

## Chapter Summary

This chapter consists of four parts A, B, C and D containing audit observations on assessments in respect of wealth tax, gift tax, interest tax and expenditure tax respectively.

Arrears of wealth tax demand decreased by 17.90 percent from Rs.1,397.88 crore in 2003-04 to Rs.1,147.70 crore in 2004-05. Actual collection of wealth tax fell from 15.60 percent of the total outstanding arrears of wealth tax demand in 2000-01 to 12.70 percent in 2004-05.

**(Para 5.1)**

The numbers of wealth tax assessee declined from 2,02,171 in 2000-01 to 1,01,801 in 2004-05 though no major amendments have been made in the wealth tax law.

**(Para 5.2)**

The assessing officers committed mistakes in

- ◆ valuation of assets and inclusion of taxable assets in the net wealth resulting in short levy of wealth tax of Rs.33.34 lakh in 14 cases.

**(Para 5.5 & 5.6)**

- ◆ correlating income tax assessment records with the records of wealth tax assessments and non/short-levy of interest totalling Rs.1.30 crore in 29 cases.

**(Para 5.7 & 5.8)**

- ◆ levy of gift tax and interest amounting to Rs.27.65 lakh in six cases.

**(Para 5.12 & 5.13)**

- ◆ levy of interest tax in nine cases involving tax of Rs.1.24 crore.

**(Para 5.17)**

- ◆ applying correct rate of tax and correlating income tax assessment records with interest tax in 14 cases resulting in non-levy of interest tax totalling Rs.1.71 crore

**(Para 5.18 & 19)**

- ◆ levy of interest on interest tax totalling Rs.8.10 crore in six cases.

**(Para 5.20 & 21)**

## CHAPTER V: OTHER DIRECT TAXES

### A-Wealth tax

#### Revenue from wealth tax

**5.1** The following table gives the position of budget estimates and actual collections compared to total arrears of wealth tax demand between 2000-2001 and 2004-05.

(Rs. in crore)

**TABLE 5.1: BUDGET ESTIMATES, ACTUAL WEALTH TAX COLLECTION & ARREARS OF WEALTH TAX DEMAND**

Year	Budget estimates	Actual collection	Arrears of wealth tax demand	Percentage of actual collection to the arrears of wealth tax demand
1	2	3	4	5
2000-01	145.00	131.73	844.10	15.6
2001-02	145.00	135.36	1,361.04	9.9
2002-03	145.00	153.88	2,122.17	7.3
2003-04	145.00	135.83	1,397.88	9.7
2004-05	145.00	145.36	1,147.70	12.7

**5.1.1** Actual collection has reduced from Rs.154 crore in 2002-03 to Rs.145.36 crore in 2004-05. The budget provided for the same amount of Rs.145 crore in each of the years from 2000-2001 to 2004-05 without considering the magnitude of arrears of wealth tax demand and the potential of current demand. Actual collections have not met the budget estimates in any year except in 2002-03 and 2004-05.

**5.1.2** Though the arrears of wealth tax demand have been reduced by Rs.250.18 crore during the year 2004-05, only Rs.13 crore was collected in cash while the rest represented reduction of demand on account of verification, reconciliation and rectification of assessments.

#### Status of assesseees and assessments

**5.2** Table 5.2 below gives the comparative position of the number of wealth tax assesseees and number of wealth tax assessments due for disposal and actually completed between 2000-2001 and 2004-05:

**TABLE 5.2: WEALTH TAX ASSESSEES, ASSESSMENTS DUE FOR DISPOSAL AND COMPLETED**

Year	No. of wealth tax assessees	No. of wealth tax assessments due for disposal	No. of wealth tax assessments completed	No. of wealth tax assessments pending	Percentage of pending wealth tax assessments to total assessments due for disposal
2000-01	2,02,171	1,16,406	66,313	50,093	43
2001-02	1,51,676	1,18,530	78,982	39,548	33
2002-03	1,27,766	1,28,186	1,03,976	24,210	19
2003-04	1,35,085	1,09,777	82,702	27,075	25
2004-05	1,01,801	57,475	32,310	25,165	44

(i) There is a decline of 25 percent in the number of wealth tax assessees in assessment year 2004-05 with comparison to the preceding year.

(ii) Even though the number of wealth tax assessments due for disposal has declined by 48 percent in the year 2004-05 from 2003-04, there has been a shortfall by 61 percent in completion of these assessments which is indicative of inadequate attention being paid to this work. Percentage of pending wealth tax assessments to total assessments due for disposal has increased to 44 from 19 in 2002-03.

**Results of audit**

**5.3** During the test check of assessments completed under the Wealth Tax Act, 1957, conducted between 1 April 2004 and 31 March 2005, audit noticed short levy of wealth tax of Rs.1.69 crore in 46 cases.

Audit issued 46 draft paragraphs involving undercharge of wealth tax of Rs.1.69 crore between March 2005 and December 2005 to Ministry of Finance for their comments.

Out of the 46 draft paragraphs issued to Ministry, internal audit of the department had not seen any case.

Out of the 46 draft paragraphs issued to Ministry, 44 draft paragraphs involving tax effect of Rs.1.64 crore have been included in this chapter. Each paragraph indicates a particular category of mistake and starts with a suitable preamble followed by combined/consolidated tax effect of all observations of similar nature. Cases with money value of Rs. five lakh or more but less than Rs.50 lakh each are given in a tabular form in appendices.

**Status of Ministry's replies**

**5.4** Out of 44 cases included in this Chapter, Ministry of Finance accepted the audit observations in 13 cases involving tax effect totalling Rs.54.06 lakh. In one case the Ministry have not accepted the audit observation. In the remaining 30 cases, replies are awaited.

## 5.5 Mistakes in valuation of assets

### Mistakes in valuation of assets

The value of any asset other than cash is determined on the valuation date in the manner laid down in Schedule III to the Wealth Tax Act. However, for the purpose of making an assessment, the assessing officer may refer the valuation of any asset to a valuation officer for determining its market value in accordance with the provisions of the Act if he is of the opinion that the fair market value of the asset exceeds the value of the asset returned. The assessing officer is required to adopt the value so estimated by the valuation officer.

The assessing officers did not adopt correct value of assets in **two cases** resulting in under valuation of Rs.7.17 crore involving short levy of wealth tax of **Rs.7.27 lakh** including interest in Karnataka and Maharashtra. One case involving tax effect of more than Rs. five lakh is indicated at **Serial number 1 of Appendix 23**.

## 5.6 Wealth escaping assessment

### Non inclusion of taxable assets in the net wealth

From assessment year 1993-94, 'assets' inter alia include guest house and all residential buildings, urban land, motor cars other than those used in the business of running them on hire or as stock in trade. Further, for the assessment years 1997-98 and 1998-99, assets included commercial properties also.

The assessing officers did not include taxable assets in the net wealth resulting in short levy of tax totalling **Rs.26.07 lakh** in **twelve cases** in Andhra Pradesh, Tamil Nadu, West Bengal, Karnataka and Gujarat. One case involving tax effect of more than Rs. five lakh is indicated at **Serial number 2 of Appendix 23**.

## 5.7 Non correlation of assessment records

### Wealth not assessed due to non-correlation of records of different direct taxes

The Board has issued instructions (November 1973, April 1979 and September 1984) to the assessing officers for ensuring proper co-ordination amongst assessment records pertaining to different direct taxes and for simultaneous disposal of income tax and wealth tax assessment cases so that there is no evasion of tax.

The net wealth chargeable to tax comprises certain assets specified<sup>1</sup> under section 2(ea) of the Act subject to adjustment of any debt owed by the assessee in relation to any of the specified assets on the valuation date.

<sup>1</sup> The specified assets include following items :

- ◆ Any building or land appurtenant thereto whether used for residential purposes or for the purpose of maintaining a guest house or otherwise including a farm house situated within twenty-five kilometers from local limits of any Municipality or a Cantonment Board,
- ◆ Motor cars (other than those used by the assessee in the business of running them on hire or as stock-in-trade),
- ◆ Jewellery, bullion, furniture, utensils or any other article made wholly or partly of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals,
- ◆ Yachts, boats and aircrafts (other than those used by the assessee for commercial purposes),

Audit scrutiny of income tax assessment records of **22 assesseees** in Assam, Delhi, Karnataka, Kerala, Maharashtra, Tamil Nadu and West Bengal revealed that the assesseees either derived rental income from residential and commercial properties or owned one or more of the specified assets which were chargeable to wealth tax. However, neither did the assesseees file their returns of net wealth nor did the department initiate any wealth tax proceedings despite instructions of the Board. Consequently, wealth tax totalling **Rs.75.18 lakh** was not levied. **Four** cases involving tax effect of more than Rs. five lakh but less than Rs.50 lakh are indicated at **Serial number 3 to 6 of Appendix 23.**

### **5.8 Mistakes in levy of interest**

#### **Non/short levy of interest**

Where return of net wealth for any assessment year is furnished after the specified due date or is not furnished, the assessee shall be liable to pay simple interest at the rate of one percent (two percent upto May 2001 and one and one fourth percent upto 8 September 2003) for every month or part of the month from the date immediately following the due date to the date of filing the return or where no return is furnished, to the date of completion of regular assessment on the amount of tax determined in regular assessment.

Demand of tax should be paid by an assessee within the time specified in the Act. Failure to do so would attract interest at the rate of one and one fourth percent (two percent upto May 2001 and one percent from 8 September 2003) for every month or a part thereof from the date of default till the actual date of payment of demand. Interest for belated payment of tax was required to be calculated and charged within a week of the date of final payment of tax demand.

The assessing officers did not comply with the above provisions resulting in short levy of interest totalling **Rs.54.55 lakh** in **seven cases** in Andhra Pradesh, Bihar, Delhi, Madhya Pradesh and Kerala. Three cases with tax effect of more than Rs.five lakh in each case are indicated at **Serial number 7 to 9 of Appendix 23.**

### **5.9 Application of incorrect rate of tax**

#### **Mistakes in application of rates of tax**

Under the Wealth Tax Act, 1957, as applicable for the assessment year 1992-93, a domestic company in which public are not substantially interested is chargeable to tax at the rate of 2 percent of the net wealth

Mistakes in complying with the above provision resulted in short levy of tax of **Rs.1.17 lakh** in **one case** in **Kerala** charge.

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- ◆ Urban land and
  - ◆ Cash in hand, in excess of fifty thousand rupees, of individuals and Hindu undivided families and in the case of other persons any amount not recorded in the books of account.
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## B-Gift Tax

### General

**5.10** The Finance Act, 1998 abolished the Gift Tax Act, 1958 with effect from 1 October 1998. Gift tax is not chargeable in respect of any gift made on or after 1 October 1998. No budget estimate for revenues from gift tax has, therefore, been made from the financial year 1999-2000. Pending gift tax assessments needed to be completed without delay.

### Results of audit

**5.11** During the test check of assessments completed under the Gift Tax Act, 1958, conducted between 1 April 2004 and 31 March 2005, audit noticed short levy of gift tax of Rs.27.65 lakh in six cases.

Audit issued six draft paragraphs involving undercharge of gift tax of Rs.27.65 lakh to the Ministry of Finance for comments between May 2005 and December 2005.

Internal audit of the department had not seen any of the cases issued to Ministry.

All the six draft paragraphs issued to Ministry involving tax effect of Rs.27.65 lakh are included in the succeeding paragraphs. Ministry of Finance accepted the audit observations in two cases involving tax effect totalling Rs.5.48 lakh. In the remaining 4 cases, replies are awaited.

### **5.12 Mistakes in levy of tax on deemed gift**

### Non / short-levy of tax on deemed gift

Where any property was transferred, otherwise than for adequate consideration, the amount by which the market value of the property on the date of transfer exceeded the value of the consideration was deemed to be a gift made by the transferor.

As per Schedule II to the Gift Tax Act, the value of the gifted property shall be determined in accordance with the provisions for valuation of various types of assets as prescribed in Schedule III to the Wealth Tax Act, 1957.

Assessing officers had not complied with or incorrectly applied the above provisions resulting in non-levy of gift tax of **Rs.16.28 lakh in five cases** in the charge of **Andhra Pradesh, Himachal Pradesh and Gujarat**. Ministry of Finance has accepted objection in two cases involving tax effect of Rs.5.48 lakh. One case with tax effect above Rs. five lakh is given below.

In Himachal Pradesh, Shimla charge, the income tax assessment of an individual for the assessment year 1998-99, was completed in summary manner. It was noticed that the assessee had deposited a sum of Rs.15 lakh in the saving bank account of his minor daughter in December 1997 and got it declared under VDIS.

Since the minor daughter of the assessee had no source of income, the amount deposited by the assessee into her account was nothing but a gift to her, which she declared under VDIS. Thus it was evident that the amount of Rs.15 lakh was a deemed gift and needed to be brought to tax. Neither did the assessee file his gift tax return nor did the department initiate gift tax proceedings. Omission resulted in short levy of gift tax to the tune of Rs.10.40 lakh including interest.

### 5.13 Non levy of interest for non-filing of return

#### Non/short levy of interest

Under the Gift Tax Act, 1974, where the return of gift for any assessment year is not furnished within the due date, the assessee is liable to pay simple interest at the rate of two percent for every month or part of a month of default comprised in the period commencing on the 1st July of the assessment year and where no return is furnished ending on the date of regular assessment on the amount of the tax determined on regular assessment as reduced by tax, if any, paid.

In Tamil Nadu, Chennai Central II, charge, the assessment of an individual **Shri G. Malliga** was completed after scrutiny for assessment year 1998-1999 in December 2003 on a chargeable gift of Rs.28.70 lakh. Audit scrutiny revealed that a notice had been issued to the assessee in February 2003 to file the return of gift tax. As the assessee did not respond to the notice issued by the department, the assessment was completed ex parte in December 2003. However, interest for non-filing of gift tax return for the period from July 1998 to December 2003 amounting to Rs.11.37 lakh was omitted to be levied.

### C-Interest Tax

#### General

**5.14** The Finance Act, 2000 abolished the Interest Tax Act, 1974 with effect from 1 April 2000. Interest tax is, therefore, not chargeable in respect of any chargeable interest accruing or arising after 31 March 2000. No budget estimate for revenues from interest tax has been made from the financial year 2000-2001. However, pending interest tax assessments need to be completed without delay.

#### Results of audit

**5.15** During the test check of assessments completed under the Interest Tax Act, 1974, conducted between 1 April 2004 and 31 March 2005, audit noticed short levy of interest tax of Rs.11 crore in 29 cases.

Audit issued 29 draft paragraphs involving tax effect of Rs.11.06 crore between May 2005 to December 2005 to the Ministry of Finance for comments.

Out of the 29 draft paragraphs issued to Ministry, internal audit of the department had seen one case but did not notice the mistake and had not seen the remaining 28 cases.

All the draft paragraphs issued to Ministry, involving tax effect of Rs.11.06 crore have been included in this chapter. Each paragraph indicates a particular category of mistake and starts with a suitable preamble followed by combined/consolidated tax effect of all the observations of similar nature. Cases with money value of more than Rs.50 lakh are illustrated and those with money value of Rs. five lakh or more but less than Rs.50 lakh each, are given in tabular form in appendices.

Status of replies  
received from  
Ministry of Finance

**5.16** Out of 29 cases included in this chapter, replies were awaited in all cases.

### **5.17 Mistakes in assessment of chargeable interest**

Mistakes in  
assessment/  
under  
assessment of  
chargeable  
interest

Interest tax was to be paid by credit institutions including banking company/public financial institution on their interest income from assessment year 1992-93 till assessment year 2001-02. Interest income chargeable to tax included interest on loans and advances, commitment charges on unutilised portion of any credit sanctioned and discount on promissory notes and bills of exchange. The return of chargeable interest was required to be filed by 31 December of the relevant assessment year.

In computing the income of a credit institution chargeable to income tax under the head 'profits and gains of business or profession' or under the head 'income from other sources', the interest tax payable by the credit institution for any assessment year shall be deducted from income under the respective heads of the credit institution assessable for that assessment year. No such deduction was admissible from the interest income chargeable under the Interest Tax Act.

The Board issued instructions in 1995 clarifying that interest tax was to be levied on interest on debentures, bonds and securities etc.

Interest Tax Act did not permit setting off of interest receipt against interest payable.

The assessing officers did not apply the above provisions correctly resulting in short levy of interest tax totalling **Rs.1.24 crore** in **nine cases** in Karnataka, Maharashtra, Tamil Nadu and West Bengal. **Five** cases involving tax effect of more than Rs. five lakh but less than Rs.50 lakh each are indicated at **Serial number 1 to 5 of Appendix 24.**

### **5.18 Incorrect application of rate of tax**

Mistakes in  
applying  
correct rate  
of tax

Interest tax was leviable at three percent from assessment year 1992-93 to 1997-98 and at two percent thereafter, on the chargeable interest income of credit institutions.



The assessing officers did not apply correct rate of tax leading to short levy of tax of **Rs.42.30 lakh** in **two cases** in Madhya Pradesh and Tamil Nadu. One case having tax effect of Rs. five lakh and above is indicated at **Serial number 6 of Appendix 24.**

### 5.19 Non correlation of records

Chargeable interest not assessed due to non-correlation of records of different direct taxes

The Board issued instructions (November 1973, April 1979 and September 1984) for ensuring proper co-ordination amongst assessment records pertaining to different direct taxes and for simultaneous disposal of income tax and different direct tax assessments viz., wealth tax, gift tax, interest tax etc., so that there was no evasion of tax.

The Board clarified in March 1996 that 'finance' charges accruing or arising to hire purchase finance companies are in the nature of interest chargeable to interest tax. The Board had further clarified in 1998 that if the transactions are in substance in the nature of financing transactions, hire charges should be treated as interest subject to interest tax.

The assessing officers did not comply with the instructions of the Board resulting in non-levy of tax totalling **Rs.1.29 crore** in **12 cases** in Delhi, Maharashtra, Tamil Nadu and West Bengal. One case involving tax effect of more than Rs.50 lakh is illustrated below. Three cases involving tax effect of more than Rs. five lakh but less than Rs.50 lakh in each case are indicated at **Serial number 7 to 9 of Appendix 24.**

**5.19.1** In Maharashtra, Mumbai CIT-III charge, audit scrutiny of the income tax assessments of a company, **M/s. S.P. Capital Finance Ltd.**, for the assessment year 1997-98 revealed that the assessee had received a sum of Rs.7.38 crore as interest charges during the assessment year 1994-95 to 1999-2000 which was chargeable to interest tax. However, neither did the assessee file the interest tax return nor did the assessing officer initiate any action to call for the same. The omission resulted in non assessment of chargeable interest totalling Rs.7.38 crore involving non levy of interest tax of Rs.52.13 lakh including interest.

### 5.20 Mistakes in levy of interest

Non/ short/ excess levy of interest

Interest for default and deficiency in interest tax payments in advance, delays in paying demand raised and defaults/delays in filing return are leviable in the same manner and at the same rates as for the defaults of similar nature under the Income Tax Act.

With effect from 1st October 1991, where interest tax is payable on the basis of any return of interest tax after taking into account the amount of interest tax, if any, already paid under the provisions of the Act, the assessee shall be liable to

pay such interest tax as self assessment tax together with interest payable for any delay or default in payment of advance interest-tax.

Incorrect application of the above provisions resulted in non levy, short levy, excess levy and non payment of interest totalling **Rs.5.20 crore** in five cases in Tamil Nadu, Gujarat and Rajasthan. One case with money value of more than Rs. five lakh is indicated at **Serial number 10 of Appendix 24.**

**5.20.1** In Tamil Nadu, Chennai III charge, the assessment of a company, **M/s RBF Nidhi Ltd.**, for assessment year 1997-98 was completed after scrutiny in March 2003 on a chargeable interest of Rs.80.92 crore. Audit scrutiny revealed that while completing the assessment, interest for default in furnishing return of chargeable interest and interest for short payment of advance tax was levied at Rs.3.01 crore and Rs.3.50 crore respectively whereas the correct amount of interest worked out to Rs.59.23 lakh and Rs.89.07 lakh. The mistake had resulted in over charge of interest of Rs.2.42 crore for default in furnishing the return of chargeable interest and Rs.2.60 crore for default in payment of interest tax in advance aggregating to Rs.5.02 crore.

#### **5.21 Avoidable payment of interest on a time barred assessment**

#### **Time barred assessment**

Under the Interest Tax Act, 1974, a credit institution can vary any agreement under which any term loan has been sanctioned by it so as to increase the rate of interest stipulated therein to the extent to which such institution is liable to pay the interest tax under the Act in relation to the amount of interest on the terms loan which is due to the credit institution. However, under the Act, the chargeable interest of any previous year of the credit institution shall be the total amount of interest, accruing or arising to it in that previous year. Section 6 of the Act states that only interest, on bad debts which was charged to interest tax in an earlier previous year, is allowable as deduction from taxable interest. Further as per section 10, no order of assessment shall be made after the expiry of two years from the end of the assessment year in which it was first assessable. As per section 21, *ibid*, the provisions of the Income Tax Act, 1961 on refunds/interest on refunds shall also apply to interest tax assessments. Any delay in issue of refunds results in payment of higher interest on refunds.

In Maharashtra, Mumbai City-II charge, **M/s Bank of Baroda** had filed returns of interest tax for the assessment years 1999-00 and 2000-01 in November 1999 and November 2000 declaring chargeable interest incomes at Rs.1,993.09 crore and Rs.1,879.51 crore respectively.

Audit scrutiny revealed that the above returns had not been assessed till the date of audit (11 October 2004). The assessment is now barred by limitation as per the time limit laid down in section 10 of Interest Tax Act.

Audit scrutiny revealed further that in both the years, the assessee had claimed deduction of Rs.37.61 crore and Rs.40.11 crore from chargeable interest income for operations in India on account of interest tax recovered from customers. Since recovery of interest tax from customers forms part of gross interest income, it is also liable to tax and exclusion of the same from taxable interest income resulted in short levy of interest tax to the extent of Rs.1.55 crore.

Further as the assessee had already paid advance tax of Rs.45.00 crore in the assessment year 1999-00 an amount of Rs.7.41 crore was due to it as a refund of interest tax. No refund had been made to the assessee even though the time limit for completing the assessment for the assessment year 1999-00 had expired in March 2002. The interest payable to the assessee for the delayed refund for the period from April 2002 to October 2004 worked out to Rs.1.35 crore.

Thus incorrect allowance of deduction from chargeable interest income and interest payable to the assessee for delayed issue of refund has resulted in total loss of revenue of Rs.2.90 crore.

## D-Expenditure Tax

### 5.22 Mistakes in computation of chargeable expenditure

#### Mistake in computation of chargeable expenditure

Till its abolition with effect from 1 June 2003, under the provisions of Expenditure Tax Act, 1987, there shall be charged a tax at the rate of ten percent of the chargeable expenditure incurred in a hotel wherein the room charges for any unit of residential accommodation are Rs.1200 or more (Rs.2,000 or more from 1 October 1998 and Rs.3000/- or more from 1 June 2002) per day per individual. 'Chargeable expenditure' for this purpose was defined as any expenditure incurred in or payments made to the hotel in connection with the provision, inter alia, of any accommodation, residential or otherwise, or food or drink by a hotel. The Act also provides that the person who carries on the business of such hotel shall collect the expenditure tax and pay it to the credit of the Central Government.

**5.22.1** In Tamil Nadu, Chennai I charge, the expenditure tax assessment of a company **M/s. Adyar Gate Hotel Ltd.** for the assessment year 1997-98 was completed in March 2000 on a chargeable expenditure of Rs.51.84 crore. Audit scrutiny revealed that the assessee company had collected the expenditure tax amounting to Rs.5.09 crore as against Rs.5.18 crore resulting in short collection of expenditure tax amounting to Rs.8.38 lakh. As the assessee had failed to collect the expenditure tax correctly, the assessee was liable to pay in addition to the short collection of expenditure tax, a sum equal to Rs.8.38 lakh as penalty. Total short levy comes to Rs.16.76 lakh.

**5.22.2** In Tamil Nadu, Chennai III charge the income tax assessment of a company, **M/s. New Woodlands Hotels (P) Ltd.** for the assessment year 1997-98 was completed after scrutiny in March 2000. Audit scrutiny of the income tax records of the company revealed that the assessee was liable to pay expenditure tax on a chargeable expenditure of Rs.13.16 lakh as the room rent was more than Rs.1200 per day. However neither the assessee file an expenditure tax return nor did the department initiate any action to call for the same. Omission to do so had resulted in escapement of expenditure tax of Rs.2.64 lakh including penalty.

**New Delhi**  
**Dated:**

**(SUDHA KRISHNAN)**  
**Principal Director of Receipt Audit**  
**(Direct Taxes)**

**Countersigned**

**New Delhi**  
**Dated:**

**(VIJAYENDRA N. KAUL)**  
**Comptroller and Auditor General of India**