Executive Summary

India, producing more than 1,000 feature films per year, is the largest film producing country in the world. During the period 2005-2009, film production registered a growth of 5 *per cent* per annum. The film industry registered growth of 9.7 *per cent* during the period 2005-2009 and generated revenues of around ₹ 9,500 crore in 2009. The television (TV) industry grew at 16.9 *per cent* per annum during the period 2005-2009 generating revenue of ₹ 26,550 crore in 2009. By the end of December 2009, there were 12.9 crore TV households with 8.9 crore subscribers to pay channels. Number of approved private channels at the end of December 2009 were 515 - 251 news channels and 264 other than news channels. The Film & TV industry is expected to grow at 16.5 *per cent* per annum in next five years to reach ₹ 65,850 crore by 2014.

Production of films is financed mainly from private sources. Banks started financing the films after 'industry' status was accorded to the film industry in May 1998. In addition NFDC and film development corporations promoted by many states' governments also provide financial support in the form of loan, grant, subsidy, etc.

The main objectives of our study were to ascertain that: the Department had broadened its tax base vis-à-vis film related personalities to increase tax collection commensurate with the growth of the industry; systems and procedures were sufficient and in place to ensure compliance with the provisions of the Act/Rules; mandatory information as required under the provisions of the Act as due from the assessees related to the film and TV sector were being received regularly in time; there was a system to utilize the information for assessment, available with the Department in Income Tax Returns of film/TV related assessees and in mandatory statements filed by the producers; there was a proper co-ordination between the Department and outside agencies for gathering information to detect undisclosed or incorrect information; the Department had taken action on the recommendations of the Public Accounts Committee (PAC).

We drew our primary audit samples from the records of the Income Tax Department. We also collected information from outside sources like State's Revenue Department, Central Board of Film Certification, Doordarshan Kendras, etc. and correlated the same with the assessment records of the assessees.

An overview of the specific audit findings and key recommendations included in this Report is given below:

Oversight and linkages (Chapter 2)

Audit Findings

No tax is deducted or collected at source on sale of time slots or telecast fees though nearly 40 *per cent* of the total revenue of the advertising sector is associated with the TV industry. Production of feature films by and large is in the hands of private sector. NFDC and Film Development Corporations/ companies promoted by State Governments provide financial assistance and other support to the film producers. We observed that the Department has no mechanism to obtain information on subsidy/grants etc. granted by these development corporations to the film producers. The Department has no coordination with other Government Departments or the States' Revenue Department to identify the probable assessees with a view to widen the tax base.

Key Audit recommendations

We recommend that

- *the Department maintain coordination with other Central Government Departments and States' Revenue Departments to identify the probable assessees with a view to widen the tax base and prevent tax evasion;*
- *provisions for TDS on sale of time slots and on telecast fees should be incorporated in the Act;*
- *a mechanism may be developed to obtain information of such persons who got assistance from the Government/Government corporations by way of subsidy and grant, etc. on a regular prescribed interval.*

Systems Issues-Controls on assessments (Chapter 3)

Audit Findings

Despite special Film Circles being created in four cities with a view to assess all the assessees involved in film and TV related activities at one unit, cases of film personalities were being assessed in other units also. Form 52A is deficient to the extent that it does not require the PAN of the person to whom payment has been made. There was no system in the Department to monitor the receipt of mandatory information in Form 52A for monitoring the expenditure on films. No penal action was taken in most of the cases for non/late filing of Form 52A. Information furnished in Form 52A was rarely verified or used by the Department. Expenditure on films was allowed without receipt of Form 52A. Provisions of section of 285B regarding filing of Form 52A were not made applicable to the producers of TV serials.

There is no provision in the Act for deducting TDS on revenue from sale of distribution rights of films. In absence of clear provisions and instructions for assessment of income of foreign telecast companies huge sums had been blocked in litigation.

Key Audit recommendations

We recommend that

- *the Department may put a system in place to ensure that all assessees related to the film and television industry are assessed in the specially created Film Circles and that case records of those assessees who file their return outside Film Circles are migrated to Film Circles;*
- *provisions for deduction of TDS on sale of distribution rights and sharing of proceeds from exhibition of films may be introduced;*
- *a suitable system may be devised to collect the information about the films which are under production;*
- *in respect of Form 52A we recommend that*
  - *receipt of Form may be suitably monitored;*
  - *suitable provisions be made in the Act to disallow the expenditure on the films if Form is not received before filing of income tax return;*
  - *Form be amended to include PAN of the person to whom payment is being made;*
  - *submission of Form may be made mandatory to the producers of TV programmes.*

360 Degree Analysis (Chapter-4)

Audit Findings

The Department rarely used information given by an assessee during his assessment to cross verify the correctness of the information furnished by another assessee (who had transacted with the former) during the assessment.

Key Audit recommendation

- We recommend that the Department should develop a system which may ensure that the information furnished by an assessee is used to cross verify the correctness of the information given by other assessees having transactions with the former, to avoid the evasion of tax by way of furnishing incorrect information.

Mistakes in assessment (Chapter 5)

Audit Findings

There were errors in applying provisions relating to allowance of cost of production of film and acquisition of distribution rights of film. There were errors in assessment due to wrong application of provisions of the Act.

Key Audit recommendation

- We recommend that responsibility for material errors in assessment may be fixed to reduce their incidence.