

Chapter Summary

Total collections from direct taxes increased from Rs.57,959 crore in 1999-2000 to Rs.1,05,089 crore in 2003-04 at a compound annual rate of 18.02 percent.

Overall direct tax collections as percentage of GDP increased from 2.99 per cent in 1999-2000 to 3.79 percent in 2003-04. Average tax buoyancy for last five years increased to 1.84 in 2003-04 as compared to 1.42 in 2002-03.

(Para 2.5)

Pre-assessment collections amounted to 80.42 percent in the case of corporate assesseees and 93.70 percent in the case of non corporate assesseees of gross collections in 2003-04.

(Para 2.6)

Total number of assesseees increased at a compound annual rate of 10.06 percent from 1.99 crore in 1999-00 to 2.92 crore in 2003-04. Non-corporate assesseees increased from 1.96 crore in 1999-2000 to 2.88 crore in 2003-04 at the compound annual rate of 10.17 percent and corporate assesseees increased from 3.10 lakh to 3.72 lakh at the compound annual rate 4.66 percent.

(Para 2.7)

Cost of collection as worked out by the department was 0.21 paise per rupee for corporation tax and 2.37 paise per rupee for income tax. It was Rs.3468 and Rs.340 respectively per assessee.

(Para 2.16)

Disposal of scrutiny assessments had increased to 51 percent of the assessments due as compared to 19 percent in 2002-03 but disposal of summary cases had come down to 79 percent of total summary assessments due for disposal as compared to 92 percent in 2002-03.

(Para 2.9)

Expenditure on interest on refunds amounting to Rs.6,268.07 crore was treated as reduction in revenue although interest was never collected in the first instance and no provision for 'interest on refunds' was made in the budget estimates for 2002-03, which is violative of Government of India orders/codal provisions.

(Para 2.15)

Uncollected amount of Rs.88,017 crore of total demand of Rs.1,93,106 crore as on 31 March, 2004 comprised demand of Rs.57,064 crore of earlier years and demand of Rs.30,953 crore pertaining to the current year 2003-04.

(Para 2.10)

Percentage of recovery of demand declined to around 19 percent during the year as compared to 22 percent during 2002-03. Eighty one percent of the certified amount remained uncollected at the end of the year as compared to 78 percent in 2002-03

(Para 2.11)

CHAPTER II: TAX ADMINISTRATION

Administration of Direct Taxes

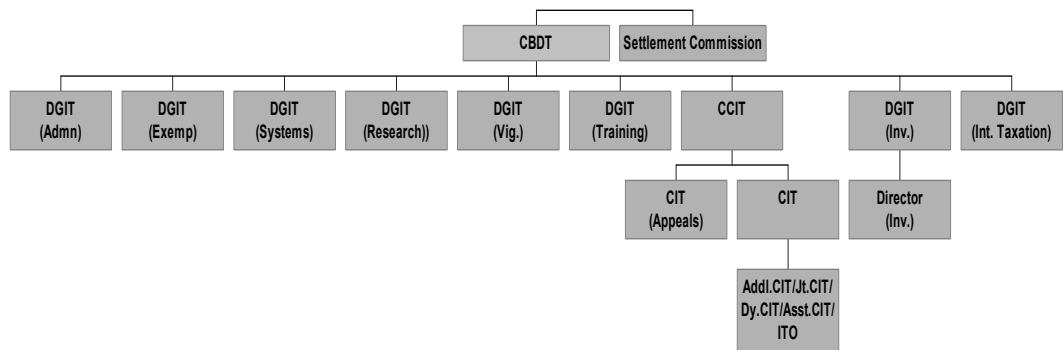
2.1 Income tax, Corporation tax and Wealth tax constitute the principal elements of direct taxes. Income tax is chargeable on the total income of the previous year of every person. The term ‘person’ includes an individual, a hindu undivided family (HUF), a company, a firm, an association of persons (AOP), a body of individuals (BOI), a local authority and an artificial juridical person. Income tax paid by companies is categorized as Corporation tax.

Wealth tax is charged for every assessment year on ‘net’ wealth on the relevant valuation date of every individual, HUF and company at specified rates on certain specified assets. No wealth tax is payable in respect of net wealth valued below Rs.15 lakh with effect from assessment year 1993-94.

Broad functional profile of the Department of Revenue

2.2 The overall responsibility for administration of direct taxes lies with the Department of Revenue which functions through Income Tax Department with a staff strength of around 59,000 and Central Board of Direct Taxes (Board) at its apex.

CHART 1: ORGANISATIONAL SET UP OF THE INCOME TAX DEPTT.



The Board consists of a Chairman and six members, and has several attached and subordinate offices throughout the country. These offices function under 116 Directors General of Income Tax and Chief Commissioners of Income Tax who oversee the work of the Directors/Commissioners of Income Tax in their respective charges. The officials are empowered under the Income Tax Act (the Act) to enforce production of evidence by any person, requisition books of accounts, call for information and issue summons. Directors General of Investigation charge are also empowered to authorize search and seizure operations.

The Directors/Commissioners of Income Tax oversee the work of the Additional/Joint Commissioners/Deputy Commissioners/Assistant Commissioners/Income Tax Officers and have similar powers under the Act as given to the Chief Commissioners. Besides, they are also empowered to review/revise any order

passed by the assessing officer if the order is erroneous and prejudicial to the interests of revenue (section 263) as well as revise other orders (section 264). The appellate machinery under Commissioner (Appeals), considers appeals against the orders of the assessing officers.

The mechanism of Settlement Commission has been functioning to provide a statutory remedy to protracted litigation between the assessee and the department. The tables and figures below in this chapter have been collected from CBDT and attached offices like DIT (RSP&PR), Pr. Chief Controller of Accounts and Settlement Commission etc.

Sanctioned and working strength of officers

2.3 Table 2.1 below shows the sanctioned strength of the officers in the department.

TABLE 2.1: SANCTIONED STRENGTH OF OFFICERS*

Post	Sanctioned strength
1	2
CCIT	116
CIT	698
Addl. CIT	469
Jt. CIT	647
DCIT/ ACIT	1,934
ITO	4,204
Total	8,068

Working strength of officers who are assigned assessment/non assessment duty is given in Table 2.2 below.

TABLE 2.2: WORKING STRENGTH OF OFFICERS ON ASSESSMENT AND NON-ASSESSMENT DUTY*

Nature of Post	2001-02			2002-03			2003-04		
	Asstt Duty	Non-Asstt Duty	Total	Asstt Duty	Non-Asstt Duty	Total	Asstt Duty	Non-Asstt Duty	Total
1	2			3			4		
Addl.CIT/Addl DIT/ Jt CIT/ Jt DIT/ Dy.DIT/Dy CIT/ Asstt. DIT/Asstt. CIT	1,455	1,226	2,681	1,519	1,173	2,692	1,519	1,173	2,692
ITOs	2,928	1,088	4,016	2,917	1,200	4,117	2,917	1,200	4,117
Total (%age to total strength)	4,383 (65.45)	2,314 (34.55)	6,697	4,436 (65.1)	2,373 (34.9)	6,809	4,436 (65.1)	2,373 (34.9)	6,809

* Furnished by Directorate of Income Tax (Research, Statistics, Publications and Public Relations)

Working strength of 6,809 officers on assessment and non-assessment duty is against the sanctioned strength of 7,254 posts (excluding CCIT and CIT) in their respective cadres. The department could not fill up all the posts sanctioned after its restructuring even though more than three years had elapsed since their creation.

The number of Dy. DIT/Dy CIT/Asstt. DIT/Asstt. CIT, both on assessment and non-assessment duty, remained the same during the last two years as compared to 2001-02..

Actual receipts
vis-à-vis
Budget
estimates

2.4 A comparative position of budget estimates and actual collections of major direct taxes reflecting fiscal marksmanship is indicated in Table 2.3 below.

(Rs in crore)

TABLE 2.3: COMPARATIVE POSITION OF ACTUAL RECEIPTS VIS-À-VIS BUDGET ESTIMATES*

Year	Budget Estimates	Actuals	Variation	Percentage of variation
1	2	3	4	5
0020-Corporation Tax				
2001-02	44,200.00	36,609.13	(-) 7,590.87	(-) 17.17
2002-03	48,616.00	46,172.35	(-) 2,443.65	(-) 5.03
2003-04	51,499.00	63,562.03	(+) 12,063.03	(+) 23.43
0021-Taxes on income other than Corporation Tax				
2001-02	40,600.00	32,004.09	(-) 8,595.91	(-) 21.17
2002-03	42,524.00	36,865.96	(-) 5,658.04	(-) 13.30
2003-04	44,070.00	41,386.51	(-) 2,683.49	(-) 6.09
0028-Other taxes on Income and Expenditure				
2001-02	330.00	259.63	(-) 70.37	(-) 21.32
2002-03	300.00	170.63	(-) 129.37	(-) 43.12
2003-04	-	50.45	(+) 50.45	-
0032-Wealth tax				
2001-02	145.00	135.36	(-) 9.64	(-) 6.65
2002-03	145.00	153.88	(+) 8.88	(+) 6.12
2003-04	145.00	135.83	(-) 9.17	(-) 6.33

Though the position improved in 2003-04 compared to that in 2001-02 and 2002-03, except in the case of 'Other taxes', the incremental or specific contribution to revenues from the direct efforts of departmental officers through investigation, assessment and recovery was not ascertainable, as these details are not maintained.

* Minor head wise details given in Appendix-2

Direct Tax collections – Recent Trends

2.5 Direct tax collections, as shown in Chart 2 below, increased from Rs.57,959 crore in 1999-00 to Rs.1,05,089 crore in 2003-04 at a compound annual rate of growth of 18.02 percent. The rate of growth, which had increased to 24.38 percent in 1999-2000 decelerated to 17.85 per cent and 1.31 percent in 2000-01 and 2001-02 but again increased to 26.48 per cent in 2003-04.

CHART 2: DIRECT TAX COLLECTIONS FROM 1999-00 TO 2003-04

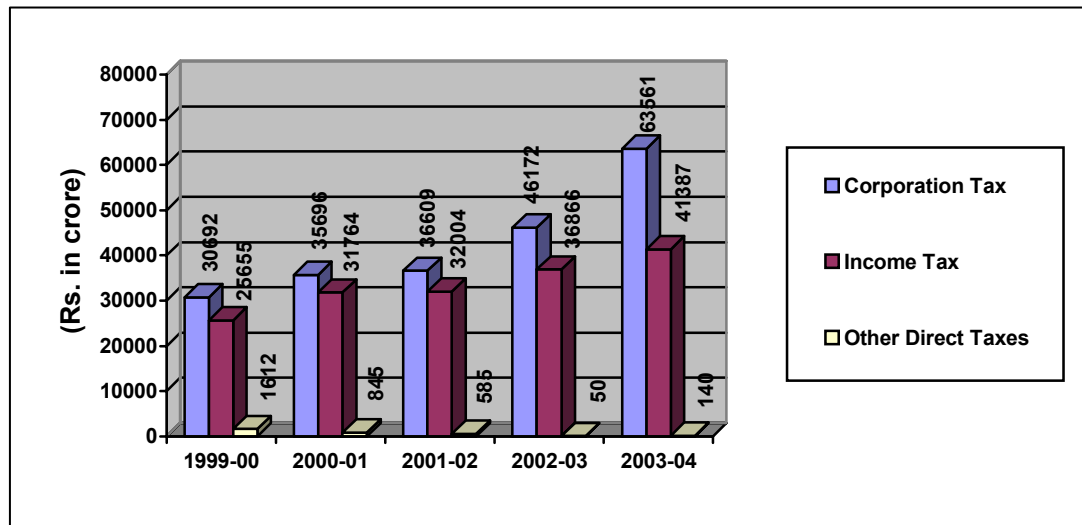
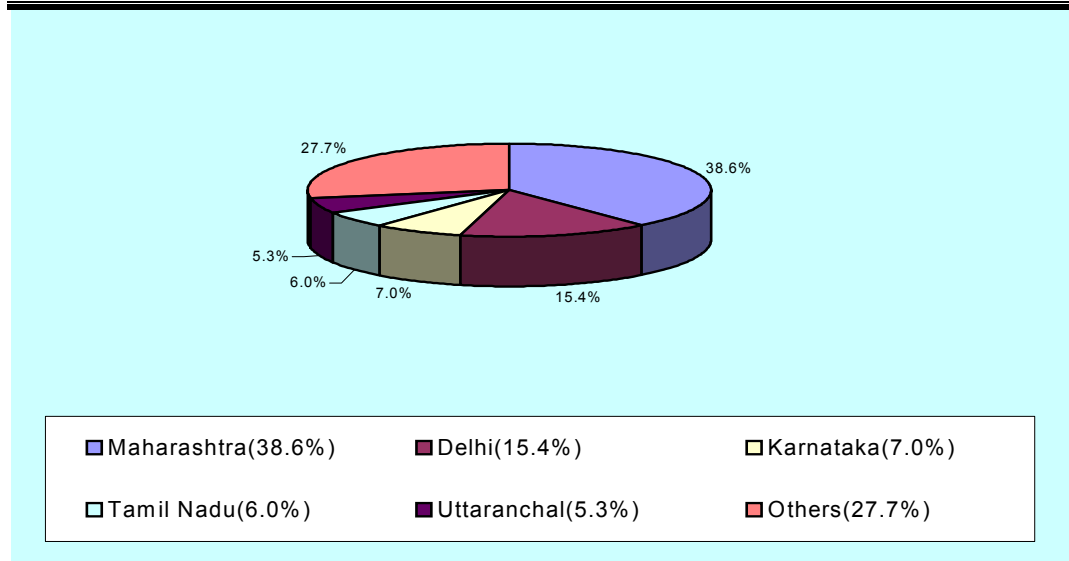


Chart 3 below depicts the percentage share of states in direct tax collections. Maharashtra had the largest tax collection followed by Delhi, Karnataka, Tamil Nadu and Uttaranchal.

CHART 3: PERCENTAGE SHARE OF REVENUE COLLECTION OF STATES



Broad parameters of Direct Tax collections

Overall direct tax collections, annual rates of growth, the ratio of direct taxes to GDP and their buoyancy are indicated in Table 2.4.

(Rs in crore)

TABLE 2.4: BROAD PARAMETERS OF DIRECT TAX COLLECTIONS*

	1999-2000	2000-01	2001-02	2002-03	2003-04	Average
Corporation Tax	30,692	35,696	36,609	46,172	63,562	42,546
Income Tax	25,655	31,764	32,004	36,866	41,387	33,535
Other Direct Taxes	1,612	845	585	50	140	646
Total Direct Taxes	57,959	68,305	69,198	83,088	1,05,089	76,728
GDP	19,36,831	20,89,499	22,82,143	24,69,564	27,72,194	23,10,046
Rate of growth (per cent)						
Corporation Tax	25.13	16.30	2.56	26.12	37.66	21.55
Income Tax	26.75	23.81	0.76	15.19	12.26	15.76
Total Direct Taxes	24.38	17.85	1.31	20.07	26.48	18.02
GDP	11.25	7.88	9.22	8.21	12.25	9.76
Tax Collections-GDP Ratio (per cent)						
Corporation Tax	1.58	1.71	1.60	1.87	2.29	1.81
Income Tax	1.32	1.52	1.40	1.49	1.50	1.45
Total Direct Taxes	2.99	3.27	3.03	3.36	3.79	3.29
Tax Buoyancy**						
Corporation Tax	2.234	2.068	0.277	3.181	3.07	2.17
Income Tax	2.378	3.021	0.082	1.850	1.00	1.67
Total Direct Taxes	2.167	2.265	0.142	2.444	2.16	1.84

GDP ratio

Overall direct tax collections as percentage to GDP increased from 2.99 per cent in 1999-2000 to 3.27 percent in 2000-01, then declined to 3.03 per cent in 2001-02. This decline was also observed for corporation and income tax. However, direct tax collection-GDP ratio picked up to 3.79 cent in 2003-04. Average tax buoyancy for last five years increased to 1.84 in 2003-04 as compared to 1.42 in 2002-03.

Pre-assessment – Post-assessment tax collections

2.6 Income tax is chargeable for every assessment year in respect of the total income of the previous year at the rates prescribed in the annual Finance Act. The Act provides for pre-assessment collection by way of deduction of tax at source, advance tax and payment of tax on self-assessment. Post-assessment collection is additional demand arising after assessment. Table 2.5 below contains details of overall tax collected at the pre and post assessment level and percentage of refunds in the last three years.

* All India collection figures of Corporation Tax and Income Tax given in Appendix-3 and Head wise/State/UT wise break up given in Appendix-4

** Tax buoyancy is measured by the ratio of percentage change in tax revenues to percentage change in GDP.

(Rs. in crore)

TABLE 2.5: DETAILS OF TAX COLLECTIONS FOR COMPANIES AND NON-COMPANIES AT PRE-ASSESSMENT AND POST-ASSESSMENT STAGES

Year	Tax Deducted at source	Advance Tax	Self Assessment	Regular Assessment	Other Receipts	Total Collections	Refunds	Net Collections
1	2	3	4	5	6	7	8	9
Corporate Assesseees								
2001-02	8,948 (17.73)	27,293 (54.07)	2,194 (4.35)	8,495 (16.83)	3,544 (7.02)	50,475	13,866 (27.47)	36,609
2002-03	8,961 (14.24)	40,625 (64.54)	3,026 (4.80)	8,926 (14.18)	1,412 (2.24)	62,950	16,778 (26.65)	46,172
2003-04	11,934 (14.52)	49,004 (59.60)	5,184 (6.30)	13,477 (16.38)	2,632 (3.20)	82,231	18,669 (22.71)	63,562
Non-Corporate Assesseees								
2001-02	23,724 (67.10)	6,801 (19.23)	3,285 (9.29)	997 (2.82)	550 (1.56)	35,358	3,354 (9.49)	32,004
2002-03	27,607 (65.55)	8,533 (20.26)	3,388 (8.04)	1,819 (4.32)	772 (1.83)	42,119	5,253 (12.47)	36,866
2003-04	31,021 (64.03)	9,709 (20.04)	4,668 (9.63)	2,538 (5.24)	518 (1.06)	48,454	7,067 (14.59)	41,387

Figures in brackets indicate percentage of total collection

In the case of corporate assesseees, 80.42 percent of gross collections was made at pre-assessment stage, of which 59.60 percent was by way of advance tax. In the case of non-corporate assesseees, 93.70 percent of the gross collection was made at pre-assessment stage, of which 64.03 percent was by way of TDS.

Percentage of refunds in respect of corporate assesseees declined from in 26.65 in 2002-03 to 22.71 in 2003-04. However, in the case of non-corporate assesseees, it increased from 12.47 in 2002-03 to 14.59 in 2003-04.

TABLE 2.6: CATEGORY WISE DETAILS OF DEDUCTION OF TAX AT SOURCE

Category	Amount of Tax Deducted (Rs in crore)			Per cent to total tax deducted		
	2001-02	2002-03	2003-04	2001-02	2002-03	2003-04
Salaries	14,668	16,293	17,712	44.90	44.55	41.23
Interest on securities	2,097	2,232	2,214	6.42	6.10	5.15
Dividends	249	1,098	950	0.76	3.00	2.22
Interest	4,464	4,485	4,930	13.66	12.26	11.47
Winnings from lottery or crossword puzzles	62	130	169	0.19	0.36	0.40
Winnings from horse races	8	6	7	0.03	0.02	0.02
Payments to contractors and sub-contractors	4,005	5,056	7,543	12.26	13.83	17.56
Insurance commission	321	384	434	0.98	1.05	1.01
Payment to non-residents and others	4,797	6,884	8,996	14.68	18.83	20.94
Total	32,672	36,568	42,955	100.00	100	100

Contribution from salaries to total TDS declined from about 45 per cent in 2001-02 to the current level of over 41 percent. Other sources, which contributed to TDS, were interest, payments to contractors, sub-contractors and non-residents. These sources together contributed over 91 percent of total TDS collections as indicated in Table 2.6.

Every person responsible for deducting tax at source under the Act has to submit a return within the prescribed time and in the prescribed form to the income tax authority. In case of failure, penalty equal to a sum of one hundred rupees for every day during which the default continues, is payable.

In 2003-04, out of 6.26 lakh returns to be filed by tax deductors, only 4.99 lakh returns were filed whereas 1.27 lakh returns had not been filed. Though percentage of non-filers has declined to 20.29 per cent as against 59.34 per cent in the previous year, a sizeable number of tax deductors had still not filed the returns.

Assessee Profile

2.7 The number of assessees for direct taxes increased at a compound annual rate of 10.06 percent from 1.99 crore in 1999-00 to 2.92 crore in 2003-04 whereas the compound annual growth rate as on 2002-03 was 13.33 percent. More than 98.63 per cent of the current assessees were non-corporate assessees and less than 1.37 per cent were corporate assessees. Non-corporate assessees increased from 1.96 crore in 1999-00 to 2.88 crore in 2003-04 i.e., at the compound annual rate of 10.17 per cent. Category wise details of increase are indicated in Table 2.7 below:

Non-corporate assessees

TABLE 2.7: CATEGORY WISE INCREASE OF NON CORPORATE ASSESSEES DURING LAST 5 YEARS

Income level	1999-00	2003-04	Compound Annual growth rate	Present share in total assessees	
				1999-00	2003-04
	(Number in lakh)			(Percentage)	
A*	187.45	265.46	9.09	95.80	92.08
B* (lower)	4.90	17.99	38.42	2.50	6.24
B* (higher)	2.59	3.68	9.18	1.32	1.28
C*	0.58	1.05	16.00	0.30	0.36
D*	0.15	0.12	(-) 5.43	0.08	0.04
Total	195.67	288.30	10.17	100.00	100.00

* Category 'A' assessees- Assessments with income/loss below Rs. 2 lakh.

* Category 'B' assessees (lower income group) - Assessments with income/loss of Rs.2 lakh and above but below Rs.5 lakh.

* Category 'B' assessees (higher income group) - Assessments with income/loss of Rs.5 lakh and above but below Rs.10 lakh.

* Category 'C' assessees - Assessments with income/loss of Rs.10 lakh and above.

* Category 'D' assessees - Search and Seizure assessments.

Average annual growth rate of non-corporate assessee declined in all income categories during 1999-2004 as compared to average annual growth rate during 1998-2003.

Corporate assesseees

Number of corporate assesseees increased from 3.10 lakh in 1999-00 to 3.72 lakh in 2003-04, at a compound annual rate of 4.66 per cent. Category wise details of the corporate assesseees are indicated in Table 2.8 below:

TABLE 2.8: PROFILE OF CORPORATE ASSESSEES

	1999-00	2003-04	Compound Annual growth rate	Share in total assesseees	
	(Number in lakh)			1999-00	2003-04
1	2	3	4	5	
A*	1.82	2.00	2.39	58.71	53.76
B* (lower)	0.58	0.81	8.71	18.70	21.77
B* (higher)	0.34	0.44	6.66	10.97	11.83
C*	0.33	0.44	7.46	10.65	11.83
D*	0.03	0.03	0.00	0.97	0.81
Total	3.10	3.72	4.66	100.00	100.00

Corporate assesseees in income category A and category B (higher) recorded a growth of 2.39 and 6.66 percent per annum during 1999-2004 as compared to growth 1.41 and 4.32 percent per annum during 1998-2003 respectively. The share of assesseees belonging to income category B (lower) declined in 1999-2004 as compared to the period 1998-2003.

The number of companies limited by shares at work, according to the Department of Company Affairs (DCA) as on 1 April 2004, was 6,41,498 which included 5,64,118 private limited companies and 77,380 public limited companies in Government/Non-Government sector. Audit could not identify the reasons for the difference between the number of companies registered with DCA and the number of companies in the records of Income Tax department.

There has been an increase in the average tax collection per corporate/ Non corporate assessee during the year as compared to 2002-03. Table 2.9 below contains the details: -

* Category 'A' assesseees- Assessments with income/loss below Rs.50,000

♦ Category 'B' assesseees (lower income group) - Assessments with income /loss of Rs.50,000 and above but below Rs.5 lakh

♥ Category 'B' assesseees (higher income group) - Assessments with income/loss of Rs.5 lakh and above but below Rs.10 lakh.

▲ Category 'C' assesseees - Assessments with income/loss of Rs.10 lakh and above.

• Category 'D' assesseees - Search and Seizure assessments.

TABLE 2.9: AVERAGE TAX COLLECTED FROM CORPORATE AND NON-CORPORATE ASSESSEES

	1999-00	2000-01	2001-02	2002-03	2003-04
Number of assessees (Number in lakh)					
Corporation Tax	3.10	3.34	3.49	3.65	3.72
Income Tax	195.67	226.68	258.77	281.00	288.30
Average Tax Collected per assessee (Rs in thousand)					
Corporation Tax	991	1068	1048	1265	1709
Income Tax	13	14	12	13	14

**PAN
Applications**

2.8 The Act has made it mandatory for every person to quote his/her Permanent Account Number (PAN) in documents pertaining to specified transactions. In order to comply with the provisions of the Act it is necessary to allot PAN at the earliest to persons who apply for the same. As against 2.92 crore corporate and non-corporate assessees, the department has allotted PANs to 3.19 crore as on 31 March 2004. The extent of duplication of PAN and the gap in issue of PAN cards as against allotment of numbers are not identifiable from the data forwarded by the department.

In order to enhance the efficiency of PAN services from 1 July 2003, the Income Tax Department had outsourced a part of the process for allotment of PAN to UTI Investors Services Ltd. (UTIISL). Since 1 October 2003 all persons who had applied with the department for allotment of PAN upto 30 June 2003 but were not allotted PAN because the applications being incomplete, were being advised to approach UTIISL or National Securities Depository Ltd. (NSDL) with a fresh application. Table 2.10 shows statistics for PAN allotment which are divided into two periods i.e. pre and post outsourcing period.

TABLE 2.10: (A) POSITION OF ALLOTMENT OF PAN THROUGH INCOME TAX DEPARTMENT

Financial Year	Opening balance	Additions during the year	Core-field deficiency / duplicate PAN Cases	Net applications for allotment (2+3- 4)	PAN allotted During the year	Balance (including core field deficiency cases)	Net Pendency (5-6)
1	2	3	4	5	6	7	8
2000-01	23,56,052	17,27,875	13,84,272	26,99,655	23,00,218	17,83,709	3,99,437
2001-02	17,83,709	28,47,610	13,02,795	33,28,524	26,78,764	19,52,555	6,49,760
2002-03	19,52,555	55,36,180	12,60,432	62,28,303	58,74,623	16,14,112	3,53,680
2003-04 (From 1.4.03 to 30.6.03)	16,14,112	10,59,240	16,10,683	10,62,669	10,62,669	-	-

Financial Year	Opening balance	Additions during the year	Core-field deficiency / duplicate PAN Cases	Net applications for allotment (2+3- 4)	PAN allotted During the year	Balance (including core field deficiency cases)	Net Pendency (5-6)
(B) ALLOTMENT OF PAN FROM 1.7.2003 TO 31.3.2004 THROUGH UTIISL							
2003-04 (From 1.7.03 to 31.3.04)	-	40,02,352	-	40,02,352	35,08.956	-	4,93,396

Position of Assessments

2.9 Under the Act, time limit for completion of assessments and reassessments is two years from the end of the assessment year in which the income was first assessable or one year from the end of the financial year in which a return or a revised return relating to relevant assessment year is filed under section 139(4) and 139 (5). Position of assessments of income and corporation tax during the last five years is indicated in Table 2.11 below.

TABLE 2.11: POSITION OF INCOME TAX INCLUDING CORPORATION TAX ASSESSMENTS*

Financial year	Assessments due for disposal			Assessments completed (Percentage)			Assessments pending (Percentage)		
	Scrutiny	Summary	Total	Scrutiny	Summary	Total	Scrutiny	Summary	Total
1	2	3	4	5	6	7	8	9	10
1999-00	5,53,637	2,68,46,956	2,74,01,593	3,16,223 (57.12)	1,40,43,850 (52.31)	1,43,60,073 (52.41)	2,37,414 (42.88)	1,28,04,106 (47.69)	1,30,41,520 (47.59)
2000-01	3,60,141	3,10,46,331	3,14,06,472	2,25,730 (62.68)	1,86,33,110 (60.02)	1,88,58,840 (60.05)	1,34,411 (37.32)	1,24,13,221 (39.98)	1,25,47,632 (39.95)
2001-02	2,17,540	3,65,08,234	3,67,25,774	1,68,010 (77.23)	1,99,58,558 (54.67)	2,01,26,568 (54.80)	49,530 (22.77)	1,65,49,676 (45.33)	1,65,99,206 (45.20)
2002-03	8,94,415	3,69,00,040	3,77,94,455	1,72,410 (19.28)	3,37,92,795 (91.58)	3,39,65,205 (89.87)	7,22,005** (80.72)	31,07,245 (8.42)	38,29,250 (10.13)
2003-04	3,88,275	2,69,78,376	2,73,66,651	1,97,390 (50.83)	2,13,80,490 (79.25)	2,15,77,880 (78.84)	1,90,885 (49.17)	55,97,886 (20.75)	57,88,771 (21.16)

Number of cases selected for scrutiny during 2003-04 decreased to 1.90 lakh as compared to 8.45 lakh in 2002-03 as shown in Table 2.12 below. This was due to the fact that the Board had changed the procedure for selection of cases of corporate/non corporate assesseees for scrutiny in 2003-04. The number of assessing officers had increased by 5.46 percent after restructuring but it did not result in quicker disposal of scrutiny assessments, which could have yielded more revenue to government during the year itself.

* Status wise and Category wise details given in Appendix-5

** 5,24,194 cases out of 7,22,005 cases identified for scrutiny in 2002-03 had been converted into summary assessment in 2003-04.

TABLE 2.12: CASES SELECTED FOR SCRUTINY DURING THE LAST 5 YEARS

Financial year	Opening balance of scrutiny cases	Cases selected for scrutiny during the year	Total cases for disposal
1	2	3	4
1999-00	3,96,227	1,57,410	5,53,633
2000-01	2,37,414	1,22,727	3,60,141
2001-02	1,34,411	83,129	2,17,540
2002-03	49,530	8,44,885	8,94,415
2003-04	1,97,811	1,90,464	3,88,275

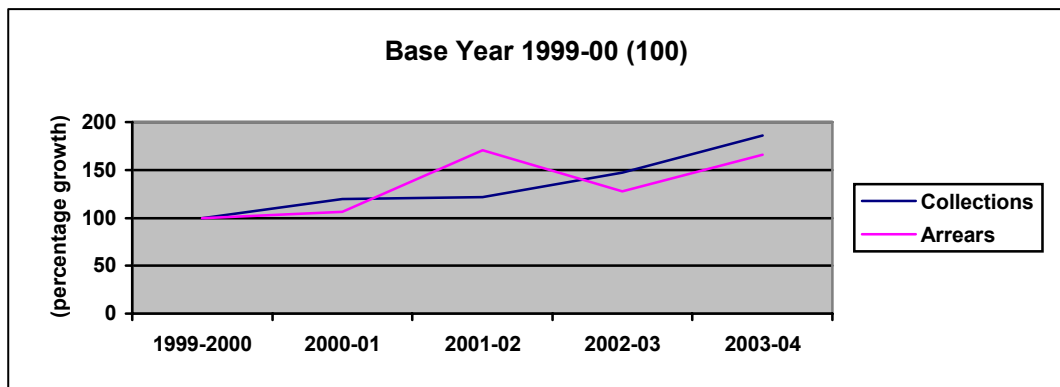
Arrears of demand

2.10 The Act provides that when any tax, interest, penalty, fine or any other sum is payable in consequence of any order, a notice of demand shall be served upon the assessee. The amount specified in the notice has to be paid within 30 days unless the assessing officer, on application, extends the time for payment to be made by the assessee. The Act provides that an appeal against an assessment order would be barred unless the admitted portion of the tax as per the return is paid before filing the appeal. The amount, which remains unpaid, becomes arrears. Table 2.13 below contains details of income tax and corporation tax collected and remaining uncollected during 1999-00 to 2003-04.

(Rs. in crore)

TABLE 2.13: INCOME TAX INCLUDING CORPORATION TAX COLLECTED AND REMAINING UNCOLLECTED

Year	Tax collected			Tax remaining uncollected		
	CT	IT	Total	CT	IT	Total
1	2	3	4	5	6	7
1999-00	30,692	25,655	56,347	28,349	24,621	52,970
2000-01	35,696	31,764	67,460	24,402	32,029	56,431
2001-02	36,609	32,004	68,613	42,538	47,639	90,177
2002-03	46,172	36,866	83,038	35,057	32,581	67,638
2003-04	63,561	41,387	1,04,948	37,631	50,386	88,017

CHART 4: GROWTH IN COLLECTION AND AMOUNT REMAINING UNCOLLECTED

Uncollected amount of Rs.88,017 crore comprised demand of Rs.57,064 crore of earlier years and current demand of Rs.30,953 crore outstanding as on 31 March 2004. The outstanding demand both in corporation tax as well as income tax increased during the year as compared to last year but substantial amount still remained uncollected at the end of the year. At the end of March 2004, Rs.47,272.14 crore or 54 percent of total uncollected demand was stayed/kept in abeyance.

CHART 5: AMOUNTS STAYED/KEPT IN ABEYANCE

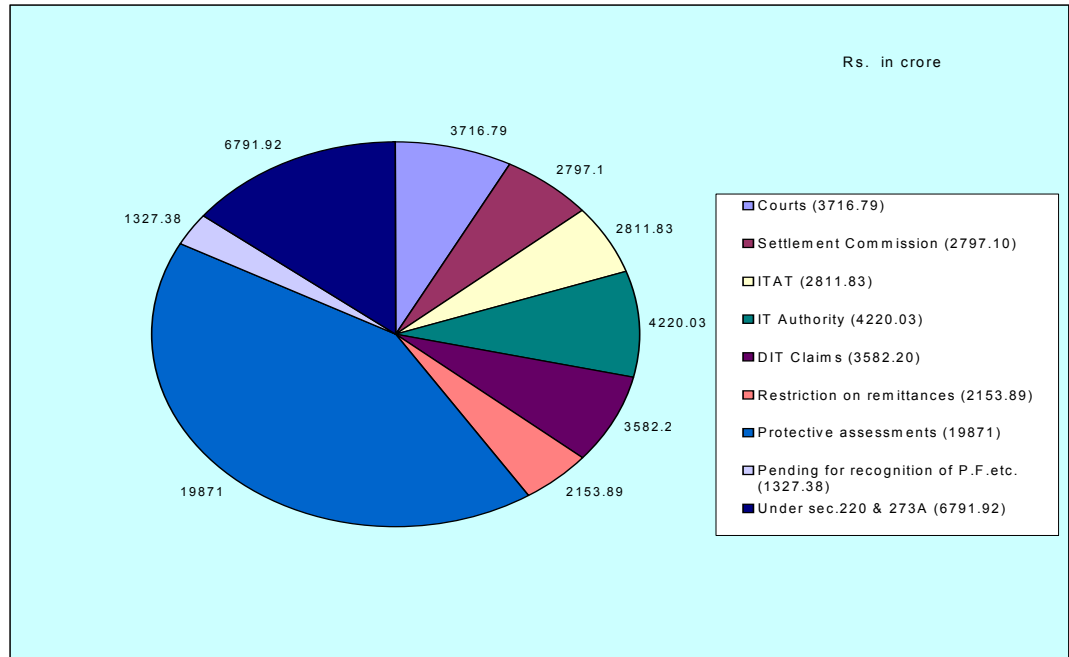


Table 2.14 below, containing year wise details of arrears, indicates that 16 percent of the arrears were over five years old. The position has slightly improved as compared to 23 per cent in 2002-03.

(Rs in crore)

TABLE 2.14: YEARWISE DETAILS OF ARREAR DEMAND OF EARLIER YEARS

		Corporation Tax	Income Tax	Interest	Others	Total
1	2	3	4	5	6	7
1	Over 1 year but less than two years	9,864.40	8,354.22	14,352.90	2,397.84	34,969.36
2	Over 2 years but less than 5 years	4,601.66	4,121.04	4,057.96	717.66	13,498.32
3	Over 5 years but less than 10 years	2,173.09	2,781.72	2,577.68	284.59	7,817.08
4	Over 10 years	263.22	279.80	151.44	85.35	779.81
Total		16,902.37	15,536.78	21,139.98	3,485.44	55,064.57

More than 41 per cent of gross arrears as on 31 March 2004 consisted of cases where arrear in each case was Rs 1 crore and above. Details of arrears in terms of their value in each case are indicated in Table 2.15 below:

(Rs. in crore)

TABLE 2.15: AMOUNT WISE DETAILS OF GROSS ARREARS AND NET* ARREARS									
	Company cases			Non-company cases			Total		
	No. of cases	Gross arrears	Net arrears	No. of cases	Gross arrears	Net arrears	No. of cases	Gross arrears	Net arrears
1	2	3	4	5	6	7	8	9	10
Upto Rs.1 lakh in each case	8,88,203	4,638.01	1,736.79	3,22,30,300	22,175.18	8,253.23	3,31,18,503	26,813.19	9,990.02
Over Rs.1 lakh to Rs.10 lakh in each case	2,66,297	2,533.82	938.02	5,41,986	9,756.47	2,770.18	8,08,283	12,290.29	3,708.20
Over Rs.10 lakh to Rs.1 crore in each case	1,36,007	3,884.63	1,348.96	1,00,238	8,749.84	5,785.73	2,36,245	12,634.47	7,134.69
Over Rs.1 crore in each case	21,485	26,575.12	7,370.27	9,012	9,704.41	4,742.76	30,497	36,279.53	12,113.03
Total	13,11,992	37,631.58	11,394.04	3,28,81,536	50,385.90	21,551.90	3,41,93,528	88,017.48	32,945.94

**Tax
Recovery
Machinery**

2.11 Every demand of tax, interest, penalty or fine, should be paid within thirty days of the service of notice of demand. On the default of an assessee in this respect, the assessing officer may forward a certificate specifying the demand of arrears to the tax recovery officer (TRO) for recovery of demand. The latter will serve a notice on the defaulter requiring him to pay the demand within fifteen days. If the amount is not paid within the time specified in the notice or within extended period, if any, the TRO shall proceed to realise the amount together with interest leviable for default in payment of tax demand by attachment and sale of the defaulter's movable property or by attachment and sale of the defaulter's immovable property or by arrest of the defaulter and his detention in prison or by appointing a receiver for management of defaulter's movable and immovable properties.

2.11.1 The administrative machinery of tax recovery has been strengthened by allocating one TRO exclusively for each range consequent to the implementation of the scheme of restructuring of the department. The demand certified to TROs and amount recovered is indicated in Table 2.16 below:

* Net arrears comprise gross arrears minus arrears not fallen due, amounts claimed to have been paid pending verification, amount for which installments were granted and amount stayed/kept in abeyance

(Rs. in crore)

TABLE 2.16: TAX DEMANDS CERTIFIED TO THE TAX RECOVERY OFFICER AND DEMAND RECOVERED

Year	Demand at the beginning of the year	Demand certified during the year	Total demand	Demand recovered during the year	Balance at the end of the year
1	2	3	4	5	6
2001-02	8,041.91	7,885.96	15,927.87	2,229.48 (14.00)	13,698.39
2002-03	13698.39	6,752.72	20,451.11	4441.85 (21.72)	16,009.26
2003-04	16,009.26	5,320.28	21,329.54	4111.73 (19.28)	17,217.81*

The percentage of recovery of demand has declined to 19 percent (approx) during 2003-04 as compared to 22 percent in 2002-03, 81% of the certified amount still remained uncollected at the end of the year as compared to 78% in 2002-03. However, the working strength of TROs decreased to 462 during 2003-04 as compared to 509 in 2002-03.

Penalties

2.12 If an assessee fails to furnish return of income/wealth or files a false return or fails to produce accounts and documents, penalty is leviable. The assessee is also liable to be prosecuted for the offence. Penalty is also leviable for failure to deduct or pay tax. Table 2.17 indicates that out of 4.06 lakh cases where penalty proceedings were initiated only 0.74 lakh cases, i.e., 18.33 percent of the total cases were finalized during the year as compared to 38.90 percent in 2002-03.

TABLE 2.17: INCOME TAX CASES WHERE PENALTY PROCEEDINGS INITIATED, DISPOSED OF AND PENDING

Year	Opening balance	Additions	Total	Disposal	Closing balance
1	2	3	4	5	6
2001-02	1,97,164	48,172	2,45,336	63,547	1,81,789
2002-03	1,81,789	64,399	2,46,188	95,918	1,50,270
2003-04	1,50,270	2,55,247	4,05,517	74,332	3,31,185

Out of 74,332 penalty cases disposed of during the year, penalty was imposed in 46.6 per cent or 34,661 cases. Sixty four per cent of the total cases for disposal pertained to concealment of income but only 19.28 per cent of these cases were disposed of. Table 2.18 below gives the details.

* Year wise, tax wise and amount wise breakup given in Appendix-6

TABLE 2.18: NATURE OF OFFENCES AND PENALTIES IMPOSED DURING 2003-04

Nature of offence	Number of cases	Cases disposed of	Balance	Balance less than 6 months	Balance more than 6 months	Penalties imposed	
						Cases	Amount (Rs in crore)
1	2	3	4	5	6	7	8
Concealment	1,64,397	31,694	1,32,703	28,606	72,412	15,174	1831.33
Other than concealment	90,850	42,638	48,212	12,679	33,303	19,487	253.65
Total	2,55,247	74,332	1,80,915	41,285	1,05,715	34,661	2,084.98

Though number of cases where penalties were imposed decreased over the last year, the amount of penalty imposed increased by Rs.504.81 crore.

Search and Seizure cases

2.13 Chapter XIV-B of the Act governs the assessment of search cases. The time limit for completion of block assessment is two years from the end of the month in which the last of the authorizations for search was executed. Table 2.19 summarizes the position of prosecutions launched, convictions obtained, offences compounded and acquittals allowed.

TABLE 2.19: PROSECUTIONS LAUNCHED, CONVICTIONS OBTAINED, OFFENCES COMPOUNDED AND ACQUITTALS

Year	Number of prosecutions launched			Disposal of cases				Cases pending
	Opening balance	Additions	Total	Convictions	Compounding	Acquittals	Total	Balance
1	2	3	4	5	6	7	8	9
2001-02	12,375	38	12,413	5	8	199	212	12,201
2002-03	12,201	102	12,303	18	11	404	433	11,870
2003-04	11,870	37	11,907	12	55	48	115	11,792

Only 0.97 percent of total cases for prosecution were disposed of during the year as compared to 3.52 percent in 2002-03.. As many as 41.74 percent cases resulted in acquittal and only 10.44 per cent cases resulted in conviction. Department did not maintain separate details of net collection of revenue from assessments made in search and seizure cases which would have given an idea of effectiveness of quality of investigation and assessments. There is an urgent need for the Department to undertake a comprehensive review of the search and seizure mechanism for improving its effectiveness.

Refund Cases and interest paid on refunds

2.14 Where the amount of tax paid exceeds the amount of tax payable, the assessee is entitled to a refund of the excess amount. Simple interest at the prescribed rate is payable on the amount of such refund. Refund of any amount as

a result of any order passed in appeal or other proceedings is also admissible along with simple interest at the prescribed rate.

TABLE 2.20: CASES OF REFUNDS FOR WHICH CLAIMS WERE MADE

Financial year	Opening balance	Claims received during the year	Total	No. of claims disposed of	Balance outstanding
1	2	3	4	5	6
2001-02	1,33,012	3,59,456	4,92,468	1,75,883	3,16,585
2002-03	3,16,585	4,18,570	7,35,155	5,15,427	2,19,728
2003-04	2,19,728	2,27,262	4,46,990	3,23,375	1,23,615

Pendency of refund claims results in out flow of revenue from government by way of interest. Twenty eight percent of the refund claims out of total claims remained outstanding at the end of March 2004. Details are given in Table 2.20 above.

TABLE 2.21: CASES RESULTING IN REFUND AS A RESULT OF APPELLATE ORDERS AND REVISION ORDERS, ETC

Financial Year	Opening Balance	Addition	Total	Disposal	Closing Balance
1	2	3	4	5	6
2001-02	8,468	30,100	38,568	11,191	27,377
2002-03	27,377	58,480	85,857	49,022	36,835
2003-04	36,835	54,677	91,512	64,422	27,090

Despite appeal/revision orders having been received, 27,090 cases, or 30 percent of total cases where refunds were due to assesseees remained pending at the end of the year. Details are given in Table 2.21 above.

TABLE 2.22: INTEREST PAID ON REFUNDS BY THE GOVERNMENT

Section under which interest paid	2001-02		2002-03		2003-04	
	No. of assessments	Amount (Rs in crore)	No. of assessments	Amount (Rs in crore)	No. of assessments	Amount (Rs in crore)
1	4	5	6	7	8	9
214	1	0.49	837	3.69	1,277	0.13
243	-	-	76,647	1.53	4	0.02
244	5,558	27.68	27,456	13.35	6,302	2.57
244A	14,49,579	1,894.71	48,31,957	6,249.50	44,48,218	4,698.44
Total	14,55,138	1,922.88	49,36,897	6,268.07	44,55,801	4,701.16

Government paid Rs.6,268.07 crore by way of interest on refunds in 2002-03 which declined to Rs.4701.16 crore in 2003-04. This represents a decrease of 25 per cent as compared to an increase of 226 percent in 2002-03. Government refunded Rs.25,736 crore from gross collection of Rs.1,30,685 crore (Table 2.5) and paid interest amounting to Rs.4,701 crore (Table 2.22) which worked out to 18.3 per cent of the amount refunded. The number of assessments had declined

(10 percent) from 49.37 lakh in 2002-03 to 44.56 lakh in 2003-04. Seventy nine percent or 2.14 crore assessments were completed in summary manner.

**Incorrect
accounting
of interest
on refunds**

2.15 Audit had commented in para 2.14 of Audit Report 12 of 2004 that government was following incorrect procedure of accounting for interest paid on refunds. Interest payment is a charge on the Consolidated Fund of India and therefore is payable through a proper budgetary mechanism. Accordingly, minor head “Interest on Refunds” exists under the Major Head “2020-Collection of Taxes on Income and Expenditure”. However, no budget provision for ‘interest on refund’ was made in the budget estimates for 2002-03 and the expenditure on interest on refunds amounting to Rs.6268.07 crore was treated as reduction in revenue. Accountal of interest on refund as reduction in revenue is fundamentally incorrect as interest was never collected in the first instance.

Ministry not accepting the Audit’s view has replied that decision in this regard had already been taken by the Ministry, after detailed examination of all the issues relevant to the matter and with the approval of the Revenue Secretary, the Expenditure Secretary, the Finance Secretary and the Finance Minister to treat interest on refunds as an outgo from revenue, and that no review of the well established procedure for accounting of interest on refunds was considered necessary.

The reply of the Ministry is not tenable for the following reasons:-

- (i) By not making provision for expenditure, the Department is actually incurring it without authorization through the Appropriation Act. Parliament is, therefore, in the dark about the quantum of expenditure.
- (ii) Accountal of interest on refund as reduction in revenue is violative of Government India’s orders vide dated 13 October 1988¹ as per which these interest payments are to be accounted for under the Major Head “2020-Collection of Taxes on Income and Expenditure” and Minor Head “Interest paid on delayed refunds on disputed Income Tax”.
- (iii) The above practice also violates Rule 6 of Central Government Account (Receipts and Payments) Rules, 1983 which states that all moneys received by or tendered to Government officers on account of revenues or receipts or dues of the Government shall, without undue delay, be paid in full into the accredited bank for inclusion in Government Account and that moneys received on aforesaid shall not be utilised to meet departmental expenditure nor otherwise kept apart from the accounts of the Government. Rule 6, *ibid*, further states that in special cases authorized by the Government, moneys received or tendered on account of the revenues of the Government may be deposited with a bank other than the Reserve Bank or its agents for the purpose of Government transactions and the

¹ F.No. 380/24/86-IT (B), Government of India, Ministry of Finance, Department of Revenue dated 13 October 1988

conditions under which such deposits may be made and the manner in which the balances of such deposits shall be included in the Government Account shall be decided by the Government in each case after consultation with the Comptroller and Auditor General.

- (iv) As per article 270 of the Constitution, all taxes and duties referred to in the Union list, except those referred in articles 268, 269 and 271 are to be levied and collected by the Government of India and are to be distributed between the Union and the States in the prescribed manner. As a consequence of accountal of interest on refund as reduction in revenue, the collections of the Department will be understated. This in turn, would correspondingly reduce the amount going to the divisible pool between the Union and the States.

Cost of Collection of Taxes

2.16 Overall cost of collection of income and corporation taxes increased from Rs.894 crore in 1999-00 to Rs.1,108 crore in 2003-04. However, cost per rupee of corporation tax collected declined from 0.35 paise in 1999-00 to 0.21 paise in 2003-04. For income tax, cost of collection per rupee declined from 3.07 paise in 1999-00 to 2.37 paise in 2003-04. Cost per assessee, however, remained generally stable for corporation tax during previous years but slightly increased in 2003-04, though for income tax, there was a marginal decline during previous years and a slight increase in 2003-04. The position of cost of collection as depicted by the department needs to be viewed against the background that 93.70 percent and 80.42 percent of gross collections during 2003-04 from non corporate and corporate assesseees respectively, were realized at the pre-assessment stage i.e., in the form of advance tax, TDS and self assessment tax which did not test the efficiency of investigation or assessment skills of the department. Annual fluctuations in cost of collection of corporation and income tax are indicated in Table 2.23 below.

TABLE 2.23: COST OF COLLECTION OF CORPORATION AND INCOME TAX					
	1999-00	2000-01	2001-02	2002-03	2003-04
Cost of Collection (Rs. in crore)					
Corporation Tax	106	107	115	121	129
Income Tax	788	822	878	927	979
Cost of Collection per rupee of tax collected (in paise)					
Corporation Tax	0.35	0.30	0.31	0.26	0.21
Income Tax	3.07	2.59	2.74	2.51	2.37
	1999-00	2000-01	2001-02	2002-03	2003-04
Cost of Collection per assessee (In rupees)					
Corporation Tax	3,423	3,201	3,293	3315	3468
Income Tax	403	363	339	329	340

Appeals, Revision Petitions and Writs

2.17 If an assessee is not satisfied with his assessment or refund order, he or it can file an appeal with the Commissioner (Appeals) and thereafter to Income Tax Appellate Tribunal (ITAT) and on any question of law arising out of such order to

High Court and Supreme Court. The assessee can also initiate writ proceedings under Article 226 of the Constitution.

2.17.1 Clauses 6A to section 250 & 2A to section 254 have been inserted in the Income Tax Act, with effect from 1 June 1999 indicating time limits for disposal of an appeal which are one year for CIT (A) and four years for ITAT.

TABLE 2.24: APPEALS PENDING WITH THE COMMISSIONERS (APPEALS) ON 31 MARCH 2004

	Total appeals	High demand* appeals	With demand of Rs. 10-25 lakh	With demand of Rs.25 lakh and above
Appeals for disposal	1,74,298	51,477	8,444	10,851
Disposal	92,152	28,177	4,764	5,766
Pending	82,146	23,300	3,680	5,085

2.17.2 As per instructions from the Board, each CIT (Appeal) is required to dispose of a minimum of 60 appeals per month. Thus about 2.07 lakh appeals should have been disposed of during the year on the basis of working strength of 288 CIT (Appeals). Table 2.24 above shows that only 0.92 lakh appeals were disposed of which is less than the required disposal. As against target of 720 appeals per CIT (A) during the year to be disposed of, average disposal per CIT (A) is 320 appeals.

TABLE 2.25: APPEALS PENDING WITH SUPREME COURT/HIGH COURT/ INCOME TAX APPELLATE TRIBUNAL ON 31 MARCH 2004

Period	With Supreme Court	With High Court	With ITAT
Appeals, references and writs for disposal	5,033	32,986	1,04,743
Disposal	337	3,652	32,929
Pending	4,696	29,334	71,814

2.17.3 Out of the cases referred to Supreme Court, High Court and ITAT till March 2004, 93 percent, 89 percent and 69 percent cases respectively remained pending as shown in Table 2.25.

2.17.4 Age wise details, given in Table 2.26 below, depict that 1,356 (28.88 percent), 6,423 (21.90 percent) and 12,980 (18.08 percent) cases were pending with Supreme Court, High Court and ITAT respectively which were above four years old.

* An appeal in which tax involved is more than Rupees one lakh

TABLE 2.26: AGE-WISE DETAILS OF PENDING CASES

Period	With Supreme Court	With High Court	With ITAT
Less than one year	2,117	12,474	29,595
One to two years	552	4,708	12,878
Two to three years	349	3,427	9,487
Three to four years	322	2,302	6,874
Above four years	1,356	6,423	12,980
Total	4,696	29,334	71,814

Cases settled by Settlement Commission

2.18 An assessee may, at any stage of a case relating to him, make an application to the Settlement Commission to have the case settled. While making such an application, an assessee shall make full and true disclosure of his income (not disclosed before the assessing officer) and the additional amount of income tax payable on such income. The Settlement Commission admits/rejects the application after calling for a report from the Commissioner. Out of 3,021 cases for disposal by the Settlement Commission, 188 cases (6.37 percent) were settled. Percentage of disposal in respect of Income tax and Wealth tax, as shown in Table 2.27 below declined during the year as compared to 2002-03.

TABLE 2.27: CASES SETTLED BY THE SETTLEMENT COMMISSION

Year	Opening balance	Addition	Total cases for disposal	Number of cases settled	Percentage of cases settled	Number of cases pending
1	2	3	4	5	6	7
Income Tax						
2001-02	1,855	671	2,526	323	12.79	2,203
2002-03	2,203	528	2,731	267	9.78	2,464
2003-04	2,464	491	2,955	188	6.37	2,767
Wealth Tax						
2001-02	83	NIL	83	17	20.49..	66
2002-03	66	6	72	6	8.34	66
2003-04	66	NIL	66	-	0.00	66

TABLE 2.28: CASES PENDING ADMISSION/HELD UP WITH SETTLEMENT COMMISSION

	31 March 2003	31 March 2004
Cases pending admission before Settlement Commission	577	707
Cases held up with Settlement Commission for want of comments of the department	203	446

2.18.1 Out of 2,833 pending Income tax and Wealth tax cases, 1,153 (41 per cent) cases were either pending with Settlement Commission or held up for want of comments from the department. No action was taken in respect of remaining 1,680 cases.

**Revenue demand
written off**

2.19 The total amount of arrears, for which recovery certificates were issued to Tax Recovery Officers during 2003-04 amounted to Rs.17,217.81 crore involving 4,01,620 assesseees. Out of this, Rs.509.24 crore involving 2,99,448 assesseees related to cases where demand in each case was upto rupees ten thousand. The department identified arrears in respect of 2,83,255 assesseees for possible write-off involving Rs.27.99 crore and Rs.25.27 crore was thereafter written off in respect of 2,68,410 assesseees.

2.19.1 Out of the total amount written off covering all cases, 23 percent pertained to cases where assesseees had died leaving behind no assets or had become insolvent or had gone into liquidation or where companies had become defunct and about 51.8 percent pertained to assesseees who were alive but had no attachable assets. Table 2.29 contains the details.

(Rs.in crore)

TABLE 2.29: CATEGORY-WISE DETAILS OF REVENUE DEMANDS WRITTEN OFF DURING 2002-03

Category	Company cases		Non-company cases		Total cases	
	No.	Amount	No.	Amount	No.	Amount
1	2	3	4	5	6	7
(a) Assessee having died leaving behind no assets/become insolvent/gone into liquidation or are defunct.	49	24.36	6,392	5.76	6,441	30.12
(b) Assessee being untraceable.	30	1.00	1,09,609	21.29	1,09,639	22.29
(c) Assessee having left India	0	0	12,412	8.06	12,412	8.06
(d) Assessee who is alive but has no attachable assets/amounts being petty/amounts written off as a result of scaling down of demand.	331	0.40	2,70,514	67.37	2,70,845	67.77
(e) Amount written off on grounds of equity or as a matter of international courtesy, or where time, labour and expense involved in legal remedies for realisation are considered disproportionate to the recovery.	0	0	17,650	2.65	17,650	2.65
Total	410	25.76	4,16,577	105.13	4,16,987	130.89

**Voluntary
Disclosure of
Income Scheme
(VDIS) 1997**

2.20 The Government had introduced Voluntary Disclosure of Income Scheme, 1997 (VDIS) with effect from 1 July 1997 with a view to providing an opportunity to persons who had evaded tax in the past to come forward and declare their undisclosed income and return to the path of rectitude. In the Audit Report 12A of 2000, audit had commented that the VDIS 1997 was extremely complex because of several lacunae in the text of the scheme which had further been compounded by circulars, notifications, clarifications, not all of them consistent with the provisions of the Finance Act 1997. Audit had highlighted several instances of “abinitio” invalid/non-est declarations on which the Income Tax Department was required to take remedial action and bring the undisclosed income to tax.

Audit attempted an exercise to assess the status and adequacy of ‘follow up action in selected post VDIS-1997 assessments’. The limited test check in audit revealed short levy of tax of Rs.228.55 crore in only 1081 cases. Details are given in Chapter-VI of this Report.