



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

**Report of the
Comptroller and Auditor General of India
for the year ended March 2022**

**Union Government
Department of Revenue – Direct Taxes
Report No. 13 of 2024**

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Department of Revenue – Direct Taxes
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Preface

This Report for the year ended March 2022 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 2021-22 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 2021-22 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 tax receipts of the Union Government in the financial year (FY) 2021-22 amounting to ₹ 14,12,422 crore increased by 49.1 *per cent* over the FY 2020-21 (₹ 9,47,174 crore). Direct taxes represented 6.0 *per cent* of the Gross Domestic Product (GDP) in FY 2021-22. The share of direct taxes in gross tax revenue increased to 52.1 *per cent* in FY 2021-22 from 46.7 *per cent* in FY 2020-21.

While there was an increase in the direct tax collection in FY 2021-22, there was a decrease of 13.8 *per cent* in refunds issued during FY 2021-22 (₹ 2,23,596 crore).

Of the two major components of direct taxes, collections from Corporation Tax increased by 55.6 *per cent*, from ₹ 4.58 lakh crore in FY 2020-21 to ₹ 7.12 lakh crore in FY 2021-22. Collections from Income Tax increased by 43.1 *per cent* from ₹ 4.71 lakh crore in FY 2020-21 to ₹ 6.73 lakh crore in FY 2021-22.

The number of non-corporate assesseees increased from 6.63 crore in FY 2020-21 to 6.72 crore in FY 2021-22, registering an increase of 1.4 *per cent*. The number of corporate assesseees increased from 9.21 lakh in FY 2020-21 to 9.65 lakh in FY 2021-22, registering an increase of 4.8 *per cent*.

Demand arrears increased from ₹ 14.94 lakh crore in FY 2020-21 to ₹ 19.35 lakh crore in FY 2021-22. Net collectible demand increased from ₹ 26,279 crore in FY 2020-21 to ₹ 51,318 crore in FY 2021-22. The Department indicated that more than 97.4 *per cent* of uncollected demand would be difficult to recover.

There had been a year-on-year increase in the number of PAN allotments in all the categories of taxpayers from FY 2018-19 to FY 2021-22. Further, the percentage increase in PAN allotment witnessed a year-on-year decline during FY 2018-19 to FY 2020-21 except FY 2021-22.

The number of persons filing Income Tax Returns increased year over year from FY 2017-18 to FY 2021-22. Further, during FY 2018-19, the percentage increase was 16 *per cent* compared to the previous FY 2017-18. However, during subsequent FYs, the percentage increase ranged between 2.4 and 3.6 *per cent*.

The number of appeals pending with CIT (Appeals) increased from 4.59 lakh in FY 2020-21 to 5.02 lakh in FY 2021-22. However, the amount locked up in these cases decreased from ₹ 24.65 lakh crore in FY 2020-21 to ₹ 14.19 lakh crore in FY 2021-22.

The CBDT raised the monetary limit for filing appeals by the Department before ITAT from ₹20 lakh to ₹ 50 lakh, before the High Court from ₹ 50 lakh to ₹ one crore, and before the Supreme Court from ₹ one crore to ₹ two crore. The total number of pending cases decreased by 18.98 *per cent*, from 0.64 lakh cases in FY 2020-21 to 0.52 lakh in FY 2021-22.

Chapter II: Audit Mandate, Products and Impact

During FY 2020-21, the Income Tax Department (ITD) had completed 92,991 scrutiny assessments in the units audited as per the audit plan of FY 2021-22, out of which ITD produced 86,458 cases. Apart from this, the ITD also produced 1,01,044 cases of scrutiny assessments completed in the earlier financial years, during FY 2021-22. The incidence of errors in assessments checked in audit during FY 2021-22 was 5.24 *per cent* (9,832 cases).

Audit has noticed irregularities in respect of the Corporation Tax and the Income Tax assessments cases over the years. Despite being pointed out repeatedly in Audit Reports and even after the implementation of ITBA, the recurrence of irregularities 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 by putting in place a strong institutional mechanism to respond to the systematic and structural weaknesses, to prevent revenue leakage.

We have covered 504 high-value cases having a tax effect of ₹ 5,728.79 crore, reported to the Ministry, in Chapters III and IV of this Report. Of these, we received replies in respect of 338 cases having a tax effect of ₹ 4,065.34 crore as on 30th April 2024, of which the Ministry/ITD accepted 230 cases (68.05 *per cent*) having a tax effect of ₹ 2,456.02 crore (60.41 *per cent*) while it did not accept 16 cases having tax effect of ₹ 1,616.18 crore. Replies to the remaining 166 cases having a tax effect of ₹ 1,663.45 crore were not received. (April 2024).

We analysed the impact of Audits resulting in amendments to the Income Tax Act and the rules framed thereunder based on our observations/recommendations. During FY 2022-23, Performance Audit Report *viz.* Audit Report 06 of 2022 – Performance Audit on Assessment of Assesseees of Gems and Jewellery Sector, Audit Report No. 12 of 2022 – Performance Audit on Exemptions to Charitable Trusts and Institutions and during FY 2020-21 Audit

Report No. 14 of 2020 – Performance Audit on Search and Seizure assessments in Income Tax Department – were placed in the Parliament respectively.

The amendments made were as follows:

Audit Report No. 06 of 2022 – Performance Audit on Assessment of Assesseees of Gems and Jewellery Sector:

- Section 10AA of the Act was amended by the Ministry in Finance Act 2023 by inserting a new sub-section (4A) to fix the time limit of six months for bringing the export proceeds into the country for claiming deduction under Section 10AA (effective from 1 April 2024).
- Section 56(2) (viib) was amended vide Finance Act 2023, to omit the words 'being a resident', thereby extending the provision to the consideration received from any person, including non-residents. Section 56(2)(viib) of the Act stipulates that shares issued by a closely held company (other than a company in which the public is substantially interested) at a premium in excess of Fair market value should be offered to tax. It was earlier applicable to resident companies but has been made applicable to non-resident companies, too (effective from 1 April 2024).
- Section 142(2A) was amended vide Finance Act 2023 to include a new provision under which the Assessing Officer can direct the assesseees to get their inventory valued by a cost accountant and furnish the inventory valuation report in Form 6D.

Audit Report No. 12 of 2022 – Performance Audit on Exemptions to Charitable Trusts and Institutions

- The Ministry, vide Finance Act 2023, inserted clause (iii) in Explanation 4 to sub-section (1) of Section 11 of the Income Tax Act to provide that any amount credited or paid by a trust or institution to another trust as donation out of current years' income shall be treated as application only to the extent of 85 per cent of such donation.
- At the instance of Audit, a new ITR-7 from the Assessment Year 2023-24 is applicable for Charitable Trusts/Institutions.
- The CBDT, vide Notification No. 7/2023 in GSR 118(E) dated 21/02/2023 and through Income Tax (3rd Amendment) Rule 2023, amended Rules 16CC and 17B of the Income Tax Rule 1962 and also amended the Tax Audit Report (TAR) required to be furnished by Charitable Trusts or Institutions registered under section 12A or approved under section 10(23C) in Form No. 10B and Form No. 10BB.

Audit Report No. 14 of 2020 – Performance Audit on Search and Seizure Assessments in the Income Tax Department

- Ministry vide Finance Act 2022, inserted explanation 1 (xii) below Section 153 of the Act, enabling the handing over of the books of account or other documents, or any money, bullion, Jewellery or other valuable article or thing seized under Section 132 or requisitioned under Section 132A as the case may be, to the Assessing Officer having jurisdiction over the assessee, within the period (not exceeding one hundred and eighty days) commencing from the date on which a search is initiated under Section or a requisition is made under Section 132A.
- Ministry vide Finance Act 2022, inserted a new sub-section (1A) in Section 149 of the Act where the income chargeable to tax represented in the form of an asset or expenditure escaped the assessment and the investment in such asset or expenditure about such event or occasion has been made or incurred, in more than one previous years relevant to the assessment years, a notice under section 148 shall be issued for every such assessment year for assessment, re-assessment or re-computation, as the case may be.

In the last three years, the ITD recovered ₹ 349.03 crore from demands raised to rectify the errors in assessments that we had pointed out. There are 55,934 cases of earlier years pointed out in audit upto 31 March 2022 which remained unsettled as of 30 April 2024 for want of replies from the ITD.

During FY 2021-22, 7,522 Audit Observations with a tax effect of ₹ 15,937.39 crore became time-barred for remedial action.

ITD did not produce 17,051 records out of 2,07,096 records requisitioned during FY 2021-22, of which two records pertaining to the same assessee were not produced in three or more consecutive Audit Cycles.

Chapter III: Corporation Tax

We pointed out 332 high-value cases pertaining to Corporation Tax with a tax effect of ₹ 5,127.12 crore that were referred to the Ministry/CBDT in 10 batches from March 2023 to January 2024 and an additional batch consisting of eight draft paras on 1 April 2024. The Ministry has replied to six of these cases until April 2024.

We classified the above cases into four broad categories as follows:

- (a) Quality of assessments (118 cases);
- (b) Administration of tax concessions/exemptions/deductions (118 cases);
- (c) Income escaping assessment due to errors (59 cases); and
- (d) Over-charge of tax/interest (37 cases).

Out of 332 high-value cases cited, we have illustrated 48 instances of significant errors/ irregularities in corporation tax assessments involving a tax effect of ₹ 3,578.38 crore. The illustrative cases are identified based on the significance of the issues and tax effect involved. Further, for broad coverage of the issues noticed by Audit, cases from across the ITD field formation have been considered for illustration.

The irregularities illustrated in this chapter include: non levy of interest of ₹ 23.24 crore under Sections 234A and 234B of the Act {refer para 3.2.4 (case I)}; excess grant of interest of ₹ 2.73 crore under Section 244A of the Act {refer para 3.2.5 (case I)}; omitted to claim of brought forward loss of ₹ 1,173.74 crore resulting in potential tax effect of ₹ 406.21 crore {refer para 3.3.2 (case I)} ; allowed incorrect claim of additional depreciation of ₹ 331.92 crore on assets acquired and put to use prior to 1st April 2015 which resulted in under assessment of income of ₹ 331.92 crore with a short levy of tax of ₹ 175.99 crore {refer para 3.3.2 (case II)}; allowed excess MAT credit of ₹ 59.73 crore to be carried forward {refer para 3.3.3 (case II)}; allowed incorrect allowance of expenditure of ₹ 214.58 crore involving potential tax effect of ₹ 64.37 crore {refer para 3.3.4 (case IV)}; allowed assessee to reduce ₹ 1,219.98 crore and ₹ 1,624.33 crore from the amount of ₹ 1,225.00 crore and ₹ 1,724.00 crore respectively, received for indefeasible right to use (IRU) of the dark fiber as per the agreement entered with other company, treating it deferment of revenue over the agreement period of 20 years which resulted in aggregate under assessment of ₹ 2,844.31 crore involving tax effect of ₹ 976.81 crore excluding interest {refer para 3.4.3 (case I)}.

Chapter IV: Income Tax

We pointed out 172 high value cases of income tax with tax effect of ₹ 601.67 crore, which were referred to the Ministry/CBDT in 10 batches from March 2023 to January 2024 and an additional batch consisting of eight draft paras on 1 April 2024. Out of these 172 cases, the Ministry has replied for six cases till April 2024.

We classified the above cases into four broad categories as follows:

- (a) Quality of assessments (103 cases);
- (b) Administration of tax concessions/exemptions/deductions (24 cases);
- (c) Income escaping assessments due to errors (23 cases); and
- (d) Overcharge of tax/interest (22 cases).

Out of 172 high-value cases cited, we have illustrated 41 instances of significant errors/irregularities in income tax assessments involving tax effect of ₹ 404.91 crore. The illustrative cases are identified based on the significance

of issues and tax effects involved therein. Further, for broad coverage of the issues noticed by Audit, cases from across the ITD field formation have been considered for illustration.

The irregularities illustrated in this chapter include incorrect adoption of assessed income at ₹ 247.22 crore instead of the correct figure of ₹ 367.21 crore, involving short levy of tax of ₹ 76.98 crore {refer para 4.2.2 (case I)}; incorrect levy of interest under Section 234A(3) for non-compliance to the notice issued under Section 148 and incorrect levy of interest under Section 234B for default in payment of advance tax, involving tax effect of ₹ 10.62 crore {refer para 4.2.4 (case I)}; incorrect set off of brought forward losses of ₹ 48.57 crore, involving short levy of tax of ₹ 22.34 crore {refer para 4.3.5 (case I)}; incorrect allowance of depreciation of ₹ 38.14 crore, involving potential tax effect of ₹ 13.20 crore {refer para 4.3.5 (case II)}; and non-taxation of accumulated income of an Artificial Juridical Person for not utilizing it within a specified period of five years, involving short levy of tax of ₹ 140.51 crore {refer para 4.4.4 (case I)} .

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). The data/information compiled in this Chapter has been obtained from various sources viz. CBDT, Ministry of Corporate Affairs, Principal Chief Controller of Accounts, Union Finance Accounts etc. The data/information received from these sources has not been independently verified by Audit.

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 private 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):** Other Direct Taxes include direct taxes other than Corporation Tax and Income Tax, for example, Securities Transaction Tax (STT)¹, Wealth Tax², 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 31 March 2022, the overall staff strength and working strength of the Income Tax Department (ITD) was 72,706 and 43,734 respectively. The

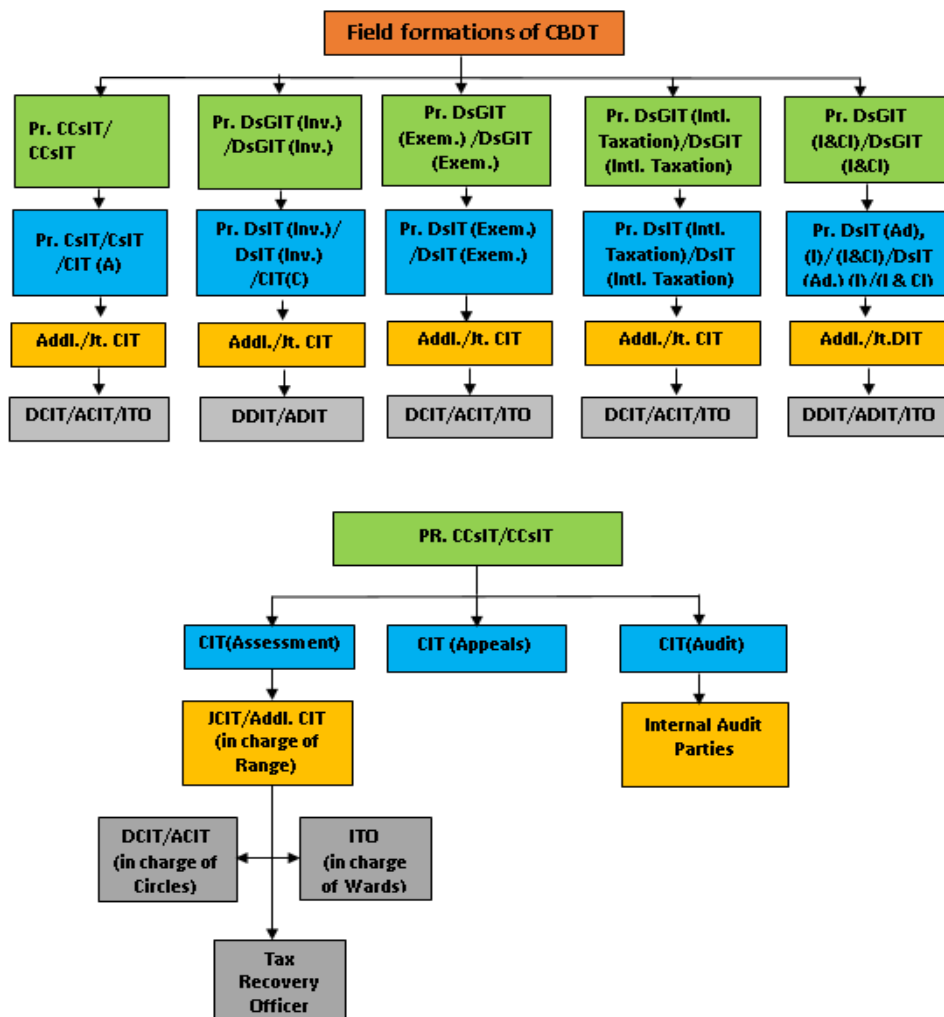
¹ Tax on the value of taxable securities purchased and sold through a recognized stock exchange in India.

² Tax chargeable on the net wealth comprising certain assets specified under Section 2(ea) of the Wealth Tax Act, 1957.

sanctioned and working strength of the officers³ was 10,862 and 9,104 respectively. The revenue expenditure of the ITD for the year 2021-22 was ₹ 7,581 crore⁴.

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) 2021-22 and FY 2020-21.

³ Pr. CCIT/Pr. DGIT, CCIT/DGIT, Pr. CIT/Pr. DIT, CIT/DIT, Addl. CIT/Addl. DIT/JCIT/JDIT, DCIT/DDIT/ACIT/ADIT and ITOs.

⁴ Union Finance Accounts for FY 2021-22.

Table 1.1: Resources of the Union Government	(₹ in crore)	
	FY 2021-22	FY 2020-21
A. Total Revenue Receipts [#]	33,34,813	24,59,509
i. Direct Taxes Receipts	14,12,422	9,47,174
ii. Indirect Taxes Receipts including other taxes ⁵	12,96,893	10,79,929
iii. Non-Tax Receipts	6,24,192	4,30,654
iv. Grants-in-aid & contributions	1,306	1,752
B. Miscellaneous Capital Receipts ⁶	14,638	37,897
C. Recovery of Loans & Advances ⁷	24,948	29,923
D. Public Debt Receipts ⁸	82,49,152	81,62,910
Receipts of Government of India (A+B+C+D)	1,16,23,551	1,06,90,239

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 ₹ 8,98,392 crore in FY 2021-22 and ₹ 5,94,997 crore in FY 2020-21 directly assigned to states.

In FY 2021-22, significant increase has been noticed in Direct Taxes receipts, Indirect Taxes Receipts and non-tax receipts. Direct taxes accounted for 42.4 per cent of total revenue receipts in FY 2021-22, increased by 49.1 per cent over the last year's receipts.

1.3.2 Table 1.2 below provides a snapshot of 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	
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
2021-22	7,12,037	6,73,414	26,971	14,12,422	1,46,812	76,784	671.9	9.6	7,581

Source: Union Finance Accounts and Pr. CCA; CBDT

While there was an increase of 49.1 per cent in the direct tax collection in FY 2021-22 as compared to FY 2020-21, there was a decrease of 13.8 per cent in refunds issued during FY 2021-22 as compared to FY 2020-21.

⁵ 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.;

⁶ This comprises of value of bonus shares, disinvestment of shares in public sector and other undertakings and other receipts;

⁷ Recovery of loans and advances made by the Union Government;

⁸ Borrowings by the Government of India internally as well as externally;

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 Revenues⁹ (GTR) and Gross Domestic Product (GDP) during FY 2017-18 to FY 2021-22.

Financial Year	DT (₹ in crore)	GTR (₹ in crore)	GDP (₹ in crore)	DT as per cent of GTR	DT as per cent of GDP
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	1,98,00,914	46.7	4.8
2021-22	14,12,422	27,09,315	2,36,64,637	52.1	6.0

Source: DT and GTR - Union Finance Accounts, GDP-Central Statistical Office (CSO), Ministry of Statistics and Programme Implementation; GDP for FY 2020-21 and FY 2021-22 – Press note released by CSO on 6 January 2023.

1.4.2 It can be seen from the above Table 1.3 that while Direct Taxes increased by 49.1 per cent in FY 2021-22 as compared to FY 2020-21, there was an increase (5.4 per cent) in the share of DT to GTR in FY 2021-22 as compared to FY 2020-21. DT was 6.0 per cent of the GDP during FY 2021-22 as compared to 4.8 per cent in FY 2020-21.

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 2017-18 to FY 2021-22.

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)								
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	1,98,00,914	(-) 2.6
2021-22	14,12,422	49.12	7,12,037	55.6	6,73,414	43.1	2,36,64,637	19.5

Source: Union Finance Accounts; GDP-Central Statistical Office (CSO), Ministry of Statistics and Programme Implementation; GDP for FY 2020-21 and FY 2021-22 – Press note released by CSO on 6 January 2023.

1.4.4 It can be seen from the above Table 1.4 that there was an increase of 55.6 per cent in Corporation Tax in FY 2021-22 in comparison to previous year i.e. FY 2020-21, whereas there was a decrease of 17.8 per cent in the FY 2020-21 in comparison to FY 2019-20. Further, Income Tax increased by 43.1 per cent in FY 2021-22, whereas there was a decrease of 2.0 per cent in FY 2020-21. GDP also increased by 19.5 per cent in FY 2021-22 whereas there was a decrease of 2.6 per cent in FY 2020-21.

⁹ It includes all direct and indirect taxes.

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 2017-18 to FY 2021-22.

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
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
2021-22	1,90,084	5,31,274	39,157	7,60,515	88.6	45,303	5.3	53,032	8,58,850

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 assesseees (pre assessment stage) except in FY 2018-19, 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 2017-18 to FY 2021-22.

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
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
2021-22	4,44,159	1,78,091	75,349	6,97,599	93.0	15,526	2.1	37,072	7,50,197

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 assessee (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 number of non-corporate assessees in different categories of income.

Financial Year	Category of Assessees					Total
	A ¹⁰	B ₁ ¹¹	B ₂ ¹²	C ¹³	D ¹⁴	
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 [#]	662.83
2021-22	73.63	430.84	106.20	61.24	0.00 [*]	671.91

Source: CBDT; These figures are based on actual returns filed during the respective year. [#] 241 assessees, ^{*} 158 assessee

The number of non-corporate assessees registered an increase of 1.4 *per cent* in FY 2021-22 in comparison to an increase of 3.7 *per cent* in FY 2020-21. As can be seen from Table 1.7 above and Chart 1.2 below, there has been a decrease of 3.4 *per cent* in Category 'B₂' during FY 2021-22 in comparison to the previous year whereas there was an increase of 5.2 *per cent* during FY 2020-21. There was an increase of 24.9 *per cent* in non-corporate taxpayers from FY 2017-18 to FY 2021-22 whereas during the same period tax collection from non-corporate taxpayers increased by 65.0 *per cent* (refer Table 1.4). Thus, percentage growth in number of non-corporate taxpayers was less than the percentage growth in tax collection thereon.

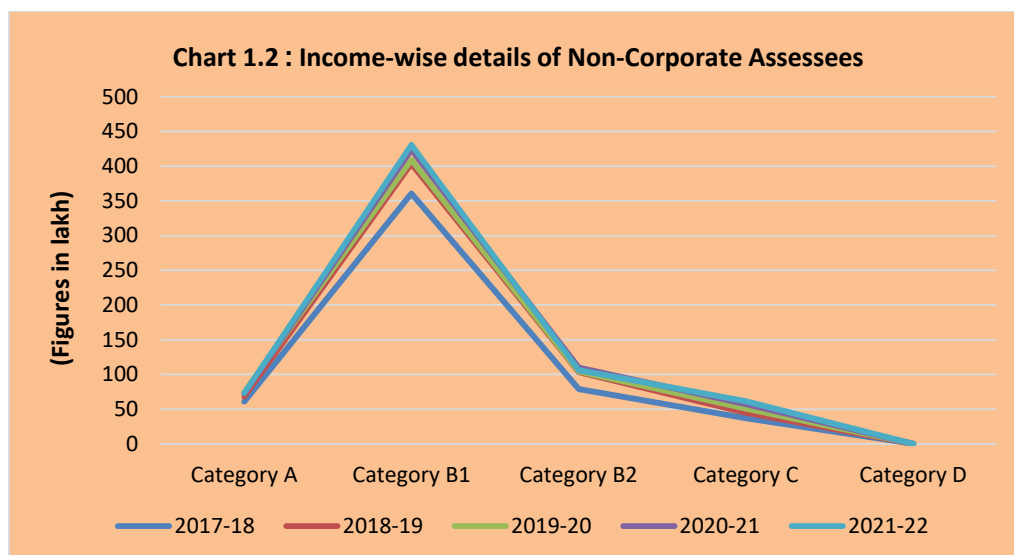
¹⁰ Category 'A' assessees - Assessments with income/loss below ₹ two lakh;

¹¹ Category 'B₁' assessees (lower income group) - Assessments with income/loss of ₹ two lakh and above; but below ₹ five lakh;

¹² Category 'B₂' assessees (higher income group) - Assessments with income/loss of ₹ five lakh and above; but below ₹ 10 lakh;

¹³ Category 'C' assessees - Assessments with income/loss of ₹ 10 lakh and above;

¹⁴ Category 'D' assessees - Search and seizure assessments;



1.4.11 Table 1.8 below gives number of Corporate Assesseees in different categories of income.

Financial Year	Category of Assesseees					(Figures in lakh)	
	A ¹⁵	B ₁ ¹⁶	B ₂ ¹⁷	C ¹⁸	D ¹⁹	Total	Assesseees having income above ₹ 25 lakh
2017-18	3.57	1.85	0.58	1.99	0.00 [§]	7.99	1.31
2018-19	3.66	2.00	0.61	2.19	0.00 [@]	8.46	1.45
2019-20	3.48	2.00	0.63	2.27	0.00 [*]	8.38	1.52
2020-21	3.91	2.21	0.68	2.42	0.00 [^]	9.21	1.61
2021-22	4.26	2.26	0.69	2.44	0.00 [#]	9.65	1.63

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

[§] 195 assesseees, [@] 146 assesseees, ^{*}223 assesseees, [^] 60 assesseees, [#] 17 assesseees

The number of corporate assesseees registered an increase of 4.8 *per cent* in FY 2021-22 in comparison to increase of 9.9 *per cent* in FY 2020-21. There was an increase of 20.8 *per cent* in the corporate taxpayers from FY 2017-18 to FY 2021-22 whereas during the same period, tax collection from the corporate taxpayers increased by 24.7 *per cent* (refer Table 1.4).

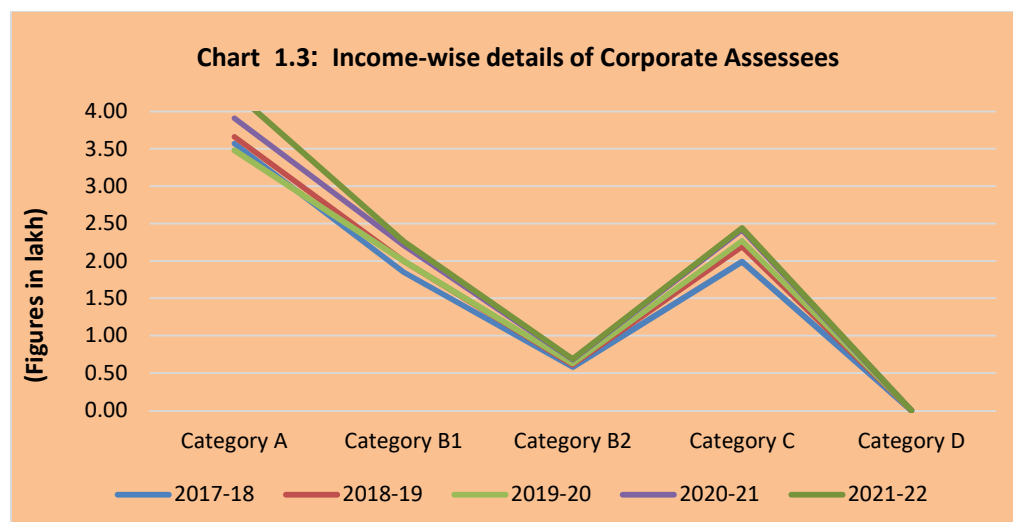
¹⁵ Category 'A' assesseees – Assessments with income/loss below ₹ 50,000;

¹⁶ Category 'B1' assesseees (lower income group) – Assessments with income/loss of ₹ 50,000 and above; but below ₹ five lakh;

¹⁷ Category 'B2' assesseees (higher income group) - Assessments with income/loss above ₹ five lakh and above; but below ₹ 10 lakh;

¹⁸ Category 'C' assesseees - Assessments with income/loss of ₹ 10 lakh and above;

¹⁹ Category 'D' assesseees – Search and seizure assessments;



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 1st 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 2021-22.

Financial Year	Refund cases pending in the beginning of the year		Refund cases added during the year		Refund cases due for disposal during the year		Refund cases disposed of during the year		Interest paid on refunds during the year (₹ in crore) (refer Col. 9)	Refund cases pending		Pendency of refund cases in percentage
	No. of cases (in lakh)	Amount (₹ in crore)	No. of cases (in lakh)	Amount (₹ in crore)	No. of cases (in lakh)	Amount (₹ in crore)	No. of cases (in lakh)	Amount (₹ in crore)		No. of cases (in lakh)	Amount (₹ in crore)	
1	2	3	4	5	6	7	8	9	10	11	12	13
2018-19	0.05	29,435	274.3	1,24,393	274.4	1,53,828	261.7	57,830	10,342	12.7	85,657	4.6
2019-20	12.70	85,657	251.6	1,39,715	264.3	2,25,372	249.0	1,15,533	12,190	15.3	97,648	5.8
2020-21	15.30	97,648	257.3	3,64,145	272.6	4,61,793	236.5	2,29,100	18,019	36.1	2,14,675	13.2
2021-22	36.05	2,14,675	258.1	1,80,902	294.2	3,95,577	242.5	2,04,832	15,825	51.7	1,74,920	17.6

Source: CBDT

It can be seen from the above Table that there was year on year increase in percentage of pendency of refund cases. Percentage of pendency of refund cases was 4.6 per cent in FY 2018-19 which was increased to 17.6 per cent in FY 2021-22. Further, it was noted that though the percentage of cases of refund disposed of during the FY 2021-22 was 82.4 per cent of total cases due for disposal but the percentage of amount involved was only 51.8 per cent of total amount due for disposal.

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 2018-19 to FY 2021-22.

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
	Total	7,69,399	1,05,828	13.8	5,16,861	55,209	10.7
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
	Total	5,56,876	1,21,542	21.8	4,80,343	61,889	12.9
2020-21	June 2020	54,217	40,208	74.2	62,162	23,808	38.3
	September 2020	96,247	48,155	50.0	1,04,327	7,414	7.1

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
	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
	Total	4,57,719	1,73,402	37.9	4,70,633	86,122	18.3
2021-22	June 2021	1,23,593	26,204	21.2	1,21,264	9,310	7.7
	September 2021	1,84,828	34,031	18.4	1,50,895	10,763	7.1
	December 2021	2,11,814	37,163	17.5	1,72,646	31,038	18.0
	March 2022	1,91,802	49,414	25.8	2,28,609	25,673	11.2
	Total	7,12,037	1,46,812	20.6	6,73,414	76,784	11.4

Source: Pr. CCA, CBDT

As can be seen from Table 1.10 above, **47.9 per cent, 92.1 per cent, 74.2 per cent** and **21.2 per cent** of the gross collection of the Corporation Tax during the first quarters of FY 2018-19, FY 2019-20, FY 2020-21 and FY 2021-22 respectively were refunded during the same quarter. Further, **57.7 per cent, 53.4 per cent, 23.2 per cent** and **17.8 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, FY 2020-21 and FY 2021-22 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.

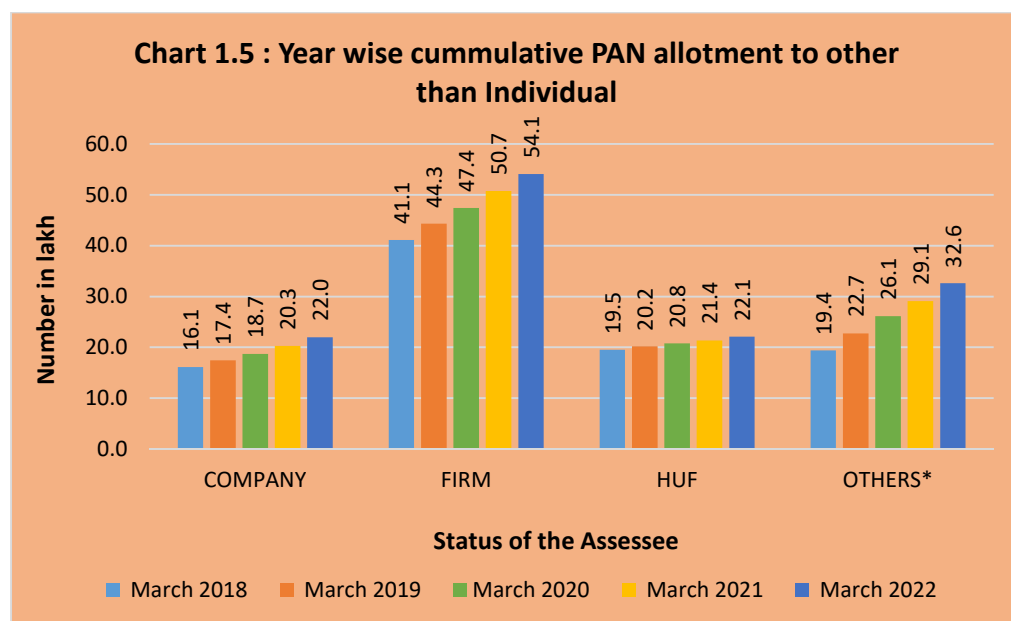
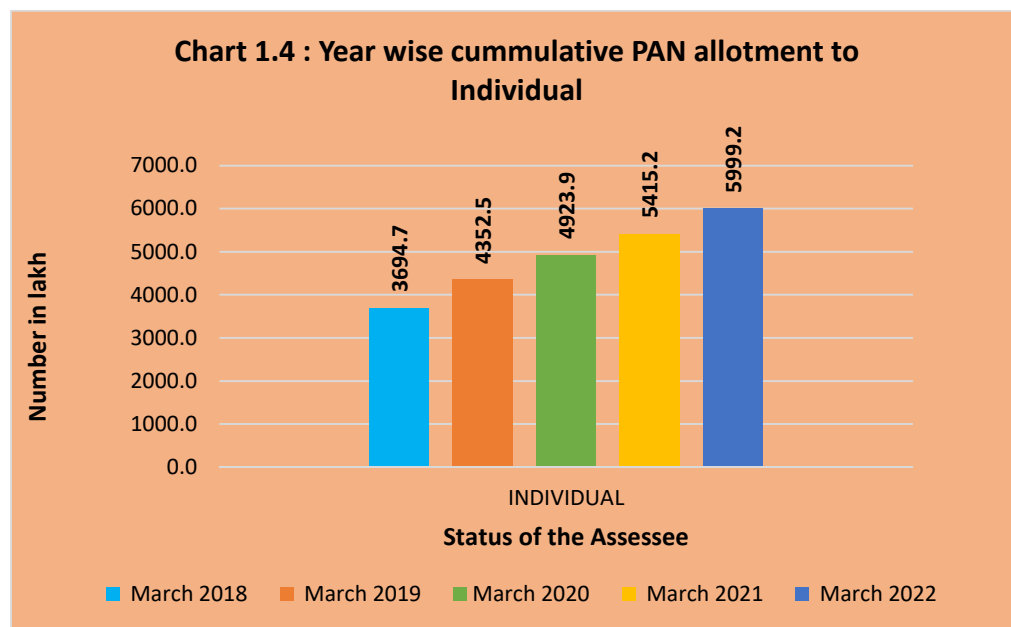
Table 1.11 below gives the details of taxpayer status-wise cumulative number of PAN allotments at the end of each year.

Sl. No.	Taxpayers' status	Upto March 2018	Upto March 2019	Upto March 2020	Upto March 2021	Upto March 2022
1	INDIVIDUAL	3,694.7	4,352.5	4,923.9	5,415.2	5,999.2
2	COMPANY	16.1	17.4	18.7	20.3	22.0
3	FIRM	41.1	44.3	47.4	50.7	54.1
4	HUF	19.5	20.2	20.8	21.4	22.1
5	OTHERS*	19.4	22.7	26.1	29.1	32.6
	Total	3,790.8	4,457.1	5,036.9	5,536.7	6,130.0

Source: CBDT

*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 2021-22. Further, the percentage increase in PAN allotment witnessed a year-on-year decline during FY 2018-19 to FY 2020-21 except FY 2021-22.



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

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

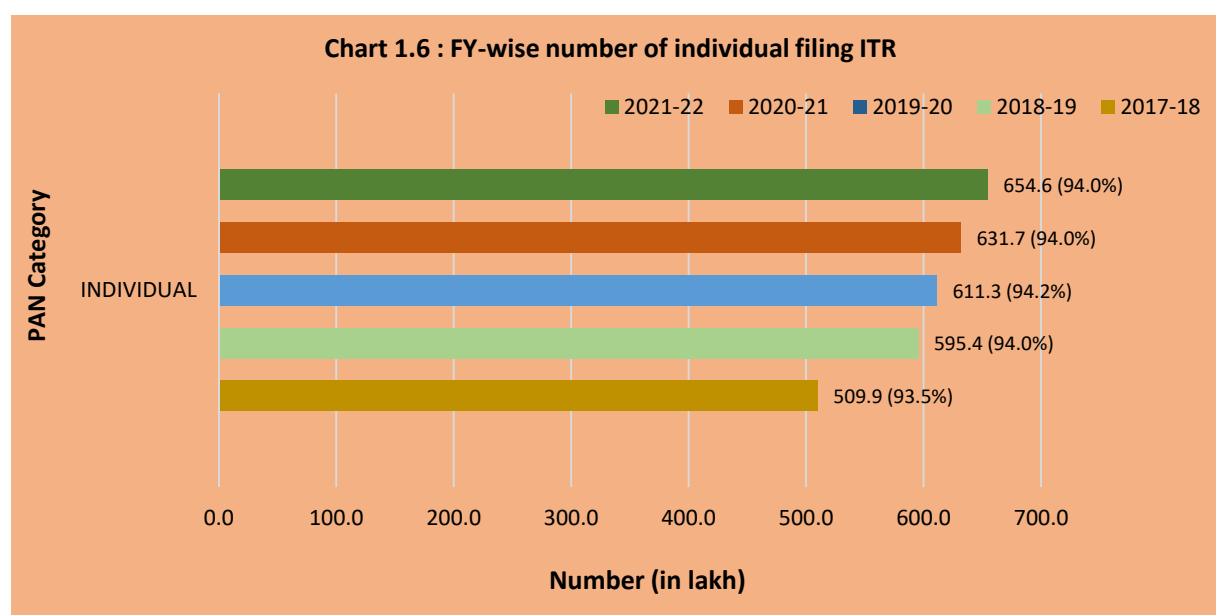
the income of such other person during the previous year, in the prescribed form.

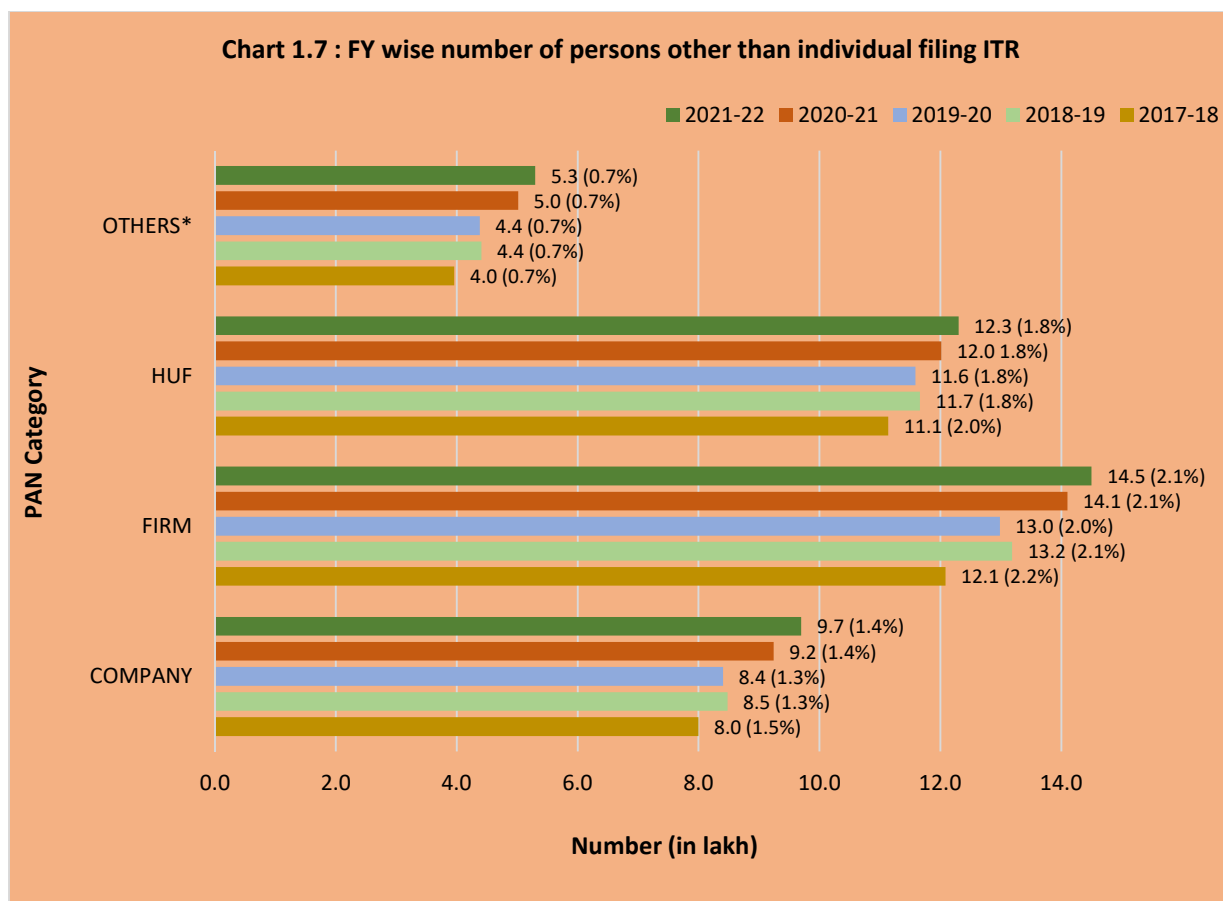
Table 1.12 below gives the details of Financial Year and PAN category-wise number of persons filing income Tax Returns.

PAN Category	2017-18		2018-19		2019-20		2020-21		2021-22	
	No. of ITR Filers	Percentage of Total ITR Filers	No. of ITR Filers	Percentage of Total ITR Filers	No. of ITR Filers	Percentage of Total ITR Filers	No. of ITR Filers	Percentage of Total ITR Filers	No. of ITR Filers	Percentage of Total ITR Filers
Individual	509.9	93.5	595.4	94	611.3	94.2	631.7	94.0	654.6	94.0
Company	8	1.5	8.5	1.3	8.4	1.3	9.2	1.4	9.7	1.4
Firm	12.1	2.2	13.2	2.1	13	2	14.1	2.1	14.5	2.1
HUF	11.1	2	11.7	1.8	11.6	1.8	12	1.8	12.3	1.8
Others	4	0.7	4.4	0.7	4.4	0.7	5	0.7	5.3	0.7
Total	545.1	100	633.2	100.0	648.7	100.0	672.1	100.0	696.4	100.0

*Others include AOP, BOI, GOVT, AJP, Local Authority and Trust
Source: CBDT

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 2021-22. Further, during FY 2018-19, percentage increase in number of persons filing Income Tax Returns was 16 *per cent* in comparison to the previous FY i.e. 2017-18. However, during subsequent FYs, percentage increase in number of persons filing Income Tax Returns ranged between 2.4 to 3.6 *per cent*.





* 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.

Income Category*	Number of ITRs (in Thousand)				
	2017-18	2018-19	2019-20	2020-21	2021-22
A1	33,136.2	37,723.2	43,525.7	36,319.0	37,793.1
A2	11,876.3	15,059.7	16,448.2	19,906.7	21,401.0
A3	4,715.8	5,763.7	6,750.2	7,512.3	8,145.4
A4	137.3	163.4	186.8	197.4	210.8
A5	2.9	3.4	4.0	4.0	5.1
Total	49,868.4	58,713.4	66,914.9	63,939.4	67,555.4

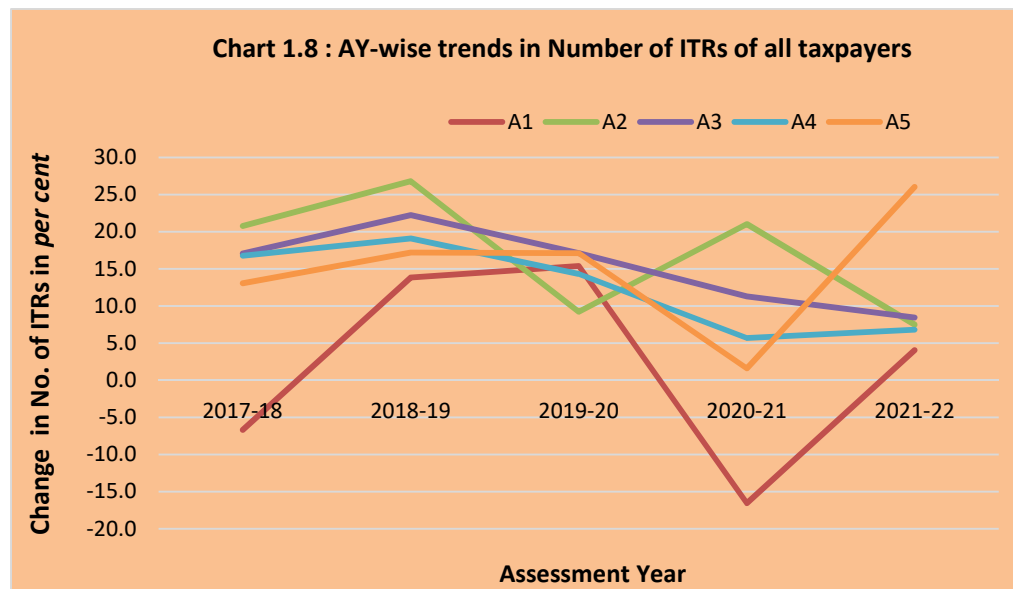
* A1: Gross income ₹ 5 lakh and below; A2: Gross Income above ₹ 5 lakh but ₹ 10 lakh and below; A3: Gross Income above ₹ 10 lakh but ₹ 1 crore and below; A4: Gross Income above ₹ 1 crore but ₹ 50 crore and below; A5: Gross Income above ₹ 50 crore

Source: CBDT

It can be seen from the above Table 1.13 that there had been a year-on-year increase in number of ITRs for all income category with respect to all assessee except assessee with Gross income of ₹ 5 lakh and below for AY 2017-18 and

2020-21. Further, there had been year-on-year increase in total number of ITRs filed by all taxpayer except for AY 2020-21.

Chart 1.8 below gives income category-wise year-on-year change in increasing/decreasing percentage in number of ITRs filed by all taxpayer.



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

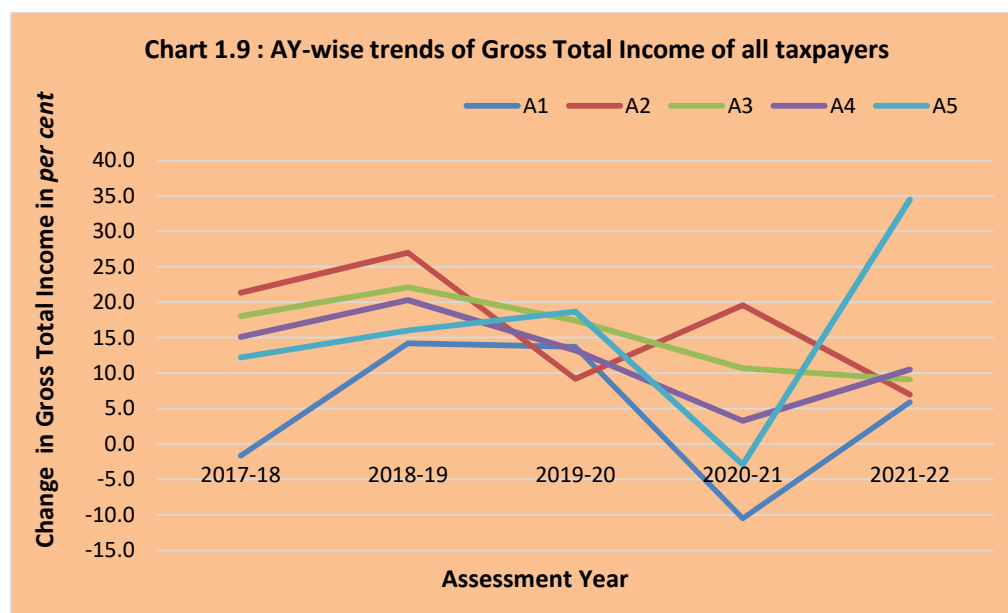
Table 1.14 below gives the details of Income category and Assessment Year-wise gross total income of taxpayers.

Income Category*	Gross Total Income (in ₹ crore)				
	2017-18	2018-19	2019-20	2020-21	2021—22
A1	10,02,568	11,44,466	13,01,293	11,64,691	12,33,846
A2	8,05,967	10,23,588	11,17,809	13,36,609	14,29,561
A3	9,19,599	11,22,811	13,18,410	14,59,848	15,93,155
A4	4,97,814	5,98,674	6,77,756	7,00,434	7,74,069
A5	10,72,316	12,43,543	14,76,214	14,33,727	19,28,921
Total	42,98,264	51,33,084	58,91,483	60,95,309	69,59,552

*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
Source: CBDT

It can be seen from the above Table 1.14 and Chart 1.9 below that there had been a year-on-year increase in aggregate gross total income with respect to all income category and all categories of taxpayers (except taxpayers in category with 'gross income ₹ 5 lakh and below' for AY 2017-18 and AY 2020-21; and taxpayers in category with 'gross income above ₹ 50 crore'

for AY 2020-21). However, there had been year-on-year increase in aggregate gross total income of all taxpayers during AY 2017-18 to AY 2021-22.



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.

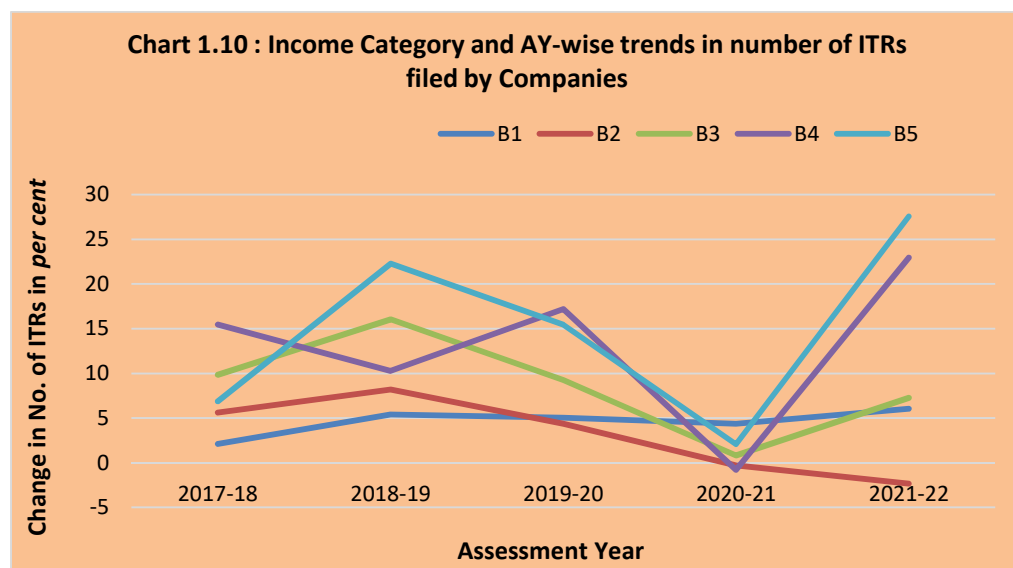
Income Category*	Number of ITRs (in Thousand)				
	2017-18	2018-19	2019-20	2020-21	2021-22
B1	657.5	693.0	727.8	759.5	805.5
B2	95	102.8	107.3	107.0	104.5
B3	37.3	43.3	47.3	47.7	51.1
B4	1.1	1.2	1.4	1.4	1.7
B5	1.3	1.6	1.8	1.9	2.4
Total	792.3	841.9	885.7	917.5	965.2

*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

Source: CBDT

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 2017-18 to 2021-22 in all income category except income category B2 i.e. 'gross income above ₹ 10 lakh but ₹ 1 crore and below' and B4 i.e. 'gross income above ₹ 50 crore but ₹ 100 crore and below' for AY 2020-21; and income category B2 i.e. 'gross income above ₹ 10 lakh but ₹ 1 crore and below' for AY 2021-22. However, there had been year-on-year increase in total number of ITRs filed by the

companies during AY 2017-18 to 2021-22. Further, significant increase (27.6 per cent) in number of ITRs was noticed for companies having gross total income of ₹ 50 crore and above, during AY 2021-22.



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.

Table 1.16 : Income category and Assessment Year-wise aggregate Gross Total Income of companies

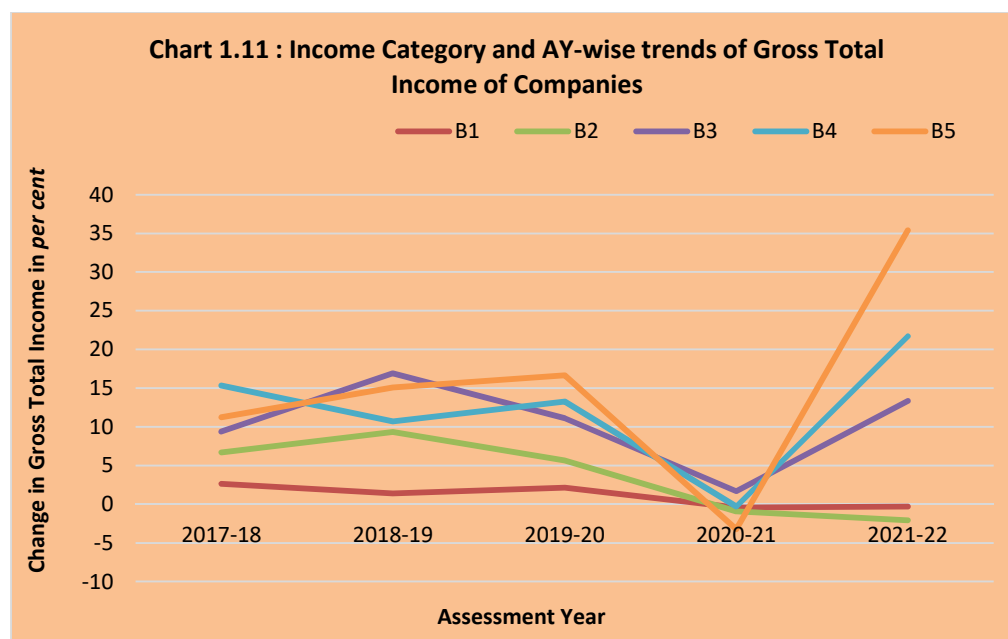
Income Category*	Gross Total Income (₹ in crore)				
	2017-18	2018-19	2019-20	2020-21	2021-22
B1	4,981	5,051	5,158	5,137	5,122
B2	33,061	36,146	38,191	37,846	37,064
B3	2,25,017	2,63,045	2,92,282	2,97,207	3,36,910
B4	78,578	86,989	98,512	98,212	1,19,512
B5	9,40,466	10,82,240	12,62,749	12,21,822	16,54,135
Total	12,82,103	14,73,472	16,96,893	16,60,225	21,52,743

*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

Source: CBDT

It can be seen from the above Table 1.16 and Chart 1.11 below that during AY 2017-18 to AY 2021-22, there had been a year-on-year increase in the aggregate gross total income of the companies in all the categories except in AY 2020-21. Further, during AY 2020-21, there had been decline in aggregate gross total income of the companies in all income category except in income category B3 i.e. 'gross total income above ₹ 1 crore but ₹ 50 crore and below'.

Furthermore, during AY 2021-22, significant increase in gross total income was noticed for companies having gross total income of ₹ 50 crore and above.



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

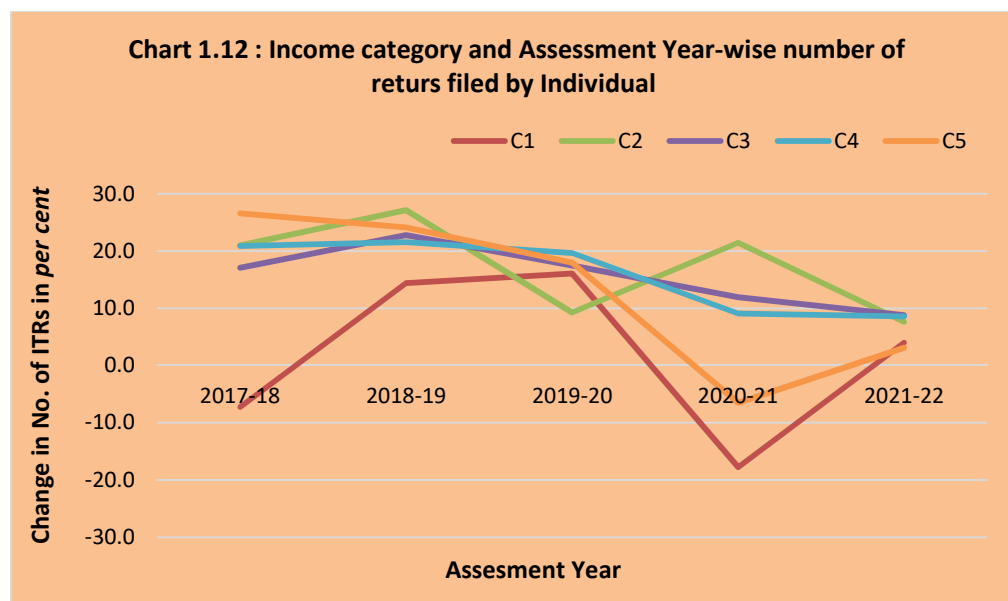
Table 1.17 below gives the details of Income category and Assessment Year-wise number of ITRs filed by individuals.

Income Category*	Number of ITRs (in Thousand)				
	2017-18	2018-19	2019-20	2020-21	2021-22
C1	30,548.7	34,954.2	40,577.6	33,356.8	34,690.8
C2	11,602.1	14,754.2	16,121.0	19,578.4	21,071.3
C3	4,271.9	5,244.8	6,160.8	6,894.4	7,500.9
C4	246.1	299.1	357.9	390.4	423.8
C5	6.4	7.9	9.3	8.7	9.0
Total	46,675.1	52,260.2	63,226.6	60,228.6	63,695.7

*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

Source: CBDT

It can be seen from the above Table 1.17 and Chart 1.12 below that in comparison to the immediate previous AY, there had been an increase in number of ITRs filed by individual assesseees during AY 2017-18 to 2021-22 in all income category except income category C1 i.e. 'Gross income ₹ 5 lakh and below' for AY 2017-18 and AY 2020-21; and C5 i.e. 'Gross Income above ₹ 5 crore' for AY 2020-21. However, there had been year-on-year increase in total number of ITRs filed by the individual assesseees except during AY 2020-21.



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.

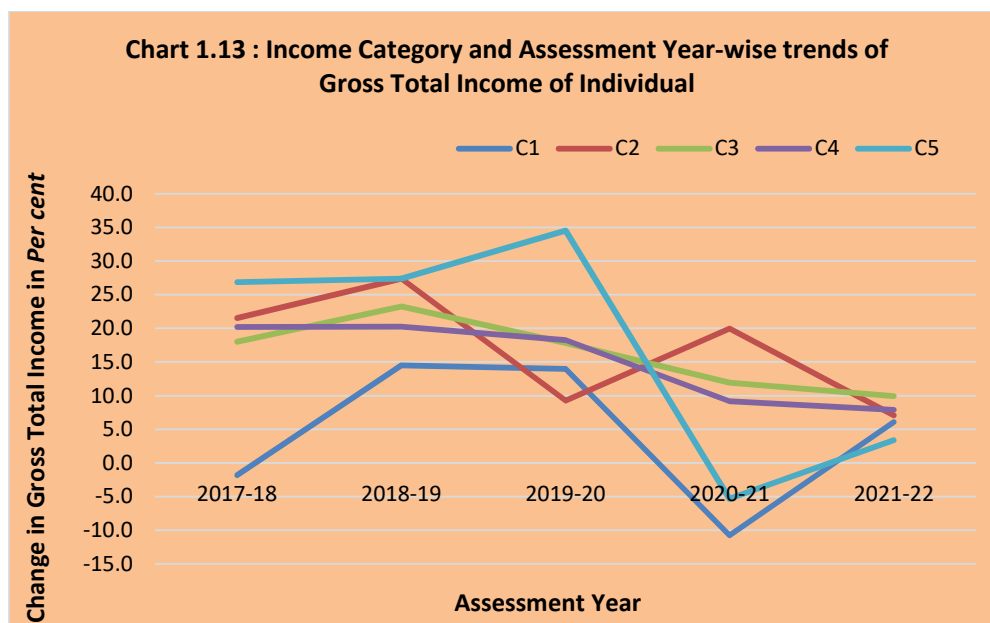
Table 1.18: Income Category and AY-wise trends of Gross Total Income of Individuals

Income Category*	Gross Total Income (in ₹ crore)				
	2017-18	2018-19	2019-20	2020-21	2021-22
C1	9,70,840	11,11,819	12,66,973	11,30,680	11,99,626
C2	7,86,892	10,02,382	10,95,075	13,13,787	14,06,639
C3	7,23,377	8,91,399	10,50,480	11,75,806	12,92,494
C4	2,51,876	3,02,846	3,58,159	3,90,928	4,21,792
C5	83,800	1,06,737	1,43,613	1,35,934	1,40,511
Total	28,16,786	34,15,183	39,14,300	41,47,135	44,61,063

*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

Source: CBDT

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 gross total income for all income categories of individual assessee except in income category C1 i.e. 'gross total income ₹ 5 lakh and below' for AY 2017-18 and AY 2020-21; and C5 i.e. 'gross total income above ₹ 5 crore'. However, there had been year-on-year increase in the aggregate gross total income during AYs 2017-18 to 2021-22.



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 2017-18 to FY 2021-22.

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)
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
2021-22	11,08,000	12,50,000	14,12,422	3,04,422	1,62,422	27.5	13.0

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 Revised Estimates and Actual Collection ranged from (-) 0.2 per cent to 13.0 per cent of Revised Estimates during the period from FY 2017-18 to FY 2021-22. The variation between Budget Estimates and

Actual was higher as compared to that between the Revised Estimates and the Actual during FY 2019-20 to FY 2021-22.

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 2017-18 to FY 2021-22.

Financial Year	Total Revenue impact of tax incentives (₹ in crore)	Revenue impact as <i>per cent</i> of		
		GDP	Direct Taxes	Gross Tax Receipts
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	2,11,194	1.1	22.3	10.4
2021-22	2,36,960	1.0	16.8	8.7

Source: Respective Receipt Budget and for FY 2020-21 revised figure has been adopted as per Receipt Budget 2023-24.

Note: The figures of revenue impact of tax incentives are actuals except for FY 2021-22 (projected). These do not cover Charitable Institutions. However, the amount applied by Charitable Institutions was ₹ 7,06,236 crore, in respect of 2,31,858 electronically filed returns for AY 2021-22 relevant to FY 2020-21, till 31 March 2022.

As reported in the Receipts Budget for the FY 2022-23, the effective tax rate²⁰ of the entire base of companies reporting profits was 22.20 *per cent*²¹ for FY 2020-21 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 companies having income exceeding ₹ 10 crore. Further, for existing

²⁰ 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.

²¹ Which is lower than the effective tax rate of 22.54 *per cent* in FY 2019-20.

companies which opted for the new concessional tax regime²², 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 As reported in Receipt Budget, the major tax incentives given to corporate and non-corporate assessees in FY 2020-21 were deductions on account of certain investments and payments under Section 80C (₹ 84,080 crore), rebate under Section 87A (₹ 33,604 crore), deduction of export profits to SEZ units under Section 10AA (₹ 25,150 crore), accelerated depreciation under Section 32 (₹ 21,705 crore), deductions to undertakings in generation/transmission and distribution of power under Section 80-IA (₹ 19,027 crore), deductions to undertakings engaged in development of infrastructure facilities under Section 80-IA (₹ 3,816) and deductions under Sections 35(1)(2AA) and 35(1)(2AB) for expenditure on scientific research (₹ 2,392 crore).

1.8.5 As can be seen from the Table 1.20, the revenue impact of tax incentives has increased by 29.0 *per cent* from ₹ 1,83,580 crore in FY 2017-18 to ₹ 2,36,960 crore in FY 2021-22. Though the tax incentives increased in absolute terms by 12.2 *per cent* in FY 2021-22 as compared to FY 2020-21, there was decrease in the share of revenue impact of tax incentives in DT and GTR by 5.5 *per cent* and 1.7 *per cent* respectively. Revenue impact of tax incentives was 1.0 *per cent* of GDP during FY 2021-22 as compared to 1.1 *per cent* in FY 2020-21.

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 2017-18 to FY 2021-22.

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 [#]	Classified as Demand difficult to recover (in <i>Per cent</i>)	Net collectible demand
						(₹ in crore)
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	14,63,126	31,166	14,94,292	14,68,013	98.24	26,279
2021-22	14,16,809	5,18,629	19,35,438	18,84,120	97.35	51,318

Source: Directorate of Income Tax (Organisation & Management Services), Demand & Collection report (CAP-1) for the month of March of the respective FY. [#] This includes current year demand also.

²² 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 2021-22 amounted to ₹ 19,35,438 crore, increased by 29.5 per cent as compared to FY 2020-21 (₹ 14,94,292 crore); demands classified as 'difficult to recover' decreased marginally to 97.35 per cent of the total arrears of demands in FY 2021-22 as compared to 98.24 per cent in FY 2020-21 due to increase in net collectible demand.

1.9.3 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.

Table 1.22 below gives details of amount classified as demand difficult to recover for FY 2021-22 on account of following factors:

Table 1.22 : Various factor-wise arrear demands classified as difficult to Recover for FY 2021-22		
Sl. No.	Description	Arrear Demand (₹ in crore)
1	No assets/inadequate assets for recovery (to the extent of inadequacy)	6,83,928
2	Assessees not traceable (to the extent it is likely to affect recovery)	2,37,242
3	Demand stayed by IT Authorities	1,56,127
4	Demand stayed by Courts/ITAT	1,40,843
5	Any other reasons (to be specified in a separate Annexure) for which the demand is considered difficult to recover	1,37,356
6	TDS/Prepaid taxes mismatch	1,06,531
7	Assets jointly attached with other agencies except BIFR	92,958
8	Cases pending before NCLT under IBC - 2016	65,386
9	Companies in Liquidation	60,825
10	Cases where the Department has lost in appeal but the demand is outstanding for other years or is continuing to be raised to keep the issue alive as the Department is in further appeal	54,328
11	Others*	1,48,597
Total		18,84,121

Source: Demand & Collection report (CAP-1) for the month of March 2022.

*Others include 'Demand the recovery of which is not being pursued on account of assessee's stay petition pending consideration by IT Authorities', 'Protective Demand', 'Rectification pending on account of duplication of entries' etc.

It can be seen from the above Table 1.22 that amount of arrear demand classified as difficult to recover was highest for 'No assets/inadequate assets for recovery (to the extent of inadequacy)' (36.3 per cent) followed by 'Assessees not traceable (to the extent it is likely to affect recovery)' (12.6 per cent).

1.10 Litigation Management

1.10.1 Table 1.23 below gives the trend of disposal and pendency of appeal cases before CIT (Appeals) during FY 2017-18 to FY 2021-22:

Table 1.23: Disposal of Appeal Cases by CIT(A)						
Financial Year	Appeal cases due for disposal	Appeal cases disposed of	Appeal cases pending	Disposal of cases in percentage	Pendency in percentage	Amount locked up in Appeal cases
	(Number in lakh)				(₹ in crore)	
2017-18	4.25	1.21	3.04	28.5	71.7	5,18,647
2018-19	4.62	1.23	3.39	26.6	73.4	5,62,806
2019-20	5.57	0.99	4.58	17.8	82.2	8,83,331
2020-21	4.85	0.26	4.59	5.4	94.6	24,64,610
2021-22	5.75	0.73	5.02	12.7	87.3	14,18,631

Source: CBDT

1.10.2 The number of appeals pending with CIT (Appeals) increased from 4.59 lakh in FY 2020-21 to 5.02 lakh in FY 2021-22. However, the amount locked up in these cases decreased from ₹ 24.65 lakh crore in FY 2020-21 to ₹ 14.19 lakh crore in FY 2021-22.

1.10.3 Table 1.24 below gives the position of appeal cases pending with the Income Tax Appellate Tribunals (ITATs)/High Courts and Supreme Court during FY 2017-18 to FY 2021-22.

Table 1.24: 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)
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 [@]	38,539	1,36,465	4,425	74,368 [#]	1,35,169	2,10,833
2019-20	31,495	2,67,424	37,374	3,09,238	6,182	27,304	75,051	6,03,966
2020-21	26,111	2,70,039	31,971	2,75,329	5,567	25,274	63,649	5,70,642
2021-22	19,238	3,05,087	27,950	3,31,245	4,379	27,736	51,567	6,64,068

Source: CBDT;

Note: The figures for FY 2019-20 to FY 2021-22 are revised figures, as provided vide letter F. No. 240/06/2022-A&PAC-I-213 dated 12/04/2024;

[@] amount in respect of appeals filed in ITATs by the Department as well as assesseees are not available.

[#] amount in respect of appeals filed in the Supreme Court by the assesseees not available

1.10.4 Audit noted that though there was decrease in total number of cases pending before ITAT/High Courts/Supreme Court during FY 2021-22 in comparison to the previous year i.e. FY 2020-21, there was increase in amount locked therein.

Audit further noted that after reconciliation of number of cases pending for FYs 2019-20 and 2020-21 before ITAT and the Supreme Court, carried out by the Department during current year, a decrease of 66 per cent and 72 per cent in the number of cases pending before ITAT whereas an increase of 40 per cent

and 26 *per cent* in the number of cases pending before the Supreme Court for FY 2019-20 and FY 2020-21 respectively in comparison to FY 2018-19 was noticed. However, reasons for such changes were not made available to Audit. In view of significant changes in number of cases pending before ITAT and the Supreme Court for FY 2019-20 and 2020-21 due to reconciliation carried out during FY 2021-22, CBDT is required to carry out such exercise on regular basis.

1.10.5 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 had not been made available to Audit for the FYs 2018-19.

1.10.6 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, from ₹ 20 lakh to ₹ 50 lakh; before High Court, from ₹ 50 lakh to ₹ one crore; and before the Supreme Court, from ₹ one crore to ₹ two crore. The number of pending cases decreased by 18.98 *per cent* i.e. from 0.64 lakh cases in FY 2020-21 to 0.52 lakh in FY 2021-22.

1.11 Tax Evasion

1.11.1 Search and Seizure²³ and Survey²⁴ 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 1.25 below shows the details of search and seizure operations and surveys conducted and the undisclosed income admitted/detected during FY 2017-18 to FY 2021-22.

Table 1.25: Status of Search and Seizure and Survey cases					(₹ in crore)
Financial Year	Number of groups searched	Undisclosed income admitted (in search & seizure)	Number of surveys conducted	Undisclosed income detected (in surveys)	
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	
2021-22	686	5,432	1,046	5,135	

Source: Investigation Wing, CBDT;

1.11.2 During FY 2021-22, number of groups searched increased by 20.6 *per cent* whereas undisclosed income admitted during search and seizure increased by 31.0 *per cent* and number of surveys conducted increased by 145.5 *per cent* whereas undisclosed income detected during survey increased by 0.5 *per cent* as compared to the respective figures in FY 2020-21.

²³ Search and Seizure is carried out under Section 132 of the Act to unearth any undisclosed income or valuables.

²⁴ 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.

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 completed audit of 1,46,908 cases in FY 2021-22 as against 1,22,179 cases audited in FY 2020-21. Further, out of 11,740 major finding cases²⁵ raised by Internal Audit, the Assessing Officers (AOs) acted upon only 2,537 cases (21.6 per cent) in FY 2021-22 in comparison to 1,618 cases (15.1 per cent) out of 10,700 cases in FY 2020-21.

1.12.2 Table 1.26 below shows details of Internal Audit observations raised, settled and pending for the period of five years from FY 2017-18 to FY 2021-22.

Financial Year	Opening balance [^]		Addition		Settled		Pending	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
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
2021-22	37,879	18,680	9,048	7,418	12,013	3,548	34,914	22,550

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

[^]Figures revised after verification by respective CsIT (Audit) subsequent to submission of quarterly statement for the quarter ending March

1.12.3 It can be seen from Table 1.26 above that 34,914 cases raised by Internal Audit were pending in FY 2021-22 with a decrease of 8.8 per cent compared to the pending cases (38,270 cases) in FY 2020-21. However, amount involved in pending cases increased to ₹ 22,550 crore in FY 2021-22 from ₹ 18,354 crore in FY 2020-21 i.e. an increase of 22.8 per cent. Follow up of the internal audit observations by the AOs needs to be strengthened.

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 1.27 below gives details of the processes involved in the Income Tax Department. The flow chart in **Appendix 1.2** shows these processes.

²⁵ 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 21/07/2017.

Table 1.27 Tax Administration Process	
Permanent Account Number (PAN)	Every person ²⁶ 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.
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).

²⁶ Company, Firm, Individual, HUF, Trusts, Association of Persons, Body of Individuals, Co-operative Societies, Local Authority, Artificial Juridical Person, Government Agency.

Table 1.27 Tax Administration Process	
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.
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 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.

As per Section 16 of the CAG's DPC Act, it shall be the duty of the Comptroller and Auditor General (CAG) to audit all receipts which are payable into the Consolidated Fund of India and to satisfy himself that the rules and procedures in that behalf are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed and to make for this purpose such examination of the accounts as he thinks fit and report thereon. Further, Regulations on Audit & Accounts, 2020 lays 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 assesseees, 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 2020-21. In addition, some assessments completed in earlier years were also taken up for audit examination.

2.2.3 The ITD undertakes scrutiny assessments with respect to a sample of returns filed by the assessee as per the Income Tax Act, 1961. The Income Tax Returns (ITRs) are selected for scrutiny through Computer Aided Scrutiny Selection (CASS) based on parameters identified and pre-defined by the ITD. These cases are then closely examined with respect to 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 Assessment²⁷ 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 1.1**.

Post implementation of the Income Tax Business Application (ITBA), the ITD System undertakes the calculation of tax, calculation of interest under various sections of the Act, time barring checks, etc. In the case of scrutiny assessments, rectification, and appeal effect orders, figures are data-fed to the system by the AOs based on the orders, even after the implementation of the Faceless assessment. The payments made by an assessee with respect to TDS/TCS, 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, completing and rectifying assessment orders with respect to scrutiny cases is done by the NeAC in ITBA.

Examining scrutiny assessment cases, Audit noticed that despite irregularities of certain types being pointed out repeatedly in earlier Audit Reports, these irregularities continue to occur 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 the implementation of ITBA. Some of these cases are discussed in the subsequent paragraphs.

2.2.4 A total of 672.04 lakh returns were filed during FY 2020-21²⁸. In the same FY, the ITD completed 92,991 scrutiny assessments in those units audited during the audit plan of FY 2021-22, of which the ITD produced 86,458 assessment cases. During FY 2021-22, ITD also produced 1,01,044 cases out of

²⁷ "Faceless Assessment" was 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 12 September 2019 of the Central Board of Direct Taxes.

²⁸ Total number of returns filed during FY 2019-20 were 647.75 lakh.

1,58,136 cases of scrutiny assessments completed in the selected units in financial years prior to 2020-21. In 1,87,502 total scrutiny assessments audited during year 2021-22, Audit noticed 10,708 mistakes in 9,832 assessment orders having a tax effect of ₹ 40,984.40 crore. The incidence of errors in the assessments checked in Audit during FY 2021-22 was 5.24 *per cent*. Out of the cases of scrutiny assessments audited by us, Internal Audit of ITD had checked 16,343 cases. As we have seen only a limited number of assessment cases/records, the Ministry needs to verify this in its entirety and not only in the cases of the sample selected by Audit. State-wise incidence of errors in assessments is given in **Appendix 2.1**.

2.2.5 Table 2.1 below shows details of seven states: West Bengal, Gujarat, Andhra Pradesh, Maharashtra, Madhya Pradesh, Delhi, and Uttar Pradesh, with the highest percentage of assessments with errors noticed in Audit. More than 10,000 assessments were checked in Audit during FY 2021-22.

Table 2.1: Details of seven states with the highest incidence of 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 (<i>per cent</i>)
	completed in units selected for Audit during 2021-22	checked in Audit during 2021-22	with errors		
West Bengal	19,801	18,799	1,359	3,699.82	7.23
Gujarat	12,294	12,061	793	1,677.00	6.57
Andhra Pradesh	15,166	13,367	859	1,206.01	6.43
Maharashtra	45,736	24,769	1,332	12,428.94	5.38
Madhya Pradesh	25,673	18,765	781	494.03	4.16
Delhi	29,909	29,418	1,167	8,637.66	3.97
Uttar Pradesh	18,090	16,901	389	636.74	2.30

West Bengal (7.23 *per cent*) has the highest percentage of assessments with errors, followed by Gujarat (6.57 *per cent*). The ITD needs to take corrective action with respect to errors noticed by the Audit in the assessments.

2.2.6 Table 2.2 summarises observations noticed in the selected assessment cases in the local audit during FY 2021-22.

Table 2.2: Tax-wise details of observations in assessments

Category	No. of Observations	Tax effect (TE) (₹ in crore)
Corporate tax (CT)	4,245	29,611.87 ²⁹
Income tax (IT)	6,454	11,371.37 ³⁰
Other Direct taxes (ODT) ³¹	09	1.16
Total	10,708	40,984.40

²⁹ Includes 248 cases of over-assessment with a tax effect of ₹ 2,837.25 crore.

³⁰ Includes 416 cases of over-assessment with a tax effect of ₹ 1,016.88 crore.

³¹ Wealth Tax

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

Category	No. of Observations	Tax effect (₹ in crore)
Quality of assessments	4,597	11,385.07
Administration of tax concessions/exemptions/deductions	2,331	12,110.99
Income escaping assessments due to omissions	731	3,958.83
Others	2,404	9,692.01
Total	10,063	37,146.89

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 the 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 include MAT/AMT/Tonnage Tax, etc.

The recurrence of irregularities, incorrect allowance, excess or irregular refunds and mistakes, despite being pointed out repeatedly in audit reports and even after the implementation of ITBA, is indicative of a lack of controls in the systems to prevent the recurrence of such repetitive mistakes, especially after the implementation of ITBA. It also points to a lack of effective monitoring and an effective institutional mechanism to respond to the systematic and structural weaknesses leading to revenue leakage. The audit observations included in the Compliance Audit Report³² along with the Audit

³² C&AG Compliance Audit Report (Union Government – Department of Revenue – Direct Taxes) 11 of 2020 (for the year ended March 2019), 8 of 2021 (for the year ended March 2020) and 29 of 2022 (for the year ended March 2021).

Paras issued to the Ministry during 2022-24, 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 Maharashtra, with 99 observations involving a tax effect of ₹ 2,771.06 crore out of a total tax effect of ₹ 5,127.12 crore noticed and in respect of Income Tax, their occurrence was seen to be consistently high in Delhi with 51 observations whereas tax effect was seen to be high in Maharashtra with a tax effect of ₹ 248.62 crore out of total tax effect of ₹ 601.67, 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)
Corporate Tax	332	5,127.12
Income Tax	172	601.67
Total	504	5,728.79

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

2.3.1 Administration of tax concessions/exemptions/deductions— Irregularities in allowing depreciation, business losses, and 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 the Income Tax Return for the said assessment year was filed after the due date of filing of the return,
- (iv) double deduction on account of depreciation, etc.

Such irregularities occurred due to the non-correlation of assessment records, which indicates the failure of the assessing officers to apply due diligence and comply with the law. Mistakes noticed in allowance of depreciation/ business losses/capital losses, etc., from 2018-19 to 2020-21, as brought out in the Compliance Audit Reports of the past three years, along with findings of the current year Audit Report (2021-22), are summarised in Table 2.5 below:

Table 2.5: Mistakes noticed in allowing depreciation/ business losses/ capital losses etc. (₹ in crore)								
Category	Audit Report for the year ended							
	March 2019		March 2020		March 2021		March 2022	
	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect
CT	75 ³³	2,655.15	87 ³⁴	1,017.28	54 ³⁵	392.05	53 ³⁶	1,134.44
IT	14 ³⁷	21.30	11 ³⁸	27.83	3 ³⁹	2.32	4 ⁴⁰	38.93

During the years 2018-22, non-compliance on this account with respect to Corporate and Income tax was found to be highest in the respective states, as depicted in Table 2.6 below:

Table 2.6: States with the highest incidence of mistakes of the total tax effect noticed in allowing depreciation/ business losses/ capital losses, etc.		
Year	States (per cent)	
	Corporate Tax	Income Tax
2018-19	Bihar (38.6) Maharashtra (34)	Bihar (30)
2019-20	Karnataka (30.3) Maharashtra (26.19)	Karnataka (44.25)
2020-21	Maharashtra (28.8) Delhi (25.3)	Gujarat (94.12)
2021-22	Maharashtra (77.85) West Bengal (9.17)	AP & Telangana (57.38) Odisha (33.90)

During 2018-19, non-compliance on this account was found to be the highest in Bihar (38.6 per cent), followed by Maharashtra (34 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 2019-20, irregularities on this account were found to be the highest in Karnataka (30.3 per cent), followed by Maharashtra (26.19 per cent). During 2020-21, it was found to be highest in Maharashtra (28.8 per cent), followed by Delhi (25.3 per cent). During 2021-22, these irregularities were found highest in Maharashtra (77.85 per cent) followed by West Bengal (9.17 per cent)

³³ Andhra Pradesh and Telangana, Bihar, Delhi, Gujarat, Madhya Pradesh, Karnataka and Goa, Kerala, Maharashtra, Odisha, Rajasthan, Tamil Nadu, and West Bengal.

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

³⁵ Gujarat, West Bengal, Maharashtra, Rajasthan Delhi, Kerala, Madhya Pradesh, Tamil Nadu, Andhra Pradesh & Telangana, Karnataka, Odisha and Haryana.

³⁶ Assam, Gujarat, Karnataka, Kerala, West Bengal, Maharashtra, Delhi, Odisha, Punjab, Tamil Nadu and Uttar Pradesh.

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

³⁹ Assam and Gujarat.

⁴⁰ Andhra Pradesh & Telangana, Odisha, Assam and Karnataka.

In respect of Income Tax, such irregularities were found to be the highest in Bihar at 30 *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 2018-19. During 2019-20, the tax effect on this account was found to be the highest in Karnataka (44.25 *per cent*), whereas during 2020-21, these irregularities were highest in Gujarat (94.12 *per cent*). During 2021-22, these irregularities were found to be the highest in Andhra Pradesh and Telangana (57.38 *per cent*), followed by Odisha (33.90 *per cent*).

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

We noticed irregularities related to the 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 2018-19 to 2020-21, as brought out in the Compliance Audit Reports of the past three years, along with findings of the current year Audit Report (2021-22), are summarised in Table 2.7 below:

Table 2.7: Mistakes noticed in allowance of business expenditure (₹ in crore)								
Category	Audit Report for the year ended							
	March 2019		March 2020		March 2021		March 2022	
	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect
CT	49 ⁴¹	764.39	40 ⁴²	187.75	49 ⁴³	617.86	40 ⁴⁴	626.14
IT	Nil	Nil	Nil	Nil	7 ⁴⁵	9.33	8 ⁴⁶	13.40

During the years 2018-22, non-compliance on this account with respect to Corporate and Income tax was found to be highest in the respective states, as depicted in Table 2.8 below:

Table 2.8: States with the highest incidence of mistakes in the total tax effect noticed in the allowance of business expenditures.		
Year	States (<i>per cent</i>)	
	Corporate Tax	Income Tax
2018-19	Maharashtra (47)	NIL
2019-20	AP & Telangana (32.3) Delhi (20.3)	NIL

⁴¹ Andhra Pradesh & Telangana, Bihar, Delhi, Gujarat, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Maharashtra, Odisha, Tamil Nadu and West Bengal.

⁴² Andhra Pradesh & Telangana, Bihar, Delhi, Gujarat, Haryana, Jharkhand, Maharashtra, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal.

⁴³ Gujarat, Odisha, Maharashtra, Rajasthan, West Bengal, Tamil Nadu, Karnataka, Jammu and Kashmir, Haryana, Jharkhand, Punjab and Uttar Pradesh.

⁴⁴ Gujarat, Jharkhand, Karnataka, Maharashtra, Delhi, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal.

⁴⁵ Punjab, Maharashtra, Jharkhand and Assam.

⁴⁶ Tamil Nadu, Kerala, Maharashtra, Rajasthan, Bihar and Odhisa.

Table 2.8: States with the highest incidence of mistakes in the total tax effect noticed in the allowance of business expenditures.

Year	States (<i>per cent</i>)	
	Corporate Tax	Income Tax
2020-21	Maharashtra (41.1)	Maharashtra (65.3)
	West Bengal (28.2)	Punjab (17.2)
2021-22	Maharashtra (49.61)	Tamil Nadu (24.20)
	Tamil Nadu (34.17)	Kerala (23.32)

During 2018-19, such irregularities were the highest in Maharashtra at 47 *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 2019-20, non-compliance on this account was found to be the highest in Andhra Pradesh & Telangana (32.3 *per cent*), followed by Delhi (20.3 *per cent*), whereas in 2020-21, such non-compliance was highest in Maharashtra (41.1 *per cent*), followed by West Bengal (28.2 *per cent*). During 2021-22, irregularities on this account were the highest in Maharashtra (49.61 *per cent*), followed by Tamil Nadu (34.17 *per cent*).

In 2020-21, Income Tax irregularities were found to be the highest in Maharashtra (65.3 *per cent*), followed by Punjab (17.2 *per cent*). In 2021-22, irregularities on this account were the highest in Tamil Nadu (24.20 *per cent*), followed by Kerala (23.32 *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 from 2018-19 to 2020-21, as brought out in the Compliance Audit Reports of the past three years, along with findings of the current year Audit Report (2021-22), are summarised in Table 2.9 below:

Table 2.9: Excess or irregular refunds/interest on refunds		(₹ in crore)							
Category	Audit Report for the year ended								
	March 2019		March 2020		March 2021		March 2022		
	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect	
CT	5 ⁴⁷	1,114.29	6 ⁴⁸	24.08	1 ⁴⁹	7.36	5 ⁵⁰	6.89	
IT	NIL	NIL	NIL	NIL	2 ⁵¹	5.28	1 ⁵²	0.29	

⁴⁷ Karnataka and Maharashtra.

⁴⁸ Maharashtra, Karnataka and West Bengal.

⁴⁹ Delhi.

⁵⁰ Maharashtra, Delhi and Tamil Nadu.

⁵¹ Delhi and Maharashtra.

⁵² West Bengal

During the years 2018-22, non-compliance on this account with respect to Corporate and Income tax was found to be highest in the respective states, as depicted in Table 2.10 below:

Table 2.10: States with the highest incidence of excess or irregular refunds/interest on refunds of the total tax effect.

Year	States (<i>per cent</i>)	
	Corporate Tax	Income Tax
2018-19	Karnataka (99.6)	NIL
2019-20	Karnataka (56) Maharashtra (32.3)	NIL
2020-21	Delhi (100)	Delhi (87.3)
2021-22	Maharashtra (71.52) Delhi (20.83)	West Bengal (100)

During 2018-19, such irregularities⁵³ were noticed only in Karnataka (99.6 *per cent*) in respect of the total tax effect of Audit Paragraphs issued to the Ministry on Corporation Tax related to excess or irregular refunds/interest on refunds, whereas in 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 2021-22, irregularities on this account were the highest in Maharashtra (71.52 *per cent*), followed by Delhi (20.83 *per cent*).

During 2020-21, with respect to income tax, such irregularities were found to be the highest in Delhi (87.3 *per cent*). During 2021-22, irregularities on this account were highest in West Bengal (100 *per cent*).

2.3.4 Income escaping assessment due to omissions – Mistakes under special provisions, including MAT/AMT⁵⁴/Tonnage Tax, etc.

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

- (i) mistakes in the 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 from 2019-20 to 2020-21, as brought out in the Compliance Audit Reports of the past three years, along

⁵³ Wherever significance is mentioned, it is only with reference to the total tax effect and not about the number of cases.

⁵⁴ 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.

with findings of the current year Audit Report (2021-22), are summarised in the Table 2.11 below:

Table 2.11: Mistakes under special provisions, including MAT/AMT/Tonnage Tax, etc. (₹ in crore)								
Category	Audit Report for the year ended							
	March 2019		March 2020		March 2021		March 2022	
	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect	No. of errors	Tax Effect
CT	22 ⁵⁵	447.85	8 ⁵⁶	234.18	10 ⁵⁷	70.18	16 ⁵⁸	107.76
IT	2 ⁵⁹	1.26	0	0	2 ⁶⁰	5.36	2 ⁶¹	2.96

During the years 2018-22, non-compliance on this account with respect to Corporate and Income tax was found to be highest in the respective states, as depicted in Table 2.12 below:

Table 2.12: States with the highest incidence of mistakes of the total tax effect under special provisions, including MAT/AMT/Tonnage Tax, etc.		
Year	States (<i>per cent</i>)	
	Corporate Tax	Income Tax
2018-19	Delhi (68.8)	Assam (50)
2019-20	Delhi (92.4)	NIL
2020-21	Maharashtra (54.5)	Karnataka (100)
2021-22	Tamil Nadu (41.60) Maharashtra (39.26)	Punjab (92.84)

During 2018-19, non-compliance on this account was found to be the highest⁶² in Delhi at 68.8 *per cent* in respect of Corporation Tax and Assam at 50 *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 2019-20, non-compliance was highest in Delhi at 92.4 *per cent* for corporate tax, and during 2020-21, non-compliance was highest in Maharashtra at 54.5 *per cent* in respect of Corporation Tax and Karnataka at 100 *per cent* in respect of Income tax. During 2021-22, these irregularities were highest in Tamil Nadu (41.60 *per cent*), followed by Maharashtra (39.26 *per cent*) with respect to Corporation Tax and Punjab (92.84 *per cent*) with respect to Income Tax.

⁵⁵ Andhra Pradesh & Telangana, Delhi, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu and West Bengal.

⁵⁶ Delhi, Gujarat, Maharashtra and Tamil Nadu.

⁵⁷ Maharashtra, Tamil Nadu, West Bengal, Odhisa and Delhi.

⁵⁸ Tamil Nadu, Maharashtra, Gujarat, Karnataka, Rajasthan, Uttar Pradesh and West Bengal.

⁵⁹ Assam and Tamil Nadu

⁶⁰ Karnataka.

⁶¹ Punjab and Assam.

⁶² Wherever significance is mentioned, it is only with reference to the total tax effect and not the number of cases.

Conclusion and Recommendation:

Non-compliance with tax laws and the instructions and directives of CBDT is one of the significant 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) based on pre-defined parameters for AO to do detailed scrutiny. However, as seen from the above analysis, the risk of non-compliance still exists in the above areas as indicated by the continuing occurrence of 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 the 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 the recurrence of such errors, especially after implementing ITBA.*

2.4 Audit products and response to audit

2.4.1 We elicit responses from the audited entities at different stages of the Audit. As per the provisions of Regulation 136⁶³ of Regulations on Audit & Accounts, 2020 at the close of the Audit, we issue the local audit report (LAR) to ITD for comments.

2.4.2 Table 2.13 below depicts the position of the number of observations included in the LAR issued during FY 2019-20 to FY 2021-22, replies received thereto, and observations accepted (as of 31 March of the respective financial year).

Table 2.13: Response to Local Audit							
Financial Year	Observations raised	Reply received		Reply not received	Percentage of Observations accepted	Percentage of replies	
		Observations Accepted	Observations not accepted			not received	received
2019-20	16,330	2,412	3,252	10,666	42.58	65.32	
2020-21	11,066	1,931	1,659	7,476	55.60	67.08	
2021-22	10,708	1,200 ⁶⁴	1,677	7,831	41.71	73.20	

⁶³ Earlier Regulation 193 of Regulations of Audit and Accounts, 2007

⁶⁴ 535 Observations accepted and remedial action taken; 665 Observations accepted but remedial action not taken

From the above table, it can be seen that there is a consistent increase in the percentage of replies not received from 65.32 *per cent* in FY 2019-20 to 67.08 *per cent* in FY 2020-21 and finally to 73.20 *per cent* during FY 2021-22.

2.4.3 Table 2.14 below shows the position of pending observations.

Period	CT		IT		ODT		Total	
	No.	TE	No.	TE	No.	TE	No.	TE
Upto March 2020	21,506	1,09,601.07	21,947	21,813.06	1,211	106.15	44,664	1,31,520.28
March 2021	4,191	19,312.78	3,615	6,562.31	36	0.47	7,842	25,875.57
March 2022	1,269 ⁶⁵	8,619.03	2,151	2,750.76	8	0.10	3,428	11,369.89
Total	26,966	1,37,532.88	27,713	31,126.13	1,255	106.72	55,934	1,68,765.73

The accretion in pendency in replies to audit findings each year has resulted in an accumulation of 55,934 cases involving a revenue effect of ₹ 1,68,765.73 crore as of 31 March 2022.

Chapter 12⁶⁶ 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 systems 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 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 139⁶⁷. 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 504 high-value cases having a tax effect of ₹ 5,728.79 crore

⁶⁵ Observations become pending after six months of the issue of the observations.

⁶⁶ Regulation 141. Maintenance of record of audit observations and recommendations by audit and auditable entities 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

⁶⁷ Earlier Regulations 205 to 209, now

Regulation 137. Communicate the draft audit report/draft paragraph to the Government and discuss it thereon.

Regulation 138. Reply to draft audit report/ draft paragraph by Government.

Regulation 139. Communication of finalised paragraphs for inclusion in the audit report

in Chapters III and IV of this Report, out of which replies were received for 338 cases having a tax effect of ₹ 4,065.34 crore as on 30th April 2024, of which, the Ministry/ITD accepted 230 cases.⁶⁸ (68.05 *per cent*) having tax effect of ₹ 2,456.02 crore (60.41 *per cent*), while it did not accept 17 cases⁶⁹ having a tax effect of ₹ 1,616.18 crore. Replies to the remaining 166 cases having a tax effect of ₹ 1,663.45 crore were not received (30 April 2024).

However, out of 504 high-value cases, the Department has initiated/taken remedial action in 393 cases having a tax effect of ₹ 3,227.13 crore (56.33 *per cent*). Table 2.15 shows category-wise details of these cases⁷⁰.

Category	CT		IT		Total	
	No.	TE	No.	TE	No.	TE
Quality of assessments	118	390.18	103	268.64	221	658.82
Administration of tax concessions/exemptions/ deductions	118	2,084.80	24	64.72	142	2,149.52
Income escaping assessments due to omissions	59	1,790.05	23	194.80	82	1,984.85
Overcharge of tax/ interest	37	862.09	22	73.51	59	935.60
Total	332	5,127.12	172	601.67	504	5,728.79

2.4.5 Chapters III and IV detail errors in assessments of the Corporation Tax and Income Tax, respectively.

2.5 Audit impact - Amendments at the Instance of Audit

We analyse the impact of Audits resulting in amendments to the Income Tax Act and the rules framed thereunder based on our observations/ recommendations. During FY 2022-23, Performance Audit Report *viz.* Audit Report 06 of 2022 – Performance Audit on Assessment of Assesseees of Gems and Jewellery Sector, Audit Report No. 12 of 2022 – Performance Audit on Exemptions to Charitable Trusts and Institutions and during FY 2020-21 Audit Report No. 14 of 2020 – Performance Audit on Search and Seizure assessments in Income Tax Department – were placed in the Parliament respectively. The following paragraphs, 2.5.1 to 2.5.3, describe the impact of the Audit.

2.5.1 Audit Report No. 06 of 2022 – Performance Audit on Assessment of Assesseees of Gems and Jewellery Sector –

2.5.1.1 Audit observed in seven out of 84 scrutiny cases that ITD allowed aggregate deductions under Section 10AA against total export turnover even though a significant part of export proceeds (ranging from 40 *per cent* to

⁶⁸ Ministry -12 cases; ITD -217 cases

⁶⁹ ITD - 17 cases

⁷⁰ Sub-categories-wise details are given in **Appendix 2.3**

100 per cent of the total export turnover) was outstanding for more than six months. Further, the Audit observed that no time limit is prescribed in the Income-Tax Act 1961 for the timely remittance of export proceeds by SEZ Units for claiming deduction under Section 10AA. The audit recommended that the CBDT may consider specifying a time limit for bringing consideration against export proceeds into India for claiming deduction under Section 10AA of the Act.

2.5.1.2 In a move to address the issue, the Ministry, vide Finance Act 2023, amended Section 10AA of the Act by inserting a new sub-section (4A) to fix the time limit of six months for bringing the export proceeds into the country for claiming deduction under Section 10AA (effective from 1 April 2024).

2.5.1.3 Audit observed that although the Government brought an amendment in Section 56(2) by inserting clause (viib) to curb the practice of bringing unaccounted money of promoters / Directors by issuing shares at a very high premium, the gate was left open for foreign investors particularly money coming from tax haven countries and where investee company did not have much net worth or business plan to justify the receipt of huge share premium.

2.5.1.4 To address the issue, the Ministry vide Finance Act 2023 amended Section 56(2) (viib) and omitted the words 'being a resident', thereby extending the provision to the consideration received from any person, including non-residents. Section 56(2)(viib) of the Act stipulates that shares issued by a closely held company (other than a company in which public are substantially interested) at premium in excess of Fair market value should be offered to tax. It was earlier applicable to resident companies but has been made applicable to non-resident companies too (effective from 1 April 2024) based on Audit recommendation.

2.5.1.5 Audit recommended that considering the specialised nature of business activity of the assesseees of Gems and Jewellery sector and multiplicity of transactions involved in such business, the CBDT may consider undertaking special audit under Section 142(2A) of the assesseees and their related parties for examining the issues related to improper disclosure of quantitative details of stocks, abnormal yield/wastage, claims as per records of the main assessee *vis-à-vis* the disclosure in the records of related parties etc.

2.5.1.6 Addressing the issue, the Ministry vide Finance Act 2023, amended Section 142(2A) of the Act to include a new provision under which the Assessing Officer can direct the assesseees to get their inventory valued by a cost accountant and furnish the inventory valuation report in Form 6D.

2.5.2 Audit Report No. 12 of 2022 – Performance Audit on Exemptions to Charitable Trusts and Institutions– The audit observed the absence of a provision to restrict donations by a Trust to another Trust out of current years'

income. Audit recommended that the ITD may consider bringing in a new provision in the Act to stipulate that voluntary contributions received from other Trusts/Institutions out of the current year's income shall not be eligible for the permissible accumulation at the rate of 15 *per cent* in the hands of such recipient trust or institution.

2.5.2.1 In a move to address the issue, the Ministry, vide Finance Act 2023, inserted clause (iii) in Explanation 4 to sub-section (1) of Section 11 of the Income Tax Act to provide that any amount credited or paid by a trust or institution to another trust as donation out of current years' income shall be treated as application only to the extent of 85 *per cent* of such donation. Similar provisions have been proposed to be inserted under clause (iii) of Explanation 2 to the third proviso of clause 23C of Section 10 of the Income Tax Act.

2.5.2.2 Audit observed non-capturing of important information in Return of Income (ITR-7). Audit recommended that the ITD may capture data/information relating to contributors/donors in Form ITR-7, as has been done in respect of Section 80G(5) to bring transparency and accountability for the funds contributed/donated.

2.5.2.3 To address the issue, a new ITR-7 from the Assessment Year 2023-24 is applicable for Charitable Trusts/Institutions.

2.5.2.4 Audit observed non-capturing of important information in the Auditor's Report. Audit recommended that the ITD may consider modifying Form IOB incorporating:

- (a) details of receipt under different heads and income derived from property wholly held by the trust.
- (b) detailed information on receipt of corpus donations, its utilisation and claim of expenditure from corpus donation
- (c) detailed information on the claim of deemed application of income availed in the previous year, which has to be reduced from the amount of application of income in the year of actual receipt
- (d) the details of utilisation out of past accumulation in the return of income is certified by the Auditor.

to enable the Assessing Officer to verify the correctness of the claim made by the assessee.

2.5.2.5 In a move to address the issue, The CBDT, vide Notification No. 7/2023 in GSR 118(E) dated 21/02/2023 and through Income Tax (3rd Amendment) Rule 2023, amended Rules 16CC and 17B of the Income Tax Rule 1962 and also amended the Tax Audit Report (TAR) required to be furnished by Charitable

Trusts or Institutions registered under Section 12A or approved under Section 10(23C) in Form No. 10B and Form No. 10BB.

2.5.3 Audit Report No. 14 of 2020 – Performance Audit on Search and Seizure Assessments in the Income Tax Department – The audit observed a delay ranging from one month to 14 months in handing over the Appraisal Report and seized material to the Assessing Officers (AO). Audit recommended that the CBDT may put in place a mechanism so as to ensure that Appraisal Report along with seized material be handed over to assessment wing within stipulated time so that AO could have sufficient time to examine all the issues pointed out in Appraisal Report.

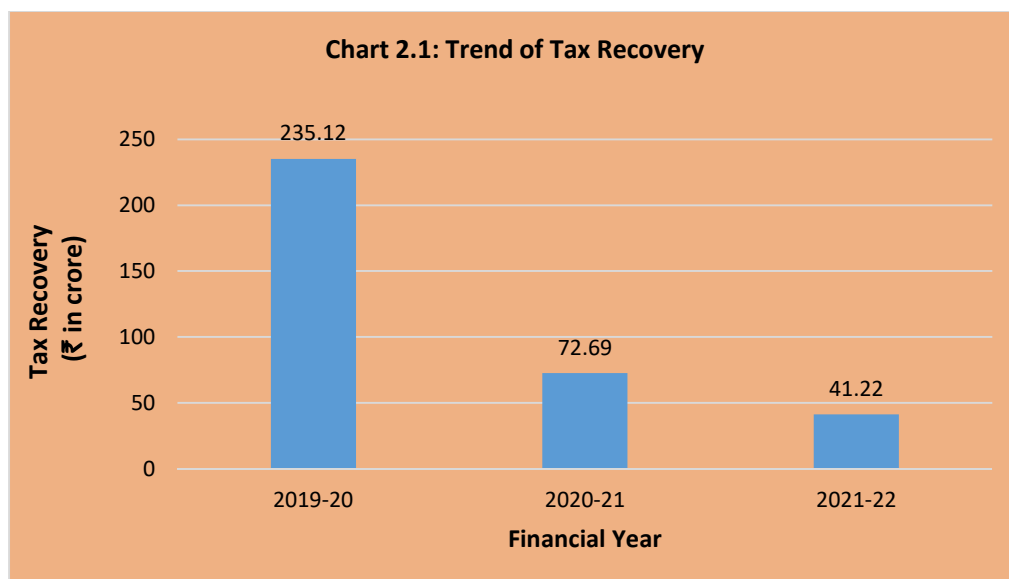
2.5.3.1 In a move to address the issue, the Ministry vide Finance Act 2022 inserted explanation 1 (xii) below Section 153 of the Act, enabling the handing over of the books of account or other documents, or any money, bullion, Jewellery or other valuable article or thing seized under Section 132 or requisitioned under Section 132A as the case may be to the Assessing Officer having jurisdiction over the assessee, within the period (not exceeding one hundred and eighty days) commencing from the date on which a search is initiated under Section or a requisition is made under Section 132A.

2.5.3.2 The audit observed income escaping due to non-assessment of the relevant assessment year covered under the search/prior period of search.

2.5.3.3 In a move to address the issue, the Ministry vide Finance Act 2022 inserted a new sub-section (1A) in Section 149 of the Act where the income chargeable to tax represented in the form of an asset or expenditure escaped the assessment and the investment in such asset or expenditure about such event or occasion has been made or incurred, in more than one previous years relevant to the assessment years, a notice under Section 148 shall be issued for every such assessment year for assessment, re-assessment or re-computation, as the case may be.

2.6 Recovery at the Instance of Audit

ITD recovered ₹ 349.03 crore in the last three years (Chart 2.1) from the demands raised to rectify the errors in assessments that Audit pointed out. This includes ₹ 41.22 crore recovered in FY 2021-22, which has decreased significantly compared to previous years' recoveries.



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 up to 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 2.16 below shows the details of time-barred cases⁷¹ during FY 2019-22.

Year of Report	Audit observations	Tax effect (₹ in crore)
2019-20	1,304	917.37
2020-21	3,754	6,189.11
2021-22	7,522	15,937.39

2.7.3 During FY 2021-22, 7,522 Audit Observations with a tax effect of ₹ 15,937.39 crore became time-barred for remedial action, of which Maharashtra alone account for 52.50 *per cent*, followed by Andhra Pradesh and Telangana at 17.13 *per cent* of total tax effect. Cases becoming time-barred have increased manifold when compared on a yearly basis. The Department needs to streamline the monitoring to ensure that cases do not become time-barred and cases of revenue leakage noticed are rectified *suo-moto*.

⁷¹ As per the amended provisions of Section 148/149 vide Finance Act 2021.

Conclusion and Recommendation:

A delay in taking remedial action in a timely manner has a huge revenue loss/implication to the exchequer, as the probability of recovering the outstanding demand is remote for which the Department needs to streamline and strengthen the existing system.

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

2.8 Non-production of records

2.8.1 We scrutinise assessment records under Section 16 of the C&AG's (DPC) Act, 1971, to secure an effective check on the assessment and collection of taxes and examine whether 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 13,496 records out of 2,03,541⁷² records requisitioned during FY 2021-22 (6.63 per cent). Non-production of records has increased significantly in Andhra Pradesh and Telangana during FY 2021-22 (from 3.03 per cent to 11.86 per cent) and in Assam (from 7.94 per cent to 14.50 per cent) over previous year. Appendix 2.4 shows the details of non-production of records during FY 2019-20 to FY 2021-22.

Table 2.17 shows details of records not produced to audit pertaining to the same assessees in three or more consecutive audit cycles ending in FY 2021-22.

Table 2.17: Records not produced to Audit in three or more audit cycles	
States	Records not produced
a. Odisha	2

⁷² This includes 14,029 records that were not produced in earlier years and that were requisitioned again during the current audit cycle.

Chapter III: Corporation Tax

3.1 Introduction

3.1.1 This chapter discusses 332 high value corporate cases (refer para 2.3) involving 342 assessments and total tax impact of ₹ 5,127.12 crore⁷³ which were referred to the Ministry in 10 batches during March 2023 to January 2024 and an additional batch consisting of eight draft paras on 1 April 2024. Out of these 332 cases, the Ministry has replied in only six cases till April 2024 and accepted all these six cases. However, the ITD accepted 164 cases, including aforesaid six cases which have been accepted by the Ministry, involving tax effect of ₹ 2,003.57 crore and did not accept 13 cases involving tax effect of ₹ 1,612.69 crore. Further, out of 332 cases, the ITD has completed remedial action in 211 cases involving tax effect of ₹ 2,137.94 crore and initiated remedial action in 21 cases involving tax effect of ₹ 640.11 crore. In the remaining 100 cases, the ITD has not taken/initiated any action as on 30 April 2024.

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. The illustrative cases are identified based on significance of the issues and tax effect involved. Further, for broad coverage of the issues noticed by audit, cases from across the ITD field formation have been considered for illustration.

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 era of Information Technology 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

⁷³ Includes overcharge of ₹ 862.09 crore.

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.

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	28	91.52	Delhi, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, and West Bengal.
b. Application of incorrect rate of tax and surcharge	19	43.37	Bihar, Delhi, Karnataka, Madhya Pradesh, Maharashtra, Tamil Nadu and West Bengal.
c. Errors in levy of interest	63	241.51	Delhi, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Punjab, Tamil Nadu, Telangana, Uttar Pradesh and West Bengal.
d. Excess or irregular refunds/interest on refunds	5	6.89	Delhi, Maharashtra and Tamil Nadu
e. Errors in assessment while giving effect to appellate order	3	6.89	Gujarat and Maharashtra.
Total	118	390.18	

3.2.2 Arithmetical errors in computation of income and tax

We noticed arithmetical errors in computation of income and tax in 28 cases involving tax effect of ₹ 91.52 crore in six states. Two such cases are illustrated below:

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. Further, the Board 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-3, Mumbai**
Assessee Name : **M/s M4 Ltd**
Assessment Year : **2017-18**

The AO, while computing tax liability of the assessee after assessment under Section 143(3) of the Act in December 2019 at an income of ₹ 53.10 crore, adopted long term capital loss of ₹ 54.80 crore in the tax computation sheet instead of ₹ 9.81 crore as determined during assessment. The error resulted in excess carry forward of loss of ₹ 44.99 crore with a potential tax of

₹ 10.19 crore. The Department accepted (August 2022) the audit observation and rectified the error in July 2022 under Section 154 of the Act.

Reply of the Ministry is awaited (April 2024).

Case II **CIT Charge** : **Pr. CIT-4, Delhi**
 Assessee Name : **M/s I4 Pvt. Ltd.**
 Assessment Year : **2012-13**

The AO, while finalising the re-assessment under Section 147 read with Section 143(3) of the Act in December 2019, determined income of ₹ 14.15 crore again as assessed under Section 143(3) in March 2015 which was deleted by CIT (Appeals) in June 2016. Audit observed the re-assessment was finalised without considering the issue of bogus purchase of ₹ 15.45 crore including three *per cent* commission for accommodation entries for which the case was reopened. Further, while computing tax liability of the assessee, income was considered ₹ 47.75 lakh in the income tax computation sheet. The error resulted in net short levy of tax of ₹ 9.78 crore including interest of ₹ 38.91 lakh and ₹ 4.52 crore under Sections 234A(3) and 234B(3) of the Act respectively. The Department accepted (April 2023) the audit observation and took remedial action under Section 263 read with Section 144B of the Act in March 2023. However, while passing revision order under Section 263 read with Section 144B of the Act, the Department added back ₹ 24.49 crore including aforesaid bogus purchase of ₹ 15 crore but did not levy interest ₹ 38.91 lakh under Section 234A(3) of the Act which was communicated to the Department in May 2023.

Reply of the Ministry is awaited (April 2024).

3.2.3 Application of incorrect rates of tax and surcharge

The AO, while computing tax liability of the assessee, applied incorrect rates of tax and surcharge in 19 such cases involving tax effect of ₹ 43.37 crore in seven states. Three such cases are illustrated below:

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. Further, in Finance Act, 2017 reduced tax rate of 25 per cent (instead of 30 per cent) was introduced to Domestic Companies having turnover less than or equal to fifty crore in the financial year 2015-16.

Case I **CIT Charge** : **CIT (Central-3), Delhi**
 Assessee Name : **M/s A2 Pvt. Ltd.**
 Assessment Year : **2018-19**

The AO, while computing tax liability of the assessee after assessment under Section 143(3) of the Act in September 2021 at an income of ₹ 67.44 crore, applied income tax at the rate of 25 *per cent* instead of applicable rate of 30 *per cent* considering the assessee's declaration that the total turnover/gross receipt for AY 2016-17 did not exceed ₹ 50 crore. However, it was noticed that the total turnover of the assessee for FY 2015-16 relevant to AY 2016-17 was more than ₹ 50 crore. The error resulted in short levy of tax of ₹ 5.72 crore including interest. *The Department accepted (April 2022) the audit observation and took remedial action by passing order under Section 154 of the Act in April 2022.* The status of recovery is awaited from the Department (April 2024).

Reply of the Ministry is awaited (April 2024).

Case II CIT Charge : Pr. CIT-3, Bengaluru
Assessee Name : M/s G1 Ltd.
Assessment Year : 2018-2019

The AO, while finalising assessment under Section 143(3) of the Act in March 2021 at an income of ₹ 66.78 crore, computed the tax liability of the assessee at a lower tax rate of 25 *per cent* instead of 30 *per cent*. However, the assessee had not opted for computation as per Section 115BA of the Act, in its return of income. The error resulted in short levy of tax of ₹ 4.87 crore including interest. *The Department accepted (August 2023) the audit observation and rectified the error in January 2024 under Section 154 read with Section 143(3) of the Act.* The status of recovery is awaited from the Department (April 2024).

Reply of the Ministry is awaited (April 2024).

As per Finance Act, 2017, in case of a domestic company tax rate is 29 per cent in AY 2017-18 where its total turnover or gross receipt during the previous year 2014-15 does not exceed ₹5 crore.

Case III CIT Charge : Pr. CIT Central, Patna
Assessee Name : M/s G3 Pvt. Ltd.
Assessment Year : 2017-2018

The AO, while computing the tax liability of the assessee after assessment under Section 143(3) of the Act in December 2019 at an income of ₹ 13.90 crore, levied tax at the rate of 29 *per cent* instead of 30 *per cent* as the gross receipts of the assessee exceeded ₹ 5 crore. The error resulted in short computation of tax by ₹ 16.03 lakh. Further, the AO had also short levied interest of ₹ 38.72 lakh and ₹ 0.81 lakh under Section 234B and 234C of the Act respectively. These errors resulted in short levy of tax of ₹ 55.56 lakh

including interest. *The Department took remedial action and rectified the error in July 2022 under Section 154 of the Act.* The status of recovery is awaited from the Department (April 2024).

Reply of the Ministry is awaited (April 2024).

3.2.4 Errors in levy of interest

We noticed errors in levy of interest in 63 cases involving tax effect of ₹ 241.51 crore in 11 states. Four such cases are illustrated below:

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.

Case I **CIT Charge** : **Pr. CIT-3, Kolkata**
 Assessee Name : **M/s L2 Pvt. Ltd.**
 Assessment Year : **2017-18**

The AO, while computing tax liability of the assessee after assessment under Section 144 read with Section 147 of the Act in December 2019 at an income of ₹ 51.00 crore, did not levy interest of ₹ 10.24 crore and ₹ 13.00 crore under Sections 234A and 234B of the Act respectively. The errors resulted in total short levy of interest of ₹ 23.24 crore. *The Department accepted (August 2021) the audit observation and took remedial action by passing order under Section 154 of the Act in August 2021.* The status of recovery is awaited from the Department (April 2024).

Reply of the Ministry is awaited (April 2024).

Case II **CIT Charge** : **Pr. CIT-1, Amritsar**
 Assessee Name : **M/s G2 Pvt. Ltd.**
 Assessment Year : **2015-16**

The AO, while finalizing the assessment under Section 144 read with Section 147 of the Act in October 2019 at an income of ₹ 299.30 crore, did not verify the correctness of interest levied (calculated by the ITD system) under Section 234B of the Act. The interest was levied at ₹ 36.62 crore instead of leviable at ₹ 55.84 crore. The omission by the AO to verify the correctness of the interest depicted in Income Tax Computation Sheet (ITNS 150) resulted in short levy of interest of ₹ 19.22 crore. *The Department took remedial action by passing order under Section 154 of the Act in March 2022.* The status of recovery is awaited from the Department (April 2024).

Reply of the Ministry is awaited (April 2024).

Case III CIT Charge : Pr. CIT-2 Surat
Assessee Name : M/s S1 Pvt. Ltd.
Assessment Year : 2012-13

The AO, while computing tax liability of the assessee after re-assessment under Section 144 read with Section 147 of the Act in December 2019 at an income ₹ 101.55 crore, levied interest of ₹ 17.79 crore under Section 234B instead of ₹ 29.65 crore. The error resulted in short levy of interest of ₹ 11.86 crore. *The Department took remedial action by passing order under Section 154 of the Act in August 2022.* The status of recovery is awaited from the Department (April 2024).

Reply of the Ministry is awaited (April 2024).

As per provision of Section 234D of the Act, where any refund granted to the assessee under sub section (1) of Section 143 and subsequently no refund is found due on regular assessment or refund already granted is in excess, the assessee is liable to pay interest at the rate of one half per cent on the excess amount so refunded for the period from date of grant of refund to the date of regular assessment. Further, as per sub section (2), where as a result of an order under Section 154 or Section 263, the amount of refund grant under sub-section (1) of Section 143 is held to be correctly allowed, either in whole or in part, as the case may be, then the interest chargeable, if any, under sub-section (1) shall be reduced accordingly.

Case IV CIT Charge : Pr. CIT-1, Bhubaneswar
Assessee Name : M/s O1 Ltd.
Assessment Year : 2015-16

The AO, while completing revision assessment under Section 143(3) read with Section 263 of the Act in September 2021 at an income of ₹ 199.90 crore, raised tax demand of ₹ 68.59 crore including refund of ₹ 32.56 crore already paid to the assessee. However, interest under Section 234D of the Act was not levied for 61 months while computing tax liability of the assessee. The error resulted in short levy of interest of ₹ 9.93 crore. *The Department accepted (September 2022) the audit observation and rectified the error in July 2023 under Section 154 of the Act.* The status of recovery is awaited from the Department (April 2024).

Reply of the Ministry is awaited (April 2024).

3.2.5 Excess or irregular refunds/interest on refunds

We noticed five cases relating to excess or irregular refunds/interest on refunds involving tax effect of ₹ 6.89 crore in three states. Two such cases are illustrated below:

Section 244A of 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.

Case I CIT Charge : Pr. CIT-6, Mumbai
Status : M/s A5 Ltd.
Assessment Year : 2018-19

The AO, while computing the tax liability of the assessee after assessment under Section 143(3) of the Act in March 2021, granted interest under Section 244A of ₹ 4.33 crore instead of ₹ 1.60 crore on the refundable amount of ₹ 8.91 crore. This error resulted in excess grant of interest of ₹ 2.73 crore under Section 244A of the Act. *The Department accepted (May 2022) the audit observation and rectified the error in January 2022 under Section 154 of the Act.* The status of recovery is awaited from the Department (April 2024).

Reply of the Ministry is awaited (April 2024).

Case II CIT Charge : Pr. CIT-4, Delhi
Assessee Name : M/s I2 Ltd.
Assessment Year : 2018-19

The AO, while computing the tax liability of the assessee after assessment under Section 143(3) of the Act in April 2021, granted interest under Section 244A of ₹ 1.85 crore for 69 months at the rate of 0.5 *per cent* on refund of ₹ 5.36 crore instead of interest of ₹ 99.24 lakh for 37 months. The error resulted in excess payment of interest of ₹ 85.84 lakh under Section 244A of the Act. *The Department took remedial action under Section 154 of the Act in September 2022.* However, the rectification order was incorrectly passed as the AO levied interest under Section 234D for 34 months instead of 18 months. This was communicated to the Department in November 2022. Further response and the status of recovery are awaited from the Department (April 2024).

Reply of the Ministry is awaited (April 2024).

3.2.6 Errors in assessment while giving effect to appellate orders

We noticed errors in assessment while giving effect to appellate orders in three cases involving tax effect of ₹ 6.89 crore in two states. One such case is illustrated below:

Section 254 of the Act provides that the Appellate Tribunal shall send a copy of any orders passed under this section to the assessee and to the Principal Commissioner. 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.

Case I CIT Charge : Pr. CIT-8, Mumbai
Assessee Name : M/s M2 Pvt. Ltd.
Assessment Year : 2003-04

The AO, while giving effect to Income Tax Appellate Tribunal's order in March 2019 under Section 254/143(3) of the Act, allowed double relief of ₹ 7.03 crore on account of depreciation on leased assets as relief of ₹ 7.03 crore was already given to the assessee out of total dis-allowance of depreciation of ₹ 10.42 crore through order giving effect to the CIT (Appeals) in February 2008. Further, while giving effect to the Income Tax Appellate Tribunal's order in March 2019, again relief of ₹ 10.42 crore was given on account of depreciation on the leased assets. This error resulted in under-assessment of income by ₹ 7.03 crore involving short levy of tax of ₹ 2.58 crore. *The Department took remedial action and rectified the error in March 2022 under Section 154 of the Act.* The status of recovery is awaited from the Department (April 2024).

Reply of the Ministry is awaited (April 2024).

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	53	1,134.44	Assam, Delhi, Gujarat, Karnataka, Kerala, Maharashtra, Odisha, Punjab, Tamil Nadu, Uttar Pradesh and West Bengal.

Table 3.2: Sub-categories of mistakes under Administration of tax concessions/exemptions/deductions			
Sub-categories	Nos.	TE (₹ in crore)	States
b. Irregular exemptions/ deductions/ rebates/ relief/MAT credit	25	324.21	Gujarat, Karnataka, Kerala, Maharashtra, Odisha, Punjab, Tamil Nadu, Telangana, Uttar Pradesh and West Bengal.
c. Incorrect allowance of business expenditure	40	626.14	Delhi, Gujarat, Jharkhand, Karnataka, Maharashtra, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal.
Total	118	2,084.79	

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 53 cases involving tax effect of ₹ 1,134.44 crore in 11 states. Five such cases are illustrated below:

Section 79 of the Act, stipulates that no loss shall be allowed to be carried forward in case of a company (not being a company in which public is substantially interested) unless on the last day of the previous year, fifty-one per cent of the shares which were beneficially held by the same persons in which the loss was incurred.

Case I CIT Charge : Pr. CIT-8, Mumbai
Assessee Name : M/s V1 Ltd.
Assessment Year : 2017-18

The AO, while completing assessment under Section 144 of the Act in December 2019, omitted to disallow the claim of brought forward loss of ₹ 1,173.74 crore pertaining to AYs 2012-13 to 2016-17 as fifty-one *per cent* of equity shares were transferred to a new shareholder, during FY 2016-17. The error resulted in excess allowance of carry forward of loss of ₹ 1,173.74 crore involving potential tax effect of ₹ 406.21 crore. *The Department stated (March 2022) that the audit observation was acceptable and would be examined while completing re-assessment under Section 147 of the Act.* However, it was noticed that the Department, while finalising re-assessment under Section 147 read with Section 144 of the Act in April 2023, did not address the issue raised by Audit.

Reply of the Ministry is awaited (April 2024).

Section 32(iia) of the Act stipulates for allowance of additional depreciation at the rate of 20 per cent of the cost of new plant and machinery acquired and installed after 31st March 2005 if the assessee is engaged in the manufacture or production of any article or thing (or in the business of generation, transmission or distribution of power w.e.f. AY 2013-14). In case, the plant and machinery is put to use for less than one hundred and eighty days during the Financial Year then the deduction under the section shall be restricted to fifty per cent of the total deduction so calculated. Finance Act 2015 (w.e.f. AY 2016-17) inserted third proviso below Section 32(1)(ii) of the Act stipulating that in case where the plant and machinery is put to use for less than one hundred and eighty days during the Financial Year then the balance fifty per cent of the total deduction calculated shall be allowed in the immediately succeeding previous year of such asset.

Case II CIT Charge : Pr. CIT-2, Mumbai
Assessee Name : M/s T4 Ltd.
Assessment Year : 2014-15

The AO, while finalising the assessment under Section 143(3) read with Section 144C (13) of the Act in November 2018, allowed the claim of additional depreciation of ₹ 331.92 crore on assets acquired and put to use from 31st September 2012 to 31st March 2013. Since, the assets were acquired and installed prior to 1st April 2015, the balance additional depreciation was not eligible to be claimed and allowed in the subsequent financial year. Omission to restrict the same resulted in under assessment of income of ₹ 331.92 crore with a short levy of tax of ₹ 175.99 crore. *The Department accepted (February 2022) the observation and took remedial action under Section 147 of the Act in March 2022.*

Reply of the Ministry is awaited (April 2024).

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 the 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 Central-2, Kolkata
Assessee Name : M/s I1 Ltd.
Assessment Year : 2017-18

The AO, while finalizing assessment under Section 143(3) in December 2019, at a loss of ₹ 44.69 crore and an undisclosed income of ₹ 33.20 crore on which tax was payable under Section 115BBE of the Act; allowed total business losses of ₹ 258.25 crore to be carried forward to the assessee, as displayed in

Schedule Carry Forward Loss (CFL), which included business loss of ₹ 1.05 crore, ₹ 70.33 crore, ₹ 68.26 crore, ₹ 86.93 crore and ₹ 31.68 crore pertaining to AYs 2013-14 to 2017-18 respectively. However, Audit noticed that the assessee did not have any loss to be carried forward for future years in respect of AYs 2013-14 to 2015-16 as the assessments were completed at positive income in respective AYs. Whereas, in respect of AYs 2016-17 and 2017-18, business losses of ₹ 35.09 crore and ₹ 44.69 crore respectively were available to be carried forward. These errors resulted in net excess allowance of business loss of ₹ 178.47 crore to be carried forward, having a potential tax effect of ₹ 61.76 crore. *The Department rectified the error by passing rectification order under Section 154 of the Act in February 2022.*

Reply of the Ministry is awaited (April 2024).

Section 72 of the Act 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 IV CIT Charge : Pr. CIT-5, Mumbai
Assessee Name : M/s M1 Ltd.
Assessment Year : 2016-17

AO concluded assessment under Section 143(3) of the Act in December 2018 at an income of ₹ 42.54 crore which was further rectified under Section 154 of the Act in February 2019, after allowing set off of brought forward loss to the extent of income determined in the order passed under Section 143(3) and the final income was determined at ₹ 'Nil'. However, Audit noticed that the assessee was incorrectly allowed to carry forward current year loss of ₹ 163.02 crore as against ₹ 'Nil'. The error resulted in potential tax effect of ₹ 56.41 crore. *The Department accepted the audit observation and took remedial action under Section 147 read with Section 144B of the Act in March 2022.*

Reply of the Ministry is awaited (April 2024).

Section 32 of the Act provides for deduction on account of depreciation of assets, calculated at such percentage of the actual cost of the asset. Further, sub clause (iia) of Section 32(1) provides for additional depreciation of 20 per cent on new machinery acquired and installed by an assessee engaged in the business of manufacturing or production. However, as per first proviso to Section 32(1), depreciation on machinery put to use for a period of less than 180 days in the previous year is restricted to fifty per cent of that allowable for the asset. Further, in terms of provision of Section 43A and Explanation 9 of Section 43(1), actual cost of asset on which depreciation is calculated is to be adjusted for any increase or decrease in exchange rates.

Case V CIT Charge : Pr. CIT, Dibrugarh
Assessee Name : M/s G5 Ltd.
Assessment Year : 2014-15

The AO, while finalising the assessment under Section 143(3) of the Act in December 2017 at income of ₹ 54.42 crore, allowed depreciation including additional depreciation on plant and machinery without adjusting modified value added tax (MVAT) credit and gains made on account of change in exchange rate. The error resulted in excess computation of depreciation by ₹ 1.67 crore involving undercharge of minimum alternate tax by ₹ 0.36 crore besides excess MAT credit of ₹ 0.21 crore. *The Department rectified the error by passing an order under Section 154 of the Act in April 2020 and the demand was also collected (July 2020).*

Reply of the Ministry is awaited (April 2024).

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

We noticed 25 cases relating to irregular exemptions/deductions/rebate/relief/MAT credit involving tax effect of ₹ 324.21 crore in 10 states. Four such cases are illustrated below:

Explanation 2 of sub-section (1) of Section 37 clarify that any expenditure incurred by an assessee on the activities relating to Corporate Social Responsibility (CSR) referred to in Section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession. This amendment was effective from 1st April, 2015 i.e. to the assessment year 2015-16 and subsequent years.

Case I CIT Charge : Pr. CIT-3, Mumbai
Assessee Name : M/s T3 Ltd.
Assessment Year : 2016-17

The AO, while finalising the assessment under Section 143(3) read with Section 144C of the Act at an income of ₹ 18,901.51 crore, allowed deduction of ₹ 185.82 crore under Section 10AA of the Act. Audit observed from the assessment records that the assessee had added back amount of ₹ 294.23 crore on account of CSR expenses debited in the Profit & Loss account and claimed the deduction of ₹ 115.65 crore under Section 80G of the Act out of the above CSR expenses. Further, the assessee company had also claimed deduction of ₹ 13,241.73 crore under Section 10AA of the Act in respect of 41 SEZ units. Form 56F of each SEZ unit revealed that the assessee had added back the proportionate CSR expenses out of the total CSR expenses in the computation of income to arrive at the amount of profit eligible for deduction under Section 10AA of the Act. The total CSR expenses added back in

computation of all the said units of 10AA worked out to ₹ 185.82 crore. However, deduction under Section 80G was not claimed under 10AA units but was claimed in the combined computation of income. Thus, CSR expense of ₹ 294.23 crore was apportioned between 10AA and non 10AA units but the entire deduction of ₹ 115.65 crore on account of 80G donations was claimed in non 10AA units. Thus, by such arrangement of apportioning the CSR expense, the assessee inflated the profits of the 10AA units and consequently claimed enhanced deduction under Section 10AA of the Act. This resulted in excess allowance of deduction of the same amount involving tax effect of ₹ 64.31 crore.

The Department while not accepting (September 2021) the audit observation stated that though Finance Act 2014 clarifies that CSR does not form part of business expenditure but the benefits are still available on spending to Prime Minister's Relief Fund, scientific research, rural development projects, skill development projects, agricultural extension projects etc. At the same time, there is no explicit provision in the Act to restrict the claim of deduction under Section 10AA of the Act as any disallowance in the Act results in income of the total income of the unit. The reply of the Department is not acceptable as it does not cater to the core issue that once a type of expenditure is not allowable during the computation of taxable income then allowance of the same expenditure under different provision defeats the intention of Legislature to disallow the same.

The Department needs to consider bringing an amendment or issuing binding clarification as to whether donations made out of CSR expenditure by specified companies covered by Section 135 of the Companies Act, 2013 is eligible for deduction under Section 80G of the Act or not so as to ensure that the provisions are interpreted uniformly by the Assessing Officers across all assessment charges and also to minimize the possibility of litigation.

Reply of the Ministry is awaited (April 2024).

Section 115JAA(1A) of the 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-8, Mumbai
Assessee Name : M/s M3 Pvt. Ltd.
Assessment Year : 2017-18

AO, while concluding assessment under Section 143(3) of the Act in December 2019, allowed set off of brought forward MAT credit of ₹ 29.87 crore pertaining to earlier years and balance MAT credit of ₹ 98.84 crore was allowed to be carried forward for set off in subsequent years. However, Audit noticed from assessment records of earlier years that after setting off MAT credit of ₹ 29.87 crore during current year, balance MAT credit of ₹ 39.11 crore was only available with the assessee for carry forward for subsequent year instead of ₹ 98.84 crore. The error resulted in excess allowance of MAT credit of ₹ 59.73 crore to be carried forward. Audit further noticed that the above error occurred due to non-updation of outcome of assessment proceedings of earlier years, in the ITBA.

The Department while not accepting the audit observation (May 2022) stated that the system automatically computes the available MAT credit for set off and accordingly the balance MAT credit is available for set off is being carried forward for subsequent years.

The reply of the Department is not acceptable on the grounds that the assessee was allowed to be carried forward MAT credit pertaining to AY 2015-16 whereas for AY 2015-16, tax was levied under normal provisions of the Act. Hence, no MAT credit was available for AY 2015-16 for carry forward to the assessee whereas as per ITD/ITBA systems, MAT credit of ₹ 42.80 crore was available for carry forward. Further, for AY 2014-15, out of total available MAT credit of ₹ 68.98 crore, ₹ 29.87 crore was already set off during current AY 2017-18. Hence balance MAT credit of ₹ 39.12 crore was only available for carry forward whereas as per ITD/ITBA systems, the same was shown as ₹ 56.04 crore. Thus, updated position of MAT credit was not reflecting in ITD/ITBA system with the resultant risk of incorrect allowance of MAT credit to the assessee, for which the corrective measures were required to be taken to reflect the correct/updated position of MAT credit subsequent to the assessment/rectification/revision of respective AY in the IT systems in the Department including ITBA System.

Reply of the Ministry is awaited (April 2024).

Case III CIT Charge : Pr. CIT-3, Bengaluru
Assessee Name : M/s G4 Pvt. Ltd.
Assessment Year : 2015-16

The AO, while concluding assessment under Section 143(3) read with Section 144C(13) in October 2019, assessed an income of ₹ 2,859.52 crore after allowing brought forward MAT credit of ₹ 35.98 crore pertaining to AY 2014-15. However, Audit noticed that the assessee company did not have any brought forward MAT credit for the AY 2014-15 as tax was levied under the normal provision of the Act, in the AY 2014-15. The error resulted in short levy of tax of ₹ 55.77 crore including interest under Section 234B of the Act. *The Department initiated remedial action under Section 148 of the Act in June 2021. Details of remedial action is awaited (April 2024).*

Reply of the Ministry is awaited (April 2024).

Section 32AC(1A) of the Act, stipulates that, where an assessee, being a company, engaged in the business of manufacture or production of any article or thing, acquires and installs new assets and the amount of actual cost of such new assets acquired during any previous year exceeds twenty five crore rupees and such assets are installed on or before 31/3/2017, then a deduction of a sum equal to fifteen per cent of the actual cost of such assets shall be allowed for the assessment year relevant to that previous year.

Case IV CIT Charge : Pr. CIT-4, Chennai
Assessee Name : M/s C2 Ltd.
Assessment Year : 2017-18

The AO, while finalizing the assessment under Section 143(3) of the Act in December 2019 at ₹ 'Nil' income after setting off of brought forward losses under normal provisions, allowed deduction of ₹ 188.21 crore under Section 32AC(1A) of the Act instead of eligible deduction of ₹ 14.57 crore. The error resulted in excess deduction of ₹ 173.64 crore involving potential tax effect of ₹ 52.10 crore. *The Department while accepting the audit observation took remedial action under Section 147 of the Act in March 2022.*

Reply of the Ministry is awaited (April 2024).

3.3.4 Incorrect allowance of business expenditure

We noticed 40 cases relating to incorrect allowance of business expenditure involving tax effect of ₹ 626.14 crore in 10 states. Seven such cases are illustrated below:

Section 43B of Act stipulates that any payment of interest on any term loan or advance taken from a Scheduled Bank shall be allowed in the previous year in which it is actually paid upto the date of filing of return. Explanation 3C and 3D below section 43B states that any conversion of interest into loan or borrowing shall not be deemed to have been actually paid.

Case I CIT Charge : Pr. CIT-3, Mumbai
Assessee Name : M/s G6 Ltd.
Assessment Year : 2017-18

The AO, while finalising the assessment under Section 143(3) of the Act in December 2019 allowed the claim of interest of ₹ 278.48 crore which was converted into equity shares pursuant to Strategic Debt Restructuring (SDR) Scheme of Joint Lenders Forum (JLF). Since the interest was not actually paid but converted into equity shares, the deduction should not have been allowed as per the provisions of Section 43B. Omission to disallow the interest resulted in excess carry forward of loss of ₹ 278.01 crore with a potential tax effect of ₹ 96.21 crore. *The Department while not accepting (July 2021) the audit observation stated that the SDR Scheme had been invoked by lenders on 20 September 2016 and finally converted on 5 April 2017. Hence, the interest liability crystallized well before the filing of the Income Tax Return under Section 139(1) of the Act and is squarely covered under Section 43B of the Act.* The reply of the Department is not acceptable due to the fact that interest under Section 43B of the Act is allowed only when it has actually been paid and not on account of conversion into loan or equity. The assessee had got the interest liability converted into equity shares and allowance of deduction goes against the fundamental principles given in Explanation 3C and 3D below Section 43B of the Act. Further, CBDT in its circular dated 17 July 2006 has also clarified that the lenders and borrowers may enter into innumerable variations of repayment arrangements/schedules and is not possible to visualize all kinds of arrangements. Finally, *the Department accepted (November 2022) the audit observation and took remedial action under Section 147 read with Section 144B of the Act in March 2022.*

Reply of the Ministry is awaited (April 2024).

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 and profession.

Case II CIT Charge : Pr. CIT-3, Mumbai
Assessee Name : M/s H2 Pvt. Ltd.
Assessment Year : 2017-18

The AO, while concluding the assessment under Section 143(3) of the Act in December 2019 accepted the revised returned loss of ₹ 334.03 crore. Audit noticed that the assessee had claimed finance cost of ₹ 293.57 crore, out of which only ₹ 0.59 crore was transferred to the inventory account. It was

further observed that the assessee had long term borrowings of ₹ 4,948.29 crore which was mainly utilized against the inventory of ₹ 3,595.77 crore (being 72.65 per cent). Hence, in the same proportion, the finance cost of ₹ 213.28 crore should have been allocated to the work-in-progress. Omission to do so resulted in under assessment of income by ₹ 212.69 crore with a potential tax effect of ₹ 73.61 crore. *The Department stated (April 2022) that notice under Section 148 of the Act was issued in the case. Further, the Department was requested to furnish the assessment records of the AY 2018-19 to verify the allocation of finance cost, but the same was not furnished to Audit even after repeated reminders and follow-ups. The Department is yet to furnish the current status of the remedial action (April 2024).*

Reply of the Ministry is awaited (April 2024).

As per the provisions of Section 35ABB(1) of the Act, any expenditure, being in the nature of capital expenditure incurred for acquiring any right to operate telecommunication services for which payment has actually been made to obtain a licence, shall be allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount of such expenditure. As per Section 35ABB(3), where the whole or any part of the licence is transferred and the proceeds of the transfer exceed the amount of the expenditure incurred remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred to obtain the licence and the amount of such expenditure remaining unallowed shall be chargeable to income tax as profits and gains of the business in the previous year in which the licence has been transferred.

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

The AO, while finalising assessment under Section 143(3) of the Act in December 2019 at an income of ₹ 5.20 crore, allowed amortization of ₹ 398.98 crore, being 1/20th of ₹ 7,979.56 crore paid for license, under Section 35ABB of the Act. Audit also noticed from assessment records of earlier assessment years that:

- (i) The assessee had stated to have acquired BWA/3G Spectrum for an amount aggregating ₹ 4,773.20 crore in the AY 2011-12. The Department had allowed ₹ 238.66 crore under Section 35ABB. However as seen from the reassessment order (December 2019) for the AY 2012-13 the actual total amount allowable under the Section was re-fixed at ₹ 4,417.99 crore and accordingly 1/20th of ₹ 4,417.99 crore i.e. ₹ 220.90 crore was allowed. Details of AYs 2015-16 and 2016-17 also showed that the allowance was restricted to ₹ 220.90 crore. For the AYs 2011-12 and 2013-14, the amount of allowance remained at ₹ 238.66 crore. For the AY 2014-15, order under

Section 263 of the Act was issued by the CIT to restrict the allowance to ₹ 220.90 crore. However no consequential order was passed. Thus, the total allowance extended to the assessee on this spectrum was worked out to ₹ 1,378.68 crore for the AYs 2011-12 to 2016-17.

- (ii) As seen from AY 2015-16 details, the assessee was eligible for additional amortisation in respect of the further spectrums obtained in AY 2015-16 for ₹ 4,477.10 crore.
- (iii) As seen from Note 4A to the Balance sheet relating to AY 2017-18, the assessee acquired additional spectrum amounting to ₹ 2,446.81 crore. Audit also observed from depreciation statement of Form 3CD relating to AY 2017-18 that the assessee had disposed of its BWA spectrum in two circles to another telecom operator for a sale consideration of ₹ 3,197.00 crore during the year. Thus, the assessee was eligible for deductions of ₹ 346.20 crore as amortisation of expenditure, being 1/20th of the total purchases of spectrums of ₹ 6,923.21 crore in AY 2015-16 and AY 2017-18 as against ₹ 398.98 crore allowed in the assessment order. Audit further observed that in respect of spectrum purchased in AY 2011-12, expenditure aggregating ₹ 1,378.68 crore was amortised up to the AY 2016-17. Consequentially, the unamortized amount on this account as at the beginning of the AY 2017-18, was worked out to ₹ 3,039.31 crore. As sale consideration of spectrum of ₹ 3,197 crore, exceeded the unamortized amount of ₹ 3,039.31 crore, difference of ₹ 157.69 crore (₹ 3,197.00 crore – ₹ 3,039.31 crore), as specified under Section 35ABB(3) of the Act, should be brought to tax as profits and gains of business. Thus, the errors in assessment resulted in excess allowance of deduction of ₹ 52.78 crore (₹ 398.98 crore - ₹ 346.20 crore) and non-consideration of income of ₹ 157.69 crore with consequential tax effect of ₹ 72.90 crore

The Department initially replied (October 2020) that the sale consideration made from the spectrum is entirely reduced from the block of amount eligible for amortisation. Further the sale consideration as pointed out by Audit was already adjusted in the overall gross block and on the balance portion only allowance was computed for 20 years. Therefore, no adjustment was required to be made on this aspect.

The reply of the Department is not acceptable as the method adopted for calculation of depreciation under Section 32 involving application of 'block of assets' concept cannot be adopted for the purpose of transfer of the right to operate telecommunication services under Section 35ABB. The expenditure for obtaining licence to operate telecommunication services shall be allowed as per the method prescribed under Section 35ABB of the Act. Subsequently,

the Department took remedial action and re-assessment under Section 143(3) read with Section 147 of the Act was completed (March 2022) by bringing profit on sale of spectrum to tax net as pointed by Audit. However, the profit taxed by the Department was ₹ 104.41 crore as against ₹ 157.69 crore pointed by audit. As per the provisions of Section 35ABB(3) of the Act, amortisation actually allowed upto AY 2016-17 was to be considered for the purpose of arriving at the portion 'remaining unallowed'. As per the completed assessments of AYs 2011-12 to 2016-17, aggregate amortised amount worked out to ₹ 1,378.68 crore. However, the Department took uniform amount of ₹ 220.90 crore each for the AY 2011-12 to 2016-17 aggregating ₹ 1,325.40 crore, without reference to the amortisation actually allowed in these AYs. Thus the difference of ₹ 53.28 crore (₹ 157.69 crore – ₹ 104.41 crore) was omitted to be reassessed. Besides, excess allowance of deduction under Section 35ABB of the Act amounting to ₹ 52.78 crore was not considered in the reassessment.

Reply of the Ministry is awaited (April 2024).

Sections 30 and 31 of the Act, stipulates that any premium paid in respect of insurance against risk of damage or destruction of premises or machinery, plant or furniture used for the purpose of business or profession shall be allowed as deduction. This follows that only premium on insurance can be claimed as deduction.

Case IV CIT Charge : Pr. CIT- 3, Chennai
Assessee Name : M/s T2 Corporation
Assessment Year : 2017-18

The AO, while finalising the assessment under Section 143(3) of the Act in December 2019 at loss of ₹ 792.72 crore, allowed expenditures of ₹ 249.70 crore under administration and general expenses which included ₹ 214.58 crore towards insurance (one *per cent* on the Assets of generation stations). Further, it was evident from Notes on Account (Item No.18) that the deduction was on account of one *per cent* Insurance Reserve on Net Fixed Asset excluding land as on 31 March 2017.

Thus, the expenditure was merely a provision in nature and not actual amount of premium paid during the year. The error resulted in incorrect allowance of expenditure of ₹ 214.58 crore involving potential tax effect of ₹ 64.37 crore. *The Department rectified the error by passing order under Section 143(3) r.w.s. 263 of the Act in February 2023.*

Reply of the Ministry is awaited (April 2024).

Case V **CIT Charge** : **Pr. CIT- 3, Chennai**
 Assessee Name : **M/s T1 Ltd.**
 Assessment Year : **2017-18**

The AO, while finalising the assessment under Section 143(3) of the Act in December 2019 at loss of ₹ 1,840.88 crore, allowed expenditures of ₹ 448.92 crore under administration and general expenses which included ₹ 211.64 crore towards insurance (one *per cent* on the Assets of generation stations). Further, it was evident from Notes on Account (Item No.24 and Schedule No.35) that the deduction was on account of one *per cent* Insurance Reserve on Net Fixed Asset at Generation Circles and the same was credited to the Reserves.

Thus, the expenditure was merely a provision in nature and not actual amount of premium paid during the year. The error resulted in incorrect allowance of expenditure of ₹ 211.64 crore involving potential tax effect of ₹ 63.49 crore. *The Department stated (April 2023) that remedial action was taken by passing order under Section 263 of the Act in March 2022. Order giving effect to PCIT order was also passed under Section 154 read with Section 263/143(3) of the Act in February 2023.*

Reply of the Ministry is awaited (April 2024).

As per Explanation 1 given below Section 37(1) of the Act, if any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.

Case VI **CIT Charge** : **Pr. CIT-2, Jaipur**
 Assessee Name : **M/s A1 Pvt. Ltd.**
 Assessment Year : **2017-18**

The AO, while finalising the assessments under Section 143(3) of the Act in December 2019 at loss of ₹ 26.56 crore, allowed expenses of ₹ 20.77 crore on account of demand raised by Excise Department for supply of spirit against fake licenses in previous years. As the expenditure incurred was in the nature of an offence which is prohibited by law, the same was not an allowable expenditure as per provisions *ibid*. The error resulted in excess computation of loss by ₹ 20.77 crore involving potential tax effect of ₹ 7.19 crore. *The Department rectified the error by passing order under Section 147/144B of the Act in March 2022.*

Reply of the Ministry is awaited (April 2024).

As per provision of Section 36(1)(va) of the Act, deductions in respect of any sum received by the taxpayer as contribution from his employees towards any welfare fund of such employees is allowed as deduction only if such sum is credited by the taxpayer to the employees account in the relevant fund on or before the due date. Here 'due date' means the date by which the assessee is required as an employer to credit such contribution to the employees' account. Further, the CBDT, in its circular No. 22/2015 dated 17/12/2015, has clarified that employee's contribution to welfare funds governed by Section 36(1)(va) of the Act, is not covered under Section 43(B) of the Act.

Case VII CIT Charge : Pr. CIT, Ranchi
Assessee Name : M/s C1 Ltd.
Assessment Year : 2015-16

The AO, while finalising the assessment under Section 147 read with Section 143(3) of the Act in March 2018 at an income of ₹ 3,057.35 crore, did not add back of ₹ 5.78 crore towards payment of PF contributions after due date. This resulted in under assessment of income of ₹ 5.78 crore involving tax effect of ₹ 1.97 crore. The Department took remedial action by passing order under Section 147 read with Section 263 of the Act in April 2021.

Reply of the Ministry is awaited (April 2024).

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.

Sub-categories	Nos.	TE (₹ in crore)	States
Income not assessed/ under assessed under special provisions	16	107.76	Gujarat, Karnataka, Maharashtra, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal.
Income not assessed/ under assessed under normal provisions	22	1,606.20	Delhi, Gujarat, Maharashtra, Rajasthan, Tamil Nadu and West Bengal.
Incorrect classification and computation of capital gains	5	11.24	Delhi, Karnataka, Kerala and West Bengal.
Incorrect estimation of Arm's Length Price	11	31.73	Delhi, Karnataka, Maharashtra and West Bengal.
Unexplained Investment/Cash Credits	1	6.98	Punjab
Omission in implementing provisions of TDS/TCS	4	26.14	Maharashtra, Tamil Nadu and Telangana
Total	59	1,790.05	

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 16 cases involving tax effect of ₹ 107.76 crore in seven states. One such case is illustrated below:

Section 115JB of the Act stipulates that, where in the case of an assessee, being a company, the income-tax, payable on the total income as computed under the Act in respect of any previous year is less than eighteen and one-half per cent of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable by the assessee on such total income shall be the amount of income-tax at the rate of eighteen and one-half per cent. "Book profit" means the profit as shown in the statement of profit and loss for the relevant previous year, as increased/decreased by prescribed adjustments.

Case I **CIT Charge** : **Pr. CIT-4, Chennai**
 Assessee Name : **M/s C2 Ltd.**
 Assessment Year : **2016-17**

The AO, while finalising the assessment under Section 143(3) read with Section 144C(3) of the Act in February 2020 computed 'nil' book profit under Section 115JB of the Act. Audit observed that the assessee had appropriated of ₹ 150 crore towards Debenture Redemption Reserve. It was further observed that the assessee, while computing book profit, did not add back the aforesaid amount and the same was allowed by the AO. As, reduction of Reserves and Surplus towards Debenture Redemption Reserve is not allowable as per the prescribed adjustments for computation of book profit, the same should have been disallowed in the assessment. Omission to do so resulted in short computation of book profit by ₹ 150 crore with consequential short levy of tax of ₹ 32.01 crore. *The Department took remedial action under Section 147 of the Act in March 2022.*

Reply of the Ministry is awaited (April 2024).

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 22 cases involving tax effect of ₹ 1,606.20 crore in six states. Four such cases are illustrated below:

Under the Income Tax Act, the assesseees have to use the same method of accounting to recognize revenue for tax accounting purposes as they do for financial reporting purposes unless the financial reporting method is inconsistent with tax regulations or guidance. Supreme court in the case of CIT, Madurai Vs M/s Sri Mangayarkarasi Mills (P) Ltd while rejecting assessee's different treatment given of the same expenditure for the purposes of computing its profit and for the purpose of payment of income tax held that the claim for deduction under the Act was made merely to diminish the tax burden, and not under the belief that it was actually revenue expenditure. The principles enunciated in this judgment are equally applicable to revenue receipts. Further, in the case of Madras Industrial

Corporation Ltd vs CIT, the Supreme Court has held that there is no concept of 'deferred revenue expenditure' in the Income Tax Act. The expenditure is either 'revenue' in nature or 'capital'. ITAT Panaji Bench in the case of Goa Tourism Development Corporation Ltd vs ACIT, Circle-1(1) Panaji, Goa has held that the expenditure in the nature of subscription of lease line on one-time payment for three years is of revenue in nature and allowable fully in the year in which it was incurred.

Case I CIT Charge : Pr. CIT-8, Mumbai
Assessee Name : M/s R2 Ltd.
Assessment Years : 2016-17 and 2017-18

The AO, while finalizing the assessments for aforementioned AYs under Section 143(3) of the Act at Nil income in December 2018 and December 2019, allowed assessee to reduce ₹ 1,219.98 crore and ₹ 1,624.33 crore from the amount of ₹ 1,225.00 crore and ₹ 1,724.00 crore respectively, received for indefeasible right to use (IRU) of the dark fibre as per the agreement entered with other company (RJIO), treating it deferment of revenue over the agreement period of 20 years which was not in order for the following grounds:

- (i) The assessee company had completed all the required work for delivering the customers' links of dark fibre and ducts to the RJIO during AY 2016-17 and 2017-18.
- (ii) On completion of the required work, the revenue of ₹ 1,225 crore and ₹ 1,724 crore for AY 2016-17 and 2017-18 respectively had accrued and the same was credited to the books during the respective years.
- (iii) Considering the principle of Completed Service Contract Method, the performance obligation of the company for grant of IRU was completed on delivery of the fibre-pairs and there in no uncertainty as to ultimate collection since entire collection has been received upfront.
- (iv) The total consideration has been received in lump sum. Had the amount accrued annually as claimed by the assessee, the buyer would have not paid a lump sum amount.
- (v) If the receipt was deferred over a period of twenty years treating the contract as lease of assets, the assessee should have adopted AS 19 for accounting, which was not done by the assessee company.
- (vi) Since, in both the AYs, the Department allowed the entire credit of TDS, entire corresponding income was also required to be taxed under the Act.

Thus, the AO should have added the entire amount of IRU revenue in both the AYs. The omission resulted in aggregate under assessment of ₹ 2,844.31 crore involving tax effect of ₹ 976.81 crore excluding interest. *The Department accepted the audit objection for both the assessment years and stated*

(October 2022) that the remedial action was initiated by issuing notice under Section 148 of the Act and the final reply would be given after passing assessment order by the National Faceless Assessment Centre (NFAC).

Reply of the Ministry is awaited (April 2024).

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. Section 40(a)(i) of the Act provides any sum (other than salary) payable outside India or to a non-resident, which is chargeable to tax in India in the hands of the recipient, shall not be allowed to be deducted if it is paid without deduction of tax at source or if tax is deducted but is not deposited with the Central Government till the due date of filing of return.

Case II CIT Charge : CIT(International Taxation-3), Delhi
Assessee Name : M/s R1 Ltd.
Assessment Year : 2011-12

The AO, while finalising assessment under Section 144 read with Section 144C (3)/147 of the Act in February 2019 at an income of ₹ 41.29 crore, added back only ₹ 41.29 crore of the receipt of ₹ 412.90 crore treating as royalty /Fees for Technical Services (FTS)/FIS. However, there was no requisite details of services/ explanation provided by the assessee in support of the services rendered. Further, the AO did not add back ₹ 87.23 crore received towards sale consideration of shares. These amounts, being unexplained, should have been added to the income of the assessee. These omissions resulted in under assessment of income of ₹ 458.84 crore involving tax effect of ₹ 405.99 crore, including interest ₹ 151.30 crore and ₹ 161.49 crore under Section 234A and Section 234B for the period from October 2011 to February 2019 and April 2011 to February 2019 respectively.

The Department did not accept (February 2023) the audit observation citing the following reasons:

- i. As per details of 15CA certificates, the assessee had remitted amount of ₹ 412.90 crore and further information was received regarding ₹87.23 crore which were sale consideration of listed shares on which STT had been paid by the assessee. Moreover, since the amount of ₹412.90 crore remained unexplained/unverified the case was reopened by issuing a notice under Section 148 and under Section 142(1) of the Act.*
- ii. Due to non-responsiveness of the assessee the AO was unable to ascertain the genuineness, veracity and nature of transactions, therefore, notices under Section 133(6) were issued to National Stock Exchange (NSE) & Bombay Stock Exchange. The NSE provided information about brokers of the assessee and trade logs of the assessee. Further, notices under Section 133(6) were sent to both brokers of the*

assessee. Upon perusal of the reply of the brokers, it was noticed that assessee had received gross amount of ₹414.66 crore on account of sale of shares in BSE and NSE and STT of ₹51.83 lakh was paid on share of these transactions. After reducing STT and brokerage charges out of gross sale proceeds on stock exchange the net amount comes to ₹412.90 crore which was remitted by the assessee. Moreover, as per information uploaded by NSE and BSE the assessee got ₹87.24 crore from sale of shares whereas the information received by the Department from brokers was of gross amount of ₹414.66 crore, so it is clear that ₹87.23 crore is part of ₹414.66 crore.

- iii. While passing the best judgment order under Section 144 read with Section 147 of the Act, the AO taxed 10 per cent of the gross receipts (i.e. 10 per cent of ₹412.90 crore) by **deeming it as FTS/Royalty/FIS income of the assessee**. The AO was compelled to pass best judgement order under Section 144 read with Section 147 of the Act as due to non-responsiveness of the assessee, AO was unable to ascertain the genuineness/veracity and nature of transactions. In such a situation Rule 10 of the Income Tax Rules guides the AO to compute income of the assessee.

The assessee being a non-resident, the royalty would be taxed at the rate of 10 per cent, as mentioned in the Section 115A of the Act. No benefit of DTAA was given to the assessee. It was taxed as per the provisions of IT Act only. Hence, the objection of the Audit of taxing the same at the rate of 30 per cent is erroneous and not acceptable.

- iv. Regarding not taxing 90 per cent of the receipts is also not acceptable. Entire receipts can never be the income. On this the AO has taken the stand as explained above. As far as not bringing ₹87.23 crore to tax is concerned this audit observation is also not acceptable as this amount is part of total receipts of the assessee received on sale of securities on the NSE & BSE. So, the same amount can't be taxed twice.
- v. The audit observation communicated on 27/01/2021 was revised on 08/02/2021 involving over assessment of tax of ₹64.42 crore which was rectified by passing an order under Section 154 of the Act. However, audit reviewed afresh the rectification order passed under Section 154 in August 2022 alongwith assessment order passed under Section 144 read with Section 144C(3)/ 147 of the Act in February 2019 and made additional audit observations. The Audit did not point out the sale consideration of shares through NSE/BSE during the year neither in the audit objection dated 27 January 2021 nor in the Corrigendum dated 08 February 2021.

The above reply of the Department is not acceptable due to the following reasons:

- (i) Assessee had concealed outward foreign remittance of ₹ 412.90 crore to Mauritius, and also inward receipt of foreign remittance of ₹ 87.23 crore towards sales of shares. Further, it had not filed the ITR under Section 139(1) of the Act and also remained non-compliant to various notices during the assessment proceedings. As the source and nature of such 'to and fro' remittance by the assessee remained unexplained, the same should have been added under Section 68/69 of the Act.
- (ii) Although it was stated in the assessment order that the assessee had received ₹ 87.23 crore as sale consideration of shares and had outwardly remitted ₹ 412.90 crore to Mauritius as Long-Term Capital Gains, it was nowhere disclosed that the STT was paid on sale of the listed shares. Instead, it was clearly stated that the TDS was not deducted on the outward remittance of ₹ 412.90 crore. Further, it was not disclosed as to whom the amount was remitted to. The Department did not provide any documents to support that the gross amount of ₹ 414.66 crore was received against the sale of shares. Further, the documents regarding payment of STT and brokerage were also not provided to the Audit. In the absence of any documentary evidence, it could not be verified in Audit whether or not the amount of ₹ 87.23 crore is included in the gross sale consideration of ₹ 414.66 crore. Besides, it was not disclosed to whom the amount was remitted to.
- (iii) As the profits/gains from the sale of shares falls under the category of capital gains, it is not clear as to how it was taxed as FTS/Royalty/FIS income of the assessee. Also, there was no speaking order in this regard in the assessment records to substantiate that the income was actually FTS/Royalty/FIS income. It is also not clear how remittance to Mauritius initially attributed by the AO himself as remittance of Long-Term Capital Gains eventually became remittance towards FTS/Royalty/FIS. Further, the assessee had not provided any tax residency certificate and the provisions of DTAA were denied to the assessee and it was reiterated by the Department in its reply that the assessee was taxed under the provisions of the IT Act. Therefore, the income earned either as Long Term Capital Gains or Royalty/FTS/FIS under the IT Act should have been treated as undisclosed business income of the assessee and taxed at the rate of 30 *per cent* plus Surcharge/Education Cess. Further, reliance made on Rule 10(iii) of the Income Tax Rules does not mean that the nature of income can be changed by the AO. Besides, it was stated in the assessment order and in the reply of the Department also that the

assessee was non-compliant and did not provide any reply/submission throughout the assessment proceedings. It is an admitted and accepted fact under the Income Tax Act that the onus is always on the assessee to prove the genuineness, veracity and nature of transaction.

- (iv) Further, the assessee did not provide the details of the shares, the source of purchase shares, date of purchase shares, neither have the details of the end beneficiary been disclosed in the assessment order/reply of the Department. Therefore, actual value of LTCG could not be ascertained in audit besides, in the absence of purchase details even the nature of capital gains (LTCG/STCG) could not be ascertained in audit. Thus, the assessee was non-compliant and had failed to furnish any details of receipt of ₹ 87.23 crore in foreign exchange and remittance of ₹ 412.90 crore made to Mauritius.
- (v) While examining the rectification order passed under Section 154 in August 2022, audit noticed certain issues relating to non-consideration of remaining 90 *per cent* of ₹ 412.80 crore cited as remittance of Long Term capital gains and the receipt of ₹ 87.23 crore reportedly from sale of shares to tax, without mentioning any reason, which were duly communicated to the ITD in February 2023 for consideration and taking remedial action to safeguard the interest of revenue.

In view of the above facts, consideration of only 10 *per cent* instead of entire amount of the unverified/unexplained outward foreign remittance of ₹ 412.90 crore for tax and non-consideration of unexplained inward remittance of ₹ 87.23 crore for tax by the AO were required to be re-examined by the Department.

Reply of the Ministry is awaited (April 2024).

Section 143(3) of the Act 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.

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

The AO, while finalising re-assessment under Section 144/147 of the Act in December 2019 did not consider the returned income of ₹ 20.43 crore for addition while arriving at taxable income after making an addition of ₹ 297.92 crore, and assessed an income of ₹ 297.92 crore and a tax demand of ₹ 96.66 crore. Further, the AO did not levy interest under Section 243A(3) of the Act for not filing its return of income by the assessee, in response to notice

issued under Section 148 of the Act and interest under Section 234B(3) of the Act was also short levied. These errors resulted in short levy of tax of ₹ 70.32 crore.

The Department accepted the audit objection and took remedial action by passing rectification order under Section 154/144/147 of the Act in November 2022.

Reply of the Ministry is awaited (April 2024).

Section 143(3) of the Act 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, Section 147 of the Act states that if any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the AO may, subject to the provisions of Sections 148 to 153, assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year.

Case IV CIT Charge : Pr. CIT-2, Kolkata
Assessee Name : M/s M5 Pvt. Ltd.
Assessment Year : 2012-13

The AO, while finalising reassessment under Section 147 of the Act in December 2019 at an income of ₹ 85 lakh, did not take cognizance of income of ₹ 17.88 crore which was previously assessed under Section 143(3) of the Act in March 2015. The error resulted in under assessment of income by ₹ 17.88 crore involving tax effect of ₹ 6.09 crore including interest. *The Department took remedial action under Section 154 of the Act in January 2023.*

Reply of the Ministry is awaited (April 2024).

3.4.4 Incorrect computation/ classification of capital gains

We noticed five cases relating to incorrect computation/classification of capital gains involving a tax effect of ₹ 11.24 crore in four states. Two such cases are illustrated below:

Section 111A of the Act provides that in the case of 'short-term capital gains' (STCG) accrued through equity-oriented funds, the amount of income tax is calculated at the rate of 15 per cent. The income tax on STCG on shares and immovable properties other than Section 111A would attract a standard rate of tax. Further, Section 143(3) of the Act 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.

Case I **CIT Charge** : **CIT-6, Delhi**
 Assessee Name : **M/s N1 Pvt. Ltd.**
 Assessment Year : **2011-12**

The AO, while finalizing the assessment under Section 144/147 in December 2018 at income of ₹ 6.42 crore, added the Short Term Capital Gain (STCG) of ₹ 6.42 crore to the taxable income of the assessee. However, while raising the final demand of the assessee, the AO had charged tax on income being STCG at the rate of 15 *per cent* instead of applicable standard rate of 30 *per cent*. Further, the AO charged interest for 85 months under Section 234A of the Act instead of 87 months, from October 2011 to December 2018 as the assessee was a non-filer. Further, the AO had charged interest of ₹ 5.01 lakh under Section 234C of the Act, whereas the assessee had not filed the return of income. Being a non-filer, the assessee was not liable to pay the interest under Section 234C. These errors resulted in short levy of tax of ₹ 2.96 crore. *The Department rectified the errors by passing order under Section 154/144/147 of the Act in March 2022.* However, interest of ₹ 10.76 lakh under Section 234C was again erroneously levied in the rectification order, which was not enforceable on the assessee.

Reply of the Ministry is awaited (April 2024).

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.

Case II **CIT Charge** : **Pr. CIT, Kozhikode**
 Assessee Name : **M/s V2 Pvt. Ltd.**
 Assessment Year : **2017-18**

The AO, while finalising the assessment under Section 143(3) in December 2019 at long term capital loss of ₹ 16.62 crore, allowed the assessee for taking base year as 1993-94 for calculation of indexed cost of acquisition of shares. However, the acquisition of shares took place in the financial year 2007-08. The error resulted in excess determination and carry forward of long term capital loss by ₹ 10.45 crore involving potential tax effect of ₹ 2.15 crore. *The Department accepted the audit observation and took remedial action under Section 154 of the Act in April 2022.*

Reply of the Ministry is awaited (April 2024).

3.4.5 Incorrect estimation of Arm's Length Price

We noticed 11 cases relating to incorrect estimation of Arm's Length Price (ALP) involving tax effect of ₹ 31.73 crore in four states. Two such cases are illustrated below:

Section 92CA of the Act provides that where any person, being an assessee, has entered into an international transaction in any previous year, and the Assessing Officer considers it necessary or expedient so to do, he may, with the previous approval of the Principal Commissioner, refer the computation of the arm's length price in relation to the said international transaction under Section 92C to the Transfer Pricing Officer (TPO). Further, Section 92C provides that the arm's length price (ALP) in relation to an international transaction shall be determined by any of the methods, being the most appropriate method, having regard to the nature of transaction or class of transaction or class of associated persons or functions performed by such persons or such other relevant factors as the Board may prescribe.

Case I **CIT Charge** : **CIT 7, Delhi**
 Assessee Name : **M/s J2 Ltd.**
 Assessment Years : **2016-17**

The TPO, while finalising transfer pricing assessment under Section 92CA(3) of the Act in October 2019, proposed upward adjustment of ₹ 39.68 crore. Audit examination revealed that the TPO, while computing the ALP for export of manufactured chemical products and raw material, operating revenue received was taken as ₹ 2717.91 crore instead of ₹ 2656.17 crore. The error resulted in incorrect calculation of TP adjustment of ₹ 14.68 crore involving tax effect of ₹ 7.47 crore. *The TPO rectified the error under Section 154 of the Act in September 2021. The effect of rectification order passed by the TPO was also given by the jurisdictional AO under Section 154 of the Act in June 2022.*

Reply of the Ministry is awaited (April 2024).

Case II **CIT Charge** : **CIT International Taxation Bengaluru**
 Assessee Name : **M/s L1 Pvt. Ltd.**
 Assessment Years : **2014-15**

The TPO, while determining transfer pricing adjustment under Section 92C of the Act in October 2017 and subsequently in rectification order in February 2018, considered the cost involved in international transactions as ₹ 137.35 crore only instead of ₹ 273.25 crore. This resulted in an incorrect computation of the proportion of transactions as 14.75 *per cent* instead of 29.34 *per cent* of the operating cost of the company which eventually resulted in short computation of transfer pricing adjustment of ₹ 14.02 crore involving tax effect of ₹ 4.77 crore. *The TPO accepted the error and took remedial action under Section 154 of the Act in November 2023. However, order giving effect to TPO's rectification order by the Jurisdictional AO is awaited (April 2024).*

Reply of the Ministry is awaited (April 2024).

3.4.6 Unexplained Investment/ Cash Credit

We noticed one case relating to unexplained investment/cash credit involving tax effect of ₹ 6.98 crore in one state which is illustrated below:

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 Ludhiana
Assessee Name : M/s M6 Ltd.
Assessment Year : 2011-12 and 2012-13

The AO, while computing tax liability of the assessee for AY 2011-12 after assessment under Section 144 read with Section 147 of the Act in December 2018, depicted tax demand of ₹ 1.31 crore in ITNS instead of actual demand payable of ₹ 2.04 crore. The error resulted in short computation of tax by ₹ 0.72 crore. Further, for AY 2012-13, the AO, while finalizing the assessment under Section 144 read with Section 147 of the Act in December 2019 at ₹ 0.57 crore, made addition of eight *per cent* of the total unexplained credit of ₹ 7.12 crore despite the fact that all unexplained credits of ₹ 2.18 crore were considered as unexplained income under Section 68 during assessment of AY 2011-12. The error resulted in under assessment of income by ₹ 6.55 crore involving tax effect of ₹ 6.26 crore including interest. Thus, total tax effect worked out to ₹ 6.98 crore for both the assessment years. *The Department rectified (January 2021) the error under Section 154 of the Act for the AY 2011-12 in January 2021 and for AY 2012-13, the Department set aside the assessment order to pass order afresh under Section 263 of the Act in March 2022.*

Reply of the Ministry is awaited. (April 2024).

3.4.7 Omission in implementing provisions of TDS/TCS

We noticed four cases relating to Omission in implementing provisions of TDS/TCS involving tax effect of ₹ 26.14 crore in three states. Two such cases are illustrated below:

Under Section 195 (1) of the Act, any person responsible for paying to a non-resident, not being a company, or to a foreign company, any interest of the nature specified therein or any other sum chargeable under the provisions of this Act (not being income chargeable under the head "Salaries") shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force. Under Section 40(a)(i), if no TDS is made on payment of royalty to a non-resident, the same shall not be allowed as deduction from business expenditure under Sections 30 to 38.

Case I CIT Charge : Pr. CIT-1, Chennai
Assessee Name : M/s D1 Pvt. Ltd.
Assessment Year : 2015-16

The AO, while finalizing assessment under Section 143(3) read with Section 144C of the Act in November 2019 at income of ₹ 108.98 crore, allowed expenditure of ₹ 61.49 crore towards freight charges, however, the assessee had not deducted tax at source. Similar expenditure was treated as royalty as per directions of Dispute Resolution Panel (DRP) for AY 2013-14 attracting deduction of tax at source under Section 195 of the Act. As the assessee did not deduct tax at source, the same should have been disallowed under Section 40(a)(i) as was done in AY 2013-14. Omission to disallow the same resulted in under assessment of income by ₹ 61.49 crore involving tax effect of ₹ 20.90 crore. *The Department rectified the error under Section 147 of the Act in March 2022.*

Reply of the Ministry is awaited (April 2024).

Section 40a(ia) of the Act provides that any interest, commission or brokerage, rent, royalty, fees for professional services or fee for technical services payable to a resident or amounts payable to a contractor or sub-contractor, being resident, for carrying out any work (including supply of labour for carrying out any work), on which tax is deductible at source under chapter XVII-B and such tax has not been deducted or after deduction, has not been paid on or before the due date specified in sub-section(1) of Section 139 of the Act, no deduction shall be allowed.

Case II CIT Charge : Pr. CIT-6, Mumbai
Assessee Name : M/s J1 Pvt. Ltd.
Assessment Year : 2016-17

The AO, while finalizing the assessment under Section 143(3) of the Act in December 2018 at an income of ₹ 0.47 crore, allowed expenditure of ₹ 20.61 crore towards marketing and sales promotion which included expenditure of ₹ 19.81 crore towards brokerage/commission. Audit observed that tax was not deducted at source on aforesaid expenditure of ₹ 19.81 crore. Hence, 30 *per cent* of aforesaid brokerage/commission expenditure was required to be disallowed in the assessment. However, the AO disallowed only ₹ 1.98 crore instead of ₹ 5.94 crore. The error resulted in under assessment of income of ₹ 3.96 crore involving tax effect of ₹ 1.31 crore. *The Department accepted (March 2022) the audit observation and took remedial action under Section 154 read with Section 143(3) of the Act in January 2022.*

Reply of the Ministry is awaited (April 2024).

3.5 Over-charge of tax/Interest

3.5.1 Over assessment of income, over charge of tax/interest not only points to lack of due diligence on the part of AOs while making assessments/weaknesses of the ITD systems while computing tax payable, but also can potentially cause avoidable hardship to the genuine taxpayer. We noticed that AOs over assessed income in 37 cases involving over-charge of tax and interest of ₹ 862.09 crore in Assam, Delhi, Gujarat, Jharkhand, Karnataka, Maharashtra, Telangana and West Bengal. Eight such cases are illustrated below:

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 : Pr. CIT (Central)-1, Kolkata
Assessee Name : M/s P1 Ltd.
Assessment Year : 2017-18

The AO, while finalising the assessment under Section 144 of the Act, in December 2019 at ₹ 344.27 crore, disallowed an amount of ₹ 181.80 crore (differential amount of closing stock value, as exhibited in the Balance Sheet and the Profit and Loss Account) and added to the total income of the assessee, under Section 69C, on account of unexplained inventory. However, Audit observed that difference in the amount of closing stock value was ₹ 27.75 crore only. The error resulted in over-assessment of income, by ₹ 154.06 crore involving a tax effect of ₹ 158.28 crore. *The Department rectified the error by passing order under Section 154 of the Act in August 2021.* However, while rectifying the aforesaid error under Section 154 of the Act in August 2021, the Department noticed that instead of ₹ 154.06 crore, the entire differential amount of ₹ 181.80 crore was incorrectly over assessed during the assessment as there was no such difference in closing stock shown in the Balance Sheet and the Profit and Loss Account.

Reply of the Ministry is awaited (April 2024).

Case II CIT Charge : Pr. CIT-1, Kolkata
Assessee Name : M/s B1 Pvt. Ltd.
Assessment Year : 2017-18

The AO, while computing the tax liability of the assessee after assessment under Section 144 of the Act in December 2019 at an income of ₹ 40.08 crore, wrongly adopted income as ₹ 160.31 crore in the computation sheet. The error resulted in over assessment of income by ₹ 120.24 crore having a tax effect of ₹ 123.53 crore. *The Department rectified the error by issuing order under Section 154 of the Act in September 2021.*

Reply of the Ministry is awaited (April 2024).

Case III **CIT Charge** : **Pr. CIT-6, Mumbai**
 Assessee Name : **M/s C3 Pvt. Ltd.**
 Assessment Year : **2018-19**

The AO, while computing the tax liability of the assessee after assessment under Section 143(3) read with Section 144B of the Act at an income of ₹ 1,399.55 crore under normal provisions in May 2021, incorrectly adopted income as ₹ 459.20 crore in income tax computation sheet (ITNS). Moreover, after adjusting the current year's loss of ₹ 943.85 crore to the assessed income of ₹ 1,399.55 crore, the taxable income worked out at ₹ 455.70 crore as against ₹ 459.20 crore adopted in the ITNS. It was further noticed that returned book loss of ₹ 334.03 crore under MAT was incorrectly adopted as book profit of ₹ 1,060.25 crore in the ITNS and the tax was levied on the book profit of ₹ 1,060.25 crore instead of leviable under normal provisions on income of ₹ 455.70 crore. These errors resulted in excess levy of tax and interest of ₹ 96.86 crore. *The Department stated (April 2024) that remedial action was taken under Section 154 of the Act in October 2023.*

Reply from the Ministry is awaited (April 2024).

Case IV **CIT Charge** : **Pr. CIT-5, Mumbai**
 Assessee Name : **M/s M1 Ltd.**
 Assessment Year : **2017-18**

The AO concluded scrutiny assessment in December 2019 by determining income at ₹ 'Nil' after allowing set off of brought forward loss of ₹ 148.82 crore. However, Audit noticed from computation sheet to the assessment order, generated through ITBA, that while computing tax payable, the assessed income was adopted at ₹ 149.59 crore instead of ₹ 'Nil'. The error resulted in incorrect demand of ₹ 64.46 crore and non-allowance of refund of ₹ 3.29 crore. *The Department accepted the audit observation and rectified the error by passing order under Section 154 of the Act in May 2021.*

Reply of the Ministry is awaited (April 2024).

Section 234A provides for levy of interest on account of default in furnishing return of income at specified rates and for specified time period.

Case V **CIT Charge** : **Pr. CIT-II, Hyderabad**
 Assessee Name : **M/s H1 Ltd.**
 Assessment Year : **2016-2017**

The AO, while computing tax liability of the assessee after assessment under Section 143(3) of the Act in June 2019 at an income of ₹ 910.53 crore, levied interest of ₹ 64.29 crore under Section 234A for non-filing of return of income.

However, the assessee had filed the return of income within the due date. This error resulted in excess levy of interest of ₹ 64.29 crore under Section 234A of the Act. *The Department accepted (November 2020) the audit observation and rectified the error under Section 154 of the Act in March 2021.*

Reply of the Ministry is awaited (April 2024).

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 VI **CIT Charge** : **Pr. CIT-6, Mumbai**
 Assessee Name : **M/s I3 Pvt. Ltd.**
 Assessment Year : **2018-19**

The AO, while finalising assessment under Section 143(3) read with Section 144B of the Act in June 2021 at an income of ₹ 0.72 crore under normal provisions and Book Profit of ₹ 69.66 crore under Section 115JB of the Act, incorrectly computed tax on Book Profit as ₹ 72.70 crore instead of ₹ 14.86 crore. This error resulted in excess levy of tax of ₹ 57.84 crore. *The Department accepted the audit observation took remedial action under Section 154 of the Act in April 2022.*

Reply of the Ministry is awaited (April 2024).

Case VII **CIT Charge** : **Pr. CIT-4, Mumbai**
 Assessee Name : **M/s S2 Ltd.**
 Assessment Year : **2014-15**

The AO, while computing tax liability of the assessee after assessment under Section 144 read with Section 153A of the Act in August 2018 incorrectly adopted income as ₹ 226.18 crore instead of ₹ 126.78 crore. This error resulted in over-assessment of income by ₹ 99.40 crore with excess levy of tax by ₹ 51.69 crore including interest. *The Department took remedial action under Section 154 of the Act in January 2022.*

Reply of the Ministry is awaited (April 2024).

Case VIII **CIT Charge** : **Pr. CIT, Valsad**
 Assessee Name : **M/s E1 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 September 2019 at an income ₹ 34.07 crore, applied income tax at the rate of 50 *per cent* instead of the applicable rate of 30 *per cent*. The error resulted in excess levy of tax of

₹ 6.18 crore including interest. *The Department took remedial action by passing order under Section 154 of the Act in July 2022.*

Reply of the Ministry is awaited (April 2024).

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 completed during the year, 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, they should ensure necessary action including fixing responsibility as per law.***

Chapter IV: Income Tax

4.1 Introduction

4.1.1 This chapter discusses 172 high value non-corporate cases (refer para 2.3 of this Report) involving 188 assessments and total tax impact of ₹ 601.67 crore⁷⁴ which were referred to the Ministry in 10 batches during March 2023 to January 2024 and an additional batch consisting of eight draft paras on 1 April 2024. Out of these 172 cases, the Ministry has replied for six cases till April 2024. The Ministry accepted six cases involving tax effect of ₹ 7.09 crore and the ITD accepted 60 cases involving tax effect (TE) of ₹ 445.36 crore. Further, out of 172 cases, the ITD has completed remedial action in 151 cases involving tax effect of ₹ 426.38 crore, initiated remedial action in 10 cases involving tax effect of ₹ 22.70 crore and ITD has not accepted audit observation in three cases involving tax effect of ₹ 3.49 crore. In the remaining 8 cases involving tax effect of ₹ 149.10 crore, the ITD has not taken/initiated any action till April 2024.

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 omissions
- Others-Overcharge of tax/interest etc.

The subsequent paragraphs give a few illustrations of each category of the above mentioned errors. The illustrative cases are identified based on the significance of issues and tax effect involved. Further, for broad coverage of the issues noticed by audit, cases from across the ITD field formation have been considered for illustration.

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.

⁷⁴ Includes overcharge of ₹ 73.51 crore

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 (₹ in crore)	States	
a. Arithmetical errors in computation of income and tax	14	102.66	Delhi, Madhya Pradesh, Maharashtra, Telangana, Tamil Nadu and West Bengal	
b. Incorrect application of rates of tax, surcharge etc.	9	5.92	Delhi, Gujarat, Madhya Pradesh, Rajasthan and West Bengal	
c. Errors in levy of interest	78	157.70	Assam, Delhi, Gujarat, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Tamil Nadu, Telangana, Uttar Pradesh and West Bengal	
d. Excess or Irregular Refunds/Interest on Refunds	1	0.29	West Bengal	
e. Errors in assessment while giving effect to appellate orders	1	2.07	Delhi	
Total	103	268.64		

4.2.2 Arithmetical errors in computation of income and tax

We noticed arithmetical errors in computation of income and tax in 14 cases involving tax effect of ₹ 102.66 crore in six states. Two such cases are illustrated below:

Under 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 Board 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 (Central) 4, Mumbai
Assessee : VVB
Status : Individual
Assessment Year : 2016-17

The AO, while finalising the assessment under Section 144 of the Act in August 2018 at an income of ₹ 367.21 crore, erroneously computed tax liability on income of ₹ 247.22 crore instead of the assessed income of ₹ 367.21 crore. This mistake resulted in short levy of tax of ₹ 76.98 crore including interest. *The Department accepted the audit observation and took remedial action under Section 144 read with Section 147 of the Act (December 2021).* Further, the status of collection of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

Case II **CIT Charge** : **Pr. CIT (Central), Bhopal**
Assessee : **OU**
Status : **Association of Person (AOP)**
Assessment Year : **2013-14**

The AO, while finalising the assessment under Section 143(3) read with Section 153A of the Act in December 2019 at an income of ₹ 22.44 crore, which was rectified under Section 154 in February 2020 to ₹ 22.44 crore, reduced an amount of ₹ 4.58 crore from assessed income on account of excess of income over expenditure, instead of adding the same into assessed income. This mistake resulted in short levy of tax of ₹ 5.21 crore including interest. *The Department rectified the mistake under Section 154 in November 2023.* Further, the status of collection of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

4.2.3 Incorrect application of 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 9 cases involving tax effect of ₹ 5.92 crore in five states. Three such cases are illustrated below:

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. Further, Finance Act, 2016, as applicable from the AY 2017-18 onwards, stipulates for levy of surcharge on such income tax at the rate of twenty five per cent.

Case I **CIT Charge** : **Pr. CIT-1, Ahmedabad**
Assessee : **TKC**
Status : **AOP**
Assessment Year : **2018-19**

The AO, while finalising the assessment under Section 143(3) of the Act in March 2021 at an income of ₹ 169.33 crore, levied surcharge at the rate of 12 *per cent* instead of 15 *per cent* applicable for the assessee. This mistake resulted in short levy of tax of ₹ 1.53 crore including interest. *The Department rectified the mistake*

under Section 154 of the Act (March 2022). Further, the status of collection of demand is awaited (April 2024).

Reply of the ministry is awaited (April 2024).

Case II **CIT Charge** : **Pr. CIT-12, Kolkata**
Assessee : **BS**
Status : **Individual**
Assessment Year : **2017-18**

The AO, while finalising the assessment under Section 144 read with Section 143(3) of the Act in December 2019 at an income of ₹ 1.01 crore, made an addition of ₹ 80.58 lakh under Section 68 and 69C. However, tax was computed at slab rates applicable for individuals instead of 60 *per cent*, and surcharge leviable at the rate of 25 *per cent* was not levied at all. These mistakes resulted in short levy of tax of ₹ 61.72 lakh including interest. *The Department rectified the mistake under Section 154 in May 2023.* Further, the status of collection of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

Case III **CIT Charge** : **Pr. CIT-2, Jaipur**
Assessee : **AY1**
Status : **Individual**
Assessment Year : **2011-12**

The AO, while finalising the assessment under Section 147 read with Section 144 of the Act in December 2018 at an income of ₹ 90.30 lakh, charged tax on short term capital gain from sale of land of ₹ 75.68 lakh at the rate of 15 *per cent* under Section 111A instead of applying normal slab rates for individuals. This mistake resulted in short levy of tax of ₹ 33.12 lakh including interest. *The Department accepted the audit observation and rectified the mistake under Section 154 of the Act (January 2022).* Further, the status of collection of demand is awaited (April 204).

Reply of the Ministry is awaited (April 2024).

4.2.4 Errors in levy of interest

We noticed errors in levy of interest in 78 cases involving tax effect of ₹ 157.70 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. Six such cases are illustrated below:

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 for default in furnishing return of income, Section 234B provides for levy of interest for default in payment of advance tax and Section 234C provides for levy of interest for default in payment of instalments of advance tax at specified rates and for specified time period. Further, explanations below Sections 234A and 234B provide that where, in relation to an assessment year, an assessment is made for the first time under Section 147, the assessment so made shall be regarded as a regular assessment for the purposes of these Sections.

Case I **CIT Charge** : **Pr. CIT-1, Indore**
Assessee : **M/s GSS**
Status : **Association of Person (AOP)**
Assessment Year : **2012-13**

The AO, while finalising the assessment under Section 144 read with Section 147 in December 2019 at an income of ₹ 93.18 crore, did not levy interest of ₹ 4.31 crore under Section 234A(3) for non-compliance to the notice issued for filing return under Section 148. Further, the interest under Section 234B was levied at ₹ 20.44 crore instead of leviable ₹ 26.75 crore. These mistakes resulted in short levy of interest of ₹ 10.62 crore. *The Department passed rectification order in February 2022 under Section 154 of the Act, but the issue of non-levy of interest of ₹ 4.31 crore under Section 234A(3) was not covered.* Further, status of collection of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

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

The AO, while finalising the assessment under Section 144 read with Section 147 of the Act in December 2019 at an income of ₹ 63.46 crore, did not consider returned income of ₹ 1.80 lakh and interest under Section 234A and 234B were short by levied by ₹ 1.76 crore and ₹ 4.71 crore respectively. These mistakes resulted in short levy of tax of ₹ 6.48 crore. *The Department passed a rectification order in November 2022 to cover all these issues.*

Reply of the Ministry is awaited (April 2024).

Case III **CIT Charge** : **Pr. CIT - 1, Hyderabad**
 Assessee : **AY2**
 Status : **Individual**
 Assessment Year : **2012-13**

The AO, while finalising the assessment under Section 144 read with Section 147 of the Act in December 2019 at an income of ₹ 25.31 crore, calculated tax at the rate of 30 *per cent* instead of using slab rates applicable for individuals, and levied interest under Section 234A at ₹ 62.57 lakh for 8 months instead of ₹ 6.87 crore for 88 months. Further, interest under Section 234B was short levied by ₹ 6.40 lakh. These mistakes resulted in net short levy of tax ₹ 6.29 crore. *The Department accepted the audit observation and rectified the mistake under Section 154 of the Act (March 2021).* However, in the rectification order rate of tax and amount of interest under Section 234B were not revised. Further, the status of collection of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

Case IV **CIT Charge** : **Pr. CIT-Central 2, Chennai**
 Assessee : **SAS**
 Status : **Individual**
 Assessment Year : **2015-16**

The AO, while finalising the assessment under Section 143(3) read with Section 153C of the Act in December 2019 at an income of ₹ 31.39 crore, did not levy interest of ₹ 6.07 crore under Section 234B for a period of 57 months. This omission resulted in non-levy of interest of ₹ 6.07 crore. *The Department accepted the audit observation and rectified the mistake under Section 154 of the Act (October 2020).* Further, status of recovery of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

Case V **CIT Charge** : **Pr. CIT, Kanpur (Central) charge**
 Assessee : **MKG**
 Status : **Individual**
 Assessment : **2012-13, 2014-15 and 2015-16**
 Years

The AO, while finalising the assessments under Section 143(3) read with Section 153A of the Act in December 2019 at income of ₹ 3.57 crore, ₹ 10.32 crore, and ₹ 10.56 crore for assessment years 2012-13, 2014-15 and 2015-16 respectively, levied interest under Section 234A aggregating to ₹ 8.16 lakh instead of leviable ₹ 71.94 lakh, which resulted in short levy of interest of ₹ 63.78 lakh. Further, interest under 234B amounting to ₹ 1.02 crore

Reply of the Ministry is awaited (April 2024).

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 ₹ 2.07 crore in one state. The case is illustrated below:

Sub-Section 5 of Section 153 provides that where effect to an order under Section 250 is to be given by the Assessing Officer, wholly or partly, otherwise than by making a fresh assessment or reassessment, such effect shall be given within a period of three months from the end of the month in which order under Section 250 is received by the Principal chief Commissioner or Chief Commissioner Principal Commissioner or Commissioner, as the case may be. Further, 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 for default in furnishing return of income, Section 234B provides for levy of interest for default in payment of advance tax and Section 234C provides for levy of interest for default in payment of instalments of advance tax at specified rates and for specified time period.

Case I **CIT Charge** : **Pr. CIT (Central)-3 Delhi**
Assessee : **GKG**
Status : **Individual**
Assessment Year : **2008-09**

The AO, while giving effect to the appellate order under Section 250 of the Act in February 2018, did not levy interest chargeable under Section 234A and 234C. This omission resulted in aggregate short levy of interest of ₹ 2.07 crore. *The Department rectified the mistake in August 2021 under Section 154.* However, in the rectification order, certain discrepancies were noticed viz. excess allowance of self-assessment tax of ₹ 15.64 crore and consequent short levy of interest under Section 234B of ₹ 1.16 crore, which were communicated to the Department in November 2022.

Reply of the Ministry is awaited (April 2024).

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.

Table 4.2: Sub-categories of mistakes under administration of tax concessions/exemptions/deductions			
Sub-categories	Nos.	TE (₹ in crore)	States
a. Irregular exemptions/ deductions/relief given to individuals	2	0.91	Gujarat, Tamil Nadu
b. Irregular exemptions/ deductions/relief given to AOPs/Firms/Societies/Trusts	10	11.48	Delhi, Gujarat, Rajasthan and West Bengal
c. Incorrect allowance of Business Expenditure	8	13.40	Bihar, Kerala, Maharashtra, Odisha, Rajasthan and Tamil Nadu
d. Irregularities in allowing depreciation/ business losses/ capital losses	4	38.93	Assam, Karnataka Odisha and Telangana
Total	24	64.72	

4.3.2 Irregular exemptions/deductions/relief given to Individuals

We noticed irregular deduction allowed to individuals in two cases involving tax effect of ₹ 91.02 lakh in two states. Both the cases are illustrated below:

Under 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 Board has issued instructions from time to time that mistakes in computation of taxable income and tax should not occur. Further, as per Section 57 of the Act, the income chargeable under the head "Income from other sources" shall be computed after making the deduction of any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of making or earning such income.

Case I CIT Charge : Pr. CIT (Central), Ahmedabad
Assessee : NMT
Status : Individual
Assessment Year : 2017-18

The AO, while finalising the assessment under Section 143(3) of the Act in December 2019 at an income of ₹ 1.48 crore, had disallowed interest expenditure of ₹ 87.68 lakh (being 50 per cent of total interest expenditure of ₹ 1.75 crore on interest bearing fund) claimed under Section 57 against interest income of ₹ 1.48 crore. Audit noticed that as the assessee failed to prove link between interest bearing fund and interest income, the entire interest expenditure of ₹ 1.75 crore was required to be disallowed instead of 50 per cent of it. This omission resulted in under-assessment of income by ₹ 87.68 lakh involving short levy of tax of ₹ 43.93 lakh including interest. *The*

Department took remedial action in February 2022 under Section 147 of the Act. Further, status of recovery of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

Case II **CIT Charge** : **Pr. CIT (Int. Tax.), Chennai**
Assessee : **GS**
Status : **Individual**
Assessment Year : **2016-17**

The AO, while finalizing assessment under Section 143(3) of the Act in December 2018 at an income of ₹ 1.65 crore, disallowed a relief of ₹ 47.09 lakh claimed under Section 90/91. However, while computing tax payable in the computation sheet, the above relief was incorrectly reduced from the taxable income of the assessee. The error resulted in short levy of tax of ₹ 47.09 lakh. *The Department rectified the mistake under Section 154 in July 2022.* Further, the status of collection of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

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 10 cases involving a tax effect of ₹ 11.48 crore in four states. Three such cases are illustrated below:

Section 2(15) of the Income Tax Act provides that “charitable purpose” shall not include the advancement of any other object of general public utility if such advancement involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless (i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and (ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year.

Section 11(4A) of the Income Tax Act provides that exemption would not be allowed unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business.

Case I **CIT Charge** : **Pr. CIT-Exemption, Kolkata**
Assessee : **M/s SHS Trust**
Status : **Trust**
Assessment Year : **2017-18**

The AO, while finalising the assessment under Section 143(3) of the Act in September 2019 at 'Nil' income, allowed exemption of the entire net Capital Gain of ₹ 4.15 crore in AY 2017-18 which was from sale of assets for a consideration of ₹ 20.11 crore during AYs 2016-17 and 2017-18. Records showed that out of the net consideration received, the trust had purchased capital assets of ₹ 14.18 crore in AY 2017-18 and of ₹ 5.53 crore in AY 2018-19. Thus, the trust had utilized ₹ 14.18 crore in acquiring a new capital asset during the AY 2017-18 and in respect of the amount utilized in AY 2018-19, the trust had neither exercised option under clause 2 of explanation to Section 11(1) (by filing Form 9A) nor had accumulated/set apart the amount under Section 11(2) (by filing Form 10). The mistake had resulted in under assessment of income by ₹ 5.93 crore involving short levy of tax of ₹ 2.20 crore, including interest. *The Department took remedial action in May 2022 by passing revision order under Section 263 of the Act.* Further, the status of recovery of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

Case II **CIT Charge** : **Pr. CIT-Exemption, Kolkata**
Assessee : **M/s IIB**
Status : **Trust**
Assessment Year : **2017-18**

The AO, while finalising the assessment under Section 143(3) of the Act in November 2019 at 'Nil' income, did not consider the fact that the Trust had a total receipt of ₹ 6.02 crore which included income from business/profession of ₹ 2.48 crore and this income from business/profession was more than twenty *per cent* of the total receipt of the Trust. Further, the assessee did not maintain separate books of accounts for such income as per the provisions of Section 11(4A), as such, the income derived from business/profession was required to be taxed. The omission resulted in under assessment of income of ₹ 2.48 crore involving short levy of tax of ₹ 1.15 crore, including interest. *The Department accepted the audit observation and initiated remedial action by issuing notice under Section 148 of the Act in August 2023.* Further reply is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

Under the provision of Section 36(1)(viiia) of the Income Tax Act, 1961, the deductions shall be allowed in respect of any provision for bad and doubtful debts made by a scheduled bank or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, an amount not exceeding eight and one-half per cent of the total income 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.

Case III **CIT Charge** : **Pr. CIT, Udaipur**
 Assessee : **TUC1 Ltd.**
 Status : **Co-operative society**
 Assessment Year : **2018-19**

The AO while concluding assessment under Section 143(3) of the Act in February 2021 at an income of ₹ 83.04 lakh allowed provisions of ₹ 1.93 crore (bad and doubtful debts of ₹ 1.82 crore and standard assets of ₹ 10.86 lakh) as against ₹ 23.45 lakh allowable as per provisions *ibid*. The error resulted in excess allowance of provisions of bad and doubtful debts of ₹ 1.69 crore involving short levy of tax of ₹ 83.31 lakh including interest. *The Department rectified the mistake under Section 154 of the Act (April 2022).*

Reply of the Ministry is awaited (April 2024).

4.3.4 Incorrect allowance of business expenditure

We noticed incorrect allowance of business expenditure in eight cases involving tax effect of ₹ 13.40 crore in six states. Six such cases are illustrated below:

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 (Exemption), Lucknow**
 Assessee : **M/s KDA**
 Status : **Local Authority**
 Assessment Year : **2015-16**

The AO while finalising the assessment under Section 143(3) of the Act in December 2017 at an income of ₹ 82 crore, added back ₹ 4.31 crore invoking the provisions of Section 13(8) read with Section 2(15) of the Act and denied the claim of exemption under Section 11 as the Assessee was engaged in the commercial activities of trading in land and properties. The AO added back ₹ 4.31 crore in the assessment order against the total receipts of ₹ 62.11 crore in the Infrastructure fund and FAR Fund earmarked during the financial year ending 31 March 2015, after allowing the expenditure of ₹ 57.80 crore. As these receipts were not related to a separate project and all revenue expenses including infrastructure related expenses have already been claimed in the Income and Expenditure account, reducing the taxable income by allowing further expenditure of ₹ 57.80 crore was not in order. The mistake resulted in

short levy of tax of ₹ 26.13 crore including interest. *The Department accepted the audit observation and took remedial action in November 2021 under Section 147 read with Section 144B of the Act.* Further, status of recovery of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

Case II **CIT Charge** : **Pr. CIT, Madurai**
Assessee : **TTD Ltd.**
Status : **Trust**
Assessment Year : **2017-18**

The AO, while finalising the assessment under Section 143(3) of the Act in December 2019 at a loss of ₹ 1.03 crore, allowed a deduction of ₹ 9.50 crore under Section 36(1)(viiia) of the Act, although the assessee had not made any provision for bad and doubtful debts in the books of accounts. This mistake resulted in under assessment of income of ₹ 9.50 crore involving short levy of tax of ₹ 3.24 crore. *The Ministry accepted the audit observation and took remedial action by passing revision order under Section 263 of the Act (March 2023).* Further, status of recovery of demand is awaited (April 2024).

Case III **CIT Charge** : **Pr. CIT-1, Bhubaneswar**
Assessee : **CEU**
Status : **AJP**
Assessment Year : **2018-19**

The AO, while finalising the assessment under Section 143(3) of the Act in June 2021 at a loss of ₹ 563.44 crore, allowed an expense of ₹ 8.83 crore towards Prior Period expenditure, which was required to be disallowed and added back to the total income as assessee had employed mercantile system of accounting wherein, expenditure not related to previous year was not deductible. This mistake resulted in over assessment of loss of ₹ 8.83 crore involving potential tax effect of ₹ 3.06 crore. *The Department accepted the audit observation and initiated remedial action by passing order under Section 263 of the Act. (March 2024).* Further reply is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

Under the provision of section 36(1)(viiia) of the Income Tax Act, 1961, the deductions shall be allowed in respect of any provision for bad and doubtful debts made by a scheduled bank or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, an amount not exceeding eight and one-half per cent of the total income 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. Further, Rural branch means a branch situated in a place which has a population of not more than 10 thousand according to the last preceding census.

Case IV **CIT Charge** : **Pr. CIT-1, Kochi**
 Assessee : **M/s TUC2 Ltd.**
 Status : **AOP**
 Assessment Year : **2018-19**

The AO, while finalising the assessment under Section 143(3) of the Act in January 2021 by accepting the returned loss of ₹ 3.96 crore, allowed deduction of ₹ 8.73 crore under Section 36(1)(viiia) as 10 per cent on aggregate average rural advances with respect to seven branches. Since, the population of the corresponding revenue villages of the seven branches exceeded ten thousand as per 2011 census, the provisions of Section 36(1)(viiia) were not applicable and the amount of ₹ 8.73 crore was required to be added back in total income. This omission resulted in short levy of tax of ₹ 1.90 crore besides potential tax effect of ₹ 1.22 crore. *The Department accepted the audit observation and took remedial action by passing revision order under Section 263 of the Act (March 2023).*

Reply of the Ministry is awaited (April 2024).

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 V **CIT Charge** : **Pr. CIT-17, Mumbai**
 Assessee : **TMS Ltd.**
 Status : **AOP**
 Assessment Year : **2017-18**

The AO, while finalizing the assessment under Section 143(3) of the Act in December 2019 at an income of ₹ 4.14 crore, allowed a provision for Building Fund of ₹ 4 crore. Since, this was merely a provision and not actual expenditure it was required to be added back to the income. This omission resulted in under assessment of income by ₹ 4 crore involving short levy of tax of ₹ 1.84 crore including interest. *The Department took remedial action under Section 147 in May 2023.* Further, the status of collection of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

Case VI	CIT Charge	: Pr. CIT-1, Patna
	Assessee	: M/s ADC
	Status	: AOP
	Assessment Year	: 2017-18

The AO, while finalizing the assessment under Section 143(3) of the Act in December 2019 at an income of ₹ 6.31 crore, allowed expenses of ₹ 8.59 lakh, ₹ 0.51 lakh and ₹ 14.01 lakh on account of provision of gratuity, income tax and RBI penalty respectively, which were not in the nature of allowable expenses and were required to be added back to the total income. This omission resulted in under-assessment of income of ₹ 23.11 lakh involving short levy of tax of ₹ 10.92 lakh including interest. *The Department rectified the mistake under Section 154 of the Act (March 2022)*. Further, status of recovery of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

4.3.5 Irregularities in allowing depreciation/business losses/capital losses

We noticed irregularities in allowing depreciation/business losses/capital losses in four cases involving tax effect of ₹ 38.93 crore in four states. Two such cases are illustrated below:

Section 72 of the Act provides for carry forward and set-off of business losses. Further, Section 143(3) requires the Assessing Officer to verify the claims along with accounts, records and documents enclosed with the return in detail in scrutiny assessments. Furthermore, as per Section 43(1) of the Act, the cost of the assets to the assessee is required to be reduced by the proportion of the cost thereof, if any, as has been met, directly or indirectly, by any other person in form of subsidy, grant or reimbursement.

Case I	CIT Charge	: Pr. CIT-1, Visakhapatnam
	Assessee	: M/s VP Trust
	Status	: Local Authority
	Assessment Year	: 2017-18

The AO, while finalising the assessment under Section 143(3) of the Act in June 2021 at an income of ₹ 169.83 crore, allowed set-off of brought forward losses of ₹ 48.57 crore pertaining to AY 2016-17, despite the fact that in the AY 2016-17 assessment was completed at an income of ₹ 237.78 crore. This mistake resulted in excess set-off of losses of ₹ 48.57 crore involving short levy of tax of ₹ 22.34 crore including interest. *The Department accepted the audit observation and rectified the mistake under Section 154 of the Act (September 2021)*. Further, status of recovery of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

Case II CIT Charge : Pr. CIT-1, Bhubaneswar
Assessee : CEU
Status : AJP
Assessment Year : 2018-19

The AO, while finalising the assessment under Section 143(3) of the Act in June 2021 at a loss of ₹ 563.44 crore, allowed an incorrect claim of depreciation of ₹ 38.14 crore on assets of ₹ 254.25 crore created out of the consumer contribution received during the year. The omission to disallow incorrect claim of depreciation resulted in over assessment of current year loss by ₹ 38.14 crore involving potential tax effect of ₹ 13.20 crore. *The Department accepted the audit observation and initiated remedial action under Section 263 (March 2024).* Further reply is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

4.4 Income escaping assessments due to omissions

4.4.1 Section 5 of 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.

Sub-categories	Nos.	Tax Effect (₹ in crore)	States
a. Under Special Provisions including AMT	2	2.96	North Western Region, Assam
b. Incorrect classification and computation of Capital Gains	10	7.91	Delhi, Gujarat, Madhya Pradesh, Maharashtra and Tamil Nadu
c. Incorrect computation of income	10	175.22	Gujarat, Maharashtra, Madhya Pradesh, Odisha, Uttar Pradesh and West Bengal
d. Omission in implementing provisions of TDS/TCS	1	8.71	Odisha
Total	23	194.80	

4.4.2 Under Special Provisions including AMT

We noticed irregularities in AMT provision in two cases, involving tax effect of ₹ 2.96 crore, in two states. One such case is illustrated below:

Section 115JD of the Income Tax Act 1961 provides for payment of alternate minimum tax (AMT) 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. As per the provisions of Section 115JD(5) of the Act, the credit for tax paid by a person under Section 115JC shall be allowed to him in any assessment year in which the regular income tax exceeds the AMT, the tax credit shall be allowed to be set off to the extent of the excess of regular income tax over the AMT and the balance of tax credit, if any, shall be carried forward

Case I CIT Charge : Pr. CIT-I, Guwahati
Assessee : M/s KC
Status : Firm
Assessment Year : 2015-16

The AO, while finalising the assessment under Section 143(3) read with Section 153D of the Act in December 2019 at an income of ₹ 2.08 crore, allowed AMT credit of 48.35 lakh instead of 27.14 lakh available for set off. The mistake resulted in excess set-off of AMT credit of ₹ 21.21 lakh involving short levy of tax of the same amount. *The Department accepted the audit observation and rectified the mistake under Section 154 of the Act (November 2021).* Further, status of recovery of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

4.4.3 Incorrect classification and computation of Capital Gains

We noticed incorrect classification and computation of Capital Gains in ten cases involving tax effect of ₹ 7.91 crore in five states. Two such cases are illustrated below:

As per provision of Section 143(3) of the Income Tax Act, 1961, the Assessing Officer is required to make a correct assessment of total income or loss of the assessee and determine the sum payable by him or refundable to him on the basis of such assessment.

As per Section 50C of Income Tax Act, 1961 if the value stated in the instrument of transfer is less than the valuation adopted or assessed or assessable by the stamp duty authorities, such valuation of the stamp duty authorities will be considered as the sale consideration for the purpose of computation of capital gains arising on transfer of land or building or both.

Case I **CIT Charge** : **Pr. CIT-1, Bhopal**
 Assessee : **ARK**
 Status : **Individual**
 Assessment Year : **2012-13**

The AO, while finalising the assessment under Section 144 read with Section 147 of the Act in December 2019 at a Long Term Capital Gain (LTCG) of ₹ 4.29 crore, considered equal share of each of two co-owners (i.e. 50 per cent each) of the immovable properties sold at ₹ 8.11 crore and ₹ 48.00 lakh in the FY 2011-12. However, Audit noticed from the respective sale deeds that the actual share of the assessee in the above properties were 87.57 per cent and 50 per cent respectively and accordingly the assessee received sale consideration at ₹ 7.10 crore and ₹ 24.00 lakh respectively instead of ₹ 4.06 crore and ₹ 24.00 lakh considered by the AO. The mistake resulted in short levy of tax of ₹ 1.73 crore, including interest. *The Department accepted the audit observation in February 2022 and rectified the error under Section 154 of the Act.* Further, the status of recovery of demand was awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

Case II **CIT Charge** : **Pr. CIT-3, Ahmedabad**
 Assessee : **HCP**
 Status : **Individual**
 Assessment Year : **2012-13**

The AO, finalised the assessment under Section 143(3) read with Section 147 of the Act in November 2019 at an income of ₹ 92.12 lakh. Audit noticed that, while computing LTCG on sale of land, sale consideration of land was adopted at ₹ 25 lakh i.e. actual sale value of the land instead of ₹ 3.31 crore as assessed by stamp duty authority, as per provision of Section 50C *ibid*. The mistake resulted in under-assessment of LTCG of ₹ 3.06 crore and consequent short levy of tax of ₹ 1.25 crore. *The Department took remedial action in March 2022 by passing revision order under Section 263 read with Section 144B of the Act.* Further, the status of collection of demand was awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

4.4.4 Incorrect computation of Income

We noticed incorrect computation of income in ten cases, involving tax effect of ₹ 175.22 crore in six states. Four such cases are illustrated below:

Section 184(5) of the Income Tax Act provides that, where, in respect of any assessment year, there is, on the part of a firm, any such failure as is mentioned in Section 144, the firm shall be so assessed that no deduction, by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm, to any partner of such firm, shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession" and such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under clause (v) of Section 28.

Case I CIT Charge : CIT (Exemption), Mumbai
Assessee : III
Status : AJP
Assessment Year : 2016-17

The AO, while finalising the assessment under Section 143(3) of the Act in December 2018 at income of ₹ 563.44 crore, had disallowed the benefit of accumulation under Section 11(2) to the assessee for AY 2016-17 for delayed filing of Form 10. Audit noted that the assessee had accumulated a huge amount of ₹ 621.14 crore beyond 15 *per cent* for the period from FY 2007-08 to FY 2015-16. Out of the accumulation of ₹ 621.14 crore, the assessee could use only ₹ 18.03 crore in the intervening period and had unspent surplus accumulation of ₹ 603.11 crore. Out of this unspent surplus accumulation of ₹ 603.11 crore, ₹ 406.00 crore was not utilized within the prescribed five years, as disclosed by the assessee in Form 10BB. Hence, this amount of ₹ 406.00 crore was required to be taxed till AY 2016-17. Omission to tax the same resulted in short levy of tax of ₹ 140.51 crore. *The Department accepted the audit observation and stated (March 2021) that the aggregate additions of ₹ 357.03 crore had been made in re-assessments completed (March 2022) for AY 2014-15 (₹ 97.40 crore), AY 2015-16 (₹ 154.62 crore) and AY 2016-17 (₹ 105.00 crore). With regards to the remaining accumulations of ₹ 53.18 crore (₹ 410.21 crore minus ₹ 357.03 crore), the Department stated that this accumulations pertained to period prior to AY 2014-15 when the assessee was registered under Section 10(23C)(vi) of the Act and a proposal was sent to the Chief Commissioner of Income Tax (CCIT) 1 Mumbai in March 2013 for the withdrawal of exemption under Section 10(23C). Further, the Department stated that the assessments for AY 2010- 11 to AY 2013-14 were kept in abeyance as the proposal was still pending with the CCIT 1 Mumbai. Further reply from the Department is awaited. Further, status of recovery of demand is awaited (April 2024).*

Reply of the Ministry is awaited (April 2024).

As per the provision of Section 10(20), the expression 'Local Authority' means Panchayat as referred to in clause (d) of article 243 of the Constitution; or Municipality as referred to in clause (e) of article 243P of the Constitution; or Municipal Committee and District Board, legally entitled to, or entrusted by the Government with, the control or management of a Municipal or local fund; or Cantonment Board as defined in Section 3 of the Cantonments Act, 1924 (2 of 1924).

Case II CIT Charge : Pr. CIT-1, Surat
Assessee : SNA
Status : Local Authority
Assessment Year : 2017-18

The AO, while finalising the assessment under Section 143(3) of the Act in December 2019 at an income at ₹ 13.08 crore, had disallowed an exemption of ₹ 13.08 crore claimed by the assessee under Section 10(20) stating that the assessee was not covered by the definition of 'local authority' as contained in Section 10(20) of the Act. However, the AO did not make an addition of ₹ 4.22 crore received by the assessee towards interest on Fixed Deposits. This interest income was neither routed through profit and loss account nor disclosed under head 'income from other sources' in statement of total income. It was directly shown in the Balance Sheet as Capital Fund under the head 'Reserve and Surplus'. The omission to treat interest of ₹ 4.22 crore as taxable income resulted in short levy of tax of ₹ 2.06 crore including interest. *The Department took remedial action in February 2022 by way of re-assessment under Section 263 of the Act.* Further, status of recovery of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

Case III CIT Charge : Pr. CIT-12, Kolkata
Assessee : M/s ICA
Status : Firm
Assessment Year : 2017-18

The AO, while finalising the assessment under Section 144 of the Act in December 2019 at an income of ₹ 26.32 crore, allowed expenditure of ₹ 3.75 crore towards remuneration paid to partners and interest on loan from partners. As the assessee had failed to comply to the notices of the Department issued in August and November 2019 and even a show-cause notice in December 2019, the aforesaid expenses were required to be disallowed. This omission resulted in short levy of tax of ₹ 1.30 crore. *The Department took remedial action under Section 147 read with Section 144 read with Section 144B of the Act in February 2024.* Further, the status of collection of demand is awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

Case IV **CIT Charge** : **Pr. CIT-I, Indore**
Assessee : **M/s SR**
Status : **Firm**
Assessment Year : **2017-18**

The AO, while finalising the assessment under Section 143(3) of the Act in December 2019 at an income of ₹ 0.79 crore, allowed double deduction of two items of expenses (₹ 72.00 lakh being remuneration to partners and ₹ 45.27 lakh being interest to partners). This mistake resulted in under assessment of income by ₹ 1.17 crore involving short levy of tax of ₹ 60.40 lakh. *The Department accepted the audit observation in May 2022 and took remedial action under Section 263 of the Act.* Further, the status of recovery demand was awaited (April 2024).

Reply of the Ministry is awaited (April 2024).

4.4.5 Omission in implementing provisions of TDS/TCS

We noticed omission in implementing provisions of TDS/TCS in one case, involving tax effect of ₹ 8.71 crore in one state. The case is illustrated below:

Under 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 Board 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, Sambalpur**
Assessee : **TBD Ltd.**
Status : **AOP**
Assessment Year : **2017-18**

The AO, finalised the assessment under Section 143(3) of the Act in December 2019 at an income of ₹ 22.05 crore, which was rectified under Section 154 in June 2020 at an income of ₹ 10 crore, which was further rectified under Section 154 in January 2021 at same income and after allowing a TDS credit of ₹ 1.95 crore to assessee. Audit noticed that the assessee had offered only an amount of ₹ 1.25 crore as income and not the entire corresponding receipt of ₹ 19.50 crore (i.e. ₹ 19.46 crore from commission and ₹ 3.73 lakh from technical service) for which TDS of ₹ 1.95 crore was allowed, the differential amount of ₹ 18.25 crore was required to be added to the income. The omission to add back ₹ 18.25 crore resulted in short levy of tax of ₹ 8.71 crore including interest. *The Department accepted the audit observation and took remedial action under Section 147 of the Act (January 2024).*

Reply of the Ministry is awaited (April 2024).

4.5 Over charge of tax/Interest

4.5.1 Over assessment of income, over charge of tax/interest not only points lack of due diligence on the part of AOs while making assessments/weaknesses of the ITD systems while computing tax payable, but also can potentially cause avoidable hardship to the genuine taxpayer. We noticed over assessment of income in 22 cases involving overcharge of tax/interest of ₹ 73.51 crore in six states viz. Delhi, Karnataka, Kerala, Madhya Pradesh, Maharashtra and Telangana. Seven such cases are illustrated below:

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. Further, Section 112 (1) of the Income Tax Act 1961 inter-alia provides for tax rate on Long Term Capital Gain at the rate of twenty per cent.

Case I CIT Charge : Pr. CIT, Vijayawada
Assessee : APH
Status : AOP
Assessment Year : 2014-15

The AO, while finalising the assessment under Section 143(3) read with Section 147 of the Act in June 2019 at an income of ₹ 151.58 crore, erroneously levied interest under Section 234A and Section 234B at ₹ 21.60 crore and ₹ 48.48 crore as against leviable amount of ₹ 19.59 crore and ₹ 31.64 crore respectively. This resulted in excess levy of interest by ₹ 18.85 crore under Section 234A and Section 234B. *The Department accepted the audit observation and rectified the mistake under Section 154 of the Act (September 2021).*

Reply of the Ministry is awaited (April 2024).

Case II CIT Charge : Pr. CIT-17, Mumbai
Assessee : ALS
Status : AOP
Assessment Year : 2003-04

The AO, while finalising the assessment under Section 143(3) read with Section 147 of the Act in December 2019 at an income of ₹ 31.02 crore, erroneously levied tax on Long Term Capital Gains (LTCG) at the rate of 30 per cent instead of applicable rate of 20 per cent. This mistake resulted in excess levy of tax by ₹ 9.40 crore including interest. *The Department accepted the audit observation (March 2022) and rectified the mistake under Section 154 in June 2022.*

Reply of the Ministry is awaited (April 2024).

Case III **CIT Charge** : **Pr. CIT-I, Hyderabad**
 Assessee : **NK**
 Status : **Individual**
 Assessment Year : **2017-18**

The AO, while finalising the assessment under Section 144 of the Act in December 2019 at an income of ₹ 2.31 crore, erroneously adopted assessed income at ₹ 9.25 crore for computation of tax liability as against the correct amount of ₹ 2.31 crore. This resulted in excess levy of tax of ₹ 8.68 crore. *The Department accepted the audit observation and rectified the mistake under Section 154 of the Act (March 2021).*

Reply of the Ministry is awaited (April 2024).

Case IV **CIT Charge** : **Pr. CIT (Central), Visakhapatnam**
 Assessee : **MV**
 Status : **Individual**
 Assessment Year : **2015-16**

The AO, while finalising the assessment under Section 144 read with Section 153A of the Act in June 2021 at an income of ₹ 8.34 crore, erroneously levied interest under Section 234A at ₹ 6.74 crore as against leviable amount of ₹ 64.52 lakh. This resulted in excess levy of interest of ₹ 6.10 crore. *The Department accepted the audit observation and rectified the mistake under Section 154 of the Act (January 2022).*

Reply of the Ministry is awaited (April 2024).

Case V **CIT Charge** : **CIT (Exemption)-1, Delhi**
 Assessee : **BFI**
 Status : **AJP**
 Assessment Year : **2018-19**

The AO, finalised the assessment under Section 143(3) of the Act in June 2021 by assessing an income of ₹ 1.61 crore. However, while computing tax payable in the ITNS, the AO erroneously adopted assessed income at ₹ 10.01 crore instead of ₹ 1.61 crore. This mistake resulted in excess levy of tax of ₹ 4.27 crore including interest. *The Department accepted the audit observation and rectified the mistake by passing orders under Section 154 of the Act in February 2022 and May 2023.*

Reply of the Ministry is awaited (April 2024).

Case VI **CIT Charge** : **Pr. CIT, Gwalior**
 Assessee : **NSG**
 Status : **Individual**
 Assessment Year : **2017-18**

The AO, finalized assessment under Section 144 read with Section 143(3) of the Act in December 2019, by assessing income at ₹ 31.09 lakh. However, while computing tax payable, the assessed income was adopted at ₹ 1.24 crore instead of correct assessed income of ₹ 31.09 lakh. The mistake resulted in over-assessment of income by ₹ 93.26 lakh and consequently excess levy of tax of ₹ 1.17 crore including interest. *The Department rectified the mistake under Section 154 of the Act (September 2021).*

Reply of the Ministry is awaited (April 2024).

Case VII **CIT Charge** : **Pr. CIT Panaji**
 Assessee : **TSU Ltd.**
 Status : **Co-operative society**
 Assessment Year : **2016-17**

The AO, while finalizing assessment under Section 143(3) of the Act in December 2018 at an income of ₹ 1.21 crore, adopted the returned income at ₹ 72.10 lakh instead of correct returned income of ₹ 3.50 lakh. The mistake resulted in excess levy of tax of ₹ 34.26 lakh. *The Department rectified the mistake under Section 154 of the Act (October 2021).*

Reply of the Ministry is awaited (April 2024).


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 completed during the year, 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, the ITD should ensure necessary action including fixing responsibility as per law.*

New Delhi
Dated: 16 November 2024


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

Countersigned

New Delhi
Dated: 18 November 2024


(Girish Chandra Murmu)
Comptroller and Auditor General of India

Appendices

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 up⁷⁵ of various units [further amended as the Faceless Assessment (1st Amendment) Scheme, 2021] and their functions, are enumerated hereunder:

(i) National Faceless Assessment Centre⁷⁶ (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 assesseees 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)

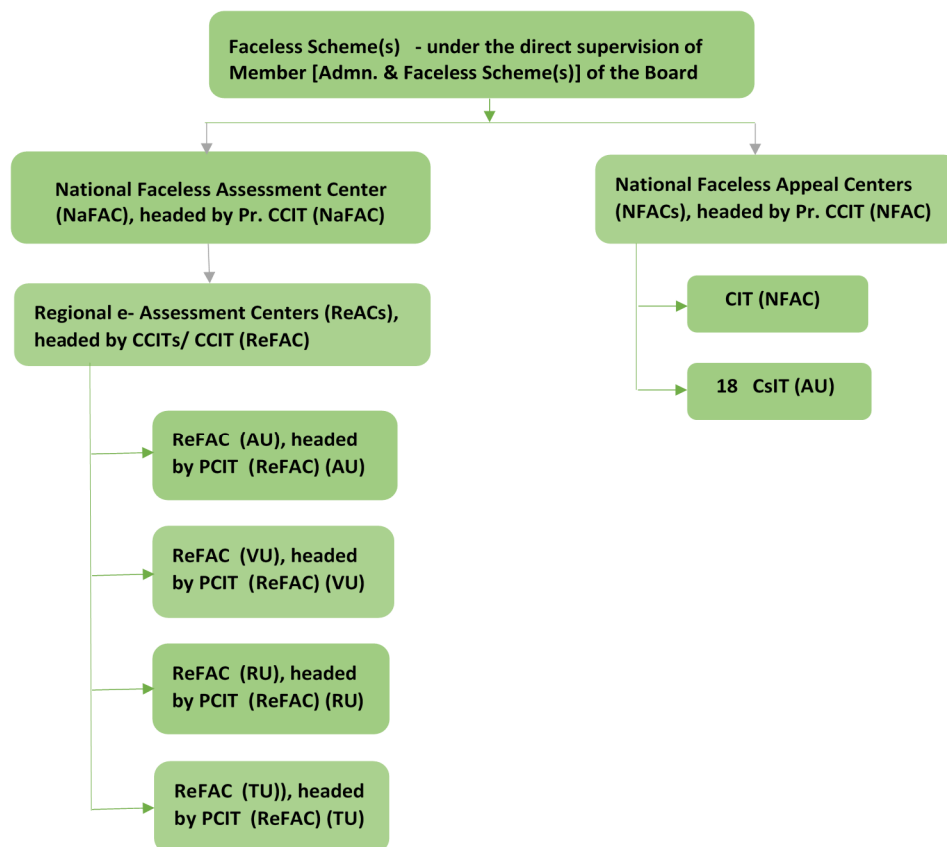
ReACs are expected to facilitate the conduct of e-assessment proceedings in the cadre controlling regions of the concerned Pr. CCITs. They have also been

⁷⁵ As notified in the principal Faceless Assessment Scheme, vide Notification No. 61/2019/F.No. 370149/154/2019-TPL dated 12/09/2019

⁷⁶ 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.

(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 assessee, 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)

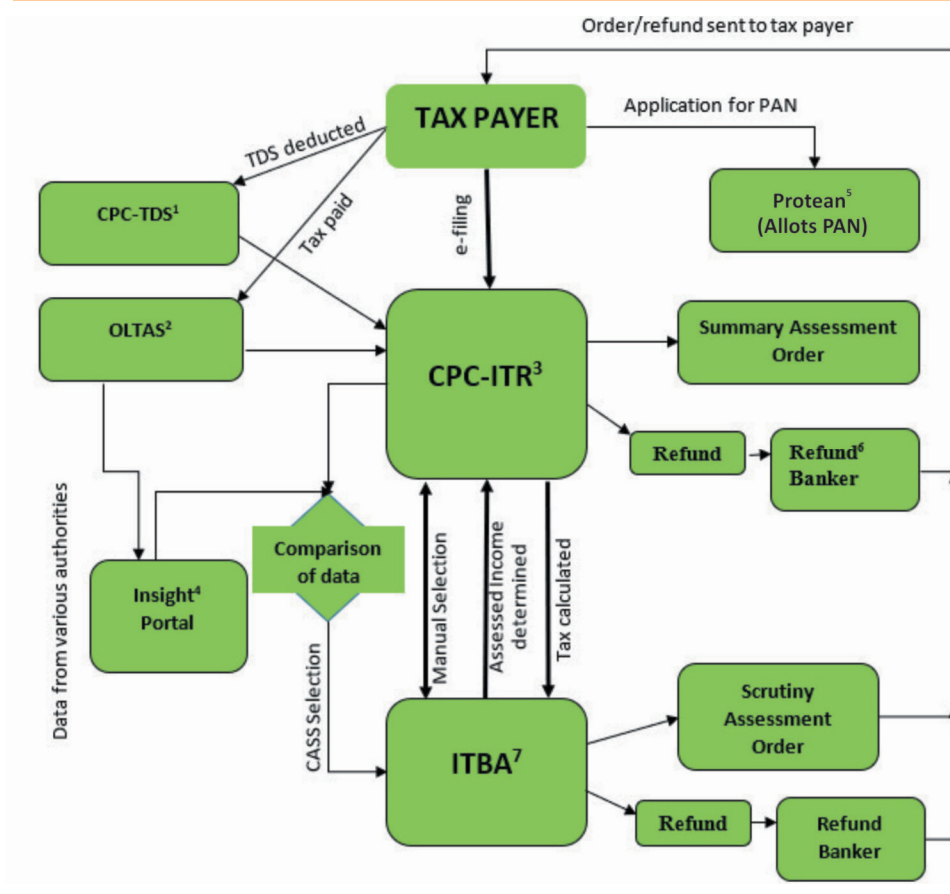
The NFPS was notified by the CBDT, vide notification No 3/2021 dated 12/01/2021, specifying the procedures to be followed for imposition of penalties. The scheme mandated the setting up of National Faceless Penalty Centres, Regional Penalty Centres, Penalty Units and Penalty Review Units, for execution 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. Protean (Protean eGov Technologies Limited) {Earlier, NSDL (NSDL e-Governance Infrastructure 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 2.2.4)

State-wise incidence of errors in assessments						
State	Assessments completed in units selected for audit during 2021-22	Assessments produced to audit during 2021-22	Audit observations raised during 2021-22 ⁷⁷ (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	6	7
Andhra Pradesh & Telangana	15,166	13,367	859	859	1,206.01	6.43
Assam	2,511	2,147	137	127	49.27	5.92
Bihar	2,411	2,382	173	173	26.11	7.26
Chhattisgarh	10,521	7,867	115	105	454.43	1.33
Delhi	29,909	29,418	1,243	1,167	8,637.66	3.97
Goa	898	435	12	11	14.41	2.53
Gujarat	12,294	12,061	955	793	1,677.00	6.57
Haryana	7,683	4,481	204	179	636.04	3.99
Himachal Pradesh	544	359	51	48	16.03	13.37
Jammu & Kashmir	317	296	5	5	1.11	1.69
Jharkhand	766	432	83	60	30.65	13.89
Karnataka	7,408	3,955	186	184	2,528.94	4.65
Kerala	4,689	4,458	449	403	436.31	9.04
Madhya Pradesh	25,682	18,765	781	781	494.03	4.16
Maharashtra	45,736	24,769	1,555	1,332	12,428.94	5.38
Odisha	2,447	2,215	262	254	1,433.61	11.47
Punjab	8,866	4,470	168	168	101.92	3.76
Rajasthan	17,102	8,103	286	275	118.23	3.39
Tamil Nadu	13,791	8,705	1,133	968	5,435.23	11.12
UT Chandigarh	3,545	2,222	149	149	913.27	6.71
Uttarakhand	950	895	43	43	8.63	4.80
Uttar Pradesh	18,090	16,901	413	389	636.74	2.30
West Bengal	19,801	18,799	1,446	1,359	3,699.82	7.23
Total	2,51,127	1,87,502	10,708	9,832	40,984.40	5.24

⁷⁷ 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 under assessment in respect of Corporation tax and Income tax detected during Local Audit		
		(₹ in crore)
Sub category	No. of errors	Tax effect
A. Quality of assessments	4,597	11,385.07
a. Arithmetical errors in the computation of income and tax	1,049	4,591.18
b. Incorrect application of rate of tax, surcharge, etc.	973	4,385.70
c. There is no/short levy of interest/penalty for delay in submission of returns, delay in payment of tax, etc.	2,455	2,088.64
d. Excess or irregular refunds/interest on refunds	104	179.24
e. Mistake in assessment while giving effect to appellate orders	16	140.31
B. Administration of tax concessions/exemptions/ deductions	2,331	12,110.99
a. Irregular exemptions/deductions/reliefs given to Corporate	162	1,722.11
b. Irregular exemptions/deductions/reliefs given to Trusts/Firms/Societies	242	250.87
c. Irregular exemptions/deductions/reliefs given to individuals	170	179.87
d. Incorrect allowance of Business Expenditure	1,446	8,009.03
e. Irregularities in allowing depreciation/business losses/Capital losses	309	1,946.22
f. Incorrect allowance of DTAT relief	2	2.88
C. Income escaping assessments due to omissions	731	3,958.83
a. Under Special Provisions including MAT/AMT/Tonnage Tax etc.	43	237.66
b. Unexplained investments/ cash credits etc.	385	3,528.26
c. Incorrect classification and Computation of Capital Gains	173	118.13
d. Incorrect estimation of arm's length price	14	7.80
e. Omission to club income of spouse, minor child, etc.	0	0.00
f. Incorrect computation of Income from House Property	19	14.65
g. Incorrect computation of salary income	8	2.11
h. Omission in implementing provisions of TDS/ TCS	89	50.21
D. Others	2,404	9,692.01
Total	10,063	37,146.89

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)
A. Quality of assessments	221	658.82
a. Arithmetical errors in the computation of income and tax	42	194.18
b. Incorrect application of rate of tax, surcharge, etc.	28	49.29
c. Non/short levy of interest/penalty for delay in submission of returns, delay in payment of tax, etc.	141	399.21
d. Excess or irregular refunds/interest on refunds	6	7.18
e. Mistake in assessment while giving effect to appellate orders	4	8.96
B. Administration of tax concessions/exemptions/deductions	142	2,149.52
a. Irregular exemptions/deductions/reliefs given to Trusts/ b. Firms/Societies	10	11.48
c. Irregular exemptions/deductions/reliefs given to individuals	2	0.91
d. Incorrect allowance of Business Expenditure	48	639.54
e. Irregularities in allowing depreciation/business losses/ Capital losses	57	1,173.38
f. Incorrect allowance of DTAA relief	25	324.21
C. Income escaping assessment due to omissions	82	1,984.85
a. Under special provisions including MAT/AMT/Tonnage Tax, etc.	18	110.72
b. Incorrect classification and Computation of Capital Gains	15	19.15
c. Incorrect Computation of Income	10	175.22
d. Omission in implementing provisions of TDS/TCS	5	34.85
e. Unexplained investment/ cash credit	1	6.98
f. Incorrect estimation of Arm's Length Price	11	31.73
g. Income not assessed/under-assessed under normal provisions	22	1,606.20
D. Others	59	935.60
Overcharge of tax/interest	59	935.60
Total	504	5,728.79

Appendix 2.4 (Reference Paragraph 2.8.2)

Details of non-production of records during FY 2019-20 to FY 2021-22						
States	Records requisitioned in FY 2021-22	Records not produced in FY 2021-22	Percentage of records not produced in FY 2021-22	Percentage of records not produced in FY 2020-21	Percentage of records not produced in FY 2019-20	
Andhra Pradesh & Telangana	15,166	1,799	11.86	3.03	5.35	
Assam	2,511	364	14.50	7.94	5.96	
Bihar	2,411	29	1.20	4.72	2.33	
Chhattisgarh	8,036	158	1.97	0	0.66	
Delhi	32,565	2,300	7.06	6.2	6.66	
Goa	450	0	0.00	0	0.13	
Gujarat	12,339	233	1.89	1.53	7.28	
Haryana	4,481	233	5.20	0.74	1.41	
Himachal Pradesh	359	3	0.84	1.18	8.37	
Jammu & Kashmir	296	21	7.09	0	0	
Jharkhand	438	5	1.14	8.27	0.85	
Karnataka	4,439	225	5.07	4.11	3.12	
Kerala	4,689	231	4.93	5.14	6.21	
Madhya Pradesh	19,658	893	4.54	4.12	2.91	
Maharashtra	27,965	2,645	9.46	18.33	3.79	
Odisha	2,447	232	9.48	9.32	8.65	
Punjab	4,470	306	6.85	1.1	1.58	
Rajasthan	8,489	162	1.91	0.65	1.01	
Tamil Nadu	10,236	1,531	14.96	17.88	26.44	
UT Chandigarh	2,222	10	0.45	1.49	4.12	
Uttarakhand	938	55	5.86	1.35	0.52	
Uttar Pradesh	17,591	680	3.87	4.47	1.73	
West Bengal	21,345	1,381	6.47	7.57	6.91	
Total	2,03,541	13,496	6.63	6.61	6.92	

Abbreviations	
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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