

**Review on efficiency of summary assessment scheme and process of selection of cases for scrutiny**

## 1.1 Introduction

**1.1.1** Effectiveness of assessment procedures is one of the vital determinants of the gross direct tax collections. At present the income tax law recognizes two types of assessment procedures for the disposal of returns filed by assesseees. The assessing officer has been authorized subject to certain conditions, to finalise assessments without calling for additional information or the presence of assesseees. These are termed as summary assessments. The assessing officer has also been authorized to call for additional documents or the presence of the assessee to finalise the assessments that are categorized as 'scrutiny' assessments. The provisions relating to summary assessments have been introduced with the main objective of speedy completion of regular assessments.

**1.1.2** Statistical data on assessments due for disposal, assessments completed and assessments pending in the last five financial years are given in Table-1 below:-

**Table 1: POSITION OF ASSESSMENTS**

Financial year	Assessments due for disposal (in lakh)			Assessments completed (in lakh) (percent)			Assessments pending (in lakh) (percent)		
	Summary	Scrutiny	Total	Summary	Scrutiny	Total	Summary	Scrutiny	Total
2001-02	365.08	2.18	367.26	199.59 (54.67)	1.68 (77.23)	201.27 (54.8)	165.49 (45.33)	0.50 (22.77)	165.99 (45.20)
2002-03	369.00	8.94	377.94	337.93 (91.58)	1.72 (19.28)	339.65 (89.87)	31.07 (8.42)	7.22 (80.72)	38.29 (10.13)
2003-04	269.78	3.88	273.66	213.80 (79.25)	1.97 (50.83)	215.77 (78.84)	55.98 (20.75)	1.91 (49.17)	57.89 (21.16)
2004-05	262.98	4.39	267.37	204.93 (77.93)	2.11 (48.00)	207.04 (77.44)	58.05 (22.07)	2.28 (52.00)	60.33 (22.56)

**1.1.3** It may be seen from the above that disposal of scrutiny assessment had come down from 77 percent in 2001-02 to 48 percent in 2004-05. In case of summary assessments, the percentage of disposal increased from 55 percent in 2001-02 to 78 percent in 2004-05. The percentage of total assessments completed increased from 55 percent in 2001-02 to 90 percent in 2002-03 and again declined to 77 percent in 2004-05.

**1.1.4** Audit attempted an examination of the rationale, scope and actual implementation of the summary scheme and evaluated its implication on revenues. Simultaneously audit has also attempted an examination of the methodology of selection of cases for scrutiny.

## **1.2. Law and procedure**

### **1.2.1 Introduction of the summary assessment scheme**

The scheme was first introduced by the Taxation Law Amendment Act, 1970 with effect from 1 April 1971, as section 143(1) of the Income Tax Act, 1961, to empower the assessing officer to make adjustments to the income or loss declared in the return as follows: -

- any arithmetical errors in the return, accounts or documents accompanying it, shall be rectified;
- any loss carried forward, deduction, allowance or relief, which on the basis of the information available in such return, accounts or documents, is prima facie admissible but not claimed in the return, shall be allowed ; and
- any loss carried forward, deduction, allowance or relief claimed in the return, which on the basis of the information available in such return, accounts or documents, is prima facie inadmissible, shall be disallowed.

### **1.2.2 Present scenario**

Section 143(1) provides that where a return has been made under section 139, or in response to a notice under sub section (1) of section 142, and if any tax or interest is found due on the basis of such return after adjustment of any tax deducted at source, any advance tax paid, any tax paid on self assessment and any amount paid otherwise by way of tax or interest, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 156 and all the provisions of the Income Tax Act, shall apply accordingly. Further, if any refund is due on the basis such return, it shall be granted to the assessee and intimation to this effect shall be sent to the assessee. It is also provided that where either no sum is payable by the assessee or no refund is due to him then the acknowledgement of the return shall be deemed to be intimation.

### **1.2.3 Revised Return**

Section 139(5) also provides that if any person, having furnished a return under sub section (1), or in pursuance of a notice issued under sub section (1) of section 142, discovers any omission or any statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

### **1.2.4 Appeal**

Any assessee aggrieved by any of the orders of an assessing officer as referred to in sub section (1) and sub section (2) of section 246, may appeal to the appellate authority against such order.

### **1.2.5 Amendments**

Some provisions originally available under section 143(1) have been amended subsequently as below:

- The substituted provisions under section 143, by Taxation Laws (Amendments Act) 1970 with effect from 1 April 1971 empowered the assessing officer to make adjustments to the income with reference to the accounts and documents accompanying the return;
- The scope was extended to returns filed in response to notice under section 142(1) also, through Direct Taxes Laws second amendment, 1989 with effect from 1 April 1989;
- Direct Taxes Laws second amendment effective from 1 April 1989, introduced sub sections 1A and 1B; sub section 1A provided prima facie adjustments and levy of additional tax while sub section 1B contained provisions on revised returns and application on sub section 1A on such revised returns;
- Amendment by Finance Act, 1993 with retrospective effect from 1 April 1989, provided for prima facie adjustments even in loss cases; and
- The Finance Act, 1999 amended the provisions of section 143(1) (a) abolishing levy of additional tax and prima facie adjustments. The sections 143 (1A) and (1B) were also done away with effect from 1 June 1999.

### **1.2.6 Scrutiny assessments**

The assessments made under section 143(3) or 144 of the Act are called regular or scrutiny assessments. The departmental procedures in this regard are detailed in Chapter-2 of Manual of Office Procedure Volume-II, "Assessment Procedure" issued by DIT. Further, Central Board of Direct Taxes (the Board) periodically issues instructions for selection of cases for scrutiny. While attempting this review, these instructions were also considered.

### **1.2.7 Use of AST software in assessments**

From assessment year 2001-02, the department switched over to a computerised mode of processing of returns and the related actions using Assessment Information System (AST) software at stations, which were already on the network. At stations, which were not yet on the network, Tax Management System (TMS) software was to be used till they were brought on the network. The functioning of the AST system forms a part of summary assessment scheme as the returns are processed in computer without any scrutiny by the assessing officer.

## **1.3. Audit findings in past in respect of summary assessment scheme**

**1.3.1** Audit had first conducted a review of the scheme in 1987-88 and observed<sup>1</sup> that:

- the expectations of the scheme had not been fully realized;

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<sup>1</sup> CAG's Audit Report on Direct Taxes for the year 1987-88

- frequent dilution of the scheme by raising the income/loss limit and reduction in tax rates had not promoted greater voluntary compliance by tax payers;
- contrary to Board's claim that the scheme had not been abused, substantial tax evasion by the assesseees taking advantage of the loopholes in the scheme was noticed and
- the assessment, monitoring and control machinery had not proven effective.

### **1.3.2 Recommendations of PAC (173<sup>rd</sup> Report of PAC 1989-90 Eighth Lok Sabha)**

The recommendations of the Public Accounts Committee on the above audit findings given in their 173<sup>rd</sup> Report were as under:

- The Committee strongly deprecated the issue of instructions of Ministry (August 1987) for stoppage of all action on audit findings in summary assessment cases
- Before the commencement of every assessment year, the instructions as applicable should be reviewed and a uniform set of instructions issued for compliance by all assessing officers for cases relating to that assessment year and no changes be made to these instructions thereafter for assessment of cases relating to that assessment year
- Ministry may conduct an investigation on the large outstandings and take action to liquidate the arrears
- Relook into the effectiveness of the summary assessment scheme preferably by reputed experts and not by concerned Ministry/CBDT
- The arrangement for internal audit may be reviewed and audit for summary assessment cases placed on a sound footing.

**1.3.3** Audit reviewed the Action Plan of the department for the year 1988-89<sup>1</sup> and observed that the objectives of the summary scheme had not been achieved, as there was huge pendency of the assessments with department.

**1.3.4** Audit further reviewed<sup>2</sup> the summary assessment scheme and observed that the overall pendency of assessments continued to remain high despite the Board's instructions to reduce the pendency of assessments and that with the trend of increase in assessments continuing to be high, the department needed to address itself to the problem of the increasing workload vis a vis the then existing work force.

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<sup>1</sup> CAG's Report No.6 of 1991

<sup>2</sup> CAG's Report No.12 of 1997

#### 1.4. Objectives of the present review

The following specific issues/aspects were examined in the review

- Position of pendency/efficiency of disposal
- Ambiguity and inconsistency in initiating remedial action on audit observations especially where assessment was completed after prima facie adjustments were done away with, with effect from 1 June 1999
- Extent of mistakes/wrong availment of exemptions, concessions, reliefs in summary assessments
- Effectiveness of internal audit in audit of summary assessments completed
- Adequacy of follow up action on the recommendations of PAC on earlier audit findings
- The rationale and methodology of selection of cases for scrutiny in the period covered under the review

#### 1.5. Audit methodology

#### 1.6. Period of coverage

The period of coverage was the financial years 2002-03 to 2004-05.

#### 1.7. Sample size

1.7.1 The sample size was as given in table 2 below:-

Charges	Units selected for checking assessment records	Records requisitioned		
		F.Y 2004-05	2003-04	2002-03
Delhi, Maharashtra, Tamil Nadu, West Bengal, Karnataka Gujarat	25 percent of annual units	Summary cases: - Between 173 and 207 in each unit.  Scrutiny cases: 100 percent.	Summary cases: One percent of total summary cases.  Scrutiny cases: 25 percent of total scrutiny cases.	Summary cases: One half percent of total summary cases.  Scrutiny cases: 15 percent of total scrutiny cases.
Charges other than above	40 percent of annual units.	Summary cases: - Between 173 and 207 in each unit.  Scrutiny cases: 100 percent.	Summary cases: One percent of total summary cases.  Scrutiny cases: 25 percent of total scrutiny cases.	Summary cases: One half percent of total summary cases.  Scrutiny cases: 15 percent of total scrutiny cases.

1.7.2 In selected scrutiny cases completed in financial year 2002-03 wherever audit felt that there was some revenue implication in preceding/succeeding years, such assessments were also seen in audit.

**1.7.3** For the purpose of this review, 335 units were selected and out of 95,085 records requisitioned, 87,275 were produced to audit and the remaining 7,810 records (8.2 per cent) were not produced. Out of 87,275 records seen in audit, 64,755 were summary assessments and 22,520 were scrutiny assessments. Details are given in **Appendix-1**. Further, audit has taken into account mistakes with tax effect of Rs.50,000 and above only for this review.

#### **1.7.4 Meetings with departmental authorities**

Meetings were held with the departmental authorities at various levels by Audit while conducting this review.

At the draft review stage, an Exit Conference was held between Member (Investigation) and Member (Audit) along with Director (Investigation) and Director (Audit) from the Board and Principal Director / Directors, Direct Taxes from the office of the Comptroller & Auditor General of India with a view to discussing audit conclusions and recommendations proposed to be included in Audit Report.

### **1.8. Audit findings**

#### **Objective I - Position of pendency / efficiency of disposal**

##### **1.9 Position of workload**

**1.9.1** Audit attempted to collect and compile data in the charges it visited for the purpose of this review in respect of the workload of the department and the pendency position of assessments.

**1.9.2** The workload of the department in terms of returns filed by the assessees would constitute the following:

- Current returns of new assessees
- Current returns of old assessees
- Arrear returns of old assessees
- Revised returns of old assessees

**1.9.3** Some of the returns received are marked for assessment during the year. Returns marked for assessment during the year together with carried over pending returns for disposal from the preceding year gives the total number of returns available for disposal by the department.

**1.9.4** Audit noticed in respect of 31 CCIT and 61 CIT charges that total number of returns received had declined by 10.2 percent during 2002-03 to 2004-05. The number of cases marked for assessment as well as total number of returns to be disposed off during the year also declined during the same period. Further, the percentage disposal of these cases also declined during this period as indicated below:

**1.9.5** Data on workload in terms of returns filed by the assesseees in the financial years 2002-03, 2003-04 and 2004-05 in respect of 31 CCIT charges and 60 CIT charges that made the information available to audit is given in **Appendix-2**.

**1.9.6** Total number of returns received declined from 1.63 crore in 2002-03 to 1.40 crore in 2003-04 and it again increased to 1.46 crore in 2004-05. It translates into a negative annual growth in total returns received by the department of 14 per cent in 2003-04 and a positive annual growth of 4.4 per cent in 2004-05. However, there was a negative growth of 10.2 per cent in total returns received over the total period under consideration.

**1.9.7** In 2002-03, 11.1 per cent of total returns received were current returns of new assesseees, 72.7 per cent of total returns received were current returns of old assesseees, 16.1 per cent of total returns received were arrear returns of old assesseees and 0.03 per cent of total returns received were revised returns of old assesseees. In 2004-05, these figures were 5.6 per cent, 86.1 per cent, 8.2 per cent and 0.04 per cent respectively.

**1.9.8** The above analysis indicates that current returns of new assesseees have declined during these two years whereas the current returns of old assesseees have increased during the same period implying that whereas additions of new assesseees in the tax base has declined, filing of returns by the existing assesseees has improved during this period.

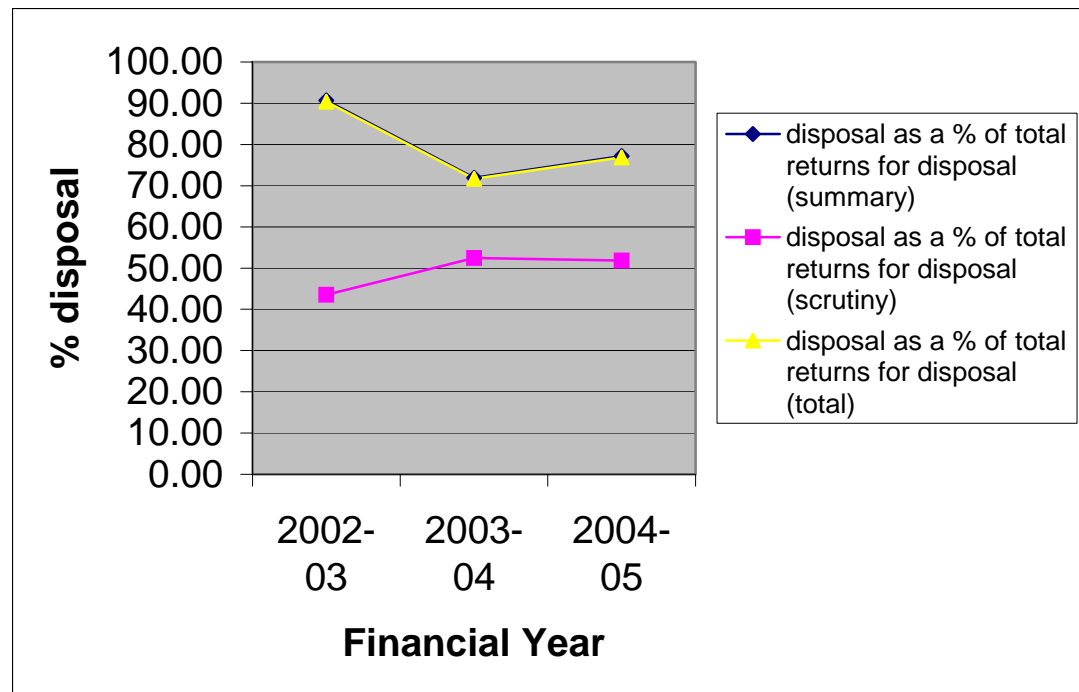
## **1.10 Efficiency of disposal**

**1.10.1** The data with respect to total disposable returns, total returns received, total returns disposed off during the year and the balance pending at the end of the year in respect of 31 CCIT charges and 61 CIT charges that made the information available to audit is given in **Appendix-3**.

**1.10.2** Number of returns marked for assessment was 1.38 crore in 2002-03, which decreased to about 1.34 crore in 2004-05.

**1.10.3** Total number of returns to be disposed off during the year also declined from 2.17 crore in 2002-03 to 1.51 crore in 2003-04 and increased to 1.67 crore in 2004-05. The disposal of these cases was 90.36 per cent in 2002-03, which declined to 71.65 per cent in 2003-04 and increased to 76.88 per cent in 2004-05. The disposal of summary cases as a percentage of its disposable cases was 90.69 per cent, 71.88 per cent and 77.16 per cent in the years 2002-03, 2003-04 and 2004-05 respectively. The corresponding percentage of disposal of scrutiny cases was 43.51 per cent, 52.41 per cent and 51.83 per cent in these years respectively.

**Chart: Disposal of returns by the Department**



**1.10.4** The percentage of disposal of total disposable cases declined over the period 2002-03 to 2004-05 in both summary as well as scrutiny cases in the charges of Andhra Pradesh, Assam, Gujarat, Haryana, Himachal Pradesh and Uttaranchal. Details are given in **Appendix-3**.

**1.10.5** The percentage of disposal of total disposable scrutiny cases was consistently below 50 per cent in each of the years from 2002-03 to 2004-05 in case of Assam, Madhya Pradesh, Gujarat and Rajasthan. Details are given in **Appendix-3**.

**Objective II -Ambiguity and inconsistency in initiating remedial action on audit observations especially where assessment was completed after 1 June 1999.**

**1.11** Every year through Audit Reports on Direct Taxes, Audit has observed that substantial revenue is foregone owing to many assessee's availing unintended/unentitled benefits through the scheme of summary assessments. The department often tends to view this loss of revenue as inherent in the concept of summary assessment scheme and also takes the plea that assessing officer could not be faulted for this as they are not allowed to carry out any meaningful adjustment to returned income in a summary assessment especially after 1 June 1999. The Board had earlier made it mandatory vide Instruction Number 1928 issued in August 1995 for the assessing officers to take remedial action in the interests of revenue in the case of revenue audit observations especially in summary assessment cases where



mistakes pointed out by audit were felt to be outside the scope of prima facie adjustments but involved excess set off/carry forward of loss/allowances/relief/exemptions etc. under different sections of the Act even if the observation was not accepted.

**1.12** From 1 June 1999 when prima facie adjustments were done away with, the amendment did not clearly provide as to whether the assessing officer could rectify mistakes apparent from records under section 154 in summary assessment cases in the light of the Board's circular *ibid* or not. As a result, there has emerged an ambiguity and inconsistency in the department on the issue of initiating remedial action on audit observations relating to summary assessments especially where assessment was completed after 1 June 1999.

**1.13.1** During the review, audit noticed 1,392 mistakes each involving tax effect of atleast Rs.50000/- for the period 2002-03 to 2004-05 with a total tax effect of Rs.390.51 crore in summary assessments. Out of these, the department replied in 842 cases only. It accepted mistakes in 210 cases involving tax effect of Rs.69.62 crore. Of the accepted cases, the department took remedial action in 53 cases with tax effect of Rs.34.16 crore, initiated remedial action in another 107 cases with tax effect of Rs.32.18 crore and did not initiate any action in 50 cases involving tax effect of Rs.3.28 crore. The department did not accept the observations in 627 cases involving tax effect of Rs.135.11 crore essentially on the ground that assessments had been completed in summary manner. Out of cases not accepted by the department, remedial action was completed only in one case involving tax effect of Rs.12.12 lakh and initiated in another 4 cases involving tax effect of Rs.7.79 lakh. No reply was furnished in remaining 550 cases.

**1.13.2** The Ministry stated that the need for uniform remedial action in respect of audit observations relating to cases processed in summary manner would be reiterated in unambiguous terms.

### **Objective III - Extent of mistakes and wrong availment of exemptions, concessions and reliefs in summary assessments**

#### **1.14 Extent of mistakes**

**1.14.1** Audit test checked 64755 cases of summary assessments pertaining to review period and noticed various types of mistakes in 1,392 cases each involving tax effect of Rs.50,000 or more in Andhra Pradesh, Assam, Bihar, Chandigarh (UT), Delhi, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka & Goa, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttaranchal, Uttar Pradesh and West Bengal charges. Due to these mistakes the assessee availed unentitled benefits with tax effect of Rs.390.51 crore to which they were not otherwise eligible.

**1.14.2** Different types of mistakes and wrong availment of exemptions, concessions and reliefs in summary assessments are discussed in the succeeding paragraphs. Sixty five observations involving tax effect of Rs. one crore or more in each case and aggregating Rs.213.95 crore are discussed in the tables within the paragraphs and 59 observations involving tax effect of Rs.50 lakh or more but less than Rs. one crore and aggregating to Rs.40.17 crore are given in **Appendix 4**.

### **1.15 Mistakes in adoption/non adoption of correct figures**

**1.15.1** Under the Income Tax Act, 1961, an assessment may be completed in a summary manner, interalia, after rectifying any arithmetical error in the return, accounts and accompanying documents. However, mistakes including incorrect adoption of figures, arithmetical errors, double allowance of claims, failure to add back the claims originally disallowed by the assessing officer etc. continue to occur suggesting the need for better vigilance and highlighting the fact that internal control mechanism needed to be strengthened urgently and effectively.

**1.15.2** Mistakes in adoption/non adoption of correct figures resulted in short levy of tax of Rs.30.57 crore in 34 cases in Chandigarh (UT), Delhi, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Punjab, Rajasthan, Tamil Nadu, and Maharashtra charges. Two cases involving tax effect of Rs. one crore or more are given in the table 3 below. One case with tax effect of Rs.62.56 lakh is shown at serial number 1 of Appendix 4.

(Rs in crore)

**Table 3: MISTAKES IN ADOPTION/ NON ADOPTION OF CORRECT FIGURES**

S. No.	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
1.	M/s Tata Iron and Steel Co. Ltd <b>Mumbai II</b>	2002-03 Summary	Tax liability being more under the special provisions was not adopted though offered by the assessee.	10.11
2.	M/s Kalani Industries Ltd <b>Indore I</b>	2003-04 Summary	Income was assessed at loss of Rs.4.25 crore instead of nil.	1.56

### **1.16 Mistakes in computation of business income**

**1.16.1** Under the Income Tax Act, 1961, items specified under section 28 of the Act are chargeable to income tax under the head, “profits and gains of business or profession” subject to certain adjustments.

**1.16.2** Non-compliance with above provision resulted in short levy of tax of Rs.26.49 crore in 195 cases in Andhra Pradesh, Delhi, Gujarat, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Tamil Nadu and West Bengal charges. Four cases involving tax effect of Rs. one crore or more are given in the table 4 below. One case with tax effect of Rs.66.67 lakh is shown at **serial number 2 of Appendix 4**.

(Rs in crore)

**Table 4: MISTAKES IN COMPUTATION OF BUSINESS INCOME**

S. No.	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
1.	M/s Jodhpur Vidyut Vitran Nigam Ltd <b>Jodhpur I</b>	2003-04 Summary	Irregular allowance of deduction on account of payment of interest on loans of Rs.22.75 crore which was not taken by the assessee.	7.96
2.	M/s Cairn Energy India West BV, <b>Surat I</b>	2003-04 Summary	Due to change in method of accounting, there was under assessment of income of Rs.5.10 crore.	2.22
3.	M/s Cairn Energy Cambay BV, <b>Surat I</b>	2003-04 Summary	Due to change in method of accounting, there was under assessment of income of Rs.3.28 crore.	1.37
4.	M/s Kazima Deawoo Joint Venture <b>Haldwani</b>	2004-05 Summary	The income of the assessee being engaged in the business of civil construction work was not fixed at 10 percent of gross receipts as required under amended provisions of section 44BBA.	1.34

### 1.17 Incorrect allowance of provisions/liability

**1.17.1** A provision made in the accounts for an accrued or known liability is an admissible deduction while other provisions do not qualify for deduction under the Income Tax Act. It has been judicially held<sup>1</sup> that in order for a loss to be deductible, it must have actually arisen and incurred and not merely anticipated as certain to occur.

**1.17.2** Incorrect allowance of inadmissible provisions/liability resulted in short levy of tax of Rs.61.70 crore in 123 cases in Andhra Pradesh, Delhi, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka & Goa, Madhya Pradesh, Maharashtra, Orissa, Punjab, Tamil Nadu and West Bengal charges. Ten cases involving tax effect of Rs. one crore or more are given in the table 5 below. Seven cases with tax effect over Rs.50 lakh but less than Rs.1 crore are shown at **serial numbers 3 to 9 of Appendix 4.**

(Rs in crore)

**Table 5: INCORRECT ALLOWANCE PROVISIONS/LIABILITY**

S. No.	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
1.	M/s Indian Express Newspapers (Bombay) Ltd, <b>Mumbai III</b>	2004-05 Summary	Provision for bad debts of Rs.32.48 crore was not added back.	11.65
2.	M/s Maars Software International Ltd <b>Chennai III</b>	2003-04 Summary	Incorrect allowance of deduction of Rs.28.09 crore towards provision for bad and doubtful debts and diminution..	10.32

<sup>1</sup> CIT Vs Indian Overseas Bank 151 ITR 446 (Madras High Court)

S. No.	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
3.	M/s NALCO <b>Bhubaneswar</b>	2003-04 Summary	Provision of Rs.10.63 crore towards leave encashment was incorrectly allowed as deduction without ascertaining the actual payment.	3.90
4.	M/s Northern Coalfield Ltd, <b>Jabalpur I</b>	2003-04 Summary	Adhoc provision of Rs.9.86 crore towards arrear of salary and wages was incorrectly allowed as deduction.	3.62
5.	M/s Meta Strips Ltd <b>Mumbai III</b>	2004-05 Summary	Incorrect allowance of deduction under section 43B against the interest payable which was converted into loan.	3.42
6.	M/s The Oriental Insurance Co. Ltd <b>Delhi VI</b>	2003-04 Summary	Provision of Rs.29.54 crore for bad and doubtful debts was not added back.	3.09
7.	M/s Metropolitan Transport Corporation Ltd, <b>Chennai III</b>	2003-04 Summary	Incorrect allowance of provision of Rs.8.09 crore towards leave and gratuity liability as deduction.	2.98
8.	M/s GTL Ltd <b>Mumbai II</b>	2002-03 Summary	Bad debts written off of Rs.7.27 crore were irregularly claimed and allowed as deduction without actually debiting to profit and loss account.	2.59
9.	M/s Universal Cables Ltd, <b>Kolkata II</b>	2002-03 Summary	Incorrect allowance of provision of Rs.3.37 crore for pension and leave encashment.	1.21
10.	M/s New Era Handling Agency Ltd <b>Margao (Goa)</b>	2004-05 Summary	Claiming of deduction towards write off of an amount of Rs.3.04 crore was irregular as the assessee did not exhibit the same in the balance sheet either as receivable or sundry debtors.	1.18

### 1.18 Incorrect computation of income from house property

**1.18.1** The annual value of property consisting of any building or lands appurtenant thereto of which assessee is the owner other than such portions of such property as he may occupy for the purposes of any business or profession carried on by him the profits of which are chargeable to income tax, shall be computed as per procedure prescribed in the Act and chargeable to income tax under the head “income from house property”.

**1.18.2** Mistakes in computation of income from house property resulted in short levy of tax of Rs.54.88 lakh in eight cases in Assam, Delhi, Himachal Pradesh, Karnataka and West Bengal charges.

### 1.19 Incorrect carry forward and set off of losses

**1.19.1** Under the Income Tax Act, 1961, where the net result of the computation under the head ‘profits and gains of business or profession’ is a loss to the assessee and such loss cannot be wholly set off against income under any other head of the relevant year, so much of the loss as has not been set off shall be carried forward to

the following assessment year/years to be set off against the profits and gains of business or profession of those years. However, no loss shall be carried forward unless the return of income/loss is filed within the stipulated period.

**1.19.2** Mistakes in carry forward and set off of losses resulted in short levy of tax of Rs.37.51 crore in 134 cases in Andhra Pradesh, Assam, Bihar, Gujarat, Himachal Pradesh, Jharkhand, Karnataka & Goa, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttaranchal, Uttar Pradesh and West Bengal charges. Eight cases involving tax effect of Rs.1 crore or more are given in the table 6 below. Eight cases with tax effect over Rs.50 lakh but less than Rs.1 crore are shown at **serial numbers 10 to 17 of Appendix-4.**

(Rs in crore)

**Table 6: INCORRECT CARRY FORWARD AND SET OFF OF LOSSES**

S. No.	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
1.	M/s Bayer Specialities Products Pvt Ltd <b>Chennai I</b>	2003-04 Summary	Incorrect carry forward of losses of Rs.25.42 crore as well as incorrect set off of losses of 3.54 crore as against Rs.3.84 crore available to be set off.	9.46
2.	M/s ASM Shipping Ltd <b>Mumbai V</b>	2004-05 Summary	Loss of Rs.7.60 crore on sale of ship was not disallowed, as sales proceeds in respect of depreciable asset are to be determined under section 50.	2.73
3	M/s Asianet Communications Pvt Ltd, <b>Chennai IV</b>	2003-04 Summary	Incorrect set off and carry forward of losses of earlier years.	1.87
4.	M/s C V Steels (P) Ltd <b>Alwar</b>	2001-02 2002-03 Summary	Despite filing of return after due date, carry forward of loss claimed by the assessee was incorrectly allowed.	1.81
5.	M/s Gadanieli India Ltd <b>Kolkata I</b>	2004-05 Summary	Irregular carry forward of loss.	1.45
6.	M/s Dhan Laxmi Pollium Processing (P) Ltd, <b>Jodhpur II</b>	2003-04 Summary	Incorrect carry forward of loss of Rs.4.16 crore instead of correct amount of Rs.53.80 lakh.	1.27
7.	M/s Fabrooth India Ltd <b>Kolkata IV</b>	2004-05 Summary	Excess carry forward of loss	1.15
8.	M/s GTN Textiles Ltd <b>Kochi</b>	2003-04 Summary	Excess carry forward of loss of Rs.3.10 crore due to irregular grant of deduction under chapter VI A.	1.14

## **1.20 Incorrect allowance of inadmissible expenditure/non business/capital expenditure**

**1.20.1** Under the Income Tax Act, 1961, any expenditure, not being in the nature of capital expenditure, laid out wholly or exclusively for the purpose of business, is allowable as deduction in computation of the income chargeable under the head 'profits and gains of business or profession'. Thus all expenditures which are

incurred in relation to the business are allowable. The expenditures which are not related to the business are not allowable as deduction.

**1.20.2** Non compliance with above provisions resulted in short levy of tax of Rs.79.99 crore in 147 cases in Andhra Pradesh, Assam, Bihar, Himachal Pradesh, Jharkhand, Karnataka & Goa, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh charges. Seventeen cases involving tax effect of Rs.1 crore or more are given in the table 7 below. Seven cases with tax effect over Rs.50 lakh but less than Rs.1 crore are shown at **serial numbers 18 to 24 of Appendix-4.**

(Rs in crore)

**Table 7: INCORRECT ALLOWANCE OF INADMISSIBLE EXPENDITURE / NON BUSINESS/ CAPITAL EXPENDITURE**

Sl. No.	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
1.	M/s The Oriental Insurance Co. Ltd, <b>Delhi VI</b>	2003-04 Summary	Investment written off of Rs.22.98 crore was incorrectly allowed as deduction.	8.45
2.	M/s EWS Finance & Investment Ltd <b>Chennai I</b>	2000-01 to 2002-03 Summary	Non disallowance of proportionate expenditure under section 14A in respect of income exempt under section 10(33)	7.49
3.	M/s Sunbeam Auto Ltd <b>Delhi III</b>	2003-04 2004-05 Summary	Incorrect allowance of capital expenditure.	6.60
4.	M/s Braithwaite Burn & Jesop Construction Co. Ltd <b>Kolkata I</b>	2004-05 Summary	Irregular allowance of prior period expenditure	5.65
5.	M/s National Textile (Tamil Nadu & Pondichery) Ltd <b>Coimbatore I</b>	2003-04 Summary	Excess claim of deduction towards expenditure on voluntary retirement was not restricted to one fifth of the expenditure under section 35 DDA.	5.48
6.	M/s ICICI Infotech Ltd <b>Mumbai X</b>	2004-05 Summary	Capital expenditure of Rs.12.67 crore was irregularly claimed and allowed as revenue expenditure	4.58
7.	M/s Bharati Mobinet Ltd <b>Chennai I</b>	2002-03 Summary	Incorrect allowance of capital expenditure of Rs.11.73 crore as deduction.	4.19
8.	M/s Aditya Music (India) Ltd <b>Hyderabad, Central</b>	2003-04 Summary	Irregular allowance of capital expenditure as revenue expenditure.	2.43
9.	M/s Birla Group Holdings Ltd <b>Mumbai II</b>	2002-03 Summary	Irregular allowance of expenditure under section 14A in respect of dividend income which was exempt from tax.	2.10
10.	M/s IDCOL Cement Ltd & M/s Associated Company renamed as M/s Bargarh Cement Ltd <b>Sambalpur</b>	2003-04 2004-05 Summary	Incorrect allowanc of deduction towards priod period expenses of Rs 4.55 crore and Rs.30.56 lakh respectively during two years.	1.78

Sl. No.	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
11.	M/s Hindustan Motors Ltd <b>Kolkata II</b>	2004-05 Summary	Irregular allowance of inadmissible expenditure.	1.62
12.	M/s Tabook Finance Ltd <b>Mumbai II</b>	2003-04 Summary	Irregular allowance of expenditure under section 14A in respect of dividend income which was exempt from tax.	1.44
13.	M/s Metropolitan Transport Corporation Ltd <b>Chennai III</b>	2003-04 Summary	Non business expenditure of Rs.3.72 crore was irregularly allowed as deduction.	1.37
14.	M/s Triveni Structural Ltd <b>Allahabad</b>	2002-03 Summary	Expenditure towards VRS compensation under section 35 DDA was claimed at Rs.4.44 crore instead of Rs.88.79 lakh.	1.27
15.	M G Automotives Pvt Ltd <b>Mumbai X</b>	2004-05 Summary	Development expenditure of Rs.3.24 crore was irregularly claimed and allowed as revenue expenditure instead of capital expenditure.	1.16
16.	M/s PCS Industries Ltd <b>Pune I</b>	2003-04 Summary	Entire expenditure of Rs.4.51 crore on advertisement was incorrectly claimed and allowed instead of its one third debited to profit and loss account.	1.11
17.	M/s Orient Paper Industries <b>Kolkata II</b>	2004-05 Summary	Irregular allowance of inadmissible expenditure.	1.04

### 1.21 Incorrect claim of exemption, deduction etc

**1.21.1** Income Tax Act provides for various exemptions and deductions for specific purposes subject to fulfilment of certain conditions as prescribed in the Act. Further, in case of any doubt on the admissibility/non admissibility, judicial decisions delivered by income tax appellate tribunals, High Courts as well as Supreme Court are also resorted to.

**1.21.2** Incorrect allowance of exemptions and deductions under various provisions of the Act resulted in short levy of tax of Rs.65.76 crore in 306 cases in Andhra Pradesh, Assam, Delhi, Gujarat, Haryana, Himachal Pradesh, Karnataka & Goa, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttaranchal and West Bengal charges. Twelve cases involving tax effect of Rs.1 crore or more are given in the table 8 below. Fourteen cases with tax effect over Rs.50 lakh but less than Rs.1 crore are shown at **serial numbers 25 to 38 of Appendix-4.**

(Rs in crore)

**Table 8: INCORRECT ALLOWANCE OF EXEMPTION, DEDUCTION ETC.**

S. No.	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
1.	M/s NGEF Co. Ltd <b>Bangalore III</b>	2002-03 2003-04 Summary	Deductions towards expenditure on account of voluntary retirement compensation was not restricted as permissible under section 35DDA of the Act.	10.73
2.	M/s Tube Investments of India Ltd <b>Chennai I</b>	2001-02 2002-03 Summary	Non deduction of TDS in respect of royalty and technical knowhow.	2.75
3.	M/s Metro Exporters Ltd <b>Mumbai VI</b>	2002-03 Summary	Deduction towards export profits was irregularly allowed against negative profit.	2.34
4.	M/s Haryana Rural Development Fund <b>Administrative Board Panchkula</b>	2003-04 Summary	Exemption available to a religious or charitable trust under section 11 was irregularly allowed to the assessee to the extent of Rs.6.11 crore.	2.25
5.	M/s IDCO <b>Bhubaneswar</b>	2004-05 Summary	Irregular exemption of income under section 11(1)(C)	1.75
6.	M/s Bhaskar Trading Corporation <b>Bhopal</b>	2002-03 Summary	Irregular allowance of deduction of Rs.4.16 crore towards export profits in the absence of documentary proof of receipt of sale proceeds in convertible foreign exchange within stipulated time.	1.71
7.	M/s Super Plastic Coats Pvt Ltd <b>Delhi III</b>	2003-04 2004-05 Summary	Incorrect allowance of deduction under section 80IA in the absence of manufacturing activities.	1.68
8.	M/s Marwar Gramin Bank <b>Jodhpur I</b>	2003-04 Summary	Deduction under section 80P(2)(1) was incorrectly allowed on income from interest on ineligible investment in private banks.	1.64
9.	M/s Tungabhadra Minerals Pvt Ltd <b>Margao (Goa)</b>	2004-05 Summary	Deduction of Rs.4.02 crore towards export profits was incorrectly allowed in the absence of report of the accountant certifying correctness of the claim.	1.61
10.	M/s Kshetriya Gramin Bank <b>Muzaffar Nagar</b>	2003-04 Summary	Deduction available to cooperative society was allowed in violation of provision of section 80P(2)(d) of the Act.	1.57
11.	M/s Sunstar Overseas Ltd <b>Delhi III</b>	2002-03 Summary	Deduction of Rs.4.14 crore was incorrectly allowed under section 80IA against profits for trading instead of processing and manufacturing.	1.48
12.	M/s SCM Creations <b>Coimbatore III</b>	2002-03 Summary	While claiming towards exports profits, deduction availed under section 80IB was not reduced in terms of provisions of section 80IB(13) read with section 80IA(9).	1.30

## 1.22 Incorrect allowance of depreciation

**1.22.1** Deduction on account of depreciation on block of plant and machinery and other assets is admissible at the prescribed rates while computing the business income of the assessee if these are owned by the assessee and used for the purpose



of business during the relevant previous year. Depreciation is calculated on the cost or written down value of the assets according to the rates prescribed in the Income Tax Rules 1962.

**1.22.2** Incorrect allowance of depreciation resulted in short levy of tax of Rs.23.71 crore in 146 cases in Andhra Pradesh, Assam, Chandigarh (UT), Delhi, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka & Goa, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and Uttaranchal charges. Two cases involving tax effect of Rs.1 crore or more are given in the table 9 below. Six cases with tax effect over Rs.50 lakh but less than Rs.1 crore are shown at **serial numbers 39 to 44 of Appendix 4.**

(Rs in crore)

**Table 9: INCORRECT ALLOWANCE OF DEPRECIATION**

S. No.	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
1.	M/s Power Grid Corporation Ltd <b>Delhi V</b>	2002-03 Summary	Depreciation of Rs.16.76 crore was incorrectly allowed on sales/adjustment of assets.	5.98
2.	M/s Orissa Sponge Iron Ltd <b>Bhubaneswar</b>	2002-03 Summary	Depreciation on building constructed prior to 1 September 2002 was allowed at 100 percent instead of admissible rate of ten percent.	1.11

### 1.23 Income not assessed/receipts not brought to tax

**1.23.1** Under the Income Tax Act, 1961, the total income of a person for any previous year includes income from whatever source derived which is received or deemed to be received or which accrues or arises during such previous year unless it is specifically exempt from tax by the other provisions of the Act.

**1.23.2** Non compliance with above provision resulted in short levy of tax of Rs.28.26 crore in 176 cases in Andhra Pradesh, Assam, Bihar, Delhi, Gujarat, Haryana, Jharkhand, Karnataka & Goa, Kerala, Madhya Pradesh, Maharashtra Rajasthan and Tamil Nadu charges. Two cases involving tax effect of more than Rs.1 crore are given in the table 10 below. Nine cases with tax effect over Rs.50 lakh but less than Rs.1 crore are shown at **serial numbers 45 to 52 of Appendix 4.**

(Rs in crore)

**Table 10: INCOME NOT ASSESSED/RECEIPTS NOT BROUGHT TO TAX**

S. No.	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
1.	M/s Chemtech Computer Services Ltd <b>Chennai</b>	2001-02 2002-03 Summary	Interest accrued not offered to tax	5.15

S. No.	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
2.	M/s The Erode District Co-operative Producers Union Ltd <b>Coimbatore II</b>	2003-04 Summary	Subsidy of Rs.4 crore received from Government of Tamil Nadu and interest of Rs.68 lakh waived thereon was not offered to tax.	1.72
3.	M/s Sri Aqua Farms and Exports (P) Ltd <b>Hyderabad III</b>	2004-05 Summary	Assessee did not offer income towards interest liability waived off by the APCOB.	1.40

#### 1.24 Incorrect computation of capital gains

**1.24.1** Under the Income Tax Act, 1961, any profit and gains arising from the transfer of a capital asset shall be chargeable to income tax under the head 'capital gains' and is taxable in the year in which the transfer took place. The Act prescribes the mode of computation of capital gains in respect of long-term capital asset and provides for deduction, from the consideration received, of the cost of acquisition of the asset and the cost of any improvement thereto and of expenditure incurred wholly and exclusively in connection with such transfer.

**1.24.2** Non compliance with above provision resulted in short levy of tax of Rs.1.46 crore in 16 cases in Andhra Pradesh, Gujarat, Himachal Pradesh, Orissa, Rajasthan, Tamil Nadu and West Bengal charges. One case with tax effect of Rs.53.41 lakh is given at **serial number 53 of Appendix 4.**

#### 1.25 Incorrect computation of income under special provisions

**1.25.1** Under the Income Tax Act, 1961, where in the case of an assessee being an Indian company the total income as computed under the Act in respect of any previous year is less than 7.5 percent of its book profit, such book profit shall be deemed to be the total income of such assessee and tax payable on such income shall be 7.5 percent of book profit. For this purpose, book profit means the net profit as per the profit and loss account subject to certain additions/deletions as prescribed in the Act.

**1.25.2** Incorrect computation of income under special provisions resulted in short levy of tax of Rs.22.24 crore in 70 cases in Andhra Pradesh, Assam, Gujarat, Himachal Pradesh, Jharkhand, Karnataka & Goa, Kerala, Madhya Pradesh, Maharashtra, Rajasthan and Tamil Nadu charges. Four cases involving tax effect of Rs.1 crore or more are given in the table 11 below. Five cases with tax effect over Rs.50 lakh but less than Rs.1 crore are shown at **serial numbers 54 to 58 of Appendix 4.**

(Rs in crore)

**Table 11: INCORRECT COMPUTATION OF INCOME UNDER SPECIAL PROVISIONS.**

S. No	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
1.	M/s Tamil Nadu State Transport Corporation <b>Chennai</b>	2001-02 2002-03 Summary	Unascertained liabilities of Rs.5.29 crore and Rs.5.74 crore relating to two assessment years respectively were not added back while computing deemed income under special provision.	6.44
2.	M/s Air India Ltd <b>Mumbai V</b>	2004-05 Summary	Provision for obsolescence, doubtful debts, wealth and adhoc provision for outstanding expenses was not added back while computing deemed income under special provisions.	2.74
3.	M/s BSES Kerala Power Ltd <b>Kochi</b>	2004-05 Summary	Provision of Rs.24.50 crore being unascertained liability was not added back while computing deemed income under special provisions.	1.82
4.	M/s Kirloskar Systems Ltd <b>Bangalore I</b>	2002-03 Summary	Warranty provision, provision for diminution in value of investments debited to profit and loss account being unascertained liability was not added to work out deemed income.	1.04

**1.26 Irregular refunds/interest on refunds**

**1.26.1** Under the Income Tax Act 1961, where, as a result of any order passed in assessment, appeal, revision or any other proceedings under the Act, refund of any amount becomes due to the assessee, it may be granted in cash or adjusted or set off against outstanding dues of the assessee for any assessment year.

**1.26.2** Mistakes in application of the above provisions resulted in short levy of tax aggregating to Rs.7.74 crore in 10 cases in Andhra Pradesh, Gujarat, Himachal Pradesh, Maharashtra, Rajasthan and West Bengal charges. Two cases involving tax effect over Rs.1 crore or more are given in the table 12 below.

(Rs in crore)

**Table 12: MISTAKES IN IMPLEMENTATION/NON IMPLEMENTATION OF APPELLATE ORDERS**

S. No.	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
1.	M/s Bank of India <b>Mumbai II</b>	2002-03 Summary	The refund was not issued within 30 days from the date of the determination of the refund as required under Board's instruction of 7 August 2002.	4.32
2.	M/s Bank of Baroda <b>Mumbai II</b>	2002-03 Summary	The refund was not issued within 30 days from the date of the determination of the refund as required under Board's instruction of 7 August 2002.	2.39

## 1.27 Mistakes in implementation/non implementation of appellate orders

**1.27.1** Under the Income Tax Act, 1961, an aggrieved assessee can appeal to the Commissioner of Income Tax (Appeals) against the order of an assessing officer and the assessing officer shall comply with the directions given in the appellate order. Further appeal is also permitted on question of facts and law to ITAT and on the question of law alone to High Court and Supreme Court thereafter. Any mistake committed while giving effect to appellate order will result in under assessment/over assessment of income.

**1.27.2** Wrong application of the above provisions resulted in short levy of tax aggregating to Rs.2.09 crore in three cases in Karnataka charges. One case involving tax effect of Rs.1.87 crore is given in the table 13 below.

(Rs in crore)

**Table 13: MISTAKES IN IMPLEMENTATION/NON IMPLEMENTATION OF APPELLATE ORDERS**

S. No.	Assessee	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
1.	M/s Pentair Water India Pvt Ltd <b>Panaji</b>	2002-03 2003-04 Summary	Excess claim of depreciation of Rs.3.14 crore and Rs.2.05 crore was not reworked while giving effect to the appellate order of 16 February 2004 in September 2004.	1.87

## 1.28 Non/short levy of interest/penalty

**1.28.1** There are certain provisions in the Act, which enable the assessing officer to charge interest from the assessee for various defaults on the part of the assessee. Among these are the provisions of section 220, 234A, 234B, 23C and 234D.

**1.28.2** Non/short levy of interest for various defaults on the part of the assessee resulted in short levy of tax aggregating Rs.1.46 crore in six cases in Andhra Pradesh, Rajasthan, Tamil Nadu and Uttar Pradesh charges. One case with tax effect of Rs.75.50 lakh is shown at **serial number 59 of Appendix 4**.

## 1.29 Incorrect adoption of status

**1.29.1** Income Tax Act provides for levy of tax on the income of the assessee worked out annually as per their status applying the rates prescribed in the relevant Finance Acts.

**1.29.2** Mistakes in applying the correct rate of tax as per status of the assessee resulted in short levy of tax aggregating Rs.9.23 lakh in three cases in Gujarat and Kerala charges.

## 1.30 Non levy of dividend tax

**1.30.1** Section 115-O of the Income Tax Act, 1961 provides for levy of additional income tax on the amount of income tax chargeable in respect of the total income

of a domestic company for any assessment year, on any amount declared, distributed or paid by such company by way of dividends during the relevant previous year at the rates prescribed by the Government from time to time.

**1.30.2** Non compliance with above provision resulted in short levy of additional income tax aggregating Rs.55.72 lakh in five cases in Andhra Pradesh, Tamil Nadu and West Bengal charges.

### **1.31 Mistakes relating to wealth tax, interest tax, expenditure tax etc.**

During test check of records audit noticed that the assessing officer while finalizing assessments of income tax did not link records of other direct taxes to ascertain the tax liability of the assesses towards other taxes. Such lapse on the part of the assessing officers resulted in short levy of tax aggregating Rs.32.17 lakh in 10 cases in Gujarat and Tamil Nadu charges.

### **1.32 Other cases not pertaining to review period**

**1.32.1** Seventy two cases of summary assessments each involving tax effect of Rs.50, 000 or more which were not covered during the review period but test checked during regular audit, involved short levy of tax aggregating Rs.255.76 crore on account of different types of mistakes/omissions in Andhra Pradesh, Bihar, Delhi Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Rajasthan and Tamil Nadu charges.

**1.32.2** Twenty-five cases involving tax effect of Rs.1 crore or more are given in the table 14 below. Eighteen cases with tax effect over Rs.50 lakh but less than Rs.1 crore are shown at **serial numbers 60 to 77 of Appendix 4.**

(Rs in crore)

**Table 14: OTHER CASES NOT PERTAINING TO REVIEW PERIOD**

S. No.	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
1.	M/s Engineering Projects (India) Ltd <b>Delhi-IV</b>	2000-01 Summary	Loss was adopted at Rs.447.63 crore instead of Rs.49.34 crore.	153.34
2.	M/s Remi Metals Gujarat Ltd <b>Mumbai V</b>	2000-01 Summary	Incorrect allowance of capital expenditure of Rs.57.86 crore.	27.60
3.	M/s Escotel Mobile Communication Ltd <b>Delhi IV</b>	2000-01 Summary	License fee of Rs.40.24 crore capitalised as an asset was incorrectly allowed as deduction.	8.53
4.	M/s Search Chem. Industries Ltd <b>Mumbai IX</b>	2000-01 Summary	Depreciation required to be claimed was not claimed.	5.90
5.	M/s C J International Hotels Ltd <b>Delhi-I</b>	2000-01 Summary	Security deposit of Rs.9.10 crore incorrectly treated as unsecured loan instead of income from house property as treated in assessment year 2001-02.	5.45

S. No.	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
6.	M/s. ICOMM Ltd. (Formerly known as M/s. ARM Ltd.) <b>Hyderabad II</b>	1999-2000 Summary	Sale proceeds of Rs.38 crore of cable division of assessee company involved capital gain of Rs.1.83 crore which was not brought to tax.	4.29 (including interest)
7.	M/s Dr. Reddy's Laboratories Limited <b>Hyderabad I</b>	2001-02 Summary	While computing refund as well as interest on refund, prepaid taxes and MAT credit was not considered.	3.70
8.	M/s Praxiar India Ltd <b>Bangalore III</b>	2001-02 Summary	Non compete fee of Rs.7.21 crore was incorrectly allowed as revenue expenditure instead of capital expenditure.	2.85
9.	M/s. Continental Coffee Limited <b>Hyderabad I</b>	2001-02 Summary	Admissible exemption correctly worked out to Rs.6.64 crore against the amount of Rs.12.48 crore allowed.	2.66
10.	M/s Rajasthan State Warehousing Corporation <b>Jaipur II</b>	2000-01 Summary	Out of Rs.7.46 crore of common expenditure, expenditure of Rs.6.37 crore relating to non taxable activities was irregularly allowed as deduction.	2.45
11.	M/s Reliance Silicon Industries Ltd <b>Mumbai X</b>	2000-01 Summary	Provision of Rs.1.37 crore for doubtful debts, sales tax of Rs.53.19 lakh waived off by the sales tax department and donation received of Rs.2.16 lakh was not added back and taxed.	2.16
12.	M/s Precot Mills Ltd <b>Coimbatore I</b>	2000-01 Summary	Reduction in loss during earlier assessment year at scrutiny stage was not considered.	2.14
13.	M/s EWS Finance and Investment Ltd <b>Chennai I</b>	1998-99 & 1999-2000 Summary	Non disallowance of proportionate expenditure under section 14A in respect of income exempt under section 10(33)	2.03
14.	M/s Bilt Graphic Papers Ltd <b>Delhi I</b>	2001-02 Summary	Excise duty of Rs.4.50 crore debited to profit and loss account on accrual basis was incorrectly allowed as deduction.	1.78
15.	M/s Khushi Ram Bihari Lal <b>Delhi II</b>	2001-02 Summary	Deduction towards export profits was allowed without reducing the profit attributable to manufacturing activities from the gross profit. Besides, 90 percent of interest income was also not reduced.	1.62
16.	M/s Nalwa Investment Ltd <b>Delhi V</b>	1998-99 Summary	Difference of Rs.4.34 crore on account of interest received and paid claimed as deduction was not disallowed	1.51
17.	M/s Vasu Tech Ltd <b>Delhi VI</b>	2001-02 Summary	Incorrect allowance of deduction of Rs.3.21 crore towards expenses not charged to profit and loss account.	1.48
18.	M/s Global Electronic Commerce Services Ltd <b>Mumbai X</b>	2000-01 Summary	Income of Rs.3.30 crore was not offered to tax due to change in method of accounting.	1.27
19.	M/s Dollar Apparels <b>Coimbatore III</b>	1999-2000 2000-01 Summary	While computing deduction towards export profits, ninety percent of interest income was not reduced from business profits as required.	1.22

S. No.	Assessee / CIT charge	Assessment year/ Nature of assessment	Nature of mistake	Tax effect
20.	M/s. Tamil Nadu Spirits Corporation Ltd. <b>Chennai I</b>	2000-01 2001-02 Summary	Expenditure of Rs.1.52 crore towards interest on “ways and means” advances was incorrectly deducted from rental receipts.	1.21
21.	M/s Fancy Corporation Ltd <b>Mumbai II</b>	2000-01 Summary	Despite the loss returned by the assessee, income was not computed under special provisions of the Act.	1.09
22.	M/s Santhanalakshmi Investment Ltd. <b>Chennai III</b>	2001-02 Summary	Irregular claim of expenditure under section 14A.	1.08
23.	M/s Nehru Place Hotels Ltd <b>Delhi V</b>	1999-2000 Summary	Deduction under section 80HHD was incorrectly allowed at Rs.5.22 crore instead of restricting it to the admissible amount of Rs.2.16 crore.	1.07
24.	M/s Jindal Drugs Ltd <b>Mumbai III</b>	2000-01 Summary	Incorrect allowance of deduction towards export profits by considering net effect of interest paid and interest earned.	1.03
25.	M/s Karnataka Agro Industries Corporation Ltd <b>Bangalore I</b>	2001-02 Summary	Deductions towards expenditure on account of voluntary retirement compensation was not restricted as permissible under section 35DDA.	1.01

**1.32.3** Audit also noticed non/short levy of tax of Rs.1.47 crore in 17 cases relating to other direct taxes to ascertain the tax liability of the assesses towards other taxes viz; wealth tax, interest tax and expenditure tax which were not linked by the assessing officers while finalizing assessments of income tax in Andhra Pradesh, Jharkhand, Maharashtra, Punjab, Tamil Nadu and West Bengal charges. One case-involving non-levy of interest tax of Rs.91.47 lakh in Andhra Pradesh charge is given at **serial number 78 of Appendix 4**.

#### **Objective IV - Effectiveness of internal audit in audit of summary assessments**

**1.33** As part of restructuring, the existing system of internal audit was replaced by a new chain system of internal audit in the field offices of the department with a view to strengthening the internal check of assessments and refunds. In the new system of internal audit, a prescribed percentage of all cases, where assessments were completed during a month are to be internally audited by the end of the following month. Internal audit of one range is to be conducted by another range.

**1.33.1** Audit had observed<sup>2</sup> that despite the introduction of the chain system of internal audit, the internal control of the department had weakened after restructuring and had recommended that the working of chain system of internal audit be reviewed to ensure compliance with targets which the Board had accepted and agreed to reexamine the chain system of internal audit.

<sup>2</sup> CAG's Audit Report No.13 of 2005

**1.33.2** With a view to verifying the development in respect of the effectiveness of internal audit, details of the units audited by internal audit, total number of assessments completed, quantum to be covered in internal audit, follow up action taken by the assessing officers on the observations raised by internal audit were called for in the units selected for review.

**1.33.3** Details in respect of cases seen in internal audit were furnished by the Ministry. During 2004-05 total cases to be internally audited were 13.88 lakh. This constituted about 4 per cent of total number of assessments completed during the year. Out of these auditable cases only 5.99 lakh cases were seen by the internal audit wing of the department during the year, which constituted only 43 per cent of the total auditable cases thus leaving a pendency of 57 per cent.

**1.33.4** At the level of field charges, necessary details were not made available in Maharashtra and Delhi charges. In case of Delhi charge, the department replied that the Directorate of Income Tax (Audit) conducted the inspection of the chain work and that the quality and contents of audit were not inspected by the Directorate. In case of UT, Chandigarh, the internal audit of the summary assessment cases was not conducted in any of the units selected for the review. In Haryana charge, in nine assessing units selected for review, out of 17,554 summary cases due for checking by internal audit party (IAP), only 12,814 cases were covered by IAP leaving a short fall in coverage of 27 percent. Further, in 66 summary cases where IAP had raised observations involving revenue effect of Rs.4.14 lakh, the department had not taken follow up action. In respect of other charges replies were not furnished.

**1.33.5** Audit therefore concludes that the chain system of internal audit of the department has to be made more effective for strengthening a vital component of the department's internal control mechanism.

**1.33.6** The Board stated that chain system of internal audit has been further reviewed and instructions issued to make it more effective and that it has also been decided to have 'Quality Audit' of high-income cases to be audited by a panel of CsIT.

### **Objective V-Adequacy of follow up action on the recommendation of PAC on earlier audit findings.**

**1.34** Audit attempted to verify the follow up action taken by the Ministry on the important recommendations of PAC on summary assessments in their 173<sup>rd</sup> Report of PAC 1989-90 – Eighth Lok Sabha and called for the relevant files of the Ministry in April 2005.

**1.34.1** The Board in its reply dated 27 October 2005 stated that as recommended by the PAC, the guidelines issued by the Board for selection of cases for scrutiny had been framed with a view to cover a wide spectrum of cases for scrutiny and computer aided intelligent selection of cases out of returns processed on AST software had also been carried out through CASS software prepared by DIT



(System). However the Board did not reply in respect of other recommendations of the PAC on summary assessments.

**1.34.2** Audit attempted independently to verify action taken by the Ministry in this regard.

**1.34.3** In para 2.22 of their 173<sup>rd</sup> Report, PAC had recommended that before the commencement of every assessment year, the instructions as applicable should be revised and a uniform set of instructions issued for compliance by all assessing officers for cases relating to that assessment year and no changes be made to these instructions thereafter for assessment of cases relating to that assessment year. In principle this was accepted by the Ministry, which had stated that it might not be practicable to issue all such instructions before the commencement of each assessment year, but the Board would make every endeavor to ensure that instructions were issued as early as possible.

**1.34.4** The policy files of the Board leading to issue of the guidelines for selection of cases for scrutiny in 2002-03, 2003-04 and 2004-05 were examined in Audit.

**1.34.5** Audit noticed the following dates for initiation of the process of identification of categories of assesseees and issue of instructions:

<b>Financial Year</b>	<b>Categories of assesseees</b>	<b>Date of initiation</b>	<b>Date of issue/dispatch</b>
2002-03	For all	May 2002	July-August 2002
2003-04	Corporate	24 <sup>th</sup> July, 2003	26 <sup>th</sup> September 2003
2003-04	Non Corporate	3 <sup>rd</sup> September 2003	17 <sup>th</sup> October 2003
2004-05	Corporate	6 <sup>th</sup> August 2004	20 <sup>th</sup> September 2004
2004-05	Non Corporate	6 <sup>th</sup> August 2004	20 <sup>th</sup> September 2004

**1.34.6** The above table indicates that there is no prescribed due date either for initiating the proposals for selection of cases for scrutiny or for the issue of instructions to field formations in this regard.

**1.34.7** Since due dates for filing of returns by the assesseees are fixed in the Income Tax Act itself, the Board can fix a time schedule for issue of instructions for selection of cases for scrutiny by the department which would also give more time to the assessing officers for completing the assessments. It is, therefore, recommended that a fixed time schedule in this regard be prescribed by the Board.

**1.34.8** The Board accepted the audit observation.

**1.34.9** PAC had recommended in its 173<sup>rd</sup> Report that the Ministry should conduct an investigation on the reasons for very large outstandings in the disposal of returns and take appropriate measures and also a relook into the effectiveness of the scheme be conducted preferably by reputed experts in the field including economists and not by the concerned Ministry/CBDT), which were accepted by Ministry. The Board had entrusted a study to Directorate of Organisation and

Management Studies (DOMS) in 1990 for suggesting measures for improving the disposal of income tax cases and a study to National Institute of Public Finance and Policy (NIPFP). The status of follow up action taken by the Board on the recommendations of DOMS was not made available to audit. NIPFP in its report in 1992 had concluded that the summary assessment scheme did not function properly and far too much of the available manpower resources of the department was devoted to summary assessments and had recommended to further streamline the scheme of summary assessment and to divert manpower resources to additional scrutiny assessments and search and seizure.

**1.34.10** The information regarding whether the recommendations of NIPFP were accepted or not and if accepted, further follow up action by the Board was not made available. The relevant files called for in audit were also not made available.

**1.34.11** The numbers of Additional CsIT/DsIT, Joint CsIT/DsIT, Deputy DsIT/CsIT, Assistant DsIT/CsIT and ITOs on assessment and non-assessment duty in the department in 1993-94 and 2003-04 have been compared in table 16 below.

**Table 16: Number of officers on assessment and non-assessment duty**

Deployment of staff	1993-94	2003-04
Assessment duty	2296	4436
Non assessment duty	560	2373
Total	2856	6809
Assessment duty as a percentage of total	80.4	65.1

**1.34.12** About 80 percent of the total workforce of the department was on assessment duty in 1993-94. This proportion came down to 65 percent in 2003-04.

## **Objective VI - Rationale and methodology of selection of cases for scrutiny**

### **1.35 Anomalies in the Board's instructions leading to non-selection of cases for scrutiny**

**1.35.1** Every year the Board issues instructions prescribing guidelines for identifying the categories of assessees whose returns are to be taken up for scrutiny. Audit in the course of the review examined the instructions issued by the Board on this subject during 2002-05.

**1.35.2** As per the instructions of the Board, certain categories of cases are compulsorily selected for scrutiny such as search cases, survey cases, tax evasion cases etc and from the remaining cases, a prescribed number/proportion are selected on random basis for scrutiny. Table 17 below shows the returns from which cases were to be selected randomly for scrutiny in the given years.

**Table 17: RETURNS TO BE SELECTED FOR SCRUTINY DURING 2002-05**

<b>Instruction No./Year</b>	<b>Corporate assessees</b>	<b>Non Corporate assessees</b>
6/2002	Returns selected in financial year 2002-03	Returns selected in financial year 2002-03
10 & 11 of 2003	Returns selected in financial year 2003-04	Returns selected in financial year 2003-04 & related to assessment year 2002-03 and filed upto 31 March 2003 and processed on AST.
9 & 10 of 2004	Returns selected in financial year 2004-05 and filed between 1 October 2003 to 31 March 2005.	Returns selected in financial year 2004-05 and filed between 1 October 2003 to 31 March 2005. Random selection from the cases processed on AST only.

**1.35.3** Audit noticed that there was lack of uniformity of time period for which Board's instructions regarding selection of cases for scrutiny on random basis was applicable. The corollary of the above instructions was that the returns of a non-corporate assessee for assessment year 2002-03 filing his return between 1 April 2003 and 30 September 2003 would not fall in the purview of getting selected for random scrutiny. Further, the returns for assessment year 2002-03 and 2003-04 processed on TMS or manually would also be out of purview of random selection for scrutiny.

**1.35.4** In assessment year 2003-04, the due date for filing of returns for all assessees was extended upto 31 October 2003. Instruction 10 of 2004 was applicable for returns of non-corporate assessees filed after 30 September 2003 implying that the returns filed between 1 April 2003 and 1 October 2003 would escape from the purview of random scrutiny even if these were initially processed on AST.

**1.35.5** The Board accepted the audit observation and revised the guidelines for selection of returns for scrutiny for financial year 2005-06 suitably to plug the loophole.

**1.35.6** Audit noticed in Delhi charge that during 2004-05, five cases, which were otherwise fit for selection compulsorily, had escaped scrutiny merely because these returns were filed before 1 October 2003. In two such cases it had also resulted in a revenue loss of Rs.3.07 crore which could have been avoided if the selection had been made applicable for the whole year and not for a part of the year. In these cases department also confirmed that the cases were not taken up for scrutiny as the returns were filed before the prescribed date.

**1.35.7** In Haryana charge, 6.77 lakh out of 6.87 lakh assessees were to be left out of scrutiny net, as these returns were processed on TMS software.

**1.35.8** In Dehradun charge, none of the cases could be picked up for scrutiny as all returns were processed on TMS software.

**1.35.9** The assessing officers working under the charge of Directors of Income Tax (Exemption) in Kolkata were not provided with AST software and returns were

processed in summary assessment manually in financial year 2003-04. Therefore no returns were selected for random scrutiny in this charge during 2003-04.

### **1.36 Non-implementation of CBDT Guidelines for selection of cases for scrutiny**

**1.36.1** The Board vide instruction No.10 of 2002 asked all assessing officers in specified ranges to select approximately 25 top cases of non-corporate business assesseees in addition to the cases already selected on the basis of instruction No.6/2002.

**1.36.2** Audit noticed during the review in respect of 19 assessing officers in Punjab that 247 top cases were required to be selected during the assessment year 2002-03 and completed up to February 2003 whereas only 17 cases were completed by the assessing officers leaving a shortfall of 93 percent. The department stated that shortfall was due to rush of work.

**1.36.3** As per Instruction No.10/2004 dated 20 September 2004 all cases of contractors whose gross contract receipts exceeded Rs.2 crore and net income declared was less than 5 percent of gross receipts were to be selected for scrutiny. In Ludhiana and Bathinda charges audit noticed two cases, which were complying with these conditions and were due for scrutiny but had not been selected. The assessing officer admitted in one case that due to shortage of staff notice could not be issued and notice under section 148 was issued. In another case the assessing officer stated that the Board's instructions were received in September 2004. The reply is not tenable as the cases were required to be selected for scrutiny from the returns received during the financial year 2003-04. Similar omissions were noticed in 7 cases in Jharkhand charge as well.

**1.36.4** Section 143(2) of the Act provides that no notice shall be served on the assessee specifying particulars of returns, after the expiry of twelve months from the end of the month in which the return is furnished. Audit scrutiny revealed that during the assessment year 2002-03, in 7 cases although the returns were selected for scrutiny, notices under section 143(2) could not be issued as these cases became time-barred.

**1.36.5** Contrary to these, in case of M/s Dass Polymers Pvt. Ltd. for the assessment year 2001-02, audit noticed that although the CIT had turned down the proposal for taking up the case for scrutiny, notice under 143(2) was issued at a later date after the rejection of the proposal. The case was assessed after scrutiny without any addition.

### **1.37 Non-fulfilment of proposals made in the Budget Speech**

**1.37.1** In the budget speech for the financial year 2003-04, the Honourable Finance Minister had announced immediate abolition of the existing discretion based system for selection of returns for scrutiny; which would be replaced by a computer generated intelligent random selection of only 2 percent of the returns for scrutiny

annually. It was also visualized that the existing manual subjective selection would be abandoned.

**1.37.2** However, the Board issued instructions in September 2003 prescribing the guidelines for selection of cases for scrutiny in respect of corporate assesseees in 2003-04 according to which there were seven categories where the cases were to be selected **manually** and from the remaining cases, random selection by computer of a prescribed percentage was to be made using data compiled by the Centre for Monitoring Indian Economy Pvt. Ltd. (CMIE) in association with Department of Company Affairs, Government of India. Audit also noticed that while granting approval to the above instructions **the Finance Minister had noted in the file that this was a back tracking from what he had announced in the budget speech** and that what was being approved was not to be made a permanent system, rather a stop gap arrangement pending completion of software, which must be finished within next six months. However, the guidelines issued by the Board for selection of cases for scrutiny even during 2004-05 prescribed 19 categories of cases which were to be compulsorily selected for scrutiny manually apart from prescribing selection of certain cases processed on AST with the help of computers. Therefore, the system of selection of cases for scrutiny in 2003-04 as well as 2004-05 was a mix of manual selection and computer assisted random selection whereas what had been visualized in the budget speech was to do away with manual selection totally.

**1.37.3** The Board accepted the audit observation and stated that manual selection of such cases for scrutiny would have to continue till the department's database is so comprehensive that there is no significant omission.

### **1.38 Issues relating to the database used for selection of cases for random scrutiny**

**1.38.1** The Board issued instructions for making use of CMIE CD-ROM for selection of cases for random scrutiny during 2003-04. The reasons for selecting CMIE database for selection of cases for scrutiny were not available on records. The Secretary (Revenue) had noted that an intelligent, random selection of cases using PAN database would be possible for the succeeding year i.e. 2004-05 only.

**1.38.2** CCIT, Jaipur in his correspondence dated 13 October, 2003 had informed the Board that the CMIE CD-ROM, containing the list of companies for selection for scrutiny assessment on random basis had only the details of 374 companies of Rajasthan whereas there were more than 18,000 companies registered as on date with the Registrar of Companies and the names of most of the top tax payers and potential corporate assesseees did not appear in the above list.

**1.38.3** DGIT (International Taxation) in his correspondence dated 29 October 2003 informed the Board that lists of cases to be selected for random scrutiny based on CMIE CD-ROM forwarded by CCITs to DIT in Delhi, Mumbai and Chennai regions did not contain a single case belonging to the international taxation charges and as a result, no case was possible to be selected in these international taxation charges under the existing instructions. For international taxation cases, therefore,

Instruction No.13/2003 was separately issued prescribing a manual procedure for selection of cases for corporate assessee being assessed with the Directorates of International Taxation during the financial year 2003-04. These instructions were approved at the level of Chairman of the Board only although the original guidelines had been approved by the Finance Minister.

**1.38.4** Whether any corrective measure was taken in respect of issues raised by CCIT Jaipur on the same lines as was done in respect of DGIT (International Taxation) was not clear from the records produced to audit. It was also not clear whether other field offices also faced similar problems like CCIT Jaipur and DGIT (International Taxation).

**1.38.5** The Board agreed during the 'Exit Conference' that there were some shortcomings in the CMIE-database.

**1.38.6** As per Instruction No.9 of 2004, for random scrutiny, returns processed on AST, inter alia would be selected through a Computer Assisted Scrutiny System (CASS). It is not clear as to why the Board utilised the data provided by AST instead of PAN database as recorded in the files of preceding year.

**1.38.7** Further the guidelines issued by the Board indicate that the department's database other than AST such as PAN, AIS, OLTAS, eTDS etc. were not being utilised for the selection of cases for scrutiny either random or compulsory.

**1.38.8** During 'Exit Conference' the Board stated that other database could be utilised for selection of cases for scrutiny only after computerisation in the department is complete.

### **1.39 Low disposal of cases selected for scrutiny**

**1.39.1** A Quick Study Report on Measures for Improving Disposal of IT Returns by DOMS in October 1990 recommended that about 20 per cent of the total cases should be selected for scrutiny every year. Mishra Committee Report in 1998 recommended that the percentage of cases selected for scrutiny should not fall below 5 per cent. The Finance Minister announced in his Budget Speech of 2003-04 that 2 per cent of the returns would be selected for scrutiny annually.

**1.39.2** Audit noticed that the number of cases selected for scrutiny was above 2 per cent only in the year 2002-03 during the period under consideration. In 2003-04 and 2004-05, this percentage came down to 1.42 per cent and 0.92 per cent respectively. Further number of assessments made after scrutiny as a percentage of total assessments due in a year was consistently below one percent during the period 2002-03 to 2004-05. Details are given in table 18 below.

**Table 18: ASSESSMENTS SELECTED/COMPLETED AFTER SCRUTINY**

Year	Assessments selected for scrutiny as a percentage of total assessments due	Assessments completed after scrutiny as a percentage of total assessments due
2002-03	2.37	0.46
2003-04	1.42	0.72
2004-05	0.92	0.79

**1.39.3** The Board accepted the audit observation and stated that the number of cases selected for scrutiny is likely to further increase in financial year 2005-06.

#### **1.40. Other points of interest**

##### **1.41 Shortfall in disposal of compulsory scrutiny cases**

Audit noticed that in five units selected for review in Bihar charge, the disposal of compulsory cases due was very low. Out of 63 cases due in 2002-03, only one case was disposed off; out of 67 cases due in 2003-04, only four were disposed off and out of 110 cases due in 2004-05 none was completed at the end of 2004-05.

##### **1.42 Delay in completion of scrutiny assessments**

**1.42.1** As per the Income Tax Act, 1961, a notice under section 143 (2) cannot be issued to the assessee after 12 months from the end of the month in which the return was furnished. Further no assessment under section 143 or 144 can be made after expiry of two years from the end of the assessment year in which the income was first assessable.

**1.42.2** Audit noticed delay in issues of notices under section 143 (2) and completion of assessments in West Bengal charge in 20 cases where the period of delay in issuing notice under section 143 (2) ranged from one year to eleven years and which was beyond the time limit prescribed under the Act.

##### **1.43 Shortfall in the target of review by CIT**

**1.43.1** As per the Manual of Office Procedure of the Income Tax Department, all scrutiny cases completed by the assessing officers were to be reviewed by the concerned CsIT by the end of the following month. In respect of the units selected for review, in Tamil Nadu charge it was seen that more than 50 per cent of the cases were not reviewed by CsIT at detailed in table 19 below.

**Table 19: REVIEW OF ASSESSMENTS BY CITs**

Year	Total number of assessments made by assessing officer	Number of cases reviewed by CIT	Number of cases not reviewed by CIT	Percentage of review cases
2002-03	381	51	330	13
2003-04	903	360	543	40
2004-05	1351	622	729	46

**1.43.2** In Haryana charge, in three Commissionerates, 264 out of 750 scrutiny assessments made by the assessing officers were evaluated by the commissioners leaving 486 cases (64.8 per cent) that were not taken up for evaluation.

**1.43.3** In Madhya Pradesh Indore-I charge no case was reviewed by the CIT where as Indore II did not furnish any reply.

**1.43.4** In Jharkhand charge, no cases were reviewed by CITs during the period 2002-03 to 2004-05. Further in case of Bihar, Patna II charge, CIT had given further instructions in respect of 17 cases reviewed to the assessing officers but the assessing officers had failed to comply with these orders. Similar omissions were noticed in Punjab charge in respect of two cases.

#### **1.44 Action not taken on the basis for which the case was selected for scrutiny**

In the case of six assesseees in Punjab charge, scrutiny was not made on the points based on which the cases were selected. The reviewing officers had also pointed out these deficiencies in their review note in two out of these six cases.

#### **1.45 Non-revision of assessments in subsequent years**

In Bihar, CIT I Patna charge, in seven cases of scrutiny assessments made for assessment year 2002-03, certain claims were disallowed which had an impact in subsequent years 2003 to 2005. However, although these assessments were completed after scrutiny in subsequent years, the above rectifications were not carried out in the subsequent assessments resulting in excess carry over of losses of Rs.6.76 crore with revenue effect of Rs.2.49 crore.

#### **1.46 Limited scrutiny system**

**1.46.1** Selected scrutiny was re-introduced in the financial year 2002-03 where if an assessing officer had reasons to believe that any claim of loss/ exemption/ deductions/ allowances/ relief made in the returns was admissible, he shall serve on the assessee a notice and require him on a specified date to produce evidences in support of such claim made by the assessee. This system was also withdrawn in the financial year 2003-04.

**1.46.2** In Assam charge, audit noticed mistakes in 6 cases of summary assessment which should have been selected for limited scrutiny but were not selected resulting in income escaping assessment involving revenue effect of Rs.78.10 lakh.

#### **1.47 Conclusion**

**1.47.1** In respect of 31 CCIT and 60 CIT charges, total number of returns received, the number of cases marked for assessment as well as total number of returns to be disposed off during the year declined during 2002-03 to 2004-05. Further, the percentage disposal of these cases also declined during this period.



**1.47.2** There has emerged an ambiguity and inconsistency in the department on the issue of initiating remedial action on audit observations relating to summary assessments especially where assessment was completed after 1 June 1999. Out of 64,755 summary assessments seen in 335 assessing offices during the review, audit noticed 1,392 mistakes each involving tax effect of atleast Rs.50000/- in assessments completed during the period 2002-03 to 2004-05 with a total tax effect of Rs.390.51 crore in summary assessments. Out of these, the department replied in 842 cases only. It accepted mistakes in 210 cases involving tax effect of Rs.69.62 crore. Of the accepted cases, the department took remedial action in 53 cases with tax effect of Rs.34.16 crore, initiated remedial action in another 107 cases with tax effect of Rs.32.18 crore and did not initiate any action in 50 cases involving tax effect of Rs.3.28 crore. The department did not accept the observations in 627 cases involving tax effect of Rs.135.11 crore essentially on the ground that assessments had been completed in summary manner. Out of cases not accepted by the department, remedial action was completed only in one case involving tax effect of Rs.12.12 lakh and initiated in another 4 cases involving tax effect of Rs.7.79 lakh. No reply was furnished in remaining 550 cases.

**1.47.3** During 2004-05, a total of 13.88 lakh cases to be internally audited constituted only about 4 per cent of total number of assessments completed during the year whereas the scheme had visualized 100 per cent coverage. Out of these auditable cases only 5.99 lakh cases were seen by the internal audit wing of the department during the year, which constituted only 43 per cent of the total auditable cases thus leaving a pendency of 57 per cent.

**1.47.4** Available information indicates that there is no prescribed time schedule either for initiating the proposals for selection of cases for scrutiny or for the issue of instructions to field formations in this regard.

**1.47.5** The returns of a non-corporate assessee for assessment year 2002-03 filing his return between 1 April 2003 and 30 September 2003 would not fall in the purview of getting selected for random scrutiny. Further, the returns of non-corporate assessee for assessment year 2002-03 and 2003-04 processed on TMS or manually would also be out of purview of random selection for scrutiny.

**1.47.6** CMIE database used for selection of cases for random scrutiny during 2003-04 as per the instruction issued by the Board had inadequate coverage.

**1.47.7** Despite making an announcement in the Budget speech for the financial year 2003-04, by the Honourable Finance Minister of immediate abolition of the existing discretion based system for selection of returns for scrutiny; which would be replaced by a computer generated intelligent random selection of only 2 percent of the returns for scrutiny annually, several categories of cases were being selected manually even in 2004-05.

**1.47.8** Further, the number of returns selected for scrutiny was less than 2 percent of total assessments in 2003-04. The number of assessments completed after

scrutiny, as a percentage of total assessments due was less than 1 percent in all the years under review.

**1.48 Audit recommends that**

**1.48.1** Government may have the summary assessments scheme studied by an expert group with a view to finding ways of reducing the quantum of revenue forgone as a result of assessees availing unentitled benefits due to the scheme.

**1.48.2** Government may clarify the position with respect to the powers of assessing officers taking remedial action in summary cases as a result of audit observations especially after 1 June 1999.

**1.48.3** Government may review its chain system of internal audit to make it effective.

**1.48.4** Government may consider fixing a time schedule for issue of instructions for selection of cases for scrutiny by the department, which would give more time to the assessing officers for completing the assessments.

**1.48.5** Government may initiate steps to fulfil the promise it made to the Parliament of putting in place a system for computer generated intelligent random selection of 2 percent of the returns for scrutiny annually.

**1.48.6** In keeping with PAC recommendations made earlier and also the low numbers of scrutiny assessments completed, Government may consider taking steps to increase the number of scrutiny assessments completed such as by fixing suitable targets and by increasing the proportion of officers in the department on assessment duty.