

## **Chapter V: Interest under sections 234A, 234B, 234C, and 244A of the Act**

### **5.1 Introduction**

Sections 234A, 234B and 234C of the Income Tax Act (hereinafter referred to as 'Act'), 1961 provide for levy of interest for errors on part of the assessee at the rates prescribed by the Government from time to time. Further, section 244A of the Act provides for payment of interest if there is a delay in the payment of refund due to the assessee.

Assessment Information System (AST), a software module of the Income Tax Department (ITD), inter alia, undertakes the functions of calculation of tax and calculation of interest under various sections of the Act. It is designed to automatically take details of prepaid taxes i.e. advance tax and self-assessment tax from Individual Running Ledger Account (IRLA)<sup>64</sup> of the assessee in order to determine the amount payable by him or refund of any amount due to him. The AST module, however, allows the Assessing Officer (AO) to modify the value of interest under sections 234A, 234B, 234C and 244A of the Act under the head 'Modified'.

ITD, in 2017, by way of re-writing the business processes of the AST and other modules of the ITD, adopted Income Tax Business Application (ITBA) module for electronic conduct of proceedings/assessments that would eliminate human intervention in respect of modification of interests under sections 234A, 234B, 234C and 244A of the Act.

### **5.2 Why we chose this topic**

The reasons for selecting this topic were as under:

- (a) During the earlier compliance audit, we noticed that though system (AST) had calculated correct amount of interest under various sections of the Act, the same was manually modified by Assessing Officers (AOs) to increase or decrease the chargeable interest.
- (b) We also noticed that AOs had blocked the refund by way of modification in system (AST) which involved overcharge of interest.
- (c) We received a communication from Central Vigilance Commission (CVC) sharing similar information as stated above that the AOs were blocking refunds to the assesseees by applying manual intervention in the system.

We, therefore, decided to cover the above aspects in a more comprehensive way through this Audit.

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<sup>64</sup> IRLA system has been developed to keep a record of all the demands raised and collections made by an Assessing Officer (AO) in a consolidated manner, and in a single location.

### 5.3 Audit objective

The objective of the Audit was to ascertain whether a system for calculating correct amount of interest arising due to-default in furnishing return of income, default/deferment in payment of advance tax and delay in payment of refund due to the assessee was in place.

Sub-objectives to achieve the above objective are:

1. Whether system calculated interest manually modified by the AOs was in accordance with the provisions of the Act? (SO-1)
2. Whether system calculated interest was modified manually by the AOs to block the refund payable to the assessee? (SO-2)
3. Whether after implementation of ITBA, calculation of interest was being done through system correctly and there was no manual intervention? (SO-3)

### 5.4 Legal frame work

Brief of provision of sections 234A, 234B, 234C and 244A of the Act prescribed in the Act is given below:

Section	Brief of provision
Section 234A	Section 234A of the Act provides for levy of interest on account of default in furnishing return of income at specified rates and for specified time period.
Section 234B	Section 234B of the Act provides for levy of interest on account of default in payment of advance tax at specified rates and for specified time period.
Section 234C	Section 234C of the Act provides for levy of interest on account of default in payment of instalments of advance tax at specified rates and for specified time period.
Section 244A	Section 244A of the Act provides for payment of interest on refunds arising due to excess payment of advance tax, Tax Deducted at Source (TDS) or Tax Collected at Source (TCS) at specified rates and for specified time period.

Details of legal provisions relating to the interest under sections 234A, 234B, 234C and 244A of the Act are given in *Appendix-5.1*.

### 5.5 Audit coverage

The audit covered the sample of cases where interest under sections 234A, 234B, 234C, and 244A of the Act were modified during processing in AST and orders passed in FY 2016-17 and FY 2017-18. For FY 2018-19, audit covered the cases<sup>65</sup> that were processed/completed in ITBA for examination in the context of calculation of interest under sections 234A, 234B, 234C and 244A of the Act.

<sup>65</sup> The cases selected for sample for FY 2016-17 and FY 2017-18 was further extended for FY 2018-19, that was processed/completed in ITBA in FY 2018-19

## 5.6 Sample size

ITD furnished assessee-wise data on interest under sections 234A, 234B, 234C and 244A of the Act modified by AOs during processing in AST in FY 2016-17 and FY 2017-18 which comprised 8,35,727 records. Out of 8,35,727 records, 6,544 assessment cases were selected as sample for audit after risk analysis. Further, 496 assessment cases were added to the sample that were processed/completed in ITBA in FY 2018-19. Thus, total 7,040 cases<sup>66</sup> were selected as sample for audit. State wise details of sample selected for audit is given in *Appendix-5.2*.

Besides 7,040 sample cases selected for audit, we also included 134 high value cases where we found observation on interest under sections 234A, 234B and 234C of the Act during our regular compliance audit conducted for the period 2018-19.

## 5.7 Non production of records

Out of the 7,040 cases requisitioned, 6,713 cases (6,217 cases<sup>67</sup> + 496 cases<sup>68</sup>) were produced to Audit. Records not furnished comprised 4.64 *per cent* of the requisitioned records. The non-production of the records was a constraint in complete coverage of the selected sample. Reasons furnished by ITD for non-production of records were, records lying with CIT (Exemption), prosecution council, vigilance, appeal and records not readily available.

## 5.8 Audit findings

Of the 6,217 cases (AST cases processed/completed in FY 2016-17 and FY 2017-18), checked by audit we found instances of systemic issues viz. deficiency noticed in AST system in calculating the correct amount of interest and absence of proper checks in the AST system to shield manual intervention. We also found instances concerning compliance issues where AOs did not modify the system calculated incorrect interest or if modified, modified it incorrectly. On the other hand, AO modified the system calculated correct interest which lead to short/excess levy of interest. Instances were also noticed where AO blocked the refund due to the assessee's by modifying the interest component causing undue hardship and harassment to the assessee. We noticed 7,385<sup>69</sup> observations under sections 234A, 234B, 234C and 244A of the Act in respect of 4,767 assessment cases<sup>70</sup> involving tax effect of

66 7,040 cases comprise 4,810 unique assesseees

67 For FY 2016-17 and FY 2017-18 processed/completed through AST; 6,217 cases comprise 4,551 unique assesseees

68 For FY 2018-19 processed/completed through ITBA; 496 cases comprise 354 unique assesseees

69 Overall tax effect with respect to 7,385 cases is ₹ 20,51,183.77 lakh; however, 7,385 includes 958 cases pertaining to same assessee for same AY but assessed separately, thus the effective tax effect is ₹ 19,09,054.91 lakh

70 7,385 instances pertaining to 4,767 assessments cases comprising 3,486 unique assessee

₹ 19,09,054.91 lakh<sup>71</sup> and blockade of refund/avoidable payment of interest amounting to ₹ 4,39,571.21 lakh/₹ 5,274.59 lakh. We also noticed systemic issues where wrong amount of interest was calculated through AST system in 1,400 cases, 1,744 cases, 1,900 cases and 1,585 cases with respect to interest under sections 234A, 234B, 234C and 244A of the Act respectively.

In addition, we noticed instances of incorrect calculation of interest through Income Tax Business Application (ITBA), which was adopted after re-writing the business process of AST in 2017. We also found errors in calculation of interest under sections 234A, 234B and 234C of the Act during our regular compliance audit conducted for the period 2018-19. Of the 496 cases that were processed/completed through ITBA in FY 2018-19, in 32 cases, we found that the interest was wrongly calculated involving a tax effect of ₹ 2,297.95 lakh<sup>72</sup>.

During our regular compliance audit conducted for the period 2018-19, we found 134 cases involving tax effect of ₹ 1,10,269.82 lakh<sup>73</sup> related to errors in calculation of interest under sections 234A, 234B and 234C of the Act.

Findings in respect of 6,217 audited cases (AST cases processed/completed in FY 2016-17 and FY 2017-18), have been discussed from **para 5.8.1 to para 5.8.4** of this report. Further, findings in respect of ITBA cases have been discussed in **para 5.8.5** and findings of cases noticed during our regular compliance audit have been discussed in **para 5.8.6** of this report.

We referred this report to the Ministry of Finance in April 2020 for its comments. Response of the Ministry was awaited (June 2020).

### **5.8.1 Incorrect calculation of interest through System (AST)**

All Income Tax Returns (ITRs) are first summarily processed under section 143(1) at Centralized Processing Centre (CPC), Bengaluru before scrutiny assessments, thus all data pertaining to summary assessments are directly captured in AST. The work of processing, rectification, completion of assessment order in respect of scrutiny cases is done by AOs in AST module, part of ITD module, for all returns transferred from CPC. AST, inter alia, undertakes assessment functions of calculation of tax and calculation of interest under various sections of the Act. In the case of scrutiny assessment,

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71 Short levy of interest amounting to ₹ 1,46,462.46 lakh and excess levy of interest amounting to ₹ 14,46,070.93 lakh under sections 234A, 234B and 234C; short payment of interest amounting to ₹ 1,11,141.46 lakh and excess payment of interest amounting to ₹ 205380.06 lakh under section 244A

72 Short levy of interest amounting to ₹ 284.29 lakh and excess levy of interest amounting to ₹ 1,635.24 lakh under sections 234A, 234B and 234C; short payment of interest amounting to ₹ 370.91 lakh and excess payment of interest amounting to ₹ 7.52 lakh under section 244A

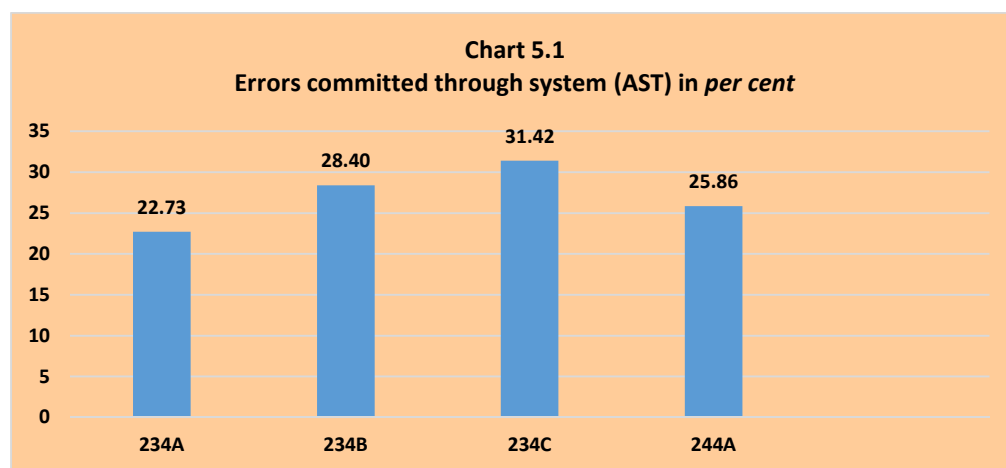
73 Short levy of interest amounting to ₹ 65,796.38 lakh and excess levy of interest amounting to ₹ 44,473.44 lakh under sections 234A, 234B and 234C

rectification, appeal effect orders in the field offices, figures are data-fed to the system by AOs based on the orders. With the new figures entered into different heads of income under additions, computation sheet for final demand is generated.

We examined calculation of interest, under sections 234A, 234B, 234C and 244A of the Act, done through AST system. In 1,400 cases, 1,744 cases, 1,900 cases and 1,585 cases with respect to interest under sections 234A, 234B, 234C and 244A of the Act respectively<sup>74</sup>, it was found that wrong amount of interest was calculated through system. Details of incorrect amount of interest calculated through system is shown in the Table 5.1 below:

Table 5.1: Incorrect amount of interest calculated through system (₹ in lakh)				
	Short calculation		Excess calculation	
	Number of cases	Amount	Number of cases	Amount
Interest under section 234A	419	12,561.10	981	58,306.18
Interest under section 234B	593	1,72,452.05	1,151	5,85,792.92
Interest under section 234C	696	24,640.48	1,204	1,43,547.74
Interest under section 244A	1,103	2,09,880.50	482	1,50,138.59

Trend of error committed through system (in *per cent*)<sup>75</sup> in calculating interest is shown in chart below:



Thus, percentage of error committed through system in calculating interest was significantly high with respect to sections 234C and 234B of the Act which was more than 31 *per cent* and 28 *per cent*, respectively, of the total cases.

74 We noticed errors in levy of interest in 2,921 cases under one section, 831 cases under two sections, 524 cases under three sections and 108 cases under all four sections (234A/234B/234C/244A).

75 1,400 cases out of 6,160 cases for section 234A; 1,744 cases out of 6,140 cases for section 234B; 1,900 cases out of 6,048 cases for section 234C and 1,585 cases out of 6,129 cases for section 244A

We noticed that 774 cases were processed under section 143(1) of the Act (summary assessment) and 5855 were assessed under other sections of the Act<sup>76</sup> (non-summary assessments). The percentage of errors committed through system in cases processed under section 143(1) of the Act, were 27.71 per cent<sup>77</sup>, 6.59 per cent<sup>78</sup>, 3.58 per cent<sup>79</sup> and 12.81 per cent<sup>80</sup> in respect of interest levied under section 234A, 234B, 234C and 244A, respectively. As the processing of ITRs was automated and was centrally done through CPC Bengaluru, the probability of occurrence of errors in levy of interest through AST systems should be 'nil' in such cases.

We further segregated the interest calculated incorrectly through the system, PAN category wise and compared it with total audited cases<sup>81</sup> (which was also segregated PAN category wise). Details of percentage of error in interest calculated through system with respect to total audited cases, PAN category wise, is shown in Table 5.2 below:

Type of Assessee	No. of cases where incorrect interest under section 234A was calculated through the system	Percentage of incorrect interest under section 234A through the system to total no. of audited cases	No. of cases where incorrect interest under section 234B was calculated through the system	Percentage of incorrect interest under section 234B through the system to total no. of audited cases	No. of cases where incorrect interest under section 234C was calculated through the system	Percentage of incorrect interest under section 234C through the system to total no. of audited cases	No. of cases where incorrect interest under section 244A was calculated through the system	Percentage of incorrect interest under section 244A through the system to total no. of audited cases
1	2	3	4	5	6	7	8	9
AOP	17	0.28	21	0.34	40	0.66	33	0.54
BOI	6	0.10	4	0.07	8	0.13	11	0.18
Company	320	5.19	619	10.08	741	12.25	767	12.51
Firm	118	1.92	179	2.92	240	3.97	121	1.97
Govt. Authority							2	0.03
HUF	27	0.44	19	0.31	13	0.21	12	0.20
Artificial Juridical Person	3	0.05	4	0.07	4	0.07	3	0.05
Local Authority	2	0.03	6	0.10	3	0.05	7	0.11
Individual	894	14.51	883	14.38	800	13.23	597	9.74
Trust	13	0.21	9	0.15	51	0.84	32	0.52
<b>TOTAL</b>	<b>1,400</b>	<b>22.73</b>	<b>1,744</b>	<b>28.40</b>	<b>1,900</b>	<b>31.42</b>	<b>1,585</b>	<b>25.86</b>

76 Sections 144, 154, 155, 250, 254, 262, 263, 264, 143(3), 147, 153C, 153A and 260 A of the Income Tax Act, 1961.

77 388 cases out of 1,400 cases

78 115 cases out of 1,744 cases

79 68 cases out of 1,900 cases

80 203 cases out of 1,585 cases

81 Of the 6,217 audited cases, audit could get the required information/document from the ITD for ascertaining the amount of interest in 6,160 cases, 6,140 cases, 6,048 cases and 6,129 cases under sections 234A, 234B, 234C and 244A respectively. Therefore, audit could ascertain the amount of interest under sections 234A, 234B, 234C and 244A in 6,160 cases, 6,140 cases, 6,048 cases and 6,129 cases respectively

From the above, it can be seen that for calculating interest, the error in respect of individual assessee was on the higher side. The scale of error is significant as the individual assessee constitute more than 90 *per cent* of total taxpayers. We further segregated the number of cases in respect of individual assessee where interest was short/excess levied through the system, which is shown in the Table 5.3 below:

Table 5.3: Incorrect interest calculated through the system, pertaining to individual assesseees						
Section	Total no. of Cases (individual assessee) where interest was calculated through the system	Short levy of interest (no. of cases)	Excess levy of interest (no. of cases)	% of no. of excess levy to no. of individual cases where wrong interest was calculated through the system		
1	2	3	4	5		
234A		894	275	619	69.24	
234B		883	315	567	64.29	
234C		800	210	590	73.75	
<b>Total</b>		<b>2,577</b>	<b>800</b>	<b>1,776</b>	<b>68.92</b>	

Thus, 68.92 *per cent* of cases with respect to individual assesseees were levied interest at excess amount through the system. Amount of excess levy of interest was charged against the individual assessee upto ₹ 803.35 lakh under section 234A of the Act, ₹ 2,728.31 lakh under section 234B of the Act and ₹ 559.59 lakh under section 234C of the Act, causing unnecessary harassment and hardship to the assessee.

We further examined the reason behind the incorrect calculation of interest through AST system and explanation from the ITD was sought in this regard. Though the ITD furnished the reply in 1,851 cases<sup>82</sup>, the reply was not specific to root cause of the deficiency in system and was only general in nature. One of the major reasons furnished by ITD was that the interest was wrongly calculated due to system error.

However, during the course of the audit, on comparison of the ITR, assessment order and the figures available in AST system, we found that:

- ❖ Of the 1,400 cases with respect to incorrect interest calculated through the system, under section 234A of the Act, system did not capture the tax amount/advance tax/TDS/TCS in 125 cases. Further, in 461 cases, system failed to compute the correct period of delay in filing of return. In 115 cases, though the system captured the tax component and period of delay of filing of return correctly, amount

82 Reply furnished in respect of 362 cases against 234A, 378 cases against 234B, 399 cases against 234C and 712 cases against 244A

of interest under section 234A of the Act was calculated through the system incorrectly.

Further analysis of 476 cases pertaining to capturing of incorrect period of delay through the system, revealed that period of delay reckoned through the system less than actual was ranging from one month to more than 36 months in 339 cases and period of delay reckoned through the system more than actual was ranging from one month to more than 36 months in 137 cases. Details are as follows:

<b>Table 5.4: Period of delay reckoned less/more than actual through system resulting in incorrect calculation of interest under section 234A of the Act</b>			
<b>Range of delay</b>	<b>No. of cases (period of delay reckoned less than actual)</b>	<b>No. of cases (period of delay reckoned more than actual)</b>	<b>Total no. of cases</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
≤12 months	263	79	342
>12 months and ≤24 months	50	18	68
>24 months and ≤36 months	3	7	10
More than 36 months	23	33	56
<b>Total</b>	<b>339</b>	<b>137</b>	<b>476</b>

As such, in 134 cases out of 476 cases (constituting 28.15 per cent), system calculated incorrect amount of interest by capturing the period with a difference of more than 12 months and thus levied short/excess amount of interest for significant amount.

- ❖ With respect to section 234B of the Act, out of the 1,744 cases, system failed to capture the tax amount/TDS/TCS/SAT in 364 cases. In 130 cases, the system failed to capture the period of default correctly. Further, in 304 cases, though the system captured the tax component and period of default correctly, amount of interest under section 234B of the Act was calculated through system incorrectly.
- ❖ Of the 1,900 cases with respect to incorrect interest under section 234C of the Act, calculated through the system, the system did not capture the tax amount in 409 cases. Further, in 212 cases, system failed to capture the correct period of deferment of tax. We also found in 253 cases, where the system captured the tax component and period of interest payable, however, amount of interest under section 234C of the Act was calculated through system, incorrectly.
- ❖ Of the 1,585 cases with respect to incorrect interest under section 244A of the Act calculated through the system, the system failed to capture the tax amount/advance tax/TDS/TCS in 203 cases. We also found in 66 cases, where the system captured the tax component and period for which the interest was payable to assessee correctly,



however, amount of interest under section 244A was calculated through system, incorrectly. We also found 60 cases pertaining to period for which granting of refund due to assessee was delayed.

Thus, from the above, it can be seen that system failed to capture tax amount/TDS/TCS vis-à-vis period of delay/default which resulted in incorrect calculation of interest under sections 234A, 234B, 234C and 244A. As the AST system was designed to automatically take details of advance tax/TDS/TCS from other modules of IT Application, non-capture of such details indicates deficiency in the system. Further, where such details were captured correctly, incorrect interest was calculated through the system. This had an impact on final demand/refund due to the assessee.

In our earlier Performance Audit Report on 'IT Applications in Income Tax Department'<sup>83</sup>, we had highlighted the shortcoming in AST module and had recommended that 'Ministry may strengthen IT systems and iron out the incongruence between critical IT modules so that intended results are delivered'. The ministry had submitted to the Public Accounts Committee (PAC) that "the Department has started the process of re-writing the business processes of the AST and other modules of the Income Tax Department and bringing them under one common architecture through a project called the Income Tax Business Application"<sup>84</sup>. However, the fact remains that the AST was in operation till 2017-18 and the department did not ensure that the existing deficiencies were addressed for the assessments during these years, before they implemented ITBA. Further, even in ITBA, there have been instances of incorrect calculation of interest as brought out in para 5.8.5 of this report.

### **5.8.2 Failure of AOs in rectifying the incorrect interest calculated through the system**

AST module allows the AOs to modify the value of interest under sections 234A, 234B, 234C and 244A of the Act under the head 'Modified' wherein the value of interest can be changed (increased/ decreased) and calculation is done in accordance with the provisions of the Act. We found cases where the AOs did not utilise the 'modified' feature of the AST to rectify the incorrect calculation of interest through the system. Further, we also found other cases where the AOs misused the modification feature to levy wrong amount of interest. The number of such cases have been shown in Table 5.5 below:

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83 Report No. 23 of 2012-13, for the year ended March 2012; report tabled on the floor of the Parliament on 30 April 2013

84 The second report of the PAC 2014-15 (Sixteenth Lok Sabha) on IT Applications in IT Department, submitted to Lok Sabha and Rajya Sabha on 25-11-2014.

Table 5.5: Incorrect interest calculated through the system either not modified or modified incorrectly by AOs					
Interest under section	Incorrect interest calculated through the system (no. of cases)	Modified correctly by AOs out of column 2 (no. of cases)	Not modified by AOs out of column 2 though were incorrect (no. of cases)	Modified at incorrect amount by AOs out of column 2 (no. of cases)	
1	2	3	4	5	
234A	1,400	665	258	477	
234B	1,744	822	265	657	
234C	1,900	1,001	360	539	
244A	1,585	426	588	571	
<b>Total</b>	<b>6,629</b>	<b>2,914</b>	<b>1,471</b>	<b>2,244</b>	

It can be seen that the AOs modified the incorrect computation through the system in 5,158 (2,914+2,244) cases. However, more than 43 *per cent* of these modifications by the AOs were incorrect. Further, AOs did not correct 1,471 cases. Audit findings with respect to column 4 and column 5 of Table 5.5 above are discussed in the succeeding paragraphs.

#### 5.8.2.1 AOs did not use modification feature to correct the incorrect interest through the system

Audit examined the cases where the **incorrect interest** was calculated through the system (as discussed in para 5.8.1) to see whether AOs had taken corrective measures against such cases and modified it correctly. However, audit found in 1,471 cases where AOs did not take any action on incorrect interest, calculated through the system, to rectify it. Further details of 1,471 cases are shown in **Table 5.6** (cases related to short levy/payment of interest) and **Table 5.7** (cases related to excess levy/payment of interest) as below:

Table 5.6: Short levy/payment of interest where AOs did not modify the incorrect interest calculated through the system				
Interest under section	Number of cases where AOs did not modify the incorrect interest calculated through the system	Short levy/ payment <sup>85</sup> of interest (no. of cases)	Short levy/ payment of interest (amount ₹ in lakh)	
1	2	3	4	
234A	258	57	292.37 <sup>86</sup>	
234B	265	100	18,805.95	
234C	360	124	2,365.45	
244A	588	500	53,251.90	
<b>Total</b>	<b>1,471</b>	<b>781</b>	<b>74,715.67</b>	

85 Levy in respect of interest under sections 234A, 234B and 234C; payment in respect of interest under section 244A

86 Actual Money Value involved is ₹ 282.70 lakh as the two assesseees were assessed for same AYs passed under different assessment orders

Thus, failure of AOs to take the corrective action against incorrect interest calculated through the system had resulted in short levy of interest leading to undue benefit and potential gain to assessee as well as loss of revenue. Further, short payment of interest under section 244A of the Act had resulted in avoidable hardship and harassment to the assessee. One instance of short levy of interest is given below:

**(a) Charge: Pr. CIT-Central-3, Kolkata, West Bengal; AY 2010-11**

The AO assessed the income of the assessee company under section 144/147 of the Act in December 2017 at income of ₹ 126.93 lakh. Audit noticed that instead of calculating correct amount of interest under section 234B of the Act at ₹ 26.87 lakh, interest was calculated through the system under the said section at ₹ 19.52 lakh. Audit further noticed that AO did not modify the incorrect interest to rectify it, which resulted in short levy of interest of ₹ 7.35 lakh. *ITD replied (October 2019) that error in computation of interest under section 234B was due to some technical error in the system and the same was corrected as per provisions of the Act.*

We also found cases where, inaction on part of the AOs against incorrect interest calculated through the system, resulted in excess levy of interest having potential impact on withholding of refund/ excess payment out of exchequer in the form of interest on refund, apart from undue hardships/ harassment of assesseees. Excess payment of interest under section 244A of the Act had resulted in loss of revenue. Section wise details of such cases have been shown in the Table 5.7 given below:

Table 5.7: Excess levy/payment of interest where AOs did not modify the incorrect interest calculated through the system				
Interest under section	Number of cases where AO did not modify the incorrect interest calculated through the system	Excess payment of interest (no. of cases)	Excess levy/ payment of interest (amount ₹ in lakh)	
1	2	3	4	
234A		258	201	5,773.96
234B		265	165	70,992.96
234C		360	236	21,593.37
244A		588	88	8,654.45
<b>Total</b>		<b>1,471</b>	<b>690</b>	<b>1,07,014.74</b>

The issues related to AST system were highlighted in our earlier report<sup>87</sup> wherein the need for strengthening the IT system of the department was emphasised. Thus, AOs should have re-verified the interest and tax calculated through the system, as the shortcomings in system were known to the department. However, no action had been taken by the AOs to rectify the

<sup>87</sup> Report No. 23 of 2012-13, for the year ended March 2012

incorrect interest calculated through the system leading to incorrect levy/payment of interest.

### 5.8.2.2 Errors in calculation of interest by AOs while rectifying incorrect interest calculated through the system using modification feature

Audit found in 2,244 cases where AOs used the modification feature to rectify the incorrect interest calculated through the system but modified it at incorrect amount of interest. Further details of 2,244 cases are shown in **Table 5.8** (cases related to short levy/payment of interest) and **Table 5.9** (cases related to excess levy/payment of interest) below:

<b>Table 5.8: Short levy/payment of interest where interest calculated through the system as well as by AOs was incorrect</b>				
<b>Interest under section</b>	<b>Number of cases where AO modified the interest amount incorrectly</b>	<b>Short levy/ payment of interest (no. of cases)</b>	<b>Amount of short levy/ payment of interest (amount ₹ in lakh)</b>	
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	
234A	477	281	3,325.93	
234B	657	335	1,05,528.64	
234C	539	275	2,969.33	
244A	571	329	57,591.13	
<b>Total</b>	<b>2,244</b>	<b>1,220</b>	<b>1,69,415.03</b>	

Thus, failure of AOs in modifying the incorrect interest (as calculated through the system) at correct amount resulted in the short levy of interest leading to undue benefit and potential gain to assessee as well as loss to revenue. Further, short payment of interest under section had resulted in avoidable hardship and harassment to the assessee. Two instances where incorrect modification by AOs of incorrect interest calculated through the system led to short levy of interest are given below:

#### (a) Charge: Pr. CIT-Central-2, Kolkata, West Bengal; AY 2013-14

The case of the assessee company was processed under section 143(1) of the Act in August 2014 at income of ₹ 549.07 lakh and tax of ₹ 178.15 lakh thereon. The AO, further, assessed the income of the assessee under section 143(3)/153A of the Act in March 2016 at income of ₹ 1,768.55 lakh which was further rectified under section 154 of the Act in April 2016 at income of ₹ 1,675.92 lakh and tax of ₹ 543.75 lakh thereon. Audit noticed that the assessee, in response to notice under section 153A of the Act, filed its return of income after delay of six months. However, interest under section 234A of the Act was calculated through the system at ₹ 76.78 lakh instead of correct amount of ₹ 21.93 lakh<sup>88</sup>. The AO, further modified the interest amount at nil resulting in non levy of interest at ₹ 21.93 lakh. Reasons for carrying out the

88 Six per cent on enhanced tax of ₹ 365.60 (₹ 543.75-₹ 178.15)

incorrect modifications in AST system by the AOs could not be ascertained by audit, as there was no provision in the AST module to capture the reasons behind changes made by AOs.

**(b) Charge: Pr. CIT-IV, Pune, Maharashtra; AY 2010-11**

The assessment of the assessee company was rectified under section 154 of the Act in June 2016 at an income of ₹ 27,139.76 lakh. Audit noticed that the correct amount of interest of ₹ 336.59 lakh under section 234C of the Act was offered by assessee at the time of filing of return of income. However, interest of ₹ 347.21 lakh under the said section was calculated through the system against the correct amount of ₹ 336.59 lakh. The AO, further modified it to ₹ 186.42 lakh. The error had resulted in short levy of interest under section 234C of the Act of ₹ 150.17 lakh (₹ 336.59 lakh – ₹ 186.42 lakh) due to modification done by AO. Further, audit could not ascertain the reasons for carrying out the incorrect modifications in AST system by the AOs as there was no provision in the AST module to capture the reasons behind changes made by AOs.

Further, section wise details of **1,024 cases**, where AO's modification in incorrect interest calculated through the system led to excess levy/payment of interest is shown in Table 5.9 below:

Table 5.9: Excess levy/payment of interest where interest calculated through the system as well as by AOs was incorrect				
Interest under section	Number of cases where AO modified the amount incorrectly	Excess payment of interest (no. of cases)	levy/ payment of interest	Excess levy/ payment of interest (amount ₹ in lakh)
1	2	3	4	5
234A	477	196		9,357.25
234B	657	322		2,36,664.94
234C	539	264		1,27,682.28
244A	571	242		1,58,317.21
<b>Total</b>	<b>2,244</b>	<b>1,024</b>		<b>5,32,021.68</b>

Thus, AOs intervention, where the incorrect interest was computed through the system, led, to excess levy of interest having potential impact on withholding of refund/excess payment out of exchequer in the form of interest on refund, apart from undue hardships/ harassment of assesseees in case of excess levy of interest. Further, excess payment of interest under section 244A of the Act had resulted in loss to revenue. One instance where interest calculated through the system as well as by the AO was incorrect leading to excess levy of interest is given below:

**(a) Charge: Pr. CIT-Central-I, Kolkata, West Bengal; AY 2010-11**

The AO assessed the income of the assessee company under section 143(3)/153A of the Act in December 2016 at nil income. As such, interest

under section 234B of the Act was not leviable since the assessed income was at nil amount. However, interest under section 234B of the Act was calculated through the system, amounting to ₹ 165.93 lakh resulting in overcharge of tax of ₹ 165.93 lakh. Further, the AO, instead of modifying the interest amount at zero, modified it at ₹ 768.15 lakh, as a result of which, over charge of interest amount was increased from ₹ 165.93 lakh to ₹ 768.15 lakh. Further, audit could not ascertain the reasons for carrying out the incorrect modifications in AST system by the AOs as there was no provision in the AST module to capture the reasons behind changes made by AOs.

### 5.8.3 Manual intervention and modification by AOs in correct interest calculated through the system

Where the correct amount of interest was calculated through the system, there was no scope for manual intervention and modification in the interest calculated through the system. However, we found instances where AOs manually modified the interest amount even though correct amount of interest was calculated through the system. Details of such cases have been shown in Table 5.10 below:

Table 5.10: Instances of modification by AOs in correct interest calculated through the system			
Interest under section	Correct interest calculated through the system (no. of cases)	Correct interest calculated through the system modified incorrectly by AOs (no. of cases)	
1	2	3	
234A	4,760	1,003	
234B	4,396	1,180	
234C	4,148	654	
244A	4,544	833	
<b>Total</b>	<b>17,848</b>	<b>3,670</b>	

5.8.3.1 Further, section wise details of cases, where AOs unwarranted modification in the **correct** interest calculated through the system led to **short levy/payment of interest** is shown in Table 5.11 below:

Table 5.11: Short levy/payment of interest with respect to cases where correct interest calculated by the system was modified incorrectly by AOs			
Interest under section	Modified incorrectly by AO (no. of cases)	Short levy/ payment of interest (no. of cases)	Short levy/ payment of interest (₹ in lakh)
1	2	3	4
234A	1,003	175	643.06
234B	1,180	105	36,160.06
234C	654	188	28,804.45
244A	833	134	1,303.15
<b>Total</b>	<b>3,670</b>	<b>602</b>	<b>66,910.72</b>

Thus, unwarranted modification by AOs in the correct interest calculated by the system resulted in short levy of interest leading to undue benefit and

potential gain to assessee as well as loss to revenue. Further, short payment of interest under section 244A of the Act had resulted in avoidable hardship and harassment to the assessee. One instance of short levy of tax is given below:

**(a) Charge: Pr. CIT-II, Kanpur, Uttar Pradesh; AY 2015-16**

The assessment of the assessee company was rectified under section 154 of the Act in March 2018 at an income of ₹ 60,577.02 lakh. It was noticed from the screen shot of the order that tax liability after giving credit to all pre-paid taxes was ₹ 20,590.44 lakh. As such, interest under section 234B of the Act amounting to ₹ 6,794.03 lakh was payable by the assessee which was calculated through the system at the correct amount. Though the correct amount of interest was calculated through the system, the AO manually modified the interest amount at nil, which resulted in short levy of interest of ₹ 6,794.03 lakh. *ITD replied (September 2019) that the error had been rectified.* However, ITD did not furnish any reason why the AO manually modified the correct interest calculated through the system.

Further, section wise details of cases where AOs unwarranted modification of the **correct** interest calculated through the system led to **excess levy/ payment of interest** are shown in Table 5.12 below:

<b>Table 5.12: Excess levy/payment of interest with respect to cases where correct interest calculated through the system was modified incorrectly by AO</b>				
<b>Interest under section</b>	<b>Modified by AO (no. of cases)</b>	<b>incorrectly</b>	<b>Excess levy/ payment of interest (no. of cases)</b>	<b>Excess levy/ payment of interest (amount ₹ in lakh)</b>
<b>1</b>	<b>2</b>		<b>3</b>	<b>4</b>
234A		1,003	828	1,25,694.69
234B		1,180	1,075	8,56,674.23
234C		654	466	77,158.39
244A		833	699	41,578.62
<b>Total</b>		<b>3,670</b>	<b>3,068</b>	<b>11,01,105.93</b>

Thus, AOs unwarranted intervention, where the correct interest was calculated through the system, led, to excess levy of interest having potential impact on withholding of refund/excess payment out of exchequer, apart from undue hardships/ harassment of assesseees in case of excess levy of interest. Excess payment of interest under section 244A of the Act had resulted in loss to revenue. One instance where AO modified the correct interest calculated through the system that led to excess levy of interest is given below:

**(a) Charge: Pr. CIT-II, Lucknow, Uttar Pradesh; AY 2015-16**

The AO assessed the income of an Individual in December 2016 after scrutiny at an income of ₹ 22,091.78 lakh. It was observed from the screen shot of the

order that interest under section 234A of the Act amounting to ₹ 525.49 lakh was payable by the assessee which was calculated through the system at correct amount. Though the correct amount of interest was calculated through the system, the AO manually modified this interest amount at ₹ 1,276.19 lakh resulting in excess levy of interest of ₹ 750.70 lakh. *ITD rectified the error under section 154 of the Act (January 2017)*. However, ITD did not furnish any reason why the AO manually modified the correct interest calculated through the system.

**5.8.3.2** It is seen further, from the **Table 5.11 and Table 5.12 above** that the number of cases where excess interest (**2,369 cases**) was levied by the AOs against correct interest calculated through the system was on much higher side as compared to number of cases where the interest was short levied (**468 cases**). We further analysed the number of cases vis-à-vis amount of excess levy of interest (**under sections 234A, 234B and 234C-column 3 and column 4 of Table 5.12 above**) and short payment of interest (**under section 244A-column 3 and column 4 of Table 5.11 above**) with respect to assessee's status. The details are shown in Table 5.13 below:

Table 5.13: Distribution of number of cases vis-à-vis amount of excess levy/ short payment of interest-status wise								
Status/ Particulars	Excess levy of interest under section 234A (No. of cases)	Excess levy of interest under section 234A (Amount- ₹ in lakh)	Excess levy of interest under section 234B (No. of cases)	Excess levy of interest under section 234B (Amount- ₹ in lakh)	Excess levy of interest under section 234C (No. of cases)	Excess levy of interest under section 234C (Amount - ₹ in lakh)	Short payment of interest under section 244A (No. of cases)	Short payment of interest under section 244A (Amount- ₹ in lakh)
1	2	3	4	5	6	7	8	9
AOP	25	4,695.44	13	1,767.20	6	1,177.35	1	0.04
Company	299	105,964.13	529	845,105.22	175	7,1043.83	10	1,272.67
Firm	85	3,308.38	73	4,732.94	41	1,209.61	6	0.29
Govt. Authority	1	0.11	2	10.00	1	7.07	3	3.96
HUF	8	0.57	7	7.40	4	0.02	2	0.14
AJP	2	162.1						
Local Authority	1	24.65	2	1,539.17	5	1,643.44		
Individual	390	6,101.14	445	2,598.66	229	283.49	107	25.95
Trust	17	5,438.17	4	913.64	5	1,793.58	5	0.10
<b>Total</b>	<b>828</b>	<b>125,694.69</b>	<b>1075</b>	<b>8,56,674.23</b>	<b>466</b>	<b>77,158.39</b>	<b>134</b>	<b>1,303.15</b>



It is seen that the maximum number of modifications were done in respect of individual cases followed by company assesseees. Excess levy of interest has the direct impact on refund, if the refund is due to assessee. Else, it creates undue demand on the assesseees. As such, by way of levy of excess interest, the assesseees were put to unnecessary harassment and undue hardship, as either refund was blocked due to excess levy of interest or undue demands were raised on the assesseees. We have found such instances where the refund due to the assessee was blocked by the AOs by tweaking interest component and the same has been discussed in the para 5.8.4 given below:

#### **5.8.4 Irregularities in issue of refund**

As per provisions of section 237 of the Act, if any person satisfies the AO that the amount of tax paid by him or on his behalf or treated as paid by him or on his behalf for any assessment year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of the excess.

As such, in cases where the aggregate of advance tax, regular tax, tax deducted at source etc. so collected exceeds the tax determined on completion of the assessment, then the assessee is entitled for refunds. Timely disposal of refund claims is a key measure of the operational efficiency of tax administration. Prompt refunds instil confidence among taxpayers and increase tax compliance.

Citizen's Charter 2014 of Income Tax Department commits issue of refund including interest under section 143(1) and proceedings other than section 143(1) of the Act within six months and one month respectively from the date of processing/completion of order.

##### **5.8.4.1 Blockade of refund by way of unwarranted modification by AOs in the interest component causing hardship and harassment to taxpayers**

Audit noticed 1,130 instances<sup>89</sup> where modification by AOs in interest amount resulted in blockade of refund amounting to ₹ 4,39,571.21 lakh which was due to be payable to the concerned assessee. This was done by AO through manual modification in the interest under sections 234A, 234B and 234C of the Act at excess amount thereby creating unreasonable demand and as a result of this, the refund due to the assessee was denied, apart from violation of sections 234A, 234B and 234C of the Act.

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<sup>89</sup> The overall blockade of refund in respect of 1,130 cases is ₹ 4,39,571.21 lakh; however, 1,130 cases includes 35 cases pertaining to same assessee for same AY but assessed separately

We segregated the 1,130 instances into PAN category wise vis-à-vis amount of blocked refund, details shown in Table 5.14 below:

Table 5.14: Details of cases of blocked refund-PAN category wise		
Type of Assessee	Amount of blocked refund (₹ in lakh)	No. of Cases
1	2	3
AOP	2,761.45	19
Company	4,15,787.61	610
Firm	7,585.35	85
Govt. Authority	17.06	1
HUF	47.54	2
Artificial Juridical Person	161.44	3
Local Authority	1,411.76	3
Individual	7,079.18	395
Trust	4,719.82	12
<b>Total</b>	<b>4,39,571.21</b>	<b>1,130</b>

From the above, it can be seen that majority of the cases where the refund was blocked pertained to companies, individuals and firms. However, the maximum amount of blocked refund pertained to companies only. Of the 1,130 blocked refund cases, we found that 197 cases were processed under section 143(1)<sup>90</sup> of the Act and 660 cases were processed under section 143(3)<sup>91</sup> of the Act, wherein by way of modification in the interest component, refund of ₹ 96,662.32 lakh and ₹ 2,10,788.58 lakh, respectively, was blocked.

Processing of ITRs under section 143(1) of the Act, through CPC Bengaluru, is supposed to be automated. Details of cases processed under section 143(1) of the Act, with reference to range of amount are shown in Table 5.15 below:

Table 5.15: Blocked refund cases processed under section 143(1) of the Act		
Range of Amount (in ₹ )	Number of blocked refund cases	Amount of blocked refund (₹ in lakh)
1	2	3
≤10000	73	2.17
>10000 and ≤100000	68	23.04
>100000 and ≤500000	14	28.93
>500000	42	96,608.18
<b>Total</b>	<b>197</b>	<b>96,662.32</b>

Out of the 197 cases, there were 40 cases of company assesseees and 149 cases of individual assesseees whose refunds amounting to ₹ 93,785.82 lakh and ₹ 2,450.21 lakh, respectively, were blocked.

Six instances where AOs had blocked the refund of the assessee are discussed below:

90 Cases under section 143(1) are processed through CPC-Bengaluru

91 Cases under section 143(3) are scrutiny assessments completed by the assessing officer

**(a) Charge: Pr. CIT (Int. Tax)-III; DDIT(Int. Tax)- Noida AY: 2015-16**

The assessment of the assessee company was processed under section 143(1) of the Act in March 2017 wherein the AST system calculated interest under section 234B of the Act at nil, as the same was not leviable. Audit noticed that at the time of assessment under section 143(1) of the Act, the assessee had TDS credit of ₹ 19,369.84 lakh against the tax due amounting to ₹ 1,995.10 lakh. However, instead of issuing the refund amount of ₹ 17,374.74 lakh (₹ 19,369.84 lakh – ₹ 1,995.10 lakh) to the assessee, the AO modified the interest under section 234B of the Act at ₹ 17,374.74 lakh which resulted in blockade of refund. *ITD, in its reply, stated (November 2019) that the matter is sub-judice and proceedings for different years are pending before Hon'ble High Court. Any rectification, if required, will be made as per decision of Hon'ble High Court.* However, ITD did not furnish the reason behind modification in the interest amount, which was not warranted.

**(b) Charge: Pr. CIT (Int. Tax)-III, DDIT(Int. Tax)-I-Dehradun; AY: 2010-11**

In the case of an assessee company, an appellate order under section 254 of the Act was implemented in November 2017 wherein interest under section 234B of the Act was calculated through AST system at nil. Audit noticed that the company had total tax credit of ₹ 62,532.21 lakh consisting of TDS credit of ₹ 16,830.73 lakh, advance tax credit of ₹ 43,437.49 lakh and other tax credits ₹ 2,263.99 lakh against the tax due amounting to ₹ 50,577.28 lakh. However, instead of issuing the refund of ₹ 11,954.93 lakh (₹ 62,532.21 lakh – ₹ 50,577.28 lakh) to the assessee, the AO modified the interest under section 234B of the Act of the same amount, which resulted in blockade of refund.

**(c) Charge: Pr. CIT IX, Mumbai; AY: 2015-16**

The AO completed the scrutiny assessment of the assessee company in December 2017 under normal provisions at nil income and under special provision (Section 115JB of the Act) at book profit of ₹ 9,517.65 lakh. Audit noticed that the company had TDS credit of ₹ 7,666.47 lakh against the demand of ₹ 1,994.95 lakh. However, instead of issuing refund of ₹ 5,671.52 lakh (₹ 7,666.47 lakh – ₹ 1,994.95 lakh), the AO modified the interest under section 234B of the Act of the same amount which indicates that AO intentionally modified the interest amount just to block the refund that was due to the assessee. The rectification under section 154 of the Act was done in December 2018 to issue the refund of ₹ 5,671.52 lakh including avoidable payment of interest of ₹ 170.15 lakh.

**(d) Charge: Pr. CIT (Central)-3, Delhi; AY: 2015-16**

The AO completed the scrutiny assessment in October 2017 under normal provisions at nil income and under special provision (Section 115JB of the Act) at book profit of ₹ 12,755.93 lakh. Audit noticed that the company had filed its return of income on September 2015 i.e. within the prescribed time limit as stipulated in section 139(4) of the Act. As such, the assessee was not liable to pay interest under Section 234A of the Act. Audit examination revealed that though no interest under section 234A of the Act was computed through the system, AO modified it through manual intervention and levied the interest under this section amounting to ₹ 1,563.74 lakh without giving any justification in its assessment order. It was further noticed from Income Tax Return (ITR) of the assessee that the assessee had claimed the same amount of ₹ 1,563.74 lakh as a refund.

Audit further noticed that the ITD rectified the error when the assessee filed its grievance on Centralized Public Grievance Redress and Monitoring System (CPGRAMS) in February 2018. ITD issued the refund of ₹ 1,837.39 lakh in April 2018, which included interest under section 244A of the Act of ₹ 273.65 lakh including avoidable payment of interest of ₹ 39.09 lakh.

*The ITD in its reply (October 2019) stated that the modification of the interest under section 234A of the Act was an error of data feeding due to human error. Subsequently, rectification order under Section 154 was passed in April 2018 and thereafter the refund as claimed by the assessee was granted and issued.*

The reply was unacceptable as the refund was withheld with the directions of the PCIT (Central-3) at the time of assessment. Thus, the action of the ITD is affirmative of harassment and financial hardship to the compliant tax payer.

**(e) Charge: Pr. CIT (Central)-3, Delhi; AY: 2014-15**

In this case, a rectification order under section 154 of the Act was passed on May 2017 at an income of ₹ 221.92 lakh under normal provisions and ₹ 1084.79 lakh under special provisions of the Act with a tax liability of ₹ 227.37 lakh thereon. As per the snapshot of order under Section 154 of the Act, the TCS/TDS of ₹ 1243.96 lakh was available to the company, therefore, the company was not liable to pay the interest under section 234C of the Act. No interest under section 234 C was computed through the AST, as shown in snapshot, as it was not due from the assessee. The AO, however, levied interest under section 234C of the Act amounting to ₹ 966.58 lakh through manual modification without giving any justification. Audit further noticed that the ITD rectified the error only after the assessee filed repeated requests for refund and finally took up the grievance on CPGRAMS in April 2018. The process of refund of ₹ 966.58 lakh including avoidable payment of interest of

₹ 125.66 lakh was initiated by the ITD in May 2018. Thus, the AO resorted to manual intervention in the system to block the refund which was due to assessee.

**(f) Charge: Pr. CIT (Central)-2, Delhi; AY: 2014-15**

AO completed the scrutiny assessment in March 2016 at a loss of ₹ 12,485.58 lakh. As the assessment was made at a loss, therefore, the company was not liable to pay the interest under section 234B of the Act. It was further noticed from the ITR filed by the assessee that the assessee had claimed the tax credit of TDS amounting to ₹ 2,711.96 lakh as a refund. But, AO modified the interest component through manual intervention and levied interest of ₹ 2,695.29 lakh under section 234B of the Act and ₹ 16.66 lakh as dividend distribution tax under section 115O of the Act (which was already paid by the assessee). Thereafter, ITD passed the rectification order under section 154 of the Act in July 2016 and released the refund amounting to ₹ 2,711.96 lakh including avoidable payment of interest of ₹ 40.68 lakh. Thus, the action of AO indicates that AO resorted to manual intervention in the system to block the refund which was due to assessee.

It was evident from the above cases that, AO had withheld the refund amount admissible to the assessee by making manual modification through levy of interest to the extent of the amount of refund, when available tax credit was more than the tax or cases where no tax was leviable. It was done without entering the reason for modification in the relevant column of the AST snapshot.

Further, of the 1,130 cases where refunds were blocked by AOs by way of modifying the interest amount, audit could identify 175 cases where refunds were released to the assessee after a delay ranging from one month to 156 months. Details of such 175 cases are given in Table 5.16 below:

<b>Table 5.16: Details of cases related to blocked refund</b>			
<b>Range of delay in issuing the blocked refunds to the assesseees</b>	<b>Number of blocked refund cases</b>	<b>Amount of blocked refund (₹ in lakh)</b>	<b>Additional (avoidable) payment of interest under section 244A of the Act (₹ in lakh)</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
≤12 months	86	47,179.78	1,842.69
>12 months and ≤24 months	49	22,493.88	2,121.79
>24 months and ≤36 months	25	5,537.44	831.92
More than 36 months	15	1,983.70	478.19
<b>Total</b>	<b>175</b>	<b>77,194.80</b>	<b>5,274.59</b>

Thus, by way of irregular levy of excess interest by AOs, not only refund amount was blocked causing undue harassment and hardship to the assesseees, but it also put an additional burden on the exchequer in the form of avoidable

payment of huge amount of interest on refunds. This also led to non-adherence to the commitment made in the Citizen's Charter by the ITD, as, instead of issuing refunds to the assessee within the timeframe, refunds were blocked through manual modification by AOs in the interest component.

#### **5.8.4.2 Refund not due to the assessee issued irregularly**

In Punjab, Pr. CIT-3, Ludhiana charge, audit found in 146 cases that no refund was due to the assessee as processed under section 143(1) of the Act. However, refund amounting to ₹ 63.63 lakh was issued (from September 2016 to February 2018) to the assessee by way of rectification under section 154 of the Act. Based on the internal enquiry conducted (from January 2018 to March 2018) by the department, a First Information Report (FIR) was lodged (April 2018).

*On being pointed out by the Audit why refund was issued to such assessee against whom no refund was due, the ITD stated (in 135 cases) that these refunds were not issued by the AOs as the case was processed centrally at CPC-Bengaluru. The system was unauthorisedly accessed by the data entry operator in connivance with an advocate and issued refunds by carrying illegitimate rectifications. First Information Report (FIR) had been lodged against them.*

This points to the fact that the ITD does not have effective access control in place to manage unauthorized access to system. This also indicates inadequate internal control mechanism that do not address different security risks.

#### **5.8.5 Incorrect Interest calculated through Income Tax Business Application (ITBA)**

The essence of any robust Information Technology (IT) system is that all calculation especially, in case of interest calculation system, should be based on a proper formula fed into the system and there should be no need for carrying out any modification. In view of the above, the ITD adopted Income Tax Business Application (ITBA) module from the financial year 2017-18 to eliminate the human intervention in respect of modification of interests under sections 234A, 234B, 234C and 244A of the Act as the same prevailed in earlier software namely AST. Thereafter, the assessment proceedings in ITD are being carried out on ITBA only.

We found that of the 6,217 cases (checked by audit) which were processed through AST in FY 2016-17 and FY 2017-18, 496 cases were processed/completed through ITBA in FY 2018-19. We further examined the 496 cases which were processed through ITBA to see whether correct calculation of the interest was being done through this application. Of the 496 cases, we found

32 cases involving tax effect of ₹ 2,297.95 lakh where calculation of interest was done wrongly through ITBA. Thus, the system deficiency with respect to calculation of interest still persisted in the new application, i.e. ITBA.

Three such cases are illustrated below:

**(a) Charge: Pr. CIT-II, Mumbai; AY: 2016-17**

The AO assessed the income of a Bank after scrutiny in December 2018 through ITBA at an income of ₹ 4,177.23 lakh<sup>92</sup>. Audit noticed that the assessee had filed its return of income on the due date of filing of return, i.e. on 30 November 2016. Further, the assessee had filed its revised return of income on 27 March 2018 against the due date of 31 March 2018. As such, the interest under section 234A of the Act in respect of default in furnishing the income tax return was not leviable in the instant case. However, while calculating the tax demand generated through ITBA, interest under section 234A of the Act amounting to ₹ 395.08 lakh was levied. The error had resulted in excess levy of interest under section 234A of the Act by an equal amount.

**(b) Charge: Pr. CIT DDIT(Int)-I, Dehradun; AY: 2016-17**

The AO assessed the income of the assessee company after scrutiny in January 2019 through ITBA. Audit noticed that at the time of filing of return of income, the assessee had TDS credit of ₹ 12,628.87 lakh against tax payable of ₹ 7,549.58 lakh. Further, the computation sheet generated through ITBA depicts that the department had allowed TDS credit of ₹ 10,812.50 lakh against the tax liability of ₹ 9,147.09 lakh, therefore, there was no scope for levying the interest under section 234C of the Act. However, the ITBA module had levied the interest under section 234C of the Act amounting to ₹ 246.19 lakh. The incorrect levy of interest under section 234C of the Act by the system in ITBA module reflects the error in application part which needs improvement.

**(c) Charge: Pr. CIT (LTU) Bengaluru; AY: 2015-16**

The AO assessed the income of the assessee company after scrutiny in December 2018 through ITBA at an income of ₹ 58,754.86 lakh. Audit noticed that assessee filed its return of income on 23 November 2015 as against due date of filing of return of income on 30 November 2015. As such, the interest under section 234A of the Act in respect of default in furnishing the income tax return was not leviable in the instant case. Audit noticed that, while calculating the tax demand generated through ITBA, interest under section 234A of the Act amounting to ₹ 697.06 lakh was levied. *The ITD in its reply (November 2019) stated that in the assessment order, the interest is calculated by the ITD in an automated environment and AO has no role in computation.*

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92 Under special provision (Section 115JB of the Act)

*Thus, this mistake is not on part of AO. ITD rectified this error under section 154 of the Act in January 2019.*

In our earlier performance audit on 'IT Application in Income Tax Department' (Report no. 23 of 2012-13), Ministry after acknowledging the deficiency in AST system, had stated that Income Tax Business Application (ITBA) was being developed by ITD to replace the existing ITD Application and all issues related to existing system would be taken into consideration in the new application, i.e. ITBA. Further, in the Report of the Tax Administration Reform Commission (TARC) submitted to the Government of India on 30 May 2014, it was highlighted that core module of the ITD application, viz. AST has been patchy and uneven, leading to creation of incorrect demands in the system. It was further stated in the report that 'The CBDT, however, plans to overcome the major gaps through ITBA'.

However, observation with respect to 32 cases where calculation of interest was done wrongly through ITBA, is indicative of the fact that system deficiency with respect to calculation of interest persists in the new application, i.e. ITBA.

#### **5.8.6 Other compliance issues**

This para pertains to observation noticed during our regular audit conducted for the period 2018-19. We found 134 cases involving tax effect of ₹ 1,10,269.82 lakh with respect to interest under sections 234A, 234B and 234C of the Act.

Six such cases are illustrated below:

##### **(a) Charge: PCIT -1, Coimbatore, Chennai; AY: 2009-10**

The AO completed the assessment of the assessee company under section 144 read with section 147 of the Act in December 2016 at an income of ₹ 761.50 lakh. Audit scrutiny revealed that interest under section 234A of the Act at ₹ 20.71 lakh was computed through the system (AST) instead of ₹ 225.19 lakh for the period from October 2009 to December 2016. The error had resulted in short levy of interest under section 234A of the Act amounting to ₹ 204.48 lakh. *ITD rectified the error by passing orders under Section 154 of the Act (September 2017).*

##### **(b) Charge: PCIT (Central)-1, Delhi; AYs:1995-96, 1996-97 & 1997-98**

The AO assessed the income of an Individual for AYs 1995-96, 1996-97 and 1997-98 at ₹ 1,527.39 lakh, ₹ 5,572.94 lakh and ₹ 15,441.84 lakh in March 1998, March 1999 and March 2000 respectively. Assessee's appeals against these assessment orders before CIT (Appeals), Lucknow were finally decided by the Hon'ble Supreme Court vide its order dated 04 July 2016. The appeal effects were given by the AO in August 2016, wherein the AO wrongly used



lower rate of interest than the rate prescribed under section 234B of the Act for default in payment of advance tax by the assessee. The error had resulted in short levy of interest of ₹ 3,352 lakh. *ITD accepted (October 2017) the audit observation and rectified the error by passing orders under section 154 of the Act (September 2017).*

**(c) Charge: CIT LTU, Bengaluru, Karnataka; AY: 2015-16**

The AO completed the assessment of a Bank in December 2017 after scrutiny at an income of ₹ 7,82,161.61 lakh. Audit examination revealed that, while computing interest under section 234B of the Act, ITD short levied the interest amount by ₹ 3,934.44 lakh. *ITD rectified the error by passing order under section 154 of the Act (March 2019).*

**(d) Charge: PCIT – 4, Delhi; AY: 2015-16**

The AO assessed the income of the assessee company in December 2017 at ₹ 1,66,028 lakh and tax liability of ₹ 56,432.90 lakh thereon. Audit noticed that the AST system as well as AO had not levied the interest under section 234C of the Act, despite the fact that the advance tax paid by the assessee was less than the tax due on the returned income. The error in computing the interest resulted in short levy of tax of ₹ 955.38 lakh. This also points to the fact that ITD had failed to levy correct interest under section 234C of the Act and even the system was deficient in computing the final demand of the assessee. *ITD rectified the error (February 2019) by passing order under section 154/250 of the Act.*

**(e) Charge: PCIT –I, Bhubaneswar, Odisha; AY: 2014-15**

The AO assessed the income of the assessee company in December 2017 at an income of ₹ 1,68,887.69 lakh. Audit noticed that though the assessee company was in default in payment of instalment of advance tax, interest under section 234C of the Act was not levied. Failure on the part of ITD to adhere to provision of section 234C of the Act resulting in non-levy of interest of ₹ 111.78 Lakh. *ITD rectified the error by passing rectification order under section 154 of the Act (November 2019).*

**(f) Charge: PCIT -II, Hyderabad; AY 2008-09**

The case of assessee company was assessed under section 147 read with 143(3) of the Act in March 2016 an income of ₹ 4,094.11 lakh and a tax of ₹ 1,293.13 lakh thereon. Audit examination revealed that, instead of calculating correct amount of interest at ₹ 956.85 lakh under section 234B of the Act, interest was calculated through AST at ₹ 237.81 lakh. Further, AO did not take any action to correct the incorrect interest calculated through the system. Thus, the error in computation through the system and no remedial action taken by AO in this regard had resulted in short levy of interest ₹ 719.04

lakh. ITD rectified the error by passing order under section 154 of the Act (February 2019).

## **5.9 Conclusion**

- a) The interest was wrongly computed by ITD, in 76.68 *per cent*<sup>93</sup> of cases of the sample of 6,217 selected out of a population of 8,35,727 records, either due to systemic deficiencies or due to incorrect interventions by the AOs.
- b) Input of the other ITD module was not being captured properly in the AST system leading to incorrect computation of interest in number of cases which has an impact on final tax collection and refund.
- c) AOs did not take any step to rectify the incorrect interest, under sections 234A, 234B, 234C and 244A of the Act, calculated through the system even though AST system allowed the AOs to modify the value of interest in accordance with the provisions of the Act, thereby leading to either short levy/payment or excess levy/payment of interest.
- d) AOs modified the interest under sections 234A, 234B, 234C and 244A of the Act against the incorrect interest calculated through the system in some cases. However, not all these cases were modified at correct amount, which resulted in either short levy/payment or excess levy/payment of interest.
- e) AOs manually modified the interest amount which was not warranted in instances where correct amount of interest was calculated through the system, leading to either short levy/payment or excess levy/payment of interest causing hardship and harassment to taxpayers.

It is not clear why manual modification is permitted, that too apparently without a protocol for seeking senior level clearances if, in exceptional cases, manual intervention is required. In fact, if manual intervention at every level is needed, or continued, it either points to an ill designed IT System, or a deliberate attempt to retain discretion, for no apparent good reason.

- f) Incorrect levy of interest (excess levy) by AOs using modification feature of AST led to blockade of refunds due to the assesseees. This was not only violation of provisions of law but also resulted in non-fulfilment of Citizen's Charter. On the one hand the efficiency of the department was affected and on the other there was undue harassment to the assesseees.

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93 4,767 assessment cases out of 6,217 assessment cases which were audited

- g) All Income Tax Returns (ITRs) are first summarily processed under section 143(1) at Centralized Processing Centre (CPC), Bengaluru. Processing of ITRs by CPC is supposed to be completely automated. However, refunds of the assessee's were blocked by modifying the interest amount even in cases processed in summary manner through CPC.
- h) The net collection of taxes is computed by allowing for the refunds<sup>94</sup>. Blockade of refunds, therefore, have the result of inflating the net tax collection. Further, unreasonable tax demand from the assessee, by way of excess levy of interest, results in disputes and further snowballs into large arrears. Thus, the blockade of refund and excess demand would have consequent effect on the revenue collection of the Government.

#### 5.10 Recommendations

- a) *CBDT may institute appropriate checks and balances in Income Tax Business Application (ITBA) to prevent recurrence of error in computation of tax and interest.*
- b) *The IT system for direct taxes needs to be designed in such a way that it should ensure zero or minimal physical interface between the assessee and the tax officers. The Government may consider the IT System for direct taxes being placed at arms length from CBDT, with an independent governmental body or organisation.*
- c) *AST module allows manual modification of interest amount which resulted in errors in computation of interest. ITD needs to inquire into the reasons for errors in computation of interest through AST and reasons for allowing manual modification to co-exist with IT system.*
- d) *The system should be designed to provide audit trail for modifications, if any, being carried out by AOs. All justifications for modification by AO must be available on the system.*
- e) *CBDT may examine whether the instances of "errors" noticed are errors of omission or commission and if these are errors of commission, then ITD should ensure necessary action as per law.*
- f) *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.*

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94 Para 7.2.2. of CBDT Accounts Manual

- g) CBDT may ensure that the refund due to the assessee is released in prescribed time limit, upholding its commitment through the citizen charter, rather than to withhold/block it by manual intervention.*
- h) AO's action regarding blockade of refund as well as under charging of interest may be investigated upon.*
- i) While audit carried out test check of a sample of cases, CBDT should examine all the cases where modifications were carried out in AST to identify instances of omission and commission and take necessary action as per law.*