

Chapter III: Utilization of Information

- CASS system of ITD selected cases for scrutiny out of which only 24 per cent of cases had AIR information.
- AOs did not utilise the useful available information in 285 high value cases or finalize the assessments relying on the reply of the assessee without verifying the facts and correctness of the transactions.
- ITD identified 2,45,843 number of non-filers/stop filers. ITD did not notify Designated Assessing Officers (DAOs) for following up on information in selected CsIT charge in Gujarat, Punjab, Uttar Pradesh and West Bengal.
- ITD identified PANs in 22.7 to 26.2 per cent cases during the period FY 08 to FY 11. ITD did not issue notices in 2,596 non-PAN cases where addresses were incomplete. Notices issued in 5,355 cases returned undelivered.
- AIR information could not be considered during assessment as the jurisdictional CIB did not respond to the request of AO.
- AO did not refer back the information to jurisdictional CIB for confirmation.
- AOs did not have data relating to action taken on the disseminated AIR information. In the selected charge, AOs did not maintain the information in the prescribed register.

Computer Assisted Scrutiny Selection (CASS) system of ITD selected cases for scrutiny out of which only 24 per cent cases had AIR information.

Extent of usage of disseminated information

3.1 Position of cases selected for scrutiny by CASS on the basis of AIR data for all assessment charges across the country is as follows:

Table 3.1: Cases selected for scrutiny by CASS

Assessment Year	PANs for which information was available	Total cases selected in CASS	AIR cases selected		% of PAN cases selected by CASS-AIR	AIR cases completed	
			Number	%		Number	%
AY 08	4,19,879	82,024	14,112	17	3.4	2,959	21
AY 09	5,73,891	2,31,145	36,910	16	6.4	13,747	37
AY 10	7,22,829	2,32,303	80,681	35	11.2	70,433	87
Total	17,16,599	5,45,473	1,31,703	24	7.7	87,139	66

3.2 The above table indicates that only 17 to 35 per cent of cases selected in CASS for scrutiny were related to AIR cases. Further, AIR related cases were on an average only 7.7 per cent of total PAN cases for which AIR information was available. Thus, ITD did not utilize AIR information effectively for scrutiny assessments.

AOs did not utilise the useful available information in 285 high value cases or finalize the assessments relying on the reply of the assessees without verifying the facts and correctness of the transactions.

Disseminated information not used properly

3.3 AIR/CIB information is accessible in AST to AOs in those cases which were selected for scrutiny. We observed high value transactions of ₹ 2,138.80 crore reported in AIR information in 285 cases²⁷ selected for scrutiny where AOs did not consider information during scrutiny proceedings or finalize the assessments relying on the reply of the assessees without verifying the facts and correctness of the transactions from AIR filers, DIT-CIB and DGIT-S. AIR filer rectified wrong information uploaded in the system, by filing supplementary AIR but report generated from the system at the time of assessment did not reflect the updated information. AOs did not utilize information received from other jurisdictional units. (see Box 3.1).

Box 3.1: Illustrative case on non-utilization of disseminated information

A. Charge: CIT-II, Kolkata, West Bengal, AY: 09

Assessee: All Bank Finance Ltd., PAN-AACCA4014D

Assessee denied investment of ₹ 6.45 crore in mutual funds which appeared in ITS. AO issued letter for confirmation under section 133(6) on 27 December 2010 to the Principal Officers of the mutual fund which remained unanswered. AO made assessment on 30 December 2010 without drawing any inference.

B. Charge: CIT-XX, Kolkata, West Bengal, AY: 09

Assessee: Dr. Prasanta Banerjee, PAN-AECPB7012

ITS revealed that assessee deposited cash of ₹ 189.66 crore and ₹ 41 lakh in his saving bank accounts. Assessee denied the deposit of ₹ 189.66 crore. The Bank confirmed the assessee's contention stating that mistake occurred due to error in AIR filed by them. Bank further informed that they had rectified the error by filing supplementary AIR return on 12 August 2009. However, ITS generated during October 2010 by AO at the time of assessment showed transactions based on AIR initially filed by the bank. This shows that the system did not update ITS based on supplementary AIR return.

C. Charge: CIT-I, Chandigarh, AY: 09

Assessee: Rajinder Singh, PAN-ANFPS7614A

ITD selected this case on the basis of AIR information for cash deposit of ₹ 24.95 lakh. The assessment order mentioned that ₹ 8 lakh was from sale of agricultural land, however, the differential amount was not discussed during scrutiny proceedings.

3.4 The Ministry replied (December 2012) that the information as updated are being adequately reflected and being viewed by appropriate authorities. Audit observed that the reply of the Ministry is in variance of the observations noted above.

²⁷ Pertaining to AYs 09 and 10 in Andhra Pradesh, Assam, Bihar, Haryana, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Uttar Pradesh and West Bengal charge,

Inadequate follow up on disseminated information

3.5 We observed in three cases²⁸ that concerned AO had failed to utilize the disseminated information. In these cases scrutiny proceedings were dropped either due to delay in serving of notice or notice was not at all served to the assessee intimating the selection of the case in scrutiny. These cases, however, could be re-opened in terms of para 6 of CBDT instruction no. 1 of 2009. The omission on the part of AO resulted in non-completion of assessment under scrutiny and subsequently non-verification of AIR information (see Box 3.2).

Box 3.2: Illustrative cases on inadequate follow up

A. Charge: CIT-II, Delhi, AY: 10

Assessee: M/s. Maxxfun Buildmart Private Limited

The assessee filed e-return of income on 31 March 2010 at 'nil' income and revised return on 03 April 2010 at a loss of ₹ 0.63 lakh. ITD selected it under CASS for scrutiny on the basis of AIR information of sale of immovable property for ₹ 5.65 crore. AO issued statutory notice under section 143(2) on 26 August 2011. AO dropped the proceedings on 28 December 2012 despite CIT's order dated 23 December 2012 for examining the case for issue of notice under section 148, considering that the assessee was not eligible to file the revised return as original return filed by him was not in time and initiating the proceedings on the basis of the original return was not possible as time for issue of notice was over. Centralized Processing of Returns Scheme, 2011 prescribed that for a valid e-return, it is necessary that Form ITR-V may reach CPC within the period specified. DIT (Systems) informed (May 2012) that CPC did not receive ITR-V of original return filed by the assessee. In absence of ITR-V, original return cannot be processed in ITD application and also cannot be selected in CASS. However, ITR-V of revised return was received on 07 May 2010. Therefore revised return filed by the assessee was processed as original return under section 143(1) by CPC. Further the same return was also selected in CASS on 07 August 2011 for which notice under section 143(2) was issued on 26 August 2011. Since the original return was invalid return, therefore subsequent filed return (revised return) was to be considered as original return and assessment under section 143(3) should have been completed on this subsequent return instead of dropping the proceedings. In addition, penal action for late filing of return should have been taken by AO. Thus the action of AO was totally irregular as he did not take into account the validity of the first (original) return. He also did not follow the instruction of CIT to reopen the case under section 148.

B. Charge: CIT-2, Nagpur, Maharashtra, AY: 09

Assessee: Shri Alope Ambar Basu, PAN-ABNPB7624B

ITD selected this case for scrutiny on the basis of AIR information of sale of immovable property for ₹ 79.99 lakh on 07 September 2007, which was also confirmed by the Sub-Registrar and notice under section 143(2) was issued on 20 August 2009. Scrutiny proceedings were dropped on 09 December 2010 stating that notice was not served on to the assessee.

²⁸ One case each in Haryana, Delhi and Maharashtra.

C. Charge: CIT Panchkula, Haryana, AY: 09
Assessee: Sanjeev Sardana, PAN-ABMPS1166L

ITD selected the case for scrutiny on the basis of AIR information of payment of ₹ 34.49 lakh through credit card and issued notice under section 143(2). In response, the assessee contested that he has filed the return in July 2008 and received notice on 26 August 2010, delayed almost by one year and requested to drop the proceedings. AO dropped the proceedings in December 2010 rather than reopening the case.

AIR information not brought to tax despite being offered by the assessee

3.6 We observed in two cases which were selected for scrutiny under CASS on the basis of AIR information but AO did not consider the information despite the assessee offered the amount of AIR reported information as income in his revised return and paid tax on this amount (see Box 3.3).

Box 3.3: Illustrative case on information not brought to tax

Charge: CIT-Bhopal, Madhya Pradesh, AY: 09
Assessee: Sanjay Shrivastava (PAN-ACNPS5131P) and Pankaj Shrivastava (PAN-ACNPS5129H)

Both assessee filed their return on 29 September 2008 declaring taxable income ₹ 5.44 lakh and ₹ 5.06 lakh respectively. ITD selected these cases for scrutiny under CASS on the basis of AIR information of cash deposit of ₹ 30.01 lakh in each case and issued notices under section 143(2) on 10 September 2009. During scrutiny assessment, AO did not make any specific query about AIR information and also there was no mention in the assessment orders with respect to AIR information. Audit noticed that AO has completed the scrutiny assessment on 16 November 2010, determining original returned income as the taxable income despite AIR information of cash deposit of ₹ 30.01 lakh was shown by both the assessee as income from other sources in their revised returns which were filed on 22 December 2009 and paid tax on said amount under section 140A in October 2009.

Cases selected by CASS for scrutiny on the basis of AIR were not taken up for scrutiny.

3.7 We observed that five selected cases were not taken up for scrutiny by the concerned AOs resulting in non-verification of AIR information of ₹ 8.61 crore.

- a. In Delhi, DGIT-S provided list of cases (soft copy) selected under CASS on the basis of AIR information for scrutiny. We noticed four cases²⁹ involving AIR of ₹ 3.57 crore were selected under CASS-AIR, but respective AOs denied selection of these cases. DGIT-S clarified that notices under section 143(2) had been generated in these cases.

²⁹ pertains to AY 2008-09 and 2010-11

b. CASS selected the case of **Ramchandra Radhakrishna, PAN-AAGPR9058M**³⁰ for scrutiny on the basis of AIR information of ₹ 5.04 crore. Audit noticed that DCR did not have the records of this case and ITD also did not make case records available.

Disseminated information not pertained to the assessee

3.8 AIR filers have to ensure that PAN is quoted correctly in AIR. We observed in 16 cases³¹ that disseminated AIR information did not pertain to the concerned assessee but the quoted PAN was of the assessee (see Box 3.4).

Box 3.4: Illustrative cases on disseminated information not pertaining to the assessee

A. Charge: CIT Panchkula, Haryana; AY: 10

Assessee:-Vir Singh, PAN-ARGPS4907H

During scrutiny proceedings, AO noticed that PAN of the assessee was wrongly quoted in the information supplied for purchase of property for ₹ 43.51 lakh; the transaction was actually related to another assessee (Mihir Chandra Kant Shah).

B. Charge: Ward 11(2), CIT-I, Karnataka; AY: 09

Assessee: B. Nagarajan, PAN-AAFPN1966R

AIR filer provided information of a different entity with identical name of the company as that of the assessee's company. Failure on the part of AIR filers to ensure quoting of correct PAN in AIR resulted in inconveniences to the assessee.

3.9 The Ministry replied (December 2012) that there is facility to identify any mismatch between PAN name and transacting name by way of mismatch flag provided in the system. It can be used by various field authorities. The reply of the Ministry is not addressing the issue pointed out by audit.

ITD identified 2,45,843 number of non-filers/stop filers. ITD did not notify Designated Assessing Officers (DAOs) for following up on information in selected CsIT charge in Gujarat, Punjab, Uttar Pradesh and West Bengal.

Identification of non-filers/stop-filers

3.10 ITD identified³² 2,45,843 number of non-filers/stop filers³³. Since one of the basic purposes of collecting AIR/CIB information was to identify non-filers and widen the tax base, non generation of non-filers list resulted in non-identification of potential non-filers seriously hampering ITD's initiative in strengthening the tax base. We noticed the following issues relating to identification of non-filers/stop-filers:

30 Charge: CIT Ghaziabad (now CIT, Noida), AY: 2008-09

31 One case in Haryana, 10 cases in Karnataka and five cases in Rajasthan pertaining to the AYs 2008-09 and 2009-10.

32 Para 3 and 4 of instruction no. 1/2009 dated 12.2.2009.

33 Andhra Pradesh: 10,327 (FY 10), Delhi: 57,254 (FY 08 to FY 10), Punjab: 21,253 (FY 08 and FY 09), Rajasthan: 10,257, Madhya Pradesh: 17,526, Maharashtra: 1,14,118, Uttar Pradesh: 1,755 and West Bengal: 13,353

- a. In Delhi, CIT-CO forwarded the list of non-filers for FY 08 and FY 09 on 26 December 2011 and for FY 10 on 07 February 2012 to the Co-ordination wing of CCIT-I, Delhi i.e. after lapse of 32 months, 20 months and 10 months respectively. The list of non-filers for FY 11 was yet to be circulated (May 2012).
- b. In Maharashtra, in five selected CsIT, ITD initiated action against 23,051 number of non-filers/stop filers out of 1,14,118 identified and brought 82 new assesseees to tax net. However, ITD did not add new assesseees to tax net in CIT 8 and CIT 11, Mumbai though there were 48,014 and 50,665 non-filers/stop filers respectively.
- c. In Tamil Nadu, CIT-CO, Chennai stated that furnishing of information was in the domain of DGIT-S.
- d. In Haryana, DAOs under the charge of CIT, Panchkula stated that no non-PAN cases were available with them. Data for FY 08 was not received, however, for FY 09 was received in January 2012.
- e. No information/list³⁴ in the selected CIT(CO) charge regarding number of non-filers including stop filers on the basis of transactions in AIR and status of filing of Income Tax Return for the same year was generated and intimated to respective AOs as per instruction.

Appointment of Designated Assessing Officers (DAOs)

3.11 The cadre controlling CCsIT were required to pass orders conferring concurrent jurisdiction to one or more AOs (i.e. designated AO), depending on the workload, at the stations where the assesseees (to whom notices under section 142(1) are to be issued) were located. The Designated Assessing Officers (DAOs) were responsible for identifying assesseees in respect of non-PAN AIR pieces of information. We observed in selected CsIT charge in Gujarat, Punjab, Uttar Pradesh³⁵ and West Bengal that ITD did not notify DAOs during FY 08 to FY 11.

- a. In Delhi, Co-ordination wing of CCIT-I informed that the last batch of DAOs was nominated in November 2008 for AY 07 and AY 08.
- b. In Tamil Nadu, ITO, Business Ward IV(3), Chennai was nominated as DAO for the jurisdiction of CCIT-I to VI, Chennai and DGIT (Investigation) in June 2006. However, for jurisdictions falling under CCIT-Trichy/Madurai/Coimbatore, DAOs were nominated in February 2012. In respect of DAO Chennai jurisdiction, ITD did not take action in identifying assesseees in respect of AIR information without PAN.

³⁴ Assam, Gujarat, Kerala and Odisha

³⁵ Not in CIT - Varanasi, Ghaziabad & CIT-II, Kanpur and appointed in CIT-I, Lucknow in October 2011.

Issuance of query letters to non-filers

3.12 Para 3 (b) and 4(b) of instruction no. 01/2009 of CBDT provides that in case of AIR information with/without PAN, JAO/DAO shall issue query letter in the prescribed proforma to identify the assessee to all non-government transacting parties. If, on the basis of reply to the query letter where information was without PAN, it is found that the person is an existing assessee, the letter along with the reply/return and AIR information should be transferred by DAO to JAO for initiating action in accordance to para 4 (ii) and (iii) of instructions.

- a. In Delhi, there were 96,157 cases of AIR information without PAN during FY 09³⁶. DIT (I & CI) stated that 14,529 query letters were issued to persons who had entered into high value transaction during the FY 11.
- b. In Rajasthan³⁷, query letters to non-filers were not issued by JAOs of the selected units.
- c. In Madhya Pradesh, it was noticed that, two DAOs³⁸ have taken action on 3,388 pieces out of 5,305 pieces of AIR/CIB information without PAN received during the period from FY 08 to FY 11. However, they failed to initiate any action on 1,917 pieces of information till March 2011.
- d. In Odisha, out of 1958 enquiry letters issued during FY 11 in respect of cases of AIR without PAN, 343 letters remained undelivered, replies were received in respect of 680 cases and in respect of 935 cases no reply was received.

ITD identified PANs in 22.7 to 26.2 per cent cases during FY 08 to FY 11. ITD did not issue notices in 2,596 non-PAN cases where addresses were incomplete. Notices issued in 5,355 cases returned undelivered.

Identification of PAN

3.13 In para 10 of instruction no. 6/2006 of August 2006, it was mentioned that to ascertain PAN of persons in respect of transactions where PAN is not quoted by AIR filer, DGIT-S has developed software Multi Iterative Phonetic Pattern recognition Algorithm (MIPPRA) to search PAN. Accordingly, therefore, it was instructed that no fresh notice under section 142 (1) should be issued in pursuance of letter of DIT-S dated 20 December 2005 in respect of cases having AIR information but no PAN. DIT-S, New Delhi informed that ITD never introduced this software. It was a pilot work used in FY 07. The matching percentage was around 20-22 per cent. Based on the above

³⁶ Information for FY 08, FY 10 and FY 11 was not furnished.

³⁷By 36 JAOs (except six JAOs who issued notices to 121 numbers of non-filers) under the selected CsIT having 10,257 numbers of non-filer during FY 08 to FY 11.

³⁸ DAO/ITO 1(1), Bhopal and DAO/ITO 3(3), Indore.

experience, ITD shelved the use of MIPPPRA. However, they did not explore any alternatives to meet the important requirement of PAN identification. The Ministry replied (December 2012) that these issues are being explored under data warehousing and business intelligences.

3.14 AIR information without PAN is required to be passed on to DAOs who shall in turn issue query letters thereon to all Non-Government transacting parties in terms of para 4 of the instruction no. 1/2009. The designated Assessing Officers are required to take all possible steps to locate and serve the query letter and subsequent notice, if required. On the basis of replies received from the transacting parties of non-PAN AIR information, DAO is required to intimate PAN of concerned transacting parties, to DIT (CIB) of his region, who shall then update PAN in non-PAN AIR information through AIR module of ITD application. We found that ITD did not make major efforts to identify PAN in following cases:

- a. During FY 11 only in 26.4 *per cent* cases PAN were identified in four States³⁹.
- b. In Assam, only in five cases PAN could be identified during FY 08 in CIT Dibrugarh against 3,763 query letters issued.
- c. In Gujarat, only in 24 per cent cases PAN could be identified during FY 09 and FY 10 against 13,542 query letters.
- d. In Kerala, only in 22.7 *per cent* cases PAN could be identified during FY 09 and FY 11 against 27,292 query letters.
- e. No action for identifying PAN was taken in FY 08 and FY 11 in Gujarat and from FY 08 to FY 10 in Andhra Pradesh and Punjab.
- f. No case of updating PAN was reported by DAO in the selected charge of Maharashtra, Odisha and Rajasthan.

3.15 To ascertain the depth of the action taken by ITD to identify PAN of the persons whose PAN were not quoted in AIR, we collected information from DIT-CIB, Mumbai for FY 09 (AY 10) and selected 150 cases from AIR information pertaining to purchase of immovable property exceeding ₹ 30 lakh, mainly companies and tried to find out PAN. We noticed that ITD had not taken much action to search PAN in these cases as ITD failed to identify PAN in these cases whereas we were able to identify PAN in 127 numbers of transactions. In the absence of PAN, AIR information could not be disseminated to the concerned assessing officer for use during scrutiny assessment. Out of PAN identified in 127 cases we selected 35 cases for test

³⁹ Andhra Pradesh: 5,492 against query letters 26,858; Haryana: 3,659 against query letters 11,562; Madhya Pradesh: 1,156 against query letters 6,086 and Punjab: 4,977 against query letters 13,274.

check to see whether AIR information was disseminated to AOs and whether it was appearing in Individual Transactions Statement (ITS). We found that in none of the test checked cases AIR information was appearing in ITS.

3.16 The Ministry replied (December 2012) that there is difference between manual check and check through software based search engine. Searching through software based search engine is carried through well-defined logical parameters which require the source data on one hand and one target data on the other. As PAN was not available in data, ITS could not be generated. Audit feels that the system may be strengthened with suitable modification in the Software.

3.17 In Tamil Nadu, the total number of 'AIR information without PAN' for FY 09 to FY 11 was 1,31,117 involving ₹ 64,450.42 crore. However, ITD could not identify PAN in respect of the above pieces of AIR information and update in ITD application (March 2012). Thus, in the absence of PAN 1,31,117 cases have escaped scrutiny, as they were not available for CASS. DIT/CIB expressed difficulty in tracing PAN when no correct address was available.

3.18 We observed that ITD did not receive any reply against 7,903 notices issued to AIR filers by DIT (CIB), Haryana during FY 11 for getting PAN of the transacting parties. ITD referred these cases to CCIT (North West Region) but CCIT (NWR)/CCIT Panchkula did not forward to jurisdictional DAOs.

3.19 In non-PAN cases where addresses were incomplete, notices in 2,596 cases⁴⁰ could not be issued and 5,355 cases⁴¹ in which notices were issued returned undelivered. However, ITD did not take action on these cases. From the records available, we observed that DAO did not take follow up action to locate and serve the query letters.

AIR information could not be considered during assessment as the jurisdictional CIB did not respond to the request of AO.

Cases referred back by AO for correct details of the person

3.20 Information collected through AIR/CIB is disseminated to the respective assessing charges on the basis of PAN. In case of wrong PAN, information disseminated cannot be verified. In such cases AO writes to the jurisdictional DIT-CIB for clarification. DIT-CIB is required to correspond with AIR filer and to obtain the correct information and passes it on to AO for use during scrutiny assessment. We noticed that AOs informed the jurisdictional DIT-CIB about the wrong information. However, DIT-CIB did not provide the

⁴⁰ Rajasthan - 189 cases, Madhya Pradesh - 2,407 cases

⁴¹ Rajasthan - 1,008 cases, Madhya Pradesh - 1,035 cases, Kerala - 3,312 cases

correct information to AOs. As a result disseminated information could not be used during assessment. During test check we observed 24 cases in which AIR/CIB information could not be considered during assessment as the jurisdictional CIB did not respond adequately to the request of AO (see Box 3.5).

Box 3.5: Illustrative cases where AIR information could not be considered as the jurisdictional CIB did not respond adequately to the request of AO.

A. Charge: CIT VI Mumbai, AY: 09

Assessee: M/s. Liberty Oil Mills Limited

The assessee had transferred two immovable properties for a consideration of ₹ 156.95 crore each on 28 March 2008 as per CIB information. During scrutiny proceedings the assessee denied any such transfer. AO referred the case to CIT-CO for verification of facts in November 2010 and completed the assessment without considering the information in December 2010.

B. Charge: CIT-4, Pune, AY: 09

Assessee: M/s. Sathe Biscuit & Chocolate Company Limited

The assessee entered into two transactions relating to mutual funds of ₹ 1.00 crore and ₹ 1.50 crore in Mahaveer Co-op Bank, Solapur in the month of March 2008 as per AIR. Both the assessee and Mahaveer Co-op Bank, Solapur denied the transactions. AO sought further clarification from DIT-CIB, Pune. DIT-CIB, Pune stated that clarification should be sought from CIB, Mumbai as it uploaded the information. or with AD (Systems), New Delhi. However, AO completed the scrutiny assessment in December 2010 without confirming the actual facts.

AO did not refer back the information to jurisdictional CIB for confirmation

Information to jurisdictional CIB

3.21 We also observed 30 cases⁴² where AO did not refer back the information to jurisdictional CIB for confirmation (see Box 3.6).

Box 3.6: Illustrative case where AIR information was not referred back to CIB

Charge: CIT-I, Chandigarh, AY: 09

Assessee: Jai Shree Thakur, PAN-AAGPT4333H

ITD received AIR information of investment in mutual funds of ₹ 51 lakh, however, the assessee stated that it was actually ₹ 15 lakh. AO did not refer back to CIB for clarification. There was no documentary evidence from assessee placed in file.

AOs did not have data relating to action taken on the disseminated AIR information. In the selected charge, AOs did not maintain the information in the prescribed register.

Monitoring of disseminated information

3.22 Para 7 of instruction no. 1/2009 dated 12 February 2009 of CBDT stipulates that CsIT/Addl. CsIT/JCsIT shall closely monitor the action taken on AIR information. Further, DAO/JAO is required to maintain a register as per Annex 4 of ibid instruction indicating all the details of the non-filers and the

⁴² One case - Punjab and 29 cases - Andhra Pradesh.

said registers was to be inspected every quarter by the Range head and CIT concerned. In the absence of maintenance of prescribed register the Range Officers and CsIT were unable to monitor and supervise the work on AIR information disseminated to AOs. We noticed the following irregularities with regard to monitoring of disseminated information.

- a. We noticed that data relating to action taken on the disseminated AIR information was either not available with AO or not maintained in the prescribed register by AO in the selected charge⁴³.
- b. In Haryana, JAOs/DAOs did not forward list of cases selected for scrutiny on the basis of AIR information to the range in-charge for monitoring purpose⁴⁴ by Range in-charge Gurgaon.

Generation of revenue through use of information

3.23 In Kerala, in a departure from mere collection, collation, uploading of information, ITO(Intelligence), Kozhikode, holding the additional charge of the Investigation wing, used 6,424 pieces of information to pursue 140 cases of high value transactions in FY 11 resulting in realization of revenue of ₹ 6.29 crore and adding 35 new assesses to the tax net. Similar utilization of information in 94 cases in FY 12 has already resulted in netting ₹ 4.87 crore towards the tax net. This highlights the tremendous potential for detecting the plugging tax evasion on the basis of information gathered if it is put to use. Further, we observed in 2,933 cases that AO has made addition of ₹ 53.78 crore through use of AIR/CIB information.

Other issues

Assessee allowed his PAN to be used by other person

3.24 The case of Sudhakar Nayak, PAN-ADAPN2724K⁴⁵ was selected for scrutiny on the basis of AIR information of cash deposit of ₹ 12.58 lakh. In compliance to the notice issued under section 142(1) in January 2011, the assessee stated that as his brother Bijay Kumar Nayak, PAN-AEBPN6777L (Proprietor of Mahaveer Enterprises) had no bank account at Keonjhar, he made his business income through his bank account. He furnished a declaration from his brother regarding transaction made by him. The assessment was completed on 17 January 2011 without addition on account of AIR information. AIR information was also not referred back to the jurisdictional AO of assessee's brother.

43 During the period FY 08 to FY 11 in Andhra Pradesh, Bihar, Delhi (out of 75 AOs, six AOs have intimated in March 2012 that these were being maintained from the current year and for 2011-12 no such registers were maintained), Gujarat, Kerala, Karnataka, Madhya Pradesh [not maintained by 27 AOs (except by DAO/ITO-1(1), Bhopal and ITO-2(2), Bhopal, but records were not being updated)], Maharashtra (not maintained by AOs of 11 ranges out of checked 15 ranges in five selected CsIT), Odisha, Punjab (not maintained by 59 AOs out of checked 60 AOs), Rajasthan, Uttar Pradesh and West Bengal,

44 Except ACIT Circle 1 Gurgaon; ITO Ward 1(1) & 1(2) Gurgaon on random basis.

45 Charge: ITO, Keonjhar charge, CIT - Sambalpur, Odisha, AY: 10;

Non-initiation of action by AO

3.25 In Uttar Pradesh, ACIT Circle II Ghaziabad received AIR information of sale of property for ₹ 32.47 lakh in the case of Smt. Prakashwati for FY 08. During proceedings, it was held that the property was sold for ₹ 51.63 lakh instead of ₹ 32.47 lakh to Smt. Kailasho Devi, an assessee under jurisdiction of ITO 1(3), Ghaziabad. The information was passed on to ITO 1(3) on 22 June 2010 for necessary action. However, the concerned AO issued notice in February 2012 i.e. after lapse of 20 months.

Information in respect of section 50C cases

3.26 CIB collects information of real estate transactions as a compulsory source code where the difference in the sale consideration as stated in the document presented for registration and the actual consideration on which stamp duty was charged by the registering authority exceeded ₹ 10,000 to supplement the efforts of field agencies to enhance the revenue collection as the difference amount is liable to tax under section 50C. CIB forwarded 11,257 number of transaction involving money value of ₹ 1,302.77 crore for FY 10 and FY 11 pertaining to the section 50C to CCIT, Jaipur and CIT office⁴⁶. ITD forwarded it to assessing units through range offices. ITD could not generate jurisdictional wise break up and utilize the information as in most of the cases PAN was not available and contained jumbled up addresses.

Non-initiation of action on AIR information of earlier years

3.27 Para 2(b) of CBDT instruction no. 01/2009 dated 12 February 2009 provides that, depending upon feedback on scrutiny assessment in a case for a particular AY, AOs may resort to proceedings under section 148 for earlier assessment years, in that case on the basis of AIR information available, if any, if they have reasons to believe that income has escaped assessment.

3.28 In Madhya Pradesh, we observed in 11 cases that AOs did not give cognizance to AIR Information pertaining to FY 08 while assessing the case for AY 10 under section 143(3) and did not initiate proceedings under section 148 for the relevant earlier AYs, despite availability of AIR information giving feedback for reopening the cases. Thus, the non-initiation of proceeding under section 148 resulted in non-assessment of transactions valuing ₹ 7.42 crore involving revenue impact ₹ 2.52 crore.

⁴⁶ AO wise break-up of above information along with the total number of information put to use with amount involved and revenue generated with the help of such information was not available with CIT-1 and CIT-2 Jaipur and CIT-Alwar.

Recommendations

3.29 We recommend that

- a. Compliance to the monitoring system put in place by CBDT needs to be ensured at different levels of ITD. The Ministry replied (December 2012) that with continuous evolution, functionalities are improving. The efforts are further continuing. However, implementation and monitoring issues require additional manpower for which proposal is under consideration.
- b. Utilization of declarations received in Form 60/61 may be ensured by digitizing and disseminating them. The Ministry noted the observations and intimated (December 2012) that high value Form 60/61 were being digitized now.
- c. Nomination of Designated Assessing Officers on regular basis to deal with Non-PAN AIR cases may be emphasized. The Ministry replied (December 2012) that an expert group has been set-up to suggest modalities for better utilization of Non-PAN AIR and CIB data. On receipt of recommendations, further action would be taken.
- d. ITD may fix definite responsibility on AOs who fail to record or utilize the information available to them in course of their assessments. The Ministry replied (December 2012) that the issue of feed-back system in respect of such information was under consideration of the CBDT. The modalities would be worked out to see how the objectives could be taken forward under the given constraints of shortage of manpower.

New Delhi
Dated: 8 April, 2013



(MANISH KUMAR)
Principal Director (Direct Taxes)

Countersigned

New Delhi
Dated: 8 April, 2013



(VINOD RAI)
Comptroller and Auditor General of India