Chapter II: Audit Mandate, Products and Impact

2.1 Authority of the C&AG for audit of receipts

Article 149 of the Constitution of India provides that the Comptroller and Auditor General of India shall exercise such powers and perform such duties in relation to the accounts of the Union and of the states and of any other authority or body as may be prescribed by or under any law made by Parliament. Parliament passed the Comptroller and Auditor General's DPC Act (CAG's DPC Act) in 1971. Section 16 of the CAG's DPC Act authorises C&AG 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 principles for Receipt Audit.

2.2 Examination of systems and procedures and their efficacy

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

- **a.** identification of potential tax assessees, ensuring compliance with laws as well as detection and prevention of tax evasion;
- **b.** exercise of discretionary powers in an appropriate manner including levy of penalties and initiation of prosecution;
- **c.** appropriate action to safeguard the interests of the Government on the orders passed by departmental appellate authorities;
- **d.** any measures introduced to strengthen or improve revenue administration;
- **e.** amounts that may have fallen into arrears, maintenance of records of arrears and action taken for the recovery of the amounts in arrears;
- **f.** pursuit of claims with due diligence and that these are not abandoned or reduced except with adequate justification and proper authority;

2.3 Audit products and Impact

In pursuance of audit mandate and provision in Regulation 205 of Audit & Accounts Regulations, 2007, we prepare annual compliance audit reports 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.

2.4 Impact of audit

2.4.1 We analyse the impact of Audit resulting into amendments to the Income Tax Act and Rules framed thereunder, based on our recommendations. During 2013-14, we presented two Performance Audit Reports viz. (a) Report No. 4 of 2013 – Strengthening the Tax Base through use of Information and (b) Report No. 20 of 2013 – Exemptions to Charitable Trusts and Institutions. Following paragraphs enumerate the impact of Audit.

2.4.2 We pointed out[20] that information furnished in 'Annual Information Report' (AIR), to be filed under Section 285BA of the Act, was found incorrect on verification during assessment process. Audit recommended that a system should be put in place to ensure correctness and reliability of data received through AIR/CIB before its dissemination to the field and for effective penal provisions in the Act for furnishing factually incorrect information in AIR or in reply to notices issued by ITD.

2.4.3 The Government inserted a new Section 271FAA in the Act through the Finance Act, 2014 making a provision of penalty for providing inaccurate information in the statement. Section 285BA also has been amended to put an onus on the person who filed the return to inform the prescribed authority about the inaccuracy, if any discovered by him in the statement, within a period of ten days and furnish the correct information in the prescribed manner. It has also been provided that the Central Government may make rules specifying that the person referred to in the section 285BA(1) i.e. the persons responsible for filing the statement, to be registered with the prescribed income tax authority.

2.4.4 Considering the recommendations made by Audit[21] with reference to assessment of Charitable Trusts and Institutions; and inconsistencies in the Act, the following amendments have been made in the Income Tax Act through the Finance act, 2014 in respect of exemptions allowed to the Charitable Trusts and Institutions:

a. Eligible educational institutions, hospitals and other institutions under Section 10(23C) of the Act to be considered as substantially financed by the Government only if the Government grant to the Institution exceeds such percentage (to be prescribed) of the total receipts (including voluntary contributions) during the previous year.

20 Report No. 4 of 2013 – Strengthening the Tax Base through use of Information
21 Report No. 20 of 2013 – Exemptions to Charitable Trusts and Institutions

b. In computing income of the Charitable Trusts/Institutions, deduction or allowance for depreciation in respect of an asset, acquisition of which has been claimed as application of income in any year, is to be excluded.

c. Where a Trust or an Institution has been granted registration for purposes of availing exemption under Section 11, then such Trust or Institution cannot claim any exemption under any provision of Section 10 except for agricultural income and income exempt under Section 10(23C)]. Similarly, entities which have been approved or notified for claiming benefit of exemption under Section 10(23C) would not be entitled to claim any benefit of exemption under other provisions of section 10 except agricultural income.

d. The existing provisions of Section 12 A of the Act have been amended to provide that eligible Trusts or Institutions which have been granted registration under Section 12AA of the Act will be eligible for benefits under Sections 11 and 12 of the Act even for any earlier year which is pending assessment on the date of such registration. Further, no reopening of an assessment permitted, merely if such Trust or Institution has not obtained registration for the earlier assessment year.

e. The existing provisions of Section 12AA of the Act have been amended to empower the Commissioner of Income-tax to cancel registration granted to Trusts or Institutions deriving income from property held under trust under specified circumstances, such as investing in prohibited modes, applying income for benefit of trustees, etc.

f. Section 115BBC has been amended to provide that the income-tax payable shall be the aggregate of the amount of income-tax calculated at the rate of thirty per cent on the aggregate of anonymous donations received in excess of five per cent of the total donations received by the assessee or one lakh rupees, whichever is higher, and the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the aggregate of the anonymous donations which is in excess of the five per cent of the total donations received by the assessee or one lakh rupees, as the case may be.

2.5 Incidence of errors

2.5.1 ITD completed 2,13,129 scrutiny assessments in FY 2012-13, of which we checked 1,77,008 cases during audit plan of FY 2013-14. Apart from this, we have also audited cases of previous assessments years during FY 2013-14. The incidence of errors in assessment checked in audit relating to assessment completed by ITD in FY 2012-13 was 16,853 (9.5 *per cent)* which was more than the previous year (7.9 *per cent*). We pointed out mistakes in 3,609 cases where Internal Audit of ITD failed to deduct.

2.5.2 State-wise incidence of errors in assessment is given in *Appendix-2.1.* Table 2.1 below shows details of top eight States where more than 10,000 assessments were checked in audit during 2013-14.

Table 2.1: Details of top eight states having more than 10,000 assessments (₹ in crore)

State	Assessments completed during 2012-13	Assessments checked in audit during 2013-14	Assessments with errors	Revenue effect of the audit observations	Percentage of assessments with errors
a. Delhi	45,519	23,634	1,330	12,868.8	5.6
b. Maharashtra	29,685	29,176	1,509	759.6	5.2
c. Tamil Nadu	20,456	18,731	2,631	3,462.8	14.1
d. Andhra Pradesh	17,452	12,543	1,377	940.8	11.0
e. Gujarat	14,419	13,977	1,471	414.1	10.5
f. Uttar Pradesh	11,800	11,454	960	720.0	8.4
g. West Bengal	11,783	10,270	2,341	2,643.5	22.8
h. Karnataka	10,910	10,652	825	951.0	7.8

This indicates that West Bengal has the highest percentage of assessments with errors (22.8 *per cent)* followed by Tamil Nadu (14.1 *per cent*).

2.5.3 Table 2.2 below shows the details of errors noticed in local audit during FY 2013-14.

Table 2.2: Tax wise details of errors in assessments (₹ in crore)

Category	Cases	Tax effect
a. Corporation tax & Income tax	18,720	16,038[22]
b. Wealth tax	681	27
c. Other Direct taxes	139	2
Total	**19,540**	**16,067**
Note: The above findings and all subsequent findings are based exclusively on audit of selected assessments.		

2.5.4 Table 2.3 below shows the category-wise details of underassessment in respect of Corporation tax and Income Tax. *Appendix-2.2* indicates details in respect of sub-categories under them.

22 Includes 672 cases of over assessments with tax effect of ₹ 1,041 crore

Table 2.3: Category-wise details of errors		**(₹ in crore)**
Category	**Cases**	**Tax effect**
a. Quality of assessments	4,161	2,726
b. Administration of tax concessions/exemptions/deductions	6,943	7,898
c. Income escaping assessments due to omissions	1,838	1,184
d. Others	5,106	3,189
Total	**18,048**	**14,997**

2.5.5 High value and important cases among the errors detected in local audit are included in this Audit Report. The present Audit Report discusses 469 cases reported to the Ministry[23]. *Appendix 2.3* gives the details of such cases. Table 2.4 shows category wise details of these cases[24].

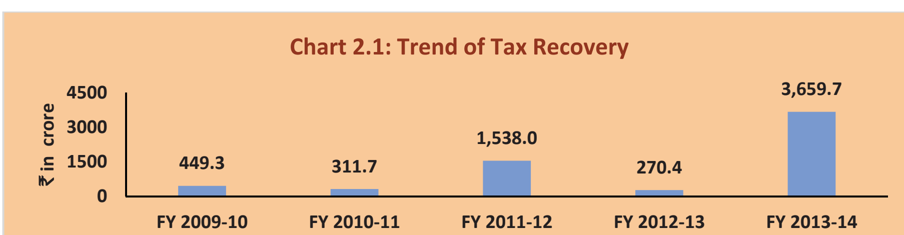
Table 2.4: Category-wise details of errors of high value cases						**(₹ in crore)**
Category	**CT**		**IT**		**Total**	
	No.	**TE**	**No.**	**TE**	**No.**	**TE**
a. Quality of assessments	106	655.90	38	262.67	144	918.57
b. Administration of tax concessions/exemptions/ deductions	121	716.92	37	29.79	158	746.71
c. Income escaping assessments due to omissions	67	387.62	41*	22.38	108	410.00
d. Overcharge of tax/ interest	32	494.28	27	84.12	59	578.40
Total	**326**	**2254.72**	**143***	**398.96**	**469**	**2653.68**

*includes 19 cases of under assessment of wealth involving TE of ₹ 2.04 crore.

We have discussed some important cases in Chapters III and IV.

2.5.6 Recovery at the instance of audit

ITD recovered ₹ 6,230.09 crore in the last five years from demands raised to rectify the errors in assessments that we pointed out. This includes ₹ 3,659.68 crore recovered in FY 2013-14.



23 Ministry of Finance, Department of Revenue, Central Board of Direct Taxes
24 Sub-categories-wise details are in *Appendix-2.4*

Chart 2.1 above shows a sudden jump in recovery in FY 2011-12 (₹ 1,538 crore) which declined in 2012-13 (₹ 270.4 crore) and again suddenly jumped to ₹ 3,659.7 crore in FY 2013-14.

2.6 Response to Audit

2.6.1 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.

2.6.2 Table 2.5 below depicts the position of replies received and observations accepted in respect of cases issued in Local Audit Reports during FY 2009-10 to FY 2013-14.

Table 2.5: Response to local audit

Financial Year	Observa-tions raised	Reply received		Reply not received	Percentage of cases accepted	Percentage of reply not received
		Cases Accepted	Cases not accepted			
2009-10	19,227	2,927	3,919	12,381	15.2	64.4
2010-11	20,130	4,354	3,568	12,208	21.6	60.7
2011-12	19,624	3,945	2,971	12,708	20.1	64.8
2012-13	18,548	3,343	4,124	11,081	18.0	59.7
2013-14	19,312	3,642[25]	3,131	12,534	18.9	64.9

2.6.3 We give six weeks to the Ministry to offer their comments on high value cases before their inclusion in the Audit Report. Out of 469 high value cases included in the current Audit Report, the ITD accepted 144 cases (31 *per cent*) while it did not accept 11 cases as of December 2014. Table 2.6 shows details of remedial action taken by the ITD.

Table 2.6: Details of action taken (₹ in crore)

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	0	0.00	248	1551.19	23	130.74
b. Income Tax	0	0.00	114	388.75	4	2.68
c. Wealth Tax	0	0.00	19	2.04	0	0.00
Total	**0**	**0.00**	**381**	**1941.98**	**27**	**133.42**

The ITD has taken/initiated remedial action in 408 cases out of 469 cases. Details of remedial action taken in the remaining cases were not available as of 31 December 2014.

25 1,907 - Cases accepted and remedial action taken; 1,735 - Cases accepted but remedial action not taken

2.6.4 Chapters III and IV bring out details of errors in assessments in respect of Corporation Tax, Income Tax and Wealth Tax respectively.

2.7 Pendency of audit observations

2.7.1 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.

2.7.2 Table 2.7 below shows the increasing trend of pendency of observations.

Table 2.7: Details of outstanding audit observations (₹ in crore)

Period	CT		IT		ODT		Total	
	No.	TE	No.	TE	No.	TE	No.	TE
Upto Mar 2010	2,013	9,516.5	2,356	4,147.7	522	19.2	4,891	13,683.4
2010-11	2,730	6,215.5	3,294	1,934.8	557	15.7	6,581	8,166.0
2011-12	3,179	12,788.5	4,514	1,209.3	585	35.8	8,278	14,033.6
2012-13	3,945	7,284.8	6,327	3,706.4	1,247	74.7	11,519	11,065.9
2013-14	2,749	5,993.0	5,817	1,350.4	803	5.1	9,369	7,348.5
Total	**14,616**	**41,798.3**	**22,308**	**12,348.6**	**3,714**	**150.5**	**40,638**	**54,297.4**

The accretion in pendency in replies to audit findings each year has resulted in pile-up of 40,638 cases involving revenue effect of ₹ 54,297.4 crore as of 31 March 2014.

2.7.3 Table 2.8 below shows the details of time-barred cases during FY 2009-10 to 2013-14.

Table 2.8: Details of time-barred cases (₹ in crore)

Year of Report	Cases	Tax effect
2009-10	5,644	2,869.0
2010-11	7,942	5,335.0
2011-12	3,907	1,083.0
2012-13	2,207	899.9
2013-14	2,427	1,121.2

2.7.4 During FY 2013-14, 2,427 cases with tax effect of ₹ 1,121.2 crore became time-barred for remedial action. *Appendix-2.5* indicates state-wise details of such cases for FY 2013-14. In four states (Maharashtra, Gujarat, Tamil Nadu and Uttar Pradesh), tax effect of time barring cases was more than ₹ 100 crore.

2.8 Non-production of records

2.8.1 We scrutinize assessment records under section 16 of the C&AG's (DPC) 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.

2.8.2 *Appendix 2.6* shows the details of non-production of records during FY 2011-12 to FY 2013-14. Non-production of records has increased in Andhra Pradesh, Karnataka and West Bengal significantly over previous years during FY 2013-14. ITD did not produce 40,212 records out of 2,99,218 records requisitioned during FY 2013-14, (13.4 *per cent*) which is less than from FY 2012-13 (14.7 *per cent*). Table 2.9 below shows details of records not produced to audit pertaining to same assesses in three or more consecutive audit cycles.

Table 2.9: Records not produced to audit in three or more consecutive audit cycles

	States	Records not produced
a.	Andhra Pradesh	216
b.	Karnataka	266
c.	Madhya Pradesh	58
d.	Maharashtra	8
e.	Odisha	51
f.	Tamil Nadu	6
	Total	**605**

In FY 2013-14, 605 records pertaining to same assessees in six states were not produced to audit in last three or more consecutive audit cycles.