

## Chapter 6: Utilization of Resources

**6.1** ITD has introduced several measures and tools to exercise necessary checks/controls in the areas of tax administration. We observed deficiencies in effective utilization of resources available with ITD relating to Trusts.

### **ITD has not maintained comprehensive database on Trusts.**

#### **Incomplete database**

**6.2** Based on PAC's recommendations (2006-07)<sup>33</sup> on "Assessments of Private Schools, Colleges and Coaching Centres", the Ministry of Finance, Government of India ensured that data base in respect of educational institutions would be prepared and updated periodically.

**6.3** Some of the Private Schools, Colleges and Coaching Centre are running as Trusts. We observed that ITD has maintained database of processed returns in electronic format with name of assessee Trusts, PAN, address and their relevant charge for last two years only. ITD did not capture registration and assessment details from manual returns of Trusts in the database. ITD also did not utilize the database effectively during assessment of Trusts.

**6.4** We observed that in DIT-E, Mumbai, the PAN database of assessees having Trusts status showed that out of 20,005 assessee Trusts, only 10,251 to 14,447 returns were processed during AY 09 to AY 12. Registration records of Gujarat charge revealed that database of 290 trusts/institutions to which ITD granted registration during the period FY 09 to FY 11 had not been created.

**6.5** Thus despite the assurance given (May 2006) by the Ministry to the PAC, the field formations have not taken any satisfactory action to create the reliable data base of Trusts even after lapse of 6 years.

**6.6** *The Ministry stated (May 2013) that database is under preparation. ITR-7 for AY 13 brought in new column which would make possibility on the creation of database.*

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<sup>33</sup> Action Taken Report of PAC,2006-07, 36th Report, 14th Lok Sabha, on Assessment of private schools, colleges and coaching centres

**Scrutiny assessment of Trusts constitutes only 2% of total returns.**

**Non selection of Trusts cases for scrutiny assessment**

**6.7** The CBDT has formulated<sup>34</sup> scrutiny norms for selection of assessments for scrutiny under Computer Assisted Scrutiny System (CASS)/AIR. Further, the instructions provides for selection of cases for scrutiny other than selected under CASS by AOs with the approval of CCIT. CBDT prescribed<sup>35</sup> that if gross receipt of an assessee submitting return in ITR-7 is more than ` 5 crore, it should be selected for compulsory scrutiny.

**6.8** We observed that ITD selected only 2 per cent of total returns for scrutiny assessments of Trust cases.

**6.9** In Maharashtra, returns of five trusts<sup>36</sup>, whose gross receipt were ₹ 9.27 crore to ₹ 61.90 crore and seven cases pertaining to ADIT-E, Bangalore having receipt more than ₹ 5 crore for the AY 09 to AY 11 were not selected for scrutiny. In ADIT-E, Ahmedabad and the data collected from the website of MHA that 73 assessee-trusts who received FC to the tune of ₹ 272.35 crore, during the FY 07 to FY 09 were not selected for scrutiny.

**6.10** CBDT is yet to frame the norms for inclusion of Trusts in CASS for scrutiny assessment.

**6.11** *The Ministry stated (May 2013) that scrutiny guidelines for the year 2012-13 have been issued which consist of two specific criteria relating to Trusts.*

**Manual processing of returns of Trusts**

**6.12** Trusts are filing returns in the form of ITR-7, manually along with details of amount accumulated in last five years and the investments made as provided under Act<sup>37</sup>. We observed that CBDT has not yet permitted e-filing of ITR-7.

**6.13** ITD may consider making mandatory electronic filing of returns for Trusts as it is catering to the high risk assesseees who are taking total exemption of their income.

**6.14** *The Ministry stated (May 2013) that e-filing of ITR-7 is being examined.*

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<sup>34</sup> The CBDT in instruction No.1 / 2009 dated 12/02/2009.

<sup>35</sup> CBDT instruction F.No. 255/93/2009 ITA-II dated 08/09/2010

<sup>36</sup> Audyogik Shikshan Mandal, Water and Land Management Institute, Everest Education Society, Dr. Babasaheb Ambedkar Marathwada University in ITO 8(1) & ITO1(1) Aurangabad

<sup>37</sup> Under section11 (5) and the Schedule I and K of ITR-7.

**ITD does not have any system to analyze the number of Trusts registered with their filing of returns.**

**Non-filing /delay in filing of Income Tax Return**

**6.15** ITD does not have any system to analyze the number of Trusts registered with their filing of returns. Audit could not ascertain whether there existed any monitoring system to ascertain whether all Trusts are filing returns regularly and in time as per section 139(4A) & (4C).

**6.16** Earlier Trusts were filing returns at least to get their registrations and notifications renewed; therefore ITD had the opportunity to check the activities of Trusts at least once in three years. Now registrations are made permanent in nature so there is no disincentive for Trusts for not filing their returns.

**6.17** We noticed that 4,447 Trusts were not filing returns or filing it belatedly in Andhra Pradesh, Assam, Chhattisgarh, Gujarat, Haryana, Karnataka, Kerala, Punjab, Maharashtra and Tamil Nadu.

**6.18** *The Ministry stated (May 2013) that there is a system in ITD whereby a report can be generated in respect of those trusts who have stopped filing the return and also in respect of those trusts who have obtained PAN with Trust as the status and have not filed the return at all. Such a list is called 'stop-filer' list and 'non-filer' list. Such lists are generated and notices issued. Filing of returns is mandatory only for trusts having income above taxable limit before claiming exemption. Since there is a large no. of marginal trusts, there is a gap between the number of regd. entities and the return filed. There can be no correlation before number of regd. entities and number of returns received on account of the above position. As regards delayed returns, the same is a normal phenomenon and also permitted under the Act. It carries consequence of levy of interest in taxable cases.*

**6.19** *Audit is of the view that the Ministry may examine the cases of non filers pointed out above through the list of stop filers/non filers and initiate necessary action.*

**Difference between Central Action Plan and D&CR figures**

**6.20** We observed that ITD made electronic Demand & Collection Register (D&CR) of processed returns only for FY 11 and FY 12. For earlier years, it was maintained manually.

**6.21** We further observed that in DIT-E, Mumbai, there was difference between the electronic D&CR of processed returns and the Central Action Plan (CAP) figures. During FY 11 & FY 12, figures as per CAP were as 7,785 & 7,773 where as these were 5,852 & 6,069 as per electronic D&CR respectively. It shows that even after computerization of the charge, the returns are being processed manually.

**6.22** *The Ministry stated (May 2013) that figures relates to Mumbai only and the discrepancy is being reconciled.*

**The database on Voluntary Organizations (VOs) maintained by Planning Commission of India, does not have linkages of PAN and financial details. ITD has made no efforts to utilize this database for tax compliance purpose.**

#### **Non linkages of PAN of Voluntary Organizations (VOs) to the database**

**6.23** Gol, in its National Policy on the Voluntary Sector–2007<sup>38</sup> (the Policy), has committed that the Government will simplify and streamline the system for granting income tax exemption status to charitable projects under IT Act. At the same time, Gol will consider tightening administrative and penal procedures to ensure that these incentives are not misused by charities for private financial gain. As per para 6.5 of the Policy, Gol will commission suitable agencies to prepare and update databases of Voluntary Organizations (VOs) working in different fields and at different levels for communication within the voluntary sector, as well as between the voluntary sector and the public and private sector.

**6.24** Based on the Policy, the Planning Commission of India, in consultation with the various Ministries/Departments/Government Bodies, has devised a database for Voluntary Organizations/NGOs named “NGO Partnership System” in connection with requests for Government Grants under various schemes. As on 01 July 2012, 43120 entries were available. The database segregated the NGOs state-wise based on their activities.

**6.25** Despite the stated policy objective of facilitating income tax exemption of scrupulous VOs and penalizing unscrupulous VOs, ITD has not been made a participatory to this scheme. The database so made has no linkage of PAN of these entities or past financial status or tax compliance of these entities. The database also does not show details of grants etc. received by these entities. Further, the database is based on self-submission of the VOs and is not verified.

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<sup>38</sup> From websites [www.planningcommission.nic.in/data/ngo/npvol07.pdf](http://www.planningcommission.nic.in/data/ngo/npvol07.pdf) and [www.ngo.india.gov.in/ngo\\_stateschemes\\_ngo.php](http://www.ngo.india.gov.in/ngo_stateschemes_ngo.php)

**6.26** *The Ministry stated (May 2013) that database has been devised by Planning Commission and is voluntary in nature. Database in Planning Commission is prepared to fulfill their needs. Taxation of NGO is not the basis for creation of database by the Planning Commission. However, the suggestion will be examined for collecting any information which may be useful in the assessment of NGOs.*

**Recommendations**

**6.27** We recommend that

The Ministry may maintain a comprehensive database of Trusts with linkage of the PAN, details of registration and assessment. The Ministry may also consider making mandatory electronic filing of returns of Trusts.

*The Ministry stated (May 2013) that proposal to make e-filing of return is under examination.*

New Delhi

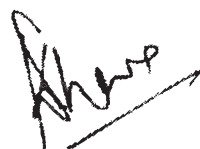
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