

Summary of Recommendations

1. The Ministry may ensure that the AOs shall not grant exemptions/ deductions if the assessee does not submit necessary certificates/ reports.

(Paragraphs 2.06-2.07)

The Ministry replied (October 2014) that there are sufficient provisions in Sections 10A, 10(23C), 80IA, 80IB, etc. of the Act which ensure that tax audit reports are available with the ITD. These provisions themselves ensure that in case of failure to file prescribed audit reports, exemptions/deductions thus claimed are not allowed. The Ministry also replied that the CBDT's Instruction No.9/2008 also reiterated that the tax audit reports as well as other statutory audit reports should be critically examined along with connected records and other available evidence while scrutinizing the cases. The Ministry also replied that a proviso to Rule 12 of IT Rules 1962 has been substituted with retrospective effect from 01 April 2013 requiring the assessee, claiming exemptions/ deductions under various provisions of the Act, to file the prescribed reports of audit electronically.

Audit is of the opinion that though sufficient provisions are available in the Act, however, AOs did not follow during assessment meticulously which need attention by the Ministry.

2. The Ministry may ensure that the AOs fully utilize the available information in CAs report/certificates.

(Paragraph 2.14)

The Ministry replied (October 2014) that necessary instructions have been issued in 2008 to critically examine tax audit reports as well as other statutory audit reports and to utilize effectively the information available in these reports while finalizing scrutiny assessments. The Ministry further replied (October 2014) that e-filing of audit reports has been introduced from AY 2013-14. Information furnished in e-filed audit reports was used in selecting cases for scrutiny under Computer Assisted Scrutiny Selection. The reason for selection of case was also displayed to the AOs for effective utilization of available information.

3. The Ministry may consider modifying the Form 3CD to incorporate date of declaration/ payment of distributed profits in order to verify whether the tax has been paid within the stipulated period or any interest is to be charged due to delay.

(Paragraph 3.2)

4. The Ministry may consider modifying the Form 3CD or 29B certificate to give details of the available MAT credit assessment year-wise that can be carried forward by the assessee in order to ensure the correctness of the claim for credit under Section 115JAA of the Act.

(Paragraph 3.3)

On recommendations 3 and 4 above, the Ministry replied (October 2014) that Tax Audit Report (Form 3CA, Form 3CB and Form 3CD) have been comprehensively revised in July 2014 therefore it would not be advisable to again revise the same for capturing the date of declaration/payment of dividend for the purpose of verifying whether DDT is paid within the specified time or capturing the available MAT credit assessment year-wise. The Ministry also mentioned that the required details are already being captured in the Income-tax Return forms in schedules MATC and DDT of Form ITR-6 from 2013-14 onwards. However, the Ministry has noted the suggestions raised by audit and replied that it would be considered for incorporation in the next revision of forms of Tax Audit Report.

5. The Ministry may consider modifying Form 10B and 10BB for providing details regarding last ten years accumulation or utilization of amounts set aside as application by the Charitable Trusts/Institutions in order to check correctness of investment and application of the accumulated fund

(Paragraph 3.4)

The Ministry stated (October 2014) that the required details were already being captured in the Income-tax Return forms. Incorporating similar details in Form 10B and 10BB would amount to duplication.

Audit is of the opinion that though ITR captures the relevant information, the certification by CAs would ensure the correctness of information furnished in ITR.

6. The Ministry may ensure limiting the tax audit assignments in order to ensure quality of tax audit.

(Paragraph 3.6)

The Ministry replied (October 2014) that it would be for the regulatory body i.e. the Institute of Chartered Accountants of India (ICAI) to lay down restrictions on the number of tax audit and to enforce the same. The Ministry further replied (October 2014) that it is difficult to place control in ITD systems to regulate the number of tax audit reports (TAR) as CAs affix their signatures on TAR in their individual capacity and also while representing Firms of CAs and certain types of audits are exempted from the maximum number specified as per ICAI guidelines. ITD provides the list of cases where the number of TARs is apparently exceeded to ICAI for their action.

Reply of the Ministry is not acceptable as the Act requires tax audit under Section 44AB is to be conducted by an Accountant, not by a firm of CAs. Further, limit on tax audit assignment has been fixed by ICAI for all tax audits to be done under Section 44AB.

Audit is of the opinion that CAs has been assigned the work of tax audit which is very crucial in claiming exemptions/deduction by assessees. Therefore, in the interest of revenue and ensuring quality of tax audit, the Ministry may introduce suitable control mechanism in the IT system to adhere to the limit on tax audits in consultation with ICAI.

7. The Ministry may ensure to prohibit a CA who is a relative of the assessee or directors of a company, from signing any report or certificates.

(Paragraph 3.9)

The Ministry stated (October 2014) that prohibiting a CA who is relative of the assessee or director of a company from signing any report or certificates may be examined during budgetary exercise of 2015.

8. The Ministry may ensure the implementation of CBDT instruction no.1959 of 1999 and Section 288 of the Act.

(Paragraph 3.9)

The Ministry stated (October 2014) that in view of the initiatives already taken vide instructions nos. 1959 of 1999 and 09/2008 and provisions contained in section 288 of the Act, no further action was required on this issue.

Audit is of the opinion that though instructions have been issued in past, audit has come up with cases where AOs have not fully utilise the information available in CA reports/certificates. The Ministry may provide intensive training to AOs on utilisation of information and strengthen its internal audit in this regard.

9. The Ministry may put in place a mechanism in the ITD system for AO to record instances of mistakes committed by CAs in order to take action under Section 288 of the Act.

(Paragraph 3.9)

The Ministry stated (October 2014) that suggestion of audit can be incorporated by DGIT (System) to facilitate AOs for recording such instances in the system.