

PRESS RELEASE

OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

**NEW DELHI
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**Compliance Audit Report on
"Examination of assessments of companies dealing in the business of
'Distilleries and Breweries' by the Income Tax Department"**

Audit Report No. 09 of 2024 on Direct Taxes presented in Parliament

The Comptroller & Auditor General of India (C&AG) carried out a Compliance Audit on 'Examination of assessments of companies dealing in the business of 'Distilleries and Breweries' by the Income Tax Department'. The audit was carried out till December 2022. The Report was laid in the Parliament here today.

The Compliance Audit covered the assessment of eleven distilleries/breweries falling within the Income Tax Department (ITD) jurisdiction in the States of Uttar Pradesh, Maharashtra, Karnataka and New Delhi, whose ITRs were processed/completed through Income Tax Department (ITD) systems covering the ten years period from Assessment Years 2009-10 to 2018-19.

The summary of audit findings is as below:

- Audit noticed that there was short accounting of sale under the garb of agreement with other parties with tax impact of ₹ 4,439.11 crore wherein three companies did not get their books of accounts audited under section 44AB of IT Act, 1961 and also had not offered the income from business under the head income "Profits and gains from business or profession". The possibility of sale proceeds of liquor/beer not taken into account for tax under the garb of the agreement was high, and the risk of escapement of tax could not be ruled out.
- Audit noticed that the information available within the Income Tax Department (ITD) was not effectively utilized by the assessment units. Further, reconciliation of the details was not carried out by the Assessing Officer from the Assessee. This involved a tax impact of ₹12,781.22 crore. In ten assessee companies, there was a lack of Inter-departmental, intra-departmental coordination and reconciliation with the assessee wherein Assessing Officers did not exercise power to call for the information, as envisaged in section 133(6) of the Income Tax Act which would have been useful for or relevant to any enquiry or proceeding under the Act.
- Audit further noticed that the ITD system could not identify the cases where there was an arithmetical difference, as depicted and certified by the Auditor in the Quantitative

Abstract of the finished product in Form 3CD, which resulted in the wrong depiction and certification by the Auditor with respect to the Quantitative Abstract of the finished product in four assessee companies involving a total tax impact of ₹ 705.01 crore. It was also noticed that the Assessing Officers committed calculation mistakes while concluding the assessments in two assessee companies involving a total tax impact of ₹ 3.36 crore.

- Systemic issues were observed wherein Excise duty claimed by them in their Profit and loss Account was allowed by the ITD during the assessment proceedings without reconciliation with related assessment records. Another systemic issue was a large amount of rebates, discounts, etc., was allowed as expenditure in the books of account, however, reasons/genuineness of such claims were not found to be placed in case records indicating non-adherence to the powers of verification conferred on the Assessing officer under Section 37 of the Income Tax Act.

Some of the key recommendations out of a total 11 Audit Recommendations are as below:-

Audit recommends that:

- *The CBDT may strengthen the existing mechanism for reconciliation of assessment records viz-a-viz, Form 3CD, Profit and Loss account statement, State Excise records, etc., especially after the introduction of the Faceless Assessment regime, wherein assessments are being concluded jurisdiction free to fill the existing gap by critically and correctly analyzing the books of accounts in order to arrive at the correct income of the assessee while concluding the assessment of the Distilleries and Breweries Sector.*
- *The CBDT may consider applying a combination of risk parameters for the identification of cases for limited as well as complete scrutiny under Computer Aided Scrutiny Selection (CASS) in respect of assessees engaged in Distilleries and Breweries business by also considering the Sales reported in ITR vis-à-vis Sales reported to the respective State Excise Authorities.*
- *At the time of summary assessment for the distilleries and breweries sector, the information in documents attached with the Income Tax Return of the assessee, viz. sale, duties, etc., as given in Profit and Loss Accounts, should be correlated with that certified by the Auditor in Form 3CD. Information should also be in consonance with the data available from CPC (TDS).*
- *The CBDT may consider devising a standard operating procedure for the assessment of entities engaged in the business of distilleries and breweries to ensure error-free assessments. The SOP may include instructions to the Assessing officer(s) for :*
 - *Sharing and seeking necessary information from the Jurisdictional AO for verification, through the online system. A certificate to this effect may be given by the assessing officer.*
 - *Exercising power as envisaged in Section 133(6) of the IT Act to call for information viz., Excise duty, VAT and other taxes/ duties from the respective*

State Government Authorities to ensure genuineness and correctness of information furnished by an assesseees

- *Ensuring that business activity codes are filled compulsorily and correctly in their ITRs and examining the possibility of re-opening assessments and imposing penalty for wrong filling up of business codes.*
- *According high priority to cases involving discrepancies in quantitative disclosures of finished products made in Tax Audit Report.*

- *The CBDT may strengthen the existing mechanism for interdepartmental sharing of inputs, including Excise duty, VAT, and other taxes/ duties details, with the Assessing Officers of the counterparties for examination and cross-verification of the Excise duty, VAT, and other taxes/ duties disclosed by the assessee(s) during the assessment of the Distilleries and Breweries Sector.*

- *The CBDT may examine whether the instances of 'errors' noticed are errors of omission or commission, and if these are errors of commission, then they should ensure necessary action, including fixing responsibility where glaring mistakes have been pointed out by Audit, during the examination of companies dealing in the business of Distilleries and Breweries, as per law.*