

Chapter II

Tax Administration

- ◆ Chapter summary
- ◆ Organisation
- ◆ Direct Tax collections
- ◆ Assessee profile
- ◆ PAN applications
- ◆ Assessments
- ◆ Arrears of demand
- ◆ Tax Recovery Machinery
- ◆ Penalties
- ◆ Search & Seizure cases
- ◆ Refund cases and interest paid on refunds
- ◆ Incorrect accounting of interest on refunds
- ◆ Cost of collection
- ◆ Appellate Machinery
- ◆ Settlement Commission
- ◆ Revenue written off

Chapter Summary

Total collections from direct taxes increased from Rs. 83,088 crore in 2002-03 to Rs. 2,30,181 crore in 2006-07 at an average annual rate of growth of 27.33 percent. Overall direct tax collections as a percentage of GDP increased from 3.38 per cent in 2002-03 to 5.58 percent in 2006-07. Overall tax buoyancy has increased from 1.73 in 2005-06 to 2.51 in 2006-07, which is just below the level attained in 2002-03.

(Paragraphs 2.5 and 2.5.3)

In the case of corporate assesseees, 75.78 percent of the gross revenue was collected at pre-assessment stage, of which 55.20 percent was by way of advance tax. In the case of non-corporate assesseees, 89.55 percent of the gross collection was made at pre-assessment stage, of which 50.96 percent was by way of TDS.

(Paragraph 2.6.1)

During 2002-03 to 2006-07, the total number of assesseees for direct taxes grew from 2.85 crore to 3.13 crore at a compound annual growth rate of 2.40 percent which was lower than the growth rate of 3.24 percent during 2001-02 to 2005-06. The number of non-corporate assesseees increased from 2.81 crore in 2002-03 to 3.09 crore in 2006-07 i.e., at a compound annual rate of growth of 2.40 percent and corporate assesseees increased from 3.65 lakh in 2002-03 to 4.00 lakh in 2006-07, at a compound annual growth rate of 2.32 per cent.

(Paragraphs 2.7 and 2.7.2)

Cost of collection as worked out by the department was 0.11 paisa per rupee of collection for corporation tax and 1.40 paise per rupee of collection for income tax. It was Rs. 4,050 and Rs. 341 per assessee for corporation tax and income tax respectively.

(Paragraph 2.15)

The number of cases selected for scrutiny during 2006-07 was higher at 3.41 lakh as compared to 2.03 lakh in 2005-06. The percentage of assessments completed after scrutiny and in summary manner have decreased as a result of which the total pendency has increased from 31.18 percent in 2005-06 to 33.56 percent in 2006-07. In fact, there has been a progressive decline in completion of assessments from 89.87 percent in 2002-03 to 66.44 percent in 2006-07 resulting in a steady increase in pendency over the last five years. The decrease in the number of officers deployed on assessment duty could be one of the reasons for the increased pendency.

(Paragraph 2.9.1)

Uncollected amount of Rs. 1,17,370 crore out of the total demand of Rs. 3,37,007 crore in respect of corporation tax/income tax and wealth tax comprised demand of Rs. 86,203 crore of earlier years and current demand of Rs. 31,167 crore outstanding as on 31 March 2007. The outstanding demand of corporation tax increased from Rs. 55,098 crore to Rs. 64,683 crore and that for income tax from Rs. 40,289 crore to Rs. 51,771 crore during the year as compared to last year. For wealth tax, the outstanding demand decreased from Rs. 9,491 crore in 2005-06 to Rs. 916 crore during 2006-07. Since the wealth tax collection during 2006-07 was only Rs. 240.33 crore, this sharp reduction seems inexplicable and merits investigation by the Ministry.

(Paragraph 2.10.1)

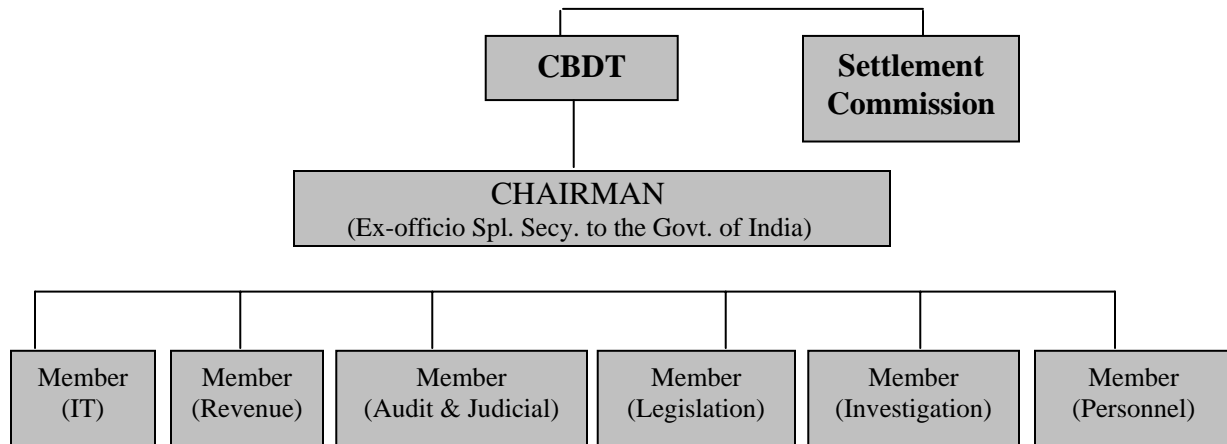
Recovery of certified demand increased from 14 percent of total certified demand during 2005-06 to about 24 percent during 2006-07.

(Paragraph 2.11.2)

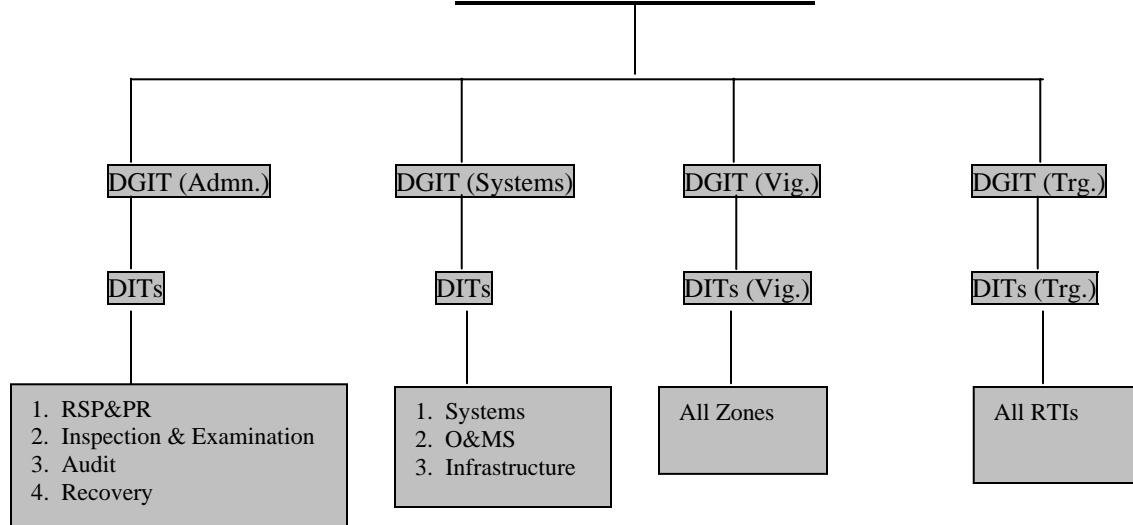
Payment of interest on refunds amounting to Rs. 17,003.75 crore was treated as reduction in revenue in violation of accounting precepts as interest was never collected in the first instance. No provision for 'interest on refunds' was made in the budget estimates for 2006-07.

(Paragraph 2.14.4)

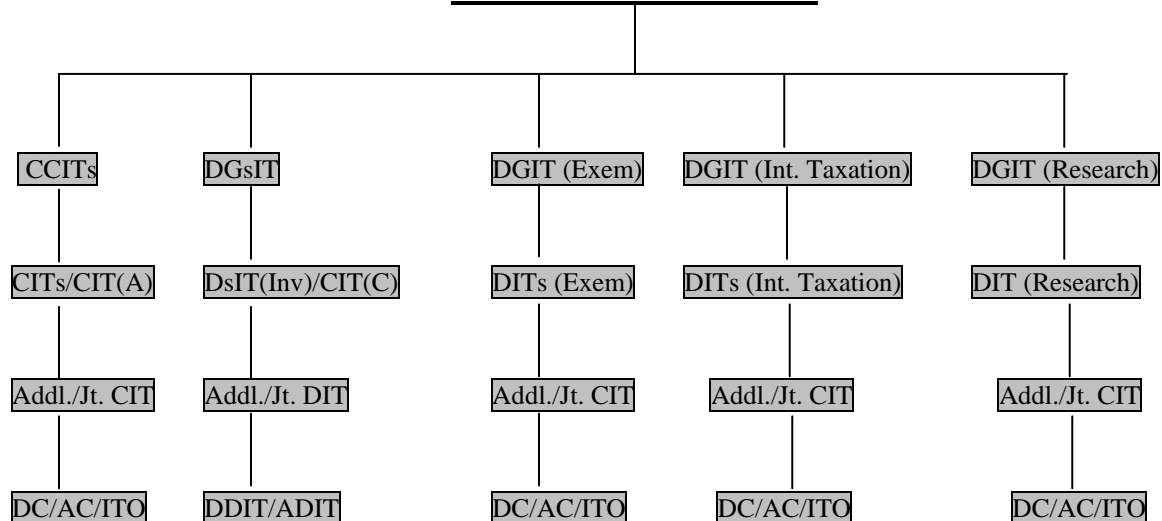
Chart 1: Organisational set up of the Income Tax Department



Attached Offices of CBDT



Field Formations of CBDT



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 the '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 the assessment year 1993-94.

Broad functional profile of the Department of Revenue

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

2.2.1 Chart 1 shows the organisational set up of the Income tax Department. 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. Chief Commissioners of Income tax are stationed at different locations all over the country. They are in charge of the supervision, control and administration of their respective regions. Also, Directors General of Income tax (Investigation) stationed in different parts of the country are in overall charge of the investigation machinery in respect of their regions for curbing tax evasion and unaccounted money. The Chief Commissioners of Income tax/Directors General of Income tax are assisted by Commissioners of Income tax/Directors of Income tax in their respective jurisdictions. The first appellate machinery comprises Commissioners of Income tax (Appeals) who perform the work of disposal of appeals against the orders of the assessing officers.

2.2.2 The tables and figures below in this chapter have been collected from the Board and attached offices such as the Directorate of Income tax (Public Relations, Printing, Publications & Official Language) (PRPP & OL), Directorate of Income-tax (Organisation & Management Services), Pr. Chief Controller of Accounts and Settlement Commission.

Sanctioned and working strength of officers

2.3 Table no. 2.1 below shows the sanctioned strength of the officers of the Income tax Department as on 31 March 2007.

Table no. 2.1: Sanctioned strength of officers

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

2.3.1 Working strength of officers who were assigned assessment/non assessment duty is given in Table no. 2.2 below.

Table no. 2.2: Working strength of officers on assessment and non-assessment duty*

Nature of post	2004-05			2005-06 [♦]			2006-07		
	Asstt duty	Non-asstt duty	Total	Asstt duty	Non-asstt duty	Total	Asstt duty	Non-asstt duty	Total
Addl.CIT/Addl DIT/ Jt CIT/ Jt DIT/Dy.DIT/ Dy CIT/ Asstt. DIT/Asstt. CIT	1,519	1,173	2,692	1,173	532	1,705	1139	642	1,781
ITOs	2,917	1,200	4,117	2,628	887	3,515	2815	962	3,777
Total (%age to total strength)	4,436 (65.1)	2,373 (34.9)	6,809	3,801 (72.8)	1,419 (27.2)	5,220	3,954 (71.1)	1,604 (28.9)	5,558

2.3.2 The deployment of officers on assessment duty in 2006-07 decreased from that in 2004-05. This could be one of the reasons for the increase in pendency of scrutiny and summary cases over the last two years (Paragraph 2.9).

Actual receipts vis-à-vis Budget estimates

2.4 A comparative position of the budget estimates and actual collections of major direct taxes reflecting fiscal marksmanship is indicated in Table no. 2.3 below.

* Source: Directorate of Income Tax (Legal & Research), Research & Statistics Wing

♦ Based on information from the field units of the Department who had reported these details till 15 January 2007.

(Rs in crore)

Table no. 2.3: Comparative position of actual receipts vis-à-vis budget estimates*

Year	Budget Estimates	Actual collections	Surplus(+)/ Shortfall (-)	Percentage of surplus/Shortfall
0020-Corporation tax				
2004-05	88,436.00	82,679.58	(-) 5,756.42	(-) 6.51
2005-06	1,10,573.00	1,01,277.16	(-) 9,295.84	(-) 8.41
2006-07	1,33,010.00	1,44,317.95	(+) 11,307.95	(+) 8.50
0021-Taxes on income other than corporation tax				
2004-05	50,929.00	49,268.12	(-) 1,660.88	(-) 3.26
2005-06	66,239.00	55,984.62	(-) 10,254.38	(-) 15.48
2006-07	77,409.00	75,079.31	(-) 2,329.69	(-) 3.01
0032-Wealth tax				
2004-05	145.00	145.36	(+) 0.36	(+) 0.25
2005-06	265.00	250.35	(-) 14.65	(-) 5.53
2006-07	265.00	240.33	(-) 24.67	(-) 9.31

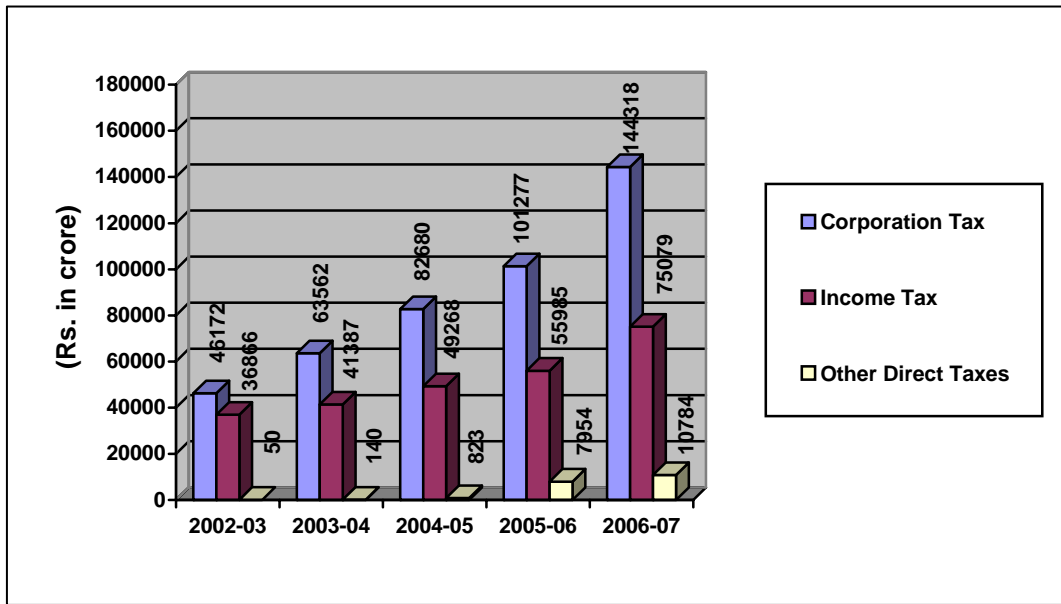
2.4.1 The actual collection during 2006-07 has been higher than the budget estimates in case of corporation tax by 8.50 percent whereas it has been lower than the budget estimates in the case of taxes on income other than corporation tax by 3.01 percent.

**Direct tax
collections –
recent trends**

2.5 Direct tax collections, as shown in Chart 2 below, increased from Rs. 83,088 crore in 2002-03 to Rs. 2,30,181 crore in 2006-07 at an average annual rate of growth of 27.33 percent. The rate of growth which had increased from 20.07 percent in 2002-03 to over 26 percent in 2003-04/2004-05, declined to 24.44 percent in 2005-06 and again increased to 39 percent in 2006-07.

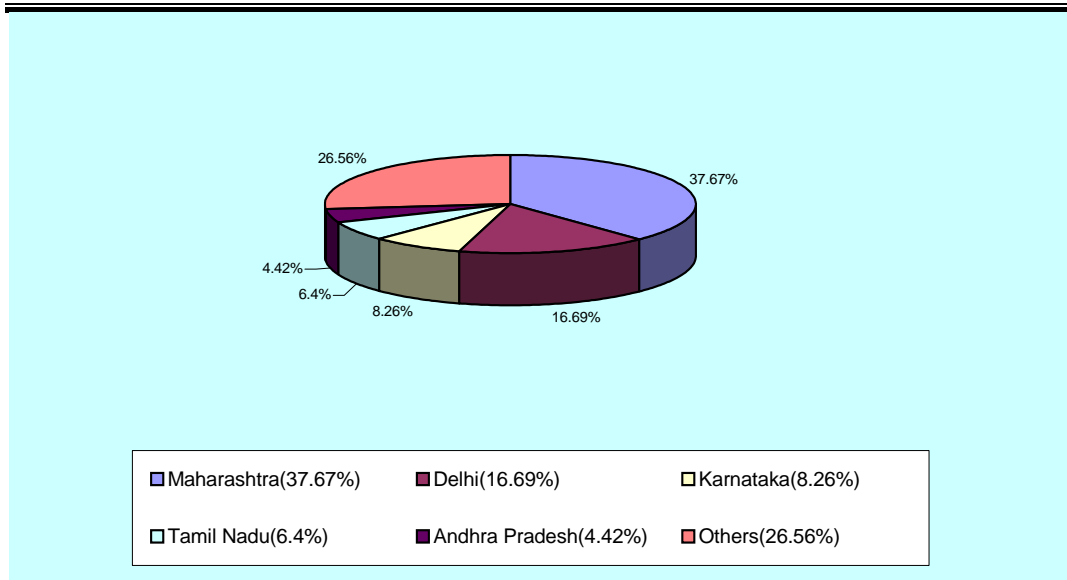
* Minor head wise details given in Appendix-6

CHART 2: DIRECT TAX COLLECTIONS FROM 2002-03 TO 2006-07



2.5.1 Chart 3 below depicts the percentage share of direct tax collections from different states. Maharashtra had the largest tax collection followed by Delhi, Karnataka, Tamil Nadu, Andhra Pradesh and others.

CHART 3: PERCENTAGE SHARE OF REVENUE COLLECTION OF STATES*



* All India collection figures of corporation tax and income tax are given in Appendix-7 and Head wise/State/UT wise break up of direct taxes is given in Appendix-8

Broad parameters of direct tax collections

2.5.2 Overall direct tax collections, annual rates of growth, the ratio of direct taxes to GDP and their buoyancy are indicated in Table no. 2.4.

(Rs in crore)

Table no. 2.4: Broad parameters of direct tax collections[@]

	2002-03	2003-04	2004-05	2005-06	2006-07
Corporation Tax	46,172	63,562	82,680	1,01,277	1,44,318
Income Tax	36,866	41,387	49,268	55,985	75,079*
Other Direct Taxes	50	140	823	7,954	10,784
Total Direct Taxes	83,088	1,05,089	1,32,771	1,65,216	2,30,181
GDP	24,58,084	27,65,491	31,26,596	35,67,177	41,25,725
Rate of growth (per cent)					
Corporation Tax	26.12	37.66	30.08	22.49	42.50
Income Tax	15.19	12.26	19.04	13.63	34.11
Total Direct Taxes	20.07	26.48	26.34	24.44	39.32
GDP	7.76	12.51	13.06	14.09	15.66
Tax Collections-GDP Ratio (per cent)					
Corporation Tax	1.88	2.30	2.64	2.84	3.50
Income Tax	1.50	1.50	1.58	1.57	1.82
Total Direct Taxes	3.38	3.80	4.25	4.63	5.58
Tax Buoyancy^{♦♦}					
Corporation Tax	3.37	3.01	2.30	1.60	2.71
Income Tax	1.96	0.98	1.46	0.97	2.18
Total Direct Taxes	2.59	2.12	2.02	1.73	2.51

GDP ratio

2.5.3 Overall direct tax collections as a percentage of GDP increased from 3.38 per cent in 2002-03 to 5.58 percent in 2006-07. This increase was observed for both corporation and income tax. Overall tax buoyancy has increased from 1.73 in 2005-06 to 2.51 in 2006-07 which is marginally lower than the level attained 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 the additional demand arising after assessment is completed. Table no. 2.5 below contains details of overall tax collected at the pre and post assessments levels and percentage of refunds in the last three years.

[@] Source:

Tax collection figures – Pr. CCA, CBDT, New Delhi,

GDP – CSO, Press release dated 31 May 2007 and Economic Survey 2006-07.

* This differs from the figure of Rs. 75,093 crore reflected in the Finance Accounts.

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

(Rs. in crore)

Table no. 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
Corporate Assesseees								
2004-05	14,654 (13.93)	73,934 (70.29)	4,815 (4.58)	2,888 (2.74)	8,898 (8.46)	1,05,189	22,509 (21.40)	82,680
2005-06	21,429 (17.17)	66,625 (53.37)	5,549 (4.44)	18,624 (14.92)	12,610 (10.10)	1,24,837	23,560 (18.87)	1,01,277
2006-07	29,048 (16.60)	96,568 (55.20)	6,954 (3.98)	24,725 (14.14)	17,640 (10.08)	1,74,935	30,617 (17.51)	1,44,318
Non-Corporate Assesseees								
2004-05	29,319 (53.04)	16,100 (29.14)	5,229 (9.46)	3,118 (5.64)	1,507 (2.72)	55,273	6,005 (10.86)	49,268
2005-06	32,409 (51.89)	18,127 (29.03)	6,069 (9.72)	3,488 (5.58)	2,364 (3.78)	62,457	6,472 (10.36)	55,985
2006-07	41,641 (50.96)	24,659 (30.18)	6,871 (8.41)	5,671 (6.95)	28,55 (3.50)	81,697	6,618 (8.10)	75,079

Figures in brackets indicate percentage of total collection/refunds

2.6.1 In the case of corporate assesseees, 75.78 percent of gross collections was made at the pre-assessment stage, of which 55.20 percent was by way of advance tax. In the case of non-corporate assesseees, 89.55 percent of the gross collection was made at the pre-assessment stage, of which 50.96 percent was by way of TDS. Net collection after deducting pre assessment collection in the case of corporation tax was Rs. 11,748 crore (8.14 percent of net collection) and that in case of income tax was Rs. 1,908 crore (2.5 percent of net collection).

2.6.2 Refunds as a percentage of total collections in respect of corporate assesseees as well as non corporate assesseees declined from 18.87 and 10.36 in 2005-06 to 17.51 and 8.10 respectively in 2006-07, although in absolute terms these figures had increased.

Table no. 2.6: Category wise details of deduction of tax at source

Category	Amount of tax deducted (Rs in crore)			Per cent of total tax deducted		
	2004-05	2005-06	2006-07	2004-05	2005-06	2006-07
Salaries	17,341	17,941	23,121	39.44	33.32	32.70
Interest on securities	1,849	1,871	2,292	4.20	3.48	3.25
Dividends	852	752	834	1.94	1.40	1.18
Interest	7,833	10,585	14,557	17.81	19.65	20.60
Winnings from lottery or crossword puzzles	318	233	445	0.72	0.44	0.63
Winnings from horse races	11	17	27	0.03	0.03	0.04
Payments to contractors and sub-contractors	2,535	9,638	12,127	5.76	17.90	17.16
Insurance commission	523	967	1,218	1.19	1.80	1.72
Payment to non-residents and others	12,711	11,834	16,068	28.91	21.98	22.72
Total	43,973	53,838	70,689	100	100	100

2.6.3 Contribution from salaries to total TDS declined from 33.32 percent in 2005-06 to the current level of 32.70 percent. Other important sources which contributed to TDS were interest, payments to contractors, sub-contractors and non-residents. These four sources together contributed about 93 percent of total TDS collections as indicated in Table no. 2.6.

2.6.4 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.

2.6.5 In 2006-07, out of 5.57 lakh returns to be filed by tax deductors, only 3.30 lakh returns were filed and 2.27 lakh returns had not been filed. The percentage of non-filers has increased from 39 percent in 2005-06 to 41 percent in 2006-07

**Non-
corporate
assesseees**

2.7 During 2002-03 to 2006-07, the total number of assesseees for direct taxes grew from 2.85 crore to 3.13 crore at a compound annual growth rate of 2.40 percent which was lower than the growth rate of 3.24 percent during 2001-02 to 2005-06. Non corporate assesseees constituted 98.73 percent of the total assesseees whereas corporate assesseees comprised 1.27 percent. The number of non-corporate assesseees increased from 2.81 crore in 2002-03 to 3.09 crore in 2006-07 i.e., at a compound annual rate of growth of 2.40 percent. Category wise details of the increase are indicated in Table no. 2.7 below:

Table no. 2.7: Category wise increase of non corporate assesseees over the last 5 years

Income level	2002-03	2006-07 [@]	Compound annual growth rate	Share in total assesseees	
	(Number in lakh)			2002-03	2006-07
				(Percentage)	
A*	255.25	273.30	1.72	90.84	88.46
B*	21.89	27.87	6.22	7.79	9.02
C*	0.88	5.79	60.16	0.31	1.87
D*	2.98	2.00	(-) 9.49	1.06	0.65
Total	281.00	308.96	2.40	100	100

2.7.1 The share of assesseees with income/loss of Rs. 2 lakh and above but below Rs. 10 lakh and those with income/loss of Rs. 10 lakh and above

[@] Source : All India CAP-II Statement regarding Workload & Disposal of Income Tax Assessments for March 2007

* Category 'A' non corporate assesseees- Assessments with income/loss below Rs. 2 lakh.

* Category 'B' non corporate assesseees - Assessments with income/loss of Rs.2 lakh and above but below Rs.10 lakh.

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

* Category 'D' non corporate assesseees - Search and seizure assessments.

increased, whereas those with income/loss below Rs. 2 lakh and search and seizure assessments decreased during the period 2002-07. Maximum growth rate was observed in the category of assesseees with income/loss of Rs. 10 lakh and above, whereas category of search and seizure assessments experienced a negative growth rate during this period.

Corporate assesseees

2.7.2 Number of corporate assesseees increased from 3.65 lakh in 2002-03 to 4.00 lakh in 2006-07, at a compound annual growth rate of 2.32 per cent. Category wise details of corporate assesseees are indicated in Table no. 2.8 below:

Table no. 2.8: Profile of corporate assesseees

Income level	2002-03	2006-07 [@]	Compound annual growth rate	Share in total assesseees	
	(Number in lakh)			2002-03	2006-07
				(Percentage)	
A*	1.83	2.05	2.88	50.14	51.25
B*	1.29	1.25	(-) 0.78	35.34	31.25
C*	0.39	0.68	14.91	10.68	17.00
D*	0.14	0.02	(-) 38.52	3.84	0.50
Total	3.65	4.00	2.32	100	100

2.7.3 The share of assesseees with income/loss below Rs. 50,000 and those with income/loss of Rs. 10 lakh and above increased while those with income/loss of Rs. 50,000 and above but below Rs. 10 lakh and search and seizure assessments decreased during 2006-07 as compared to 2002-03. Maximum growth rate was observed in the category of assesseees with income/loss of Rs. 10 lakh and above. Categories of assesseees with income/loss of Rs. 50,000 and above but below Rs. 10 lakh and search and seizure assessments experienced negative growth during this period.

2.7.4 The number of companies limited by shares at work, according to the Department of Company Affairs (DCA) as on 31 March 2007, was 7,43,678 which included 6,53,024 private limited companies and 90,654 public limited companies. Therefore, there were 3.44 lakh companies which were registered with Registrar of Companies but were not on the records of the Income tax Department. This number has increased from 3.39 lakh in 2005-06. Ministry should investigate the reasons for the difference between the number of

[@] Source : All India CAP-II Statement regarding Workload & Disposal of Income Tax Assessments for March 2007

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

* Category 'B' corporate assesseees - Assessments with income /loss of Rs.50,000 and above but below Rs.10 lakh

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

* Category 'D' corporate assesseees - Search and Seizure assessments.

companies registered with DCA and the number of companies on the records of the Income tax Department.

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 it.

2.8.1 With a view to enhancing the efficiency of PAN services, the Income tax Department had outsourced a part of the process for allotment of PAN to the UTI Technology Services Ltd. (UTITSL) and the National Securities Depository Ltd (NSDL) with effect from 1 July 2003. Table no. 2.9 shows statistics furnished by the Board relating to PAN allotment for the period 2004-05 to 2006-07. Out of 90.31 lakh applications due for disposal, 79.48 lakh PAN cards were dispatched during 2006-07. The closing balance shown at the end of the year in column 6 as calculated by audit does not tally with the closing balance in column 7 as shown by the Board. The reasons for the very large differences in the figures requires to be investigated by the Board.

Table no. 2.9: Allotment of PAN from 1.4.2004 to 31.3.2007 through UTIISL/ NSDL

Year	Opening balance	Applications received during the year	Total no. of applications due for disposal	PAN card dispatched	Closing balance (col. 4-col. 5)	Closing balance as shown by Board	Difference (col. 6-col. 7) (+) Excess (-) Shortage
1	2	3	4	5	6	7	8
2004-05	4,93,396	55,01,215	59,94,611	57,67,733	2,26,878	3,25,735	(+)98,857
2005-06	3,25,735	62,94,680	66,20,415	58,98,470	7,21,945	3,53,705	(-)3,68,240
2006-07	3,53,705	86,77,138	90,30,843	79,48,426	10,82,417	4,37,960	(-)6,44,457

Position of assessments of income tax

2.9 Under the Act, the time limit for the 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 the relevant assessment year is filed under section 139(4) and 139(5). Position of the assessments of income and corporation tax during the last five years is indicated in Table nos. 2.10 and 2.11 below.

Table no. 2.10: 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
2002-03	49,530	8,44,885	8,94,415
2003-04	1,97,811	1,90,464	3,88,275
2004-05	1,93,017	2,46,241	4,39,258
2005-06	2,21,739	2,03,486	4,25,225
2006-07	1,86,056	3,40,949	5,27,005

Table no. 2.11: Position of income tax and corporation tax assessments*

Financial year	Assessments due for disposal			Assessments completed (Percentage)			Assessments pending (Percentage)		
	Scrutiny	Summary	Total	Scrutiny	Summary	Total	Scrutiny	Summary	Total
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)
2004-05	4,39,258	2,62,98,066	2,67,37,324	2,10,866 (48.00)	2,04,92,965 (77.93)	2,07,03,831 (77.43)	2,28,392 (52.00)	58,05,101 (22.07)	60,33,493 (22.57)
2005-06-	4,25,225	3,28,21,007	3,32,46,232	2,30,698 (54.25)	2,26,49,070 (69.00)	2,28,79,768 (68.82)	194,527 (45.75)	1,01,71,937 (31.00)	1,03,66,464 (31.18)
2006-07	5,27,005	3,14,45,896	3,19,72,901	2,41,983 (45.92)	2,09,98,629 (66.78)	2,12,40,612 (66.44)	2,85,022 (54.08)	1,04,47,267 (33.22)	1,07,32,289 (33.56)

2.9.1 The number of cases selected for scrutiny during 2006-07 was higher at 3.41 lakh as compared to 2.03 lakh in 2005-06. The percentage of assessments completed after scrutiny and in summary manner have decreased as a result of which the total pendency has increased from 31.18 percent in 2005-06 to 33.56 percent in 2006-07. In fact, there has been a progressive decline in the completion of assessments from 89.87 percent in 2002-03 to 66.44 percent in 2006-07 resulting in a steady increase in pendency over the last five years. The decrease in the number of officers deployed on assessment duty could be one of the reasons for the increased pendency as also mentioned at paragraph 2.3.2 of this report.

Position of assessments of wealth tax

2.9.2 The following table gives the comparative position of the number of wealth tax assessments due for disposal and actually completed during 2002-03 to 2006-07:

Table no. 2.12: Position of wealth tax assessments

Financial year	Assessment due for disposal	Assessment completed (Percentage)	Assessment pending (Percentage)
2002-03	1,28,186	1,03,976 (81.12)	24,210 (18.82)
2003-04	1,09,777	82,720 (75.34)	27,057 (24.66)
2004-05	57,475	32,310 (56.22)	25,165 (43.78)
2005-06	76,670	52,859 (68.95)	23,811 (31.05)
2006-07	41,074	28,045 (68.28)	13,029 (31.72)

2.9.3 Although the number of wealth tax assessments due for disposal decreased by 46.43 percent from 76,670 in 2005-06 to 41,074 in 2006-07, the number of wealth tax assessments completed decreased substantially from

*Details of status wise break- up of income tax assessments completed are given in Appendix-9

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

52,859 in 2005-06 to 28,045 in 2006-07. The pendency of wealth tax assessments as a percentage of assessments due during 2006-07, therefore, remained at around the same level of the previous year.

Arrears of demand

2.10 The Act provides that when any tax, interest, penalty, fine or any other sum is payable as a 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 tax on the returned income is paid before filing the appeal. The amount which remains unpaid, becomes arrears of demand. Table no. 2.13 below contains details of income tax, corporation tax and wealth tax collected and remaining uncollected during 2002-03 to 2006-07.

(Rs. in crore)

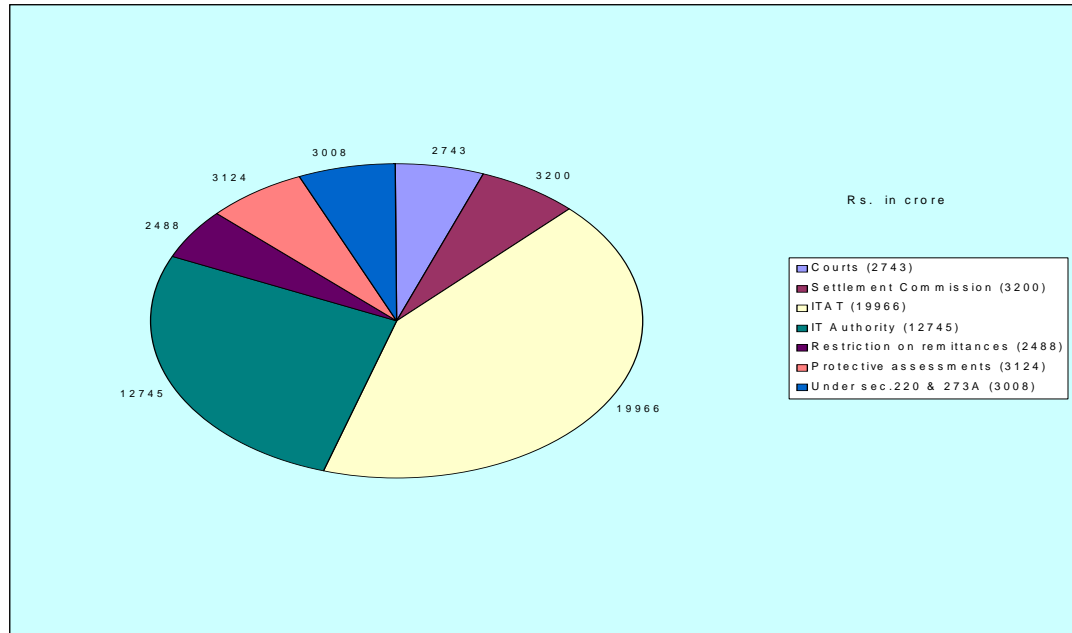
Table no. 2.13: Income tax including corporation tax* and wealth tax[@] collected and remaining uncollected

Year	Tax collected				Tax remaining uncollected			
	CT	IT	WT	Total	CT	IT	WT	Total
2002-03	46,172	36,866	154	83,192	35,057	32,581	2,122	69,760
2003-04	63,562	41,387	136	1,05,085	37,631	50,386	1,398	89,415
2004-05	82,680	49,268	145	1,32,093	39,204	83,977	1,148	1,24,329
2005-06	1,01,277	55,985	250	1,57,512	55,098	40,289	9,491	1,04,878
2006-07	1,44,318	75,079	240	2,19,637	64,683	51,771	916	1,17,370

2.10.1 Uncollected amount of Rs. 1,17,370 crore out of the total demand of Rs. 3,37,007 crore in respect of corporation tax/income tax and wealth tax comprised demand of Rs. 86,203 crore of earlier years and current demand of Rs. 31,167 crore outstanding as on 31 March 2007. The outstanding demand of corporation tax increased from Rs. 55,098 crore to Rs. 64,683 crore and that for income tax from Rs. 40,289 crore to Rs. 51,771 crore during the year as compared to last year. For wealth tax, the outstanding demand decreased from Rs. 9,491 crore in 2005-06 to Rs. 916 crore during 2006-07. Since the wealth tax collection during 2006-07 was only Rs. 240.33 crore, this sharp reduction seems inexplicable and merits investigation by the Ministry.

2.10.2 Out of the outstanding demand for corporation tax and income tax of Rs. 1,16,454 crore, total uncollected demand stayed/kept in abeyance was Rs. 47,274 crore in 2006-07 which was higher than the corresponding figure of Rs. 40,776 crore in 2005-06. The details of stages where these amounts are stayed/kept in abeyance are depicted in Chart 4.

CHART 4: AMOUNTS STAYED/KEPT IN ABEYANCE



Tax recovery machinery

2.11 Every demand of tax, interest, penalty or fine, should be paid within thirty days of the service of the notice of demand. In case an assessee defaults in payment, 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 the 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 demands certified to TROs and amount recovered is indicated in Table no. 2.14 below:

(Rs. in crore)

Table no. 2.14: Tax demands certified to the tax recovery officer and demand recovered

Year	Demand certified at the beginning of the year	Demand certified during the year	Total certified demand	Demand certified recovered during the year	Balance at the end of the year
2004-05	17,217.81	14,217.55	31,435.36	5,078.01 (16.16)	26,357.35
2005-06	26,357.35	5,285.09	31,642.44	4,433.04 (14.01)	27,209.40
2006-07	27,209.40	8,015.86	35,225.26	8,521.40 (24.20)	26,703.86 [†]

Figures in brackets indicate demand certified recovered during the year as a percentage of total certified demand

2.11.2 Recovery of certified demand has increased from 14 percent of the total certified demand during 2005-06 to about 24 percent during 2006-07.

2.11.3 As per Board's instruction no. 1567 of 1984, cases of certified arrear demand involving Rs. 10,000 or below in respect of which recovery was not made for more than five years are to be identified and considered for possible write off. The department identified Rs. 32.37 crore of such arrears in respect of 1,16,019 assesseees for possible write off and Rs. 3.98 crore was thereafter written off in respect of 25,303 assesseees.

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 no. 2.15 indicates that out of 8.50 lakh cases where penalty proceedings were initiated, only 0.59 lakh cases (6.90 percent) were finalised during the year as compared to 10.67 percent in 2005-06. Total pendency has increased from 6.56 lakh cases at the end of 2005-06 to 7.91 lakh cases at the end of 2006-07.

Table no. 2.15: Income tax cases where penalty proceedings initiated, disposed off and pending

Year	Opening balance	Additions	Total	Disposal	Closing balance
2004-05	3,31,185	2,32,380	5,63,565	73,774	4,89,791
2005-06	4,89,791	2,44,774	7,34,565	78,383	6,56,182
2006-07	6,56,182	1,93,495	8,49,677	58,610	7,91,067

2.12.1 Out of 58,610 penalty cases disposed off during the year, penalty was imposed in 38 percent or 22,392 cases. Over 59 percent of the penalty cases

[†] Year wise breakup is given in Appendix-10

disposed off related to concealment of income. Table no. 2.16 below gives the details.

Table no. 2.16: Nature of offences and penalties imposed during 2006-07

Nature of offence	Cases disposed off	Penalties imposed	
		No. of cases	Amount (Rs. in crore)
Concealment	34,449	13,081	2717.02
Other than concealment	24,161	9,311	230.82
Total	58,610	22,392	2,947.84

2.12.2 The number of cases where penalties were imposed decreased from 36,839 in 2005-06 to 22,392 in 2006-07 and the amount of penalty imposed also decreased from Rs. 5,046.07 crore to Rs. 2,947.84 crore during the same period.

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 authorisations for search was executed. Table no. 2.17 summarises the position of prosecutions launched, convictions obtained, offences compounded and acquittals allowed.

Table no. 2.17: 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
2004-05	11,792	103	11,895	1	262	87	350	11,545
2005-06	11,545	326	11,871	1	85	39	125	11,746
2006-07	11,746	71	11,817	1	40	28	69	11,748

2.13.1 Only 0.58 percent of total cases for prosecution were disposed off during 2006-07 and about 41 percent of these cases resulted in acquittal. Only one out of 69 cases disposed off resulted in conviction.

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 no. 2.18: Cases of refunds for which claims were made

Financial year	Opening balance	Claims received during the year	Total	No. of claims disposed off	Balance outstanding
2004-05	1,23,615	2,80,862	4,04,477	3,03,747	1,00,730
2005-06	1,00,730	2,30,967	3,31,697	2,76,646	55,051
2006-07	55,051	2,55,917	3,10,968	2,64,957	46,011

2.14.1 Pendency of refund claims results in outflow of revenue from government by way of interest. Over 15 percent of the refund claims remained outstanding at the end of March 2007 as compared to 17 percent at the end of March 2006. Details are given in Table no. 2.18 above.

Table no. 2.19: Cases resulting in refund as a result of appellate orders and revision orders, etc

Financial year	Opening balance	Addition	Total	Disposal	Closing balance
2004-05	27,090	45,032	72,122	69,931 (97%)	2,191
2005-06	2,191	29,178	31,369	29,296 (93%)	2,073
2006-07*	2,073	15,565	17,638	16,127 (91%)	1,511

2.14.2 Disposal of refund cases resulting from appellate orders and revision orders etc. has declined from 69,931 cases (97 percent) to 16,127 cases (91 percent) in 2006-07. After appeal/revision orders were received, 1,511 cases, or nine percent of the total cases where refunds were due to assesseees remained pending at the end of 2006-07. Details are given in Table no. 2.19 above.

(Rs. in crore)

Table no. 2.20: Interest paid on refunds by the government

Section under which interest paid	2004-05		2005-06		2006-07*	
	No. of assessments	Amount	No. of assessments	Amount	No. of assessments	Amount
214	9	49.74	3	0.13	3	2.58
243	3	0.12	1	0.02	3	0.00
244	29,684	157.73	38,710	15.52	13,392	14.70
244A	45,59,980	3,658.39	39,59,413	4,559.16	29,69,580	16,986.47
Total	45,89,676	3,865.98	39,98,127	4,574.83	29,82,978	17,003.75

2.14.3 Government refunded Rs. 37,235 crore from gross collection of Rs. 2,56,632 crore (Table no. 2.5) and paid interest amounting to Rs. 17,004 crore (Table no. 2.20) which worked out to 46 percent of the amount refunded

* Data furnished by Directorate of Income Tax (Legal & Research), Research & Statistics Wing is provisional

during 2006-07. The number of assessments on which interest was paid had decreased by twenty five percent from 39.98 lakh in 2005-06 to 29.83 lakh in 2006-07. The amount of interest paid on refunds by the department, however, increased from Rs. 4,574.83 crore in 2005-06 to Rs. 17,003.75 crore in 2006-07. The government needs to investigate reasons for the steep jump of 3.7 times and take appropriate steps to immediately arrest it.

Incorrect accounting of interest on refunds

2.14.4 Audit had earlier commented in Audit Reports of 2004, 2005, 2006 and 2007 that the government was following an incorrect procedure of accounting for interest paid on refunds. Interest payment is a charge on the Consolidated Fund of India and is, therefore, payable through a proper budgetary mechanism. Accordingly, Minor Head “interest on refunds” is operated 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 2006-07 and the expenditure on interest on refunds amounting to Rs. 17,003.75 crore was treated as reduction in revenue. Accounting of interest on refund as reduction in revenue is incorrect as this interest was never collected in the first instance. Interest on belated refunds of excess tax should be budgeted as an expenditure item which, infact, was done in the Budget Estimates 2001-02 when Rs. 92 crore was provided in the demand of ‘Direct Taxes’ under the Major Head ‘2020 – Collection of taxes on Income & Expenditure’ towards interest on belated refund of excess tax. However, subsequently at the Revised Estimates stage the earlier practice of showing the interest on excess refund as deduct receipt was reverted to. The incorrect practice is still being followed and needs to be rectified.

Cost of collection of taxes

2.15 The overall cost of collection of income and corporation taxes increased from Rs. 1,048 crore in 2002-03 to Rs. 1,216 crore in 2006-07. However, cost per rupee of corporation tax collected declined from 0.26 paise in 2002-03 to 0.11 paise in 2006-07. For income tax, the cost of collection per rupee declined from 2.51 paise in 2002-03 to 1.40 paise in 2006-07. Cost of collection per assessee, however, increased for corporation tax and income tax during the year as compared to the previous years. The position of cost of collection as depicted by the department needs to be viewed against the background that 89.55 percent and 75.78 percent of gross collections during 2006-07 from non corporate and corporate assesseees respectively, were realised at the pre-assessment stage i.e., in the form of advance tax, TDS and self assessment tax. Annual fluctuations in the cost of collection of corporation and income tax are indicated in Table no. 2.21 below.

Table no. 2.21: Cost of collection of corporation and income tax

Nature of tax	2002-03	2003-04	2004-05	2005-06	2006-07
Cost of collection (Rs. in crore)					
Corporation Tax	121	129	141	147	162
Income Tax	927	979	1077	954	1054
Cost of collection per rupee of tax collected (in paisa)					
Corporation Tax	0.26	0.21	0.17	0.15	0.11
Income Tax	2.51	2.37	2.19	1.70	1.40
Cost of collection per assessee (in rupees)					
Corporation Tax	3315	3468	3,710	3,740	4050
Income Tax	329	340	402	325	341

**Appeals, revision
petitions and
writs**

2.16 If an assessee is not satisfied with his assessment or refund order, he can file an appeal with the Commissioner (Appeals) and thereafter with the Income Tax Appellate Tribunal (ITAT). On any question of law arising out of such order an assessee may appeal to the High Court and Supreme Court. The assessee can also initiate writ proceedings under Article 226 of the Constitution.

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

Table no. 2.22 Appeals pending with the Commissioners (Appeals) during 2006-07

	Total appeals	With demand of Rs. 1-10 lakh	With demand of Rs. 10-25 lakh	With demand of Rs. 25 lakh and above
Appeals for disposal	1,75,201	63,814	13,823	16,413
Disposal	67,360	27,021	5,945	7,279
Pending	1,07,841	36,793	7,878	9,134

2.16.2 As per the instructions of the Board, each CIT (Appeal) is required to dispose off a minimum of 60 appeals per month, and a total of 720 appeals annually. Thus, about 2.03 lakh appeals could have been disposed off during the year on the basis of the working strength of 282 CIT (Appeals). Table no. 2.22 above shows that only 0.67 lakh appeals were disposed off and the average annual disposal per CIT (A) during 2006-07 was only 239 appeals.

Table no. 2.23 Appeals, references and writ pending with Supreme Court/High Court/Income Tax Appellate Tribunal during 2006-07

Authority with whom pending	Cases for disposal	Cases disposed	Cases pending
Supreme Court	3,231	136	3,095
High Court	33,826	1,957	31,869
ITAT	47,998	8,714	39,284

2.16.3 Out of the cases referred to Supreme Court, High Court and ITAT till March 2007, 96 percent, 94 percent and 82 percent cases respectively remained pending as shown in Table no. 2.23.

Cases settled by Settlement Commission

2.17 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 3,667 cases pending before the Settlement Commission, 350 cases (9.54 percent) were settled. Percentage of disposal in respect of income tax and wealth tax, as shown in Table no. 2.24 below increased marginally during the year as compared to 2005-06.

Table no. 2.24: 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
Income Tax						
2004-05	2,767	427	3,194	372	11.65	2,822
2005-06	2,822	477	3,299	301	9.12	2,998
2006-07	2,998	601	3,599	349	9.70	3,250
Wealth Tax						
2004-05	66	Nil	66	1	1.52	65
2005-06	65	2	67	0	0	67
2006-07	67	1	68	1	1.47	67

Table no. 2.25: Cases pending admission/held up with Settlement Commission

Nature of cases	31 March 2006	31 March 2007
Cases pending admission before Settlement Commission	730	880
Cases held up with Settlement Commission for want of comments of the department	374	479

2.17.1 About 41 percent of 3,317 pending income tax and wealth tax cases were either pending admission with Settlement Commission or held up for want of comments from the department.

Revenue demand written off

2.18 A total revenue demand of Rs. 215.52 crore was written off during 2006-07 on the grounds of the assessee having died leaving behind no assets, becoming untraceable or being alive but with no attachable assets/amounts etc. Out of the above, 79 percent pertained to cases where the assessees were untraceable and about 19 percent pertained to cases where the assessees were alive but had no attachable assets. Table no. 2.26 contains the details.

(Rs. in crore)

Table no. 2.26: Category-wise details of revenue demands written off during 2006-07

Category	Company cases		Non-company cases		Total cases	
	No.	Amount	No.	Amount	No.	Amount
(a) Assessee having died leaving behind no assets/become insolvent/gone into liquidation or are defunct.	16	1.45	452	2.30	468	3.75
(b) Assessee being untraceable.	79	0.45	6512	169.91	6591	170.36
(c) Assessee having left India	0	0.00	3530	0.29	3530	0.29
(d) Assessee who were alive but had no attachable assets/amounts being petty/amounts written off as a result of scaling down of demand and other reasons	364	0.17	21,091	40.69	21,455	40.86
(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	0.00	2747	0.26	2747	0.26
Total	459	2.07	34332	213.45	34,791	215.52