F, AY 2011-12	PCIT-10, Kolkata {ITO, Ward-30(4), Kolkata}	190.98	59.01
12.	Vikesh Tarachand Mehta, ALHPM4119J, AY 2009-10	PCIT-8, Kolkata {ITO, Ward-23(3), Hooghly}	99.37	30.71
13.	Vikesh Tarachand Mehta, ALHPM4119J, AY 2010-11	PCIT-8, Kolkata {ITO, Ward-23(3), Hooghly}	64.58	19.95
<b>Total</b>			<b>754.68</b>	<b>233.21</b>

We observed that ITD had not adopted uniform approach in dealing with all such cases as no action was taken in the cases mentioned in Table 6.5, whereas the cases mentioned in Table 6.4 had been reopened and bogus purchases disallowed partially. Reasons for non-initiation of action was called for from the department but had not been intimated to Audit (February 2017).

#### 6.4 Conclusion

**AOs were allowing or disallowing amounts pertaining to Bogus transactions arbitrarily, applying discretion that was not available to them. Reports of the Investigation Wing regarding bogus donations were not taken cognizance of in some of the cases, while in other cases, no appropriate follow up action was taken by disallowing the amounts of these fictitious donations or bogus purchases. In some cases, the disallowances made were only partial, where complete disallowance was called for which resulted in loss of revenue.**

