Executive Summary

- Income Tax Act, 1961 (Act) provides various tax exemptions to charitable trusts & institutions (Trusts) to fulfill their objectives. Income Tax Department (ITD) has the responsibility to oversee that the provisions of Act are duly complied by Trusts. The main objective of the present review is to seek assurance that registrations are given to Trusts involved in charitable activities only, and exemptions are allowed to eligible Trusts. Our study also seeks assurances that proper monitoring mechanism exists for utilization of accumulations and inadequacies in the provisions of Act relating to exemptions.
- We have pointed out lapses in registration process, allowance of exemptions during assessment, non-monitoring of accumulations of surplus income and Foreign Contributions (FCs) received. Besides, we have highlighted inconsistencies in Act which led to incorrect assessment and non-levy of taxes. Our report also touched upon the issue of under utilization of resources placed at the disposal of ITD.
- ITD received 1.75 lakh applications of Trusts during FY 09 to FY 11 for granting registrations/approvals or issuing notifications for claiming exemption. ITD granted registrations/approvals/notifications in 0.90 lakh cases while it denied approval in 0.36 lakh cases and 0.49 lakh cases were pending. We scrutinized all the 0.90 lakh cases where ITD granted registrations/approvals/notifications and noticed procedural mistakes in 6,948 cases (7.72 *per cent*).
- We identified 1.37 lakh assessments of Trusts (Scrutiny: 0.17 lakh & Summary: 1.20 lakh). We checked 0.81 lakh assessment cases (Scrutiny: 0.15 lakh & Summary: 0.66 lakh). We have highlighted 1,211 (Scrutiny: 1,019 & Summary: 264) objections of irregular exemption involving tax effect of ₹ 3,019.21 crore in the AR. The objections of scrutiny cases constitute 6.5% of total scrutiny cases test checked by audit.
- We noticed that ITD granted registration in 1,149 cases without verifying proper documents such as trust deed/audited accounts/audit reports/PAN and objects not charitable in nature. Competent authorities also either delayed or granted registration retrospectively (*paragraphs 2.3-2.30*). ITD allowed exemptions irregularly in 125 cases involving tax effect of ₹ 17.76 crore without granting registrations or despite rejection of registration by competent authorities (*paragraphs 2.31-2.39*).
- Trusts are earning huge profit consistently after spending meager expenditure as compared to their total income and accumulate it as surpluses. These surpluses are used for creating fixed assets for earning more profit or are transferred to other Trusts rather than for charitable purposes to avoid tax. For example, 22 Trusts accumulated surpluses of ₹ 819 crore ranging from 35.7 to

84.8 percent of their total income (*paragraphs 3.2-3.7*). Furthermore, ITD allowed irregular exemptions to Jamshetji Tata Trust and Navajbai Ratan Tata Trust who invested ₹ 3,139 crore in prohibited modes arising from accumulations of capital gains which involved tax effect of ₹ 1066.95 crore (*Box 3.1*). Four Cricket Associations engaged in commercial activity got irregular exemptions of TV subsidy received from BCCI involving tax effect of ₹ 37.23 crore (*paragraphs 3.28-3.32*). Trusts also got irregular exemptions for voluntary contributions received without specific direction or were carrying out commercial activities without maintaining separate accounts or violating the provisions of Section 13 of Act involving tax effect of ₹ 99.44 crore (*paragraphs 3.33-3.45*).

- Trusts were allowed exemptions for the surpluses accumulated beyond stipulated 15 per cent without following proper procedures as per Act and ITD could not tax the unspent accumulations after specified period/invested in non prescribed mode involving tax effect of ₹ 143.42 crore (*paragraphs 4.5-4.12*). CBDT has not issued any guidelines/circulars to watch FCs received with specific directions and utilized for the purpose for which it was received (*paragraph 4.13-4.14*).
- We observed several inconsistencies in Act. There are no specific provisions mentioned in Act for allowing deficit of earlier years, depreciation and repayment of loan to Trusts (*paragraphs 5.2-5.17*). In absence of these, the courts have taken divergent views. ITD has also not adopted uniform approach in allowing these matters. There is no internal mechanism within ITD to have control over the receipts issued by the entity having registration under section 80G (*paragraph 5.18-5.20*). There is no provision in Act to invest corpus fund in specified mode and tax interest earned thereon (*paragraphs 5.21-5.24*). The word *"substantially financed"* is not defined in Act (*paragraphs 5.30-5.33*). ITD in 30 cases allowed exemptions to Trusts who were claiming exemption benefit simultaneously/alternatively in both sections 10(23C) and 12A in different AYs (*paragraphs 5.34-5.40*). We also noticed deficiencies in Forms specified for Audit Report to be enclosed with the returns (*paragraph 5.41-5.42*).
- ITD has accorded low priority on Trusts for tax administration. ITD has made no efforts to utilize database maintained by Planning Commission on Trusts for tax compliance purpose (paragraphs 6.23-6.26).