

PRESS RELEASE

OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

**NEW DELHI
17th DECEMBER, 2024**

**Compliance Audit Report on "Outstanding Demand on Income Tax Assesseees"
Audit Report No. 14 of 2024 on Direct Taxes presented in Parliament**

The Comptroller & Auditor General of India (C&AG) carried out a Subject Specific Compliance Audit (SSCA) on 'Outstanding Demand on Income Tax Assesseees'. Audit findings were discussed with the Central Board of Direct Taxes (CBDT) in May 2023. The Report was laid in the Parliament here today.

The Income Tax Department (ITD) invokes income tax provisions governing Tax demand arrears as crucial tools to recover tax demands and prevent tax evasion. Despite these provisions being in place to safeguard revenue interests, there has been a significant increase in the accumulation of arrears of tax demand over the years, with a persistently high percentage of tax demands termed as 'difficult to recover' by the ITD. Audit selected this topic to assess the robustness and effectiveness of the procedures in place in the ITD concerning the recovery of outstanding demand and verify whether the ITD has taken adequate measures to liquidate the outstanding demand.

An analysis of 'total outstanding demand' and demand classified by the ITD as 'difficult to recover' vis-à-vis the 'total direct tax collection' for the financial years 2016-17 to 2019-20 showed that total outstanding demand had exceeded direct tax collections consistently. The demand classified by the ITD as 'difficult to recover' was more than 97 *per cent* of the total outstanding demand in all these years.

The SSCA covered 21,58,443 cases in respect of 12,73,180 assesseees pertaining to 279 assessment units and 74 Tax Recovery Officer (TRO) units across India with an aggregate outstanding demand of ₹8,49,931 crore, which represents 52.50 *per cent* of the total outstanding demand at an All India Level. The SSCA also includes a 360-degree analysis of some high-value assesseees in terms of outstanding demand.

A summary of audit findings is given below:

Audit noted several issues and shortcomings relating to incorrect reporting of outstanding demand; failure of or delay in recovery of outstanding demand; systemic issues such as the absence of granular data, lack of risk scoring technique in fixing targets, non-maintenance of dossier reports and weak monitoring and review mechanism.

Audit noticed instances of exaggerated tax demands raised by the ITD, such as not allowing credit for taxes already paid by the assessee, levying incorrect interest, and committing mistakes while giving effect to the appeal orders. Audit also noticed that figures of outstanding demand continued to include nullified demands. Delay in giving effect to appeal orders resulted in the delayed issue of refunds; ITD had to refund the inflated demands collected along with interest

under section 244A of the Income Tax Act, besides resulting in harassment and hardships to the assessee.

The audit observed delays of up to seven years in giving effect to appeal orders passed by different appellate authorities, with one case still awaiting orders for over 11 years. Delays in passing consequential orders resulted in excess outstanding demand on records; non-levy of interest under section 220(2) for the delay in paying tax demand resulted in the underreporting of outstanding demand. The CBDT still needs to ensure the implementation of necessary provisions in the current system to levy interest on outstanding demand annually, in terms of its own instruction.

Audit observed that though provisional attachment under Section 281B was invoked, no recoveries could be made by the ITD. TRO did not invoke specific powers as per Schedule II of the Act to attach and dispose of the properties, and the recovery process was slow, even after attaching properties in high-value cases. Audit further noticed that lack of sufficient information about an assessee's movable and immovable assets often resulted in the delayed recovery of outstanding demand, in violation of the CBDT's instructions.

Audit also observed that the internal audit of TROs is not being conducted as a regular exercise in all regions, in compliance with the CBDT's instruction issued in July 2017. TROs could not achieve the target for disposal of Tax Recovery Certificates (TRCs) even though the number of cases transferred from Jurisdictional Assessing Officers (JAOs) to TROs was insignificant.

Centralized Processing Centre-Income Tax Return (CPC-ITR), Bengaluru, makes summary assessments, and the demands raised are reflected in the respective Assessing Officer's (AO's) portal for recovery. The recovery procedure for demand under summary assessment is similar to the demand raised under scrutiny assessment. However, the ITD needs to take effective action, such as preparing dossiers, attaching bank accounts, and transferring cases to TROs, to recover the demands raised under summary assessment.

Registration of attachment of properties with the Central Registry of Securitisation Asset Reconstruction and Security Interest (CERSAI) is an essential part of the recovery mechanism to keep the ITD's right over other creditors intact. Failure to register even a single case of attachment with CERSAI, even after a lapse of over four years of issue of instructions by Director of Income Tax (DIT) {Recovery and Tax Deducted at Source (TDS)}, shows a lack of internal control in the recovery process.

Audit noticed that though the dossier reports served as a significant tool to the monitoring authorities for analyzing outstanding demands, formulating policies, and setting up targets for collection/recovery, the Assessing Officers did not bestow the requisite attention, as evidenced by cases involving non-preparation of dossier reports and discrepancies in preparation of the same. Audit further noticed that given the arithmetical inaccuracies and other discrepancies, the Central Action Plan (CAP)-I statements data are unreliable. Audit could not validate the sources for the CAP-I statement. Audit noticed that Protective Demands which were not collectible demands, were included in the figure of outstanding demand and placed under 'demand difficult to recover' in the CAP-I statement. Cases where tax deducted at source have been deposited into the government account, but the assessee is yet to get the credit of TDS claimed are being classified as 'demand difficult to recover', contributing significantly to an increase in the figure for the 'demand difficult to recover' category.

Further, there was a difference in the number of duplicate demands in different ITD data sources, resulting in incorrect reporting of outstanding demand. No information was shared by the ITD

on the action taken in compliance with specific instructions issued by the CBDT in its Interim Central Action Plan for the year 2021-22. The duplicate entries continue to exist, and fresh duplicate cases are added every year.

Audit could not derive assurance on the existence and effective functioning of any committee at any level to consider eligible cases for write-off. Thus, the primary objective of protecting the interest of revenue and preventing further accumulation of tax arrears remained unfulfilled to a large extent. The findings underscore the urgent need to revisit and strengthen the existing recovery procedures to ensure that the primary objective of protecting revenue interests and curbing further accumulation of tax arrears is met.

Summary of Recommendations

This Report contains 28 recommendations, out of which some major recommendations are mentioned below:

Audit recommends that:

- *Categorisation of data is essential to identify high-risk vis-à-vis low-risk cases. ITD may evolve a system/enable provision to extract data from e-filing/ Income Tax Business Application (ITBA) to identify and segregate high-risk assessees, enabling the Assessing officers / TROs to put sustainable efforts into the collection process.*
(Para 4.2.7)
- *The CBDT may ensure that details of the assessment set aside are updated in the ITBA Recovery system module to reflect the current and actual status of demand and avoid reflecting inflated, non-existent demands.*
(Para 5.3.2)
- *The CBDT may consider speeding up the recovery process where the provisions of Section 281B of the Act were invoked, taking into account the nature of the asset attached and the volume of outstanding demand.*
(Para 5.3.4)
- *The CBDT may ensure preparation of the dossiers for all cases of outstanding demands exceeding the specified threshold limit, and monitor compliance of its instruction no. 10/2015 dated 16/09/2015.*
(Para 6.2.1)
- *The CBDT may issue suitable instructions and follow-up procedures to ensure faster clearance of TRCs and strengthen the recovery process. The CBDT may consider taking action in cases where inordinate delay(s) have been noticed without justification.*
(Para 6.3.1)
- *The CBDT may ensure effective reconciliation of arrear demand reflected on the CPC-ITR portal with the CAP-I statement to enable uniformity and correctness in reporting on priority to enable recovery of the correct outstanding demands and monitor reduction in the actual arrear demand.*
(Para 7.2.3)
- *The CBDT needs to develop a mechanism of mapping the Permanent Account Number (PAN) details obtained from the various authorities in the Annual Information Statement (AIS) with the PAN details of demands categorised under 'Assessees not traceable' to identify and track the assessees, either at the time of assessment or after the completion of the assessment.*
(Para 7.3.4)

- *The CBDT may review the classification of factors shown under the category 'demand difficult to recover' so that only actual outstanding demands are reflected in the CAP-I report. Capturing figures of protective demand and cases of TDS mismatch under 'demand difficult to recover' gives an incorrect picture of the status of outstanding demand.*
(Para 7.3.5 and 7.3.6)
- *The CBDT may prioritise recovery of outstanding demands under summary assessments as those are not pending with any appellate authorities, and are collectible.*

(Para 7.5)

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