

**PRESS RELEASE**

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

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**CAG's Performance Audit Report on "Search and Seizure Assessments in Income  
Tax Department" presented**

The Comptroller & Auditor General of India (C&AG) Report No. 14 of 2020 carried out a Performance Audit (PA) on 'Search and Seizure Assessments in Income Tax Department'. The PA was carried out from March 2019 to August 2019 and findings were discussed with the Central Board of Direct Taxes (CBDT) in June 2020. The Report was laid in the Parliament here today.

**Introduction**

Search and Seizure is a powerful tool available to Income Tax Department to unearth any concealed income or valuables and to check the tendencies of tax evasion thereby mitigating the generation of black money.

**Audit findings**

The PA covered the search assessments completed during the financial years 2014-15 to 2017-18. Audit checked 24,869 assessment records pertaining to 185 Groups with assessed income of ₹ 1,71,503.78 crore during the performance audit. Audit issued 1659 observations related to absence of provisions in the Act, non-centralisation of search assessees, non-uniformity in making additions, etc. having tax effect of ₹ 4150.02 crore. Besides, Audit also analysed the sustainability of additions made during search assessments.

Some of the findings are given below:

- There were loopholes/deficiency in the provisions of the Act in respect of search assessments. These deficiencies mainly relate to absence of specific provisions in the Act/Rules.

(Paragraph 2.4)

- The department did not centralize all cases in respect of certain groups for assessments due to which issues relating to the assessee pointed out in Appraisal Report could not be addressed.

(Paragraph 2.5)

- In respect of certain Groups 76.5 *per cent* of additions made in search assessments did not stand the test of judicial scrutiny in appeals at the level of CIT (A)/ITAT.

(Paragraph 2.6)

AOs, while finalizing the assessments, did not take uniform stand in making additions on account of bogus purchases, accommodation entries and in adoption of figures of assessed income/ revised income. The additions were made arbitrarily either on lump sum amount basis or different percentage ranging from five *per cent* to 50 *per cent* under similar circumstances without proper justification.

(Paragraph 2.7)

- AO did not comply with the provisions such as non-referring of cases to Transfer Pricing Officer (TPO), Action on offence committed by Chartered Accountant in IT Act etc. during search assessments.

(Paragraph 2.13)

- There was a delay ranging from one month to 14 months in handing over of Appraisal Report along with seized material to the AO.

(Paragraph 3.1.1)

- AO did not verify the source/genuineness of the transaction pointed out in Appraisal Report. AO had not made addition of undisclosed income admitted by the assessee or disallowed the expenditure based on the statement made on oath during the course of search and also had not resolved the matter with the Investigation Wing.

(Paragraphs 3.1.2 and 3.1.3)

- Other government agencies i.e. REIC and CBEC did not share information with ITD. As a result, AO could not address the issues like removal of stocks without payment of excise duty, purchases in cash without invoices/bills and genuineness of sources of investment etc. either in search assessments or finalized assessment without examining the requisite information which may be prejudicial to the interest of revenue. The information relating to advancing of loans to the paper companies, wrong claim of PSI subsidy/sales tax subsidy was not shared by ITD with other government agencies/authorities either directly or through REIC.

(Paragraphs 3.2.1 and 3.2.2)

- Action Notes based on comprehensive and methodical examination of seized material, were not prepared by the AO. Separate Narrative Reports were not prepared and sent to the Member (Investigations).

(Paragraph 3.3)

- The Department did not initiate any action in respect of sellers of land/flat/commodities pointed out in the respective Appraisal Report, who could

be potential assesseees. The department also did not confirm whether these were in the tax net of the department and regularly filing the return.

(Paragraph 3.4)

## **Recommendations**

### **CAG recommends that:**

- *The CBDT may introduce suitable provision for not allowing set off of losses of previous years/earlier years assessed in regular assessments against the undisclosed income detected during search and seizure.*  
(Paragraph 2.4.1)
- *The CBDT may introduce a time limit for issuing notices under amended section 153A/153C.*  
(Paragraph 2.4.2)
- *ITD may strengthen the mechanism for monitoring of compliance of existing instructions of CBDT regarding centralisation of all the search cases in central circles, so that all the issues pointed out in Appraisal Report could be addressed and assessment made more effective.*  
(Paragraph 2.5)
- *The Department may like to ensure that the search warrants are issued after proper examination of the information available, research and due diligence in a manner which is above suspicion as search and seizure involves lot of harassment to the assesseees and their families. The possibility of role of judicial body may also be explored. The CBDT may also analyse the reasons for low sustainability and fix the responsibility of the concerned officers.*  
(Paragraph 2.6)
- *The CBDT may examine the reasons for wide variations in the applicability of the same law under similar conditions and find a solution to ensure consistency in making assessments. The CBDT may also investigate whether these are errors of omission or commission and take necessary action as per law in that regard.*  
(Paragraph 2.7, 2.8 to 2.12)
- *The CBDT may put in place a mechanism so as to ensure that Appraisal Report along with seized material be handed over to assessment wing within stipulated time so that AO could have sufficient time to examine all the issues pointed out in Appraisal Report.*  
(Paragraph 3.1.1)
- *The CBDT may put in place a mechanism so as to ensure that the issues pointed out in Appraisal Report are duly addressed during assessment.*  
(Paragraph 3.1.2)
- *ITD may strengthen its assessment procedure to make effective use of provision 132(4) of the Act.*  
(Paragraph 3.1.3)

- *ITD may strengthen the mechanism of sharing of information amongst different wings of the Department as well as with other Government agencies and ensure its timeliness for effective assessments and prevent undue benefit to the assesseees.*

*(Paragraph 3.2)*

- *The CBDT may fix responsibility where Action Note/Separate Narrative Report is not prepared and further appropriate action be taken so that objective of search and seizure operations is not defeated.*

*(Paragraph 3.3)*

- *ITD may devise a system to track the new assesseees added in the tax net consequent upon search operations/assessments and also to watch that these assesseees are tax compliant.*

*(Paragraph 3.4)*

Department's response to audit observations and recommendations is discussed in detail in the Audit Report along with further comments of Audit.

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BSC/SS/TT