



Report Section

PAC Recommendations and associated Audit Findings

1. EXEMPTIONS TO CHARITABLE TRUSTS AND INSTITUTIONS		
PAC Report 27 / Recommendation No.	PAC Recommendations (PAC Report No. 27 of 2015-16)	Associated Audit Findings (CAG's Report No. 20 of 2013)
3	The Committee, therefore, desire that as and when such cases of procedural mistakes in granting registrations/approvals/notifications are noticed, suitable punitive action should invariably be taken expeditiously against the officers including those involved in aforesaid 72 cases mentioned by Audit so as to inculcate a sense of responsibility and discipline among all and to save consequential loss to the exchequer.	Para 2.36 allowed exemptions in 72 cases irregularly involving tax effect of 8.88 crore despite rejection of registrations/approvals by the competent authority
4	The Committee are of the view that in order to ensure that in case of dissolution of a trust, its net assets are utilized for the purpose for which the trust was originally founded and not benefit the founders of the trust or his/her family Member relatives etc. the Ministry should henceforth insist on inclusion of 'Dissolution Clause' in the Trust Deed compulsorily while registering trusts under Section 12 AA uniformly all over India. The Ministry may also consider incorporating the suitable provisions in the Income Tax Act 1961 so as to ensure the same.	Para 2.8 non-inclusion of dissolution clause in the Trust Deed in 457 cases
5	The Committee cannot understand as to why the exemption was granted in this case u/s 11 of the Act when separate provisions exists in the Income Tax Act for the research institutions for availing exemption. As granting exemptions to the Trusts which were not charitable in nature is a serious issue which deprives the genuine Trusts/Institutions for availing the same, the Committee impress upon the Ministry to take stringent action against the Assessing Officers concerned for granting such irregular exemptions to those Trusts which were rendering services in relation to trade, commerce and do not come under the purview of charitable purpose. Besides, the Ministry may also take necessary action within a stipulated time frame to cancel the registration of those Trusts which do not exist for charitable purpose. Under no circumstances they should be allowed to enjoy the benefits of exemption, in case they are working purely on commercial lines with the main motive of making profits. The tax amount of ` 87.33 crore so short-levied in the aforesaid 60 cases may also be recovered at the earliest and the Committee be apprised of the same.	Para 2.15 irregular exemption to trusts in 60 cases whose objects were not charitable in nature
6	The Committee are perturbed to find that Income Tax Act is not explicit about the consequences/remedies available in case an application for ineligible trusts is not processed	Para 2.28 delay of more than 6 months to 24 months beyond stipulated period in granting

	<p>with six months. The Committee are not inclined to accept the contention of the Ministry that the delay has taken place in exceptional cases as delays noticed in granting approval in 594 cases may not be exceptional. These might have been either due to procedural lapses or deficient internal control on the part of AOs for not adequately applying the provisions of the Act deliberately. The way deemed approvals have been granted by the Department in all these 594 cases make the Committee feel that there is certainly something amiss in the working of the ITD which drastically needs to be streamlined. Therefore, they also desire that application seeking registration for trusts must be disposed of expeditiously. Further, there are no reasons as to why provisions to this effect cannot be incorporated in the Act. The Committee, therefore, desire that a serious thought needs to be given by CBDT in this regard. All cases where exemptions have been granted wrongly/illegally need to be probed with a view to fixing responsibility. The Committee have now been informed that restructuring of exemption Directorate would result in specialization on exemption matters with better control and monitoring. Further, proposal to make time barring limit uniform in respect of Section 12AA and 80 G applications by allowing extended time for completion in respect of Section 12AA applications by excluding time taken by applicants to comply with Commissioner's directions as available presently u/s 80 G is stated to be under examination of CBDT. The Committee have further been informed that the feasibility of introducing web based interactive platform for applying for registration, submitting soft copy of necessary documents and communicating with each other thus making the whole process faster, smoother, transparent and less time consuming is under discussion in CBDT. The Committee would like the Ministry to undertake these proposed measures expeditiously with a view to avoid delay in granting registration/approval/notification.</p>	<p>approvals/registrations/notifications in 594 cases</p>
9	<p>The Assessing Officers concerned who were in connivance with the Trusts, should be awarded exemplary punishment. The Committee also desire that a survey of all the educational trusts be conducted in a time bound manner so as to verify whether they are misusing the provisions of 'Charitable Trusts' in the Income Tax Act considering the huge profits generated and surpluses accumulated by most of these trusts. The Committee would like to be intimated about the precise steps taken in this direction.</p>	<p>Para 3.3 The Committee note that 22 education institutions in Delhi, Mumbai, Pune Chennai, Coimbatore, Kolkata and Odisha had huge excess of income over expenditure of 819.40 crore during AY 07 and AY 11 and accumulated these surpluses ranging from 35.7 to 84.8 percent of their total income.</p>
11	<p>The Committee are unable to understand as to why such explanations of AOs were not called earlier before being pointed out by the Committee. This implies that such mistakes were</p>	<p>Para 3.9 The Committee find the 14 Trusts cases involving tax effect of 1090.03 crore where accumulation arising from capital gains were not</p>

	neither noticed by the AOs during the scrutiny assessment of these cases nor the same had been detected by the Internal Audit Wing of the ITD, while as per existing mechanism the scrutiny assessments made by the AOs are subject to Internal Audit. The Committee, also, note that no penalty has been provided under the Act in case trusts violated the above mentioned provisions except to tax the trusts for that year in which default occurs. They therefore, desire that suitable provisions therefor be incorporated in the Act.	either invested in specified mode or computed correctly.
12	The Committee would like to take stringent action against those Assessing Officers who are involved in assessment of such cases. It may also be ensured by the ITD that such cases of contrary and arbitrary decisions in similar cases do not recur and a mechanism may be created within the assessment procedures that such mistakes are caught during the process of assessment itself. Further, proper training may be imparted to all the Assessing Officers at regular intervals so as to keep them updated about the correct application of relevant provisions of the Income Tax Act.	Para 3.30 allowed exemption in four similar cases for the income received from TV rights from BCCI in cases of Saurashtra Cricket Association, Baroda Cricket Association, Kerala Cricket Association and Maharashtra Cricket Association resulting in short levy of tax of 37.23 crore. In Gujarat, CIT – II Rajkot, Saurashtra Cricket Association received TV subsidy of 8.02 crore, 13.81 crore and 13.34 crore from BCCI during AY 08, AY 10 and AY 11 respectively on organizing various tournaments
13	The Committee, therefore, feel that a strong deterrent mechanism is required to be formulated within the specific time frame to make Assessing Officers and their superiors accountable, for wastage of time and resources of the Department by making frivolous assessments which ultimately resulted into piling of appeals at various levels. The Committee also recommend that an online database of assessment precedents may also be created which could be accessed by all Assessing Officers and through which assessments made in similar cases can be shared to prevent inconsistent decision making.	Para 3.47 allowed exemptions irregularly in 11 cases involving tax effect of 99.63 crore despite assessee losing charitable character Box 3.12 AO allowed irregular exemption under section 11 and 10 (23 EA) simultaneously of 123.7 crore involving tax effect of 41.01 crore to Stock Exchange Investor Protection Fund & National Stock Exchange Investor Protection Fund, during AY 08 to AY 10. Since the nature of the funds was more of a business facilitator of the Stock Exchange and non-charitable in nature.
16	The Committee, therefore, do not understand as to how in the absence of scrutiny of such a vital information provided in Form 10, correct assessment of income tax involved in a large number of assessments is possible. What further dismay the Committee is the fact that even no responsibility has been fixed for this act of omission despite asking the Commissioners of Income Tax (Exemptions) to call for explanation of the Assessing Officers wherever Audit objections are accepted. Further, as regards the recovery of ` 106.10 crore irregularly exempted the Ministry intimated that the assessments are pending in re-opened cases. The Committee are not happy over the tardy progress made in finalization of such cases. They also deplore the callous attitude of the Assessing Officers which resulted in such wrong assessments and consequential loss of revenue. The Committee	Para 4.2 Audit noticed 120 cases involving tax effect of 106.10 crore where Trusts were availing exemptions u/s 11(2) even in scrutiny cases for accumulated amounts without filing Form 10 or filing it belatedly. Details of investments and amounts accumulated in the last 11 years were not in the Schedules I and K specified in the returns. Audit observed that ITD did not monitor accumulation of income, forms of investment in specified mode and subsequent application of accumulation after specified period as the registers were not maintained properly and updated.

	would expect the officers to be more vigilant in future and also desire that the assessments in re-opened case should be completed expeditiously and the total tax recovered from these cases should also be intimated to the Committee within three months of the presentation of this Report.	
20	The Committee express their displeasure over the fact that in all these cases the Assessing Officers had not followed the instructions of their own Department which caused huge amount of revenue loss to the exchequer. The Committee, therefore desire to know about the fixing of responsibility against the Assessing Officers concerned for violating those instructions. The Committee also feel that the possibility of nexus between AOs and the Trust cannot be ruled out. Thus, the Ministry should enquire into all these cases with a view to fixing responsibility of the AOs concerned so as to avoid such lapses in future.	Box 4.4 In ADIT-E, Ahmedabad and the data collected from the website of MHA that 73 assessee-trusts who received FC to the tune of 272.35 crore, during the FY 07 to FY 09 were not selected for scrutiny.
2. ASSESSMENT OF ASSESSEES IN PHARMACEUTICAL SECTOR		
PAC Report 136 / Recommendation No.	PAC Recommendations (PAC Report No. 136 of 2018-19)	Audit Findings (CAG's Report No. 5 of 2015)
3	The Committee would like to be apprised of the present status of commissioning of this project and recommend that henceforth a comprehensive data of Pharmaceuticals sector be maintained not only for helping in tax planning and making sector specific policy but also for proper accounting and collection of the taxes from this sector. The Committee, also desire the Department of Scientific and Industrial Research and National Pharmaceutical Pricing Authority to capture PAN details of the sector to facilitate its linking with ITRs.	Para 2.3 Sector wise data in the ITD - ITD does not have complete sector wise data of assessees of Pharmaceuticals Sector.
4	<i>On being asked as to why the industrialists are keen to take tax incentives in case of R&D sector, the representative of the Ministry replied during evidence that they have to phase out those deductions and from 2021 it would be actual expenditure, which is done on that particular item.</i> The Committee trust that Government would make an in-depth study before phasing out these deductions from 2021 and take further measures, legal or procedural as might be necessary to effectively deal with this issue. The Committee would also like to be apprised of the action taken against the assessing officers who allowed weighted deduction on expenses towards R&D without verifying the claims from the Form 3CL/3CM issued by DSIR in the aforesaid 22 cases resulting in loss to the exchequer to the tune of 570.59 crore.	Para 2.4 Allowance of R&D expenditure awaiting approval from DSIR - ITD allowed weighted deduction on R&D under Section 35 (2AB) of the Act before receipt of approval from DSIR who is the approving authority.
5	The Committee are distressed to note that despite being pointed out the issue by the C&AG way back in 2015, no concrete steps have been taken thus far by the Ministry in this direction. Since a	Para 2.6 Deduction of TDS in respect of contract entered by assessee company with a manufacturing company for manufacture of products -

	<p>large number of potential tax payers can be identified in the Pharmaceutical sector, non-deduction of TDS in these cases resulted into huge revenue loss to the exchequer. Since the case pointed out by the Audit are only test checked and only tip of the iceberg, the net tax effect would be much detailed audit examination is done. The Committee, therefore, recommend that the Ministry should take legal advice on the matter and amend the Section 194C of the IT Act, if required, at the earliest besides issuing clear instructions to ensure that the Pharmaceutical companies deduct the TDS on payments to contract manufacturers.</p>	<p>Pharmaceutical companies avoided deducting TDS on payments made to contract manufacturers by taking advantage of exclusion clause in Section 194C of the Act.</p>
6	<p>The Committee are dismayed at this unfortunate state of affairs in the Department entrusted with the responsibility of collecting due tax revenue from the assesseees. However, the Committee have been apprised that an MOU was entered into with CBEC on 30.11.2015 on exchange of information. The details of ER-4 are now being obtained from CBEC, wherever required the Excise turnover as per ER-4 and turnover as per profit and loss account of Income-Tax return are being compared. While welcoming the steps taken in this direction by the Ministry, the Committee hope that these steps will ensure in deepening the tax base of pharmaceutical sector. The Committee would like to be apprised of the outcome of such steps initiated by the IT Department way back in the year 2015.</p>	<p>Para 2.9 Mechanism for cross-verification of turnover declared in Income Tax Return with the turnover declared in Excise Return - ITD does not have any mechanism to correlate & verify the turnover declared in Income Tax with turnover declared in Central Excise which is part of the same Ministry of Finance.</p>
7	<p>The Committee are failed to find any specific reasons for allowing such expenses for tax deduction. The Committee have been informed that directions have been issued to the Chief Commissioners of Income Tax to issue advisory to the officers concerned in suitable cases. However, the Committee find that no penal action was initiated against any of these officers who have failed in their duty. From the information made available to the Committee it is seen that the disciplinary actions are proposed to be taken against the AOs only. The Ministry have not offered any explanation on the role of delinquent senior officers. The Committee desire that the Ministry should initiate exemplary disciplinary action against the junior as well as senior officers connected with the lapses so that the principles of accountability and responsibility are applied in letter and spirit. Further, the Committee are of the opinion that the assesseees would not have succeeded in their efforts in defrauding the Government without the connivance of certain departmental officers. While deploring such an unhealthy practice in the Income Tax Department, the Committee recommend that not only the cases highlighted by the Audit but also similar such cases in the field should be thoroughly inquired into so as to find out as to how and why such lapses occurred, to</p>	<p>Para 3.1.1 Allowance of expenditure towards gifts, freebies etc. to Medical Professionals - AOs allowed expenditure on gifts, travel facilities, hospitality, cash or monetary grant despite being made irregular by the Act, Medical Council of India, CBDT/Judicial pronouncement.</p>

	<p>what extent they were bonafide mistakes and exemplary stern action taken against the officers concerned. The Committee are perturbed to note that the AOs are taking divergent views for disallowance of expenses in the nature of freebies as CBDT has not clearly specified in its circular the effective date of disallowance of such expenses. Since the failure to mention the effective date in the circular by the CBDT led to divergent views of the AOs on a same issue result in litigation and finally to loss of revenue, the Committee desire that the Ministry should take immediate corrective action in this regard</p>	
8	<p>The Committee exhort the Ministry to look into the reasons for failure on the part of the Internal Audit Wing for detecting such lapses leading to huge revenue loss to the exchequer and take suitable steps so as to ensure that this Wing perform efficiently in exercising effective control to find out mistakes in assessment and thereby to prevent leakage of revenue. The Committee would, therefore, like to be apprised of the action taken by the Ministry in this regard within 6 months of the presentation of this report.</p>	<p>Para 3.2.2 Allowance of concessions/deduction/rebate/relief Para 3.2.3 Setting off /carry forward of depreciation/business loss/ capital loss Para 3.2.4 Allowance of business expenditure Para 3.2.5 Allowance of R&D expenses Para 3.2.6 Mistake in allowing expenses on which TDS was not deducted / deposited Para 3.2.7 Inconsistency in assessment Para 3.2.8 Arithmetical errors in computation of income and tax Para 3.2.9 Assessment of Income under special provision Para 3.2.10 Assessment of Income under normal provision Para 3.2.11 Classification and computation of capital gains</p>
ASSESSMENTS RELATING TO AGRICULTURAL INCOME		
PAC Report 49 / Recommendation No.	PAC Recommendations (PAC Report No. 49 of 2021-22)	Audit Findings (CAG's Report No. 9 of 2019)
1	<p>The Committee, in this regard, feel that the Ministry needs to seek the assistance of other Ministries concerned for integrating data acquired through computerization of land records as well as other sources so that requisite information may be easily available and accessible for verification at the time of scrutiny of claims, inclusive of such cases where the documentation is observed to be lacking or incomplete.</p>	<p>Para 5.9.2 Exemption without verification of supporting documents</p>
2	<p>The Committee, therefore, desire that necessary action be initiated to identify the reasons for such lapses, and if warranted, responsibility fixed. Further, since the ITBA is an online platform, the Ministry may consider developing a module where the status report of action taken in respect of pending cases is generated and is shared with Supervisory Officers at regular intervals of time so as to facilitate monitoring within the Ministry.</p>	<p>Para 5.9.3 Incorrect reflection of agricultural income in ITD Database</p>

3	The Committee, accordingly, desire that a detailed account of reasons for providing Status Reports in respect of only 26 PCsIT of the 136 PCsIT selected by Audit be furnished, explaining inter a/ia the position with regard to remaining 110 Commissionerates.	Para 5.9.4 Status of Verification by the department
4	The Committee desire that issues relating to interpretation of definition of agricultural income can be clarified to the AOs by regularly updating the 'case laws' in the compendium, as recommended so that AOs may get access to all updated information necessary for assessment of agricultural income in a single digital compilation.	Para 5.9.5 Compliance issues - Mistakes in Assessments