

Chapter 2: Tax Base of Co-operative Societies and Co-operative Banks

According to section 139(1) of the Act, a person other than a company or a firm is required to file return of income if his total income exceeds the maximum amount, which is not chargeable to income tax. Thus, it is mandatory for all the Co-operative Sector assesseees to file return of income as per provisions of the Act. The ITD has also institutionalised the Non-Filers Monitoring System (NMS) mechanism to monitor the non-filers.

Audit called for data of Co-operative Societies and Co-operative Banks from the ROCS of the respective States and Regional Office of the Reserve Bank of India, respectively, and tried to cross verify them with the data maintained in the assessment units of the ITD as well as the pan-India data provided by the DGIT(Systems). Audit also analysed and assessed the monitoring mechanism of the ITD towards ensuring that the Co-operative Societies and Co-operative Banks are compliant with the regulatory requirements. The analysis in respect of verification of regulatory compliance during assessment of entities in Co-operative Sector is elucidated in the following paragraphs.

2.1 Co-operative Societies out of Tax Net

2.1.1 The number of Co-operative Societies and Co-operative Banks as per records of the ROCS of the respective states or regions/ RBI/ NABARD and the number of Co-operative Societies and Co-operative Banks available in the data received from the DGIT (Systems) for the period 2014-15 to 2016-17 and details of confirmation on whether the Co-operative Societies/ Co-operative Banks were in the tax net/ filing ITR and the status of availability of PAN are shown in the table 2.1 below.

Table 2.1: Co-operative Societies/ Co-operative Banks as per DGIT(Systems) data vis- a vis Registering Authorities

Sl. No.	Name of the State / Region	Number of Co-operative Societies and Co-operative Banks as per records of the ROCS/ RBI/ NABARD	Number of Co-operative Societies and Co-operative Banks as per data received from DGIT (System) for the period 2014-15 to 2016-17	Percentage (number) of Co-operative Societies and Co-operative Banks not in the database of the ITD during the period 2014-15 to 2016-17
A	B	C	D	E
1	Andhra Pradesh & Telangana	2,195 ¹⁶	168	92.35 (2027)
2	Bihar	24,293	587	97.58 (23706)
3	Chhattisgarh	9950	1325	86.68 (8625)
4	Delhi	5,985	703	88.25 (5282)
5	Goa	2,765	236	91.14 (2427)
6	Gujarat	75,967	10,372	86.35 (65595)
7	Jharkhand	98	33	66.33 (65)
8	Karnataka	41,795	4,583	89.03 (37212)
9	Kerala	6716	1671	65.31 (4386 ¹⁷)
10	Madhya Pradesh	7742	3316	57.17 (4426)
11	Maharashtra	2,04,228 ¹⁸	78,186	61.72 (126042)
12	North East Region ¹⁹	1783 ²⁰	238	86.65 (1545)
13	North West Region ²¹	22,832	16,303	28.60 (6529)
14	Odisha	4678	244	94.78 (4434)
15	Rajasthan	16,449	2406	85.37 (14043)
16	Tamil Nadu and Pondicherry	26,645	2317	91.30 (24328)
17	Uttarakhand	280	177	38.54 (111)
18	Uttar Pradesh	Information not provided by ROCS	1466	-
19	West Bengal & Sikkim	4014	10719	-
	TOTAL	4,58,415	1,35,050	72.32 (3,31,536)

NOTE: i) The total of 4,58,415 and 1,35,050 are the sum total of figures available for all states.

ii) The total of 3,31,536 is the actual deficient number excluding that of UP and WB; The deficient number if compared to the total of 4,58,415 gives a percentage of 72.32 and if compared to the total of 4,54,401 which excludes states having surplus records in DGIT(S), gives a percentage of 72.96.

16 2094 received from ROCS in respect of 2 and 4 districts of AP & TS respectively and 101 Co-operative Banks registered prior to FY 2014-15.

17 Out of 5045 cases, 659 cases have PAN registration.

18 1,98,252 (Only number of societies and list of websites was provided by ROCS without any list of societies) + 5976 banks

19 Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura

20 1762 from 4 out of 7 ROCS and 21 cases from RBI

21 Chandigarh, Haryana, Himachal Pradesh, Jammu & Kashmir and Punjab

Thus, as seen by audit, 72.32 *per cent* of the identified Co-operative Societies/ Co-operative Banks registered with the registering authorities were found to be outside the database of DGIT(Systems) and thus out of tax net.

Even while the law mandates that all Registered Co-operative Societies shall file income tax returns annually by the due date, the table above indicates that majority of the Co-operative Societies and Co-operative Banks were not filing the income tax return. It was further observed that there is no mechanism to ensure that all Co-operative Societies are complying with this requirement at either end i.e., ROCS or the ITD. Procedurally, all registered Co-operative Societies have to obtain PAN and commence filing of returns. However, there is no mechanism of seeding the PANs of the registered Co-operative societies in the databases of the respective ROCS. Further, there is no institutionalised mechanism of sharing of information between ROCS and the ITD, leading to inadequacies and a large number of registered Co-operative Societies still remaining outside the tax net. Except a partial reply in Maharashtra and West Bengal, the ITD have not replied to the letters sent for confirmation of tax registration status/ITR filing status/availability of PAN. Thus, whether these Co-operative Societies/Banks are included in the tax net or not could not be confirmed by audit.

2.1.2 In Karnataka, out of 4,583 assessee filing returns in Karnataka jurisdiction, only 1,620 assessee were registered as Co-operative Societies, leaving 2,963 records unmatched. Out of 2,963 assessee; 2,180 were claiming deduction under section 80P of the Act, meant for registered Co-operative Societies only. Out of this 2963 unmatched records, 676 assessee have the word "Souharda" in their name suggesting their registration under the Karnataka Souharda Act, 1997 and the remaining 2,287 assessee did not have proper registration. This indicates that majority of the Co-operative Societies filing returns and claiming deduction were either not eligible or the regulatory authority was not monitoring the registration process. Out of the 2,180 assessee claiming deduction under section 80P of the Act, 168 assessee pertained to the audit sample, of which, in 125 cases, no data on registration was available on record. Further, in 17 cases out of 168 assessee, though the data on registration was available with the ITD, it did not match with the ROCS data. In two cases, it was seen that the names were featuring as registered under the Karnataka Co-operative Societies Act, 1959 as well as the Multi State Co-operative Societies Act, 2002.

In one case though the Registration Certificate and copy of amendment of Bye-laws approved by the Joint Central Registrar of Co-operative Societies were produced, the name did not feature in the database of Multi State

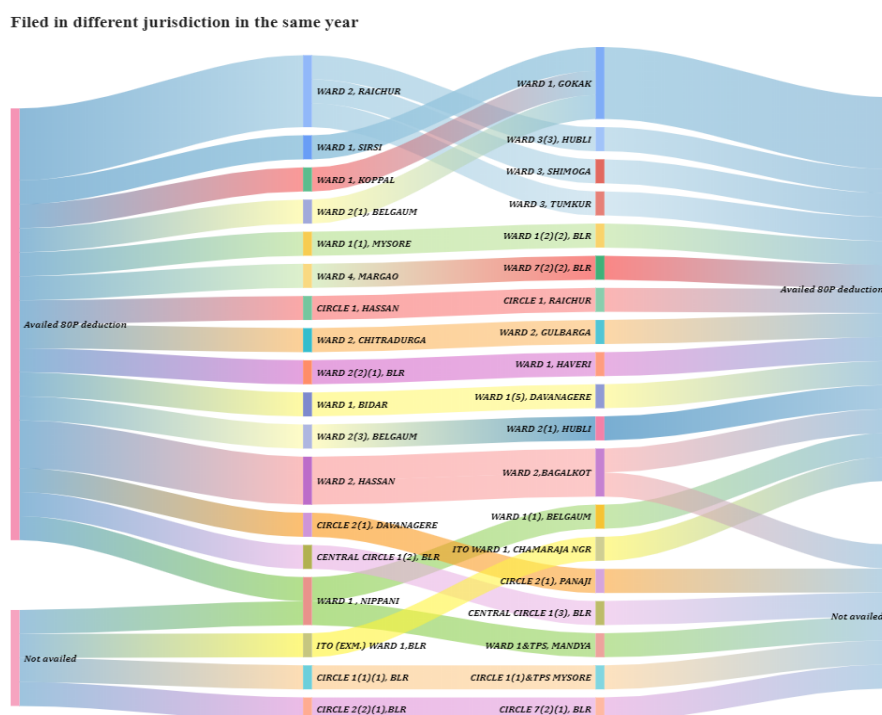
Co-operative Societies. In one case, the name as on the registration certificate and as per assessment records were found to be different.

Further, in another 144 records, where assessees have common names, 90 assessees were filing returns,

- a) without proper registration as they do not feature in the database of the ROCS; or
- b) in a jurisdiction other than the one they were registered; or
- c) having registration under Karnataka Co-operative Societies Act, 1959 as well as the Karnataka Souharda Sahakari Act, 1997 and 77 of them were availing deduction under section 80P of the Act.

Interestingly, 30 of these assessees with common names seem to have multiple PANs and were filing returns in different jurisdictions rendering it difficult for assessing officers to detect such an incidence. Of these, 22 assessees had filed returns with different jurisdictions in the same year(s) and claiming deductions under section 80P of the Act as depicted in the chart given below suggesting a proliferation of PANs.

Chart 2.1: Different jurisdictions in which assessees filed returns for the same year



Note: Each line in the chart denotes an assessee filing in different jurisdiction and the status of availing deduction under section 80P of the Act. For e.g.: one assessee was filing in both Circle 1, Hassan and Circle 1, Raichur and had availed deduction under section 80P of the Act in both jurisdictions.

In the absence of Registration Certificates of these assesseees, the Assessing Officers had no means to identify their genuineness and to ascertain whether the same assesseees are filing returns in different jurisdictions.

In Goa, comparison of assessee's name, filing returns as per the DGIT(Systems) data with the name of the Societies registered with the ROCS, Goa revealed that out of 236 assesseees filing returns in Goa, 61 assesseees did not feature as registered Societies with the ROCS, Goa. Further, during the three year period 2014-15 to 2016-17, these 61 assesseees (137 assessment cases) had claimed deduction under section 80P of the Act, which was allowed by the Assessing Officers even though they were not registered with the ROCS, Goa.

Thus, ITD did not cover all the Co-operative Societies and Co-operative Banks in their tax net, as is evident from the large percentage of Co-operative Societies and Co-operative Banks not found in the database of the ITD during the period 2014-15 to 2016-17, when compared to the data of the registering authorities. Further presence of assesseees, who could not be matched with the ROCS data or with multiple PANs, also indicate towards possible misuse of the claim of deduction under section 80P of the Act. In the absence of reply/confirmation from the ITD regarding the confirmation of tax registration status/ ITR filing status/ availability of PAN of the assesseees, audit is not in a position to arrive at actual number of assesseees who are out of the tax net.

2.2 Non-utilisation of Surveys/Search and Seizure mechanism for strengthening of the Tax base

Section 132, 133 of the Act empowers the Income Tax Authorities to conduct search and survey operations and to gather information relating to financial transactions of the assesseees/ potential assesseees/entities which are out of the tax net. These tools may enable the ITD to identify new assesseees and to detect and unearth the cases of stop filers, non-filers and tax evaders.

2.2.1 Surveys

Audit requisitioned data on number of surveys conducted during the period 2014-15 to 2018-19 from the assessment charges and the concerned wings of the ITD. The details on status of response are given below:

Table 2.2: States/Region-wise details of Surveys conducted during 2014-15 to 2018-19

States/Region where Information on surveys NOT furnished by the ITD	States/Region in which no surveys conducted as per reply of ITD	States/Region in which partial information received from ITD
Andhra Pradesh & Telangana, Chhattisgarh, Goa, Madhya Pradesh and Tamil Nadu	Bihar, Jharkhand, North East Region ²² , Odisha, Uttarakhand, Uttar Pradesh and West Bengal	Karnataka, North Western Region ²³ (4 PCITs)

Source: ITD

The information received in respect of Delhi, Gujarat, Kerala, Maharashtra Rajasthan, and partial information received in cases of above states is tabulated below:

Table 2.3: Surveys conducted during 2014-15 to 2018-19

Year	Surveys conducted during the FY	Surveys conducted on		No. of new assesseees identified in the survey during FY		No. of assesseees out of column (E) and (F) which filed the return of income	
		Co-operative Societies	Co-operative Banks	Co-operative Societies	Co-operative Banks	Co-operative Societies	Co-operative Banks
A	B	C	D	E	F	G	H
2014-15	108	0	0	0	0	0	0
2015-16	132	1	1	0	0	0	0
2016-17	317	31	28	0	2	0	2
2017-18	110	4	3	0	0	0	0
2018-19	139	3	1	0	0	0	0
Total	806	39	33	0	2	0	2

Source: ITD

2.2.2 Search and Seizure

Information on Search and Seizure was called for by audit from all the assessment charges and the DGIT (Investigation)-wings of all states for the period 2014-15 to 2018-19 to study the trend of search and seizure activity to increase the tax base and enforce the tax compliance by the Co-operative Sector assesseees. The details on status of response are given below.

22 Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura

23 Chandigarh, Haryana, Himachal Pradesh, Jammu & Kashmir and Punjab

Table 2.4: States/Region-wise details of Search and Seizure conducted during 2014-15 to 2018-19

States/Region where Information on search & seizure NOT furnished by the ITD	States/Region in which no search & seizure conducted as per reply of ITD	States/Region in which information received from ITD
Goa, Karnataka, Madhya Pradesh, North Western Region ²⁴ and West Bengal.	Andhra Pradesh & Telangana, Bihar, Chhattisgarh, Jharkhand, Odisha, North East Region ²⁵ , Tamil Nadu, Uttar Pradesh, and Uttarakhand.	Delhi, Gujarat, Rajasthan, Kerala and Maharashtra

Source: ITD

The information received in respect of Gujarat, Rajasthan, Kerala, Maharashtra and Delhi is tabulated below.

Table 2.5: Search and Seizure Operations conducted during 2014-15 to 2018-19

Year	Total number of Search and Seizure operations conducted during the FY	No. of Search and Seizure operations conducted under section 132/132A of the Act		No. of new assesseees identified in the search & seizure operations during the FY		No. of assesseees out of column (E) and (F) which filed the return of income		No. of cases in which the information was passed on in respect of other assesseees involved in suspicious transactions to jurisdictional Assessing Officer for further necessary action.	
		Co-operative Societies	Co-operative Banks	Co-operative Societies	Co-operative Banks	Co-operative Societies	Co-operative Banks	Co-operative Societies	Co-operative Banks
A	B	C	D	E	F	G	H	I	J
2014-15	69	1	0	0	0	0	0	1	0
2015-16	52	0	0	0	0	0	0	0	0
2016-17	139	2	0	0	0	0	0	0	0
2017-18	92	3	3	265	0	149	0	56	0
2018-19	100	1	2	0	0	0	0	0	0
Total	452	7	5	265	0	149	0	57	0

Source: ITD

It can be seen that 265 new assesseees were identified during three search & seizure operations conducted in Maharashtra in the year 2017-18. However, in respect of other years no new assesseees could be added to the tax net. The number of surveys and search and seizure operations for the Co-operative Sector, as a proportion of total surveys and search and seizure operations

24 Chandigarh, Haryana, Himachal Pradesh, Jammu & Kashmir and Punjab

25 Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura

conducted by the ITD was minimal. Thus, it is evident that the mechanism of surveys and search & seizure operations has not been utilised effectively by the ITD in identifying more tax defaulters/ potential assesseees in the Co-operative Sector except for one year despite a large number of cases²⁶ being out of the tax net.

2.3 Details of PAN registration status of Co-operative Societies/ Co-operative Banks

The ITD uses 'Status Codes' to identify the status of the taxpayer, being either Individual, Hindu Undivided Family (HUF), Firm, Local Authority, Co-operative Bank, Co-operative Society, any other AOP or BOI, Public Company, Private Company or Others. The DGIT(Systems), however, did not provide the status codes in respect of the cases provided to audit.

Unlike other category of assesseees viz., Individual, HUF, Firm, Company, etc., identified with the fourth alphabet of the PAN, the Co-operative Sector assesseees are not specifically identified by their PAN. However, they are classified, generally, as AOP and hence should have the fourth alphabet of their PAN registration number allotted by ITD as 'A'. As such, the assesseees registered as Trust, AJP, BOI, Firm, Local Authority and Company cannot be assessed as Co-operative Societies. Further, the CBDT has also stated (July 2020) that "for the purpose of the Income-tax Act, 1961, Co-operative Societies are treated as Association of Persons".

Audit noticed that out of 8,470 assessment cases, in 1,826 cases (21.6 per cent) although the assesseees were Co-operative Societies and Co-operative Banks, PANs allotted to them had fourth letter other than 'A', as depicted in table given below.

²⁶ Refer para 2.1.1 on Incomplete tax net

Table 2.6: Region-wise/ State-wise assesseees registered as non-AOP (with fourth letter of PAN other than 'A')

Region/ State	AOP (TRUST) (Fourth letter of PAN as 'T')	AJP (Fourth letter of PAN as 'J')	COMPANY (Fourth letter of PAN as 'C')	FIRM (Fourth letter of PAN as 'F')	LOCAL AUTHORITY (Fourth letter of PAN as 'L')	BOI (Fourth letter of PAN as 'B')
AP & TS	56	21	1	25	2	6
Bihar & Jharkhand	8	23	2	1	0	0
Delhi	39	16	0	4	2	4
Gujarat	61	31	3	24	4	28
Karnataka	23	51	1	38	30	8
Kerala	21	23	6	20	6	18
Maharashtra	148	113	4	40	47	63
MP & Chhattisgarh	34	40	1	14	13	20
North Eastern Region ²⁷	8	3	0	1	2	5
North Western Region ²⁸	60	46	5	16	17	20
Odisha	11	2	0	0	2	16
Rajasthan	35	41	7	18	14	9
Tamil Nadu	23	16	0	8	6	5
UP & Uttarakhand	84	55	4	26	58	11
West Bengal & Sikkim	7	13	0	7	11	11
Grand Total	618	494	34	242	214	224

It is observed from the above that Co-operative Societies are getting registered with fourth letter of PAN being other than 'A'. Such incorrect categorisation of assesseees gives rise to possibility of generation of faulty information pertaining to the assesseees involved in Co-operative Sector activities, apart from possibility of availing benefits by Co-operative Societies and Co-operative Banks, incorrectly.

In Karnataka, Pr. CIT Mangalore charge, in one case an assessee was changing its status every year. While for AY 2014-15 and AY 2015-16, the declared Status was "Co-operative Society", in AY 2016-17 the status declared was "Co-operative Bank" and in AY 2017-18, status declared was "AOP/BOI". The Assessing Officer did not take any action to correctly determine the status of the assessee. Further, in 14 cases, errors existed in determination of status of assesseees. While some of the Co-operative Societies were declaring their status as Co-operative Banks despite their actual status being Co-operative Society. Similarly, some of the Primary Co-operative Agricultural and Rural

27 Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura

28 Chandigarh, Haryana, Himachal Pradesh, Jammu & Kashmir and Punjab

Development Banks whose actual status was Co-operative Society were declaring their status as Co-operative Bank. Thus there seems to be no clarity about the treatment of credit Co-operative Societies and Primary Co-operative Agricultural and Rural Development Bank.

ITD may, while allotting PAN, check for the actual status of the applicant vis-a-vis its name and activity carried out and allot PAN only with fourth letter as 'A' for the Co-operative Societies to enable easy identification and monitoring of exemptions availed by the assesseees. It may also ensure that the change in status of assesseees is adequately examined and justified.

2.4 Mismatch in data provided by the DGIT (Systems) and data as per Assessment Records

The DGIT(Systems) maintains centralised granular information on details of incomes, expenses, exemptions and deductions returned by assesseees through data captured from ITRs furnished by them and the assessments carried out by the Assessing Officers, thereafter. As the systems and processes are designed to capture ITR level data and assessment level data, ideally there should not be any mismatch between data available with the DGIT(Systems) and data available with the assessment units, as they emanate from the same source i.e. the ITR and the assessment process. However, audit scrutiny revealed mismatch between the figures furnished by the DGIT (Systems) and the data collected from the assessment records as discussed below:

2.4.1 Mismatch in the list of cases assessed as per DGIT (Systems) and as per Demand and Collection Register maintained at assessment charges

Audit called for details of Co-operative Societies and Co-operative Banks collected from the Demand and Collection Registers (D&CR) maintained in the assessment charges. As the data of the DGIT(Systems) contained list of only those assesseees who have filed returns and/or were assessed {under section 143(1)/143(3)/154/250} once or more between the year 2014-15 to 2016-17, the comparison could be done only with the D&CR for the assessment years 2014-15 to 2016-17. The numbers of cases though found in the D&CR but not included in the data of the DGIT(Systems), in respect of states/ regions are given below:

Table 2.7: Mismatch between the DGIT (Systems) data and D&CR data.

Sl. No.	State/Region ²⁹	No. of D&CR records that were not a part of data of the DGIT (Systems)
1	Andhra Pradesh & Telangana	45
2	Bihar	2
3	Delhi	3
4	Gujarat	51
5	Jharkhand	12
6	North East Region	76
7	Rajasthan	145
8	West Bengal	26
Total		360

Thus, it is evident that the DGIT(Systems) data provided to audit was not comprehensive and complete and did not map the entire Co-operative Societies/Co-operative Banks assessed in ITD.

Further review of the above cases revealed that the assessees as per the D&CR and not found in the DGIT (Systems) data included 72 assessees (20 per cent of 360) who were not assessed as AOP. Rajasthan accounted for 27 of these assessees, Andhra Pradesh & Telangana accounted for 17, apart from Gujarat, NER and Jharkhand that accounted for 9, 8 and 8 cases, respectively. Bihar, Delhi and West Bengal accounted for one case each. Incorrect categorisation of assessees gives rise to possibility of generation of incorrect and unreliable information, apart from possibility of benefits being availed by ineligible Co-operative Societies and Co-operative Banks.

2.4.2 Mismatch in data as per the DGIT(Systems) and as per the Demand and Collection Register maintained in assessment charge

The number of cases where mismatch of information between the data as per the DGIT(Systems) and data collected from the D&CR were noticed are given below:

²⁹ Data was not received/only partially received in respect of Chhattisgarh, Karnataka, Maharashtra, Madhya Pradesh, North West Region, Odisha, Tamil Nadu, Uttar Pradesh and Uttarakhand.

Table 2.8: Mismatch in data as per the DGIT(Systems) and as per the D&CR

Information wherein mismatch was noticed	No. of PCsIT/ CsIT	No. of states	No. of cases in which difference/ mismatch was noticed
Mismatch in Returned Income	269	16 ³⁰	1170
Mismatch in Assessed Income	249	14 ³¹	613
Mismatch in Demand	248	14 ³²	903
Difference in amount of bad and doubtful debts	247	15 ³³	326
Difference in amount of provision for bad and doubtful debts	247	15 ³⁴	845
Difference in amount of deduction claimed under section 80P of the Act	226	13 ³⁵	561

Thus, it is evident that the DGIT(Systems) data provided to audit was not updated.

2.5 Effectiveness of filing of Income Tax Returns

2.5.1. Non-filers and stop filers

Audit attempted to verify whether the Co-operative Societies registered under the Co-operative Societies Act or any other law for the time being in-force in any State with the registering authority i.e. ROCS were assessed as per the records of ITD. Audit examination of 4,030 assesseees (Unique PAN cases) revealed that, in following number of cases, ITRs were not filed on a regular basis during AYs 2015-16 to 2018-19:

Table 2.9: Non-filers and Stop-filers

Assessment Year	No. of cases examined (Unique PAN)	No. of cases where ITRs were filed	No. of cases where ITRs were not filed			
			Co-operative Societies	Co-operative Banks	Status Not Available	Total
2015-16	4030	3255	250	27	1	278
2016-17	4030	3232	209	23	1	233
2017-18	4030	3056	274	30	1	305
2018-19	4030	2996	309	30	1	339

30 Andhra Pradesh & Telangana, Bihar, Delhi, Gujarat, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, North East Region, North West Region, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal

31 Andhra Pradesh & Telangana, Delhi, Gujarat, Jharkhand, Madhya Pradesh, Maharashtra, North East Region, North West Region, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal

32 Andhra Pradesh & Telangana, Bihar, Delhi, Gujarat, Jharkhand, Madhya Pradesh, Maharashtra, North West Region, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal

33 Andhra Pradesh & Telangana, Bihar, Gujarat, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, North East Region, North West Region, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal

34 Andhra Pradesh & Telangana, Bihar, Gujarat, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, North East Region, North West Region, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal

35 Andhra Pradesh & Telangana, Bihar, Gujarat, Jharkhand, Madhya Pradesh, Maharashtra, North West Region, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal

The instances of non-filing of ITRs were proportionately higher in case of Co-operative Societies ranging between 89.7 to 91.2 *per cent* as compared to 8.8 *per cent* to 9.9 *per cent* in case of Co-operative Banks during AYs 2015-16 to 2018-19. Audit further noticed that, of cases indicated in the above table, 155 assessee³⁶ comprising 132 Co-operative Societies and 22 Co-operative Banks³⁷ did not file ITRs during all four AYs. Further, out of these 155 non-filer cases, 59.4 *per cent* of assesseees were assessed as AOP; whereas other non-filers were registered as Trust (12.9 *per cent*), AJP (11.6 *per cent*), Firms (7.1 *per cent*), Local Authority (3.9 *per cent*), BOI (3.2 *per cent*) and Company (1.9 *per cent*). The details of action taken against such assesseees could not be ascertained in audit. ITD's reply in this regard is awaited (July 2020).

In Karnataka, out of 263 Co-operative Banks who have obtained license from RBI, 43 banks were not filing returns.

Analysis of the list of Co-operative Societies, obtained from the registering authorities, who did not file their ITRs in Karnataka revealed that "Milk Producer's societies" constituted 41 *per cent* of the total non-filers, followed by "Credit societies" constituting 21 *per cent* of the non-filers. Sector wise details of the registered Co-operative Societies of Karnataka not filing returns are as under:

Table 2.10: Activity wise non-filer Co-operative Societies in Karnataka

Activity Type of Non-Filer Co-operative Society	Number
Milk Producer's Society	14905
Credit Society	7691
Others - Miscellaneous	3354
Water Consumer's Society	2878
Multi-purpose Society	2822
Agriculturist's Society	1446
Housing Society	1196
Consumer's Society	981
Fishermen's Society	538

Similarly, in Goa, analysis of the non-filers Co-operative Societies revealed that "Housing societies" constituted 70 *per cent* of the total non-filers. Sector wise details of the registered Co-operative Societies of Goa not filing returns are as under:

36 Andhra Pradesh & Telangana, Bihar & Jharkhand, Delhi, Gujarat, Karnataka & Goa, Kerala, Madhya Pradesh & Chhattisgarh, Maharashtra, North Western Region, Rajasthan, Uttar Pradesh & Uttarakhand, West Bengal & Sikkim.

37 In one case of non-filer (Maharashtra) the status of assessee was not available.

Table 2.11: Activity wise non-filer Co-operative Societies in Goa

Activity Type of Non-Filer Co-operative Society	Number
Housing	1811
Credit (credit, urban credit)	296
Service sector (bank, consumer, marketing, service, transport)	151
Agriculture sector (dairy, farming, fisheries, pani vantap, poultry, processing, producers)	181
Industrial Sector (industrial, labour, resources)	98
Other societies (general, union federation, urban societies, blanks)	53

The above analysis clearly points towards the tendency of default in filing of income tax returns on part of Co-operative Societies. This, in turn, highlights the ineffectiveness of the Non-Filers Monitoring System (NMS) of the ITD.

2.5.2 Use of Incorrect ITR forms for filing Returns by Co-operative Sector assesseees

Rule 12 of Income Tax Rules, 1962 prescribes different ITR forms to be filed by different categories of assesseees. Further, as per instructions for filing ITR 5, it can be used by a person being a firm, Limited Liability Partnership (LLP), AOP, BOI, AJP, representative assessee, Co-operative Society, Society registered under Societies Registration Act, 1860 or under any other law of any State, trust other than trusts eligible to file Form ITR-7, estate of deceased person, estate of an insolvent, business trust referred to in section 139(4E) of the Act and investments fund referred to in section 139(4F) of the Act. However, a person who is required to file the return of income under section 139(4A) or 139(4B) or 139(4D) of the Act shall not use this form. Co-operative Societies are required to be assessed as AOPs.

During audit it was noticed that in 69 assessment cases³⁸, appropriate form i.e. ITR-5 for filing the Income Tax Return was not used by the assesseees in cases of Co-operative Sector. These instances of filing of incorrect ITR forms were noticed in respect of 61 cases of Co-operative Societies and 8 cases of Co-operative Banks. Further, out of these 69 cases where incorrect ITR forms were used by assesseees, 73.9 per cent of assesseees were assessed as AOP whereas remaining 26.1 per cent were registered as AJP, Trust, Local Authority, Firms and Company.

Further, audit noticed 11 irregularities in 69 cases that are discussed in Chapter 3 (4 cases³⁹ of irregular allowance of deduction involving tax impact of ₹ 181.77 lakh) and Chapter 4 (7 cases⁴⁰ of mistakes in computation of tax/levy of interest involving tax impact of ₹ 847.97 lakh) of this Report. It is

38 Gujarat, Kerala, Maharashtra, Madhya Pradesh & Chhattisgarh, North Western Region, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh & Uttarakhand, West Bengal & Sikkim.

39 Karnataka(2), Madhya Pradesh(2).

40 Karnataka(1), North Western Region(1), Tamil Nadu(1).

further seen that of the 11 irregularities, 9 pertained to Co-operative Societies and 2 to Co-operative Banks.

In absence of use of appropriate ITRs by the Co-operative Societies, the ITD would not be in a position to generate correct information about the Co-operative Societies and ensure that specific deductions are allowed under the Act.

ITD may examine the action initiated in cases where incorrect ITR forms were filed by the assesseees in the Co-operative Sector and ensure that such returns are treated as invalid at ITR processing stage through Centralised Processing Centre (CPC) Bengaluru.

2.6 Inadequate mechanism for watching regulatory compliance

All registered Co-operative Societies are required to comply with the basic conditions of registrations as prescribed by the respective Co-operative Societies Act. A review of the 8,470 assessment folders of the selected sample cases disclosed that either there was poor documentation or the basic conditions were not being fulfilled by the Co-operative Societies, pointing towards inadequate verification mechanism in the ITD by the respective Assessing Officers. Details are given below:

2.6.1 Evidential proof of a certificate of registration by Registrar

Allowance/ disallowance of any deduction to a Co-operative Society/ Co-operative Bank should be based on the society being registered with the ROCS, as the case may be. The proof of registration is the Registration Certificate issued by the ROCS. Therefore, it is necessary for the Assessing Officer to verify the Certificate of Registration at the time of assessment. However, it was observed that out of 8,470 assessment cases examined in audit, in 4,376 cases⁴¹, the registration certificate was not available in the assessment folders.

In Delhi, in case of four assesseees audit observed that even though they claimed deduction of ₹ 39.97 crore and were allowed ₹ 39.03 crore under section 80P of the Act, neither the registration certificate was found in their assessment records nor their names were found in the data provided by ROCS, Delhi. In this regard, audit queries were issued to the ITD to provide the registration certificate of the four cases. Although in one case ITD provided the copy of registration with ROCS, the date of registration/ name/ registration number was not matching with the list of ROCS. The matter was

41 Andhra Pradesh & Telangana, Bihar & Jharkhand, Delhi, Gujarat, Karnataka, Kerala, Madhya Pradesh & Chhattisgarh, Maharashtra, North East Region, North Western Region, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh & Uttarakhand, West Bengal & Sikkim.

referred to ROCS (September 2019) to confirm whether these entities are registered with them. Their confirmation is awaited.

The above indicates that the system of keeping on record evidential proof of registration status of the assessee of Co-operative Sector in the ITD is not foolproof. In absence of the registration certificate, audit could not ascertain as to how the Assessing Officers ensured the genuineness of claim of deduction made by the assessee under section 80P of the Act.

2.6.2 Verification of Registration Status of Assessee

A Co-operative Society's registration should be valid for it to claim deductions under section 80P of the Act, as they can be deregistered or their registration may be cancelled, as per the respective Acts. The registration status of a Co-operative Society is to be verified by the Assessing Officer to determine whether it is eligible for claiming exemption under section 80P of the Act. It was observed that out of 8,470 cases examined in audit, in 842 cases⁴² the status of registration was not examined or verified during assessment whereas in 5,343 cases⁴³, it could not be ascertained in audit from the assessment records whether the verification of status of registration was done during assessment.

Audit attempted to examine whether there exists any mechanism to verify the data/ registration status of the assessee with the registering bodies. The responses received from the ITD were that there was no mechanism to verify the registration status or that the units verify the required documents during assessment. Information on verification of registration status by the assessing units from West Bengal & Sikkim, North East Region, Gujarat and Delhi is as below:

42 Andhra Pradesh & Telangana, Bihar, Delhi, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, North Western Region, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal & Sikkim.

43 Andhra Pradesh & Telangana, Bihar & Jharkhand, Delhi, Gujarat, Karnataka, Madhya Pradesh & Chhattisgarh, Maharashtra, North Eastern Region, North Western Region, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh & Uttarakhand, West Bengal & Sikkim.

Table 2.12: Verification of registration status with the registering bodies by the assessing officers

State/ Region	Number of units from whom it was enquired if they verified the registration status of the assessees	Response		
		Received	No mechanism to verify the registration status	Verified during assessment
West Bengal & Sikkim	114	71	46	25
North East Region	21	21	19	2
Gujarat	162	38	32	6
Delhi	81	79	79	-

The above indicates that there is no mechanism to verify the registration status of the Co-operative Societies. However, some assessing officers verified the same during assessment proceedings.

In respect of Charitable Trusts, the ITD amended section 12AA of the Act so as to provide that at the time of granting registration to a trust or institution, the Principal Commissioner or the Commissioner shall, inter alia, also satisfy himself about the compliance of the trust or institution to requirements of any other law which is material for the purpose of achieving its objects. Finance Bill 2020 further amended section 12AA of the Act to provide that the approval or registration or notification for exemption for an entity notified under clause (23C) of section 10 of the Act, section 12AA or section 35 of the Act would be valid only for five years at a time, which would act as check to ensure that the conditions of approval or registration or notification are adhered to for want of continuance of exemption.

The CBDT may consider introducing a similar provision in case of Co-operative Societies/ Co-operative Banks to facilitate ITD to monitor cancellation of registration/ change in status of such assessees by the ROCS/Banks.

2.6.3 Verification of details of Members in ITR from the Register of Members (records being maintained by Registrar)

The details of the new Members of Co-operative Society in case of change in Members during the previous year relevant to the Assessment Year of filing of return is captured in ITR-5 alongwith the details of percentage of shares under "Member's Information" which is then uploaded in the ITD systems. Audit noticed that in 950 cases⁴⁴ the details of Members were not verified

44 Andhra Pradesh & Telangana, Bihar & Jharkhand, Delhi, Gujarat, Karnataka, Kerala, Maharashtra, North Western Region, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal & Sikkim.

during assessment whereas in 6,389 cases⁴⁵, the assessment folder did not contain any information about the verification of details of Members captured from ITR-5 in ITD systems vis-à-vis the Register of Members of the Co-operative Society maintained by the ROCS containing particulars of Members, admission and cessation details, shareholding details etc.

2.6.4 Audit of accounts

Every Co-operative Society shall cause to be audited by an auditor or auditing firms referred to in clause appointed by the general body of the Co-operative Society, provided that such auditors or auditing firms shall be appointed from a panel approved by the State Government or an authority authorised by the State Government in this behalf. The accounts of every Co-operative Society shall be audited within six months of the close of the financial year to which such accounts relate. The details of such audit, under an Act other than the Income Tax Act, 1961, are also supposed to be collected through ITR-5.

2.6.4.1 Accounts of Co-operative Societies not audited by empanelled auditors

During the performance audit of Co-operative Societies it was observed that out of 6,425 cases of Co-operative Societies assessed by ITD during 2014-15 to 2018-19, in 974⁴⁶ cases of Co-operative Societies' annual accounts/ financial statements were not audited by the empanelled auditors.

In Bihar, PCIT Muzaffarpur charge, audit noticed three cases where accounts were audited by a Chartered Accountant (CA) firm, which was not empanelled with ROCS, Bihar. However, the audited accounts were accepted without verification during summary processing of ITRs as well as scrutiny assessment.

In Karnataka, in 53 cases, it was observed that the requirements of getting accounts audited once every year by an empanelled auditor/ auditing firm, were not complied with. Out of the above, deduction amounting to ₹23.16 crore had been allowed in 31 cases under section 80P of the Act.

In Maharashtra, audit examined 2,320 cases and noticed that in none of the cases, the list of empanelled auditors from ROCS or Reserve Bank of India was kept on record. In the absence of such list, audit could not verify whether the Assessing Officers had assured themselves that the accounts of the Co-operative Societies were audited by empanelled auditors before commencing

45 Andhra Pradesh & Telangana, Bihar & Jharkhand, Delhi, Gujarat, Karnataka, Kerala, Madhya Pradesh & Chhattisgarh, Maharashtra, North Eastern Region, North Western Region, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh & Uttarakhand, West Bengal & Sikkim.

46 Andhra Pradesh & Telangana, Bihar & Jharkhand, Karnataka, Kerala, Madhya Pradesh & Chhattisgarh, North Western Region, Odisha, Tamil Nadu, Uttar Pradesh & Uttarakhand, West Bengal & Sikkim.

with the assessment. Out of the above, deduction amounting to ₹130.19 crore had been allowed in 1,126 cases under section 80P of the Act.

In Uttar Pradesh and Gujarat, list of empanelled Auditors for the FYs 2014-15 to 2018-19 was called for from the respective ROCs, however the same was not received (November 2019). Audit could not confirm whether annual accounts/ financial statements of Co-operative Societies were audited by auditors from the empanelled list.

2.6.4.2 Accounts of Co-operative Banks not audited by empanelled Chartered Accountants

Consequent upon the signing up of MoU between the Government of India, NABARD and by most of the State Governments for implementing the covenants of Co-operative Reforms Package, State Co-operative Societies Acts have been amended in majority of States so as to facilitate undertaking of statutory audit of Co-operative Banks by the Guidance Note on Audit of Chartered Accountants. The respective Co-operative Banks were given the freedom of selecting the Chartered Accountants out of the panel circulated by NABARD. In view of this, appointment of statutory auditors can be made by Co-operative Banks from the panel of Chartered Accountants circulated by NABARD.

Under the provisions of the respective Acts, the Registrar shall audit or cause to be audited by an authorized person the accounts of State Co-operative Banks (StCBs) and District Central Co-operative Banks (DCCBs) at least once every year. As per the guidelines issued by NABARD, now the audit of StCBs and DCCBs will be done by Chartered Accountants empanelled with RBI.

Audit noticed that out of 2,039 assessment cases of Co-operative Banks, assessed by ITD during 2014-15 to 2018-19, annual accounts/ financial statements of 84 cases of Co-operative Banks⁴⁷ were not audited by the Chartered Accountant selected from the approved panel circulated by NABARD. Due to non-compliance of the said requirement, how the ITD ensured the genuineness of the claims made by the assesseees could not be confirmed by audit.

47 Andhra Pradesh & Telangana, Madhya Pradesh & Chhattisgarh, Karnataka, Kerala, North Western Region, Tamil Nadu, Uttar Pradesh and West Bengal.

2.6.5 Co-operative Banks doing their banking business without a license from RBI

For commencing banking business, a Co-operative Bank, as in the case of Commercial Bank, is required to obtain a licence from the Reserve Bank of India, under the provisions of Section 22 of the Banking Regulation Act, 1949 (as applicable to Co-operative Societies).

Audit noticed that out of 2039 assessment cases of Co-operative Banks assessed by ITD during 2014-15 to 2018-19, five Co-operative Banks involving eight assessment cases in two States⁴⁸ did not have license issued by Reserve Bank of India.

Further, as per section 7(2) of the Banking Regulation Act, 1949 no firm, individual or group of individuals shall, for the purpose of carrying on any business, use as part of its or his name any of the words “bank”, “banking”, or “banking company” unless a banking licence has been obtained from the RBI. In Karnataka, it was observed in 33 cases that the assesseees were using the word “Bank” in their name in contradiction to the provisions cited.

2.7 Summary of audit findings

- Audit noticed that the number of Co-operative Societies and Co-operative Banks as per records of respective States/ Regional regulatory authorities/ Registering authorities was much higher as compared to the numbers as per ITD indicating that many Co-operative Societies and Banks were not in the tax net of ITD.
- There was no evidence of action initiated against the non-filers/stop-filers of Income Tax returns. ITD did not utilize the tools available with it through conduct of survey and search & seizure operations to identify and bring into tax net the non-filers and stop filers of income tax returns.
- ITD does not have a mechanism to map the information on Co-operative Societies/ Banks with the registering authorities in order to be able to verify the status of filing of income tax returns. There is no mechanism to seed the PAN in the databases of the ROCS, and to check any change of declared registration status by the assessee, which is a major impediment in institutional and structured sharing of information with ITD.
- While Co-operative Societies/ Co-operative Banks are supposed to be classified as AOP, audit noticed that assesseees classified as Firms, BOIs, Companies, Local authorities etc., were irregularly availing deductions meant for Co-operative Societies/ Co-operative Banks. This also has potential of providing inaccurate information pertaining to the assesseees involved in Co-operative Sector activities.

48 Maharashtra(1), Karnataka(7).

- Audit noticed instances where appropriate form viz. ITR-5 was not used by assessees in cases of Co-operative Sector for filing the Income Tax Return.
- Audit noticed that the verification of registration of the entity as Co-operative Societies/ Co-operative Banks was inadequate and evidential proof of a certificate of registration by Registrar as well as the details of Members of the societies was either not available in the assessment records or not verified by the Assessing Officers. Thus, in such cases, it could not be confirmed by audit whether the deductions were availed by genuine assessees.
- Accounts of the Co-operative Societies/ Co-operative Banks were required to be audited by an empanelled auditor and the details were to be collected through ITR-5. Audit noticed that this essential requirement was not complied with. Thus, the reliability of the accounts could not be confirmed.
- The ITD assessed entities as Co-operative Banks that did not have a valid licence from Reserve Bank of India to operate as a Bank thereby allowing deductions to ineligible assessees.
- Audit noticed instances of inconsistencies and errors in the amounts of incomes and claims or deductions as per the data sets furnished by the DGIT(Systems) vis-à-vis the information available in assessment records. The mismatch in assessment data as furnished by the DGIT(Systems) and data as per the assessment records is not only indicative of poor coordination and control over data updation but also a reflection on accuracy of information.

2.8 Recommendations

Audit recommends that:

a) The CBDT may consider requesting the Central and State level registering bodies and regulatory authorities governing the Co-operative Societies and Co-operative Banks for instituting the seeding of PAN in their databases and facilitate a structured and institutional sharing of information. A process may be devised to track and monitor any change in the status of the assessee.

The CBDT replied (July 2020) that since the matter is an administrative issue, it did not call for legislative amendment.

Audit is of the view that the CBDT may reconsider devising and monitoring structured and institutional sharing of PAN registration details and any other information with the registering bodies and regulatory authorities to prevent misuse of tax provisions by ineligible assessees.

b) Appropriate action as per provisions of the Act may be initiated against the non-filers/ stop-filers to detect the tax evasions. Survey may be utilised to identify Co-operative Societies/ Co-operative Banks still outside tax net and bring them within the tax net.

The CBDT stated (July 2020) that ITD already has a mechanism to identify the non-filers and stop filers through Non- Filers Monitoring System (NMS). If the field authorities have any adverse information, then, survey/ search action are initiated by the field authorities.

Audit is of the view that despite there being a mechanism in place to identify the non-filers and stop-filers audit noticed instances of non-filing of income tax returns. CBDT may review the instances of non-filers and stop-filers while also ensuring action required to be taken in respect of such non-filers and stop-filers.

c) The CBDT may ensure that the ITD checks for the actual status of the applicant vis-a-vis its name and activity carried out while allotting PAN to Co-operative Societies. In order to enable easy identification and monitoring of exemptions availed by the assesseees, ITD may consider affixing fourth letter as 'A' to the PAN of Co-operative Society. It may also ensure that the change in status of assesseees is adequately examined.

The CBDT stated (July 2020) that Permanent Account Number (PAN) is a unique ten digit alpha numeric number allotted by ITD. Application for PAN allotment is received from the applicants through form 49A or 49AA or in the case of companies through a common application form filled through MCA portal. The actual status of the applicant is determined through the Proof of Identity (POI) as specified in Rule 114 of Income Tax Rules,1962. In the case of Co-operative Societies, as per Rule 114 of Income Tax Rules, copy of the certificate of registration issued by the ROCS is the Proof of Identity for allotment of PAN. It further stated that once PAN is allotted to an entity with a particular status the same cannot be changed as this will negate the logic of PAN allotment and will give rise to duplicate PANs. Further, as per the Explanation to section 139A of the Income Tax Act, 1961 permanent account number (PAN) under the new series means a PAN having ten alphanumeric characters. However, the provision does not specify which character stands for what or the meaning of each character.

The CBDT's contention that the Income Tax Act does not specify which character stands for what or the meaning of each character in respect of Permanent Account Number (PAN) under the new series is not acceptable as para 2.5.1 and para 2.5.2 of Manual of Office Procedure,

Volume-II, CBDT clearly specifies that the PAN under new series is based on five constant permanent parameters of a taxpayer (core fields) and uses Phonetic Soundex code algorithm to ensure uniqueness which inter alia include Date of incorporation and Status. As per the structure of PAN the fourth letter of PAN indicated Status of Assessee. Thus, the entities assessed as AOP are required to be allotted PAN with fourth letter as 'A' only. The CBDT has also clarified in response to audit recommendation at para 3.14(e) of this report that, Co-operative Society is assessed as Association of Persons. In view of the same, the CBDT may reconsider the audit recommendation regarding allotting PAN affixing fourth letter as 'A' in case of Co-operative Society. It may be ensured that the Assessing Officers ensure correct status before commencing with assessment and the change in status of assessees, if any, is adequately examined.

d) Evidential proof of a certificate of registration of Co-operative Societies/ Co-operative Banks by Registrar and details of members is essential for completion of assessments. ITD may issue necessary instructions to the Assessing Officers as well as strengthen the internal control mechanism to ensure that the provisions of the Act are being complied with.

The CBDT stated (July 2020) that the Assessing Officers do look into details and documents in respect of registration of Co-operative Societies/ Co-operative Banks by Registrar and details of members as this is basic requirement for completing the assessment. It further stated that the mistakes identified by the C&AG are miniscule in number compared to the total number of assessments conducted by ITD. The CBDT agreed to issue Standard Operating Procedure (SOP) encompassing the manner for completing error-free assessment of Co-operative Societies.

Audit is of the view that the number of cases observed are substantive at 51.7 per cent in proportion to the number of cases checked.

e) The CBDT may instruct Assessing Officers that the accounts of the Co-operative Societies/ Co-operative Banks may be accepted by them only when their audit was found to have been conducted by empanelled auditors. Further, the instances of non-compliance to this regulatory requirement may be reported to the concerned regulatory authorities (ROCS, RBI etc.).

The CBDT agreed (July 2020) to incorporate the audit recommendation in the SOP proposed to be issued for assessment of Co-operative Societies.

f) The CBDT may inquire into the reasons for mismatch between data as per the assessment records and as recorded in the ITD Systems with a view to eliminate weaknesses in the System. Necessary corrective action may be completed in a time bound manner.

The CBDT stated (July 2020) that there may be numerous reasons for difference in data as recorded in the ITBA System on one hand and as per records maintained by Assessing Officer on the other. The probable reasons for mismatch are order of assessment passed manually but not uploaded in the Systems, legacy demands not uploaded in Systems, data/ demand of processing under section 143(1)(a) of the Act by CPC-Bengaluru would be available in System but may not be maintained by Assessing Officer etc. It is further stated that the functionality for uploading order 'manual to system' is already available in ITBA and the Assessing Officers are already uploading these orders so that data/demands/refund, if any, are available in system. It is stated that mismatch between data as present in ITBA system and as per assessment records will be reduced by Assessing Officers soon.

Audit is of the view that the DGIT(Systems) maintains centralised granular information on details of incomes, expenses, exemptions and deductions returned by assessees through data captured from ITRs furnished by them and the assessments carried out by the Assessing Officers. Ideally there should not be any mismatch between data available with DGIT(Systems) and with the assessment units.

g) The CBDT may examine the action initiated in cases where incorrect ITR forms were filed by assessees in the Co-operative Sector and ensure that such returns are treated as invalid at ITR processing stage at CPC Bengaluru. Further, the claims of deductions allowed as Co-operative Societies/Co-operative Banks, if any, may be disallowed in such cases.