

Chapter II: Audit Mandate, Products and Impact

2.1 Authority of the CAG for audit of receipts

Article 149 of the Constitution of India provides that the Comptroller and Auditor General of India (CAG) 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 the Parliament. The 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 CAG 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. Regulations on Audit & Accounts, 2007 (Regulations) lay down the principles for Receipt Audit.

2.2 Examination of systems and procedures and their efficacy

2.2.1 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 to ensure that these are not abandoned or reduced except with adequate justification and proper authority.

To achieve the above, we examined the assessments completed by the Income Tax Department in the financial year 2016-17. In addition, some assessments which were completed in earlier years were also taken up for examination.

2.2.2 The ITD undertakes scrutiny assessments in respect of a sample of returns filed by the assessee as per the Income Tax Act, 1961. The scrutiny assessment cases are selected on the basis of parameters identified and pre-defined by the ITD. These cases are then closely examined in respect of claims of deductions, losses, exemptions etc. to arrive at the correct assessments to ensure that there is no evasion of taxes. The assessee is given the opportunity to substantiate his claim with evidence failing which the AO makes the assessment as deemed appropriate.

On the basis of examination of scrutiny assessment cases, Audit noticed that despite irregularities of certain types being pointed out repeatedly in the audit reports, there are continued occurrences of these irregularities in following the tax laws and instructions and directives of CBDT during scrutiny assessments completed by the AOs, raising questions about the efficiency of tax administration. Some of these cases are discussed in the subsequent paragraphs.

2.2.3 A total of 4,44,02,413 returns were filed during the FY 2016-17²⁵. In the same FY the ITD completed 2,73,138 scrutiny assessments in those units which were audited during audit plan of FY 2017-18. Out of the 2,73,138 scrutiny assessments, we checked 2,64,125 assessment cases. Apart from this, we also audited during FY 2017-18, 47,147 cases out of 1,06,498 cases of scrutiny assessments completed in financial years prior to 2016-17. Total number of scrutiny assessments audited during 2017-18 was 3,11,272 and the number of scrutiny assessments in which audit noticed mistakes was 20,075. The incidence of errors in assessments checked in audit during FY 2017-18 was 6.45 *per cent* which was less than the previous year's 7.2 *per cent*. Out of cases of scrutiny assessments audited by us, Internal Audit of ITD had checked 11,163 cases. As we have seen only a limited number of assessment cases/records as per our sample, the Ministry needs to verify this in entirety and not only in the cases of sample.

2.2.4 State-wise incidence of errors in assessments are given in *Appendix-2.1*. Table 2.1 below shows details of 10 states with highest percentage of assessments with errors where more than 10,000 assessments were checked in audit during FY 2017-18.

²⁵ Total number of returns filed during FY 2015-16 were 4,04,92,569

Table 2.1: Details of ten states with highest incidence or assessments with errors where more than 10,000 assessments were checked					(₹ in crore)
State	Assessments			Total revenue effect of the audit observations	Percentage of assessments with errors
	completed in units selected for audit during 2017-18	checked in audit during 2017-18	With errors		
a. Tamil Nadu	23,057	21,983	1,914	1,644.16	8.71
b. Madhya Pradesh	14,710	13,035	1,124	558.00	8.62
c. Karnataka	13,710	13,380	1,071	1,634.84	8.00
d. Andhra Pradesh & Telangana	17,533	16,948	1,343	1,499.00	7.92
e. West Bengal	33,530	32,000	2,398	2,100.19	7.49
f. Gujarat	14,722	14,443	1,002	1,044.63	6.94
g. Maharashtra	1,34,203	79,273	4,311	13,597.38	5.44
h. Delhi	30,264	27,382	1,342	2,556.98	4.90
i. Rajasthan	18,328	17,424	825	134.60	4.73
j. Uttar Pradesh	24,247	23,905	952	776.18	3.98

This indicates that Tamil Nadu (8.71 *per cent*) has the highest percentage of assessments with errors followed by Madhya Pradesh (8.62 *per cent*). The ITD needs to take corrective action in respect of errors noticed in the assessments.

2.2.5 Table 2.2 below shows the details of errors noticed in local audit during FY 2017-18.

Table 2.2: Tax wise details of errors in assessments			(₹ in crore)
Category	No. of errors	Tax effect (TE)	
a. Corporation tax (CT) and Income tax (IT)	21,565	28,509.57 ²⁶	
b. Other Direct taxes (ODT)	504	61.86	
Total	22,069	28,571.43	

Note: The above findings and all subsequent findings are based exclusively on audit of selected assessments.

2.2.6 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.

Table 2.3: Category-wise details of errors			(₹ in crore)
Category	No. of errors	Tax effect	
a. Quality of assessments	6,778	5,628.19	
b. Administration of tax concessions/exemptions/deductions	7,867	15,435.02	
c. Income escaping assessments due to omissions	2,779	3,067.95	
d. Others	3,655	3,220.59	
Total	21,079	27,351.75	

²⁶ Includes 486 cases of over assessment with tax effect of ₹ 1157.82 crore.

2.3 Persistent and pervasive irregularities in respect of Corporation Tax and Income Tax assessments cases

The instances of non-compliance and irregularities noticed during audit examination of assessment cases completed by the Assessing Officers (AOs) are brought out in our Compliance Audit Report – Department of Revenue - Direct Taxes every year. An irregularity may be considered persistent if it occurs year after year. It becomes pervasive, when it affects the entire system and is dispersed over many assessment jurisdictions. We have been pointing out various irregularities including those relating to (i) irregularities in allowing depreciation/ business losses/ capital losses etc., (ii) instances of incorrect allowance of business expenditure, (iii) arithmetical errors in computation of income and tax and (iv) mistakes in levy of interest with respect to assessment of corporation and income tax cases in the Compliance Audit Reports year after year, and some of these irregularities seem to be both persistent and pervasive. The audit observations issued to the Ministry as Draft Paragraphs and included in Compliance Audit Report²⁷ during the years 2014-15, 2015-16 and 2016-17 alongwith Draft Paras issued to the Ministry during 2017-18 were analysed with respect to occurrence in State jurisdictions year after year within each sub-category. Recurrence of such irregularities, despite being pointed out repeatedly in earlier audit reports, is not only indicative of non-seriousness on the part of the Department in instituting appropriate systems to prevent recurrence of such repetitive mistakes, but also points the lack of effective monitoring and absence of an institutional mechanism to respond to the systematic and structural weaknesses leading to leakages of revenue. Cases of such irregularities reported in the above mentioned categories are discussed below.

Though the irregularities noticed in different states showed no distinctive pattern of occurrences among the states, they were occurring more frequently in some states than others; their occurrences were seen to be consistently high in Delhi and Maharashtra.

2.3.1 Administration of tax concessions/exemptions/deductions – Irregularities in allowing depreciation/business losses/capital losses etc.

We noticed irregularities related to incorrect allowance and set-off of business losses, capital losses and unabsorbed depreciation, incorrect allowance of depreciation etc. The nature of such mistakes included incorrect allowance of set-off of brought forward business losses and

²⁷ C&AG Compliance Audit Report (Union Government – Department of Revenue – Direct Taxes) Nos. 3 of 2016 (for the year ended March 2015), 2 of 2017 (for the year ended March 2016) and 40 of 2017 (for the year ended March 2017).

unabsorbed depreciation where no loss in respect of earlier assessment years was available, adoption of incorrect figures viz. earlier years' business loss adopted as returned loss in current assessment year, incorrect allowance of carry forward of business loss although Income Tax Return for the said assessment year was filed after due date of filing of return, double deduction on account of depreciation etc. Such irregularities occurred due to non-correlation of assessment records indicative of lack of effective co-ordination and weak internal control mechanism. Mistakes noticed in allowance of depreciation/business losses/capital losses etc. during 2014-15 to 2016-17, as brought out in the Compliance Audit Reports of past three years along with findings of the current year Audit Report (2017-18) are summarised in the Table 2.4 below.

Table 2.4: Mistakes noticed in allowing depreciation/ business losses/ capital losses etc.								(₹ in crore)	
Assessment	Audit Report for the year ended								
	March 2015		March 2016		March 2017		March 2018		
	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect	
CT	77 ²⁸	1,359.20	71 ²⁹	590.75	81 ³⁰	1,144.10	66	1,796.86	
IT	11	13.70	9	15.72	9	24.41	7	9.19	

During 2014-15 and 2015-16, the non-compliance on this account was found highest in Maharashtra at 85 *per cent* and 63 *per cent* respectively of the total tax effect of Draft Paragraphs on Corporation Tax related to incorrect allowance of depreciation/business losses/capital losses etc. During 2016-17, it was found highest in Andhra Pradesh & Telangana (36 *per cent*) and Maharashtra (32 *per cent*). During 2017-18, irregularities on this account was found highest in Maharashtra (58 *per cent*).

In respect of Income Tax, such irregularities were found to be highest in West Bengal at 38 *per cent* of the total tax effect of Draft Paragraphs on Income Tax related to incorrect allowance of depreciation/business losses/capital losses etc. during 2014-15. During 2015-16 the tax effect on this account was found highest in Maharashtra (68 *per cent*) and in Bihar during 2016-17 (67 *per cent*). During 2017-18, these irregularities were highest in Maharashtra (67 *per cent*).

²⁸ Andhra Pradesh & Telangana, Assam, Delhi, Goa, Gujarat, Karnataka, Maharashtra, Odisha, Rajasthan, Tamil Nadu and West Bengal

²⁹ Andhra Pradesh & Telangana, Bihar, Delhi, Gujarat, Haryana, Jharkhand, Karnataka, Kerala, Maharashtra, Odisha, Rajasthan, Tamil Nadu and West Bengal.

³⁰ Andhra Pradesh & Telangana, Delhi, Gujarat, Haryana, Jharkhand, Karnataka, Kerala, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal

2.3.2 Administration of tax concessions/exemptions/deductions - Incorrect allowance of business expenditure

We noticed irregularities related to incorrect allowance of ineligible claims of business expenditure viz. capital expenditure, unpaid claims and provisions deemed as unascertained liability etc. Mistakes in incorrect allowance of expenditure noticed during 2014-15 to 2016-17, as brought out in the Compliance Audit Reports of past three years along with findings of the current year Audit Report (2017-18) are summarised in the Table 2.5 below.

Assessment	Audit Report for the year ended							
	March 2015		March 2016		March 2017		March 2018	
	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect
CT	56 ³¹	299.64	47 ³²	514.09	50 ³³	478.67	48	875.47

During 2014-15, such irregularities were highest in Tamil Nadu (25 per cent of the total tax effect of Draft Paragraphs related to incorrect allowance of business expenditure) and Karnataka (23 per cent). During 2015-16 the non-compliance on this account was found highest in Maharashtra (45 per cent), Andhra Pradesh & Telangana (30 per cent) whereas in 2016-17 such non-compliance was highest in Maharashtra (64 per cent). During 2017-18, irregularities on this account was found highest in Maharashtra (60 per cent) and Tamil Nadu (28 per cent).

2.3.3 Quality of Assessments – Arithmetical errors in computation of income and tax

We noticed irregularities emanating from arithmetical errors in computation of income and tax caused by computing errors, like adoption of incorrect figures while computing assessed income and tax demand, disallowances made in the assessments not added back, allowance of double deductions, omission to disallow claims allowed earlier due to non-correlation of assessment records etc. Assessing Officers had committed such errors in the assessments ignoring clear provisions in the Act which obviously reflect weaknesses in internal controls on the part of ITD which need to be addressed.

³¹ Andhra Pradesh & Telangana, Bihar, Delhi, Gujarat, Haryana, Karnataka, Maharashtra, Odisha, Rajasthan, Tamil Nadu and West Bengal.

³² Andhra Pradesh & Telangana, Assam, Delhi, Gujarat, Haryana, Karnataka, Maharashtra, Odisha, Punjab, Tamil Nadu and West Bengal.

³³ Andhra Pradesh & Telangana, Delhi, Gujarat, Karnataka, Kerala, Maharashtra, Odisha, Rajasthan, Tamil Nadu and West Bengal.

Mistakes noticed in this category during 2014-15 to 2016-17 as brought out in the Compliance Audit Reports of past three years along with findings of the current year Audit Report (2017-18) are summarised in the Table 2.6 below.

Table 2.6: Arithmetical errors in computation									(₹ in crore)
Assessment	Audit Report for the year ended								
	March 2015		March 2016		March 2017		March 2018		
	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect	
CT	43 ³⁴	164.63	45 ³⁵	922.95	36 ³⁶	310.04	46	539.34	
IT	16 ³⁷	83.40	19 ³⁸	33.44	26 ³⁹	75.89	14	52.03	

During 2014-15, such irregularities were highest in Maharashtra (44 per cent of the total tax effect of Draft Paragraphs on Corporation Tax related to arithmetical errors in computation) and Madhya Pradesh (24 per cent) whereas in 2015-16, it was found highest in Delhi (41 per cent) and Maharashtra (28 per cent). During 2016-17, it was found highest in Delhi (33 per cent) and Maharashtra (25 per cent). During 2017-18, these irregularities were highest in Uttar Pradesh (48 per cent)⁴⁰.

In respect of Income Tax, such irregularities were found to be highest in Uttar Pradesh (63 per cent of the total tax effect of Draft Paragraphs on Income Tax related to arithmetical errors in computation) during 2014-15. The tax effect on this account was found highest in Maharashtra during 2015-16 (39 per cent) and 2016-17 (66 per cent). During 2017-18, these irregularities were highest in Maharashtra (91 per cent). All these cases have been issued as separate draft paragraphs for Audit Report 2017-18.

2.3.4 Quality of Assessments – Mistakes in levying of interest

We noticed irregularities related to mistakes in levying of interest on account of non-furnishing or delay in furnishing of returns of income, default in payment of advance tax, default in payment of instalments of advance tax, default in payment of tax demand raised by ITD etc. Further, during 2017-18, the Draft Paragraphs pointing out the deficiency noticed in the Assessment Information System (AST) module/ Income Tax Business Applications (ITBA)

³⁴ Bihar, Delhi, Gujarat, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal.

³⁵ Andhra Pradesh & Telangana, Bihar, Delhi, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Tamil Nadu and West Bengal.

³⁶ Delhi, Goa, Gujarat, Haryana, Maharashtra, Punjab, Tamil Nadu, Uttar Pradesh and West Bengal

³⁷ Delhi, Gujarat, Kerala, Maharashtra, Punjab, Rajasthan, Uttar Pradesh, West Bengal

³⁸ Bihar, Delhi, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Uttar Pradesh

³⁹ Andhra Pradesh & Telangana, Delhi, Gujarat, Haryana, Madhya Pradesh, Maharashtra, Odisha, Punjab and Tamil Nadu

⁴⁰ Wherever significance is mentioned, it is only with reference to the total tax effect and not in relation to the number of cases.

with respect to computation of interest under sections 234A, 234B, 234C and 244A of the Income Tax Act, 1961 has been brought out in paras 3.2.4, 3.5.1 and 4.2.4, 4.5.1 of this Report. Mistakes noticed in levy of interest noticed during 2014-15 to 2016-17, as brought out in the Compliance Audit Reports of past three years along with findings of the current year Audit Report (2017-18) are summarised in the Table 2.7 below.

Assessment	Audit Report for the year ended							
	March 2015		March 2016		March 2017		March 2018	
	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect
CT	22 ⁴¹	150.10	39 ⁴²	163.84	40 ⁴³	157.46	53	189.37
IT	29 ⁴⁴	54.65	36 ⁴⁵	61.97	37 ⁴⁶	130.12	47	60.84

During 2014-15, the non-compliance on this account was found highest in Maharashtra (52 *per cent* of the total tax effect of Draft Paragraphs on Corporation Tax related to mistakes noticed in levying of interest) and Delhi (37 *per cent*). In 2015-16, the non-compliance was highest in Maharashtra (37 *per cent*) and Uttar Pradesh (30 *per cent*) whereas in 2016-17 such non-compliance was highest in Maharashtra (67 *per cent*). During 2017-18, the non-compliance on this account was found to be highest in Delhi (47 *per cent*).

In respect of Income Tax, such irregularities were found to be highest in Maharashtra (43 *per cent* of the total tax effect of Draft Paragraphs on Income Tax related to mistakes noticed in levying of interest) and Uttar Pradesh (28 *per cent*) during 2014-15. During 2015-16 the tax effect on this account was found highest in Delhi (27 *per cent*) and Andhra Pradesh & Telangana (27 *per cent*) whereas in 2016-17, it was found highest in Delhi (82 *per cent*). During 2017-18, these irregularities were highest in Odisha (33 *per cent*)⁴⁷. These cases have been reported as Draft Paragraphs for Audit Report 2017-18.

Despite there being clear provisions on the levying of interest in the Act, such mistakes were found to be recurring year after year.

⁴¹ Delhi, Gujarat, Kerala, Madhya Pradesh, Maharashtra, Odisha, Tamil Nadu and West Bengal

⁴² Andhra Pradesh & Telangana, Delhi, Gujarat, Haryana, Madhya Pradesh, Maharashtra, Odisha, Tamil Nadu, Uttar Pradesh and West Bengal.

⁴³ Andhra Pradesh & Telangana, Delhi, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Punjab, Tamil Nadu, UT Chandigarh and West Bengal

⁴⁴ Andhra Pradesh & Telangana, Delhi, Karnataka, Madhya Pradesh, Maharashtra, Tamil Nadu, UT Chandigarh, West Bengal

⁴⁵ Andhra Pradesh & Telangana, Delhi, Goa, Gujarat, Haryana, Kerala, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal

⁴⁶ Andhra Pradesh & Telangana, Assam, Bihar, Delhi, Goa, Gujarat, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Tamil Nadu, UT Chandigarh, Uttar Pradesh and West Bengal

⁴⁷ Wherever significance is mentioned, it is only with reference to the total tax effect and not the number of cases.

Non-compliance of tax laws and instructions and directives of CBDT is one of the major risk areas affecting the efficiency of tax administration. In order to improve the same, the departmental systems and processes have significantly been computerised over the years for efficient processing and improved compliance at all stages of assessment. ITD selects cases through Computer Aided Scrutiny Selection (CASS) on the basis of pre-defined parameters for detailed scrutiny to be done by AO. During scrutiny assessment, AO calls for required information from the assessee and examines them in the light of applicable provisions of the Act. However, as seen from the above analysis, the risks of non-compliance still exists in above areas as indicated by the continuing occurrence of the similar types of irregularities over time, despite these being pointed out by audit from year to year and there seems to be no system to make the AOs more accountable for minimising, if not eliminating, repetition of similar or identical mistakes. We also noticed that in respect of 72 assessees, Assessing Officers committed mistakes in assessments in respect of the same assessee in more than one year during the period of four years under consideration.

Conclusion and Recommendation

From the above analysis and also from our past experiences, it is clear that the required systems and processes to minimise the risk of recurrence and repetition of similar types of errors in computation of taxable income, once they are pointed out in audit, is absent in the Department. Once such an irregularity noticed in assessment completed by the AO has been pointed out in audit, it is expected that appropriate checks should be instituted by the Department to prevent recurrence of similar types of irregularities and errors in assessment in future, which is not seen to be the case. We also noticed that in respect of 72 assessees, Assessing Officers committed mistakes in assessments in respect of the same assessee in more than one year during the period of four years under consideration.

It is recommended that the IT Department may fix accountability on the part of the AOs to ensure that the risk of recurrences of similar types of irregularities are minimised, besides instituting systems and procedural checks to ensure this.

2.4 Audit products and response to audit

2.4.1 We elicit response from the audited entities at different stages of audit. As per provision of Regulations 193 on completion of field audit, we issue the local audit report (LAR) to ITD for comments.

2.4.2 Table 2.8 below depicts the position of number of observations included in the LAR issued during FY 2015-16 to FY 2017-18 and replies received thereto and observations accepted (as on 31 March of respective financial year).

Table 2.8: Response to local audit						
Financial Year	Observations raised	Reply received		Reply not received	Percentage of Observations accepted	Percentage of reply not received
		Observations Accepted	Observations not accepted			
2015-16	20,737	3,281	5,196	12,260	15.80	59.10
2016-17	22,579	4,074	3,546	15,060	18.40	66.70
2017-18	24,502	3,983 ⁴⁸	2,882	17,637	16.30	72.00

2.4.3 Table 2.9 below shows the increasing trend of pendency of observations.

Table 2.9: Details of outstanding audit observations								(₹ in crore)
Period	CT		IT		ODT		Total	
	No.	TE	No.	TE	No.	TE	No.	TE
Upto Mar 2015-16	14,251	48,307.35	11,620	7,596.72	3,556	715.54	29,427	56,619.61
2016-17	5,908	35,735.58	6,180	3,939.31	796	51.85	12,884	39,726.74
2017-18	4,584 ⁴⁹	13,806.70	5,049	2,457.89	473	69.09	10,106	16,333.68
Total	24,743	97,849.63	22,849	13,993.92	4,825	836.48	52,417	112,680.03

The accretion in pendency in replies to audit findings each year has resulted in accumulation of 52,417 cases involving revenue effect of ₹ 1,12,680.03 crore as of 31 March 2018.

The Department's efforts to ensure that replies to audit are sent in the prescribed period have not been satisfactory. The provisions of Regulations 202 and 203 which require establishment of system and procedures to ensure adequate, constructive and timely action on audit observations included in Inspection Reports/Audit Notes and establishment of audit committees for monitoring and ensuring compliance and settlement of pending audit observations, need to be observed in letter and spirit.

⁴⁸ 1,931 - Observations accepted and remedial action taken; 2,052 - Observations accepted but remedial action not taken

⁴⁹ Observations become pending after six months of issue of the observations

2.4.4 We issue significant and high value cases noticed in audit to the Ministry for comments before inclusion in the Audit Report as per provision of Regulations 205 to 209. We give six weeks to the Ministry to offer their comments on cases issued to them before their inclusion in the Audit Report. We have included 472 high value cases in Chapter III and IV of this Report, of which replies were received for 325 cases. The Ministry/ITD accepted 302 cases⁵⁰ (92.9 per cent) having tax effect of ₹ 3,006.01 crore (82.8 per cent) while it did not accept 23 cases⁵¹ having tax effect of ₹ 626.20 crore as of 31 March 2019. Replies to remaining cases were not received. Table 2.10 shows category wise details of these cases⁵².

Table 2.10 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	118	1,121.78	85	276.53	203	1,398.31	
b. Administration of tax concessions/exemptions/ deductions	141	3,149.58	26	39.24	167	3,188.82	
c. Income escaping assessments due to omissions	56	359.47	12	5.17	68	364.64	
d. Overcharge of tax/ interest	25	235.83	9	10.12	34	245.95	
Total	340	4,866.66	132	331.06	472	5,197.72	

2.4.5 Chapters III and IV bring out details of errors in assessments in respect of Corporation Tax and Income Tax respectively. These chapters contain paras 3.2.4, 3.5.1 and 4.2.4 bringing out deficiencies noticed in the Assessment Information System module/Income Tax Business Applications with respect to computation of interest under section 234A, 234B, 234C and 244A of the Act. In addition, two long draft paras viz. 'Follow up audit of exemptions to charitable trusts and institutions'; and 'Integrated audit of assessments of a group company' have been separately included in Chapter VI and VII of this Report respectively. Chapter VI brings out the instances noticed by audit where diversion of income/property by trusts to related group trusts/institutions as application of income; exemptions to assessee whose activities were not 'charitable' in nature; lack of monitoring the investment of accumulated money by the trusts in the forms or modes other than those specified in the Act; exemptions granted to trust on application of funds given to foreign

⁵⁰ Ministry -256 cases; ITD -46 cases

⁵¹ Ministry -14 cases; ITD - 9 cases

⁵² Sub-categories-wise details are given in Appendix-2.3

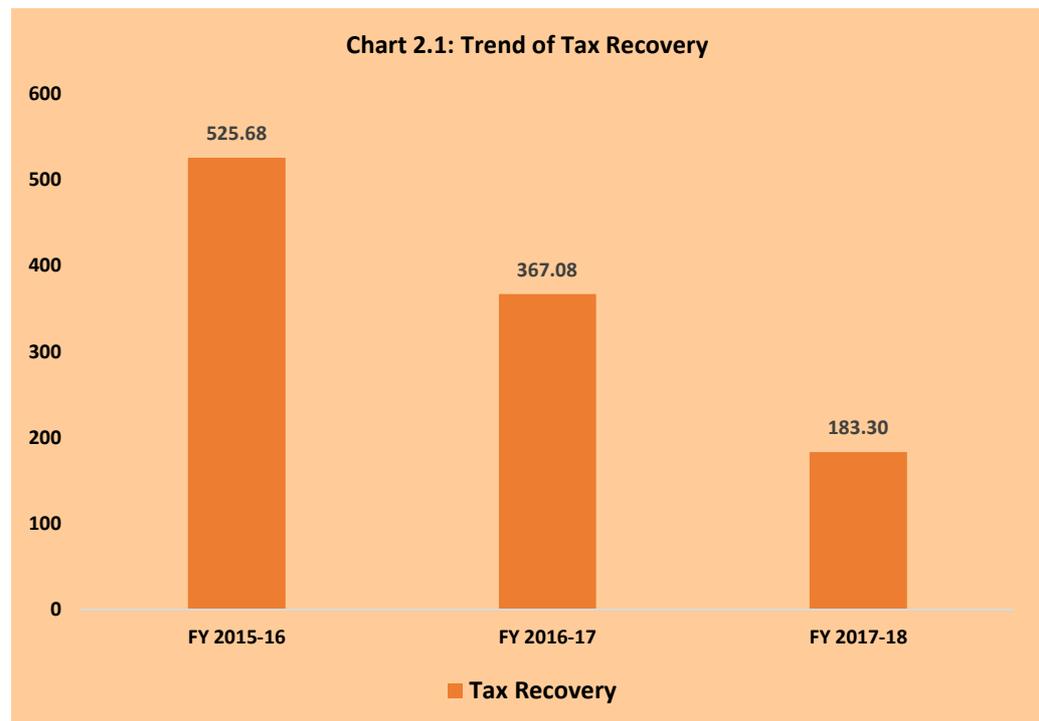
universities; and non-cancellation of registration where activities of the Trust and Institutions are not in accordance with the provisions of the Act. Chapter VII brings out that ITD during the assessment of related companies in a group had not made any efforts to cross link material transactions between the related parties to ensure the correctness/genuineness which could act as a deterrent and also minimise the possibility of escapement of taxable income.

2.4.6 Besides, Chapter V brings out our report on a subject specific compliance audit on 'Assessments relating to Agricultural Income'. The Chapter point out cases where there was mismatch between the exemptions allowed in the assessment order vis-à-vis that reflected in the ITD database. Exemptions allowed for agricultural income during scrutiny assessments had not been reflected correctly in the ITD database.

2.5 Audit impact

2.5.1 Recovery at the instance of audit

ITD recovered ₹ 1,076.06 crore in the last three years (Chart 2.1) from demands raised to rectify the errors in assessments that we pointed out. This includes ₹ 183.30 crore recovered in FY 2017-18.



2.6 Time barred cases

2.6.1 Table 2.11 below shows the details of time-barred cases⁵³ during FY 2015-16 to 2017-18.

Table 2.11: Details of time-barred cases		(₹ in crore)
Year of Report	Cases	Tax effect
2015-16	2,074	1,230.70
2016-17	2,243	1,637.81
2017-18	2,739	2,735.17

2.6.2 During FY 2017-18, 2,739 cases with tax effect of ₹ 2,735.17 crore became time-barred for remedial action, of which Odisha alone account for 34.57 *per cent* of this tax effect followed by Tamil Nadu at 28.51 *per cent*. Appendix-2.4 indicates state-wise details of such cases for FY 2017-18. Responsibility may be fixed for not taking remedial action in time in such cases. The Department should ensure that remedial action is taken in time so that such incidences do not recur in future.

2.7 Non-production of records

2.7.1 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 and collection of taxes and examining that regulations and procedures are being duly observed. It is also incumbent on ITD to expeditiously produce records and furnish relevant information to Audit.

2.7.2 ITD did not produce 31,196 records out of 3,77,206⁵⁴ records requisitioned during FY 2017-18 (8.27 *per cent*) which is a slight improvement over FY 2016-17 (8.29 *per cent*). Non-production of records has increased significantly in Delhi, Haryana, Himachal Pradesh, Kerala, Maharashtra, Punjab and Rajasthan during FY 2017-18 over previous year.

⁵³ Notice under section 148 cannot be issued for reopening the case after six years from the end of the relevant assessment year.

⁵⁴ Includes 29770 records not produced in earlier years and requisitioned again during current audit cycle

Appendix 2.5 shows the details of non-production of records during FY 2015-16 to FY 2017-18. Table 2.12 shows details of records not produced to audit pertaining to same assesseees in three or more consecutive audit cycles.

Table 2.12: Records not produced to Audit in three or more audit cycles	
States	Records not produced
a. Maharashtra	346
b. Odisha	9
Total	355

In FY 2017-18, 355 records pertaining to same assesseees in two states were not produced to audit in last three or more consecutive audit cycles.

2.7.3 Audit wanted to examine the selections for scrutiny and their coverage vis-à-vis income assessed. It appears from the data of scrutiny cases that one *per cent* of the assesseees were selected covering 25-30 *per cent* of the Direct Taxes collection. This points to skewness in favour of selection based on high value. Though we called for the information related to CASS for examination in Audit, this was not shared by the ITD. In absence of the same, method of selection of returns for scrutiny through CASS could not be examined by the Audit. Audit therefore could not verify if the CASS selection was objective or if the scrutiny undertaken in the field was as per the CASS selection. The method of selection for scrutiny should be transparent to CAG and PAC.

2.7.4 Non-production of records in respect of Pr. CCIT Mumbai and Nagpur

Article 149 of the Constitution read with Section 13 and 16 of the C&AG (DPC) Act, 1971 empowers the Comptroller and Auditor General (C&AG) to audit all expenditure from and receipts into the Consolidated Fund of India to ascertain whether (i) the moneys shown in the accounts as having been disbursed were legally available for and applicable to the service or purpose to which they have been applied or charged and whether the expenditure conforms to the authority which governs it and that (ii) 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 and to make for this purpose such examination of the accounts as he thinks fit and report thereon.

In consonance with the C&AG's mandate, audit of the offices of Pr. CCIT at Mumbai, Pune, Nagpur, were planned in AAP 2017-18 to ensure that (i) the rules and procedures had been designed to secure an effective check on the assessment, collection and proper allocation of revenue and also that the monitoring mechanisms were in place to see that they were duly observed and (ii) expenditure booked in the accounts were legally available for and

applicable to the service or purpose to which they have been applied or charged and conformed to the authority which governed it.

Pr. CCsIT Mumbai and Nagpur did not produce the requested records despite several reminders and personal meetings at the highest level. The matter was brought to the notice of the Revenue Secretary, Department of Revenue, Ministry of Finance through DO letter (April 2018) and through DP in July 2018.

The Ministry replied (September 2018) that there is no correlation between the items/files requisitioned by the Audit in respect of Pr. CCIT, Mumbai and assessment/collection of taxes. Further orders/directions/ instructions issued by the Board are available in public domain and also with the assessing officers inter alia for the purpose of implementation. Assessment orders passed by the assessing officers in consequence of such direction/instruction/ orders issued by the Board are in any case, routinely subjected to audit by the C&AG.

The Ministry's reply is not tenable in view of the following:

- a) One of the most important responsibilities of C&AG is to satisfy himself that rules and procedures are designed to secure an effective check on the assessment, collection and allocation of revenue. The functions of Pr. Chief CIT include budgeting & expenditure control, grievances redressal, computerization, supervision and administrative control, internal control, monitoring the implementation of PAC's recommendations etc. and these are being monitored by the O/o the Pr. Chief CIT. The records called for by the Audit from the O/o Pr. CCIT, Mumbai as mentioned in the reply, were relevant records to satisfy that robust internal control and monitoring systems exist at the top administrative level.
- b) Without the examination of records of apex entities at Pr. CCIT level, Audit will not be in a position to assure the stake holders that rules and procedures are in place to have effective check on levy, assessment and collection of income tax and expenditure incurred by the Department for collection of revenue is as per law.

Audit could therefore not discharge its constitutional mandate due to non-production of records.

