

**PRESS RELEASE**

**OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF  
INDIA**

**New Delhi  
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**CAG's Audit report on Direct Taxes presented**

The Report of the Comptroller and Auditor General of India on Direct Taxes of the Union Government for the year ended March 2019 (Audit Report No. 11 of 2020) was laid in the Parliament here today. This Report contains 393 audit observations having tax effect of ₹ 8,380.79 crore, besides one long paragraph on 'Long Term Capital Gain on Penny Stocks', and findings of a subject specific compliance audit on 'Interest under sections 234A, 234B, 234C and 244A of the Act'.

**Important observations presented in the report are as follows:**

- Direct taxes increased by 13.5 *per cent* in FY 2018-19 (₹ 1.35 lakh crore) as compared to FY 2017-18. However, Share of direct taxes in gross tax revenue increased to 54.7 *per cent* in FY 2018-19 from 52.2 *per cent* in FY 2017-18 (paragraph 1.5.1).
- The collections from corporation tax increased by 16.2 *per cent*, from ₹ 5.71 lakh crore in FY 2017-18 to ₹ 6.64 lakh crore in FY 2018-19 and Income Tax increased to 13.1 *per cent* from ₹ 4.08 lakh crore in FY 2017-18 to ₹ 4.62 lakh crore in FY 2018-19 (paragraphs 1.5.3 and 1.5.4).
- The number of non-corporate assesseees increased from 5.38 crore in FY 2017-18 to 6.20 crore in FY 2018-19, registering an increase of 15.2 *per cent*. The number of corporate assesseees increased from 7.99 lakh in FY 2017-18 to 8.46 lakh in FY 2018-19, registering an increase of 5.9 *per cent* (paragraphs 1.2.3 and 1.2.4).
- The arrears of demand increased from ₹ 11.1 lakh crore in FY 2017-18 to ₹ 12.3 lakh crore in FY 2018-19. Of which more than 98.8 *per cent* of uncollected demand would be difficult to recover in FY 2018-19 (paragraphs 1.7.1 and 1.7.2).
- Income Tax department recovered ₹ 107.56 crore during 2018-19 on the basis of observations pointed out by audit (paragraph 2.6).
- 316 high value cases pertaining to corporation tax with tax effect of ₹ 8,210.43 crore and 77 high value cases pertaining to income tax with tax effect of ₹ 170.36 crore have been pointed out in this Report (paragraph 3.1.2 and paragraph 4.1.2). These

cases mainly pertained to arithmetical errors in computation of income and tax, errors in levy of interest, irregularities in allowing depreciation/business losses/capital losses, incorrect allowance of business expenditure, unexplained investment/cash credit, etc.

*It is recommended that*

*the CBDT may examine whether the instances of “errors” noticed are errors of omission or commission and if these are errors of commission, then ITD should ensure necessary action as per law.*

- Audit observations relating to interest under sections 234A, 234B, 234C and 244A of the Income Tax Act are summarized below:
  - We audited 6,217 assessment cases which were processed/completed through AST module/system and examined the correctness of interest, calculated through the system and modified by AOs with respect to sections 234A, 234B, 234C and 244A of the Income Tax Act (paragraph 5.8). We found that interest was calculated incorrectly through the AST system despite the fact that the system was designed, inter alia, to undertake assessment functions of calculation of interest under various sections of Income Tax Act (paragraph 5.8.1).
  - The interest was wrongly computed by ITD, in 76.68 *per cent*<sup>1</sup> of cases of the sample of 6,217 selected out of a population of 8,35,727 records, either due to systemic deficiencies or due to incorrect interventions by the AOs (paragraph 5.8).
  - Input of the other ITD module was not being captured properly in the AST system leading to incorrect computation of interest in number of cases which has an impact on final tax collection and refund (paragraph 5.8.1).
  - AOs did not take any step to rectify the incorrect interest, under sections 234A, 234B, 234C and 244A of the Act, calculated through the system even though AST system allowed the AOs to modify the value of interest in accordance with the provisions of the Act, thereby leading to either short levy/payment or excess levy/payment of interest (paragraph 5.8.2.1).
  - AOs modified the interest under sections 234A, 234B, 234C and 244A of the Act against the incorrect interest calculated through the system in some cases. However, not all these cases were modified at correct amount, which resulted in either short levy/payment or excess levy/payment of interest (paragraph 5.8.2.2).

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<sup>1</sup> 4,767 assessment cases out of 6,217 assessment cases which were audited

- AOs manually modified the interest amount which was not warranted in instances where correct amount of interest was calculated through the system, leading to either short levy/payment or excess levy/payment of interest causing hardship and harassment to taxpayers (paragraph 5.8.3).

It is not clear why manual modification is permitted, that too apparently without a protocol for seeking senior level clearances if, in exceptional cases, manual intervention is required. In fact, if manual intervention at every level is needed, or continued, it either points to an ill designed IT System, or a deliberate attempt to retain discretion, for no apparent good reason.

- Incorrect levy of interest (excess levy) by AOs using modification feature of AST led to blockade of refunds due to the assessee. This was not only violation of provisions of law but also resulted in non-fulfilment of Citizen's Charter. On the one hand the efficiency of the department was affected and on the other there was undue harassment to the assessee (paragraph 5.8.4.1).
- All Income Tax Returns (ITRs) are first summarily processed under section 143(1) at Centralized Processing Centre (CPC), Bengaluru. Processing of ITRs by CPC is supposed to be completely automated. However, refunds of the assessee's were blocked by modifying the interest amount even in cases processed in summary manner through CPC (paragraph 5.8.4.1).

*It is recommended that*

*a) CBDT may institute appropriate checks and balances in Income Tax Business Application (ITBA) to prevent recurrence of error in computation of tax and interest {paragraph 5.10 (a)}.*

*b) The IT system for direct taxes needs to be designed in such a way that it should ensure zero or minimal physical interface between the assessee and the tax officers. The Government may consider the IT System for direct taxes being placed at arms length from CBDT, with an independent governmental body or organization {paragraph 5.10 (b)}.*

*c) AST module allows manual modification of interest amount which resulted in errors in computation of interest. ITD needs to inquire into the reasons for errors in computation of interest through AST and reasons for allowing manual modification to co-exist with IT system {paragraph 5.10 (c)}.*

*d) The system should be designed to provide audit trail for modifications, if any, being carried out by AOs. All justifications for modification by AO must be available on the system {paragraph 5.10 (d)}.*

*e) CBDT may examine whether the instances of "errors" noticed are errors of omission or commission and if these are errors of commission, then ITD should ensure necessary action as per law {paragraph 5.10 (e)}.*

*f) CBDT may ensure that the refund due to the assessee is released in prescribed time limit, upholding its commitment through the citizen charter, rather than to withhold/block it by manual intervention {paragraph 5.10 (g)}.*

*g) AO's action regarding blockade of refund as well as under charging of interest may be investigated upon {paragraph 5.10 (h)}.*

• Audit observations relating to the beneficiary who traded in penny stock involving exemption of LTCG under section 10(38) of the Income Tax Act are summarized below:

- We observed that the ITRs of the assesseees who traded in the shares of penny stock companies were neither selected for scrutiny nor reopened for scrutiny despite the ITD having information of claiming LTCG (paragraph 6.6.1).
- The ITD failed to issue notices for filing ITRs, to the assesseees who were involved in trading penny stocks, but have not filed their ITRs. Even Non-filers Monitoring System had not been utilized effectively to identify such non-filers (paragraph 6.6.1.3).
- The ITD did not have any systemic approach to deal with cases of beneficiaries traded in penny stock as in some cases entire sales consideration was disallowed whereas in some cases only claimed LTCG was disallowed (paragraph 6.6.3.1).

*It is recommended that*

*a) The ITD may design CASS parameters in such a way that all the relevant information with ITD, whether from ITR or other sources, may be used to select the cases for scrutiny {paragraph 6.7 (i)}.*

*b) the method of selection for scrutiny under CASS may be shared with the C&AG as was pointed out in the Audit Report No. 9 of 2019 of C&AG so that audit may see whether the selection of cases for scrutiny is as per CASS parameters {paragraph 6.7 (ii)}.*

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