

Chapter V - Functioning of Income Tax Settlement Commission and Implementation of its orders by ITD

5.1 Introduction

The Government of India set up an Income Tax Settlement Commission³² (the Commission) on 01 April 1976 with its Headquarters at New Delhi, with the objectives to provide machinery for tax payers to make a clean breast of their affairs through compromise and settlement; reduce litigation; and ensure speedy collection of taxes. It is an important Alternate Disputes Resolution mechanism for resolving tax disputes relating to Direct Taxes. The orders passed by the Commission are implemented by ITD. The Act has provided time frame for the Commission and the ITD for resolution of tax disputes. Some of the unique features characterizing its role and responsibility are as follows:

- a. Settlement of disputes relating to tax liability;
- b. Pronouncement and setting out the final terms of settlement in the Commission itself;
- c. Grant of immunity from prosecution for any offence committed and imposition of any penalty under the laws relating to Income Tax and Wealth Tax and
- d. Orders of the Commission are subjected to only judicial review.

5.2 Organisational set up

The Principal Bench of the Commission is in New Delhi with six Additional Benches (two at New Delhi and Mumbai each, one at Chennai and Kolkata each). Each Bench comprises of one Presiding Officer (Chairman or Vice-Chairman) and two Members, with secretarial support by two senior officers of ITD i.e. Secretary and Director of Income Tax (Investigation). The detailed jurisdiction of different Benches of the Commission is given in *Appendix -5.1*.

5.3 Audit objectives

The audit objectives were to assess whether the system and procedures are sufficient and in place to ensure compliance with the provisions of the Act/ Rules, manuals, circulars and instructions issued by the Commission/CBDT and compliance thereof; and whether adequate internal control mechanism exists for monitoring of settlement of cases within the Commission and concerned CIT/AOs as well.

³² Section 245B of Income Tax Act, 1961 and Section 22B of Wealth Tax Act, 1957.

5.4 Audit scope

We covered the period from FY 2010-11 to FY 2012-13 for the cases finalised by and pending with all Benches of the Commission as on 31 March 2013 and implementation of the orders thereof by the ITD. Audit examined 1,049 cases provided by concerned CsIT of the ITD all over India to verify the implementation of the order passed by the Commission.

5.5 Constraints

Despite the assurance given by the Commission (April 2014), the Benches did not provide the individual application files and other related records. Consequently, audit could not ascertain/verify (i) the procedure followed for filing the applications, (ii) dates at various stages from filling of applications and their disposal, payment of tax etc. by applicants; and (iii) existence of internal control mechanism for monitoring of settlement cases.

The Ministry stated (December 2014) that the proceedings before the Commission are quasi-judicial and are not open to audit which starts from the filing of application and ending with the passing of order of the settlement.

5.6 Collection of data

The Benches of the Commission/ITD and the Ministry has inter-alia provided different set of data showing the pendency of cases with the Commission for the FY 2010-11 to FY 2012-13. The details are given in *Table 5.1*. The figures furnished by the Ministry are shown in the brackets.

Table 5.1: Cases pending with the Benches of the Commission				
Benches	Cases pending as on 1 April 2010	Cases for disposal	Cases settled	Cases pending as on 31 March 2013
Chennai ³³	74	64	62	2 (71)
Delhi	540	856	405	451 (455)
Kolkata	32	195	119	76 (147)
Mumbai	715	1,004	727	277 (269)

(Source: Benches of the Commission/ITD)

Absence of accurate data is pointer to the need for establishing sound internal controls.

³³ Information in respect of Kerala and Andhra Pradesh was not made available.

5.7 Audit Findings

Our audit findings are based on limited information/data furnished by the Commission and records made available by field units of the ITD. Audit findings relating to functioning of the Commission and implementation of its orders by the ITD are described in succeeding paragraphs.

Audit findings relating to functioning of the Commission

5.7.1 The settlement mechanism allows taxpayers to disclose additional income before it over and above what has been already disclosed before the ITD. The applicant has to pay full amount of tax and interest on the additional income disclosed before the Commission at the time of filing the application. The Commission then decides upon the admissibility of the application and in case of admitted applications, carries out the process of settlement in a time bound manner by giving opportunity to both parties. The Commission is required to pass the Settlement order within prescribed period. It has wide power of granting immunity from penalty and prosecution, which are major sources of litigation. The orders passed by the Commission are final and conclusive. At present the benefit of the settlement mechanism can be availed by a taxpayer only once in life-time, who has made the first application on or after 1 June 2007.

Audit findings on filing and admission of application and procedure followed by the Commission are as follows:

5.7.2 Compliance to time schedule prescribed under Section 245D(1)

The Commission shall, after hearing the applicant, reject or accept the application by order in writing, within 14 days from the date of application and thereafter forward the same along with copy of order under Section 245D(1) to CIT, calling for a report under Section 245D(2B), who shall furnish a report under Section 245D(2B) within 30 days of the receipt of the communication. In case no order is passed by the Commission within the period of 14 days, the application shall be deemed to have been allowed to be proceeded with and call for the Report from the Commissioner within 30 days of the date of the communication.

In Uttar Pradesh, CIT-Central Kanpur charge, application in five cases were filed (04 December 2006) before the Commission (Additional Bench-II, New Delhi). The Bench did not pass any formal order under Section 245D(1) but called for the report (09 February 2007) from the concerned CIT under Section 245D(2B) within 30 days of the receipt of the communication. Reports in all these cases were sent (23 May 2007) by CsIT under Section 245D(2B) and orders were passed (26 April 2014) under Section 245D(4) by the Commission. Thus, the Commission did not adhere to the schedule prescribed in the Act.

5.7.3 Cases filed prior to June 2007 but settled/pending after March 2008

The Act stipulates that the application filed before the Commission prior to 01 June 2007 was to be disposed before 31 March 2008 by the Commission failing which the application was abated.

We noticed inordinate delay in settlement 134 cases³⁴ filed before the Commission prior to 01 June 2007. There was delay in disposal of 37 cases ranging from 39 months to 59 months and 97 cases were pending for disposal for the period ranging from five years to 20 years as on 31 March 2013 (See Box 1).

Box no. 1: Cases filed prior to June 2007 but settled/pending after March 2008

a. 30 cases, filed before the Bench of Commission at Kolkata between February 1993 and May 2007, were pending for settlement as on 31 March 2013 even after lapse of six years to 20 years. Of these, two cases were pending due to the on-going High Court Proceedings. Reasons for inordinate delay in settlement of the cases in remaining cases were not furnished.

The Ministry stated (December 2014) at the end of September 2014 only 15 cases received prior to 1 June 2007 are pending for disposal. However, the Ministry has not furnished the reasons of delay.

b. In Uttar Pradesh, 50 cases pertaining to FY 2002-03 to FY 2006-07, required for disposal by 31 March 2008, were pending as on 31 March 2013 even after lapse of eight to 11 years.

The Ministry stated (December 2014) that the delay in disposal of 44 cases was on account of pending litigation before the Hon'ble Allahabad High Court. These cases were taken up for disposal after decision of the Hon'ble High Court. The Hon'ble Supreme Court granted the stay in four cases on the proceedings before the Commission. Further, 30 cases have already been disposed of by the end of October 2014.

c. In Jharkhand, CIT Central Patna charge, the Commission admitted seven cases relating to Income Tax (August 1993) under Section 245D(1) and six cases relating to Wealth Tax (December 1993) under Section 22D(1) for AYs 1987-88 to 1992-93 but shown pending even after lapse of more than 20 years.

The Ministry stated (December 2014) that these cases pertained to Animal Husbandry/Fodder scam and the Commission could not disposed of these cases due to stay order of High Court, Patna. Stay order vacated by the High Court(03 February 1997) was not brought to the notice of the Commission by the assessee or the ITD.

³⁴ Gujarat (2), Haryana (51), Jammu & Kashmir (1), Jharkhand (13), Punjab (14), Rajasthan (1), Uttar Pradesh (50) and West Bengal (2)

d. In Haryana, application for 16 cases were filed between June 2002 and May 2007 which were pending for settlement involving delay ranging from seven years to 12 years as on 31 March 2014 even though the prescribed time limits under Section 245D(4) had expired by 31 March 2008.

The Ministry stated (December 2014) that all these cases have been disposed off by the end of October 2014.

e. In Gujarat, application in two cases admitted on 10 September 1999 and 14 November 2006 under section 245D(1) have not been finalized so far (July 2014) involving delay of 15 years and 8 years respectively.

The Ministry stated (December 2014) that case of Navin V Shah and Grahshilp Construction Private Limited has been disposed off on 2 July 2014 and 4 March 2014 respectively.

The Ministry stated (December 2014) that before introduction of Finance Act, 2007, there was no time limit in finalisation of cases filed before 1 June 2007. The Ministry, further, stated that with limited resources available with the Benches of the Commission, priority was given to time barring applications.

5.7.4 Cases filed after 01 June 2007 and 01 June 2010

Under Section 245D(4A), the Commission shall pass an order in respect of application made on or after 01 June 2007 within 12 months and in respect of application made after 01 June 2010 within 18 months from the end of the month in which the application was made.

We noticed delay ranging 12 days to 563 days in settlement of seven cases³⁵ filed before the Commission after 01 June 2007 and 01 June 2010.

In three cases³⁶, order of the Commission remains to be passed. *The Ministry stated (December 2014) that the order of the Commission is yet to be passed.*

5.7.5 Computation of total income in the order of the Commission

While passing order under Section 245D(4), the Commission determines the total income of the assessee by aggregating the returned income, the additional income disclosed by the assessee and further additions made by the Commission, if any.

³⁵ Delhi (4), Bihar (2) and West Bengal (1)

³⁶ Tamil Nadu (3)

In Tamil Nadu, CIT (Central) II Chennai charge, in the case of **Adhi Parasakthi Medical, Educational and Charitable Trust (PAN-AAATA0722H)**, for AY 2008-09, the Commission determined the total income at ₹ 5.51 crore in the order passed under Section 245D(4). However, the total income worked out to ₹ 6.51 crore by aggregating the returned income, the additional income disclosed by the assessee and further additions made by the Commission. Thus there was under statement of total income by ₹ 1.00 crore in the order of the Commission, issued on 31 March 2014. The consequential order was not passed (July 2014). Monetary impact after passing the consequential order would work out to ₹ 33.99 lakh.

The Ministry stated (December 2014) that AO has corrected the mistake while giving effect to the order of the Commission (7 August 2014) and no further order by the Commission seems to be required.

Audit findings on implementation of orders of the Commission by the ITD

5.8 The Act lays down provisions relating to constitution of the Commission and procedure for filing, admission and settlement of applications. Further as per the Act, at every stage, the Commission requires various reports from the jurisdictional CITs. Concerned AOs are also required to implement the final orders of the Commission. Audit findings on implementation of the orders of the Commission by the ITD are as follows:

5.8.1 Implementation of the orders of the Commission

ITD shall give effect to the orders of the Commission within stipulated time prescribed therein so as to expeditiously collect the tax revenues.

5.8.1.1 In West Bengal, we noticed five cases where the AOs did not give effect to the orders of the Commission passed under Section 245D(4) during February 2011 and December 2012. Further, a review of Online Tax Accounting System revealed that in three cases, the assessees paid tax in pursuance of the orders passed by the Commission but no demand notice was issued by the ITD.

5.8.1.2 In Chhattisgarh, CIT Raipur/Bilaspur charges, we noticed delay of seven months in four cases in giving effect (April 2012) to the orders of the Commission in four cases (September 2011). Thus the objective of the Commission for speedy collection of taxes could not be achieved.

The Ministry stated (December 2014) that ITD faced acute shortage of manpower and restructuring of the Department completed (November 2014) will ensure strict compliance with the prescribed standards, particularly in procedural matter.

5.8.2 Submission of reports under Section 245D(2B) by the CIT

On receipt of the application for settlement under Section 245C, the Commission shall call for a report from the CIT under Section 245D(2B), and the CIT shall furnish the report within the period of 30 days of the receipt of the communication from the Commission.

We noticed delay ranging from 10 to 86 days in submission of reports under Section 245D(2B) beyond the stipulated period of 30 days by the CsIT in 50 cases³⁷.

The Ministry stated (December 2014) that instructions have been issued to all the CCsIT(CCA) & (Central)/DGsIT(Inv.) to submit the report sought by the Commission within the time prescribed under Section 245D(2B) and no adjournments shall be sought by them. However, the Ministry has not specifically cited the reasons for cases pointed out by audit.

5.8.3 Submission of reports under Section 245D(3) by the CITs

The Commission, in respect of an application which has not been declared invalid under Section 245D(2C) or an application which has been allowed to be further proceeded with under Section 245D(2D), may call for the records from the CIT and after examination of such records, may direct the CIT to furnish a report on the matters covered by the application and any other matter relating to the case, and the CIT shall furnish the report within a period of 90 days of the receipt of communication from the Commission under Section 245D(3).

We noticed delay in nine cases³⁸ ranging from nine to 261 days beyond the stipulated period of 90 days in submission of reports under Section 245D(3). In 36 cases³⁹, date of report called for by the Commission and/or date of report sent by the CsIT was not made available and therefore, we could not ascertain the delay.

The Ministry stated (December 2014) that instructions have been issued to all the CCsIT(CCA) & (Central)/DGsIT(Inv.) to submit the report sought by the Commission within the time prescribed and no adjournments shall be sought by them. However, the Ministry has not specifically cited the reasons for cases pointed out by audit.

37 Bihar (4), Chhattisgarh (2), Jharkhand (2), Punjab (6), Uttar Pradesh & Uttarakhand (36)

38 Haryana (2), Kerala (1), Odisha (1) and West Bengal (5)

39 Andhra Pradesh (2), Chhattisgarh (10), Odisha (5), Rajasthan (1) and Tamil Nadu (18)

5.8.4 Submission of reports under Rule 9 of Settlement Commission (Procedure) Amendment Rules, 2010

The Commission under Rule 9 of Settlement Commission (Procedure) Amendment Rules, 2010 shall call for report on the information contained in annexures and statements and other documents accompanying such annexures from the CIT in seven copies within the period of 45 days from the receipts of the communication from the Commission.

We noticed delays in 148 cases⁴⁰ ranging from 10 days to 2,741 days in sending reports under Rule 9 *ibid*. Further, in 19 cases⁴¹, date of report called for by the Commission from CsIT and/or date of sending report by CsIT was not made available and therefore, we could not ascertain the delay.

The Ministry stated (December 2014) that instructions have been issued to all the CCsIT(CCA) & (Central)/DGsIT(Inv.) to submit the report sought by the Commission within the time prescribed and no adjournments shall be sought by them. However, the Ministry has not specifically cited the reasons for cases pointed out by audit.

5.8.5 Adoption of figures while giving effect to order of the Commission

The Commission may, at any time within a period of six months from the date of its order, amend any order passed by it under Section 245(6B), if the mistake is apparent from record. AO should adopt the correct figure of total income determined by the Commission and compute tax, interest thereon and refund etc. as per extant law.

In eight cases⁴², we noticed mistakes in computation of tax due to adoption of wrong figures, incorrect set-off of losses etc. while giving effect to the order of Commission (See Box 2).

Box No 2: Illustrative cases pointing out mistakes in adoption of figures

a. In Delhi, CIT Central II Charge, the income of **Raheja Developers Limited (PAN-AAACR0468E)** for the block period 2004-05 to 2010-11 was settled by the Commission at ₹ 117.98 crore vide its order passed (February 2013) under Section 245D(4). The Commission disallowed the deduction of ₹ 14.67 crore under Section 80IB but did not add back. The AO should have approached the Commission for rectification of the apparent mistake in the order of the Commission. Instead the AO implemented the order by allowing the deduction under section 80IB of ₹ 14.67 crore involving short levy of tax of ₹ 7.18 crore including interest.

40 Andhra Pradesh (1), Bihar (15), Chhattisgarh (9), Gujarat (22), Jharkhand (2), Kerala (2), Odisha (5), Punjab (15), Rajasthan (3), Tamil Nadu (12), Uttar Pradesh & Uttarakhand (29) and West Bengal (33)

41 Chhattisgarh (4) and Tamil Nadu (15)

42 Andhra Pradesh (1), Delhi (1), Jharkhand (1), Kerala (2) and West Bengal (2)

b. In Andhra Pradesh, CIT I Hyderabad charge, **Agrigold Farms India Private Limited (PAN-AADCA9678C)**, for the AY 2009-10, returned nil income after setting-off losses of ₹ 5.88 crore pertaining to AY 2008-09. The details pertaining to AY 2008-09 read with rectification order dated 5 June 2012 revealed that the losses of ₹ 10.38 crore was converted into profit of ₹ 3.69 crore after admission of additional income of ₹ 14.07 crore by the assessee before the Commission. Thus, there was no loss available for set-off in AY 2009-10. The mistake in setting-off losses of ₹ 5.88 crore involved tax effect of ₹ 2.61 crore including interest.

5.8.6 Payment of demand under Section 245D(6A)

If an applicant assessee fails to pay the taxes under Section 245D(6A) in pursuance of an order under Section 245D (4) within 35 days of the receipt of a copy of the order by him, he shall be liable to pay simple interest at the rate of one and one-fourth *per cent* for every month or part of month on the amount remaining unpaid from the date of expiry of thirty five days aforesaid.

In nine cases⁴³, we noticed that demand raised had not been collected even after lapse of more than one year from the date of issue of order of the Commission (See Box 3).

Box No 3: Illustrative cases involving delay in payment of tax demand

a. In Andhra Pradesh, CIT Central, Hyderabad (ACIT, DC-3(1), Hyderabad) charge, in the case of **Radha Realty Corporation India Private Limited (PAN-AACCR1230Q)** for the AYs 2008-09 and 2009-10, the consequential order was passed by the AO on 20 February 2012 and the demand was payable in five quarterly instalments, last instalment being on 15 March 2013. Of which, demand of ₹ 21.52 crore was still pending (August 2014) after lapse of more than 17 months from last instalment which attracted interest of ₹ 8.07 crore up to August 2014.

The Ministry stated (December 2014) that the assessee has not paid the regular demand.

b. In Jharkhand in the case of **Pawan Kumar (PAN-ADPPK3529E)**, demand of ₹ 1.34 crore pertaining to AYs 2010-11 and 2011-12 was outstanding after lapse of more than one year from the date of issue of orders by the Commission on 28 June 2013.

The Ministry stated (December 2014) that the assessee has paid only ₹ 8.0 lakh and filed an appeal before Hon'ble Jharkhand High Court against the addition made by the Commission.

⁴³ Andhra Pradesh (1), Chattisgarh (6) and Jharkhand (2)

5.8.7 Levy of interest

Where any tax payable in pursuance of an order under sub-section (4) of section 245D is not paid by the assessee within 35 days of the receipt of a copy of the order by him, then, whether or not the Commission has extended the time for payment of such tax or allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at one and one fourth *per cent* for every month or part of a month on the amount remaining unpaid from the date of expiry of the period of 35 days. Further, it has been judicially held⁴⁴ that the procedure to be followed by the Commission under section 245C and 245D is nothing but assessment or computation of total income which takes place at the Section 245D(1) stage attracting provisions dealing with a regular assessment, self-assessment and levy and computation of interest under Section 234A to 234D etc.

In 31 cases⁴⁵, we noticed short levy of interest of ₹ 11.75 crore due to failure to adhere to the above provisions/judicial decision (See Box 4).

Box No 4: Illustrative case on short/non-levy of interest under Section 245D(6A)/234B

a. In Andhra Pradesh, CIT-Central Hyderabad Charge, in the case of **Maheswari Brothers, (PAN-AAGFM0335E)**, for the AY 2005-06 to 2009-10, interest of ₹ 2.11 crore under Section 234B was short levied while giving effect to the order of the Commission.

The Ministry stated (December 2014) that the objection is prima facie acceptable and remedial action will be initiated by issue of notice under Section 154.

5.8.8 Initiation of penalty proceedings where Immunity from penalty stands withdrawn

An immunity granted to a person under Section 245H(1) shall stand withdrawn under Section 245H(1A) if such person fails to pay any sum specified in the order of settlement passed under Section 245D(4) within the time specified in such order or within such further time as may be allowed by the Commission, or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted. In the event of default by the assessee in paying the tax and interest directed by the Commission within the specified time in pursuance of the order under Section 245D(4), ITD should initiate penalty proceedings under Section 271(1)(c) for concealment of income.

In 18 cases⁴⁶, we noticed Immunity from penalty stood withdrawn but AOs did not levy penalty aggregating ₹ 11.92 crore (See Box 5).

44 Brijlallal and others vs. CIT (328 ITR 477-SC)

45 Andhra Pradesh (6), Delhi (2), Gujarat (4), Madhya Pradesh (1), Maharashtra (1), Odisha (2), Rajasthan (1), Tamil Nadu (12) and West Bengal (2)

46 Maharashtra (7), Tamil Nadu (8) and West Bengal (2)

Box No 5: Illustrative cases showing failure to initiate penalty

a. In West Bengal, CIT XVI Kolkata charge, in the case of **Pankaj Jha (PAN-AIOPJ5236D)** for the AYs 2008-09 to 2010-11, the order of the Commission was given effect (February 2012) raising a total demand of ₹ 1.98 crore. As per the terms of settlement, the applicant assessee was allowed to pay tax and interest in three equal quarterly instalments. The assessee had so far made payment of ₹ 28.0 lakh and ₹ 23.74 lakh was recovered through bank attachment. Hence, the assessee clearly violated the terms of settlement for which penalty proceedings under Section 271(1)(c) should have been initiated against him for concealment of income of ₹ 5.62 crore (the amount disclosed before the Commission and the addition made). Non initiation of penalty proceedings resulted in non-levy of penalty of ₹ 1.69 crore at the minimum.

The Ministry stated (December 2014) that the penalty proceedings under Section 221 is under progress.

b. In West Bengal, CIT central II, Kolkata charge, in the case of **Begraj Agarwal Mittal (PAN-AUFPA7697C)** for the AYs 2004-05 to 2011-12, the order of the Commission was given effect (April 2012) raising a total demand of ₹ 79.80 lakh. As per the terms of settlement, the applicant assessee was allowed to pay tax and interest in two equal monthly instalments. The assessee did not pay the demand as directed and as such clearly violated the terms of settlement which attracted penalty of ₹ 2.45 crore at the minimum towards concealment of income of ₹ 8.16 crore (the amount disclosed before the Commission and addition made by the Commission) but the same was not imposed.

The Ministry stated (December 2014) that the objection is acceptable and necessary remedial action has already been initiated in December 2014.

c. In Maharashtra, CIT (Central) I Mumbai, in the case of **Shree Venkatesh Traders & Agencies Pvt. Limited, (PAN-AAECS2811G)**, for the block period 01 April 1989 to 08 February 2000, the Commission granted immunity from penalty and prosecution (November 2012) subject to the direction that the assessee should pay the tax determined in six monthly instalments. However, the assessee did not pay the demand in six monthly instalments. Thus the immunity granted stands deemed to be withdrawn. However, proceedings for levy of minimum penalty of ₹ 1.08 crore, equivalent to tax was not initiated.

5.8.9 Submission of monthly report to CCIT(CCA) in respect of cases before the Commission and work of CIT(Departmental Representative)

CIT(Departmental Representative) to the Commission is responsible to present the ITD's case before the Commission. In order to ensure timely action on cases filed before the Commission, the CBDT directed (July 2013) CIT(DR) to submit a monthly report to CCIT(CCA) with a copy to Member (Investigation) concerned latest by 5th of every month beginning from August 2013 in respect of cases pending before the Commission and work of CIT(DR). We noticed irregularities in submission of Reports as below (See Box 6).

Box No. 6: Illustrative cases on non-submission of monthly report to CCIT(CCA) in respect of cases pending before the Commission and work of CIT(DR)

- a. In Uttar Pradesh, no monthly reports were received from CIT(DR) by the CCIT(CCA), Kanpur since August 2013 defeating the objective of the order. Further, no information in this regard was made available by the CCIT(CCA), Lucknow (July 2014).
- b. In Kolkata, CIT(DR) to the Bench at Kolkata did not furnish any information regarding monthly report. In the absence of any record/reply by the CIT(DR), proper monitoring of the settlement cases at his level could not be ascertained.
- c. In Mumbai, CIT(DR) did not maintain the data pertaining to applications filed, applications admitted, cases pending, cases come for hearing, cases/orders disposed etc.

5.8.10 Details of cases settled/pending with the Commission in Monthly Technical Report (CAP I/II)

Monthly reports received from various field formations are the main source of information for the CBDT and the government in assessing the performance of various segments of ITD. Monthly Technical Reports (CAP I/II) on performance indicators, submitted by various field formations, did not contain any column regarding cases settled/pending with the Commission and hence these were not reported to higher authorities. Further, there is no mechanism within the ITD to monitor the stages of cases from the filing of applications till their settlement in implementation of orders of the Commission.

The Ministry stated (December 2014) that details regarding number of cases pending before the Commission or their disposal are not reflected in either CAP-I or CAP-II report. However, the reply is silent on any direction being issued with regard to inclusion of such cases in CAP-I and CAP-II report.

5.9 Conclusion

The Act has prescribed time frame for various stages from filing of applications till their settlement by the Commission and implementation of the orders thereof by the ITD. We have noticed considerable delay at various stages on the part of the Commission and the ITD. Even a number of applications filed prior to 1 June 2007 are still pending with the Commission for disposal. Besides, ITD took considerable time in submission of required reports to the Commission and giving effect to the orders of the Commission. Due to constraints mentioned in paragraph 5.5, the conclusion is based on limited information/data furnished by the Commission and records made available by ITD.

The Ministry stated (December 2014) that the Commission has made every effort to dispose of cases as early as possible keeping in view the constraint of resources.

Based on the limited scope of audit, we suggest that there is need for improvement in the functioning of the Commission and implementation of their orders by the ITD.

New Delhi
Dated: 2 March 2015



(MANISH KUMAR)
Principal Director (Direct Taxes)

Countersigned



New Delhi
Dated: 2 March 2015

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India