Chapter II: Audit Mandate, Products and Impact

2.1 Authority of the C&AG for audit of receipts

2.1.1 Section 16 of the C&AG's DPC Act, 1971 authorises the Comptroller and Auditor General to audit all receipts (both revenue and capital) of the Government of India and of Governments of each State and of each Union Territory having a legislative assembly and to satisfy himself that the rules and procedures are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed. Audit & Accounts Regulations 2007 lay down the following principles for Receipt Audit:

2.2 Examination of systems and procedures and their efficacy

2.2.1 Audit of receipts includes an examination of the systems and procedures and their efficacy in respect of:

a. identification of potential tax assessees, ensuring compliance with laws as well as detection and prevention of tax evasion;

b. pursuit of claims with due diligence and that these are not abandoned or reduced except with adequate justification and proper authority;

c. prompt investigation of losses of revenue through fraud, default or mistake including, if required, through the review of other similar cases;

d. exercise of discretionary powers in an appropriate manner including levy of penalties and initiation of prosecution;

e. appropriate action to safeguard the interests of the Government on the orders passed by departmental appellate authorities;

f. any scheme as may be introduced by the Government from time to time;

g. any measures introduced to strengthen or improve revenue administration;

h. amounts that may have fallen into arrears, maintenance of records of arrears and action taken for the recovery of the amounts in arrears;

i. other ancillary and non-assessment functions including expenditure incurred by the departments;

j. achievement of targets, accounting and reporting of receipts and their cross verification and reconciliation with the accounts records; amounts of refunds, rebates, drawbacks, remissions and abatements to see that these are correctly assessed and accounted for; and

k. any other matter, as may be determined by the Comptroller and Auditor General.

2.3 Audit products

2.3.1 In pursuance of audit mandate and provision in Regulation 205 of Audit & Accounts Regulations 2007, we prepare annual compliance audit report and periodical performance audit reports for submission to President under Article 151 of the Constitution. C&AG of India has the authority to decide the form, content and time of submission of Audit Reports under Regulation 205 of the Audit & Accounts Regulations 2007.

2.3.2 This Compliance Audit Report discusses 455 high value and important cases issued to the Ministry[23]. *Appendix 4* gives the details of such cases. Table 2.1 shows category wise details of these cases[24]. We discuss some important cases in Chapter III and IV.

Table 2.1: Category-wise details of errors of high value cases

Cr. ₹.

Category	CT		IT		Total	
	No.	TE	No.	TE	No.	TE
a. Quality of assessments	88	486.02	40	516.47	128	1,002.49
b. Administration of tax concessions/ exemptions/ deductions	162	1,412.72	41	53.90	203	1,466.62
c. Income escaping assessments due to omissions	66	337.52	42*	19.29	108	356.81
d. Overcharge of tax/ interest	9	35.06	7	3.99	16	39.05
Total	**325**	**2,271.32**	**130***	**593.65**	**455**	**2,864.97**

*includes 15 cases of under assessment of Wealth involving TE of ₹ 0.35 cr.

2.4 Legislative impact

2.4.1 We pointed out[25] that the Firms/Association of Persons (AOPs) were taking advantage of deduction or incentive under the concept of MAT[26] available in the Income Tax Act which was applicable only to Companies. Audit recommended that the purview of section 115JB may be extended to Firms/AOPs.

2.4.2 The Government amended the Income Tax Act, 1961 under section 115JC through Finance Act, 2012 to extend the applicability of MAT to specified non-company assessees.

[23] Ministry of Finance, Central Board of Direct Taxes

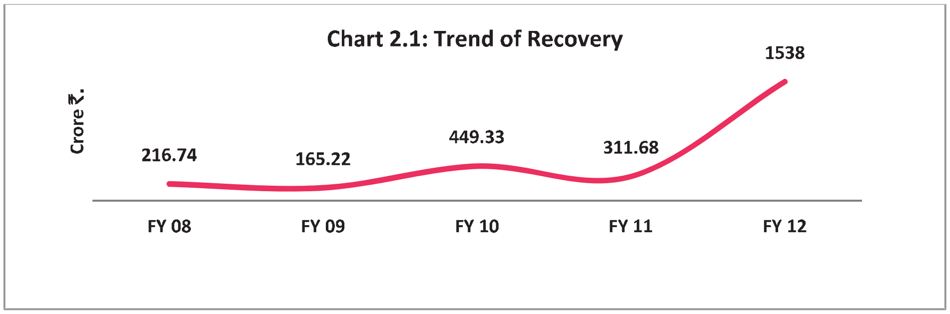
[24] Sub-categories-wise details are in *Appendix-5*

[25] Report no. 12 of 2011-12 - Business of Civil Construction

[26] Minimum Alternate Tax

2.5 Recovery at the instance of audit

2.5.1 ITD recovered ₹ 2,680.97 crore in the last five years from demands raised to rectify the errors in assessments that we pointed out. This includes ₹ 1,538 crore recovered in FY 12. Chart 2.1 below shows that the amount of recovery alternately decreased and increased between FY 08 to FY 11 and saw a sudden jump on the higher side in FY 12 by 393 *per cent*.



2.6 Incidence of errors

2.6.1 ITD completed 5,50,018 scrutiny assessments in FY 12, of which we checked 2,95,559 cases. The incidence of errors in assessment checked in audit was 18,072 which averaged to 6.1 *per cent* (*Appendix-6*).

2.6.2 Table 2.2 below shows the details of errors in assessments during FY 12.

Table 2.2: Tax wise details of errors in assessments

Category	Cases	Tax effect (Cr. ₹.)
a. Corporation tax & Income tax	18,441	19,691
b. Wealth tax	815	33
c. Other Direct taxes	368	25
Total	**19,624**[27]	**19,749**
Note: The above findings and all subsequent findings are based exclusively on audit of selected assessments.		

2.6.3 Out of 18,441 cases with tax effect of ₹ 19,691 crore, 323 cases with tax effect of ₹ 702 crore related to over assessments.

2.6.4 Table 2.3 below shows the category-wise details of underassessment in respect of Corporation tax and Income Tax. *Appendix-7* indicates sub-categories details.

Table 2.3: Category-wise details of errors

Category	Cases	Tax effect (Cr. ₹.)
a. Quality of assessments	5,878	3,641
b. Administration of tax concessions/ exemptions/ deductions	8,281	11,198
c. Income escaping assessments due to omissions	2,332	3,269
d. Others	1,627	881
Total	**18,118**	**18,989**

[27] Number of assessments with errors as shown in paragraph 2.12 relates to scrutiny assessments completed during FY 11 and audited during FY 12. 19,624 cases shown in Table 2.2 relates to all cases audited during FY 12 including assessments completed earlier also.

2.7 Response to audit

2.7.1 We elicit response from the audited entities at different stages of audit. On completion of field audit, we issue the local audit report (LAR) to ITD for comments. Further, we issue important and high value cases out of these to the Ministry for comments before inclusion in the Audit Report.

2.7.2 CBDT issued instructions (2006) that replies to LARs should be provided within six weeks. Assessing officers (AOs) are required to initiate remedial action within two months to correct errors in demands lest they become time barred leading to loss of revenue.

2.8 Response to Local audit

2.8.1 Table 2.4 below depicts the position of replies received and observations accepted in respect of cases issued during FY 08 to FY 12.

Table 2.4: Response to local audit

FY	Observations raised	Reply received Cases Accepted	Cases not accepted	Reply not received	% of cases accepted	% of reply not received
08	19,694	4,099	7,455	8,140	20.8	41.3
09	19,631	4,898	5,892	8,841	25.0	45.0
10	19,227	2,927	3,919	12,381	15.2	64.4
11	20,130	4,354	3,568	12,208	21.6	60.7
12	19,624	3,945[28]	2,971	12,708	20.1	64.8

2.9 Response to high value cases

2.9.1 We give six weeks to Ministry to offer their comments on high value cases before their inclusion in the Audit Report. Out of 455 high value cases included in the current Audit Report, the Ministry/ITD accepted 311 cases (68 *per cent*). Table 2.5 shows details of action taken in 302 cases.

Table 2.5: Details of action taken

Cr. ₹.

Categories	Action completed and amount recovered		Action completed but amount to be recovered		Action initiated only	
	No.	TE	No.	TE	No.	TE
a. Corporation Tax	9	35.43	174	1,295.88	28	215.89
b. Income Tax	1	0.22	75	506.90	6	1.77
c. Wealth Tax	2	0.04	6	0.11	1	0.02
Total	**12**	**35.69**	**255**	**1,802.89**	**35**	**217.68**

2.9.2 Further, Ministry/ITD accepted 9 cases but did not intimate action taken on them. In 31 cases, Ministry/ITD did not accept the audit observation. In 113 cases, we were yet to receive the response as of May 2013. Chapters III and IV bring out details of errors in assessments in respect of Corporation Tax, Income Tax and Wealth Tax respectively.

[28] 1,718 - Cases accepted and remedial action taken; 2,227 - Cases accepted but remedial action not taken;

2.10 Pendency of audit observations

2.10.1 The accretion in pendency in replies to audit findings each year has resulted in pile-up of 66,819 cases involving revenue effect of ₹ 49,887 crore as of 31 March 2012. Table 2.6 below shows the increasing trend of pendency of observations.

Table 2.6: Details of outstanding audit observations

Cr. ₹.

Period upto	CT		IT		ODT		Total	
	No.	TE	No.	TE	No.	TE	No.	TE
FY 07	4,952	2,230	5,788	3,709	1,049	32.1	11,789	5,971
FY 08	3,018	2,526	2,717	970	368	7.7	6,103	3,504
FY 09	4,008	3,472	3,641	1,169	718	26.0	8,367	4,666
FY 10	4,768	5,049	4,369	1,402	954	27.6	10,091	6,478
FY 11	6,323	7,795	5,999	2,720	1,089	105.2	13,411	10,620
FY 12	7,491	15,011	8,569	3,593	998	44.7	17,058	18,648
Total	**30,560**	**36,083**	**31,083**	**13,563**	**5,176**	**2,43.2**	**66,819**	**49,887**

2.11 Remedial action time barred

2.11.1 Table 2.7 below shows the details of time-barred cases during FY 08 to FY 12.

Table 2.7: Details of time-barred cases

Year of Report	Cases	Tax effect Cr. ₹.
FY 08	13,833	33,851
FY 09	16,557	5,613
FY 10	5,644	2,869
FY 11	7,942	5,335
FY 12	3,907	1,083

2.11.2 During FY 12, 3,907 cases with tax effect of ₹ 1,083 crore became time-barred for remedial action. *Appendix-8* indicates the details of such cases.

2.12 Non-production of records

2.12.1 We scrutinize assessment records under section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act 1971 with a view to securing an effective check on the assessment, collection and proper allocation of taxes and examining that regulations and procedures are being observed. It is also incumbent on ITD to expeditiously produce records and furnish relevant information to audit.

2.12.2 ITD did not produce 78,077 records out of 4,67,830 records requisitioned during FY 12, (16.69 *per cent*). Out of these, 668 records pertaining to five states were not produced to audit in last three or more consecutive audit cycles. Table 2.8 shows state-wise details.

Table 2.8: Records not produced to audit in three or more audit cycles

State		Records not produced
a.	Andhra Pradesh	156
b.	Karnataka	265
c.	Madhya Pradesh	51
d.	Maharashtra	5
e.	Odisha	191
	Total	**668**