



**Report of the  
Comptroller and Auditor General of India  
for the year ended March 2021**



**SUPREME AUDIT INSTITUTION OF INDIA**  
लोकहितार्थं सत्यनिष्ठा  
Dedicated to Truth in Public Interest

**Union Government  
Department of Revenue – Direct Taxes  
Report No. 29 of 2022**



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**Laid on the table of Lok Sabha and Rajya Sabha on \_\_\_\_\_**



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## **Preface**

This Report for the year ended March 2021 has been prepared for submission to the President under Article 151 of the Constitution of India.

The Report contains significant results of the compliance audit of the Department of Revenue-Direct Taxes of the Union Government.

The instances mentioned in this Report are those, which came to notice in the course of the test audit for the period 2020-21 as well as those which came to notice in earlier years but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2020-21 have also been included, wherever necessary.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.



## Highlights

The Comptroller and Auditor General of India conducts the audit of receipts of the Union Government under Section 16 of the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971. This Report primarily discusses compliance to the provisions of the Income Tax Act, 1961 and the associated rules, procedures, directives, etc. as applied to all aspects related to the administration of direct taxes. The Report is organised into four chapters, the highlights of which are described below:

### Chapter I: Direct Taxes Administration

Direct taxes receipts of Union Government in the financial year (FY) 2020-21 amounting to ₹ 9,47,174 crore decreased by 9.9 *per cent* over the FY 2019-20 (₹ 10,50,686 crore). Direct taxes represented 4.8 *per cent* of the Gross Domestic Product (GDP) in FY 2020-21. The share of direct taxes in gross tax revenue decreased to 46.7 *per cent* in FY 2020-21 from 52.3 *per cent* in FY 2019-20.

Despite decrease in the direct tax collection in FY 2020-21, there was an increase of 41.6 *per cent* in refunds issued during FY 2020-21 (₹ 2,59,715 crore). A possible reason for this higher refund could be exaggerated demands raised by the Department during the previous financial years to meet their revenue collection targets. However, Audit could not establish this as the Department did not furnish the complete information with regard to refunds.

Of the two major components of direct taxes, collections from Corporation Tax decreased by 17.8 *per cent*, from ₹ 5.56 lakh crore in FY 2019-20 to ₹ 4.58 lakh crore in FY 2020-21. Collections from Income Tax decreased by 4.0 *per cent* from ₹ 4.80 lakh crore in FY 2019-20 to ₹ 4.71 lakh crore in FY 2020-21.

The number of non-corporate assesseees increased from 6.39 crore in FY 2019-20 to 6.63 crore in FY 2020-21, registering an increase of 3.67 *per cent*. The number of corporate assesseees increased from 8.38 lakh in FY 2019-20 to 9.21 lakh in FY 2020-21, registering an increase of 9.9 *per cent*.

The arrears of demand decreased from ₹ 16.19 lakh crore in FY 2019-20 to ₹ 15.12 lakh crore in FY 2020-21. The net collectible demand decreased to ₹ 26,473 crore in FY 2020-21 as compared to ₹ 38,734 crore in FY 2019-20. The Department indicated that more than 98.3 *per cent* of uncollected demand would be difficult to recover.

There had been a year-on-year increase in the absolute number of PAN allotments in all the categories of taxpayer from FY 2018-19 to FY 2020-21. However, the percentage increase in PAN allotment witnessed a year-on-year decline during FY 2018-19 to FY 2020-21.

There had been a year-on-year increase in the absolute number of persons filing Income Tax Return from FY 2017-18 to FY 2020-21. However, the percentage increase in number of persons filing Income Tax Returns witnessed a year-on-year decline during the respective financial years with the exception of FY 2020-21.

The number of appeals pending with CIT (Appeals) increased slightly from 4.58 lakh in FY 2019-20 to 4.59 lakh in FY 2020-21. However, the amount locked up in these cases increased to ₹ 24.65 lakh crore in FY 2020-21 from ₹ 8.83 lakh crore in FY 2019-20.

The CBDT raised the monetary limit for filing appeals by the Department before ITAT, High Court, and the Supreme Court from ₹20 lakh to ₹ 50 lakh, ₹ 50 lakh to ₹ one crore and ₹ one crore to ₹ two crore respectively. The total cases pending therein decreased by 17.9 *per cent* i.e. from 1.24 lakh cases in FY 2019-20 to 1.02 lakh in FY 2020-21.

## **Chapter II: Audit Mandate, Products and Impact**

During FY 2019-20, the Income Tax Department (ITD) had completed 1.55 lakh scrutiny assessments in the units audited as per the audit plan of FY 2020-21, out of which ITD produced 1.48 lakh cases. Apart from this, the ITD also produced 0.16 lakh cases of scrutiny assessments completed in the earlier financial years, during FY 2020-21. The incidence of errors in assessments checked in audit during FY 2020-21 was 5.97 *per cent* (9,839 cases).

There have been irregularities noticed by Audit in respect of the Corporation Tax and the Income Tax assessments cases over the years. Recurrence of irregularities, despite being pointed out repeatedly in Audit Reports and even after the implementation of ITBA, is indicative of the need to institute appropriate controls in the systems to prevent the recurrence of such mistakes. The Department is also required to ensure effective monitoring as in the absence of a strong institutional mechanism to respond to the systematic and structural weaknesses, the risk of leakages of revenue is quite high.

We have covered 467 high value cases reported to the Ministry in Chapter III and IV of this Report. Of these, we received replies in respect of 315 cases as on 31<sup>st</sup> July 2022, of which, the Ministry/ITD accepted 305 cases (96.82 *per cent*) having a tax effect of ₹ 6,440.9 crore (98.22 *per cent*) while it did not accept 10 cases having tax effect of ₹ 116.26 crore. Replies to the remaining 152 cases having a tax effect of ₹ 1,855.94 crore were not received. (July 2022).

We analysed the impact of Audit resulting in amendments to the Income Tax Act and Rules framed thereunder, based on our observations/recommendations. During FY 2017-18, FY 2019-20, and FY 2020-21, Performance Audit Reports *viz.* Report No. 27 of 2017 – ‘Assessment of Private

Hospitals, Nursing Homes/Medical Clinics, Medical Colleges/Research Institutes, Diagnostic Centres, Pathological labs and other Medical supplies agencies/stores', Report No. 1 of 2019 - PA on Assessment of Assesseees in Entertainment Sector and Report No. 14 of 2020 – PA on Search and Seizure Assessments in ITD were placed in the Parliament respectively.

**Report No. 27 of 2017 - 'Assessment of Private Hospitals, Nursing Homes/Medical Clinics, Medical Colleges/Research Institutes, Diagnostic Centres, Pathological labs and other Medical supplies agencies/stores'.**

The amendments made were as follows:

- Rule 18AB of the Income Tax Rules, 1962, was notified vide Notification No 19 of 2021 dated 26/03/2021,
- New provisions inserted in Section 80G(2)(vii), 80G(2)(ix) and Section 35(1A) vide Finance Act, 2020, w.e.f. 01/04/2021,
- First and second provisos to sub-section (7) of Section 11 of the Act were inserted by Finance Act (No. 12), 2020, w.e.f. 01/06/2020.

**Report No. 1 of 2019 - PA on Assessment of Assesseees in Entertainment Sector.**

The amendments made were as follows:

- The Ministry vide Finance Act 2020 modified the definition of Royalty in Section 9 of the Income Tax Act, 1961 to include consideration for the sale, distribution or exhibition of cinematographic films. Accordingly tax under Section 194J will be deducted for the aforesaid payments and details will be reflected in Form 26AS.

**Report No. 14 of 2020 - PA on Search and Seizure Assessments in ITD.**

The amendments made were as follows:

- Finance Act 2022 introduced a new Section 79A in the Income Tax Act 1961 with effect from 01/04/2022.
- Finance Act 2021 amended the Section 153A/153C of the Income Tax Act, 1961.

In the last three years, the ITD recovered ₹ 415.37 crore from demands raised to rectify the errors in assessments that we had pointed out. There are 62,709 cases involving revenue effect of ₹ 1.54 lakh crore pointed out in audit which remained unsettled as of 31 March 2021 for want of replies from the ITD.

During FY 2020-21, 3,754 cases with tax effect of ₹ 6,189.11 crore became time-barred for initiating any remedial action.

ITD did not produce 11,946 out of 1,80,627 records (6.61 *per cent*) requisitioned by us during FY 2020-21, of which 6 records pertaining to the same assessees were not produced in three or more consecutive audit cycles.

### **Chapter III: Corporation Tax**

We pointed out 319 high value cases pertaining to Corporation Tax with tax effect of ₹ 7,788.98 crore. We classified these cases into four broad categories as follows:

- (a) Quality of assessments (124 cases);
- (b) Administration of tax concessions/exemptions/deductions (126 cases);
- (c) Income escaping assessment due to errors (51 cases); and
- (d) Over-charge of tax/interest (18 cases).

Out of 319 high value cases cited, we have illustrated 57 instances of significant errors/ irregularities in corporation tax assessments involving tax effect of ₹ 6,304.56 crore. The irregularities illustrated in this chapter include: incorrect adoption of figure of taxable income as ₹ 110.40 crore in the tax computation form instead of the correct figure of ₹ 7,995.06 crore involving tax effect of ₹ 4,430.13 crore including interest; incorrect allowance of carry forward of long-term capital loss of ₹ 1,285.03 crore on account of redemption and acquisition of Cumulative Redeemable Preference Shares involving a potential tax effect of ₹ 79.58 crore; incorrect allowance of deduction under Section 32AC involving tax effect of ₹ 180.22 crore; incorrect allowance of MAT credit even though the ITBA system exhibited MAT credit as 'zero', involving tax effect of ₹ 34.90 crore including interest; incorrect allowance of business expenditure towards provisions for doubtful debts and advances and corporate debt restructuring recompense, being an unascertained liability, involving tax effect of ₹ 118.57 crore; not taking cognizance of the difference between the value for which stamp duty was paid and actual value for land or building sold involving tax effect of ₹ 34.69 crore; and adding back only 15 *per cent* of unsecured loan on account of failure to furnish confirmation of unsecured loan instead of the entire aforesaid unsecured loan involving tax effect of ₹ 22.67 crore.

### **Chapter IV: Income Tax**

We pointed out 148 high value cases of income tax with tax effect of ₹ 624.12 crore. We classified these cases into four broad categories as follows:

- (a) Quality of assessments (108 cases);
- (b) Administration of tax concessions/exemptions/deductions (17 cases);
- (c) Income escaping assessments due to errors (18 cases); and
- (d) Overcharge of tax/interest (five cases).

Out of 148 high value cases cited, we have illustrated 47 instances of significant errors/irregularities in income tax assessments involving tax effect of ₹ 505.68 crore. The irregularities illustrated in this chapter include: incorrect computation of demand due to incorrect adoption of assessed income at ₹ 79.29 crore instead of correct income of ₹ 122.05 crore involving consequent short levy of tax of ₹ 32.45 crore; and incorrect levy of interest for delay in furnishing of return charged under section 234A for one month only at ₹ 0.47 crore instead of 79 months at ₹ 37.09 crore involving tax effect of ₹ 36.62 crore.



## Chapter I: Direct Taxes Administration

This chapter gives an overview of the direct taxes administration, revenue trends in direct taxes collection and the tax administration process in the Income Tax Department (ITD).

### 1.1 Direct Taxes

This Audit Report covers levy and collection of direct taxes. The direct taxes covered in this report are discussed below:

- a) **Corporation Tax (CT):** Corporation Tax is a direct tax imposed on the net income or profit that enterprises make from their businesses. Companies, both public and privately registered in India under the Companies Act 1956/2013, are liable to pay Corporation Tax. This tax is levied at specific rates according to the provisions of the Income Tax Act, 1961.
- b) **Income Tax (IT):** Income Tax is a direct tax imposed on the net income or profit that persons other than companies make from their earnings or gains, at specific rates according to the provisions of the Income Tax Act, 1961.
- c) **Other Direct Taxes (ODTs):** Direct Taxes other than Corporation Tax and Income Tax, for example, Securities Transaction Tax (STT)<sup>1</sup>, Wealth Tax<sup>2</sup>, etc.

### 1.2 Organizational Structure

The Department of Revenue (DoR) of the Ministry of Finance (MoF) functions under the overall direction and control of the Secretary (Revenue) and co-ordinates matters relating to all the direct and indirect Union Taxes through two statutory boards namely, the Central Board of Direct Taxes (CBDT) and the Central Board of Indirect Taxes and Customs (CBIC), constituted under the Central Board of Revenue Act, 1963. Matters relating to the levy and collection of direct taxes are looked after by the CBDT.

As on 1 September 2021, the overall staff strength and working strength of the Income Tax Department (the ITD) was 76,246<sup>3</sup> and 45,810 respectively. The sanctioned and working strength of the officers<sup>4</sup> was 10,863 and 9,393

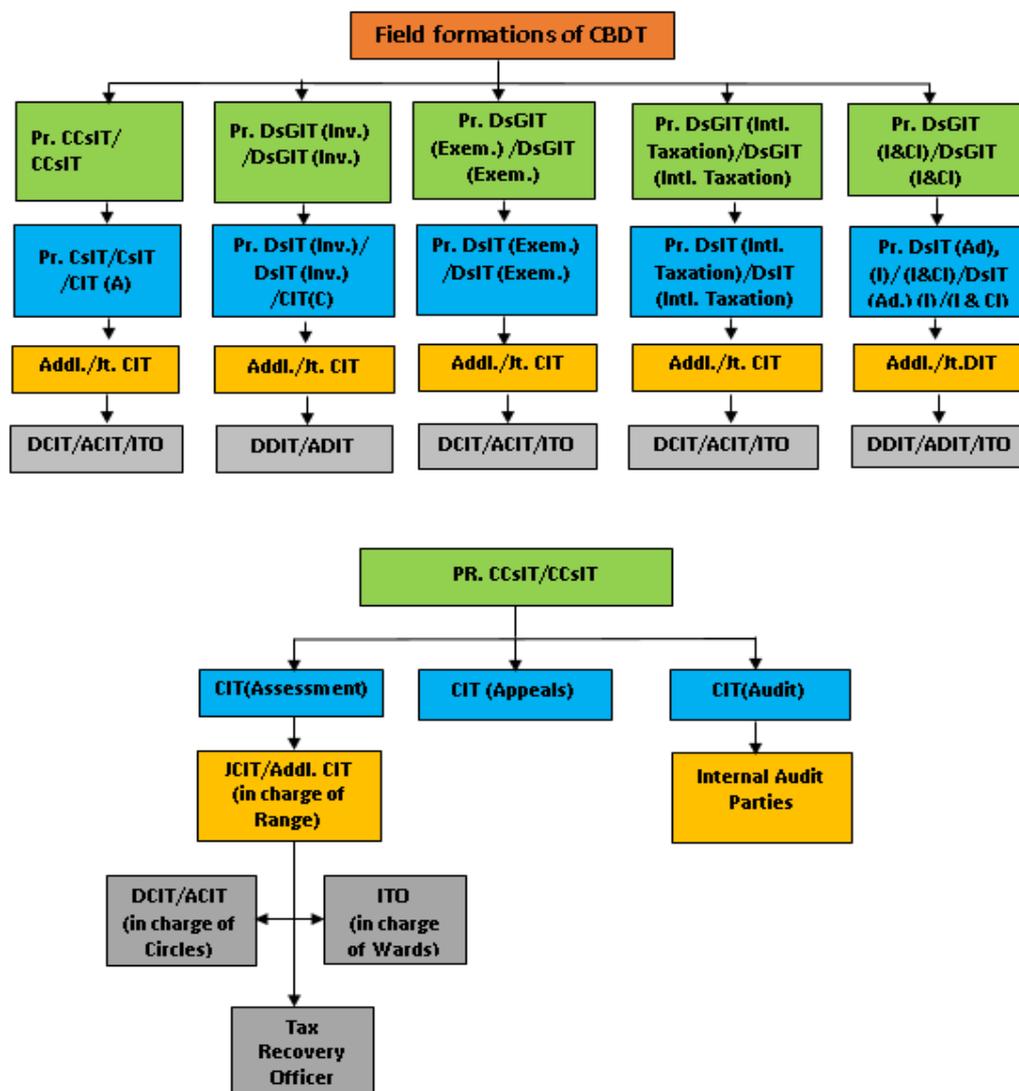
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1 Tax on the value of taxable securities purchased and sold through a recognized stock exchange in India.  
2 Tax chargeable on the net wealth comprising certain assets specified under Section 2(ea) of the Wealth Tax Act, 1957.  
3 The figures do not include sanctioned strength of (i) EDP, (ii) OL (Official Language) Division, (iii) Reserves (iv) other posts and (v) posts allocated under central Pool (under Delhi CCA).  
4 Pr. CCIT/Pr. DGIT, CCIT/DGIT, Pr. CIT/Pr. DIT, CIT/DIT, Addl. CIT/Addl. DIT/JCIT/JDIT, DCIT/DDIT/ACIT/ADIT and ITOs.

respectively. The revenue expenditure of the ITD for the year 2020-21 was ₹ 7,319 crore<sup>5</sup>.

The organizational structure of the CBDT is given in Chart 1.1 below:

**Chart 1.1: Organisational setup of field formation of CBDT**



### 1.3 Resources of the Union Government

**1.3.1** The Government of India's resources include all revenues received by the Union Government, all loans raised by the issue of treasury bills, internal and external loans and all moneys received by the Government in repayment of loans. Tax revenue resources of the Union Government consist of revenue receipts from direct and indirect taxes. Table 1.1 below shows the summary of resources of the Union Government for the financial year (FY) 2020-21 and FY 2019-20.

5 Union Finance Accounts for FY 2020-21.

Table 1.1: Resources of the Union Government	(₹ in crore)	
	FY 2020-21	FY 2019-20
A. Total Revenue Receipts <sup>#</sup>	24,59,509	25,98,761
i. Direct Taxes Receipts	9,47,174	10,50,686
ii. Indirect Taxes Receipts including other taxes <sup>6</sup>	10,79,929	9,59,374
iii. Non-Tax Receipts	4,30,654	5,88,328
iv. Grants-in-aid & contributions	1,752	373
B. Miscellaneous Capital Receipts <sup>7</sup>	37,897	50,349
C. Recovery of Loans & Advances <sup>8</sup>	29,923	18,647
D. Public Debt Receipts <sup>9</sup>	81,62,910	73,01,387
<b>Receipts of Government of India (A+B+C+D)</b>	<b>1,06,90,239</b>	<b>99,69,144</b>

Source: Union Finance Accounts of the respective years.

Note: Direct tax receipts and Indirect Tax receipts including other taxes have been worked out from the Union Finance Accounts.

# Total Revenue Receipts include ₹ 5,94,997 crore in FY 2020-21 and ₹ 6,50,677 crore in FY 2019-20 directly assigned to States.

In FY 2020-21, increase in receipts of Government of India has mainly been due to increase in public debt receipts. Direct taxes accounted for 38.5 per cent of total revenue receipts in FY 2020-21, shrinking by 1.9 per cent over the last year's receipts.

**1.3.2** Table 1.2 below provides a snapshot of direct taxes administration.

Table 1.2: Direct Taxes Administration									
Financial Year	Direct Tax Collection (₹ in crore)				Refunds (₹ in crore)		Actual Returns Filed by (Number in lakh)		Revenue expenditure (₹ in crore)
	Corporate Tax	Income Tax	Other Direct Taxes	Total	Corporate Tax	Income Tax	Non-corporate Assesseees	Corporate Assesseees	
2016-17	4,84,924	3,40,592	24,285	8,49,801	1,20,681	41,901	436.9	7.1	5,623
2017-18	5,71,202	4,08,202	23,334	10,02,738	1,09,138	42,697	537.9	8.0	6,172
2018-19	6,63,571	4,61,652	12,495	11,37,718	1,05,828	55,209	619.8	8.5	7,168
2019-20	5,56,876	4,80,348	13,462	10,50,686	1,21,542	61,889	639.4	8.4	7,052
2020-21	4,57,719	4,70,633	18,822	9,47,174	1,73,402	86,122	662.8	9.2	7,319

Source: Union Finance Accounts and Pr. CCA; CBDT

Despite a decrease of 9.9 per cent in the direct tax collection in FY 2020-21 as compared to FY 2019-20, there was an increase of 41.6 per cent in refunds issued during FY 2020-21 as compared to FY 2019-20.

## 1.4 Direct Taxes – Trends and composition

**1.4.1** Table 1.3 below gives the relative growth of Direct Taxes (DT) with reference to Gross Tax Revenues<sup>10</sup> (GTR) and Gross Domestic Product (GDP) during FY 2016-17 to FY 2020-21.

6 Indirect taxes levied on goods and services such as Customs Duty, Excise Duty, Service Tax, Central Goods and Services Tax, Integrated Goods and Services Tax etc.;

7 This comprises of value of bonus shares, disinvestment of shares in public sector and other undertakings and other receipts;

8 Recovery of loans and advances made by the Union Government;

9 Borrowings by the Government of India internally as well as externally;

10 It includes all direct and indirect taxes.

Financial Year	DT	GTR	GDP	DT as per cent of GTR	DT as per cent of GDP
(₹ in crore)					
2016-17	8,49,801	17,15,968	1,51,83,709	49.5	5.6
2017-18	10,02,738	19,19,183	1,67,73,145	52.2	6.0
2018-19	11,37,718	20,80,465	1,90,10,164	54.7	6.0
2019-20	10,50,686	20,10,060	2,03,39,849	52.3	5.2
2020-21	9,47,174	20,27,104	1,97,45,670	46.7	4.8

Source: DT and GTR - Union Finance Accounts, GDP-Central Statistical Office (CSO), Ministry of Statistics and Programme Implementation; GDP for FY 2020-21 – Press note released by CSO on 31 May 2021.

**1.4.2** While Direct Taxes decreased by 9.9 per cent in FY 2020-21 as compared to FY 2019-20, there was a decrease (5.6 per cent) in the share of DT to GTR in FY 2020-21 as compared to FY 2019-20. DT was 4.8 per cent of the GDP during FY 2020-21 as compared to 5.2 per cent in FY 2019-20.

**1.4.3** Table 1.4 below gives the growth of Direct Taxes and its major components i.e. Corporation Tax (CT) and Income Tax (IT) during FY 2016-17 to FY 2020-21.

Financial Year	Direct Taxes	Per cent growth over previous year	Corporation Tax	Per cent growth over previous year	Income Tax	Per cent growth over previous year	GDP	Per cent growth over previous year
(₹ in crore)								
2016-17	8,49,801	14.5	4,84,924	7.0	3,40,592	21.5	1,51,83,709	11.8
2017-18	10,02,738	18.0	5,71,202	17.8	4,08,202	19.9	1,67,73,145	10.5
2018-19	11,37,718	13.5	6,63,572	16.2	4,61,652	13.1	1,90,10,164	13.3
2019-20	10,50,686	(-) 7.6	5,56,876	(-) 16.1	4,80,348	4.0	2,03,39,849	7.0
2020-21	9,47,174	(-) 9.9	4,57,719	(-) 17.8	4,70,633	(-) 2.0	1,97,45,670	(-) 2.9

Source: Union Finance Accounts

**1.4.4** There was a decrease of 17.8 per cent in Corporation Tax in FY 2020-21, whereas this decrease was 16.1 per cent in the FY 2019-20. Further, Income Tax decreased by 2.0 per cent in FY 2020-21 whereas there was an increase of 4.0 per cent in FY 2019-20. GDP also decreased by 2.9 per cent in FY 2020-21 whereas there was an increase of 7.0 per cent in FY 2019-20.

**1.4.5** There are different stages of direct taxes collection such as Tax Deducted at Source (TDS), Advance Tax, Self-Assessment Tax (SAT) and Regular Assessment Tax in respect of both Corporation and Income Tax. The pre-assessment collection through TDS, Advance Tax and Self-Assessment Tax is indicative of voluntary compliance in the system. The collection of tax through regular assessment stage occurs post assessment.

**1.4.6** Table 1.5 below shows the collection of Corporation Tax under different stages during FY 2016-17 to FY 2020-21.

Table 1.5: Collection of Corporation Tax									
Financial Year	TDS	Advance Tax	Self-Assessment Tax	Pre-assessment collection (Col. 2+3+4)	Percentage of total pre-assessment collection	Regular Assessment Tax	Percentage of regular assessment collection	Other receipts	Total Collection (Col. 5+7+9)
(₹ in crore)									
1	2	3	4	5	6	7	8	9	10
2016-17	1,05,077	3,33,660	26,981	4,65,718	83.2	59,709	10.7	34,108	5,59,535
2017-18	1,14,037	3,74,245	30,892	5,19,174	82.6	76,077	8.1	85,089	6,80,340
2018-19	1,40,784	4,17,365	29,168	5,87,317	76.3	82,140	10.7	99,943	7,69,400
2019-20	1,43,589	3,59,915	30,935	5,34,439	78.8	49,946	7.4	94,032	6,78,417
2020-21	1,39,273	3,94,611	21,536	5,55,420	87.7	29,995	4.7	47,705	6,33,120

Source: Pr. CCA, CBDT.

Note: The other receipts include surcharge and cess. The figures of collection include refunds also.

**1.4.7** Table 1.5 above shows that there had been a year-on-year increase in percentage in collection of Corporation Tax through voluntary compliance by assessees (pre assessment stage), whereas collection through regular assessment (post assessment) had not witnessed a similar trajectory.

**1.4.8** Table 1.6 below shows the collection of Income Tax under different stages during FY 2016-17 to FY 2020-21.

Table 1.6: Collection of Income Tax									
Financial Year	TDS	Advance Tax	Self-Assessment Tax	Pre-assessment collection (Col. 2+3+4)	Percentage of total pre-assessment collection	Regular Assessment Tax	Percentage of regular assessment collection	Other receipts	Total Collection (Col. 5+7+9)
(₹ in crore)									
1	2	3	4	5	6	7	8	9	10
2016-17	2,38,067	73,110	41,179	3,52,356	92.1	14,429	3.8	15,709	3,82,494
2017-18	2,66,604	95,997	52,327	4,14,928	92.0	15,967	3.5	20,004	4,50,899
2018-19	3,09,985	1,10,164	55,005	4,75,154	91.9	16,892	3.3	24,815	5,16,860
2019-20	3,36,794	1,07,401	54,163	4,98,358	91.9	17,673	3.3	26,201	5,42,232
2020-21	3,31,002	1,23,158	63,198	5,17,358	92.9	12,301	2.2	27,096	5,56,755

Source: Pr. CCA, CBDT.

Note: The other receipts include surcharge and cess. The figures of collection include refunds also.

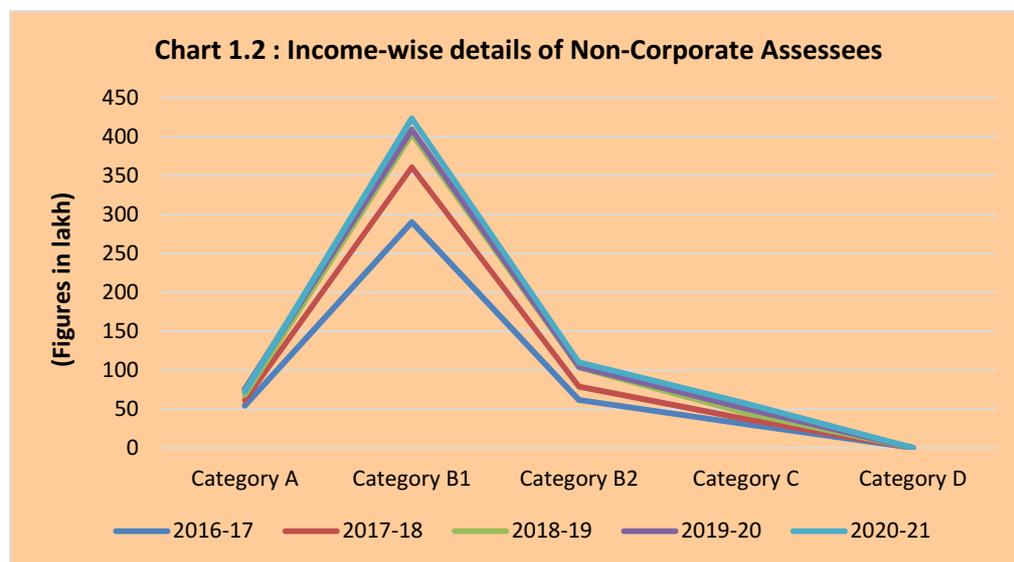
**1.4.9** Table 1.6 above shows that there had been a year-on-year increase in percentage in collection of Income Tax through voluntary compliance by assesses (pre-assessment stage), whereas collection through regular assessment (post-assessment) had not witnessed such a trajectory.

1.4.10 Table 1.7 below gives the details of non-corporate assessees in different categories of income.

Table 1.7: Non-Corporate Assessees						
Financial Year	A <sup>11</sup>	B <sub>1</sub> <sup>12</sup>	B <sub>2</sub> <sup>13</sup>	C <sup>14</sup>	D <sup>15</sup>	Total
(Figures in lakh)						
2016-17	54.17	290.16	61.85	30.69	0.02	436.89
2017-18	61.16	360.63	79.04	37.05	0.02	537.90
2018-19	68.08	403.35	103.36	44.96	0.03	619.78
2019-20	75.05	409.15	104.53	50.63	0.01	639.37
2020-21	72.32	423.42	109.94	57.15	0.00 <sup>#</sup>	662.83

Source: CBDT; These figures are based on actual returns filed during the respective year. # 241 assessees

The number of non-corporate assessees registered an increase of 3.7 per cent in FY 2020-21 in comparison to an increase of 3.2 per cent in FY 2019-20. As can be seen from Table 1.7 above and Chart 1.2, there has been an increase of 12.9 per cent and 5.2 per cent in Category 'C' and Category 'B<sub>2</sub>' respectively during FY 2020-21 in comparison to the previous year whereas this increase was 12.6 per cent and 1.1 per cent during FY 2019-20. There was an increase of 51.7 per cent in non-corporate taxpayers from FY 2016-17 to FY 2020-21 whereas during the same period tax collection from non-corporate taxpayers increased by 38.2 per cent (refer Table 1.4). Thus, percentage growth in number of non-corporate taxpayers was more than the percentage growth in tax collection thereon.



1.4.11 Table 1.8 below gives details of Corporate Assessees with different categories of income.

11 Category 'A' assessees - Assessments with income/loss below ₹ two lakh;

12 Category 'B1' assessees (lower income group) - Assessments with income/loss of ₹ two lakh and above; but below ₹ five lakh;

13 Category 'B2' assessees (higher income group) - Assessments with income/loss of ₹ five lakh and above; but below ₹ 10 lakh;

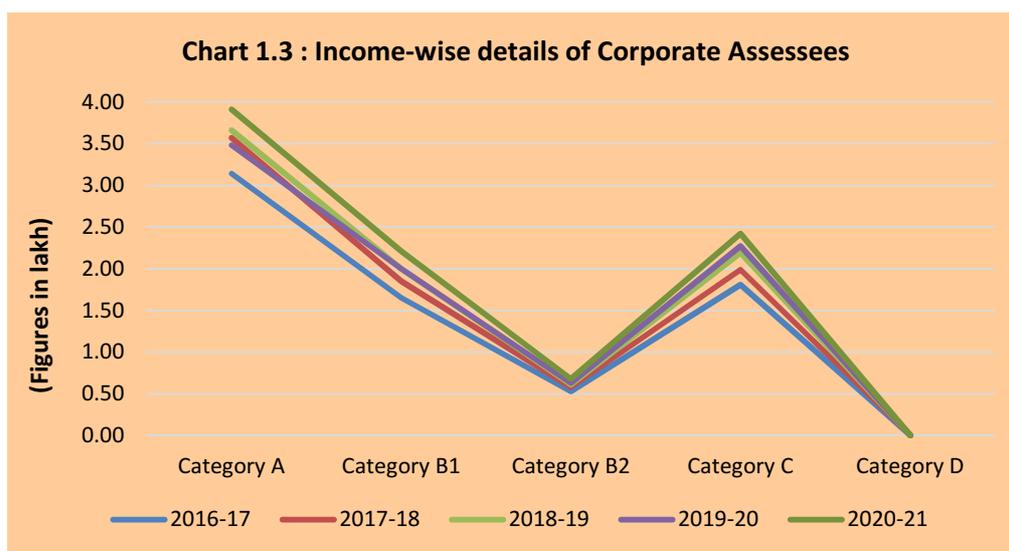
14 Category 'C' assessees - Assessments with income/loss of ₹ 10 lakh and above;

15 Category 'D' assessees - Search and seizure assessments;

Table 1.8: Corporate Assesseees							
Financial Year	A <sup>16</sup>	B <sub>1</sub> <sup>17</sup>	B <sub>2</sub> <sup>18</sup>	C <sup>19</sup>	D <sup>20</sup>	Total	Assesseees having income above ₹ 25 lakh
(Figures in lakh)							
2016-17	3.14	1.65	0.53	1.81	0.00 <sup>#</sup>	7.13	1.44
2017-18	3.57	1.85	0.58	1.99	0.00 <sup>\$</sup>	7.99	1.31
2018-19	3.66	2.00	0.61	2.19	0.00 <sup>@</sup>	8.46	1.45
2019-20	3.48	2.00	0.63	2.27	0.00 <sup>*</sup>	8.38	1.52
2020-21	3.91	2.21	0.68	2.42	0.00 <sup>^</sup>	9.21	1.61

Source: CBDT. These figures are based on actual returns filed during the respective year.  
<sup>^</sup> 337 assesseees, <sup>#</sup> 134 assesseees, <sup>\$</sup> 195 assesseees, <sup>@</sup> 146 assesseees, <sup>\*</sup> 223 assesseees, <sup>^</sup> 60 assesseees

The number of corporate assesseees registered an increase of 12.4 *per cent* in FY 2020-21 in comparison to decrease of 0.9 *per cent* in FY 2019-20. There was an increase of 29.2 *per cent* in the corporate taxpayers from FY 2016-17 to FY 2020-21 whereas during the same period, tax collection from the corporate taxpayers decreased by 5.6 *per cent* (refer Table 1.4).



### 1.5 Trend of refunds

When the amount of tax paid exceeds the amount of tax payable, the assesseees are entitled for a refund of the excess amount. If the refund arising to the taxpayer is out of any tax deducted/collected at source or tax paid by way of advance tax, then the taxpayer shall be entitled to interest calculated at the rate of one-half *per cent* for every month or part of a month from the

16 Category 'A' assesseees – Assessments with income/loss below ₹ 50,000;

17 Category 'B1' assesseees (lower income group) – Assessments with income/loss of ₹ 50,000 and above; but below ₹ five lakh;

18 Category 'B2' assesseees (higher income group) - Assessments with income/loss above ₹ five lakh and above; but below ₹ 10 lakh;

19 Category 'C' assesseees - Assessments with income/loss of ₹ 10 lakh and above;

20 Category 'D' assesseees – Search and seizure assessments;

1<sup>st</sup> day of April of the assessment year to the date on which the refund is granted if the return of income is furnished on or before the due date of filing of return specified under section 139(1). In case of refund arising due to excess tax paid by way of self- assessment tax, then the interest on refund shall be calculated from the date of furnishing of return of income or payment of tax, whichever is later. However, no interest shall be payable if the amount of refund is less than 10 per cent of the tax as determined under section 143(1) or tax determined under regular assessment.

### 1.5.1 Disposal of Refund cases

Table 1.9 below gives the trend of disposal and pendency of refund cases during FY 2018-19 to FY 2020-21.

Financial Year	Refund cases due for disposal	Refund cases disposed of	Refund cases pending	Pendency in percentage
2018-19	274.4	261.7	12.7	4.63
2019-20	264.3	248.9	15.4	5.83
2020-21	272.6	236.5	36.1	13.24

Source: CBDT

There has been a significant increase in pendency of refund cases during FY 2020-21.

### 1.5.2 Quarterly trend of refunds

Table 1.10 below shows the quarterly trend of refunds made and revenue collection in respect of the Corporation Tax and Income Tax during FY 2016-17 to FY 2020-21.

FY	Quarter ending	Corporation Tax			Income Tax		
		Gross collection	Refunds	Percentage of refunds with reference to collection	Gross collection	Refunds	Percentage of refunds with reference to collection
2018-19	June 2018	1,27,468	61,078	47.9	98,049	12,834	13.1
	September 2018	1,90,200	12,848	6.8	1,27,210	16,823	13.2
	December 2018	1,94,177	10,468	5.4	1,21,069	16,503	13.6
	March 2019	2,57,554	21,434	8.3	1,70,533	9,049	5.3
	<b>Total</b>	<b>7,69,399</b>	<b>1,05,828</b>	<b>13.8</b>	<b>5,16,861</b>	<b>55,209</b>	<b>10.7</b>
2019-20	June 2019	70,435	64,894	92.1	92,449	11,209	12.1
	September 2019	1,78,463	17,404	9.8	1,11,951	17,481	15.6
	December 2019	1,20,124	28,009	23.3	98,494	30,792	31.3
	March 2020	1,87,853	11,235	6.0	1,77,449	2,407	1.4
	<b>Total</b>	<b>5,56,876</b>	<b>1,21,542</b>	<b>21.8</b>	<b>4,80,343</b>	<b>61,889</b>	<b>12.9</b>
June 2020	54,217	40,208	74.2	62,162	23,808	38.3	

FY	Quarter ending	Corporation Tax			Income Tax		
		Gross collection	Refunds	Percentage of refunds with reference to collection	Gross collection	Refunds	Percentage of refunds with reference to collection
2020-21	September 2020	96,247	48,155	50.0	1,04,327	7,414	7.1
	December 2020	1,61,996	20,888	12.9	1,28,943	19,061	14.8
	March 2021	1,45,269	64,151	44.2	1,75,201	35,839	20.6
	<b>Total</b>	<b>4,57,719</b>	<b>1,73,402</b>	<b>37.9</b>	<b>4,70,633</b>	<b>86,122</b>	<b>18.3</b>

Source: Pr. CCA, CBDT

As can be seen from Table 1.10 above, **47.9 per cent**, **92.1 per cent** and **74.2 per cent** of the gross collection of Corporation Tax during the first quarters of FY 2018-19, FY 2019-20 and FY 2020-21 respectively were refunded during the same quarter. Further, **57.7 per cent**, **53.4 per cent** and **23.2 per cent** of the total refund amount of the Corporation Tax pertaining to the previous year's collection was refunded during the first quarters of FY 2018-19, FY 2019-20 and FY 2020-21 respectively. It is also noticed that refunds as a percentage of gross collection are higher in the case of Corporation Tax as compared to Income Tax.

## 1.6 Trend of allotment of PAN, filing of Income Tax Return and Gross Total Income of Taxpayers

### 1.6.1 Taxpayer category-wise PAN allotment

PAN is an essential tool for registration and identification of taxpayers. The ITD checks and monitors the taxpayers/ non-taxpayers' monetary transactions -wise PAN and accordingly initiates action as per the provisions of the Income Tax Act.

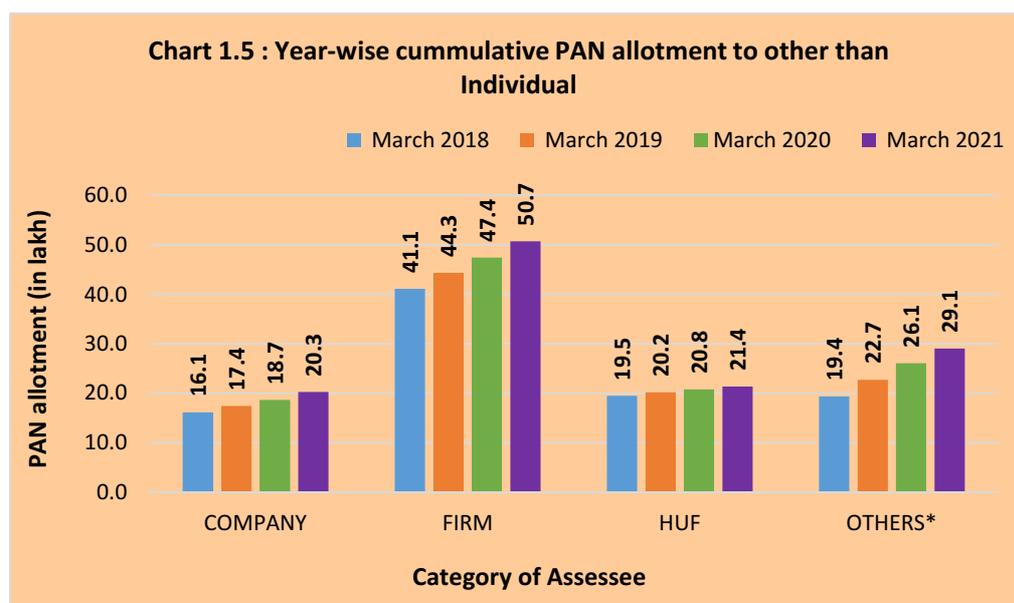
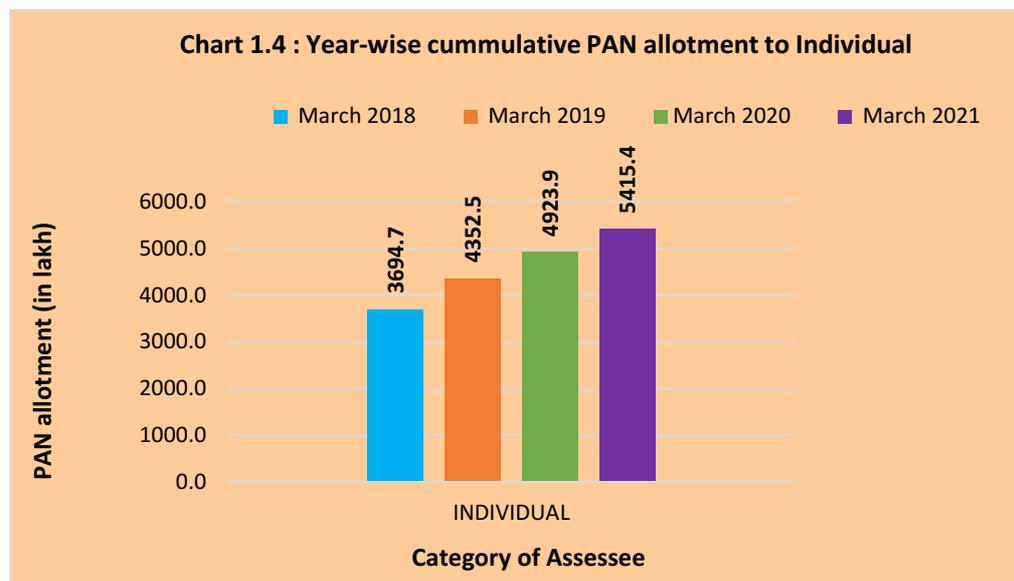
Table 1.11 below gives the details of taxpayer status-wise cumulative number of PAN allotments at the end of each year.

Sl. No.	Taxpayers status	Upto March 2018	Upto March 2019	Upto March 2020	Upto March 2021
1	INDIVIDUAL	3,694.7	4,352.5	4,923.9	5,415.4
2	COMPANY	16.1	17.4	18.7	20.3
3	FIRM	41.1	44.3	47.4	50.7
4	HUF	19.5	20.2	20.8	21.4
5	OTHERS*	19.4	22.7	26.1	29.1
	<b>Total</b>	<b>3,790.8</b>	<b>4,457.1</b>	<b>5,036.9</b>	<b>5,536.9</b>

\*OTHERS includes AOP, BOI, GOVT, AJP, LOCAL AUTHORITY, TRUSTS

From the above Table 1.11 and Chart 1.4 and Chart 1.5 below, it can be seen that there had been a year-on-year increase in the absolute number of PAN allotments in all the categories of taxpayer from FY 2018-19 to FY 2020-21.

However, the percentage increase in PAN allotment witnessed a year-on-year decline during FY 2018-19 to FY 2020-21.



### 1.6.2 Financial year-wise number of persons filing Income Tax Return

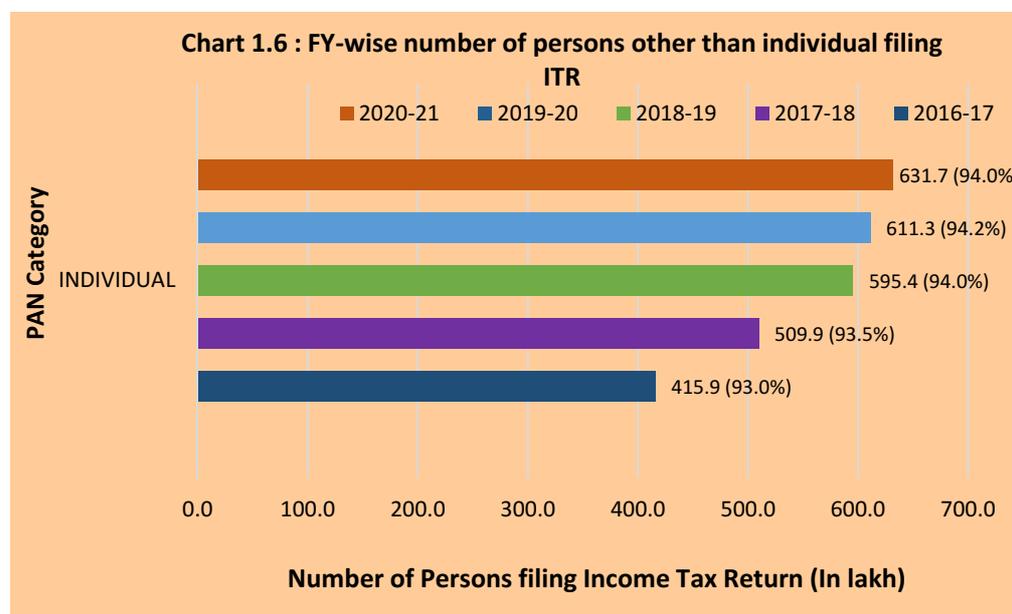
As per Section 139 of the Act, every person being a company or a firm; or being a person other than a company or a firm, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form.

Table 1.12 below gives the details of Financial Year and PAN category-wise number of persons filing income Tax Returns.

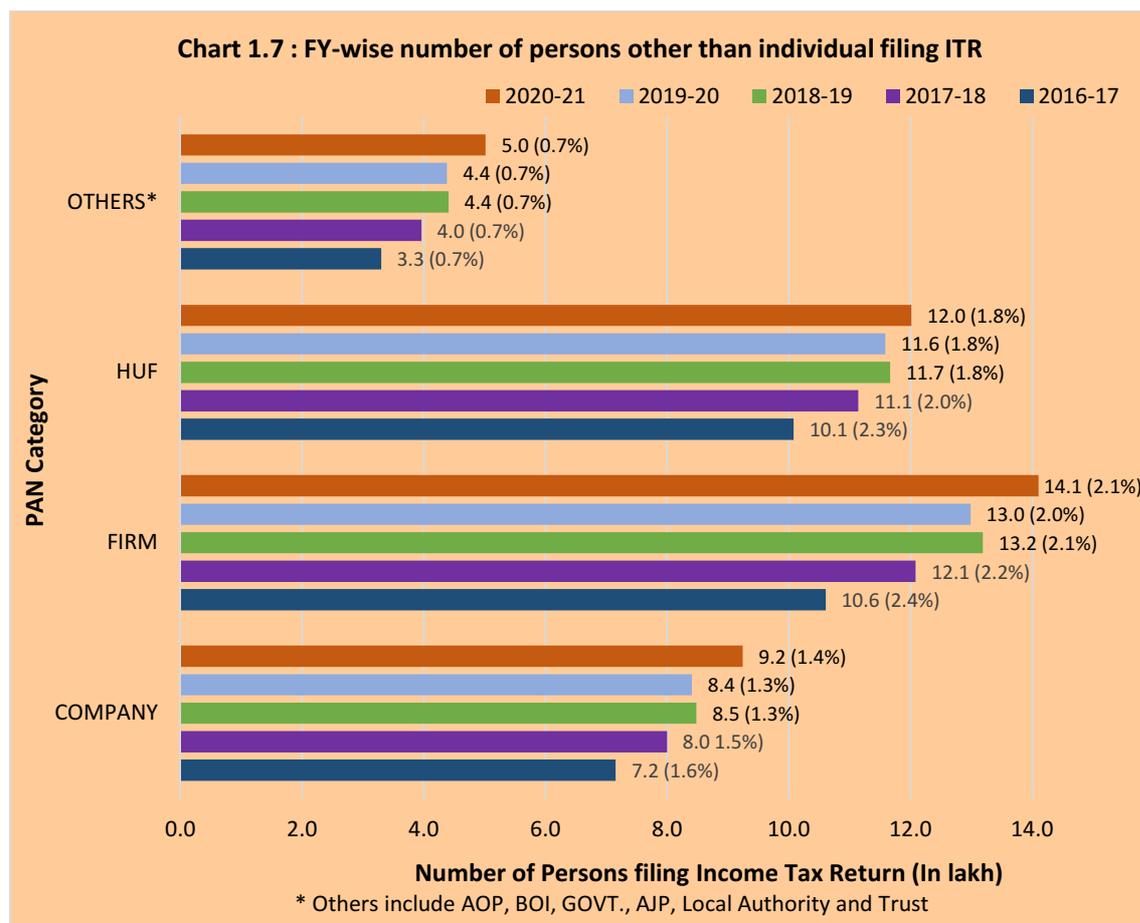
Table 1.12 : FY-wise number of persons filing Income Tax Return (Number in lakh)										
PAN Category	2016-17		2017-18		2018-19		2019-20		2020-21	
	No. of ITRs	Percentage of Total ITRs	No. of ITRs	Percentage of Total ITRs	No. of ITRs	Percentage of Total ITRs	No. of ITRs	Percentage of Total ITRs	No. of ITRs	Percentage of Total ITRs
Individual	415.9	93.0	509.9	93.5	595.4	94.0	611.3	94.2	631.7	94.0
Company	7.2	1.6	8.0	1.5	8.5	1.3	8.4	1.3	9.2	1.4
Firm	10.6	2.4	12.1	2.2	13.2	2.1	13	2.0	14.1	2.1
HUF	10.1	2.3	11.1	2.0	11.7	1.8	11.6	1.8	12	1.8
Others	3.3	0.7	4.0	0.7	4.4	0.7	4.4	0.7	5.0	0.7
<b>Total</b>	<b>447.1</b>	<b>100.0</b>	<b>545.1</b>	<b>100.0</b>	<b>633.2</b>	<b>100.0</b>	<b>648.7</b>	<b>100.0</b>	<b>672.1</b>	<b>100.0</b>

\*Others include AOP, BOI, GOVT, AJP, Local Authority and Trust

From the above Table 1.12, Chart 1.6 and Chart 1.7 below, it can be seen that there had been a year-on-year increase in absolute number of persons filing Income Tax Return from FY 2017-18 to FY 2020-21. However, the percentage increase in number of persons filing Income Tax Returns witnessed a year-on-year decline during the respective financial years with the exception of FY 2020-21.



In case of individual apart from FY 2017-18 there was significant increase in number of filers in FY 2018-19.



\*OTHERS include AOP, BOI, GOVT, AJP, LOCAL AUTHORITY and TRUST

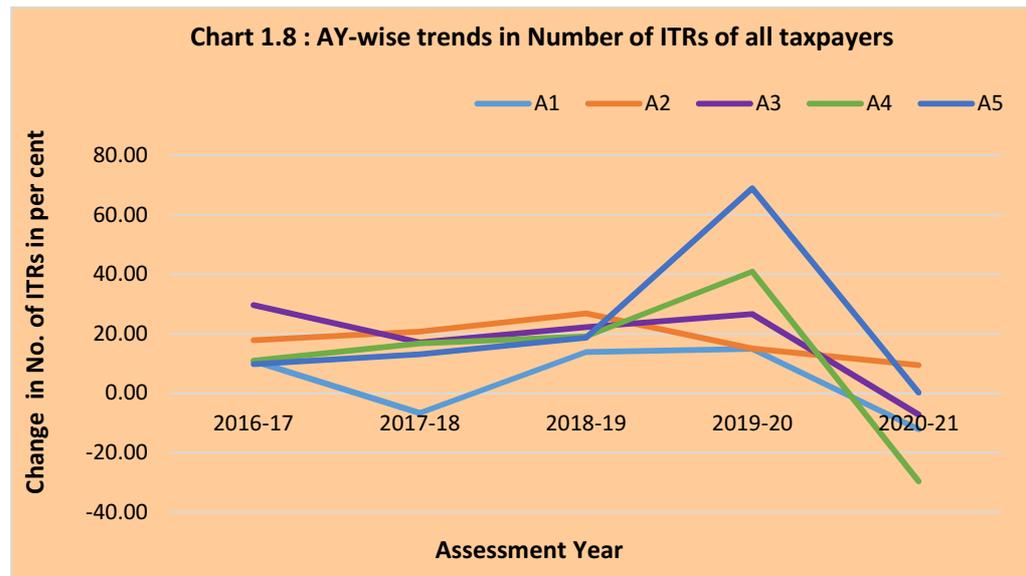
### 1.6.3 Income category and Assessment year-wise number of Income Tax Returns (ITRs) filed by taxpayers

Table 1.13 below gives the details of Income category and Assessment Year-wise number of ITRs filed by taxpayers and percentage increase in number of ITRs in comparison to the immediate previous Assessment Year.

Income Category*	2016-17		2017-18		2018-19		2019-20		2020-21	
	No. of ITR (in Thousand)	Change in per cent	No. of ITR (in Thousand)	Change in per cent	No. of ITR (in Thousand)	Change in per cent	No. of ITR (in Thousand)	Change in per cent	No. of ITR (in Thousand)	Change in per cent
A1	35,504.1	10.84	33,136.2	-6.67	37,723.2	13.84	43,344.0	14.90	38,060.2	-12.19
A2	9,835.7	17.77	11,876.3	20.75	15,059.7	26.80	17,312.9	14.96	18,952.4	9.47
A3	4,027.7	29.65	4,715.8	17.08	5,763.7	22.22	7,297.4	26.61	6,770.0	-7.23
A4	117.5	10.89	137.3	16.76	163.4	19.08	230.3	40.93	162.0	-29.65
A5	2.6	9.80	2.9	13.03	3.4	18.63	5.8	68.94	5.8	0.19
<b>Total</b>	<b>49,487.6</b>	<b>13.51</b>	<b>49,868.4</b>	<b>0.77</b>	<b>58,713.4</b>	<b>17.74</b>	<b>68,190.4</b>	<b>16.14</b>	<b>63,950.4</b>	<b>-6.22</b>

\* A1: Gross income ₹ 5 lakh and below; A2: Gross Income above ₹ 5 lakh but ₹ 10 lakh and below; A3: Gross Income above ₹ 10 lakh but ₹ 1 crore and below; A4: Gross Income above ₹ 1 crore but ₹ 50 crore and below; A5: Gross Income above ₹ 50 crore

It can be seen from the above Table 1.13 and Chart 1.8 below that there had been a year-on-year increase in number of ITRs except FY 2020-21 with respect to all assesseees except assesseees with Gross income of ₹ 5 lakh and below. Further, there was a decrease in the number of ITRs with respect to all assesseees (except assesseees with Gross income above ₹ 5 lakh but below ₹ 10 lakh and assesseees with gross income above ₹ 50 crore) in FY 2020-21 as compared to previous years.



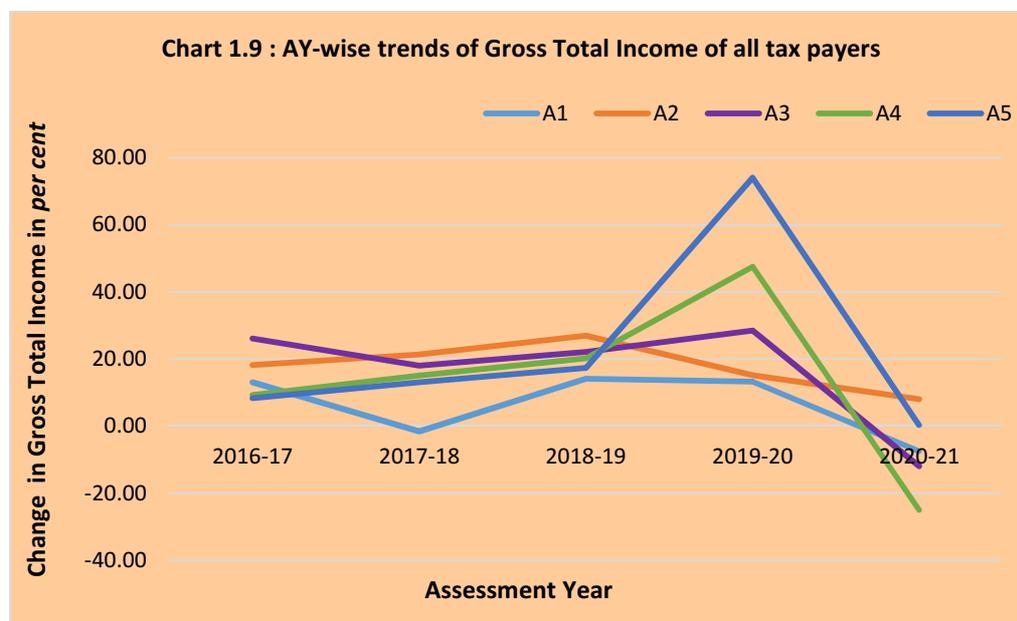
#### 1.6.4 Income Category and Assessment Year-wise Gross Total Income of the taxpayer

Table 1.14 below gives the details of Income category and Assessment Year-wise gross total income of taxpayers and percentage increase in gross total income of the taxpayers in comparison to the immediate previous Assessment year.

Income Category*	2016-17		2017-18		2018-19		2019-20		2020-21	
	Gross Total Income (₹ in crore)	Change in per cent	Gross Total Income (₹ in crore)	Change in per cent	Gross Total Income (₹ in crore)	Change in per cent	Gross Total Income (₹ in crore)	Change in per cent	Gross Total Income (₹ in crore)	Change in per cent
A1	10,19,058	13.09	10,02,568	-1.62	11,44,466	14.15	12,96,722	13.30	11,99,384	-7.51
A2	6,64,283	18.23	8,05,967	21.33	10,23,588	27.00	11,78,693	15.15	12,73,081	8.01
A3	7,78,948	26.10	9,19,599	18.06	11,22,811	22.10	14,43,273	28.54	12,70,434	-11.98
A4	4,32,539	9.25	4,97,814	15.09	5,98,674	20.26	8,83,176	47.52	6,62,438	-24.99
A5	13,88,107	8.33	15,70,130	13.11	18,42,217	17.33	32,07,210	74.10	32,18,829	0.36
<b>Total</b>	<b>38,50,396</b>	<b>14.53</b>	<b>42,98,264</b>	<b>11.63</b>	<b>51,33,084</b>	<b>19.42</b>	<b>71,25,898</b>	<b>38.82</b>	<b>69,61,727</b>	<b>-2.30</b>

\*A1: Gross income ₹ 5 lakh and below; A2: Gross Income above ₹ 5 lakh but ₹ 10 lakh and below; A3: Gross Income above ₹ 10 lakh but ₹ 1 crore and below; A4: Gross Income above ₹ 1 crore but ₹ 50 crore and below; A5: Gross Income above ₹ 50 crore

It can be seen from the above Table 1.14 and Chart 1.9 below that there had been a year-on-year increase except FY 2020-21 in aggregate gross total income with respect to all categories of assessees (except assessees with Gross income ₹ 5 lakh and below i.e., A1 category). Further, there was a decrease in the aggregate gross total income with respect to all assessees (except A2 and A5 categories) in FY 2020-21 as compared to previous years.



### 1.6.5 Income category and Assessment Year-wise number of Income Tax Returns (ITRs) filed by Companies

Table 1.15 below gives the details of Income category and Assessment Year-wise number of ITRs filed by companies and percentage increase in number of ITRs in comparison to the immediate previous Assessment Years.

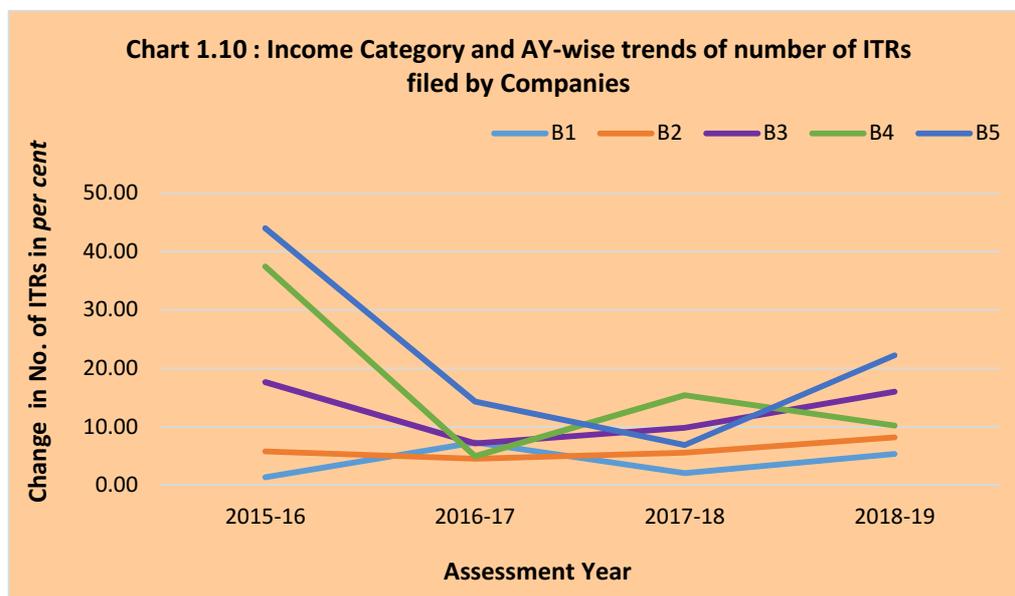
Income Category*	2015-16		2016-17		2017-18		2018-19	
	No. of ITR (in Thousand)	Change in per cent	No. of ITR (in Thousand)	Change in per cent	No. of ITR (in Thousand)	Change in per cent	No. of ITR (in Thousand)	Change in per cent
B1	600.1	1.38	644.0	7.32	657.5	2.10	693.0	5.40
B2	86.0	5.80	89.9	4.54	95.0	5.62	102.8	8.21
B3	31.7	17.65	34.0	7.17	37.3	9.83	43.3	16.03
B4	0.9	37.44	1.0	4.97	1.1	15.45	1.2	10.26
B5	1.1	44.00	1.2	14.35	1.3	6.88	1.6	22.27
<b>Total</b>	<b>719.8</b>	<b>2.60</b>	<b>770.1</b>	<b>6.99</b>	<b>792.3</b>	<b>2.88</b>	<b>841.9</b>	<b>6.27</b>

\*B1: Gross income zero and above but ₹ 10 lakh and below; B2: Gross income above ₹ 10 lakh but ₹ 1 crore and below; B3: Gross income above ₹ 1 crore but ₹ 50 crore and below; B4: Gross income above ₹ 50 crore but ₹ 100 crore and below; B5: Gross income above ₹ 100 crore

Note: Data in respect of AY 2019-20 and AY 2020-21 was not provided by the ITD.

It can be seen from the above Table 1.15 and Chart 1.10 below that in comparison to the immediate previous AY, there had been an increase in

number of ITRs filed by the companies during AY 2015-16 to 2018-19. However, increase in percentage was higher in respect of companies having gross total income of ₹ 1 crore and above.



### 1.6.6 Income Category and Assessment Year-wise trends of Gross Total Income of Companies

Table 1.16 below gives the details of Income category and Assessment Year-wise aggregate gross total income of companies and percentage change in gross total income of the companies in comparison to the immediate previous Assessment year.

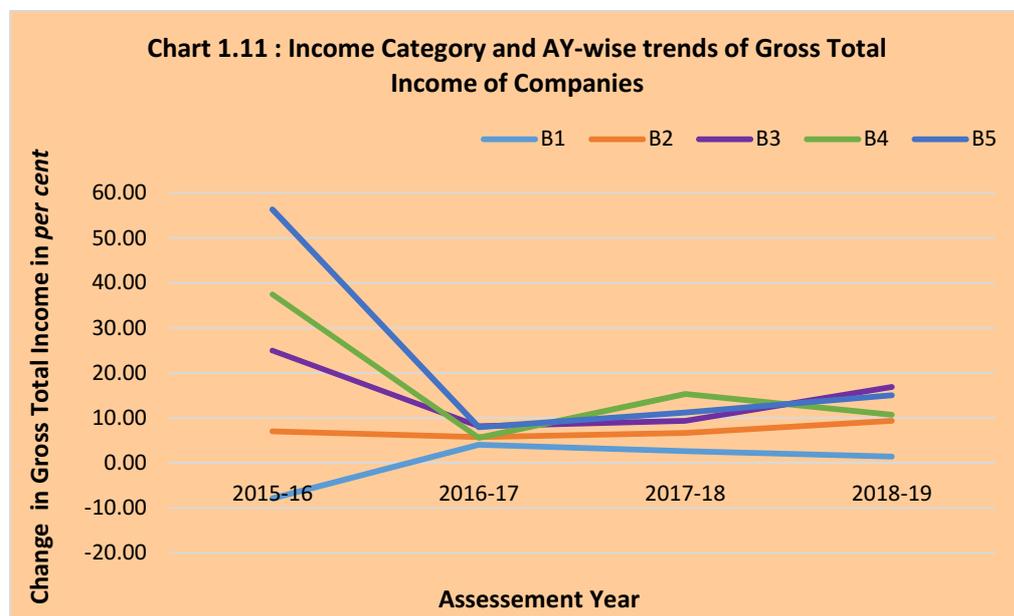
Income Category*	2015-16		2016-17		2017-18		2018-19	
	Gross Total Income (₹ in crore)	Change in per cent	Gross Total Income (₹ in crore)	Change in per cent	Gross Total Income (₹ in crore)	Change in per cent	Gross Total Income (₹ in crore)	Change in per cent
B1	4,663	-7.85	4,853	4.07	4,981	2.64	5,051	1.41
B2	29,304	7.01	30,985	5.74	33,061	6.70	36,146	9.33
B3	1,90,149	24.95	2,05,695	8.18	2,25,017	9.39	2,63,045	16.90
B4	64,518	37.44	68,134	5.60	78,578	15.33	86,989	10.70
B5	7,83,130	56.35	8,45,494	7.96	9,40,466	11.23	10,82,240	15.07
<b>Total</b>	<b>10,71,764</b>	<b>46.33</b>	<b>11,55,161</b>	<b>7.78</b>	<b>12,82,103</b>	<b>10.99</b>	<b>14,73,472</b>	<b>14.93</b>

\*B1: Gross income zero and above but ₹ 10 lakh and below; B2: Gross income above ₹ 10 lakh but ₹ 1 crore and below; B3: Gross income above ₹ 1 crore but ₹ 50 crore and below; B4: Gross income above ₹ 50 crore but ₹ 100 crore and below; B5: Gross income above ₹ 100 crore

**Note:** Data in respect of AY 2019-20 and AY 2020-21 was not provided by the ITD.

It can be seen from the above Table 1.16 and Chart 1.11 below that there had been a year-on-year increase in the aggregate gross total income of the companies in all the categories. However, there had not been a consistent increase in percentage terms in the aggregate gross total income of the

companies in all the categories. It is pertinent to mention that there had been a sharp decline in the percentage of aggregate gross total income of the companies having gross total income above ₹ 1 crore in FY 2016-17 as compared to FY 2015-16.



### 1.6.7 Income category and Assessment Year-wise number of Income Tax Returns (ITRs) filed by Individual

Table 1.17 below gives the details of Income category and Assessment Year-wise number of ITRs filed by individuals and percentage increase in number of ITRs in comparison to the immediate previous Assessment Years.

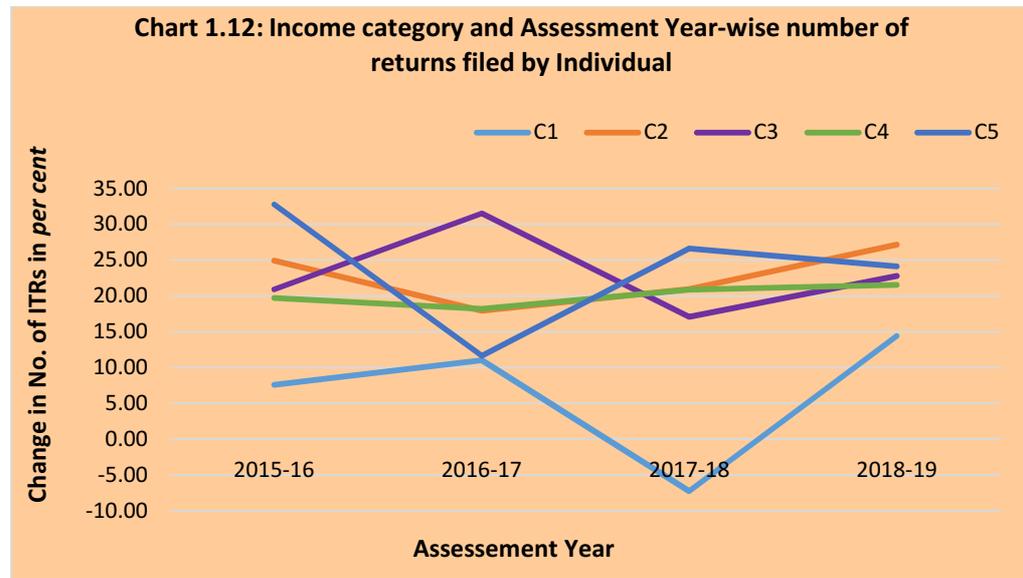
Income Category*	2015-16		2016-17		2017-18		2018-19	
	No. of ITRs (in thousand)	Change in per cent	No. of ITRs (in thousand)	Change in per cent	No. of ITRs (in thousand)	Change in per cent	No. of ITRs (in thousand)	Change in per cent
C1	29,658.6	7.60	32,933.4	11.04	30,548.7	-7.24	34,954.2	14.42
C2	8,130.6	24.90	9,589.9	17.95	11,602.1	20.98	14,754.2	27.17
C3	2,773.9	20.94	3,648.0	31.51	4,271.9	17.10	5,244.8	22.78
C4	172.2	19.74	203.6	18.21	246.1	20.87	299.1	21.56
C5	4.5	32.75	5.0	11.67	6.4	26.61	7.9	24.13
<b>Total</b>	<b>40,739.8</b>	<b>11.58</b>	<b>46,379.9</b>	<b>13.84</b>	<b>46,675.1</b>	<b>0.64</b>	<b>52,260.2</b>	<b>11.97</b>

\*C1: Gross income ₹ 5 lakh and below; C2: Gross Income above ₹ 5 lakh but ₹ 10 lakh and below; C3: Gross Income above ₹ 10 lakh but ₹ 50 lakh and below; C4: Gross Income above ₹ 50 lakh but ₹ 5 crore and below; C5: Gross Income above ₹ 5 crore

**Note:** Data in respect of AY 2019-20 and AY 2020-21 was not provided by the ITD.

It can be seen from the above Table 1.17 and Chart 1.12 below that there had been a year-on-year increase in number of ITRs with respect to all individual assessee categories except assesseees with Gross income of ₹ 5 lakh and below. However, the growth of total number of ITRs filed had declined significantly from 13.84 per cent in FY 2016-17 to 0.64 per cent in FY 2017-18, the reason

for which may again be attributed to the decline in number of ITRs filed in C1 category by 7.24 per cent.



### 1.6.8 Income Category and Assessment Year-wise trends of Gross Total Income of Individual

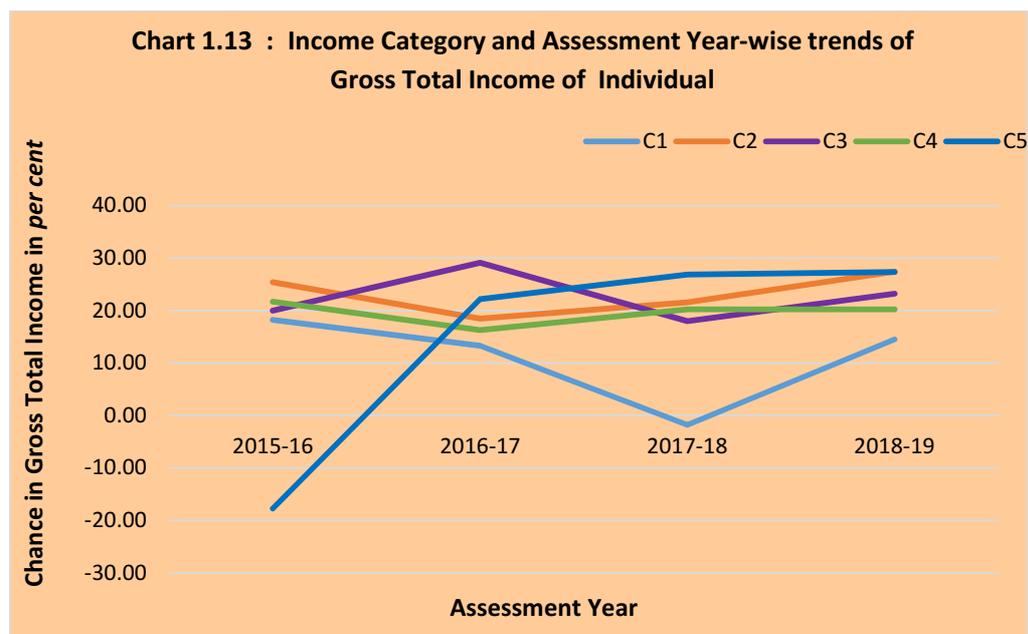
Table 1.18 below gives the details of Income category and Assessment Year-wise aggregate gross total income of individuals and percentage change in gross total income of the individuals in comparison to the immediate previous Assessment year.

Income Category*	2015-16		2016-17		2017-18		2018-19	
	Gross Total Income (₹ in crore)	Change in per cent	Gross Total Income (₹ in crore)	Change in per cent	Gross Total Income (₹ in crore)	Change in per cent	Gross Total Income (₹ in crore)	Change in per cent
C1	8,72,466	18.20	9,88,604	13.31	9,70,840	-1.80	11,11,819	14.52
C2	5,46,488	25.38	6,47,409	18.47	7,86,892	21.54	10,02,382	27.38
C3	4,74,806	19.97	6,13,017	29.11	7,23,377	18.00	8,91,399	23.23
C4	1,80,171	21.67	2,09,492	16.27	2,51,876	20.23	3,02,846	20.24
C5	54,068	-17.73	66,056	22.17	83,800	26.86	1,06,737	27.37
<b>Total</b>	<b>21,27,999</b>	<b>19.31</b>	<b>25,24,577</b>	<b>18.64</b>	<b>28,16,786</b>	<b>11.57</b>	<b>34,15,183</b>	<b>21.24</b>

\*C1: Gross income ₹ 5 lakh and below; C2: Gross Income above ₹ 5 lakh but ₹ 10 lakh and below; C3: Gross Income above ₹ 10 lakh but ₹ 50 lakh and below; C4: Gross Income above ₹ 50 lakh but ₹ 5 crore and below; C5: Gross Income above ₹ 5 crore

**Note:** Data in respect of AY 2019-20 and AY 2020-21 was not provided by the ITD.

It can be seen from the above Table 1.18 and Chart 1.13 below that there had been a year-on-year increase in aggregate gross total income with respect to all categories of individual assesseees (except assesseees with Gross income ₹ 5 lakh and below). Further, there was a year-on-year decrease in the percentage of the total of the aggregate gross total income with the exception being FY 2018-19 which showed a huge increase in percentage terms as compared to FY 2017-18.



## 1.7 Budgeting of Direct Taxation Receipts

**1.7.1** The Budget reflects the Government’s vision and intent. The Revenue Budget consists of the revenue receipts of the Government (tax revenues and other revenues). Comparison of Budget Estimates with the corresponding actuals is an indicator of the quality of fiscal management. Actuals may differ from the estimates because of unanticipated and random external events or methodological inadequacies or unrealistic assumptions about critical parameters.

**1.7.2** Table 1.19 below shows the details of Budget Estimates (BE), Revised Estimates (RE) and Actual collection of direct taxes during FY 2016-17 to FY 2020-21.

Financial Year	Budget estimates	Revised estimates	Actual	Actual minus budget estimates	Actual minus Revised estimates	Difference as per cent of budget estimates	Difference as per cent of Revised estimates
							(₹ in crore)
2016-17	8,47,097	8,47,097	8,49,801	2,704	2,704	0.3	0.3
2017-18	9,80,000	10,05,000	10,02,738	22,738	(-) 2,262	2.3	(-) 0.2
2018-19	11,50,000	12,00,000	11,37,718	(-) 12,282	(-) 62,282	(-) 1.1	(-) 5.2
2019-20	13,35,000	11,70,000	10,50,686	(-) 2,84,314	(-) 1,19,314	(-) 21.3	(-) 10.2
2020-21	13,19,000	9,05,000	9,47,174	(-) 3,71,826	42,174	(-) 28.2	4.7

Source: BE and RE figures are as per respective Receipt Budget and Actual are as per respective Finance Accounts

**1.7.3** The variation between RE and actual collection ranged from (-) 10.2 per cent to 4.7 per cent of RE during the period from FY 2016-17 to

FY 2020-21. The variation between BE and actual was higher as compared to that between the RE and the actual during FY 2019-20 and FY 2020-21.

## 1.8 Revenue impact of tax incentives

**1.8.1** The primary objective of any tax law and its administration is to raise revenues for the purpose of funding government expenditure. The revenues raised are primarily dependent upon the tax base and effective tax rate. The determinant of these two factors is a range of measures which includes special tax rates, exemptions, deductions, rebates, deferrals and credits. These measures are collectively called as “tax incentives or tax preferences”. These are also referred to as tax expenditure.

**1.8.2** The Income Tax Act, 1961 (the Act), *inter alia*, provides for tax incentives to promote exports, balanced regional development, creation of infrastructure facilities, employment, rural development, scientific research and development, growth of the cooperative sector and encourages savings by individuals and donations for charity. Most of these tax benefits can be availed of by both corporate and non-corporate taxpayers.

**1.8.3** The Union Receipt Budget depicts a statement of revenue impact of major incentives on corporate taxpayers and non-corporate taxpayers based on returns filed electronically. Table 1.20 below shows the revenue impact of major tax incentives for FY 2016-17 to FY 2020-21.

Table 1.20: Revenue Impact of Tax Incentives				
Financial Year	Total Revenue impact of tax incentives	Revenue impact as per cent of		
		GDP	Direct Taxes	Gross Tax Receipts
(₹ in crore)				
2016-17	1,55,840	1.0	18.3	9.1
2017-18	1,83,580	1.1	18.3	9.6
2018-19	2,06,113	1.1	18.1	9.9
2019-20	2,57,582	1.3	24.5	12.8
2020-21	2,82,697	1.4	29.9	14.0

Source: Respective Receipt Budget and for FY 2019-20 revised figure has been adopted as per Receipt Budget 2022-23.

Note: The figures of revenue impact of tax incentives are actuals except for FY 2020-21 (projected). These do not cover Charitable Institutions. However, the amount applied by Charitable Institutions was ₹ 7,86,379 crore in respect of 2,24,839 electronically filed returns till 31 May 2021.

As reported in the Receipts Budget for the FY 2022-23, the effective tax rate<sup>21</sup> of the entire base of companies reporting profits was 22.54 per cent<sup>22</sup> for financial year 2019-20 as against the statutory tax rate of 31.20 per cent in the case of companies having income up to ₹ one crore, 33.38 per cent in the case of companies having income up to ₹ 10 crore and 34.94 per cent in the case of

21 Effective tax rate in case of companies is the ratio of total taxes [including surcharge and education cess but excluding Dividend Distribution Tax] to the total profits before taxes [PBT] and expressed as a percentage.

22 Which is lower than the effective tax rate of 27.81 per cent in FY 2018-19.

companies having income exceeding ₹ 10 crore. Further, for existing companies which opted for the new concessional tax regime<sup>23</sup>, the statutory tax rate was 25.17 per cent. Further, as reported in the Receipt Budget, the significant reduction in effective tax rate is primarily due to the fact that a significant number of companies with higher profits have shifted to the new tax regime provided for existing companies under section 115BAA.

**1.8.4** The major tax incentives given to corporate and non-corporate assesseees in FY 2020-21 were deductions on account of certain investments and payments under Section 80C (₹ 88,301 crore), accelerated depreciation under section 32 (₹ 39,593 crore), rebate under Section 87A (₹ 29,204 crore), deduction of export profits to SEZ units under Section 10AA (₹ 24,928 crore) and deductions to undertakings in generation/transmission and distribution of power under Section 80-IA (₹ 17,559 crore) and deductions under Sections 35(1)(2AA) and 35(1)(2AB) for expenditure on scientific research (₹ 6,992 crore).

**1.8.5** The revenue impact of tax incentives has increased by 81.4 per cent from ₹ 1,55,840 crore in FY 2016-17 to ₹ 2,82,697 crore in FY 2020-21. Though the tax incentives increased in absolute terms by 9.8 per cent in FY 2020-21 as compared to FY 2019-20, increase in the share of revenue impact of tax incentives in DT and GTR was 5.4 per cent and 1.2 per cent respectively. Revenue impact of tax incentives was 1.4 per cent of GDP during FY 2020-21 as compared to 1.3 per cent in FY 2019-20.

## 1.9 Tax debt – Uncollected demand

**1.9.1** Table 1.21 below gives the trend of arrears of demand pending during the period FY 2016-17 to FY 2020-21.

Table 1.21: Arrears of Demand						
Financial Year	Arrears of earlier year's demand	Arrears of current year's demand	Total arrears of demand	Classified as Demand difficult to recover <sup>#</sup>	Classified as Demand difficult to recover (in Per cent)	Net collectible demand
						(₹ in crore)
2016-17	7,33,229	3,11,459	10,44,688	10,29,725	98.57	14,963
2017-18	7,36,975	3,77,207	11,14,182	10,94,023	98.19	20,159
2018-19	9,46,190	2,87,888	12,34,078	12,19,485	98.82	14,593
2019-20	11,25,314	4,93,640	16,18,954	15,80,220	97.61	38,734
2020-21	14,80,304	31,314	15,11,618*	14,85,289	98.26	26,473

Source: Directorate of Income Tax (Organisation & Management Services), Demand & Collection report (CAP-1) for the month of March of the respective FY. <sup>#</sup> This includes current year demand also. \* As reported in CAP-I for the month of March 2021, there is a difference of ₹ 144 crore in the figure of total arrear demand of ₹ 15,11,618 crore as compared with the total arrears of demand difficult to recover of ₹ 14,85,289 crore plus net collectible demand of ₹ 26,473 crore.

23 lower tax rate without deductions and exemptions under section 115BAA of the Income-Tax Act

**1.9.2** Though total arrears of demand in FY 2020-21 amounted to ₹ 15,11,618 crore, decreasing by 6.63 *per cent* as compared to FY 2019-20 (₹ 16,18,954 crore), however, demands classified as 'difficult to recover' increased marginally to 98.26 *per cent* of the total arrears of demands in FY 2020-21 as compared to 97.61 *per cent* in FY 2019-20 due to decrease in net collectible demand. Audit noted that the Demand & Collection Report prepared by the Income Tax Department for the month of March of the respective FYs has analysed various factors viz. no assets/inadequate assets for recovery, cases under liquidation/BIFR, assessees not traceable, demand stayed by Courts/ITAT/IT authorities, TDS/prepaid taxes mismatch etc. leading to an estimation of the demands difficult to recover.

### 1.10 Litigation Management

**1.10.1** Table 1.22 below gives the trend of disposal and pendency of appeal cases before CIT (Appeals) during FY 2016-17 to FY 2020-21.

Table 1.22: Disposal of Appeal Cases by CIT(A)					
Financial Year	Appeal cases due for disposal	Appeal cases disposed of	Appeal cases pending	Pendency in percentage	Amount locked up in Appeal cases (₹ in crore)
	(Number in lakh)				
2016-17	4.08	1.18	2.90	71.1	6,11,227
2017-18	4.25	1.21	3.04	71.7	5,18,647
2018-19	4.62	1.23	3.39	73.4	5,62,806
2019-20	5.57	0.99	4.58	82.2	8,83,331
2020-21	4.85	0.26	4.59	94.6	24,64,610

Source: CBDT

**1.10.2** The amount locked up in appeal cases with CIT (Appeals) is more than the total revenue receipts of the Government of India in FY 2020-21.

**1.10.3** Table 1.23 below gives the position of appeal cases pending with the Income Tax Appellate Tribunals (ITATs)/High Courts and Supreme Court during FY 2016-17 to FY 2020-21.

Table 1.23: Appeals pending with ITATs/High Courts/Supreme Court								
Financial Year	ITATs		High Courts		Supreme Court		Total	
	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.
(₹ in crore)								
2016-17	37,968	1,43,771	38,481	2,87,818	6,375	8,048	82,806	4,39,637
2017-18	37,353	2,34,999	39,066	1,96,053	6,224	11,773	82,643	4,42,825
2018-19	92,205	NA <sup>@</sup>	38,539	1,36,465	4,425	74,368 <sup>#</sup>	1,35,169	2,10,833
2019-20	88,016	NA <sup>@</sup>	31,822	3,09,238	3,294	1,15,584	1,24,287	3,09,237
2020-21	66,562	NA <sup>@</sup>	31,971	2,75,329	3,492	1,27,675	1,02,025	4,03,004

Source: CBDT;

Note: The figures for FY 2019-20 as provided vide letter F.no. 240/06/2021-A&PAC-I-506 dated 14.07.2022;

<sup>@</sup> amount in respect of appeals filed in ITATs by the Department as well as assesseees are not available.

<sup>#</sup> amount in respect of appeals filed in the Supreme Court by the assesseees not available

**1.10.4** Audit noted that though the number of appeals pending at the level of ITAT was made available to Audit by the CBDT, the amount locked corresponding to these appeals has not been made available to Audit in the last three FYs viz. 2018-19, 2019-20 and 2020-21.

**1.10.5** The CBDT vide their circular no. 17 of 2019 dated 8 August 2019 raised the monetary limit for filing appeals by the Department before ITAT, High Court and Supreme Court from ₹ 20 lakh to ₹ 50 lakh, ₹ 50 lakh to ₹ one crore and ₹ one crore to ₹ two crore respectively; the number of pending cases decreased by 17.9 *per cent* i.e. from 1.24 lakh cases in FY 2019-20 to 1.02 lakh in FY 2020-21.

## 1.11 Tax Evasion

**1.11.1** Search and Seizure<sup>24</sup> and Survey<sup>25</sup> are amongst the main evidence collecting mechanisms which are used in cases where credible information about tax evasion is in possession of the ITD. Table 1.24 below shows the details of search and seizure operations and surveys conducted and the undisclosed income admitted/detected during FY 2016-17 to FY 2020-21.

Financial Year	Number of groups searched	Undisclosed income admitted (in search & seizure)	Number of surveys conducted	Undisclosed income detected (in surveys)
				(₹ in crore)
2016-17	1,152	15,497	12,526	13,716
2017-18	577	15,913	13,487	9,634
2018-19	983	18,594	15,401	16,126
2019-20	984	10,370	12,720	22,244
2020-21	569	4,145	426	5,111

Source: Investigation Wing, CBDT;

**1.11.2** During FY 2020-21, undisclosed income admitted during search & seizure decreased by 60.0 *per cent* and undisclosed income detected during survey decreased by 77.0 *per cent* as compared to the respective figures in FY 2019-20.

## 1.12 Effectiveness of Internal Audit

**1.12.1** Internal Audit is an important part of the Departmental control that provides assurance that demands/refunds are processed accurately by the correct application of the provisions of the Act. The Internal Audit of ITD

<sup>24</sup> Search and Seizure is carried out under Section 132 of the Act to unearth any undisclosed income or valuables.

<sup>25</sup> Survey is carried out under Section 133A and 133B of the Act for collecting any information, which may be useful for ITD in deterring tax evasion.

completed audit of 1,22,179 cases in FY 2020-21 as against 1,62,509 cases audited in FY 2019-20.

**1.12.2** Table 1.25 below shows details of Internal Audit observations raised, settled and pending for the period of five years from FY 2016-17 to FY 2020-21.

Table 1.25: Details of Internal Audit observations								
Financial Year	Opening balance <sup>^</sup>		Addition		Settled		Pending	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
(₹ in crore)								
2016-17	19,405	12,283	12,972	2,451	11,256	3,352	21,121	11,382
2017-18	21,129	11,295	13,297	2,562	9,062	1,283	25,364	12,575
2018-19	25,408	12,602	16,975	3,147	11,847	4,334	30,536	11,415
2019-20	31,024	11,388	14,887	4,088	10,084	1,206	35,827	14,270
2020-21	36,054	14,038	11,173	7,262	8,957	2,946	38,270	18,354

Source: Directorate of Income Tax (Income Tax & Audit);

<sup>^</sup>Figures revised after verification by respective CsIT (Audit) subsequent to submission of quarterly statement for the quarter ending March

**1.12.3** Out of 10,700 major finding cases<sup>26</sup> raised by Internal Audit, the Assessing Officers (AOs) acted upon only 1,618 cases (15.1 per cent) in FY 2020-21 in comparison to 1,469 cases (16.0 per cent) out of 9,164 cases in FY 2019-20. Further, 38,270 cases involving an amount of ₹ 18,354 raised by Internal Audit were pending in FY 2020-21 with an increase of 28.6 per cent compared to the pending cases in FY 2019-20. Follow up of the internal audit observations by the AOs needs to be strengthened as pendency of total number of cases and amount involved is steadily increasing.

### 1.13 Tax Administration Process

**1.13.1** Tax Administration Process in the Income Tax Department involves allotment of permanent account number (PAN); filing of income tax returns (ITRs); processing of ITRs; scrutiny of ITRs; rectification of mistakes; income escaping assessments; revision of assessment orders; appeal process; determination of refund; generation of demand; collection of taxes; penalty and prosecution etc. Table 1.26 below gives details of the processes involved in the Income Tax Department. The flow chart in *Appendix-1.2* shows these processes.

Table 1.26 Tax Administration Process	
Permanent Account Number (PAN)	Every person <sup>27</sup> who is required to file an Income Tax Return (ITR) under the provisions of section 139A of the Income Tax Act, 1961 (the Act) and has not been allotted a Permanent Account Number shall apply to the ITD for allotment of a PAN.

26 The monetary limit of major Internal Audit objections has been raised from ₹ Two lakh to ₹ 10 lakh as per instruction no. 6 of 2017 dated 21.7.2017.

27 Company, Firm, Individual, HUF, Trusts, Association of Persons, Body of Individuals, Co-operative Societies, Local Authority, Artificial Juridical Person, Government Agency.

**Table 1.26 Tax Administration Process (Contd.)**

Return of income	Under Section 139 of the Act, every person being a company or a firm; or being a person other than a company or a firm, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form. CBDT has prescribed different forms of ITR for different categories of assessee. Assessee are required to file returns of income electronically [Rule 12(3) of the Income Tax Rules, 1962].
Summary processing {Section 143(1), 143(1A), 143(1B)}	Under Summary processing, ITRs are checked for arithmetical accuracy, internal consistency etc. Further, addition of income appearing in Form 26AS or Form 16A or Form-16 which has not been included in computing the total income in the return is also made. The summary processing takes place with the available data in the ITR and without calling for records and information from the assessee. Thus, summary processing is non-intrusive in nature. After processing, if there is any demand due from the assessee, it is intimated through demand notices. In case of excess payment of tax, refunds are issued through the Refund Banker Scheme, except in some exceptional cases wherein refund is allowed in manual mode.
Scrutiny Assessment	The ITRs filed by the assessee are selected for detailed scrutiny through Computer Aided Scrutiny Selection (CASS) and in some cases manually by the Assessing Officer as per CBDT guidelines. The Act provides for two types of regular scrutiny assessments: (a) Assessment under Section 143(3) after affording opportunity to the assessee and taking all relevant facts and responses of the assessee on record. (b) Assessment under Section 144 (Best Judgment Assessment) is framed when, despite notices, the assessee does not respond/file a response. In addition to the above, scrutiny of block assessments is conducted in cases of search cases (Section 153A/153C).  In scrutiny assessment, the Assessing Officer (AO) retrieves all records and information related to the assessee available with the ITD and additionally calls for records and Information from the assessee to satisfy himself that no income has been unaccounted and tax has been computed correctly.
Rectification of mistake	The Act also provide for subsequent rectification of assessment orders <i>suo-moto</i> or on the request of the assessee (Section 154).
Income escaping assessment	If the AO has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may assess or reassess such income and also any other income chargeable to tax which comes to his notice subsequently in the course of the reassessment subject to the provisions of the Act (Section 147).
Revision of orders	The Principal Commissioner of Income Tax may revise an assessment order under Section 263/264 if he considers any order passed by the AO is erroneous, subject to provisions of the Act.
Tax Deduction and Collection Account Number (TAN)	TAN or Tax Deduction and Collection Account Number is a 10-digit alpha numeric number required to be obtained under section 203(A) of the Act, by all persons who are responsible for deducting or collecting tax.

**Table 1.26 Tax Administration Process (Contd.)**

Pre-assessment Collection	Every assessee is required to assess his Income Tax liabilities and pay Advance Tax (section 207) and Self-Assessment Tax (Section 140A), subject to provisions of the Act. The Act also requires certain paying authorities to deduct a certain percentage of payment made to individuals or corporate etc. and deposit the same in the Government's account. Another way of collecting tax is through designated authorities called Tax Collected at Source (TCS) authorities who collect tax from certain individuals/ corporate getting certain contracts/lease rights from public authorities. The collection of Income Tax through these four mechanisms - Advance Tax, Self-Assessment Tax, TDS and TCS is called pre-assessment mode of tax collections.
Appeal Process	An aggrieved assessee can appeal to the Commissioner of Income Tax (Appeals) against the order of an AO. Further, appeal is also permitted to be made on questions of fact and law to the Income Tax Appellate Tribunal against the orders passed by appellate authorities. An appeal can be preferred to the High Court under Section 260A if any issue has not been considered or wrongly considered by the Appellate Tribunal and also to the Supreme Court under Section 261 in any case which the High Court certifies to be a fit one for appeal thereto.
Refund	Where the amount of tax paid exceeds the amount of tax payable, the assessee is entitled to a refund of the excess amount alongwith simple interest at the prescribed rate.
Recovery of tax arrears	On receipt of demand from the AO, the assessee is required to pay the demand within 30 days or any other time limit prescribed by the AO. If the recovery is not affected within a year of raising the demand, the AO is required to send the details of arrear cases to the Tax Recovery Officer (TRO) for drawing up of Tax Recovery Certificates (TRC).
Penalty and Prosecution	In order to ensure compliance of the provisions of the Act and to have a deterrent effect for violations, the Act provides for exhaustive procedures for the imposition of penalty and initiation of prosecution. The levy of many penal provisions is discretionary in nature and can be waived off by the competent authority.

### 1.13.2 Faceless Assessment Scheme

In order to avoid personal interaction between the taxpayer and the Department, which leads to certain undesirable practices on the part of tax officials, a scheme of Faceless Assessment in electronic mode involving no human interface has been launched in 2019 in a phased manner. As per this scheme, scrutiny is allocated to assessment units in a random manner and notices are issued electronically by a Central Cell, without disclosing the name, designation or location of the Assessing Officer. The Central Cell is the single point of contact between the taxpayer and the Department.

Consequent to the introduction of “Faceless Assessment”, adopted by CBDT under the “Faceless Assessment Scheme, 2019”, restructuring of the assessment charges and other functional wings of the ITD was carried out in FY 2020-21. Further details are mentioned in **Appendix-1.1**.

## Chapter II: Audit Mandate, Products and Impact

### 2.1 Authority of the CAG for audit of receipts

Article 149 of the Constitution of India provides that the Comptroller and Auditor General of India (CAG) shall exercise such powers and perform such duties in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law made by the Parliament. The Parliament passed the Comptroller and Auditor General's DPC Act (CAG's DPC Act) in 1971. Section 16 of the CAG's DPC Act authorises CAG to audit all receipts (both revenue and capital) of the Government of India and Governments of each State and Union Territory having a legislative assembly and to satisfy himself that the rules and procedures are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed. Regulations on Audit & Accounts (Amendments), 2020 lay down the broad framework for Receipt Audit.

### 2.2 Broad Framework of Audit of Receipts

**2.2.1** Audit of receipts includes an examination of the systems, rules and procedures and their efficacy in respect of:

- a. Assessment, collection and allocation of revenue by the tax department
- b. identification of potential tax assessees, ensuring compliance with laws as well as detection and prevention of tax evasion;
- c. exercise of discretionary powers in an appropriate manner including levy of penalties and initiation of prosecution;
- d. appropriate action to safeguard the interests of the Government on the orders passed by the departmental appellate authorities;
- e. any measures introduced to strengthen or improve revenue administration;
- f. amounts that may have fallen into arrears, maintenance of records of arrears, and action taken for the recovery of the arrears;
- g. pursuit of claims with due diligence and to ensure that these are not abandoned or reduced except with adequate justification and proper authority.

**2.2.2** To achieve the above, we examined the assessments completed by the Income Tax Department (ITD) in the financial year 2019-20. In addition, some assessments which were completed in earlier years were also taken up for audit examination.

**2.2.3** The ITD undertakes scrutiny assessments in respect of a sample of returns filed by the assessee as per the Income Tax Act, 1961. The income tax returns are selected for scrutiny through Computer Aided Scrutiny Selection (CASS) on the basis of parameters identified and pre-defined by the ITD. These cases are then closely examined in respect of claims of deductions, losses, exemptions etc. to arrive at the correct assessments to ensure that there is no evasion of taxes.

The CBDT under the Faceless Assessment<sup>28</sup> Scheme 2019, has set up w.e.f. August 2020 various units with pre-determined roles (further amended as the Faceless Assessment (1st Amendment) Scheme, 2021) viz., National e-Assessment Centre (NeAC), Regional e-assessment Centres (ReACs), Assessment Units (AUs), Verification Units (VUs), Technical Units (TUs) and Review Units (RUs). The details of the Faceless Assessment Scheme are given in Appendix 1.

Post implementation of the Income Tax Business Application (ITBA), the ITD System undertakes calculation of tax, calculation of interest under various sections of the Act, time barring checks, etc. In the case of scrutiny assessments, rectification, appeal effect orders, figures are data-fed to the system by the AOs based on the orders, even after the implementation of Faceless assessment. The payments made by an assessee in respect of TDS/TCS and advance tax etc. are auto populated from the Form 26AS application and OLTAS application respectively.

Under Faceless Assessment, the assessee is given an opportunity to substantiate the claim(s), if any with evidence, failing which the National e-Assessment Centre (NeAC) makes the assessment as deemed appropriate. The work of processing, completion and rectification of assessment order in respect of scrutiny cases is done by the NeAC in ITBA.

On the basis of examination of scrutiny assessment cases, Audit noticed that despite irregularities of certain types being pointed out repeatedly in earlier audit reports, there are continued occurrences of these irregularities in following the tax laws and instructions and directives of the CBDT during scrutiny assessments completed by the AOs, raising questions about the efficiency of tax administration despite implementation of ITBA. Some of these cases are discussed in the subsequent paragraphs.

**2.2.4** A total of 545.89 lakh returns were filed during FY 2019-20<sup>29</sup>. In the same FY, the ITD completed 1,54,546 scrutiny assessments in those units which were audited during the audit plan of FY 2020-21. Out of the 1,54,546

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28 "Faceless Assessment", adopted by CBDT under the "Faceless Assessment Scheme, 2019" on 13 August 2020, by amending the E-assessment Scheme, 2019 already published vide notification dated 12th September 2019 of Central Board of Direct Taxes.

29 Total number of returns filed during FY 2018-19 were 444.0 lakh.

scrutiny assessments, the ITD produced 1,48,256 assessment cases. During FY 2020-21, ITD also produced 16,554 cases out of 37,516 cases of scrutiny assessments completed in financial years prior to 2019-20. In scrutiny assessments audited during 2020-21, Audit noticed 10,592 mistakes in 9,839 assessment orders. The incidence of errors in the assessments checked in Audit during FY 2020-21 was 5.97 *per cent*. Out of the cases of scrutiny assessments audited by us, Internal Audit of ITD had checked 11,194 cases. As we have seen only a limited number of assessment cases/records as per our sample, the Ministry needs to verify this in entirety and not only in the cases of the sample.

**2.2.5** State-wise incidence of errors in assessments are given in *Appendix-2.1*. Table 2.1 below shows details of four States: Tamil Nadu, Andhra Pradesh, West Bengal and Delhi with the highest percentage of assessments with errors noticed in Audit where more than 10,000 assessments were checked in Audit during FY 2020-21.

**Table 2.1: Details of four States with highest incidence or assessments with errors where more than 10,000 assessments were checked**

State	Assessments (in number)			Total revenue effect of the audit observations (₹ in crore)	Percentage of assessments with errors (%)
	completed in units selected for Audit during 2020-21	checked in Audit during 2020-21	With errors		
Tamil Nadu	18,096	14,861	1,687	4,059.02	11.35
Andhra Pradesh	16,415	15,918	1,281	3,957.37	8.05
West Bengal	21,274	20,245	1,024	2,618.88	5.06
Delhi	47,791	46,933	1,752	5,164.16	3.73

Tamil Nadu (11.35 *per cent*) has the highest percentage of assessments with errors followed by Andhra Pradesh (8.05 *per cent*). The ITD needs to take corrective action in respect of errors noticed by Audit in the assessments.

**2.2.6** Table 2.2 presents a summary of observations noticed in local audit during FY 2020-21.

**Table 2.2: Tax-wise details of observations in assessments** (₹ in crore)

Category	No. of Observations	Tax effect (TE)
Corporation tax (CT)	5,280	22,287.45 <sup>30</sup>
Income tax (IT)	5,291	5,602.35 <sup>31</sup>
Other Direct taxes (ODT) i.e. Wealth Tax	21	0.43
<b>Total</b>	<b>10,592</b>	<b>27,890.23</b>

Note: The above findings and all subsequent findings are based exclusively on audit of selected assessments.

30 Includes 194 cases of over assessment with tax effect of ₹ 1,353.37 crore.

31 Includes 249 cases of over assessment with tax effect of ₹ 266.22 crore.

**2.2.7** Table 2.3 below shows the category-wise details of observations related to underassessment in respect of Corporation Tax and the Income Tax. *Appendix-2.2* indicates details in respect of sub-categories under these categories.

<b>Category</b>	<b>No. of Observations</b>	<b>Tax effect (₹ in crore)</b>
Quality of assessments	4,614	6,928.65
Administration of tax concessions/exemptions/deductions	2,140	8,677.79
Income escaping assessments due to omissions	889	2,363.29
Others	2,540	8,331.64
<b>Total</b>	<b>10,183</b>	<b>26,301.37</b>

### **2.3 Persistent and pervasive irregularities in respect of Corporation Tax and Income Tax assessments cases**

The instances of non-compliance and irregularities noticed during audit examination of assessment cases completed by the Income Tax Department (ITD) are brought out in our Compliance Audit Report – Department of Revenue -Direct Taxes every year. An irregularity may be considered persistent if it occurs year after year. It becomes pervasive, when it affects the entire system and is distributed over many assessment jurisdictions. We have been pointing out various irregularities with respect to assessment of the corporation and the income tax cases in the Compliance Audit Reports year after year, and some of these irregularities seem to be both persistent and pervasive including those relating to:

- (i) Irregularities in allowing depreciation/ business losses/ capital losses etc.,
- (ii) Incorrect allowance of business expenditure,
- (iii) Excess or irregular refunds/interest on refunds, and
- (iv) Mistakes under special provisions including MAT/AMT/Tonnage Tax etc.

Recurrence of irregularities, despite being pointed out repeatedly in audit reports and even after implementation of ITBA, is not only indicative of lack of seriousness on the part of the Department in instituting appropriate controls in the systems to prevent recurrence of such repetitive mistakes especially after implementation of ITBA. It also points to lack of effective monitoring and absence of an effective institutional mechanism to respond to the systematic and structural weaknesses leading to leakage of revenue. The audit

observations included in the Compliance Audit Report<sup>32</sup> during the years 2018-19, 2019-20 and 2020-21 alongwith the Audit Paras issued to the Ministry during 2021-22 were analysed to examine the persistence and pervasiveness of mistakes. Though the irregularities noticed in different States showed no distinctive pattern of occurrences among the States, they were occurring more frequently in some States than others. In respect of Corporation Tax, their occurrence and tax effect were seen to be consistently high in Delhi with 79 observations involving tax effect of ₹ 5,041.71 crore out of total tax effect of ₹ 7,788.98 crore noticed and in respect of Income Tax, their occurrence were seen to be consistently high in Delhi with 31 observations whereas tax effect was seen to be high in Maharashtra with a tax effect of ₹ 109.75 crore, as indicated in Table 2.4 below:-

Table 2.4: Total No. of Audit Observations with tax effect		
Category	Total no. of Audit Observations	Total Tax Effect (₹ in crore)
Corporation Tax	319	7,788.98
Income Tax	148	624.12
<b>Total</b>	<b>467</b>	<b>8,413.10</b>

A profile of such irregularities reported in the above mentioned categories are discussed below.

### 2.3.1 Administration of tax concessions/exemptions/deductions – Irregularities in allowing depreciation/business losses/capital losses etc.

We noticed irregularities related to incorrect allowance and set-off of business losses, capital losses and unabsorbed depreciation, incorrect allowance of depreciation etc. The nature of such mistakes included:

- (i) incorrect allowance of set-off of brought forward business losses and unabsorbed depreciation where no loss in respect of earlier assessment years was available,
- (ii) adoption of incorrect figures viz. earlier years' business loss adopted as returned loss in the current assessment year,
- (iii) incorrect allowance of carry forward of business loss although Income Tax Return for the said assessment year was filed after the due date of filing of return,
- (iv) double deduction on account of depreciation etc.

Such irregularities occurred due to non-correlation of assessment records which indicates failure of the assessing officers in applying due diligence and to comply with the law. Mistakes noticed in allowance of depreciation/

32 C&AG Compliance Audit Report (Union Government – Department of Revenue – Direct Taxes) 9 of 2019 (for the year ended March 2018), 11 of 2020 (for the year ended March 2019) and 8 of 2021 (for the year ended March 2020).

business losses/capital losses etc. during 2017-18 to 2019-20, as brought out in the Compliance Audit Reports of past three years along with findings of the current year Audit Report (2020-21) are summarized in Table 2.5 below.

Table 2.5: Mistakes noticed in allowing depreciation/ business losses/ capital losses etc. (₹ in crore)								
Assessment	Audit Report for the year ended							
	March 2018		March 2019		March 2020		March 2021	
	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect
CT	66 <sup>33</sup>	1,796.86	75 <sup>34</sup>	2,655.15	87 <sup>35</sup>	1,017.28	54	392.05
IT	7 <sup>36</sup>	9.19	14 <sup>37</sup>	21.30	11 <sup>38</sup>	27.83	3	2.32

During 2017-18, non-compliance on this account was found to be the highest in Maharashtra at 58 *per cent* of the total tax effect of Audit Paragraphs issued to the Ministry on Corporation Tax related to incorrect allowance of depreciation/business losses/capital losses etc. During 2018-19, it was found the highest in Bihar (38.6 *per cent*) followed by Maharashtra (34 *per cent*). During 2019-20, irregularities on this account were found to be the highest in Karnataka (30.3 *per cent*) followed by Mumbai (26.19 *per cent*) and during 2020-21, these irregularities noticed were highest in Maharashtra (28.8 *per cent*) followed by Delhi (25.3 *per cent*).

In respect of Income Tax, such irregularities were found to be the highest in Maharashtra at 67 *per cent* of the total tax effect of Audit Paragraphs issued to the Ministry related to incorrect allowance of depreciation/business losses/capital losses etc. during 2017-18. During 2018-19, the tax effect on this account was found the highest in Bihar (30 *per cent*) whereas during 2019-20 it was highest in Karnataka (44.25 *per cent*). During 2020-21, these irregularities were highest in Gujarat (94.12 *per cent*).

### 2.3.2 Administration of tax concessions/exemptions/deductions - Incorrect allowance of business expenditure

We noticed irregularities related to incorrect allowance of ineligible claims of business expenditure viz. capital expenditure, unpaid claims and provisions deemed as unascertained liability etc. Mistakes in incorrect allowance of expenditure noticed during 2017-18 to 2019-20, as brought out in the

33 Andhra Pradesh & Telangana, Assam, Delhi, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Tamil Nadu, UT Chandigarh, Uttar Pradesh and West Bengal.

34 Andhra Pradesh & Telangana, Bihar, Delhi, Gujarat, Madhya Pradesh, Karnataka & Goa, Kerala, Maharashtra, Odisha, Rajasthan, Tamil Nadu and West Bengal.

35 Andhra Pradesh & Telangana, Assam, Bihar, Delhi, Gujarat, Madhya Pradesh, Punjab, Karnataka, Kerala, Maharashtra, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal.

36 Bihar, Delhi, Gujarat, Maharashtra, Rajasthan and West Bengal.

37 Andhra Pradesh & Telangana, Bihar, Delhi, Jharkhand, Madhya Pradesh, Kerala, Maharashtra, Rajasthan, Punjab and West Bengal.

38 Delhi, Madhya Pradesh, Karnataka, Maharashtra, Rajasthan, Odisha and Tamil Nadu

Compliance Audit Reports of the past three years along with findings of the current year Audit Report (2020-21) are summarised in the Table 2.6 below.

Assessment	Audit Report for the year ended							
	March 2018		March 2019		March 2020		March 2021	
	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect
CT	48 <sup>39</sup>	875.47	49 <sup>40</sup>	764.39	40 <sup>41</sup>	187.75	49	617.86
IT	Nil	Nil	Nil	Nil	Nil	Nil	7	9.33

During 2017-18, such irregularities were the highest in Maharashtra at 60 *per cent* followed by Tamil Nadu at 28 *per cent* of the total tax effect of Audit Paragraphs issued to the Ministry on Corporation Tax related to incorrect allowance of business expenditure. During 2018-19, non-compliance on this account was found the highest in Maharashtra (47 *per cent*); whereas in 2019-20 such non-compliance was highest in Andhra Pradesh & Telangana (32.3 *per cent*) followed by Delhi (20.3 *per cent*). During 2020-21, irregularities on this account were the highest in Maharashtra (41.1 *per cent*) followed by West Bengal (28.2 *per cent*).

During 2020-21, in respect of Income Tax, such irregularities were found to be the highest in Maharashtra (65.3 *per cent*) followed by Punjab (17.2 *per cent*).

### 2.3.3 Quality of Assessments – Excess or irregular refunds/interest on refunds

We noticed irregularities emanating from excess or irregular refunds or interest on refunds caused by computing errors, not considering the refund already issued/adjusted, excess computation of interest on refund, etc. Mistakes noticed in this category during 2017-18 to 2019-20, as brought out in the Compliance Audit Reports of the past three years along with findings of the current year Audit Report (2020-21) are summarised in the Table 2.7 below:

Assessment	Audit Report for the year ended							
	March 2018		March 2019		March 2020		March 2021	
	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect
CT	4 <sup>42</sup>	30.98	5 <sup>43</sup>	1,114.29	6 <sup>44</sup>	24.08	1	7.36
IT	NIL	NIL	NIL	NIL	NIL	NIL	2	5.28

39 Andhra Pradesh & Telangana, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Maharashtra, Odisha, Rajasthan, Tamil Nadu and West Bengal.

40 Andhra Pradesh & Telangana, Bihar, Delhi, Gujarat, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Maharashtra, Odisha, Tamil Nadu and West Bengal.

41 Andhra Pradesh & Telangana, Bihar, Delhi, Gujarat, Haryana, Jharkhand, Maharashtra, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal.

42 Maharashtra.

43 Karnataka and Maharashtra.

44 Maharashtra, Karnataka and West Bengal.

During 2017-18, such irregularities<sup>45</sup> were noticed only in Maharashtra in respect of Audit Paragraphs issued to the Ministry on Corporation Tax related to excess or irregular refunds/interest on refunds whereas in 2018-19 it was found highest in Karnataka (99.6 per cent). During 2019-20, it was found highest in Karnataka (56 per cent) followed by Maharashtra (32.3 per cent). During 2020-21, this irregularity was noticed only in Delhi.

During 2020-21, in respect of Income Tax, such irregularities were found to be the highest in Delhi (87.3 per cent).

#### 2.3.4 Income escaping assessment due to omissions – Mistakes under special provisions including MAT/AMT/<sup>46</sup>Tonnage Tax etc.

We noticed irregularities related to mistakes in levying tax under special provisions of the Act due to:

- (i) mistakes in computation of book profit,
- (ii) not considering the expenditure disallowed under normal provisions for computing book profit,
- (iii) not considering the specified expenditure for computing book profit,
- (iv) tax levied under normal provisions instead of special provisions, etc.

Mistakes noticed under special provisions of the Act noticed during 2017-18 to 2019-20, as brought out in the Compliance Audit Reports of the past three years along with findings of the current year Audit Report (2020-21) are summarised in the Table 2.8 below:

Assessment	Audit Report for the year ended							
	March 2018		March 2019		March 2020		March 2021	
	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect
CT	28 <sup>47</sup>	100.43	22 <sup>48</sup>	447.85	8 <sup>49</sup>	234.18	10	70.18
IT	1 <sup>50</sup>	0.22	2 <sup>51</sup>	1.26	0	0	2	5.36

45 Wherever significance is mentioned, it is only with reference to the total tax effect and not in relation to the number of cases.

46 MAT stands for Minimum Alternate Tax and AMT stands for Alternate Minimum Tax. MAT is applicable for companies whereas AMT is applicable to all other taxpayers.

47 Andhra Pradesh & Telangana, Delhi, Gujarat, Karnataka, Maharashtra, Odisha, Rajasthan, Tamil Nadu, West Bengal.

48 Andhra Pradesh & Telangana, Delhi, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu and West Bengal.

49 Delhi, Gujarat, Maharashtra and Tamil Nadu.

50 Jammu & Kashmir

51 Assam and Tamil Nadu

During 2017-18, non-compliance on this account was found to be the highest<sup>52</sup> in Maharashtra at 48 *per cent* in respect of Corporation Tax and Karnataka at 13 *per cent* in respect of Income Tax of the total tax effect of Audit Paragraphs related to mistakes noticed under the special provisions including MAT/AMT/Tonnage Tax etc. issued to the Ministry on Corporation Tax and Income Tax respectively. In 2018-19 and 2019-20, non-compliance was the highest in Delhi at 68.8 *per cent* and at 92.4 *per cent* respectively in respect of Corporation Tax. During 2020-21, these irregularities were highest in Maharashtra (54.50 *per cent*) in respect of Corporation Tax and Karnataka (100 *per cent*) in respect of Income Tax.

#### **Conclusion and Recommendation:**

Non-compliance to tax laws and instructions and directives of CBDT is one of the major risk areas affecting the efficiency of tax administration. In order to improve the same, the departmental systems and processes have been computerised over the years for efficient processing and improved compliance at all stages of assessment. ITD selects cases through Computer Aided Scrutiny Selection (CASS) on the basis of pre-defined parameters for detailed scrutiny to be done by AO. However, as seen from the above analysis, risk of non-compliance still exists in the above areas as indicated by the continuing occurrence of the similar types of irregularities over time, despite these being pointed out by audit from year to year.

- i) The CBDT may consider reviewing the requirement for assessing the effectiveness of recent changes implemented to make the IT system more accountable for minimising repetition of similar or identical errors.***
- ii) The CBDT may consider monitoring the existing institutional mechanism to identify systematic and structural weaknesses and risk of revenue leakages, if any.***
- iii) The CBDT may consider instituting appropriate controls in the system to prevent recurrence of such errors especially after implementation of ITBA.***

## **2.4 Audit products and response to audit**

**2.4.1** We elicit response from the audited entities at different stages of Audit. As per provision of Regulation 136<sup>53</sup> at the close of Audit, we issue the local audit report (LAR) to ITD for comments.

**2.4.2** Table 2.9 below depicts the position of number of observations included in the LAR issued during FY 2018-19 to FY 2020-21 and replies

<sup>52</sup> Wherever significance is mentioned, it is only with reference to the total tax effect and not the number of cases.

<sup>53</sup> Earlier 193 of Regulations of Audit and Accounts, 2007

received thereto and observations accepted (as on 31 March of respective financial year).

Financial Year	Observations raised	Reply received		Reply not received	Percentage of Observations accepted	Percentage of reply not received
		Observations Accepted	Observations not accepted			
2018-19	21,533	3,357	2,743	15,433	55.02	71.67
2019-20	16,330	2,412	3,252	10,666	42.58	65.32
2020-21	11,066	1,931 <sup>54</sup>	1,659	7,423	55.60	67.08

From the above table, it can be seen that percentage of replies not received decreased from 71.67 per cent in 2018-19 to 67.08 per cent in 2020-21 which was a slight increase from 65.32 per cent noticed in 2019-20.

**2.4.3** Table 2.10 below shows the position of pending observations.

Period	CT		IT		ODT		Total	
	No.	TE	No.	TE	No.	TE	No.	TE
March 2019	23,517	95,564.05	21,459	19,676.08	1,420	1,080.19	46,396	1,16,320.32
March 2020	5,358	28,747.38	7,920	3,002.77	226	13.38	13,504	31,763.53
March 2021	1,513 <sup>55</sup>	4,821.29	1,288	925.03	8	0.00	2,809	5,746.33
<b>Total</b>	<b>30,388</b>	<b>1,29,132.72</b>	<b>30,667</b>	<b>23,603.88</b>	<b>1,654</b>	<b>1,093.57</b>	<b>62,709</b>	<b>1,53,830.18</b>

The accretion in pendency in replies to audit findings each year has resulted in accumulation of 62,709 cases involving revenue effect of ₹ 1,53,830.18 crore as of 31 March 2021.

Chapter 12<sup>56</sup> of the Regulations on Audit & Accounts (Amendments), 2020 lays down the broad framework for follow-up action on pending audit observations and for the establishment of system and procedures to ensure adequate, constructive and timely action on audit observations and recommendations communicated by audit and establishment of audit committees for monitoring and ensuring compliance and settlement of pending audit observations. The Department's efforts to ensure that replies to Audit are sent in the prescribed period have not been satisfactory. The CBDT needs to ensure that timely action is taken on Audit observations and reply to Audit to avoid the risk of cases

54 787 Observations accepted and remedial action taken; 1,144 Observations accepted but remedial action not taken

55 Observations become pending after six months of issue of the observations

56 **Regulation 141.** Maintenance of record of audit observations and recommendations by audit and auditable entity and adequate oversight by the Government

**Regulation 143.** Follow up action on systemic faults or high risks pointed out by Audit

**Regulation 144.** Intimation of follow up action taken by the department

**Regulation 145.** Establishment of audit committees and their constitution

**Regulation 149.** Preparation of action taken note for submission to PAC

**Regulation 150.** Vetting of action taken notes and responses on the recommendations of PAC/COPU by Accountant General (Audit)

**Regulation 151.** Duty of Government for systems and procedures to ensure timely response

becoming time-barred for taking remedial action to protect the interest of revenue in these cases.

**2.4.4** We issue significant and high value cases noticed in Audit to the Ministry for comments before inclusion in the Audit Report as per provision of Regulations 137 to 139<sup>57</sup>. We give six weeks to the Ministry to offer their comments on cases issued to them before their inclusion in the Audit Report. We have covered 467 high value cases in Chapter III and IV of this Report, out of which replies were received for 315 cases as on 31<sup>st</sup> July 2022, of which, the Ministry/ITD accepted 305 cases<sup>58</sup> (96.82 *per cent*) having tax effect of ₹ 6,440.9 crore (98.22 *per cent*) while it did not accept 10 cases<sup>59</sup> having tax effect of ₹ 116.26 crore. Replies to the remaining 152 cases having tax effect of ₹ 1,855.94 crore were not received (July 2022). Table 2.11 shows category-wise details of these cases<sup>60</sup>.

Category	CT		IT		Total	
	No.	TE	No.	TE	No.	TE
Quality of assessments	124	5,261.29	108	437.8	232	5,699.09
Administration of tax concessions/exemptions/ deductions	126	1,611.75	17	27.71	143	1,639.46
Income escaping assessments due to omissions	51	571.62	18	48.48	69	620.10
Overcharge of tax/ interest	18	344.32	5	110.13	23	454.45
<b>Total</b>	<b>319</b>	<b>7,788.98</b>	<b>148</b>	<b>624.12</b>	<b>467</b>	<b>8,413.10</b>

**2.4.5** Chapters III and IV bring out details of errors in assessments in respect of the Corporation Tax and the Income Tax respectively.

## **2.5 Audit impact - Amendments at the instance of Audit**

We analyse the impact of Audit resulting into amendments to the Income Tax Act and Rules framed thereunder, based on our observations/recommendations. During FY 2017-18, FY 2019-20 and FY 2020-21, Performance Audit Report viz. Report No. 27 of 2017 – ‘Assessment of Private Hospitals, Nursing Homes/Medical Clinics, Medical Colleges/Research Institutes, Diagnostic Centres, Pathological labs and other Medical supplies agencies/

57 Earlier Regulations 205 to 209, now **Regulation 137**. Communication of draft audit report/draft paragraph to Government and discussion thereon. **Regulation 138**. Reply to draft audit report/ draft paragraph by Government. **Regulation 139**. Communication of finalised paragraphs for inclusion in audit report

58 Ministry -70 cases; ITD -235 cases

59 ITD - 10 cases

60 Sub -categories-wise details are given in Appendix-2.3

stores', Report No. 1 of 2019 - PA on Assessment of Assesseees in Entertainment Sector and Report No. 14 of 2020 – PA on Search and Seizure Assessments in ITD were placed in the Parliament respectively. The following paragraphs 2.5.2 to 2.5.12 describe the impact of Audit.

**2.5.1 Report No. 27 of 2017 - 'Assessment of Private Hospitals, Nursing Homes/Medical Clinics, Medical Colleges/Research Institutes, Diagnostic Centres, Pathological labs and other Medical supplies agencies/stores'**- Audit examination of a sample of stand-alone hospitals in Maharashtra revealed that 80G certificates were available only in 10 per cent of cases. In the absence of Section 80G certificates, it was not clear as to how the Assessing Officers cross-verified the donation receipts vis-à-vis the claims. There was no provision in the ITD module to enable validation of section 80G certificates by Assessing Officers, as is done in the case of TDS certificates under TRACES. Audit recommended that the CBDT may consider the possibility of introducing automated generation of 80G certificates above a certain threshold.

**2.5.2** Addressing the issue, Rule 18AB of the Income-tax Rules, 1962, was notified vide Notification No 19 of 2021 dated 26.03.2021, inter-alia providing that a statement of donation in Form 10BD is required to be filed by a donee, approved under sub-section (5) of section 80G of the Act and the certificate of donation is required to be provided to the donor in Form 10BE.

**2.5.3** Further, new provisions inserted in Section 80G(2)(vii), 80G(2)(ix) and Section 35(1A) vide Finance Act, 2020, with effect from 01.04.2021, wherein, deduction under section 80G/35 to a donor shall be allowed only if a statement is furnished by the donee who shall be required to furnish a statement in respect of donations received and in the event of failure to do so, fee and penalty shall be levied. Further, entities registered under Section 12AA or referred to under clause (23C) of section 10 which receives donation eligible for deduction under sub-section (5) of section 80G of the Act will also be required to furnish Form 10BD and provide a certificate of donation to the donor in Form 10BE.

**2.5.4 Overlapping nature of section 10(23C) and section 11 of Income Tax Act-** Audit noticed instances, where Assessing Officers allowed exemption under one section while disallowing exemption on the grounds of existence of profit motive under another.

**2.5.5** In a move to address the issue, First and second provisos to sub-section (7) of section 11 of the Act were inserted by Finance Act (No. 12), 2020, with effect from 01.06.2020. In the first proviso, it is provided that registration for purposes of availing exemption under section 11 shall become inoperative from the date on which the trust or institution is approved under clause (23C)

of section 10 or is notified under clause (46) of the said section, as the case may be, or the date on which the proviso has come into force, whichever is later. In the second proviso, it is provided that the trust or, institution, whose registration has become inoperative under the first proviso, may apply to get its registration operative subject to the condition that on doing so, the approval under clause (23C) of section 10 or notification under clause (46) of the said section shall cease to have any effect from the date on which the registration for purposes of availing exemption under section 11 becomes operative. Thereafter, it shall not be entitled to exemption under clause (23C) or clause (46) of section 10 of the Act.

**2.5.6 Report No. 1 of 2019 - PA on Assessment of Assesseees in Entertainment Sector** - Audit examination revealed that the assessee had received an advance against movies under production but the tax was not deducted at source by the payer due to absence of provision of TDS on purchase of distribution rights of movies under production. The assessee had not filed the Income Tax Return and assessment was completed in best judgement manner. Audit noticed that AO considered those receipts for taxation which were reflected in Form 26AS. Therefore, the said receipt was not taxed as it was not reflected in the 26AS of the assessee. Audit pointed out that the distribution /production of movie had not been included within the ambit of work for the purpose of deduction of tax at source under Section 194C.

**2.5.7** In a move to address the issue, the Ministry vide Finance Act 2020 modified the definition of Royalty in Section 9 of the Income Tax Act, 1961 to include consideration for the sale, distribution or exhibition of cinematographic films. Accordingly, tax under Section 194J will be deducted for the aforesaid payments and details will be reflected in Form 26AS.

**2.5.8 Report No. 14 of 2020 - PA on Search and Seizure Assessments in ITD –** Audit examination of sample cases revealed that, in the absence of specific provision for prohibiting set off of loss of regular assessment against undisclosed income in amended section 153A/153C of the Act, AO allowed set off/adjustment of losses of regular assessment against the undisclosed income detected during search. Audit recommended that the CBDT may introduce suitable provision for not allowing set off of losses of previous years/earlier years assessed in regular assessments against the undisclosed income detected during search and seizure.

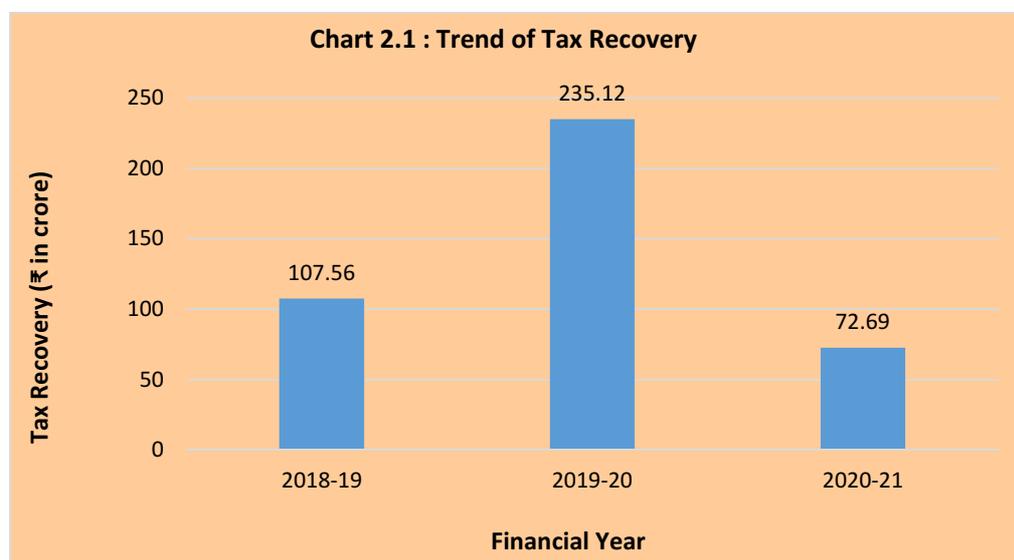
**2.5.9** In a move to address the issue, Finance Act 2022 has introduced a new Section 79A in the Income Tax Act 1961 with effect from 01/04/2022. As per Section 79A, set off of losses of earlier years against the undisclosed income detected during searches and surveys shall not be allowed.

**2.5.10** Audit examination of sample cases revealed that Assessing Officers issued notices under Section 153A/153C of the Act to the assessee after periods ranging from five months to 21 months from the end of the previous year in which search was conducted. Further, in some cases, notice under Section 153C of the Act was issued just before four days from the date of completion of assessment. Thus, there were considerable delays in issue of notices. As a result, the time left for completion of assessment was not enough for in depth examination of all the issues pointed out during search operations and also having the risk of human error, which could eventually affect the quality of search assessments. Audit recommended that the CBDT may introduce a time limit for issuing notices under amended Section 153A/153C of the Act.

**2.5.11** In a move to address the issue, Finance Act 2021 has amended the Section 153A/153C of the Income Tax Act, 1961. After amendment, Section 153A/153C would not be applicable in cases where search under Section 132 is initiated or requisition under Section 132A has been made on or after 1st day of April 2021.

## 2.6 Recovery at the instance of audit

ITD recovered ₹ 415.37 crore in the last three years (Chart 2.1) from the demands raised to rectify the errors in assessments that we pointed out. This includes ₹ 72.69 crore recovered in FY 2020-21 which has decreased drastically when compared to the last two years.



## 2.7 Time barred cases

**2.7.1** As per the amended provision under section 148 of the IT Act, the assessment can be reopened up to three years from the end of the relevant Assessment Year which can be further extended upto 10 years, if the Assessing Officer has in his possession, books of accounts or other documents or evidence

which reveal that the income chargeable to tax, represented in the form of assets, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year.

**2.7.2** Table 2.12 below shows the details of time-barred cases<sup>61</sup> during FY 2018-19 to 2020-21.

Table 2.12: Details of time-barred cases		
Year of Report	Cases	Tax effect (₹ in crore)
2018-19	1,961	2,237.05
2019-20	1,304	917.37
2020-21	3,754	6,189.11

**2.7.3** During FY 2020-21, 3,754 cases with tax effect of ₹ 6,189.11 crore became time-barred for remedial action, of which Andhra Pradesh & Telangana alone account for 36.59 per cent of this tax effect followed by West Bengal at 27.95 per cent. Appendix-2.4 indicates state-wise details of such cases for FY 2020-21.

#### Conclusion and Recommendation:

Delay in taking the remedial action in a timely manner indicates huge revenue loss to the exchequer as the probability of recovering the outstanding demand would be remote.

***The Department may assess/review these cases and consider issuing instructions/guidelines to ensure that the remedial action is taken in a timely manner so that such incidences do not recur in future.***

## 2.8 Non-production of records

**2.8.1** We scrutinize assessment records under Section 16 of the C&AG's (DPC) Act, 1971 with a view to securing an effective check on the assessment and collection of taxes and examining that regulations and procedures are being duly observed. It is also incumbent on ITD to expeditiously produce records and furnish relevant information to Audit.

**2.8.2** ITD did not produce 11,946 records out of 1,80,627<sup>62</sup> records requisitioned during FY 2020-21 (6.61 per cent) which is a slight improvement over the FY 2019-20 (6.92 per cent). Non-production of records has increased significantly in Maharashtra (from 3.79 per cent to 18.33 per cent) and Jharkhand during FY 2020-21 (from 0.85 per cent to 8.27 per cent) over previous year. Appendix 2.5 shows the details of non-production of records during FY 2018-19 to FY 2020-21.

61 As per the amended provisions of section 148/149 vide Finance Act, 2021.

62 Includes 10,135 records not produced in earlier years and requisitioned again during current audit cycle

Table 2.13 shows details of records not produced to audit pertaining to the same assessees in three or more consecutive audit cycles ending in FY 2020-21.

<b>Table 2.13: Records not produced to Audit in three or more audit cycles</b>	
<b>States</b>	<b>Records not produced</b>
a. Odisha	6

## Chapter III: Corporation Tax

### 3.1 Introduction

**3.1.1** This chapter discusses 319 high value corporate cases (refer para 2.3) involving 316 assessments and total tax impact of ₹ 7788.98 crore<sup>63</sup> which were referred to the Ministry during September 2021 to July 2022. The Ministry/the ITD accepted 165 cases involving tax effect of ₹ 5845.39 crore and did not accept eight cases involving tax effect of ₹ 114.73 crore. However, out of 319 cases, the ITD has completed remedial action in 183 cases involving tax effect of ₹ 6506.10 crore and initiated remedial action in 27 cases involving tax effect of ₹ 345.34 crore. In the remaining 109 cases, the ITD had not taken/initiated any action as on July 2022.

**3.1.2** The categories of errors can be broadly classified as follows:

- Quality of assessments
- Administration of tax concessions/ exemptions/ deductions
- Income escaping assessments due to omissions
- Others – Overcharge of tax/ Interest etc.

The subsequent paragraphs give a few illustrations of each category of the above mentioned errors.

### 3.2 Quality of assessments

**3.2.1** In certain cases, the Assessing Officers (AOs) committed errors in the assessments, ignoring clear provisions of the Act. These cases of incorrect assessments point to continuing weaknesses in the internal controls on the part of the ITD which need to be addressed on priority. The cases of incorrect assessments involving arithmetical errors in computation of income and tax are difficult to accept as mere errors, in the days of calculators and IT Systems. Further, application of incorrect rates of tax and surcharge, mistakes in levy of interest under Sections 220(2), 234A, 234B, 234C and 234D, excess or irregular refunds etc. point to significant deficiencies in the performance of the Assessing Officers, as well as weaknesses in the internal controls and IT Systems in the ITD which need to be addressed. The ITD may ascertain whether the instances of irregularities noticed are errors of omission or commission while ensuring necessary action as per law in cases involving errors of commission. Table 3.1 below shows the details of sub-categories of mistakes (refer para 2.3) which impacted the quality of assessments.

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63 Includes overcharge of ₹ 344.32 crore.

Table 3.1: Sub-categories of mistakes under Quality of assessments			
Sub-categories	Cases	Tax effect	States
(₹ in crore)			
a. Arithmetical errors in computation of income and tax	38	4,761.37	Delhi, Gujarat, Himachal Pradesh, Karnataka, Maharashtra, Odisha, Punjab, Telangana, Uttar Pradesh and West Bengal.
b. Application of incorrect rate of tax and surcharge	17	68.96	Delhi, Gujarat, Madhya Pradesh, Odisha, Tamil Nadu and Telangana.
c. Errors in levy of interest	64	378.11	Delhi, Gujarat, Haryana, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Punjab, Tamil Nadu, Telangana, Uttar Pradesh and West Bengal.
d. Excess or irregular refunds/interest on refunds	1	7.36	Delhi
e. Errors in assessment while giving effect to appellate order	4	45.49	Delhi, Karnataka and Maharashtra.
<b>Total</b>	<b>124</b>	<b>5,261.29</b>	

### 3.2.2 Arithmetical errors in computation of income and tax

We noticed arithmetical errors in computation of income and tax in 38 cases involving tax effect of ₹ 4,761.37 crore in 10 States. We give below five such illustrative cases:

*As per Section 143(3) of the Act, AOs are required to make correct assessment of the total income or loss of the assessee and determine the correct amount of tax payable by the assessee.*

**Case I CIT Charge : CIT(Central-3), Delhi**  
**Assessee Name : M/s P1 Ltd.**  
**Assessment Year : 2011-12**

The AO, while computing the tax liability of the assessee in December 2018 after reassessment under Section 147<sup>64</sup>/143(3) of the Act, adopted ₹ 110.40 crore in the tax computation form instead of correct figure of ₹ 7,995.06 crore. The error resulted in under assessment of income by ₹ 7,884.66 crore involving short levy of tax of ₹ 2,619.09 crore including surcharge and cess. Further, interest of ₹ 52.40 crore under Section 234A(3) was not levied for delayed response to the notices. Also, the assessee was liable to pay interest of ₹ 1,776.89 crore under Section 234B. These errors had resulted in short levy

<sup>64</sup> Section 147 of the Act provides that if the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to provisions of Sections 148 to 153, assess or reassess such income.

of tax of ₹ 4,430.13 crore. In addition to these, benefit of self-assessment tax of ₹ 18.25 crore to the assessee was not allowed to the assessee without any justification. *The Department accepted the audit observation and rectified these discrepancies by passing an order under Section 154 of the Act in August 2021. The Department stated (May 2022) that no recovery has been made in this case and the same is being pursued.*

The Ministry may examine reasons for such gross errors in computation for taking action including fixing responsibility to prevent recurrence of such errors.

**Case II CIT Charge : Pr.CIT-3, Delhi**  
**Assessee Name : M/s F2 Pvt. Ltd.**  
**Assessment Year : 2017-18**

The AO, while computing the tax liability of the assessee in December 2019 after assessment under Section 144<sup>65</sup> of the Act, wrongly adopted assessed income of ₹ 9.92 crore instead of correct figure of ₹ 97.28 crore. The error resulted in short levy of tax of ₹ 107.31 crore including interest thereon. *On being pointed out by Audit, the Department rectified the error in March 2021 under Section 154 of the Act.* The status of recovery was awaited from the Department (July 2022).

Further, the above lapse indicates that the concerned officer did not exercise due diligence in this case. Therefore, the Ministry may examine the reasons for such lapse and take appropriate action including fixing responsibility so as to prevent recurrence of such errors in future.

**Case III CIT Charge : CIT (International Taxation)-2, Delhi**  
**Assessee Name : M/s M4 Corporation**  
**Assessment Year : 2017-18**

The AO, while finalising the assessment under Section 143(3)/144C(3) of the Act in February 2020, made addition of ₹ 51.88 crore on account of income from a branch office. However, while computing the tax liability of the assessee, the said income was not considered for tax. The error resulted in short levy of tax of ₹ 30.35 crore including interest. *The Department stated (July 2021) that the rectification order had been passed under Section 154/143(3) read with section 144C(3) in July 2021.* The status of recovery was awaited from the Department (July 2022).

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65 Section 144 of the Act provides that if the assessee fails to comply with all the terms of a notice issued, the Assessing Officer after taking into account all relevant material which the AO has gathered, after giving the assessee an opportunity of being heard, shall make the assessment of total income or loss to the best of his judgment.

Further, the above lapse indicates that the concerned officer did not exercise due diligence in this case. Therefore, the Ministry may examine the reasons for such lapse and take appropriate action including fixing responsibility so as to prevent recurrence of such errors in future.

**Case IV CIT Charge : Pr. CIT-1, Ahmedabad**  
**Assessee Name : M/s C2 Pvt. Ltd.**  
**Assessment Year : 2014-15**

The AO, while finalising the assessment under Section 143(3) in December 2016, considered the revised return filed in September 2015 instead of assessee's revised return filed in March 2016, and assessed loss of ₹ 42.41 crore against the income of ₹ 38.97 crore. The error resulted in under assessment of income of ₹ 81.38 crore involving tax effect of ₹ 27.66 crore. *The Department accepted the audit observation and took remedial action under Section 154 in March 2019.*

Further, the above lapse indicates that the concerned officer did not exercise due diligence in this case. Therefore, the Ministry may examine the reasons for such lapse and take appropriate action including fixing responsibility so as to prevent recurrence of such errors in future.

**Case V CIT Charge : Pr.CIT, Shimla**  
**Assessee Name : M/s A1 Ltd.**  
**Assessment Year : 2013-14**

The AO, while finalising the assessment under Section 143(3) in December 2015, started computation with the loss of ₹ 78.20 crore instead of ₹ 18.70 lakh. The error resulted in excess determination of loss of ₹ 78.01 crore, having a potential tax effect of ₹ 25.31 crore. *The Department replied (February 2019) that remedial action has been taken by passing an order under Section 154 of the Act in January 2019.*

Further, the above lapse indicates that the concerned officer did not exercise due diligence in this case. Therefore, the Ministry may examine the reasons for such lapse and take appropriate action including fixing responsibility so as to prevent recurrence of such errors in future.

### **3.2.3 Application of incorrect rates of tax and surcharge**

Audit noticed several cases relating to additions made under Sections 68, 69, 69A, 69B, 69C and 69D of the Act by the AO which attract the provisions of Section 115BBE of the Act. The AO, while computing tax liability of the assessee, applied incorrect rates of tax and surcharge on these additions in 17 such cases involving tax effect of ₹ 68.96 crore in six States are incorporated

in this Chapter of the Audit Report. For illustrative purposes, we give below four such cases:

*As per provisions of Section 68, 69, 69A, 69B, 69C and 69D of the Act, any cash credited in the books, unexplained investments which is not recorded in the books of account, money, bullion, jewellery not recorded in the books of account, amount of investments etc. not fully disclosed in books of account, unexplained expenditure and amount borrowed or repaid on hundi otherwise than through an account payee cheque drawn on a bank respectively for which assessee offers no explanation about the nature and source thereof may be deemed to the income of the assessee.*

*Further, provisions of Section 115BBE of the Act stipulate that where the total income of an assessee includes any income referred to in Sections 68, 69, 69A, 69B, 69C or Section 69D, the amount of income tax payable shall be calculated at the rate of sixty per cent on such income with effect from 1.4.2017. Finance Act, 2016, as applicable for the AY 2017-18, stipulates levy of surcharge on the said income tax at the rate of twenty five per cent.*

**Case I CIT Charge : Pr. CIT (Central-2), Chennai**  
**Assessee Name : M/s P5 Ltd.**  
**Assessment Year : 2017-18**

The AO, while computing tax liability of the assessee in December 2019 after assessment under Section 144 read with Section 153A of the Act, applied incorrect rates of tax and surcharge on the addition towards undisclosed income at the rate of 30 per cent and 12 per cent instead of applicable rates of 60 per cent and 25 per cent respectively. The error resulted in short levy of tax of ₹ 21.32 crore. The Department accepted the audit observation and rectified the error in September 2020 under Section 154 of the Act. The status of recovery was awaited from the Department (July 2022).

*As per Section 4(1) of the Act, where any Central Act enacts that income-tax shall be charged for any assessment year at any rate or rates, income-tax at that rate or those rates shall be charged for that year in accordance with and, subject to the provisions (including provisions for the levy of additional income-tax) of this Act in respect of the total income of the previous year of every person. For the AY 2016-17, the Central Government notified Surcharge of 12 per cent on the gross tax, if the total income exceeds ₹ 10 crore.*

**Case II CIT Charge : Pr. CIT (Central-2), Chennai**  
**Assessee Name : M/s C1 Ltd.**  
**Assessment Year : 2016-17**

The AO while computing tax liability of the assessee after assessment under Section 143(3) read with section 153C of the Act in December 2019, did not levy surcharge at the rate of 12 per cent. The error resulted in non-levy of surcharge and cess thereon of ₹ 9.38 crore. The Department stated (April 2021) that remedial action under Section 154 of the Act has been taken in April 2021. The status of recovery was awaited from the Department (July 2022).

*As per provisions of Section 68, 69, 69A, 69B, 69C and 69D of the Act, any cash credited in the books, unexplained investments which is not recorded in the books of account, money, bullion, jewellery not recorded in the books of account, amount of investments etc. not fully disclosed in books of account, unexplained expenditure and amount borrowed or repaid on hundi otherwise than through an account payee cheque drawn on a bank respectively for which assessee offers no explanation about the nature and source thereof may be deemed to the income of the assessee.*

*Further, provisions of Section 115BBE of the Act stipulate that where the total income of an assessee includes any income referred to in Sections 68, 69, 69A, 69B, 69C or Section 69D, the amount of income tax payable shall be calculated at the rate of sixty per cent on such income with effect from 01/04/2017. Finance Act, 2016, as applicable for the AY 2017-18, stipulates levy of surcharge on the said income tax at the rate of twenty five per cent.*

**Case III CIT Charge : Pr. CIT- 1, Ahmedabad**  
**Assessee Name : M/s A3 Ltd.**  
**Assessment Years : 2017-18**

The AO, while computing tax liability of the assessee in November 2019 after assessment under Section 144 of the Act, applied incorrect rates of tax and surcharge on the addition made under Section 69C at the rate of 30 per cent and 12 per cent instead of applicable rates of 60 per cent and 25 per cent respectively. The error resulted in short levy of tax of ₹ 7.60 crore including interest. *The Ministry accepted (March 2022) the audit observation and stated that the remedial action was completed under Section 154 of the Act in November 2020.* The status of recovery was awaited from the Department (July 2022).

*As per Section 143(3) of the Act, AOs are required to make correct assessment of the total income or loss of the assessee and determine the correct amount of tax payable by the assessee.*

**Case IV CIT Charge : Pr. CIT- II, Hyderabad**  
**Assessee Name : M/s V2 Ltd.**  
**Assessment Years : 2017-18**

The AO, while computing tax liability of the assessee after assessment under Section 144 of the Act in December 2019, levied cess of ₹ 45.59 lakh instead of the leviable amount of ₹ 2.28 crore. The error resulted in short levy of tax of ₹ 5.19 crore, including interest under Sections 234A and 234B. *The Department stated (August 2020) that remedial action was taken under Section 154 of the Act in August 2020.* The status of recovery was awaited from the Department (July 2022).

Further, the above lapses indicate that the concerned officers did not exercise due diligence in these cases. Therefore, the Ministry may examine the reasons

for such lapses and take appropriate action including fixing responsibility so as to prevent recurrence of such errors in future.

### 3.2.4 Errors in levy of interest

We noticed errors in levy of interest in 64 cases involving tax effect of ₹ 378.11 crore in 12 States. We give below six illustrative cases:

*The Income Tax Act, 1961 provides for levy of interest for omissions on the part of the assessee at the rates prescribed by the Government from time to time. Section 234A provides for levy of interest on account of default in furnishing return of income at specified rates and for specified time period. Section 234B provides for levy of interest on account of default in payment of advance tax at specified rates and for specified time period. Section 234C provides for levy of interest on account of default in payment of instalments of advance tax at specified rates and for specified time period. Further, the work of completion of the assessment order is done by Assessing Officers (AOs) in the IT systems of the Income Tax Department (the ITD).*

**Case I**    **CIT Charge**                :    **Pr. CIT-I, Kolkata**  
                  **Assessee Name**                :    **M/s V3 Ltd.**  
                  **Assessment Year**                :    **2011-12**

The AO, while computing tax liability of the assessee after reassessment under Section 144/147 in December 2018, levied interest of ₹ 245.75 crore for default in payment of advance tax, instead of ₹ 393.48 crore. The error resulted in short levy of interest of ₹ 147.74 crore. The Department accepted (May 2019) the audit observation and *rectified the error in May 2019 under Section 154 of the Act. However, the Department levied interest of ₹ 394.67 crore instead of ₹ 393.48 crore under Section 234B of the Act.* The status of recovery was awaited from the Department (July 2022).

**Case II**    **CIT Charge**                :    **Pr. CIT 4, Ahmedabad**  
                  **Assessee Name**                :    **M/s S2 Ltd.**  
                  **Assessment Year**                :    **2012-13**

The AO, while computing tax liability of the assessee in November 2019 after assessment under Section 144 read with Section 147 of the Act, levied interest of ₹ 54.19 crore instead of leviable amount of ₹ 72.11 crore. The error resulted in short levy of interest of ₹ 17.92 crore. *The Ministry accepted (April 2022) the audit observation and stated that the remedial action was completed under Section 154 of the Act in July 2020.* The status of recovery was awaited from the Department (July 2022).

**Case III**    **CIT Charge**                :    **Pr. CIT (Central-1), Delhi**  
                  **Assessee Name**                :    **M/s S1 Ltd.**  
                  **Assessment Year**                :    **2017-18**

The AO, while computing tax liability of the assessee through ITBA in December 2019 after assessment under Section 143(3) of the Act, levied interest of

₹ 56.13 crore instead of ₹ 72.97 crore for delay in filing of return of income. The error resulted in short levy of tax of ₹ 16.84 crore. *On being pointed out by Audit, the Department rectified the error in March 2021 under Section 154 of the Act.* The status of recovery was awaited from the Department (July 2022).

**Case IV CIT Charge : Pr. CIT 1, Delhi**  
**Assessee Name : M/s A4 Pvt. Ltd.**  
**Assessment Year : 2012-13**

The AO, while computing tax liability of the assessee through ITBA/AST system after re-assessment under Section 147 of the Act in December 2019, levied interest of ₹ 8.88 crore instead of leviable amount of ₹ 22.96 crore under Section 234B for 93 months from April 2012 i.e. the first day of the assessment year till completion of assessment in December 2019. The error resulted in short levy of interest of ₹ 14.08 crore. *The Department accepted (October 2021) the audit observation and stated that rectification order was being passed.* Further details of remedial action taken were awaited (July 2022).

**Case V CIT Charge : Pr. CIT II, Bengaluru**  
**Assessee Name : M/s K1 Pvt. Ltd.**  
**Assessment Year : 2012-13**

The AO, while computing tax liability of the assessee after assessment under Section 144 read with Section 147 of the Act in November 2019, did not levy interest of ₹ 14.01 crore under Section 234B of the Act. Audit further noticed that interest of ₹ 1.37 crore under Section 234A was excessively levied by the AO. These errors resulted in short levy of interest of ₹ 12.64 crore. *The Department accepted (April 2021) the audit observation and took remedial action by passing order under Section 154 in April 2021.* The status of recovery was awaited from the Department (July 2022).

**Case VI CIT Charge : Pr. CIT-(Central), Kanpur**  
**Assessee Name : M/s R3 Ltd.**  
**Assessment Year : 2016-17**

The AO, while computing tax liability of the assessee in August 2018 after assessment under Section 144/143(3) of the Act, levied interest of ₹ 3.53 crore under Section 234B for default in payment of advance tax instead of leviable interest of ₹ 4.87 crore. The error resulted in short levy of interest of ₹ 1.34 crore. *The Department accepted (November 2020) the audit observation and rectified the error in October 2020 under Section 154 of the Act.* The status of recovery was awaited from the Department (July 2022).

Further, the above lapses indicate that the concerned officers did not exercise due diligence in these cases. Therefore, the Ministry may examine the reasons

for such lapses and take appropriate action including fixing responsibility so as to prevent recurrence of such errors in future.

### 3.2.5 Excess or irregular refunds/interest on refunds

We noticed one case relating to excess or irregular refunds/interest on refunds involving tax effect of ₹ 7.36 crore in one state, which is illustrated below:

*Section 143(3) of the Income Tax Act, 1961 provides that in a scrutiny assessment, the Assessing Officer (AO) is required to make a correct assessment of the total income or loss of the assessee and determine the correct sum payable by him or refundable to him on the basis of such assessment. Further, as per Article 13 of India France Double Taxation Avoidance Agreement (DTAA); Royalties, fees for technical services and payments for the use of equipment arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State. However, such royalties, fees and payments may also be taxed in the Contracting State, in which they arise and according to the laws of that Contracting State, but if the recipient is the beneficial owner of these categories of income, the tax so charged shall not exceed 10 per cent of the gross amount of such royalties, fees and payments.*

**Case I      CIT Charge                    :      CIT(International Taxation-2), Delhi**  
**Assessee Name                    :      M/s M1**  
**Assessment Year                    :      2017-18**

The AO, while completing assessment under Section 143(3) read with Section 144C(3) of the Act in February 2020, had proposed an income of ₹ 68.61 crore to be taxed as Fees for Technical Services at the rate of 10 *per cent* as per India-France DTAA. However, in the ITNS it was taxed at Nil and refund of ₹ 7.36 crore was issued including interest of ₹ 0.48 crore under Section 244A. These errors resulted in excess refund to the assessee of ₹ 7.36 crore. *On being pointed out by Audit (January 2021), the Department in its reply stated (July 2021) that remedial action was taken by passing an order under Section 154/143(3)/144C(3) of the Act in July 2021. Audit noted further deficiencies in the rectification order viz. incorrect allowance of benefit of TDS, errors in levy of interest that was pointed out to the Department in August 2021. Further reply of the Department was awaited (July 2022).*

Further, the above lapse indicates that the concerned officer did not exercise due diligence in this case. Therefore, the Ministry may examine the reasons for such lapse and take appropriate action including fixing responsibility so as to prevent recurrence of such error in future.

### 3.2.6 Errors in assessment while giving effect to appellate orders

We noticed errors in assessment while giving effect to appellate orders in four cases involving tax effect of ₹ 45.49 crore in three States. We give below two illustrative cases:

*The Income Tax Act, 1961 provides for levy of interest for omissions on the part of the assessee at the rates prescribed by the Government from time to time. Section 234B of the Act provides for levy of interest on account of default in payment of advance tax at specified rates and for specified time period. Section 234C of the Act provides for levy of interest on account of default in payment of installments of advance tax at specified rates and for specified time period. Further, Section 143(3) provides that in a scrutiny assessment, the Assessing Officer (AO) is required to make a correct assessment of the total income or loss of the assessee and determine the correct sum payable by him or refundable to him on the basis of such assessment. All Income Tax Returns are first summarily processed under Section 143(1) at Centralized Processing Centre (CPC), Bengaluru before scrutiny assessments. Thus all data pertaining to summary assessments are directly captured in Assessment Information System (AST) (the erstwhile IT system before introduction of ITBA). The work of processing, rectification, completion of assessment order in respect of scrutiny cases is done by AOs in AST module, part of ITD module, for all returns transferred from CPC. AST, inter alia, undertakes assessment functions of calculation of tax and calculation of interest under various sections of the Act. In the case of scrutiny assessment, rectification, appeal effect orders in the field offices, figures are data-fed to the system by AOs based on the orders. When the new figures are entered into different heads of income under additions, computation sheet for final demand is generated through the system.*

**Case I    CIT Charge                :    Pr. CIT-(Central-3), Delhi**  
**Assessee Name                :    M/s P2 Pvt. Ltd.**  
**Assessment Year               :    2006-07 to 2009-10 and 2011-12**

The AO, while giving effect to the Income Tax Appellate Tribunal's order in December 2018 under Section 254/143(3) of the Act for AYs 2006-07, 2008-09 and 2009-10, did not levy interest of ₹ 0.36 crore under Section 234C in respect of AY 2006-07. Further, interest under Section 234B was short levied by ₹ 0.20 crore. These errors resulted in short levy of interest of ₹ 0.56 crore in AY 2006-07. For AY 2008-09, the AO did not charge interest of ₹ 4.52 crore under Sections 234B and 234C and for AY 2009-10, the AO did not charge interest of ₹ 4.62 crore under Sections 234B and 234C and also unpaid tax of ₹ 0.71 crore which resulted in short demand of ₹ 4.37 crore (after adjustment of tax credits). Thus the aggregate short levy of tax and interest was ₹ 9.45 crore (₹ 0.56 crore + ₹ 4.52 crore + ₹ 4.37 crore).

For AY 2007-08, the AO, while computing demand of the assessee after assessment under Section 143(3) in December 2009, did not charge interest of ₹ 2.54 crore and ₹ 0.71 crore under Section 234B and 234C respectively. The ITAT order was passed in March 2018 in this case. No appeal effect order for ITAT decision was found on record. The AO stated (July 2020) that ITAT had not set aside the file back to AO for further assessment for AY 2007-08. Therefore interest of ₹ 3.25 crore remained unaccounted for in the assessment. For AY 2011-12, the AO, while computing tax liability of the assessee after assessment under Section 153A in March 2016, did not levy interest of ₹ 6.63 crore under Sections 234B and 234C.

These inaccuracies in computing the tax demand had resulted in short levy of tax of ₹ 19.33 crore.

*The Department accepted the audit observations relating to AYs 2006-07, 2007-08, 2008-09 and 2011-12 and rectified the errors in November 2020, July 2021, January 2021 and June 2021 respectively under Section 154 of the Act. However, for AY 2008-09, it was noted that the Department had charged (January 2021) interest of ₹ 6.31 crore under Section 234B instead of ₹ 3.41 crore till the date of regular assessment under Section 143(3) as no change in demand under special provisions of the Act and also under Section 153A of the Act. For the AY 2009-10, Audit noted that though the audit observation was not accepted by the Department, it rectified the error under Section 154 of the Act in June 2021. The status of recovery in these AYs was awaited from the Department (July 2022).*

**Case II    CIT Charge                :    Pr. CIT (Central-2), Delhi**  
**Assessee Name                :    M/s R1 Pvt. Ltd.**  
**Assessment Year                :    2008-09**

The AO, while giving effect to ITAT order under Section 254/143(3) of the Act in December 2018, levied interest of ₹ 8.94 crore under Section 234B instead of ₹ 17.64 crore for 129 months from April 2008 to December 2018 i.e. the first day of assessment year till afresh assessment completed under Sections 254/153C/143(3). Also, the AO did not charge interest of ₹ 42.21 lakh under Section 234C. Audit further noticed that the AO reduced ₹ 8.59 crore from the tax demand instead of the available tax credit of ₹ 2.73 crore. These errors resulted in short levy of tax by ₹ 14.98 crore. *The Department stated (July 2021) that remedial action was taken by passing an order under Section 154 of the Act in June 2021.*

Further, the above lapses indicate that the concerned officers did not exercise due diligence in these cases. Therefore, the Ministry may examine the reasons for such lapses and take appropriate action including fixing responsibility so as to prevent recurrence of such errors in future.

### **3.3 Administration of tax concessions/exemptions/deductions**

**3.3.1** The Act allows concessions/exemptions/deductions to the assessee in computing total income under Chapter VI-A and for certain categories of expenditure under its relevant provisions. We observed that the AO had irregularly extended benefits of tax concessions/exemptions/deductions to beneficiaries who were not entitled for the same. These irregularities point out weaknesses in the administration of tax concessions/deductions/ exemptions on the part of the ITD, which need to be addressed. Table 3.2 below shows the

details of sub-categories which have impacted the administration of tax concessions/exemptions/deductions.

Table 3.2: Sub-categories of mistakes under Administration of tax concessions/exemptions/deductions			
Sub-categories	Nos.	TE (₹ in crore)	States
a. Irregularities in allowing depreciation/ business losses/ capital losses	54	392.05	Delhi, Gujarat, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Tamil Nadu, Telangana and West Bengal.
b. Irregular exemptions/ deductions/ rebates/ relief/MAT credit	19	382.13	Delhi, Gujarat, Karnataka, Maharashtra, Punjab, Rajasthan, Tamil Nadu and West Bengal.
c. Incorrect allowance of business expenditure	49	617.86	Gujarat, Haryana, Jammu & Kashmir, Jharkhand, Karnataka, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal.
d. Incorrect allowance of DTAA relief	4	219.71	Karnataka, Kerala and Maharashtra
<b>Total</b>	<b>126</b>	<b>1,611.75</b>	

### 3.3.2 Irregularities in allowing depreciation and set off and carry forward of business/capital losses

We noticed irregularities in allowing depreciation and set off and carry forward of business/capital losses in 54 cases involving tax effect of ₹ 392.05 crore in 12 States. We give below five such illustrative cases:

*Section 2(47) of the Act defines the term transfer which includes sale, exchange, relinquishment, compulsory acquisition etc. Further, under Section 55(2)(b)(v) of the Act, where the capital asset, being a share of a company became the property of the assessee on the conversion of one kind of shares of the company into another kind means the cost of acquisition of the asset calculated with reference to the cost of acquisition of the shares from which such assets is derived. It has been held by ITAT, Mumbai in ACIT vs. ABC Bearings Ltd. 44 SOT 338 (Mum) that conversion is not covered by section 2(47) hence, the loss arising out of such transaction would result in notional losses only.*

**Case I    CIT Charge                :    Pr. CIT LTU, Mumbai**  
**Assessee Name                :    M/s T1 Ltd.**  
**Assessment Year               :    2012-13**

The AO, while finalising the assessment under Section 143(3) read with Section 144C in February 2017, allowed carry forward of long-term capital loss of ₹ 1285.03 crore on account of redemption and acquisition of Cumulative Redeemable Preference Shares (CRPS) of T1 Holdings Pvt Ltd (Singapore). As the said conversion was not covered under the definition of transfer as per provisions of the Act, the aforesaid loss being notional was required to be

disallowed by the AO which was not done. Omission resulted in irregular allowance of carry forward of Long Term Capital Loss of ₹ 367.93 crore involving a potential tax effect of ₹ 79.58 crore. *The Department intimated (February 2021) that the error had been rectified under Section 143(3) read with Section 263 of the Act in June 2019.*

*Section 72 of the Income Tax Act, 1961 provides that, where the net result of the computation under the head 'profits and gains of the business or profession' is a loss to the assessee and such loss including depreciation cannot be wholly set off against income under any head of relevant year, so much 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 the business or profession'.*

**Case II CIT Charge : Pr. CIT-5, Delhi**  
**Assessee Name : M/s L2 Ltd.**  
**Assessment Year : 2011-12**

The AO, while finalising the re-assessment under Section 147/143(3) in December 2018, did not take cognizance of the current year loss of ₹ 230.89 crore assessed under Section 143(3) and determined income of ₹ 2.36 crore. The error resulted in non-assessment of loss of ₹ 228.53 crore and over assessment of income of ₹ 2.36 crore, involving total excess tax effect of ₹ 76.84 crore [overcharge of ₹ 0.93 crore and potential overcharge of ₹ 75.91 crore]. *The Department stated (June 2021) that the audit observation was acceptable and the mistake had been rectified by passing an order under Section 154/147/143(3) of the Act in January 2021.*

*Section 72 of the Act provides that if the current year's loss including depreciation cannot be wholly set off against income under any head of a relevant year, such loss shall be carried forward to the following assessment year(s) for set off against the 'Profits and gains of the business or profession'. As per CBDT's instruction no. 09/2007 dated 11 September 2007, the AO should carry out necessary verifications at the time of undertaking scrutiny assessments with reference to physical records and the claims related to losses including unabsorbed depreciation should be linked with the assessment records so as to ensure correctness of the allowance of claims of brought forward losses and depreciation. Remedial action for earlier years, wherever necessary, should also be initiated.*

**Case III CIT Charge : Pr. CIT- 1, Chennai**  
**Assessee Name : M/s I3 Pvt. Ltd.**  
**Assessment Year : 2016-17**

The AO, while finalising the assessment under Section 143(3) in December 2019, allowed set off of business loss and unabsorbed depreciation of ₹ 95.37 crore pertaining to earlier years against the available loss of ₹ 1.36 crore. The error resulted in underassessment of income of ₹ 94.01 crore involving tax effect of ₹ 32.53 crore. *The Department replied (November 2021) that remedial*

action has been initiated under Section 147 of the Act. The status of recovery was awaited from the Department (July 2022).

*As per Section 70 of the Act, short-term capital loss can be set off against any capital gain income, long term or short term, in the same assessment year but not against any other head of income.*

**Case IV CIT Charge : Pr. CIT-2, Hyderabad**  
**Assessee Name : M/s G1 Ltd.**  
**Assessment Years : 2015-16**

The AO, while finalising the assessment under Section 143(3) in December 2017, allowed set off of Short Term Capital Loss (STCL) of ₹21.48 crore against the current year business income, contravening the provisions of the Act. The error resulted in under assessment of income of ₹ 20.62 crore {₹21.48 crore - ₹ 86 lakh (loss assessed under Section 143(3))} involving tax effect of ₹ 8.30 crore including interest under Section 234B. *The Department, while accepting the audit observation, stated (June 2020) that remedial action had been taken under Section 154 in May 2020.* The status of recovery was awaited from the Department (July 2022).

*Section 72 of the Act provides that if the current year's loss including depreciation cannot be wholly set off against income under any head of a relevant year, such loss shall be carried forward to the following assessment year(s) for set off against the 'Profits and gains of the business or profession'. As per CBDT's instruction no. 09/2007 dated 11 September 2007, the AO should carry out necessary verifications at the time of undertaking scrutiny assessments with reference to physical records and the claims related to losses including unabsorbed depreciation should be linked with the assessment records so as to ensure correctness of the allowance of claims of brought forward losses and depreciation. Remedial action for earlier years, wherever necessary, should also be initiated*

**Case V CIT Charge : Pr. CIT (Central), Bhopal**  
**Assessee Name : M/s D1 Ltd.**  
**Assessment Years : 2016-17**

The AO, while finalising the assessment under Section 143(3) in December 2018 and further rectification order under Section 154 in March 2019, allowed setting-off of brought forward unabsorbed depreciation of ₹ 14 crore pertaining to assessment year 2015-16. However, no such unabsorbed depreciation was available for set-off, as the assessment of assessment year 2015-16 was completed at positive income. The error resulted in under assessment of income of ₹ 14 crore involving potential tax effect of ₹ 4.85 crore. *The Department accepted (July 2019) the audit observation and rectified the error under Section 250 read with Section 154 of the Act in July 2019.*

### **3.3.3 Irregular exemptions/deductions/rebate/relief/MAT credit**

We noticed 19 cases relating to irregular exemptions/deductions/rebate/relief/MAT credit involving tax effect of ₹ 382.13 crore in eight States. We give below six such illustrative cases:

*Section 32AC of the Act provides for allowance of deduction to a company, engaged in the business of manufacturing or production of any article or thing, at the rate of 15 per cent of the actual cost of new plant and machinery acquired and installed after 31/03/2013, if the aggregate amount of actual cost of such new plant and machinery exceeds one hundred crore rupees. Further, under sub clause (4), new asset means plant and machinery but does not include any plant or machinery, the whole of actual cost of which is allowed as deduction whether by way of depreciation or otherwise in computing the income chargeable under the head profits and gains of business or profession of any previous year.*

**Case I    CIT Charge            :    Pr. CIT-2, Mumbai**  
**Assessee Name                :    M/s B1 Ltd.**  
**Assessment Year               :    2016-17**

The AO, while finalising the assessment under section 143(3) in December 2018, allowed deduction of ₹ 971.60 crore (15 per cent of assets (plants and machinery) acquired and installed) under Section 32AC. As per the original return and Tax Audit Report, the assessee had shown total additions to plant and machinery of ₹ 3,931.56 crore to the assets. The assessee had filed a revised return showing total additions to plant and machinery of ₹ 4,225.88 crore which was rejected by the Department. Thus, a total deduction of ₹ 589.73 crore (15 per cent of ₹ 3,931.56 crore) as against ₹ 971.60 crore was required to be allowed by the AO. The error resulted in excess allowance of deduction by ₹ 381.87 crore involving tax effect of ₹ 126.25 crore. Further, the assessee was also allowed deduction on the investments made on LPG cylinders and allied equipment of ₹ 1,039.40 crore by the AO which was not admissible, as the same were not meant for manufacturing and production of article or thing but was used for transportation of gas produced. Therefore, it should have been disallowed. The omission resulted in underassessment of income of ₹ 155.94 crore (15 per cent of ₹ 1,039.64 crore) involving tax effect of ₹ 53.97 crore.

These errors resulted in short levy of tax of ₹ 180.22 crore. *The Department, while accepting the audit observation, stated (March 2021) that the remedial action has been taken under Section 143(3) read with Section 263 of the Act in March 2020.*

*Section 115JAA(1A) of the Income Tax Act 1961(Act) provides that, where any amount of tax is paid under Section 115JB(1) by an assessee, being a company, for the assessment year commencing on 01/04/2006 and any subsequent assessment year, then, credit, in respect of tax so paid, shall be allowed to him. Section 115JAA (2A) of the Income Tax Act provides that the tax credit to be allowed under sub-section (1A) shall be the difference of the tax paid for any assessment year under Section 115JB (1) and the amount of tax payable by the assessee on his total income, computed in accordance with the other provisions of this Act, provided that no interest shall be payable on the tax credit allowed under sub-section (1A).*

**Case II CIT Charge : Pr. CIT-4, Kolkata**  
**Assessee Name : M/s R2 Pvt. Ltd.**  
**Assessment Year : 2013-14**

The AO, while computing tax liability of the assessee after assessment under Section 143(3)/144C(13)<sup>66</sup> in October 2017, levied tax under special provisions of the Act being higher at ₹ 126.74 crore than the tax liability under normal provisions at ₹ 67.18 crore. The assessee was required to be allowed MAT credit, of ₹ 59.56 crore, to be set-off in future. However, it was observed from Schedule MATC, generated from the ITD system after assessment, that the assessee was allowed MAT credit of ₹ 119.97 crore, instead of ₹ 59.56 crore, for the year. The error resulted in excess carry forward of MAT credit of ₹ 60.41 crore. On being pointed out by Audit, *the Department rectified the error by passing an order under Section 154 of the Act in July 2018.*

*Section 115JB of the Act enunciates payment of tax at lower rate on Book Profit if the tax paid under normal provisions of the Act is lower than the tax on Book Profit. Section 115JAA provides for availing tax credit of the higher amount so paid (difference of tax paid under section 115JB and tax payable under normal provision of the act) in subsequent years. The Central Board of Direct Taxes has issued instructions to Assessing Officers and the Supervisory Officers to ensure that mistake in assessments do not occur.*

**Case III CIT Charge : Pr.CIT-2, Bengaluru**  
**Assessee Name : M/s W1 Pvt. Ltd.**  
**Assessment Year : 2015-16**

The AO, while computing tax liability of the assessee in October 2019 after assessment under Section 143(3) read with Section 144C(13) through ITBA system, allowed MAT credit of ₹ 22.52 crore pertaining to AYs 2011-12 and 2013-14. However, no such MAT credit was available in these years as the tax was payable under normal provisions of the Act in both the AYs. It was also observed that the MAT credit figure allowed is exhibited as "zero" in the ITBA computation of tax statement even though the MAT credit was allowed while computing the tax payable. The error resulted in short levy of tax of ₹ 34.90 crore including interest. *The Department accepted (March 2021) the audit observation and stated that remedial action would be taken. The status of remedial action was awaited (July 2022).*

*Section 115JAA of the Act provides set-off in respect of brought forward MAT credit to an assessee when tax payable under normal provisions is more than tax under special provisions. However, such credit shall be limited to the difference of tax under normal provisions of the Act and tax under special provisions of the Act.*

66 Upon receipt of directions issued under sub section (5) of Section 144C, the AO shall in conformity with the directions, complete, notwithstanding anything to the contrary contained in Section 153 the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such directions is received.

**Case IV CIT Charge : Pr.CIT-5, Bengaluru**  
**Assessee Name : M/s N1 Pvt. Ltd.**  
**Assessment Year : 2015-16**

The AO, while computing the tax liability of the assessee after assessment under Section 143(3) in December 2019, allowed to set-off of loss of ₹ 8.41 crore pertaining to earlier years. However, no such loss was available to the assessee. Further, the AO also allowed MAT credit of ₹ 18.64 crore as against the available MAT credit of ₹ 5.67 crore. Thus, incorrect set-off of brought forward loss of ₹ 8.41 crore and excess allowance of MAT credit of ₹ 12.97 crore resulted in short levy of tax of ₹ 24.53 crore including interest. *The Department accepted (March 2021) the audit observation and proposed remedial action under Section 154 of the Act.* Further details of the action taken were awaited from the Department (July 2022).

*Section 115JAA of the Act provides set-off in respect of brought forward of MAT credit to an assessee when tax payable under normal provisions is more than tax under special provisions. However, such credit shall be limited to the difference of tax under normal provisions of the Act and tax under special provisions of the Act.*

**Case V CIT Charge : Pr. CIT 6, Mumbai**  
**Assessee Name : M/s C3 Ltd.**  
**Assessment Year : 2012-13**

The AO, while computing tax liability of the assessee in January 2017 after assessment under Section 143(3) read with Section 144C, allowed set off of MAT credit of ₹ 10.84 crore pertaining to AYs 2009-10 and 2010-11. However, no MAT credit was available for set off as the tax was paid under normal provisions of the Act in both the AYs. The error resulted in short levy of tax of ₹ 18.86 crore. *The Department stated that remedial action was taken under Section 154 of the Act in May 2018.*

*As per Section 80P of the Act, the allowability of deduction under Section 80P in case of a Primary Co-operative Agricultural Development Bank Ltd.is applicable only when the area of operation of such an entity is confined to a taluk.*

**Case VI CIT Charge : Pr. CIT-I, Amritsar**  
**Assessee Name : M/s F1 Ltd.**  
**Assessment Year : 2013-14**

The AO, while finalising the assessment under Section 143(3) in October 2015, allowed deduction of ₹ 1.97 crore under Section 80P. However, the deduction was not admissible to the assessee as the assessee was carrying out operations in two Taluks. The error resulted in under assessment of income by ₹ 1.97 crore involving tax effect of ₹ 1.06 crore including interest under Section 234B. *The Department accepted (September 2020) the audit observation and took*

remedial action under Section 143(3) read with Section 147 of the Act in November 2019. The status of recovery was awaited from the Department (July 2022).

### **3.3.4 Incorrect allowance of business expenditure**

We noticed 49 cases relating to incorrect allowance of business expenditure involving tax effect of ₹ 617.86 crore in 12 States. We give below four illustrative cases:

*As per section 37(1) of the Act, any expenditure not being in the nature of capital expenditure or personal expenses laid out wholly and exclusively for the purposes of business or profession shall be allowed in computing the income chargeable under the head Profit and gains of business or profession.*

**Case I    CIT Charge                :    Pr. CIT- 1, Nashik**  
**Assessee Name                :    M/s W3 Ltd.**  
**Assessment Year                :    2012-13**

The AO, while finalising the assessment under Section 143(3) in May 2016, allowed expenditures of ₹ 189.35 crore towards provisions for doubtful debts and advances and corporate debt restructuring recompense. The aforesaid expenditure being an unascertained liability, was not allowable to the assessee. The error resulted in under assessment of income ₹ 189.35 crore involving tax effect of ₹ 118.57 crore. *The Department, while accepting the observation, stated that remedial action had been taken under Section 143(3) read with Section 263 in December 2019.* The status of recovery was awaited from the Department (July 2022).

Further, the above lapse indicates that the concerned officer did not exercise due diligence in this case. Therefore, the Ministry may examine the reasons for such lapse and take appropriate action including fixing responsibility so as to prevent recurrence of such errors in future.

*Section 43B of the Act states that a deduction otherwise allowable under this Act in respect of any sum payable by the assessee as interest on any loan or borrowing from any public financial institution or a State financial corporation or a State industrial investment corporation, in accordance with the terms and conditions of the agreement governing such loan or borrowing, shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in Section 28 of that previous year in which such sum is actually paid by him.*

**Case II    CIT Charge                :    Pr. CIT- Siliguri, Gangtok**  
**Assessee Name                :    M/s S4 Ltd.**  
**Assessment Year                :    2016-17 and 2017-18**

The AO, while finalising the assessment under Section 143(3) for the above AYs in December 2018 and March 2019, allowed interest on the term loan of

₹ 142.67 crore and ₹ 324.12 crore respectively. However, out of the said amount, interest of ₹ 136.43 crore and ₹ 303.27 crore remained unpaid during the previous year relevant to the assessment year respectively. Thus, the unpaid interest amount was required to be disallowed, which was not done. These errors resulted in underassessment of income by ₹ 439.70 crore (₹ 303.27 crore + ₹ 136.43 crore) involving potential tax effect of ₹ 152.18 crore. *The Ministry accepted (May/June 2022) the audit observations in respect of AYs 2017-18 and 2016-17 and stated that the remedial action was completed under Section 143(3) read with Section 263 of the Act in September 2021 for both the AYs.*

*Section 32(1) of the Act stipulates allowance of depreciation as business expenditure if the assets are owned (wholly or partly) by the assessee and used for the purpose of business. The Central Board of Direct Taxes in circular dated 23.04.2014 clarified that expenditure incurred for development of roads & highways in Build-Own-Transfer (BOT) model should not be allowed as depreciation. Instead such expenditure should be amortised equally over the remaining period of the toll concessionaire agreement.*

**Case III CIT Charge : Pr.CIT-3, Bengaluru**  
**Assessee Name : M/s G2 Pvt. Ltd.**  
**Assessment Year : 2014-15 and 2015-16**

The AO, while finalising the assessments under Section 143(3) in December 2016 and December 2017, allowed depreciation of ₹ 212.64 crore and ₹ 191.97 crore on carriageway for AYs 2014-15 and 2015-16 against the admissible amortization of ₹ 96.95 crore and ₹ 96.93 crore for these AYs respectively. The errors resulted in under assessment of income of ₹ 210.73 crore for aforesaid AYs involving potential tax effect of ₹ 71.63 crore. *The Department did not accept (May 2018) the audit observation for AY 2014-15, stating that amortisation amount worked out to be more than the depreciation claimed and in the interest of revenue, claim of depreciation was admitted. However, Audit observed that depreciation claimed is higher than the amortisation admissible. For AY 2015-16, the Department initiated remedial action under Section 154 in February 2020.*

*Section 37(1) of the Act stipulates that any expenditure incurred wholly or exclusively for the purpose of business or profession is allowed in computing the business income of the assessee. However, provision for expense is not allowable. It also further provides that a provision made in the accounts for an accrued or known liability is an admissible deduction, while other provisions made do not qualify for deduction. Further, the Hon'ble Supreme Court in the case of Sri Sajjan Mills Ltd. Vs. CIT and other[156-ITR-585] (SC) held that, in order to claim an expenditure for deduction, the expenditure must have actually arisen and incurred and not merely anticipated as certain to occur in future. As per the OERC (Renewable and Co-generation Purchase Obligation and its Compliance) Regulations, 2010, every obligated entity shall purchase not less than 5 per cent of its total annual consumption of energy from co-generation*

*and renewable energy sources under the RPO (Renewable Purchase Obligations) Regulations. If any obligated entity falls short of RPO, then the Certificates issued under the Central Electricity Regulatory Commission (CERC) Regulations, 2010 shall be the valid instruments for the discharge of the mandatory obligations. If the Obligated entities does not fulfil the RPO as provided in these regulations during any year and also does not purchase the certificates, the Commission may direct the obligated entity to deposit into a separate fund, to be created and maintained by such obligated entity, such amount as the Commission may determine on the basis of the shortfall in units of RPO and the forbearance price decided by the Central Commission. Provided that the fund so created shall be utilised, as may be directed by the Commission, under the supervision of OERC for purchase of the certificates.*

**Case IV CIT Charge : Pr. CIT-1, Bhubaneswar**  
**Assessee Name : M/s I2 Ltd.**  
**Assessment Year : 2016-17**

The AO, while finalising the assessment under Section 143(3) in December 2019, allowed expenditure of ₹ 19.98 crore towards provision for shortfall in Renewable Purchase Obligation (RPO). The provision of ₹ 19.98 crore towards RPO had been kept for anticipated shortfall in RPO for a future obligation for expense on account of 'electricity from renewable sources', which was not an actual expenditure incurred in the relevant previous year. Hence, the provision towards RPO of ₹ 19.98 crore was required to be disallowed and added back to the total income of the assessee by the AO which was not done. This resulted in over assessment of loss of ₹ 19.98 crore involving potential tax effect of ₹ 6.91 crore. *The Department replied (April 2021) that the audit observation is prima facie acceptable. Pr. CIT-1, Bhubaneswar has passed an order (March 2022) under Section 263 of the Act and directed the AO to decide the matter after giving an adequate opportunity of being heard to the assessee.* The details of revision order under Section 143(3) read with Section 263 of the Act were awaited (July 2022).

### 3.3.5 Incorrect allowance of Double Taxation Avoidance Agreement relief

We noticed four cases relating to incorrect allowance of Double Taxation Avoidance Agreement (DTAA) relief involving tax effect of ₹ 219.71 crore in three States. We give below three illustrative cases:

*Section 90 and 91 of the Act provides relief of tax paid in a foreign country if the total income that is taxed in India has also been taxed in a foreign country. The Central Board of Direct Taxes has issued instructions to AOs and the Supervising Officers to ensure that income and tax are determined correctly in assessments.*

**Case I CIT Charge : Pr. CIT-2, Bengaluru**  
**Assessee Name : M/s W2 Ltd.**  
**Assessment Year : 2015-16**

The AO, while finalising the assessment under Section 143(3) read with Section 144C(13) in October 2019, stated that foreign tax credit of ₹ 277.31 crore only

was allowable against the assessee's claim of ₹ 448.23 crore. The AO subsequently rectified the assessment order under Section 154 in December 2019. Audit noted that while rectifying the assessment order in December 2019 the AO erroneously allowed foreign tax credit of ₹ 411.90 crore against allowable tax credit of ₹ 277.31 crore, as discussed in the assessment order. The error resulted in short levy of tax of ₹ 213.16 crore including interest. On being pointed out by Audit in September 2020, *the Department took remedial action under Section 154 of the Act in September 2020.*

Further, the above lapse indicates that the concerned officer did not exercise due diligence in this case. Therefore, the Ministry may examine the reasons for such lapse and take appropriate action including fixing responsibility so as to prevent recurrence of such errors in future.

*The Hon'ble ITAT Ahmedabad Bench 'B' in the case of Elitecore Technologies (P.) Ltd. vs. Deputy Commissioner of Income-tax, Circle 2 (1) (1), Ahmedabad [2017] 77 taxmann.com 149 (Ahmedabad - Trib.) provides that where the assessee company receives certain amount from its foreign associated enterprises (AEs) after deduction of tax at source, tax credit has to be allowed to it only to the extent corresponding income has suffered tax in India and it is not correct approach to take into account gross receipts for purpose of computing admissible tax credit. The CBDT vide its Notification No. 54/2016 dated 27 June 2016 has notified Rule 128 under the Income-tax Rules, 1962 (the Rules) which can be considered as clarificatory in nature (as earlier to that there was no rules under which the foreign tax credit could be calculated). The rules provide that the total available Foreign Tax Credit (FTC) shall be the aggregate of the amounts of FTC computed separately for each source of income arising from a particular country. FTC shall be the lower of the Tax payable under the Act on such income; or foreign tax paid on such income.*

**Case II    CIT Charge                :    Pr. CIT 2, Mumbai**  
**Assessee Name                    :    M/s L1 Ltd.**  
**Assessment Year                 :    2014-15**

The AO, while finalising the assessment under Section 143(3) in December 2016, allowed total foreign tax credit (FTC) of ₹ 28.63 crore which included ₹ 24.54 crore from Myanmar-Yetagun Project by computing profit before tax (PBT) in India of ₹ 701.31 crore at the rate of 3.5 per cent. However, as per the assessee's submission, revenue recognised during the year was ₹ 551.38 crore only and thus FTC allowable at the rate of 3.5 per cent worked out to ₹ 19.30 crore. Omission to restrict the same to ₹ 19.30 crore resulted in excess allowance of FTC of ₹ 5.24 crore. *The Department intimated (January 2020) that the observation had been rectified under Section 143(3) read with Section 147 in December 2019.*

*Sub rule 9 of Rule 128 of Income Tax Rules, 1962 stipulates that for allowing the credit of foreign tax paid by a resident assessee, in a country or specified territory outside India, the statement in Form No. 67 and the required certificate shall be furnished on or before the due date specified for furnishing the return of income under Section 139(1) of the Act.*

**Case III CIT Charge : Pr. CIT, Trivandrum**  
**Assessee Name : M/s M2 Pvt. Ltd.**  
**Assessment Year : 2017-18**

The AO, while finalising the assessment under Section 143(3) in December 2019, disallowed foreign tax relief of ₹ 32.84 lakh on account of belated filing of return. However, while computing the tax liability of the assessee, the AO allowed the aforesaid foreign tax relief. The error resulted in irregular allowance of relief involving tax effect of ₹ 37.11 lakh including interest. On being pointed out by Audit in September 2020, the Department rectified the error under Section 154 of the Act in September 2020.

### 3.4 Income escaping assessment due to errors

**3.4.1** The Act provides that the total income of a person for any previous year shall include all incomes from whatever source derived, actually received or accrued or deemed to be received or accrued. We observed that the AOs either did not assess or under assessed the total income that was required to be offered to tax. Table 3.3 below shows the sub-categories which have resulted in income escaping assessments due to errors.

<b>Table 3.3: Sub-categories of mistakes under Income escaping assessments due to errors</b>			
<b>Sub-categories</b>	<b>Nos.</b>	<b>TE</b>	<b>States</b>
		<b>(₹ in crore)</b>	
Income not assessed/ under assessed under special provisions	10	70.18	Delhi, Maharashtra, Odisha, Tamil Nadu and West Bengal.
Income not assessed/ under assessed under normal provisions	24	364.92	Haryana, Jharkhand, Karnataka, Maharashtra, Odisha, Punjab, Tamil Nadu, Telangana, Uttar Pradesh and West Bengal.
Incorrect classification and computation of capital gains	4	70.50	Maharashtra and Tamil Nadu.
Incorrect estimation of Arm's Length Price	5	30.32	Delhi and Telangana.
Unexplained Investment/Cash Credits	8	35.70	Maharashtra, Punjab and West Bengal
<b>Total</b>	<b>51</b>	<b>571.62</b>	

### 3.4.2 Income not assessed/under assessed under special provisions

We noticed that the AO either did not assess income or under assessed income under special provisions in 10 cases involving tax effect of ₹ 70.18 crore in five States. We give below two such illustrative cases:

Section 115JB of the Act provides for levy of Minimum Alternate Tax (MAT) at prescribed percentage of book profit if the income tax payable on the total income computed under the normal provisions is lesser than MAT. Section 14A of the Act provides for disallowance of expenditure incurred in relation to income not includible in total income. Further, Rule 8D of the Income Tax Rules, 1962 provides for computation of such disallowable expenditure.

**Case I**    **CIT Charge**                :    **Pr. CIT 3, Mumbai**  
                   **Assessee Name**                :    **M/s S3 Ltd.**  
                   **Assessment Year**                :    **2014-15**

The AO, while finalising the assessment under Section 143(3) in June 2017, disallowed expenditure of ₹ 6.93 crore on account of interest incurred for earning of exempt income under Section 14A. Audit noted that such disallowance has to be computed in accordance with the provisions of Rule 8D<sup>67</sup>. However, the AO, while computing such expenditure for disallowance, did not consider the provisions of Rule 8D(2)(ii) of the Income Tax Rules 1962 as required by the provisions *ibid* and instead of disallowing the amount of ₹ 83.92 crore, the AO disallowed ₹ 6.93 crore only. The error resulted in under-assessment of income of ₹ 76.99 crore under normal provision of the Act as well as short determination of book profit of identical amount under special provisions of Section 115JB of the Act, involving tax effect of ₹ 26.17 crore including potential tax effect of ₹ 16.14 crore as excess allowance of MAT credit. *The Department accepted (February 2021) the observation and took remedial action vide order under Section 147 in December 2019.*

**Case II**    **CIT Charge**                :    **Pr. CIT 1, Bhubaneswar**  
                   **Assessee Name**                :    **M/s T2 Ltd.**  
                   **Assessment Year**                :    **2017-18**

The AO, while computing the book profit after the assessment under Section 143(3) in December 2019 and subsequent rectification in July 2020, did not add back notional expenditure of interest of ₹ 44.19 crore on interest free loan from related parties debited in the Profit & Loss account. As the aforesaid interest expenditure was in the nature of a provision, it was required to be added back to the book profit of the assessee which was not done by the AO. The error resulted in under assessment of book profit of ₹ 44.19 crore involving tax effect

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67 As per Rule 8D the following provisions were to be applied.  
 (i) the amount of expenditure directly relating to income which does not form part of total income.  
 (ii) in a case where the assessee has incurred expenditure by way of interest during the previous year which is not directly attributable to any particular income or receipt an amount computed in accordance with a formula of  $A*B/C$  i.e.  $(4,78,11,71,706*13,86,73,23,979/86,11,49,99,527)$ ;  
 A = amount of expenditure by way of interest other than interest amount included in clause (i); B = the average of value of investment, income from which does not or shall not form part of the total income, as *appearing in the balance sheet of the assessee, on the first day and the last day of the previous year*; C = the average of total assets as appearing in the balance sheet of the assessee on the first day and the last day of the previous year.  
 (iii) *an amount equal to one half per cent of the average of the value of investment, income from which does not or shall not form part of total income as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year*

of ₹ 12.36 crore. The Department replied (April 2021) that audit observation is prima facie acceptable. Necessary remedial action was being undertaken. Details of remedial action were awaited from the Department (July 2022).

### 3.4.3 Income not assessed/under assessed under normal provisions

We noticed that the AO either did not assess income or under assessed income under normal provisions in 24 cases involving tax effect of ₹ 364.92 crore in 10 States. We give below five illustrative cases:

*As per provision of Section 43CA(1) of the Act, where the consideration received or accruing as a result of the transfer by an assessee of an asset (other than a capital asset), being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purpose of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration received or accruing as a result of such transfer. Further, Explanation to provision of Section 115JB(2)(c) provides for disallowances of the amount or amounts set aside for provision made for meeting unascertained liability.*

**Case I    CIT Charge                :    Pr.CIT, Noida**  
**Assessee Name            :    M/s J1 Associates**  
**Assessment Year         :    2014-15**

The AO, while finalising the assessment under Section 143(3) in December 2016, did not take cognizance of the difference between the value of ₹ 406.46 crore for which stamp duty was paid and actual value of ₹ 259.73 crore for land or building sold. The omission resulted in under assessment of income by ₹ 146.73 crore as per provisions *ibid*. Audit further noted that while revising the order under Section 143(3) read with Section 263 of the Act in September 2021 at the instance of Audit, the AO adopted the value of ₹ 356.81 crore of land or building as per the estimated fair market value of the said properties by the Department Valuation Officer instead of ₹ 406.46 crore for which stamp duty was paid. Audit, therefore, restricted the difference amount of ₹ 97.08 crore as against initially pointed out of ₹ 146.73 crore.

Further, the AO, while computing book profit under special provisions of Section 115JB of the Act, did not add back provision for gratuity of ₹ 8.10 crore, being unascertained liability,

The omissions resulted in excess determination of loss of ₹ 97.08 crore under normal provisions of the Act and under-assessment of book profit of ₹ 8.10 crore under section 115JB, involving tax effect of ₹ 34.69 crore including potential tax effect of ₹ 33.00 crore. The Department accepted (October 2021) the audit observation and took remedial action by passing an order under Section 143(3) read with Section 263 in September 2021.

*As per section 43CA of the Income Tax Act, 1961 (Act) where the consideration received or accruing as a result of the transfer by an assessee of an asset (other than capital asset), being land or building, or both, is less than the value adopted or assessed or assessable by any authority of a State Government, for the purposes of computing profits and gains from transfer of such asset, such value be deemed to be the full value of consideration received or accruing as a result of such transfer.*

**Case II CIT Charge : Pr. CIT-5, Mumbai**  
**Assessee Name : M/s R5 Pvt. Ltd.**  
**Assessment Year : 2015-16**

The AO, while finalising the assessment under Section 143(3) in December 2017, made an addition of ₹ 8.22 crore under section 43CA. It was noticed from the Tax Audit Report (Form 3CD) that a total addition of ₹ 43.59 crore was to be made in respect of 182 flats sold during the year. It was further noticed from the books of accounts vide 'Note 15- Inventories' to 'Balance Sheet' of subsequent AY i.e. AY 2016-17 that finished goods was NIL. This indicated that the all flats were sold out, and hence addition of the entire amount of ₹ 43.59 crore, as pointed out by the Tax Auditor, was to be made. However, the AO made addition of ₹ 8.22 crore only. The error resulted in under-assessment of income of ₹ 35.37 crore involving tax effect of ₹ 15.26 crore, including interest under Section 234B. *The Department intimated (March 2020) that remedial action under Section 263 of the Act was being initiated.* Details of remedial action were awaited (July 2022).

*As per the provisions of Section 56(1) of the Act, income of every kind which is not to be excluded from the total income under this Act shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income-tax under any of the heads specified in Section 14, items A to E. It has judicially been held in the case of M/s. Tuticorin Alkali Chemicals and Fertilizers Ltd. (1997) 227 ITR 172 (SC) that interest earned on investment of funds borrowed for setting up of factory and before commencement of business is separately chargeable to tax under the head 'income from other sources' and it cannot be claimed that such interest income would be reduced from the interest on borrowed funds.*

**Case III CIT Charge : Pr.CIT-1, Chennai**  
**Assessee Name : M/s I1 Ltd.**  
**Assessment Year : 2016-17**

The AO, while finalising the assessment under Section 143(3) in December 2019, allowed netting off of interest income of ₹ 44.60 crore on term deposits against the direct expenses relating to the project under construction and the net amount capitalised was reflected in the balance sheet. However, interest income should have been assessed to tax under the head 'income from other sources' in view of the above judicial pronouncement. The error resulted in excess computation of loss of ₹ 44.60 crore with consequential potential tax

effect of ₹ 13.38 crore. *The Department stated (March 2021) that a proposal for remedial action under Section 263 of the Act had been initiated. Details of remedial action was awaited (July 2022).*

*Section 28(i) of the Act provides that the profits and gains, of any business or profession, which was carried on by the assessee, at any time during the previous year, shall be chargeable to income-tax, under the head "Profits and gains of business or profession".*

**Case IV CIT Charge : Pr. CIT-4, Kolkata**  
**Assessee Name : M/s S6 Pvt. Ltd.**  
**Assessment Year : 2014-15**

The AO, while finalising the assessment under Section 143(3) in December 2016, allowed the assessee to reduce a sum of ₹ 24.10 crore received as compensation from another company, for non-fulfilment of the terms of Memorandum of Understanding (MoU), in respect of purchase of land to set up an integrated solid waste management and recycling facility from capital work-in-progress treating it as a capital receipt instead of considering it as revenue receipt. However, the said amount was not considered as income by the AO. The error resulted in underassessment of income by ₹ 24.10 crore, having a tax effect of ₹ 10.62 crore, including interest under Section 234B. *The Ministry accepted (April 2022) the audit observation and stated that the remedial action was completed by passing order under Section 263/143(3) in December 2019. The status of recovery was awaited from the Department (July 2022).*

*Section 5(1) of the Act provides that the total income of any previous year of a person who is resident includes all income which is received (or deemed to be received) in India in the previous year by him or on his behalf, income which accrues or arises to him in India as well as outside India during the relevant previous year.*

**Case V CIT Charge : Pr. CIT, Ranchi**  
**Assessee Name : M/s T3 Pvt. Ltd.**  
**Assessment Year : 2012-13**

The AO, while finalising the assessment under Section 143(3) in February 2015, assessed income of the assessee considering gross receipts of ₹ 14.25 crore as shown in the Profit and Loss Account. However, as per Form 26AS for the previous year i.e. FY 2011-12, gross receipts were ₹ 17.48 crore. Thus, there was short declaration of receipts of ₹ 3.21 crore. The error resulted in under assessment of income by ₹ 3.21 crore involving tax effect of ₹ 1.39 crore, including interest. *The Department stated that remedial action had been taken under Section 144/147 in October 2019. The status of recovery was awaited from the Department (July 2022).*

### 3.4.4 Incorrect computation/ classification of capital gains

We noticed four cases relating to incorrect computation/classification of capital gains involving a tax effect of ₹ 70.50 crore in two States. We give below three such illustrative cases:

*Section 50B of the Act read with Section 48 of the Act stipulates that, the full value of the consideration received or accruing after reducing the "net worth" of the undertaking or division, from the slump sale effected in the previous year shall be chargeable as capital gains.*

**Case I    CIT Charge            :    Pr.CIT-7, Mumbai**  
**Assessee Name        :    M/s P4 Ltd.**  
**Assessment Year        :    2012-13**

The AO, while finalizing the assessment under Section 143(3) read with Section 144C(13) in November 2016, allowed the assessee to reduce ₹ 309.51 crore from income on account of exchange gain pertaining to AY 2011-12 on the ground that the said amount was already offered to tax under the head Capital Gain under Section 50B in AY 2011-12. The assessee further added that foreign exchange gain arising during AY 2012-13 on account of realisation of receivable as well as on forward contracts regarding sale of an undertaking on a going concern basis had been reduced from the business income as not chargeable to tax. However, Audit noticed that the assessee had accounted the consideration on the basis of the foreign exchange rate prevalent at the time of the transaction and offered the same to tax in the assessment year 2011-12. It was further noticed that the foreign exchange proceeds actually received in FY 2011-12 i.e. AY 2012-13 also included an additional amount of ₹ 309.51 crore on account of foreign exchange gain. Thus, the aforesaid amount should have been offered to tax which was not done. The omission resulted in under-assessment of income of ₹ 309.51 crore under the head of Capital Gain involving tax effect of ₹ 66.95 crore. *The Department accepted (February 2020) the audit observation and took remedial action under Section 143(3) read with Section 263 in December 2019.* The status of recovery was awaited from the Department (July 2022).

*As per provision under Section 143(3) of the Act, provides that the AOs shall, by an order in writing, make an assessment of the total income or loss of the assessee and determine the sum payable by him or refund of any amount due to him on the basis of such assessment after taking into account such evidence as the assessee may produce and such other evidence as the AO may require on specified points, and after taking into account all relevant material which he has gathered.*

**Case II**    **CIT Charge**                :    **Pr.CIT-6, Mumbai**  
                  **Assessee Name**                :    **M/s A2 Pvt. Ltd.**  
                  **Assessment Year**                :    **2016-17**

The AO, while finalising the assessment under Section 143(3) in December 2018, allowed set off of long term capital loss of ₹ 4.78 crore on sale of shares of a private limited company for just ₹ 1 to a related party. It was noticed that the AO had made disallowance of the write-off of irrecoverable loans and advances of ₹ 47.83 crore given to its subsidiary companies including ₹ 37.07 crore to the above mentioned private limited company, as a non-genuine transaction and concluded that loans and advances was a colourable device/sham transaction to create business loss and evade tax. Further, it was also held that write-off was not justifiable considering the steady increase in revenue over the period and despite having significant profit in FY 2015-16. Since, the AO disallowed loans and advances considering financial position of the above mentioned private limited company, the capital loss so created by sale of shares of the above mentioned private limited company for just ₹ 1 to a related party should also have been disallowed. Omission to disallow the capital loss of ₹ 4.78 crore led to a short levy of tax of ₹ 1.66 crore. *The Department intimated (January 2021) acceptance of the observation and initiated remedial action under Section 148 of the Act in March 2021.*

*As per the provisions of Section 48 of the Act, the income chargeable under the head "Capital gains" shall be computed by deducting from the full value of the consideration received or accruing as a result of the transfer of capital asset, the cost of acquisition of any asset and the cost of any improvements thereto. For this purpose, as per section 55, "cost of acquisition", where the capital asset became the property of the assessee before 1st day of April 1981, means the cost of acquisition of the asset to the assessee or the fair market value of the asset on the 1st day of April 1981, at the option of the assessee. Where the capital asset became the property of the assessee before 1st day of April 1981, "cost of improvement" means, any expenditure of a capital nature incurred in making the any addition or alteration to the capital asset on or after the said date.*

**Case III**    **CIT Charge**                :    **Pr.CIT 4, Chennai**  
                  **Assessee Name**                :    **M/s P6 Pvt. Ltd.**  
                  **Assessment Year**                :    **2014-15**

The AO, while finalising the assessment under Section 143(3) in November 2016, accepted the assessee's computation of Long Term Capital Gain (LTCG) based on the cost of acquisition of 20 acres at ₹ 75 lakh including the cost of improvement made prior to 1<sup>st</sup> April 1981. However, it was noticed from the portal of the Registration Department of the Government of Tamil Nadu that the fair market value of the said property as on 1<sup>st</sup> April 2003 was ₹ 66,000 per acre and hence the fair market value as on 1<sup>st</sup> April 1981 could not be more



further noticed that under the Software Development Services Segment, the average operating profit of comparable<sup>68</sup> was incorrectly computed to 20.12 *per cent* due to adopting wrong figures of average operating expenses of a comparable (M/s Infosys Limited) by the TPO instead of the correct average operating profit of a comparable worked out to 21.52 *per cent* by Audit. This resulted in short adjustment in transfer pricing by ₹ 13.07 crore. These inaccuracies led to a short adjustment in transfer pricing by ₹ 26.27 crore involving short levy of tax of ₹ 14.20 crore. On being pointed out by Audit in May/June 2019, the TPO rectified the error under Section 154 of the Act in February 2020.

Similarly in respect of AY 2007-08, the TPO, while computing the operating income of the assessee for determination of arm's length price after giving effect to ITAT order under Section 254/143(3) of the Act in December 2018, incorrectly allowed foreign exchange gain of ₹ 7.63 crore. As the foreign exchange gain is non-operating in nature (as directed by DRP in September 2018), it should not have been allowed. The error resulted in the short adjustment of ₹ 7.63 crore involving a tax effect of ₹ 3.98 crore. On being pointed out by Audit in May 2019, the TPO rectified the error under Section 154 of the Act in March 2020.

Thus these errors resulted in an aggregate short levy of tax of ₹ 18.18 crore. The status of the effect of the rectification order, passed by the TPO, by the jurisdictional AO was awaited for both the assessment years. (July 2022)

**Case II    CIT Charge                    :    Pr. CIT-1, Visakhapatnam**  
**Assessee Name                        :    M/s P3 Pvt. Ltd.**  
**Assessment Years                     :    2014-15**

The AO referred the assessment case of the assessee company to the TPO, Hyderabad in December 2016 for determining the arm's length price under section 92CA(1) of the Act. The assessee was engaged in the business of manufacturing and exporting of laminated wind shields, that had reported international transactions in Form 3CEB towards purchase of raw material, purchase of stores and spares, purchase of fixed assets, ECB loan, reimbursement and quality claims. The TPO proposed two adjustments viz. ₹28.97 crore on sale and purchase transactions and ₹46.18 lakh on receivables outstanding from Associated Enterprises (AEs) under section 92CA(2) in October 2017 which was confirmed by the Dispute Resolution Panel (DRP) in June 2018. The AO, while passing a consequential assessment order under Section 143(3) read with Section 144(C) in August 2018, did not make additions to the total income on account of transfer pricing adjustment of ₹ 28.97 crore

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<sup>68</sup> TPO worked out the average operating profit of three selected comparable to compute arm's length price for the 'international transactions' undertaken by the assessee.

on Sale and Purchase transactions as proposed in the TPO order. The omission by the AO in considering transfer pricing adjustments made by the TPO resulted in excess computation of loss of ₹ 28.97 crore involving potential tax effect of ₹ 9.85 crore. *On being pointed out by Audit in May 2020, the Department stated in its reply (February 2020) that remedial action was taken under Section 154 read with section 143(3) in December 2020.*

### 3.4.6 Unexplained Investment/ Cash Credit

We noticed eight cases relating to unexplained investment/cash credit involving tax effect of ₹ 35.70 crore in three States. We give below three such illustrative cases:

*Section 68 of the Act provides that, if the assessee offers no explanation about the nature and source of any sum credited in the books of the assessee, the sum so credited may be charged to income tax as income of the assessee.*

**Case I**    **CIT Charge**                :    **Pr. CIT-7, Mumbai**  
                  **Assessee Name**                :    **M/s M5 Ltd.**  
                  **Assessment Year**                :    **2014-15**

The AO, while finalising the assessment under Section 143(3) in December 2016, added back only ₹ 8.85 crore being 15 per cent of the unsecured loan of ₹ 58.99 crore on account of failure to furnish the confirmation of unsecured loan instead of the entire aforesaid unsecured loan. The error resulted in incorrect determination of loss of ₹ 1.33 lakh and under assessment of income of ₹ 50.13 crore involving a potential tax effect of ₹ 0.45 lakh and a positive tax effect of ₹ 22.66 crore including interest under Section 234B. The aggregate tax effect worked out to ₹ 22.67 crore. *The Department stated (February 2021) that the observation was correct and completed remedial action under Section 154 of the Act in March 2020.* The status of recovery was awaited from the Department (July 2022).

**Case II**    **CIT Charge**                :    **CIT-3, Ludhiana**  
                  **Assessee Name**                :    **M/s V1 Pvt. Ltd.**  
                  **Assessment Year**                :    **2014-15**

The AO, while finalising the assessment under Section 143(3) in December 2016, did not take cognizance of the variance in amount in respect of sundry creditors i.e. ₹ 7.33 crore and ₹ 14.65 crore mentioned in the stock statement/relevant documents submitted by the assessee to the bank and balance sheet of the assessee respectively. Omission to bring the difference amount being unexplained to tax resulted in under assessment of income by ₹ 7.32 crore involving tax effect of ₹ 3.16 crore including interest. *The Department stated that the remedial action under Section 143(3) read with Section 263 of the Act had been completed in December 2019.* The status of recovery was awaited from the Department (July 2022).

**Case III CIT Charge : Pr.CIT-1, Aurangabad**  
**Assessee Name : M/s T4 Ltd.**  
**Assessment Year : 2014-15**

The AO, while finalising the assessment under Section 143(3) in December 2016, allowed interest expenses of ₹ 2.22 crore on share application money of ₹ 5.25 crore. However, relevant details for issue of shares and the source of the aforementioned share application money received was not produced by the assessee. Audit noted that the Statutory Tax Auditor had also certified that the books of account were not produced by the assessee and financial statements were not prepared as per Schedule VI of the Companies Act. Thus, the share application money should have been treated as unexplained and the interest expense on such share application money should have been disallowed. Omission to do so resulted in excess determination of loss of ₹ 7.46 crore involving potential tax effect of ₹ 2.42 crore. *The Ministry, while accepting the observation, stated (February 2022) that remedial action had been taken under Section 143(3) read with Section 263 in December 2019.*

### 3.5 Over-charge of tax/Interest

**3.5.1** We noticed that AOs over assessed income in 18 cases involving over-charge of tax and interest of ₹ 344.32 crore in Delhi, Gujarat, Karnataka, Maharashtra, Rajasthan, Telangana, Uttarakhand and West Bengal. We give below three such illustrative cases:

*As per Section 143(3) of the Act, AOs are required to make correct assessment of the total income or loss of the assessee and determine the correct amount of tax payable by the assessee.*

**Case I CIT Charge : CIT-8, Delhi**  
**Assessee Name : M/s S5 Pvt. Ltd.**  
**Assessment Year : 2017-18**

The AO, while computing tax liability of the assessee in December 2019 after assessment under Section 144 of the Act, took assessed income of ₹ 41.64 crore instead of the correct amount of ₹ 10.42 crore. The error resulted in overcharge of tax of ₹ 33.05 crore including interest. On being pointed out by Audit in September/October 2020, *the Department rectified the error under Section 154 of the Act in November 2021.*

**Case II CIT Charge : Pr. CIT(Central), Hyderabad**  
**Assessee Name : M/s H1 Ltd.**  
**Assessment Year : 2016-17**

The AO, while computing the tax liability of the assessee after the assessment under Section 143(3) in December 2018, allowed income from capital gains amounting to ₹ 54.87 crore to be set off against the current year loss.

However, the AO again taxed the income from capital gains at the rate of 20 per cent in ITBA, raising excess demand of ₹ 16.39 crore. On being pointed out by Audit in January 2020, the Department while accepting the audit observation stated (November 2020) that remedial action had been taken under Section 154 of the Act in January 2020.

*Section 234B of the Act provides for levy of interest on account of default in payment of advance tax at specified rates and for specified time period.*

**Case III CIT Charge : Pr. CIT-3, Kolkata**  
**Assessee Name : M/s R4 Ltd.**  
**Assessment Year : 2013-14**

The AO, while computing tax liability of the assessee after revision order under Section 263 of the Act in October 2018, levied interest of ₹ 18.37 crore under Section 234B instead of the correct amount of ₹ 9.87 crore. The error resulted in excess levy of interest of ₹ 8.50 crore. The Department did not accept (September 2021) the audit observation, stating that the interest was rightly charged for 67 months. The Department's reply is not tenable as the assessment was revised under Section 263 read with Section 144 of the Act in October 2018, and the interest should have been levied upto the date of regular assessment i.e. March 2016 only as clearly mentioned in the Act.

#### **Recommendations**

***(i) Application of incorrect rates of tax and surcharge, errors in levy of interest, excess or irregular refunds etc. point to weaknesses in the internal controls in the ITD which need to be addressed.***

***(ii) While the Department has taken action to initiate correction in the cases pointed out by the Audit, it may be mentioned that these are only a few illustrative cases, test checked in audit. In the entire universe of all assessments, including non-scrutiny assessments, such errors of omission or commission cannot be ruled out. The CBDT not only needs to revisit its assessments, but also put in place a fool proof IT system and internal control mechanism to avoid recurrence of such errors in the future.***

***(iii) The CBDT may examine whether the instances of "errors" noticed are errors of omission or commission and if these are errors of commission, then they should ensure necessary action including fixing responsibility where glaring mistakes have been pointed out by Audit, as per law.***



## Chapter IV: Income Tax

### 4.1 Introduction

**4.1.1** This chapter discusses 148 high value non-corporate cases (refer para 2.3) involving 174<sup>69</sup> assessments and total tax impact of ₹ 624.12<sup>70</sup> crore which were referred to the Ministry during the period September 2021 to July 2022. The Ministry/the ITD accepted 140 cases involving tax effect (TE) of ₹ 595.51 crore, and did not accept two cases involving TE of ₹ 1.53 crore. Further, out of 148 cases, the ITD has completed remedial action in 124 cases involving tax effect of ₹ 575.37 crore and initiated remedial action in 13 cases involving tax effect of ₹ 14.74 crore. In the remaining 11 cases, the ITD had not taken/initiated any action as on July 2022.

**4.1.2** The categories of errors can be broadly classified as follows:

- Quality of assessments
- Administration of tax concessions/exemptions/deductions
- Income escaping assessments due to errors
- Others-Overcharge of tax/interest etc.

The subsequent paragraphs give a few illustrations of each category of the above mentioned errors.

### 4.2 Quality of assessments

**4.2.1** In certain cases, the AOs committed errors in the assessments, ignoring clear provisions of the Act. These cases of incorrect assessments point to continuing weaknesses in the internal controls on the part of the ITD which need to be addressed.

Table 4.1 below shows the sub-categories of errors which impacted the quality of assessments.

Table 4.1: Details of errors in quality of assessment			
Sub-categories	Cases	TE	States
	(₹ in crore)		
a. Arithmetical errors in computation of income and tax	19	63.12	Delhi, Gujarat, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu and West Bengal
b. Incorrect application of rates of tax, surcharge etc.	25	61.54	Delhi, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Tamil Nadu, Telangana and Uttar Pradesh

69 Includes five cases of over-assessment

70 Includes over-assessment of ₹ 110.13 crore

Table 4.1: Details of errors in quality of assessment					
Sub-categories	Cases	TE	States		
(₹ in crore)					
c. Errors in levy of interest	61	303.30	Delhi, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu, Telangana and Uttar Pradesh		
d. Excess or Irregular Refunds/Interest on Refunds	2	5.28	Delhi and Maharashtra		
e. Errors in assessment while giving effect to appellate orders	1	4.56	Tamil Nadu		
<b>Total</b>	<b>108</b>	<b>437.80</b>			

#### 4.2.2 Arithmetical errors in computation of income and tax

We noticed arithmetical errors in computation of income and tax in 19 cases involving tax effect of ₹ 63.12 crore in seven States. We give below five such illustrative cases:

*The Income Tax Act, 1961 provides that the AO is required to make a correct assessment of the total income or loss of the assessee and determine correct amount of tax or refund, as the case may be.*

**Case I      CIT Charge                   : Pr. CIT-1, Jabalpur**  
**Assessee                            : M/s SAC**  
**Status                                 : Association of Persons (AOP)**  
**Assessment Years                : 2012-13, 2013-14, 2014-15 and 2016-17**

The AO, while finalising the assessments under Section 144<sup>71</sup> read with Section 153C of the Act at an income of ₹ 28.27 crore, ₹ 43.35 crore, ₹ 47.28 crore and ₹ 3.15 crore respectively in December 2018, erroneously computed tax demand on assessed income of ₹ 18.96 crore, ₹ 27.15 crore, ₹ 27.94 crore and ₹ 2.24 crore instead of the correct income of ₹ 28.27 crore, ₹ 43.35 crore, ₹ 47.28 crore and ₹ 3.15 crore for AYs 2012-13, 2013-14, 2014-15 and 2016-17 respectively. The error resulted in aggregate under assessment of income of ₹ 45.76 crore<sup>72</sup> with net consequent short levy of tax of ₹ 32.45 crore<sup>73</sup> including interest. *The Department accepted the audit observation (February 2021) and rectified the mistake for all AYs under Section 154 of the Act.* However, the status of collection of demand was awaited (July 2022).

71 Section 144 of the Act provides that if the assessee fails to comply with all the term of a notice issued, the Assessing Officer after taking into account all relevant material which the AO has gathered, after giving the assessee an opportunity of being heard, shall make the assessment of total income or loss to the best of his judgment

72 ₹ 9.31 crore + ₹ 16.20 crore + ₹ 19.34 crore + ₹ 0.91 crore

73 ₹ 7.12 crore + ₹ 11.40 crore + ₹ 13.45 crore + ₹ 0.48 crore

**Case II**    **CIT Charge**                :    **Pr. CIT 7, Delhi**  
**Assessee**                                :    **RN**  
**Status**                                     :    **Individual**  
**Assessment Year**                    :    **2012-13**

The AO, while finalising the assessment under Section 144/147<sup>74</sup> of the Act in December 2019 at an income of ₹ 21.90 crore had erroneously calculated tax liability of ₹ 0.64 crore on income of ₹ 2.19 crore instead of tax liability of ₹ 6.66 crore on assessed income of ₹ 21.90 crore. Further, surcharge was erroneously levied, which was not leviable for the relevant AY 2012-13 in the case of individuals. This error resulted in net short levy of tax of ₹ 17.09 crore including interest. *The audit observation was communicated to the Department (January 2021). The Department rectified the error under Section 154 of the Act (June 2022).* Further, the status of collection of demand was awaited (July 2022).

**Case III**    **CIT Charge**                :    **CIT(Exemption), Delhi**  
**Assessee**                                :    **STP**  
**Status**                                     :    **Trust**  
**Assessment Year**                    :    **2016-17**

The AO, while finalising the assessment under Section 143(3) of the Act in December 2018 at an income of ₹ 64.41 crore erroneously allowed expenses of ₹ 1.50 crore on account of Grant-in-Aid which was not routed through the Income and Expenditure account. Also, the required surcharge was not levied by the ITD. Further, excess credit of pre-paid taxes was allowed by the ITD. These inaccuracies in computation of income and tax resulted in short levy of tax of ₹ 3.91 crore including interest. *The Department accepted the audit observation (December 2020) and stated that remedial action was being initiated under Section 148 of the Act.* The status of completion of remedial action was awaited (July 2022).

**Case IV**    **CIT Charge**                :    **Pr. CIT-3, Ahmedabad**  
**Assessee**                                :    **AVV**  
**Status**                                     :    **Individual**  
**Assessment Year**                    :    **2017-18**

The AO, finalised the assessment under Section 144 at an income at ₹ 2.54 crore in December 2019. However, the total assessed income inclusive of all additions made under Section 69 was ₹ 3.54 crore. The AO, erroneously computed tax on ₹ 2.54 crore instead of ₹ 3.54 crore. This mistake resulted in

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<sup>74</sup> Section 147 of the Act provides that if the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may subject to provisions of Sections 148 to 153, assess or reassess such income

under assessment of income of ₹ one crore with consequent short levy of tax of ₹ 1.25 crore including interest. *The Department accepted the audit observation (March 2021) and rectified the mistake under Section 154 of the Act.* However, the status of collection of demand was awaited (July 2022).

**Case V CIT Charge : Pr. CIT (Central), Pune**  
**Assessee : M/s VSA**  
**Status : Firm**  
**Assessment Year : 2015-16**

The AO, while finalising the assessment under Section 144 at an income of ₹ 36.90 crore in August 2016 incorrectly adopted returned income of ₹ 29.62 lakh instead of correct amount of ₹ 2.96 crore while computing tax demand. This resulted in under assessment of ₹ 2.67 crore involving short levy of tax of ₹ 1.06 crore including interest. *The audit observation was communicated to the Department (July 2017) along with Statement of facts (March 2021). The Department accepted the audit observation (July 2017).* However, further reply was awaited.

Further, the above lapses indicate that the concerned officers did not exercise due diligence in these cases. Therefore, the Ministry may examine the reasons for such lapses and take appropriate action including fixing responsibility so as to prevent recurrence of such errors in future.

#### **4.2.3 Incorrect application of incorrect rates of tax and surcharge, etc.**

Audit noticed several cases relating to additions made under Section 68, 69, 69A, 69B, 69C and 69D of the Act by the AO which attracts the provisions of Section 115BBE of the Act. The AO, while computing tax liability of the assessee, applied incorrect rate of tax and surcharge on these additions across various charges. We noticed 25 cases involving tax effect of ₹ 61.54 crore in 10 States. We give below nine such illustrative cases:

*As per provisions of Section 68, 69, 69A, 69B, 69C and 69D of the Act, any cash credited in the books, unexplained investments which is not recorded in the books of account, money, bullion, jewellery not recorded in the books of account, amount of investments etc. not fully disclosed in books of account, unexplained expenditure and amount borrowed or repaid on hundi otherwise than through an account payee cheque drawn on a bank respectively for which assessee offers no explanation about the nature and source thereof may be deemed to the income of the assessee. Further, the provisions of Section 115BBE of the Income Tax Act, (1961) stipulate that, where the total income of an assessee includes any income referred to in Sections 68, 69, 69A, 69B, 69C or Section 69D, the amount of income tax payable shall be calculated at the rate of sixty per cent on such income. Finance Act, 2016, as applicable for the AY 2017-18, stipulates surcharge on the said income tax at the rate of twenty five per cent.*

**Case I**    **CIT Charge**                    : Pr. CIT / CIT (Central-2), Chennai  
**Assessee**                                : SAS  
**Status**                                        : Individual  
**Assessment Year**                    : 2017-18

The AO, while finalising the assessment under Section 143(3) read with Section 153C in December 2019 at an income of ₹ 19.64 crore made an addition of ₹ 19.09 crore towards undisclosed income. However, tax /surcharge was levied incorrectly at the rate of 30 *per cent* /Nil instead of the prescribed rate of 60 *per cent*/25 *per cent*. This resulted in short levy of tax including surcharge of ₹ 8.85 crore. *The Department accepted the audit observation (October 2020) and rectified the mistake under Section 154 of the Act.* However, the status of collection of demand was awaited (July 2022).

**Case II**    **CIT Charge**                    : Pr. CIT / CIT (Central-2), Chennai  
**Assessee**                                : M/s STT  
**Status**                                        : Firm  
**Assessment Year**                    : 2017-18

The AO, while finalising the assessment under Section 144 read with Section 153C of the Act in December 2019 at an income of ₹ 17.89 crore made an addition of ₹ 17.89 crore towards undisclosed income. However, while computing tax demand, tax/ surcharge was levied incorrectly at the rate of 30 *per cent* /12 *per cent* instead of the prescribed rate of 60 *per cent* /25 *per cent*. The short levy of tax including surcharge worked out to ₹ 7.63 crore. *The Department accepted the audit observation (September 2020) and rectified the mistake under Section 154 of the Act.* However, the status of collection of demand was awaited (July 2022).

**Case III**    **CIT Charge**                    : Pr. CIT/CIT (Central), Hyderabad  
**Assessee**                                : M/s AR  
**Status**                                        : Firm  
**Assessment Year**                    : 2017-18

The AO, while finalising the assessment under Section 143(3) in December 2018 at an income of ₹ 12.97 crore made an addition of ₹ 12.97 crore on account of unexplained cash deposits. However, the rate of tax was charged at 30 *per cent* as against the applicable rate of 60 *per cent* prescribed under the Act. This mistake resulted in short levy of tax of ₹ 6.93 crore including interest. *The Department accepted the audit observation (August 2020) and stated that the remedial action has been taken under Section 154 of IT Act.* The status of completion of remedial action was awaited (July 2022).

**Case IV**    **CIT Charge**                    :    **CIT(Central), BHOPAL**  
                  **Assessee**                            :    **NM**  
                  **Status**                                    :    **Individual**  
                  **Assessment Year**                    :    **2017-18**

The AO, while finalising the assessment under Section 153A of the Act in December 2018 at an income of ₹ 11.35 crore, incorrectly levied tax of ₹ 3.39 crore and surcharge of ₹ 0.51 crore at the rate of 30 *per cent* and 15 *per cent* respectively instead of the leviable tax of ₹ 6.70 crore and surcharge of ₹ 1.67 crore at the rate of 60 *per cent* and 25 *per cent* respectively. This mistake resulted in short levy of tax of ₹ 5.58 crore including interest. *The Department accepted the audit observation (February 2021) and rectified the mistake under Section 154 of IT Act.* The status of collection of demand was awaited (July 2022).

**Case V**    **CIT Charge**                    :    **Pr. CIT / CIT (Central-2), Chennai**  
                  **Assessee**                            :    **M/s BA**  
                  **Status**                                    :    **Firm**  
                  **Assessment Year**                    :    **2017-18**

The AO, while finalising the assessment under Section 144 read with Section 153C of the Income Tax Act, 1961 in December 2019 at an income of ₹ 11.08 crore, made an addition of ₹ 11.08 crore towards undisclosed income under Section 68 of the Act. However, tax /surcharge was levied incorrectly at the rate of 30 *per cent*/12 *per cent* instead of the prescribed rate of 60 *per cent*/25 *per cent*. Thus, incorrect application of rate of tax/surcharge resulted in short levy of tax of ₹ 4.72 crore including interest. *The Department accepted the audit observation (September 2020) and rectified the mistake under Section 154 of the Act.* However, the status of collection of demand was awaited (July 2022).

**Case VI**    **CIT Charge**                    :    **Pr. CIT / CIT (Central-2), Chennai**  
                  **Assessee**                            :    **NE**  
                  **Status**                                    :    **Individual**  
                  **Assessment Year**                    :    **2017-18**

The AO, while finalising the assessment under Section 143(3) in December 2018 at an income of ₹ 14.02 crore, made an addition of ₹ 10.83 crore towards undisclosed income. However, tax/surcharge was levied incorrectly at normal rates of 30 *per cent* /15 *per cent* instead of the applicable rates of 60 *per cent* /25 *per cent*. This has resulted in short levy of tax of ₹ 4.50 crore including interest. *The Department accepted the audit observation (February 2021) and rectified the mistake under Section 154 of the Act.* However, the status of collection of demand was awaited (July 2022).

**Case VII**    **CIT Charge**                    :    **CIT (Central), Bhopal**  
**Assessee**                                    :    **LSM**  
**Status**                                        :    **Individual**  
**Assessment Year**                        :    **2017-18**

The AO while finalising the assessment under Section 153A read with Section 144 of the Act at an income of ₹ 42.85 crore in December 2018, levied surcharge of ₹ 3.86 crore at the rate of 15 per cent instead of the leviable surcharge of ₹ 6.43 crore at the rate of 25 per cent. This has resulted in aggregate short levy of surcharge and cess of ₹ 3.96 crore including interest. *The Department accepted the audit observation (February 2021) and rectified the mistake under Section 154 of the Act.* However, the status of collection of demand was awaited (July 2022).

**Case VIII**    **CIT Charge**                    :    **CIT (Central-2), Delhi**  
**Assessee**                                    :    **RG**  
**Status**                                        :    **Individual**  
**Assessment Year**                        :    **2011-12**

The AO, while finalising the assessment under Section 143(3)/147 of the Act in December 2018, at an income of ₹ 15.15 crore made an addition of ₹ 14.97 crore on account of fictitious claim of exemption of LTCG earned from sale of shares. However, while computing the tax demand, the AO incorrectly charged tax at the rate of 20 per cent at ₹ 5.97 crore instead of charging tax at the normal rate of 30 per cent at ₹ 8.93 crore, resulted in short levy of tax of ₹ 2.96 crore including interest. *The Department accepted the audit observation (July 2021) and rectified the mistake under Section 154/143(3)/147 of the Act.* However, the status of collection of demand was awaited (July 2022).

**Case IX**    **CIT Charge**                    :    **Pr. CIT/CIT (Central), Bengaluru**  
**Assessee**                                    :    **SS**  
**Status**                                        :    **Individual**  
**Assessment Years**                        :    **2017-18 and 2018-19**

The AO, while finalising the assessments under Section 144 read with Section 153C for the AY 2017-18 and under Section 144 for the AY 2018-19 at an income of ₹ 1.60 crore and ₹ 2.14 crore respectively in December 2019 did not levy tax at the prescribed rate of 60 per cent and surcharge on tax at the rate of 25 per cent. The mistake has resulted in aggregate short levy of tax of ₹ 2.92 crore including interest. *The Department accepted the audit observation (October 2020) and rectified the mistake under Section 154 of the Act.* However, the status of collection of demand was awaited (July 2022).

Further, the above lapses indicate that the concerned officers did not exercise due diligence in these cases. Therefore, the Ministry may examine the reasons

for such lapses and take appropriate action including fixing responsibility so as to prevent recurrence of such errors in future.

#### 4.2.4 Errors in levy of interest

We noticed errors in levy of interest in 61 cases involving tax effect of ₹ 303.30 crore in 12 States. We have consistently been highlighting such errors in our Compliance Audit Reports. As such, this is a recurrent and persistent error. We give below 11 such illustrative cases:

*The Income Tax Act, 1961 provides for levy of interest for omissions on the part of the assessee at the rates prescribed by the Government from time to time. Section 234A provides for levy of interest on account of default in furnishing return of income at specified rates and for specified time period. Section 234B provides for levy of interest on account of default in payment of advance tax at specified rates and for specified time period. Section 234C provides for levy of interest on account of default in payment of instalments of advance tax at specified rates and for specified time period*

**Case I**    **CIT Charge**                    :    **CIT (Exemptions), Chandigarh**  
                  **Assessee**                                :    **M/s IKG**  
                  **Status**                                         :    **Artificial Juridical Person**  
                  **Assessment Year**                    :    **2010-11**

The AO, while finalising assessment under Section 147 read with Section 143(3) in December 2017 at an income of ₹ 151.99 crore, levied interest under Section 234A of ₹ 0.47 crore for one month instead of ₹ 37.09 crore for 79 months, as per the provision *ibid*. The error resulted in short levy of interest of ₹ 36.62 crore. *The Department accepted the audit observation (November 2019) and rectified the mistake under Section 154 of the Act.* However, the status of collection of demand was awaited (July 2022).

**Case II**    **CIT Charge**                    :    **Pr. CIT/CIT (Central), Bengaluru**  
                  **Assessee**                                :    **M/s II**  
                  **Status**                                         :    **Firm**  
                  **Assessment Years**                    :    **2015-16, 2016-17, 2017-18 and 2018-19**

The AO, while finalising the assessments under Section 144 read with Section 153A at an income of ₹ 3.08 crore, ₹ 32.69 crore and ₹ 115.40 crore for AYs 2015-16, 2016-17 and 2017-18 respectively, and under Section 144 for AY 2018-19 determining income at ₹ 34.78 crore in December 2019, did not levy interest under Sections 234A and 234B. Further, for AY 2016-17, surcharge on tax was levied inadvertently at the rate of 10 *per cent* instead of 12 *per cent*. Non-levy of interest for the assessment years 2015-16 to 2018-19 and incorrect levy of surcharge for the AY 2016-17 resulted in short levy of tax

of ₹ 36.06 crore<sup>75</sup>. The Ministry accepted the audit observation (July 2022) and rectified the mistakes for all AYs under Section 154 of the Act in September 2020 and January 2021. However, the status of collection of demand was awaited (July 2022).

**Case III CIT Charge : Pr. CIT-28, Mumbai**  
**Assessee : SBS**  
**Status : Individual**  
**Assessment Year : 2010-11**

The AO, while finalising the assessment under Section 144 read with Section 147 in December 2017 at an income of ₹ 132.14 crore, levied interest under Section 234A of ₹ 3.27 crore instead of ₹ 36.33 crore as per provision ibid. This resulted in short levy of interest under Section 234A of ₹ 33.06 crore. The audit observation was communicated to the Department (September 2020) followed by issue of Statement of Facts (February 2021). The Department accepted the audit observation (August 2021) and rectified the mistake under section 154 of the Act in June 2021.

**Case IV CIT Charge : CIT 2, Rajkot**  
**Assessee : PRK**  
**Status : Individual**  
**Assessment Year : 2010-11**

The AO, while finalising the assessment under Section 143(3) read with Section 147 in December 2016 at an income of ₹ 154.95 crore levied interest under Section 234A amounting to ₹ 3.35 crore for seven months, instead of ₹ 36.38 crore for 76 months. This error resulted in short levy of interest of ₹ 33.03 crore. The Ministry accepted the audit observation (April 2022) and rectified the mistake under Section 154 of the Act in January 2021. However, the status of collection of demand was awaited (July 2022).

**Case V CIT Charge : Pr. CIT-1, Indore**  
**Assessee : M/s GSS**  
**Status : Trust**  
**Assessment Year : 2011-12**

The AO, while finalising the assessment under Section 144 read with Section 147 of the Act in December 2018 at an income of ₹ 235.40 crore did not levy interest of ₹ 7.99 crore under Section 234A of the Act. Further, the AO incorrectly levied interest of ₹ 53.82 crore under Section 234B instead of leviable interest of ₹ 67.63 crore. These errors resulted in non/short levy of interest of ₹ 21.79 crore. The Department accepted the audit observation

75 i.e. for AY 2015-16- ₹ 1.09 crore, AY 2016-17- ₹ 9.30 crore, AY 2017-18- ₹ 21.94 crore and AY 2018-19- ₹ 3.73 crore

(January 2022) and rectified the error under Section 154 of the Act in April 2021. However, the status of collection of demand was awaited (July 2022).

**Case VI**    **CIT Charge**                    :    **CIT (Central), Kanpur**  
                  **Assessee**                         :    **SW**  
                  **Status**                                 :    **Individual**  
                  **Assessment Years**               :    **2007-08, 2008-09 and 2009-10**

The AO, while finalising the assessments under Section 144/147 in August 2018 at an income of ₹ 33.65 crore, ₹ 151.05 crore and ₹ 356.01 crore respectively levied interest under Section 234A of ₹ 0.34 crore, ₹ 1.54 crore and ₹ 3.63 crore as against the correct leviable amount of ₹ 0.68 crore, ₹ 2.57 crore and ₹ 15.73 crore for AYs 2007-08, 2008-09 and 2009-10 respectively. This error resulted in aggregate short levy of interest under Section 234A of ₹ 13.47 crore. *The Department accepted the audit observation (February 2021) and rectified the error under Section 154 of the Act in January 2021.* However, the status of collection of demand was awaited (July 2022).

**Case VII**    **CIT Charge**                    :    **Pr. CIT 12, Delhi**  
                  **Assessee**                         :    **MGS**  
                  **Status**                                 :    **Individual**  
                  **Assessment Year**                 :    **2010-11**

The AO, while finalising the assessment under Section 147/143(3) of the Act in December 2017, at an income of ₹ 47.58 crore did not levy interest under Section 234A(1) of ₹ 12.92 crore for 88 months. This error resulted in short levy of tax of ₹ 12.92 crore. *The Department accepted the audit observation (August 2021) and rectified the mistake under Section 154 of the Act.* Further, the status of collection of demand was awaited (July 2022).

**Case VIII**    **CIT Charge**                    :    **CIT (Central-1), Delhi**  
                  **Assessee**                         :    **VS**  
                  **Status**                                 :    **Individual**  
                  **Assessment Years**                 :    **2012-13 and 2013-14**

The AO, while finalising the assessments under Section 153C read with Section 144 of the Act in December 2019 at an income of ₹ 26.03 crore and ₹ 19.29 crore respectively, incorrectly charged interest under Section 234A of ₹ 0.56 crore and ₹ 0.42 crore for a delay of seven months in each year instead of ₹ 7.06 crore and ₹ 4.57 crore for 88 months and 77 months for AY 2012-13 and 2013-14 respectively. These errors in computing the interest resulted in short levy of tax of ₹ 10.65 crore for AYs 2012-13 and 2013-14. *The Department accepted the audit observation (August 2021) and rectified the mistake under Section 154 of the Act.* Further, the status of collection of demand was awaited. (July 2022).

**Case IX**    **CIT Charge**                : **Pr. CIT 20, Delhi**  
**Assessee**                                : **SK**  
**Status**                                        : **Individual**  
**Assessment Year**                        : **2012-13**

The AO, while finalising the assessment under Section 144 of the Act in December 2019 at an income of ₹ 29.05 crore did not levy interest under Section 234A of ₹ 7.89 crore for 88 months. Further, interest of ₹ 8.33 crore under Section 234B for a period of 93 months was leviable, against which the AO levied interest of ₹ 6.90 crore for a delay of 77 months only. These errors resulted in short levy of tax of ₹ 9.32 crore. *The Department accepted the audit observation (November 2021) and rectified the mistake under Section 154/144/147 of the Act in September 2021.* Further, the status of collection of demand was awaited. (July 2022).

**Case X**            **CIT Charge**                : **CIT (Central-1), Delhi**  
**Assessee**                                : **HRK**  
**Status**                                        : **Individual**  
**Assessment Years**                        : **2011-12, 2012-13 and 2013-14**

The AO, while finalising the assessments under Section 153C/144 of the Act in December 2019, at an income of ₹ 17.55 crore, ₹ 1.04 crore and ₹ 19.70 crore respectively, incorrectly levied interest under Section 234A at ₹ 0.81 crore, ₹ 0.05 crore and ₹ 0.91 crore for 15 months in each AY instead of ₹ 5.46 crore, ₹ 0.27 crore and ₹ 4.67 crore for 101 months, 88 months and 77 months for AY 2011-12, 2012-13 and 2013-14 respectively. These errors resulted in short levy of tax of ₹ 8.64 crore for these assessment years. *The Department accepted the audit observation (March 2021) and rectified the mistakes for all the AYs under Section 154 read with Section 153C/144 of the Act in February 2021 and March 2021.* Further, the status of collection of demand was awaited (July 2022).

**Case XI**    **CIT Charge**                : **Pr. CIT-17, Mumbai**  
**Assessee**                                : **LAH**  
**Status**                                        : **Individual**  
**Assessment Years**                        : **2009-10 and 2010-11**

The AO, while finalising the assessments under Section 144 read with Section 147 in December 2016 at an income of ₹ 12.72 crore and ₹ 32.52 crore respectively did not levy interest under Section 234A amounting to ₹ 3.84 crore and ₹ 7.73 crore for 89 months for AY 2009-10 and 77 months for AY 2010-11 respectively. This error resulted in non-levy of interest of ₹ 11.57 crore under Section 234A. *The Department accepted the audit observation (July 2017) and rectified the mistake under Section 154 of the Act in July 2017.* Further, the status of collection of demand was awaited (July 2022).

Further, the above lapses indicate that the concerned officers did not exercise due diligence in these cases. Therefore, the Ministry may examine the reasons for such lapses and take appropriate action including fixing responsibility so as to prevent recurrence of such errors in future.

#### 4.2.5 Excess or Irregular Refunds/Interest on Refunds

We noticed two cases relating to excess or irregular refunds/interest on refunds involving tax effect of ₹ 5.28 crore in one state. We give below one such illustrative case:

*Section 244A of the Act provides that where refund of any amount becomes due to the assessee, he shall, subject to the provisions of this Section, be entitled to receive, in addition to the said amount, simple interest thereon. Such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period, (i) from the 1st day of April of the assessment year to the date on which the refund is granted, if the return of income has been furnished on or before the due date specified under sub-Section (1) of Section 139; or (ii) from the date of furnishing of return of income to the date on which the refund is granted. All Income Tax Returns are first summarily processed under Section 143(1) at Centralized Processing Centre (CPC), Bengaluru before scrutiny assessments. Thus, all data pertaining to summary assessments are directly captured in Income Tax Business Application (ITBA). The ITD adopted ITBA module from the Financial year 2017-18 to eliminate human intervention in respect of modifications of interest under Sections 234A, 234B, 234C and 244A of the Act as the same prevailed in earlier software, namely AST. The work of processing, rectification, completion of assessment order in respect of scrutiny cases is done by Assessing Officers (AOs) in ITBA module, for all returns transferred from CPC. ITBA, inter alia, undertakes assessment functions of calculation of tax and calculation of interest under various Sections of the Act. In the case of scrutiny assessment, rectification, appeal effect orders in the field offices, figures are data-fed to the system by AOs based on the orders. When the new figures are entered into different heads of income under additions, computation sheet for final demand is generated through the system.*

<b>Case I</b>	<b>CIT Charge</b>	<b>:</b>	<b>CIT (Exemption), Delhi</b>
	<b>Assessee</b>	<b>:</b>	<b>NHA</b>
	<b>Status</b>	<b>:</b>	<b>Trust</b>
	<b>Assessment Year</b>	<b>:</b>	<b>2017-18</b>

The AO, while finalising the assessment under Section 143(3) of the Act in December 2019 at an income of ₹ 'Nil', computed interest under Section 244A at ₹ 12.29 crore for 24 months instead of ₹ 16.90 crore for 33 months. This inaccuracy resulted in short payment of interest of ₹ 4.61 crore. *The Department accepted the audit observation (June 2021) and rectified the mistake under Section 154 of the Act.* Further, the status of payment of interest was awaited (July 2022).

Further, the above lapse indicate that the concerned officer did not exercise due diligence in this case. Therefore, the Ministry may examine the reasons for such lapse and take appropriate action including fixing responsibility so as to prevent recurrence of such error in future.

#### 4.2.6 Errors in assessment while giving effect to appellate orders

We noticed an error in assessment while giving effect to the appellate order in one case involving tax effect of ₹ 4.56 crore in one state. We give below the illustrative case:

*Section 254 of the Income Tax Act, 1961, provides, that the Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit. Further, para 24.1 of Chapter 18 of Manual of Office Procedure (Volume II, Technical) of the Income Tax Department provides that on receipt of the Appellate Order in the Assessing Officer's office, immediate steps should be taken to revise the assessment in the light of the order.*

*Section 36(1)(vii) of the Income Tax Act, 1961 envisages that, in computing the income referred to in Section 28, deduction, in respect of any provision for bad and doubtful debts made by a scheduled bank or a non-scheduled bank or a cooperative bank other than a primary agricultural credit society or a primary cooperative agricultural and rural development bank, of an amount not exceeding seven and one half per cent of the total income (computed before making any deduction under this clause and chapter VIA) and an amount not exceeding ten per cent of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner shall be allowed.*

**Case I      CIT Charge                   : Pr. CIT / CIT-8, Chennai**  
**Assessee                               : M/s TTD**  
**Status                                    : Trust**  
**Assessment Year                    : 2014-15**

The AO while giving effect to the appellate order under Section 250(6) of the Act in September 2017, erroneously allowed deduction of ₹ 33.42 crore instead of deduction of ₹ 20 crore towards provision for bad and doubtful debts. This excess deduction of ₹ 13.42 crore resulted in under assessment of income with tax effect of ₹ 4.56 crore. *The Department accepted the audit observation (November 2018) and rectified the mistake under Section 154 of the Act.* Further, the status of collection of demand was awaited (July 2022).

Further, the above lapse indicate that the concerned officer did not exercise due diligence in this case. Therefore, the Ministry may examine the reasons for such lapse and take appropriate action including fixing responsibility so as to prevent recurrence of such error in future.

#### 4.3 Administration of tax concessions/exemptions/deductions

**4.3.1** The Act allows concessions/exemptions/deductions to the assessee in computing total income under Chapter VI-A and for certain categories of expenditure under its relevant provisions. We observed that in certain cases, the AOs had irregularly extended benefits of tax concessions/exemptions/deductions to ineligible beneficiaries. Table 4.2 below shows the sub-

categories which have impacted the administration of tax concessions/exemptions/deductions.

<b>Sub-categories</b>	<b>Nos.</b>	<b>TE (₹ in States crore)</b>	
<b>a.</b> Irregular exemptions/ deductions/relief given to individuals	3	1.33	Maharashtra and West Bengal
<b>b.</b> Irregular exemptions/ deductions/relief given to AOPs/Firms/Societies/Trusts	4	14.73	Kerala, Maharashtra and Rajasthan
<b>c.</b> Incorrect allowance of Business Expenditure	7	9.33	Assam, Jharkhand, Maharashtra and Punjab
<b>d.</b> Irregularities in allowing depreciation/ business losses/ capital losses	3	2.32	Assam and Gujarat
<b>Total</b>	<b>17</b>	<b>27.71</b>	

#### 4.3.2 Irregular exemptions/deductions/relief given to Individuals

We noticed irregular exemptions/deductions/relief given to individuals in three cases involving tax effect of ₹ 1.32 crore in two States. We give below one such illustrative case:

*Section 80AC of the Income Tax Act, 1961 (Act) stipulates that where in computing the total income of an assessee for the previous year relevant the assessment year commencing on the 1st day of April, 2006 or any; subsequent assessment year, any deduction is admissible under Section 80-IA or Section 80-IB or Section 80-IC, no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under Section 139(1) of IT Act.*

*Section 80-IB of the Income Tax Act deals with deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings. Where the gross total income of an assessee includes any profits and gains derived from any eligible business, a deduction from such profits and gains of an amount equal to such percentage and for such number of assessment years as specified be allowed, in computing the total income of the assessee.*

**Case I      CIT Charge                   : Pr. CIT-4, Pune**  
**Assessee                               : SBP**  
**Status                                    : Individual**  
**Assessment Year                    : 2014-15**

The AO, while finalizing the assessment under Section 143(3) in December 2016 at an income of ₹ 1.04 crore, incorrectly allowed deduction of ₹ 0.79 crore on account of Section 80-IB as the assessee had not filed the return of income on or before the due date, thus contravening the provisions of Section

80AC of the Act. This error resulted in underassessment of income of ₹ 0.79 crore with consequent short levy of tax of ₹ 0.37 crore including interest. *The Department accepted the audit observation (December 2019) and stated that the remedial action was taken under Section 143(3) read with Section 147 of the Act.*

#### 4.3.3 Irregular exemptions/deductions/relief given to AOPs/Firms/Societies/Trusts

We noticed irregular exemptions/deductions/relief given to AOPs/firms/societies/trusts in four cases involving a tax effect of ₹ 14.73 crore in three States. We give below two such illustrative cases:

*Section 80-IC(2)(b)(ii) of Income Tax Act, 1961 (Act) stipulates that the amount of deduction in the case of an undertaking located in the notified area of special category States which includes Himachal Pradesh and Uttaranchal (Uttarakhand) shall be 100 per cent of profits and gains derived from such undertaking for five assessment years beginning with the initial assessment year and thereafter twenty five per cent of such profits and gains, derived from such undertaking which manufacture or produce an article or thing specified in the 14th Schedule, subject to fulfilment of all the prescribed conditions.*

*Under the provisions of Section 80P(2)(d) of Income Tax Act 1961, where, in the case of an assessee being a co-operative society, the gross total income includes any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income shall be deducted, in computing the total income of the assessee. Further, as per sub-Section 4 of Section 80P of the Act, the provisions of this Section shall not apply in relation to any co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank.*

**Case I    CIT Charge            :    Pr. CIT 2, Thane**  
**Assessee                 :    RI**  
**Status                     :    Firm**  
**Assessment Year        :    2014-15**

The AO, while finalising the assessment under Section 143(3) in December 2016 allowed deduction of ₹ 29.10 crore on the grounds of manufacturing products specified in the 14<sup>th</sup> Schedule<sup>76</sup> under Section 80-IC(2)(b)(ii) of the Act as the unit was located in the state of Himachal Pradesh. This was in contravention to the relevant Section of the Act as the products manufactured were not specified in the 14<sup>th</sup> Schedule of the Act in respect of Himachal Pradesh. This mistake resulted in under-assessment of income of ₹ 29.10 crore with consequent short levy of tax of ₹ 13.16 crore including interest. *The Department accepted the audit observation (February 2021) and stated that*

<sup>76</sup> Manufacturing of essential oils and perfumery compounds is not covered for the States of Himachal Pradesh and Uttaranchal (Uttarakhand) in the 14th Schedule.

the remedial action was taken under Section 143(3) read with Section 263 of the Act in December 2019. However, the status of completion of remedial action was awaited (July 2022).

**Case II**    **CIT Charge**               :   **Pr. CIT, Udaipur**  
**Assessee**                               :   **M/s USU**  
**Status**                                   :   **Association of Persons (AOP)**  
**Assessment Year**               :   **2017-18**

The AO, while finalising the assessment under Section 143(3) in December 2019 at an income of ₹ 2.09 crore and further rectified under Section 154 in January 2020 at an income of ₹ 1.99 crore, incorrectly allowed deduction under Section 80P(2)(d) of ₹ 2.44 crore on account of interest income earned on Fixed Deposit receipts from investments with co-operative banks. This resulted in irregular allowance of deduction of ₹ 2.44 crore with consequent tax effect of ₹ 1.10 crore including interest. *The Department accepted the audit observation (September 2021) and stated that the remedial action was initiated under Section 148 of the Act in October 2021.* However, the status of completion of remedial action was awaited (July 2022).

#### **4.3.4 Incorrect allowance of business expenditure**

We noticed incorrect allowance of business expenditure in seven cases involving tax effect of ₹ 9.33 crore in four States. We give below such four illustrative cases:

*As per provisions of Section 37(1) of the Act, any expenditure (not being expenditure of the nature described in Sections 30 to 36 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession, shall be allowed as deduction in computing the income chargeable under the head "Profits and Gains of Business or Profession"*

**Case I**        **CIT Charge**               :   **Pr. CIT-2, Pune**  
**Assessee**                               :   **DSK**  
**Status**                                   :   **Firm**  
**Assessment Year**               :   **2015-16**

The AO, while finalising the assessment under Section 143(3) in December 2017 at an income of ₹ 1.22 crore, incorrectly allowed expenditure of ₹ 17.93 crore on account of financial charges incurred on receiving large unauthorized deposits<sup>77</sup>. This resulted in under assessment of income with a consequent short levy of tax of ₹ 6.10 crore. *The Department accepted the audit observation (April 2021) and stated that the remedial action was taken under*

<sup>77</sup> The assessee being an unincorporated firm was not authorised to receive large deposits from public. Thus, the financial charges incurred on receiving such deposits were to be disallowed, as per Section 37(1) of the Act.

Section 143(3) read with Section 263 of the Act. However, the status of completion of remedial action was awaited (July 2022).

**Case II**    **CIT Charge**                    :    **Pr. CIT, Faridabad**  
**Assessee**                                    :    **KS**  
**Status**                                        :    **Individual**  
**Assessment Year**                        :    **2015-16**

The AO, while finalising the assessment under Section 143(3) of the Act in November 2017 at an income of ₹ 0.17 crore incorrectly allowed deduction of ₹ 2.91 crore on the account of diesel expenses which were already included in freight charges claimed by the assessee. This error resulted in irregular allowance of twice the allowable amount incurred by the assessee. The omission resulted in under assessment of income of ₹ 2.91 crore involving tax effect of ₹ 1.33 crore including interest. *The Ministry accepted the audit observation (July 2022) and rectified the mistake under Section 148 of the Act in March 2022.* However, the status of collection of demand was awaited.

**Case III**    **CIT Charge**                    :    **Pr. CIT, Rohtak**  
**Assessee**                                    :    **NG**  
**Status**                                        :    **Individual**  
**Assessment Year**                        :    **2013-14**

The AO, while finalising the assessment under Section 143(3) in December 2015 at an income of ₹ 0.11 crore incorrectly allowed expenditure of ₹ 1.48 crore on account of entry tax which was not incurred by the assessee. This mistake resulted in under-assessment of income to the same extent with a short levy of tax of ₹ 0.67 crore including interest. *The Department accepted the audit observation (October 2019) and took remedial action under Section 144 read with Section 147 of the Act in March 2022.* However, the status of collection of demand was awaited (July 2022).

**Case IV**    **CIT Charge**                    :    **Pr. CIT, Ranchi**  
**Assessee**                                    :    **SRT**  
**Status**                                        :    **Individual**  
**Assessment Year**                        :    **2012-13**

The AO, while finalising the assessment under Section 143(3) of the Act in March 2015 at an income of ₹ 0.31 crore, allowed land expenses of ₹ 0.52 crore debited under Profit and Loss Account without any corroborative evidence in support of the said expense. This was required to be disallowed, resulting in short computation of income with consequent short levy of tax of ₹ 0.24 crore including interest. *The Department accepted the audit observation (October 2019) and rectified the mistake under Section 144 read with Section*

147 of the Act. However, the status of collection of demand was awaited (July 2022).

#### 4.3.5 Irregularities in allowing depreciation/business losses/capital losses

We noticed irregularities in allowing depreciation/business losses/capital losses in three cases involving tax effect of ₹ 2.32 crore in two States. We give below two such illustrative cases.

*According to Section 32(1)(ii) of Income Tax Act, 1961, depreciation on know-how, patents, copy rights, trade marks, licenses, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after 1st April 1998 is allowable as per rates prescribed under the Income Tax Rules. Further, as per decision in the case of United Breweries Ltd. v/s DCIT, Bengaluru dated 30/09/2016 the claim of depreciation to the assessee is subjected to the 5th proviso to Section 32(1) of the Act. Depreciation on goodwill under amalgamation was not allowable.*

**Case I**            **CIT Charge**            : **Pr. CIT 1, Ahmedabad**  
**Assessee**            : **WPW**  
**Status**                : **Firm**  
**Assessment Year** : **2016-17**

The AO, while finalising the assessment under Section 143(3) in December 2018 at an income of ₹ 'Nil' erroneously allowed claim of ₹ 2.46 crore to the assessee on account of depreciation on goodwill which was created due to amalgamation. This goodwill was created by the assessee from the excess consideration paid to the shareholder of the amalgamating company. This allowance of depreciation on Goodwill was irregular as per the Section *ibid*. This mistake has resulted in under assessment of income and consequent short levy of tax of ₹ 1.13 crore. *The Department accepted the audit observation (November 2021) and rectified the mistake under Section 154 of the Act.* On verification of the rectification order, it was noticed that the AO disallowed depreciation of ₹ 0.09 crore instead of ₹ 2.46 crore, resulting in remaining tax effect of ₹ 1.09 crore. Further, the status of collection of the demand was awaited (July 2022).

**Case II**            **CIT Charge**            : **Pr. CIT-2, Guwahati**  
**Assessee**            : **SRG**  
**Status**                : **Individual**  
**Assessment Year** : **2014-15**

The AO, while finalising the assessment under Section 143(3) in December 2016 at an income of ₹ 0.58 crore incorrectly allowed carry forward of business loss {Loss from trading in futures (derivatives)} of ₹ 0.51 crore as the assessee filed the return after the due date. This mistake has resulted in incorrect carry forward of loss involving potential tax of ₹ 0.14 crore. *The Department*

accepted the audit observation (March 2021) and rectified the mistake under Section 154 of the Act. However, the status of collection of demand was awaited (July 2022).

#### 4.4 Income escaping assessments due to errors

**4.4.1** The Act provides that the total income of a person for any previous year shall include all incomes from whatever source derived, actually received or accrued or deemed to be received or accrued. We observed that the AOs did not assess or under assessed total income that was required to be offered to tax. Table 4.3 below shows the sub-categories which have resulted in income escaping assessments.

Table 4.3: Sub-categories of mistakes under income escaping assessments due to errors						
Sub-categories	Nos.	Tax Effect (₹ in crore)	States			
a. Incorrect classification and computation of Capital Gains	03	4.87	Gujarat, Maharashtra and Telangana			
b. Under Special Provisions including AMT	02	5.36	Karnataka			
c. Incorrect computation of income	11	37.18	Gujarat, Jharkhand, Maharashtra, Punjab, Telangana and Uttar Pradesh			
d. Omission in implementing provisions of TDS/TCS	01	0.33	Jharkhand			
e. Unexplained Investment/ Cash credit	01	0.74	Maharashtra			
<b>Total</b>	<b>18</b>	<b>48.48</b>				

#### 4.4.2 Incorrect classification and computation of Capital Gains

We noticed incorrect classification and computation of Capital Gains in three cases involving tax effect of ₹ 4.87 crore in three States. We give below three illustrative cases:

*According to Section 48 of the Income Tax Act, 1961, the income chargeable under the head "Capital gains" shall be computed, by deducting the amounts namely (i) expenditure incurred wholly and exclusively in connection with such transfer and (ii) the cost of acquisition of the asset and the cost of any improvement thereto from the full value of the consideration received or accruing as a result of the transfer of the capital asset. Further, exemption under Section 54 is allowable in the case of long term capital gains only.*

*As per Section 2(14)/2(29A)/2(42A) of the Income Tax Act, immovable property held for not more than 36 months immediately prior to the date of transfer shall be deemed as short-term capital asset whereas, immovable property held for more than 36 months, immediately preceding the date of transfer is treated as long-term capital asset.*

*Section 54 of the IT Act, regarding "Profit on sale of property used for residence", states that where, in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of a long-term capital asset, being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under*

*the head "Income from house property", and the assessee has, within a period of one year before, or two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, one residential house in India, then, the capital gain (to the extent of the cost of new residential house) shall not be charged.*

**Case I CIT Charge : Pr. CIT 1, Thane**  
**Assessee : SJP**  
**Status : Individual**  
**Assessment Year : 2011-12**

The AO while concluding the assessment under Section 144 read with Section 147 of the Act in December 2018 at an income of ₹ 4.79 crore, incorrectly treated short term capital gain as long term capital gain on account of development rights of a property acquired and sold within 36 months. The tax was levied incorrectly at 20 per cent instead of 30 per cent, resulting in short levy of tax of ₹ 0.47 crore along with interest of ₹ 1.23 crore under 234A aggregating to ₹ 1.70 crore. *The Department accepted the audit observation (April 2021) and rectified the error under Section 154 of the Act.* Further, the status of collection of demand was awaited (July 2022).

**Case II CIT Charge : Pr.CIT 3, Rajkot**  
**Assessee : MDB**  
**Status : Individual**  
**Assessment Year : 2014-15**

The AO while concluding the assessment under Section 143(3) in December 2016 at an income of ₹ 0.02 crore did not charge capital gains tax on ₹ 3.52 crore by considering sale of immovable properties as agricultural land instead of non-agricultural land. This mistake resulted in underassessment of income of ₹ 3.52 crore involving short levy of tax of ₹ 1.59 crore including interest. *The Department accepted the audit observation (October 2019) and took remedial action under Section 143(3) read with Section 263 of the Act.* Further, the status of collection of demand was awaited (July 2022).

**Case III CIT Charge : Pr. CIT 1, Visakhapatnam**  
**Assessee : MV**  
**Status : Individual**  
**Assessment Year : 2011-12**

The AO while concluding the assessment under Section 144 read with Section 147 of the Act in December 2018 at an income of ₹ 0.89 crore incorrectly allowed deduction under Sections 48 and 54 of the Act on account of sale of an immovable property on which period of holding was less than three years but treating the transaction as long term capital gain instead of short term capital gain. This omission resulted in short assessment of capital gain by ₹ 2.41 crore with a consequent short levy of tax of ₹ 1.58 crore. *The Department*

confirmed the facts and figures (February 2021). However, the status of remedial action taken was awaited (July 2022).

#### 4.4.3 Under Special Provisions including AMT

We noticed irregularities in AMT provision in two cases, involving tax effect of ₹ 5.36 crore in one state. We give below one such illustrative case:

*The Income Tax Act envisages payment of minimum tax at 18.5 per cent of book profit by all the tax payers even though their tax liability under the normal provision is less than the prescribed threshold due to availment of various deductions as per Act. Section 115JD(5) provides that the additional tax paid on the Book Profit can be allowed to be set-off towards the tax arising under the normal provisions in the subsequent years to the extent of difference between the regular income tax and the Alternate Minimum Tax.*

**Case I**      **CIT Charge**                   : **Pr. CIT/CIT (Central), Bengaluru**  
**Assessee**                           : **GE**  
**Status**                               : **Firm**  
**Assessment Years**           : **2016-17 and 2017-18**

The AO, while finalising the assessments under normal provisions of the Act in December 2018 at an income of ₹ 25.47 crore and ₹ 10.99 crore, adopted incorrect adjusted total income (under AMT provision) as ₹ 22.06 crore and ₹ 14.00 crore instead of ₹ 38.51 crore and ₹ 15.51 crore respectively and allowed deduction of ₹ 13.04 crore and ₹ 4.50 crore under Section 80-IB<sup>78</sup> of the Act. This mistake in adoption of adjusted total income resulted in aggregate short levy of tax of ₹ 5.08 crore. Reply was awaited (July 2022).

#### 4.4.4 Incorrect computation of Income

We noticed incorrect computation of income in 11 cases, involving tax effect of ₹ 37.18 crore in six States. We give below three such illustrative cases:

*Under the Income Tax Act 1961, in a scrutiny assessment the Assessing Officer is required to make a correct assessment of the total income or loss of the assessee and determine the correct sum payable by assessee or refundable to assessee on the basis of such assessment. Further, the CBDT has issued instructions from time to time that mistakes in computation of taxable income and tax should not occur.*

**Case I**      **CIT Charge**                   : **Pr. CIT-29, Mumbai**  
**Assessee**                           : **YPY**  
**Status**                               : **Individual**  
**Assessment Year**           : **2009-10**

<sup>78</sup> Section 80-IB of the Income Tax Act deals with deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings. The Assessing Officer adopted adjusted total income without adjusting the amounts to be shown as deductions under the normal provisions of the Income Tax Act.

The AO, while finalising the re-assessment under Section 143(3) read with Section 147 read with Section 144 in December 2016 at an income of ₹ 0.07 crore, did not make an addition of ₹ 27.35 crore on account of bogus purchase of goods. This error resulted in under assessment of income of ₹ 27.28 crore with consequent short levy of tax of ₹ 9.27 crore and interest of ₹ 8.25 crore and ₹ 8.62 crore under Sections 234A and 234B respectively. *The Department accepted the audit observation (December 2019) and took remedial action under Section 144 read with Section 263 of the Act.* However, the status of completion of remedial action was awaited (July 2022).

**Case II      CIT Charge                :    CIT, Shimla**  
**Assessee                                :    AKC**  
**Status                                     :    Individual**  
**Assessment Year                        :    2014-15**

The AO, while finalising the assessment under Section 143(3) in November 2016 at an income of ₹ 0.76 crore, did not levy tax on income of ₹ 1.73 crore on account of reconciliation difference in the net contractual receipts. This mistake resulted in under assessment of income by ₹ 1.73 crore involving tax effect of ₹ 0.78 crore. *The Department accepted the audit observation (November 2018) and took remedial action under Section 144 read with Section 147 against which the assessee deposited the amount of ₹ 0.31 crore.* Further, the status of collection of balance demand was awaited (July 2022).

**Case III      CIT Charge                :    Pr. CIT, Ranchi**  
**Assessee                                :    SKS**  
**Status                                     :    Individual**  
**Assessment Year                        :    2012-13**

The AO, while finalising the assessment under Section 143(3) in February 2015 at an income of ₹ 0.12 crore, did not levy tax on income of ₹ 1.63 crore on account of reconciliation difference in 'Advance from party' under liabilities in the Balance sheets of AY 2011-12 and AY 2012-13. The omission resulted in short computation of income by ₹ 1.63 crore involving tax effect of ₹ 0.68 crore including interest. *The Department accepted the audit observation (November 2019) and took remedial action under Section 144 read with Section 147.* Further, the status of collection of demand was awaited (July 2022).

#### **4.4.5 Omission in implementing provisions of TDS/TCS**

We noticed omission in implementing provision of TDS in one case, involving tax effect of ₹ 0.33 crore in one state. We give below the case:

*Section 194C of the Income Tax Act, 1961 provides that, any person responsible for paying any sum to any resident contractor for carrying out any work in pursuance of a contract between the contractor and a specified person shall, at the time of payment thereof, deduct an amount equal to one per cent where the payment is being made or credit is being given*

*to an individual or a Hindu Undivided Family. Further, Section 40(a)(ia) of the Act provides that if tax has not been deducted or after deduction, has not been paid, then the payment shall not be allowed as deduction.*

**Case I**      **CIT Charge**                   : **Pr. CIT, Ranchi**  
**Assessee**                               : **VKS**  
**Status**                                   : **Individual**  
**Assessment Year**                   : **2012-13**

The AO, while finalising the assessment under Section 143(3) at an income of ₹ 0.52 crore in March 2015 did not make an addition of ₹ 0.97 crore on account of contract payments received by the assessee on which tax at source was not deducted. The omission resulted in short computation of income by ₹ 0.97 crore involving tax effect of ₹ 0.33 crore including interest. *The Department accepted the audit observation (May 2017) and completed remedial action in November 2019 under Section 147 read with Section 143(3).* Further, the status of collection of demand was awaited (July 2022).

#### **4.4.6 Unexplained Investment/ Cash Credit**

We noticed unexplained investment/ Cash credit in one case, involving tax effect of ₹ 0.74 crore in one state. We give below the case:

*Section 69 of Income Tax Act, 1961 (Act) stipulates that where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of accounts, if any, maintained by him for any source of income and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year.*

**Case I**      **CIT Charge**                   : **Pr. CIT-4, Pune**  
**Assessee**                               : **RKM**  
**Status**                                   : **Individual**  
**Assessment Year**                   : **2014-15**

The AO, while finalising the assessment under Section 144 at an income of ₹ 0.41 crore in December 2016, did not make an addition of ₹ 1.64 crore on account of introduction of capital by the assessee without any source or explanation which was required to be brought to tax under Section 69 of the Act. The omission resulted in short computation of income of ₹ 1.64 crore involving short levy of tax of ₹ 0.74 crore including interest. *The Department accepted the audit observation (August 2019) and rectified the mistake in December 2019 under Section 144 read with Section 147 of the Act.* Further, the status of collection of demand was awaited (July 2022).

#### 4.5 Over charge of tax/Interest

4.5.1 We noticed over assessment of income in five cases involving overcharge of tax/interest of ₹ 110.13 crore in Delhi, Gujarat and Telangana. We give below two such illustrative cases.

*Section 143(3) provides that Assessing Officer is required to make a correct assessment of the total income or loss of the assessee and determine the correct amount of tax or refund as the case may be.*

**Case I**     **CIT Charge**                 : **Pr. CIT-1, Ahmedabad**  
**Assessee**                                 : **JDJ**  
**Status**                                         : **Individual**  
**Assessment Year**                         : **2017-18**

The AO, while finalising the assessment under Section 144 at an income of ₹ 12.21 crore in November 2019, erroneously charged tax of ₹ 22.01 crore including interest instead of tax of ₹ 15.10 crore including interest on account of cash deposit in bank and other credits. This resulted in excess levy of tax of ₹ 6.91 crore including interest. *The Ministry accepted the audit observation (May 2022) and rectified the error under Section 154 of the Act (July 2020).*

**Case II**     **CIT Charge**                 : **CIT (Exemption), Bhubaneswar**  
**Assessee**                                 : **DRI**  
**Status**                                         : **Association of Persons (AOP)**  
**Assessment Year**                         : **2017-18**

The AO, while finalising the assessment in August 2019 at an income of ₹ 'Nil' erroneously computed income at ₹ 200.38 crore in the computation sheet and raised a demand of ₹ 95.85 crore instead of refund of ₹ 0.01 crore. The error resulted in excess demand of ₹ 95.86 crore. *The Department accepted the audit observation (March 2021) and rectified the error under Section 154 of the Act (February 2021).*

It is important to note that non ascertainment of over-assessment of tax not only points to the failure of the ITD in furnishing correct information while computing tax, but also causes lot of undue hardship to the genuine taxpayer and family.

#### Recommendations

***(i) Application of incorrect rates of tax and surcharge, errors in levy of interest, excess or irregular refunds etc. point to weaknesses in the internal controls in the ITD which need to be addressed.***

***(ii) While the Department has taken action to initiate correction in the cases pointed out by the Audit, it may be mentioned that these are only a few illustrative cases, test checked in audit. In the entire universe of all***

*assessments, including non-scrutiny assessments, such errors of omission or commission cannot be ruled out. The CBDT not only needs to revisit its assessments, but also put in place a fool proof IT system and internal control mechanism to avoid recurrence of such errors in the future.*

*(iii) The CBDT may examine whether the instances of “errors” noticed are errors of omission or commission and if these are errors of commission, then the ITD should ensure necessary action including fixing responsibility where glaring mistakes have been pointed out by Audit, as per law.*

New Delhi  
Dated: 08 December 2022



(Monika Verma)  
Director General (Direct Taxes-I)

Countersigned

New Delhi  
Dated: 12 December 2022



(Girish Chandra Murmu)  
Comptroller and Auditor General of India



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# Appendices

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### Appendix- 1.1 (Reference- Paragraph 1.13.2)

The Faceless Assessment Scheme functions under the direct supervision of the Member (Admn. & Faceless Scheme). The functional architecture of assessment proceedings has been changed for the implementation of the scheme. Due to the introduction of the Faceless Scheme, a National Faceless Assessment Center (NaFAC), headed by Pr. CCIT (NaFAC), has been set up at Delhi. Further, Regional e-Assessment Centers (ReACs) have been established at 20 locations in the country. Each of these ReACs is headed by a CCIT (ReFAC). Depending upon the workload, the following Units have also been established at each ReAC, for completion of faceless assessments:

- i. Regional e- Faceless Assessment Centers (Assessment Units) [ReFAC (AU)],
- ii. Regional e-Faceless Assessment Centers (Verification Units) [ReFAC (VU)],
- iii. Regional e-Faceless Assessment Centers (Review Units) [ReFAC (RU)] and
- iv. Regional e-Faceless Assessment Centers (Technical Units) [ReFAC (TU)] at Kolkata, Mumbai and Chennai

Each of these units is headed by a Pr.CIT (ReFAC)(AU)/ Pr.CIT (ReFAC)(VU)/ Pr.CIT (ReFAC)(RU)/ Pr.CIT (ReFAC)(TU).

For the purposes of Faceless Assessment Scheme 2019, the setting up<sup>79</sup> of various units [further amended as the Faceless Assessment (1<sup>st</sup> Amendment) Scheme, 2021] and their functions, are enumerated hereunder:

#### **(i) National Faceless Assessment Centre<sup>80</sup> (NaFAC)**

NaFAC has been set up to facilitate the conduct of e-assessment proceedings in a centralized manner. It serves the notices on the concerned assessee and assigns the cases, selected for the purposes of e-assessment, under this Scheme, to specific assessment units, in any one of the Regional e-Assessment Centres, through an automated allocation system. Thereafter, upon receipt of the draft assessment orders, from the concerned assessment units, it is expected to finalize the assessment, within the prescribed time frame. After completion of the assessment, it transfers all the electronic records of the case, to the Assessing Officer having jurisdiction over the said case, for such action, as may be required under the Act.

#### **(ii) Regional e-assessment Centres (ReACs)**

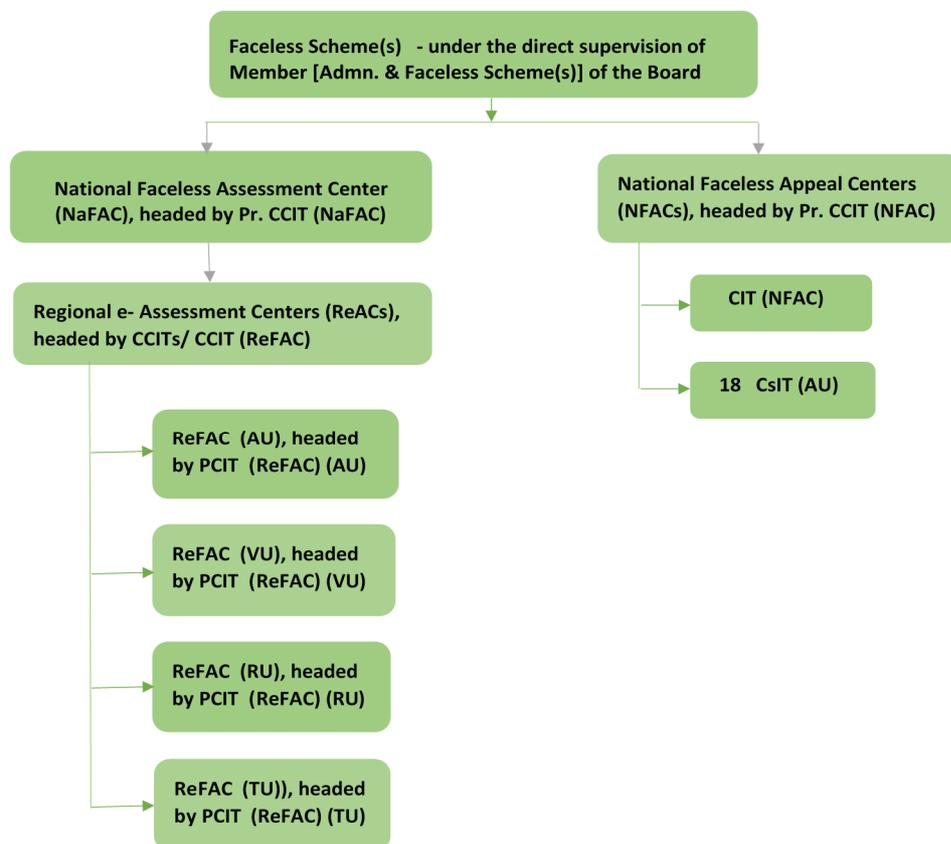
ReACs are expected to facilitate the conduct of e-assessment proceedings in the cadre controlling regions of the concerned Pr. CCITs. They have also been

<sup>79</sup> As notified in the principal Faceless Assessment Scheme, vide Notification No. 61/2019/F.No. 370149/154/2019-TPL dated 12 Sep 2019

<sup>80</sup> CBDT, vide Notification No. 27/2021/F. No. 370142/33/2020-TPL dated 31.03.2021, substituted the term "National e-Assessment Centre", by the term "National Faceless Assessment Centre".

vested with the power for making assessments in accordance with the provisions of this Scheme. ReACs, with the help of various units created thereunder, are required to make assessments and provide support to the NaFAC, in the finalization of assessments, in a faceless manner.

**Chart 1.14: Organogram of NaFAC and NFACs**



**(iii) Assessment Units (AUs)**

AUs are expected to facilitate the conduct of e-assessment, by performing the function of making assessments, which includes identification of points or issues material for the determination of any liability (including refund) under the Act, seeking information or clarification on points or issues so identified, analysis of the material furnished by the assessee or any other person, and such other functions as may be required for the purposes of making assessment. Upon being assigned a case, the concerned AU may make a request to the NaFAC for: (i) obtaining further information, documents or evidence from the assessee or any other person (ii) conduct of certain enquiries or verification by the verification units; and (iii) seeking technical assistance from the technical units. After taking into account the relevant material, as available on records, the AU makes, in writing, a draft assessment order, to the best of its judgment, either accepting the income or sum payable by, or sum refundable to, the assessee, as per his return, or making variation to such income or sum, and sends a copy of such order to the NaFAC.

**(iv) Verification Units (VUs)**

VUs are expected to perform the function of verification on a request from the Assessment Unit (AUs) for conducting of certain enquiry or verification, which includes enquiry, cross verification, examination of books of accounts, examination of witnesses and recording of statements, and such other functions as may be required for the purposes of verification.

**(v) Technical Units (TUs)**

TUs are required to perform the function of providing technical assistance, which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter, which may be required in a particular case or a class of cases, under this Scheme; and

**(vi) Review Units (RUs)**

The cases are assigned to the Review Units (RUs) by the National E-Assessment Centre (NeAC) in accordance with the risk management strategy. RUs are expected to perform the function of reviewing the draft assessment orders, which includes checking whether the relevant and material evidence has been brought on record, whether the relevant points of fact and law have been duly incorporated in the draft orders, whether the issues on which addition or disallowance should be made have been discussed in the draft orders, whether the applicable judicial decisions have been considered and dealt with in the draft orders, checking for arithmetical correctness of the modifications proposed, if any, and such other functions as may be required for the purposes of review, and specify their respective jurisdiction.

All communication, among the assessment unit, review unit, verification unit, or technical units, or with the assessees, or any other persons, with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making an assessment under this Scheme, is required to be made through the NaFAC. The organogram of the NaFAC is given in **Chart 1.14**

**Faceless Appeal Scheme**

CBDT, vide notification issued in December 2021, notified the 'Faceless Appeal Scheme' and, for the purpose of this Scheme, it set up: (i) a National Faceless Appeal Centre (NFAC), to facilitate the conduct of e-appeal proceedings in a centralized and faceless manner; and (ii) Appeal units, to facilitate the conduct of e-appeal proceedings, by the Commissioner (Appeals). The National Faceless Appeal Center (NFAC) has been established at Delhi and is headed by Pr. CCIT (NFAC). Further, CIT (NFAC) at Delhi and various CsIT (AU), at 18

locations across the country, have also been set up. The organogram of the NaFAC and NFACs is given in **Chart 1.14**.

### **National Faceless Penalty Scheme (NFPS)**

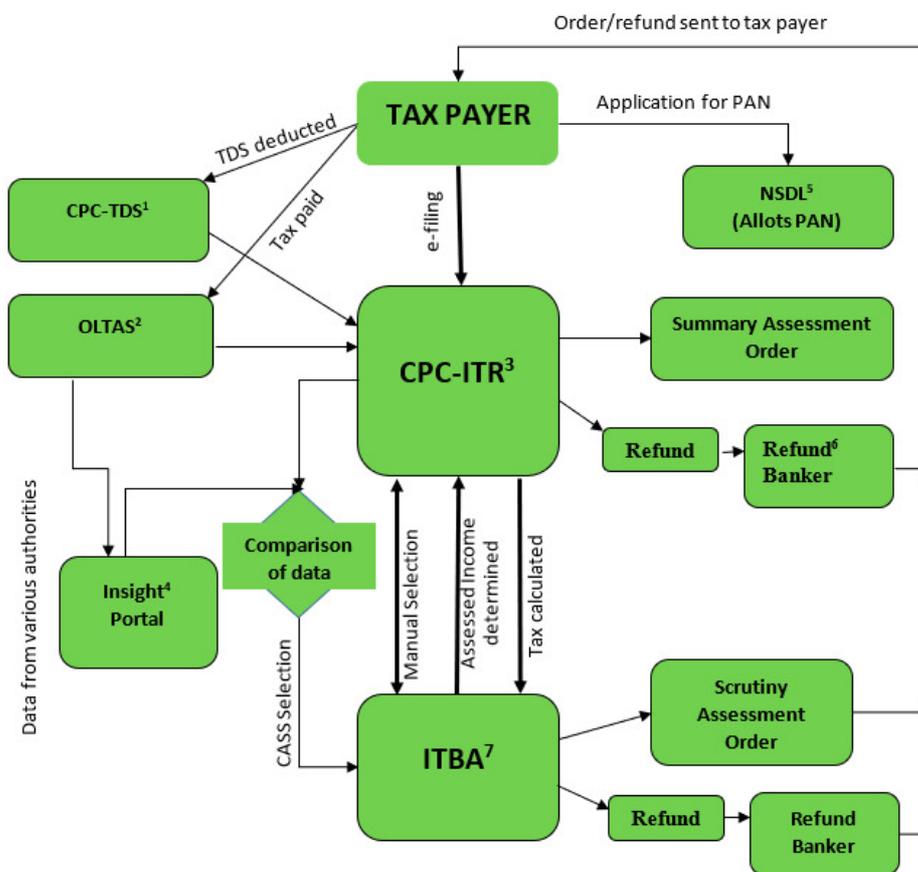
The NFPS was notified by the CBDT, vide notification No 3/2021 dated 12.01.2021, specifying the procedures to be followed for imposition of penalties. The scheme mandated the setting up of National Faceless Penalty Centres, Regional Penalty Centres, Penalty Units and Penalty Review Units, for execution of penalty proceedings. The National Faceless Penalty Centre has been established at Delhi and is headed by Pr. CCIT (NFPC). In addition, there are CsIT (NFPC) at Delhi and other locations of the country. The Penalty Units and Penalty Review Units are headed by the Additional CITs followed by DCITs.

### **Jurisdictional Assessment Offices (JAO)**

JAOs are headed by Pr.CCsIT. The functions of JAOs include the filing of appeals or special litigation petitions, making rectifications, issuance of demands, disposal of old outstanding paras of revenue audit, as well as internal audit objections etc.

Appendix 1.2 (Reference Paragraph 1.13.1)

Tax Administration process



1. CPC-TDS (Centralized Processing Centre – Tax Collection at source) reconciles and co-relates information from various sources including banks, deductors, Assessing Officers (AOs) and Tax Professionals.
2. OLTAS (Online Tax Accounting System) is a system for collection, accounting and reporting of the receipts and payments of Direct Taxes from all kind of taxpayers, online through a network of bank branches.
3. CPC-ITR (Centralized Processing Centre – Income Tax Returns) for bulk processing of Income Tax Returns (ITRs) expeditiously determines the tax payable by, or refund due to the assessee.
4. The Insight Portal uses data mining, research and analytics against black money and tax evasion and provides inputs for CASS (Computer Aided Scrutiny Selection) selection.
5. NSDL (National Securities Depository Ltd) through its chain of TIN-Facilities (TIN-FCs) and PAN centres accepts PAN applications and issues PANs.
6. Facilitates transmission of refunds generated by CPC/AOs to the State Bank of India, CMP branch for further distribution to taxpayers.
7. ITBA (Income Tax Business Application) is a business application to create paperless electronic processes and to provide a single user interface to access various functionalities of the ITD.

## Appendix 2.1 (Reference: Paragraph 2.2.5)

State-wise incidence of errors in assessments						
State	Assessments completed in units selected for audit during 2020-21	Assessments produced to audit during 2020-21	Audit observations <sup>81</sup> (Nos.)	Assessments with errors (Nos.)	Total revenue effect of the audit observations (₹ in crore)	Percentage of assessments with errors (Col. 5/ Col. 3x100)
1	2	3	4	5		7
Andhra Pradesh & Telangana	16,415	15,918	1,281	1,281	3,957.37	8.05
Assam	3,017	2,775	126	117	96.24	4.22
Bihar	448	428	33	33	210.69	7.71
Chhattisgarh	1,149	1,149	30	23	212.70	2.00
Delhi	47,791	46,933	1,800	1,752	5,164.16	3.73
Goa	0	0	0	0	0.00	0.00
Gujarat	7,438	5,842	503	386	521.23	6.61
Haryana	8,656	6,227	213	213	1,121.99	3.42
Himachal Pradesh	1,130	932	86	78	28.50	8.37
Jammu & Kashmir	623	522	40	39	1.62	7.47
Jharkhand	170	122	15	12	29.42	9.84
Karnataka	8,106	7,773	505	452	2,461.28	5.82
Kerala	3,438	3,349	337	337	233.46	10.06
Madhya Pradesh	9,164	7,735	363	362	167.39	4.68
Maharashtra	9,614	5,703	716	716	5,167.47	12.55
Odisha	3,498	3,172	339	328	591.75	10.34
Punjab	11,969	7,569	461	411	696.94	5.43
Rajasthan	9,824	5,241	206	196	107.53	3.74
Tamil Nadu	18,096	14,861	1,817	1,687	4,059.02	11.35
UT Chandigarh	4,730	3,012	153	146	141.69	4.85
Uttarakhand	1,039	1,025	91	68	55.67	6.63
Uttar Pradesh	4,473	4,277	218	178	245.23	4.16
West Bengal	21,274	20,245	1,259	1,024	2,618.88	5.06
<b>Total</b>	<b>1,92,062</b>	<b>1,64,810</b>	<b>10,592</b>	<b>9,839</b>	<b>27,890.23</b>	<b>5.97</b>

81 This includes all audit observations of under assessment as well as over assessment in corporate tax, income tax and other direct taxes.

## Appendix 2.2 (Reference: Paragraph 2.2.7)

Category-wise details of underassessment in respect of Corporation tax and Income tax detected during local audit		
	(₹ in crore)	
Sub category	No. of errors	Tax effect
<b>A. Quality of assessments</b>	<b>4,614</b>	<b>6,928.64</b>
a. Arithmetical errors in computation of income and tax	1,136	2,443.77
b. Incorrect application of rate of tax, surcharge etc.	842	1,208.68
c. Non/short levy of interest/penalty for delay in submission of returns, delay in payment of tax etc.	2,553	3,176.50
d. Excess or irregular refunds / interest on refunds	47	61.69
e. Mistake in assessment while giving effect to appellate orders	36	38.00
<b>B. Administration of tax concessions/exemptions/ deductions</b>	<b>2,140</b>	<b>8,677.79</b>
a. Irregular exemptions/deductions/reliefs given to Corporate	182	1,143.43
b. Irregular exemptions/deductions/reliefs given to Trusts/Firms/Societies	116	113.27
c. Irregular exemptions/deduction/reliefs given to individuals	114	95.85
d. Incorrect allowance of Business Expenditure	1,428	5,703.90
e. Irregularities in allowing depreciation/business losses/Capital losses	298	1,412.73
f. Incorrect allowance of DTAT relief	2	208.61
<b>C. Income escaping assessments due to omissions</b>	<b>889</b>	<b>2,363.29</b>
a. Under Special Provisions including MAT/AMT/Tonnage Tax etc.	86	327.87
b. Unexplained investments/ cash credits etc.	392	1,738.52
c. Incorrect classification and Computation of Capital Gains	294	231.23
d. Incorrect estimation of arm's length price	17	19.05
e. Omission to club income of spouse, minor child etc.	0	0.00
f. Incorrect computation of Income from House Property	25	11.17
g. Incorrect computation of salary income	9	2.28
h. Omission in implementing provisions of TDS/ TCS	66	33.17
<b>D. Others</b>	<b>2,540</b>	<b>8,331.64</b>
<b>Total</b>	<b>10,183</b>	<b>26,301.36</b>

## Appendix 2.3 (Reference: Paragraph 2.4.4)

Category-wise details of observations in respect of Draft Paragraphs sent to the Ministry		
Sub category	Cases	Tax Effect (₹ in crore)
<b>A. Quality of assessments</b>	<b>233</b>	<b>5,707.8</b>
a. Arithmetical errors in computation of income and tax	57	4,824.49
b. Incorrect application of rate of tax, surcharge etc.	42	130.5
c. Non/short levy of interest/penalty for delay in submission of returns, delay in payment of tax etc.	125	681.41
d. Excess or irregular refunds/interest on refunds	4	21.36
e. Mistake in assessment while giving effect to appellate orders	5	50.04
<b>B. Administration of tax concessions/exemptions/deductions</b>	<b>143</b>	<b>1,639.46</b>
a. Irregular exemptions/deductions/reliefs given to Corporate	19	382.13
b. Irregular exemptions/deductions/reliefs given to Trusts/ Firms/Societies	4	14.73
c. Irregular exemptions/deductions/reliefs given to individuals	3	1.33
d. Incorrect allowance of Business Expenditure	56	627.19
e. Irregularities in allowing depreciation/business losses/ Capital losses	57	394.37
f. Incorrect allowance of DTAA relief	4	219.71
<b>C. Income escaping assessment due to omissions</b>	<b>70</b>	<b>621.44</b>
a. Under special provisions including MAT/AMT/Tonnage Tax etc.	12	75.54
b. Incorrect classification and Computation of Capital Gains	7	75.37
c. Incorrect Computation of Income	35	402.1
d. Omission in implementing provisions of TDS/TCS	1	0.33
e. Unexplained investment/ cash credit	9	36.44
f. Incorrect estimation of Arm's Length Price	6	31.66
<b>D. Others</b>	<b>23</b>	<b>454.45</b>
Over charge of tax/interest	23	454.45
<b>Total</b>	<b>469</b>	<b>8,423.15</b>

## Appendix 2.4 (Reference: Paragraph 2.7.3)

Cases where remedial action has become time barred in FY 2020-21		
State	Audit observations where remedial action became time barred	
	Cases	Tax effect (₹ in crore)
Andhra Pradesh & Telangana	326	2,264.33
Assam	69	20.47
Bihar	383	213.72
Chhattisgarh	79	146.31
Delhi	0	0.00
Goa	2	3.34
Gujarat	0	0.00
Haryana	412	340.11
Himachal Pradesh	27	2.71
Jammu & Kashmir	47	3.10
Jharkhand	0	0.00
Karnataka	20	52.32
Kerala	1	0.05
Madhya Pradesh	144	57.88
Maharashtra	621	500.15
Odisha	358	543.92
Punjab	89	51.95
Rajasthan	0	0.00
Tamil Nadu	267	217.47
UT Chandigarh	46	13.55
Uttarakhand	0	0.00
Uttar Pradesh	37	27.78
West Bengal	826	1,729.99
<b>Total</b>	<b>3,754</b>	<b>6,193.92</b>

## Appendix 2.5 (Reference Paragraph 2.8.2)

Details of non-production of records during FY 2018-19 to FY 2020-21						
States	Records requisitioned in FY 2020-21	Records not produced in FY 2020-21	Percentage of records not produced in FY 2020-21	Percentage of records not produced in FY 2019-20	Percentage of records not produced in FY 2018-19	
Andhra Pradesh & Telangana	16,415	497	3.03	5.35	5.05	
Assam	3,047	242	7.94	5.96	2.16	
Bihar	466	22	4.72	2.33	5.05	
Chhattisgarh	1,160	0	0.00	0.66	0.00	
Delhi	51,032	3,163	6.20	6.66	9.32	
Goa	0	0	0.00	0.13	2.37	
Gujarat	7,438	114	1.53	7.28	2.26	
Haryana	6,227	46	0.74	1.41	0.68	
Himachal Pradesh	932	11	1.18	8.37	1.56	
Jammu & Kashmir	522	0	0.00	0.00	10.66	
Jharkhand	133	11	8.27	0.85	1.46	
Karnataka	8,106	333	4.11	3.12	2.91	
Kerala	3,541	182	5.14	6.21	3.22	
Madhya Pradesh	8,134	335	4.12	2.91	3.75	
Maharashtra	6,983	1,280	18.33	3.79	4.86	
Odisha	3,498	326	9.32	8.65	5.99	
Punjab	7,569	83	1.10	1.58	2.35	
Rajasthan	5,377	35	0.65	1.01	4.82	
Tamil Nadu	18,096	3,235	17.88	26.44	12.31	
UT Chandigarh	3,012	45	1.49	4.12	1.11	
Uttarakhand	1,039	14	1.35	0.52	0.55	
Uttar Pradesh	4,478	200	4.47	1.73	1.60	
West Bengal	23,422	1,772	7.57	6.91	5.11	
<b>Total</b>	<b>1,80,627</b>	<b>11,946</b>	<b>6.61</b>	<b>6.92</b>	<b>4.98</b>	

<b>Abbreviations</b>	
ACIT	Assistant Commissioner of Income Tax
Act	The Income Tax Act, 1961
AI	Assessed Income
AIR	Annual Information Return
ALP	Arm's Length Price
AO	Assessing Officer
AOP	Association of Person
AST	Assessment Information System
AY	Assessment Year
CASS	Computer Aided Scrutiny Selection
CBDT	Central Board of Direct Taxes
CCIT	Chief Commissioner of Income Tax
CIT	Commissioner of Income Tax
CIT(A)	Commissioner of Income Tax (Appeals)
CPC-ITR	Centralized Processing Centre – Income Tax Return
CPC-TDS	Centralized Processing Centre – Tax Deducted at Source
CT	Corporation Tax
DCIT	Deputy Commissioner of Income Tax
DGIT (Systems)	Director General of Income Tax (Systems)
DOR	Department of Revenue
DT	Direct Taxes
FY	Financial Year
GDP	Gross Domestic Product
GTR	Gross Tax Receipts
IT	Income Tax
ITAT	Income Tax Appellate Tribunal
ITBA	Income Tax Business Application
ITD	Income Tax Department
ITO	Income Tax Officer
ITR/Return	Income Tax Return
JCIT	Joint Commissioner of Income Tax
LTCG	Long term capital Gain
PAN	Permanent Account Number
Pr. CCA	Principal Chief Controller of Accounts
Pr. CCIT	Principal Chief Commissioner of Income Tax
MAT	Minimum Alternate Tax
MOP	Manual of Office Procedure
NSDL	National Securities Depository Limited
OLTAS	Online Tax Accounting System
Pr. DGIT	Principal Director General of Income Tax
Rules	The Income Tax Rules, 1962
STT	Securities Transaction Tax
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
TP	Transfer Pricing
TPO	Transfer Pricing Officer





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