



SUPREME AUDIT INSTITUTION OF INDIA
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**Report of the
Comptroller and Auditor General of India
for the year ended March 2023**

**Compliance Audit Report on Examination of
assessments of companies dealing in the
business of 'Distilleries and Breweries' by
the Income Tax Department**

**Union Government
Department of Revenue - Direct Taxes
Report No. 09 of 2024**

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Preface

This Report for the year ended March 2023 has been prepared for submission to the President under Article 151 of the Constitution of India.

The Report contains significant results of the Examination of assessments of eleven companies dealing in the business of 'Distilleries and Breweries' by the Income Tax Department.

The instances mentioned in this Report are those, which came to notice in the course of audit conducted from April 2019 to October 2019 and Supplementary field audit and a follow-up field audit, which continued till December 2022, for assessments completed /processed by the Income Tax Department, for the Financial Years 2008-09 to 2017-18.

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

Executive Summary

India is one of the fastest-growing alcohol markets in the world due to an increase in urban population, rising spending power and a growing economy.

Liquor business (alcohol production, distribution and sales) is governed by respective State Government regulations, State Excise Duty and VAT being State subject and Income Tax and Tax Collected at Source (TCS) being central subject, collected on the same as per provisions of the IT Act 1961 (Act).

Three main stakeholders are involved: Distilleries & Breweries, State Excise Authorities, and the Income Tax Department (ITD).

Distilleries and Breweries are required to collect Tax at Source (TCS) at the time of sale and file TCS returns and Income tax returns with the ITD within the due dates along with attachments like Form 3CD, Financial Statements, etc. All the transactions are required to be included in its accounts and the same are to be audited under section 44AB satisfying the specified conditions under the Act.

State Excise Authorities help in promoting the development of alcohol/molasses-based industries, regulating the legitimate sale of liquor, preventing the revenue leakage of State Excise Duty and VAT, determination of Ex-Distillery price (EDP) and Ex-brewery price (EBP) at reasonable prices, and regulate arbitrary price fixation of the alcoholic products by the Distilleries and Breweries.

ITD, after the return of income is filed, carries out the necessary verification, viz., correct computation of income by the assessee, reconciliation between the P&L Account, Form 3CD and what is offered in the ITR/computation of income, correct claim of expenditure and taxes paid, correct determination and allowance of set-off of current year/brought forward losses, correct determination and allowance of MAT credit etc., as per the provisions of the Act and ensures that the true income and expenditure have been reflected in Financial Statements and the assessee has not evaded tax.

Audit selected eleven distilleries/breweries falling within the ITD jurisdiction in the States of Uttar Pradesh, Maharashtra, Karnataka and New Delhi, whose ITRs were processed/completed through Income Tax Department (ITD) systems covering the ten years period from Assessment Years 2009-10 to 2018-19.

Audit examined whether all the receipts and expenditures were accounted for and correctly offered for tax, whether third-party reporting was taken into cognizance ensuring non-evasion of tax, whether any mechanism of inter-departmental and intra-departmental co-ordination existed within the IT

Department and if so, whether the mechanism was in place in collating and correlating the existing documents/records efficiently and effectively.

While examining the assessment records of selected eleven distilleries/ breweries, Audit broadly noticed issues comprising viz., short accounting of sale under the garb of agreement with other parties, lack of Inter-departmental, intra-departmental co-ordination and reconciliation with the assessee, arithmetical discrepancy and certification by the Auditor with respect to Quantitative Abstract of the finished product, calculation mistakes, revenue impact due to lack of inter-departmental co-ordination and non-adherence to the powers conferred by the provisions of the Act. These are highlighted below:

Short accounting of sale under the garb of agreement with tax impact of ₹ 4,439.11 crore wherein three companies, namely M/s W1 Ltd., M/s U1 Ltd. and M/s M1 Ltd. did not get their books of accounts audited under section 44AB of IT Act, 1961 and also had not offered the income from business under the head income "Profits and gains from business or profession". The possibility of sale proceeds of liquor/beer not taken into account for tax under the garb of the agreement was high, and the risk of escapement of tax could not be ruled out.

The information available within the Income Tax Department (ITD) was not effectively utilized by the assessment units. Further, reconciliation of the details was not carried out by the Assessing Officer from the Assessee. This involved a tax impact of ₹ 12,781.22 crore. In ten assessee companies, namely M/s U1 Ltd., M/s P1 Pvt. Ltd., M/s R1 Ltd., M/s S1 Ltd., M/s M3 Ltd., M/s M2 Ltd., M/s A1 Ltd., M/s U2 Ltd., M/s U3 Ltd. and M/s M1 Ltd., there was lack of Inter-departmental, intra-departmental co-ordination and reconciliation with the assessee wherein Assessing Officers did not exercise power to call for the information, as envisaged in section 133(6) of the Income Tax Act which would have been useful for or relevant to any enquiry or proceeding under the Act.

ITD system could not identify the cases where there was an arithmetical difference, as depicted and certified by the Auditor in the Quantitative Abstract of the finished product in Form 3CD, which resulted in the wrong depiction and certification by the Auditor with respect to the Quantitative Abstract of the finished product in four assessee companies, namely M/s W1 Ltd., M/s R1 Ltd., M/s M2 Ltd. and M/s A1 Ltd., involving a total tax impact of ₹ 705.01 crore. It was also noticed that the Assessing Officers committed calculation mistakes while concluding the assessments in two assessee companies, namely M/s P1 Pvt. Ltd. and M/s S1 Ltd., involving a total tax impact of ₹ 3.36 crore.

Systemic issues were observed in case of all eleven assessee companies wherein Excise duty claimed by them in their Profit and loss Account was allowed by the ITD during the assessment proceedings without reconciliation with related assessment records.

Another systemic issue was observed in three assessee companies, namely M/s W1 Ltd., M/s U1 Ltd., and M/s M1 Ltd. wherein a large amount of rebate, discount, etc., were allowed as expenditure in the books of account, however, reasons/genuineness of such claim were not found to be placed in case records. This indicates non-adherence to the powers of verification conferred on the Assessing officer under Section 37 of the Income Tax Act.

Based on the audit findings, it is recommended that:

- **The CBDT may strengthen the existing mechanism for reconciliation of assessment records viz-a-viz, Form 3CD, Profit and Loss account statement, State Excise records etc., especially after the introduction of the Faceless Assessment regime, wherein assessments are being concluded jurisdiction-free to fill the existing gap by critically and correctly analyzing the books of accounts in order to arrive at the correct income of the assessee while concluding the assessment of the Distilleries and Breweries Sector.**

Ministry in its reply stated (July 2022) that the process of assessment in the Income Tax Department has undergone a transformation with the introduction of faceless assessment. Specialized units such as Assessment Units, Verification Units, Technical Units and Review Units have been put in place for optimum utilization of the resources through economies of scale and functional specialization. This is a team-based assessment procedure, where the Assessment Unit can request verification by the Verification Unit and seek technical assistance from the Technical Unit in order to prepare a speaking order. Under Faceless Assessment, the process of Review has been in-built to facilitate an error-free assessment order.

The reply of the Ministry is not tenable as for the purpose of critically and correctly analyzing books of accounts, it is essential, especially after the introduction of a faceless assessment regime, that the department needs to conclude the assessment proceedings after making reconciliation of the Excise Returns with the income reflected in the Profit and Loss Account in respect of assessee engaged in the business of distilleries and breweries. If any unverified quantity is detected during such reconciliation then the same needs to be added to the income of the assessee. Appropriate action needs to be taken to ensure complete accounting of income of the assessee for levy of tax to protect the interest of revenue.

Further, since the Department has introduced the assessment in faceless manner to make the assessment more transparent, the assessment order should be passed with speaking order. Ministry needs to issue necessary direction to strengthen more effective optimum utilization of the resources to avoid recurrence of mistakes leading to revenue leakage.

- **The CBDT may consider applying a combination of risk parameters for the identification of cases for limited as well as complete scrutiny under Computer Aided Scrutiny Selection (CASS) in respect of assessees engaged in Distilleries and Breweries business by also considering the Sales reported in ITR vis-à-vis Sales reported to the respective State Excise Authorities.**

Ministry in its reply stated (September 2022) that this suggestion will be examined while framing the rules for CASS selection criteria.

Audit will await the action taken by the Ministry. (February 2024).

- **At the time of summary assessment for the distilleries and breweries sector, the information in documents attached with the Income Tax Return of the assessee, viz. sale, duties, etc., as given in Profit and Loss Accounts, should be correlated with that certified by the Auditor in Form 3CD. Information should also be in consonance with the data available from CPC (TDS).**

Ministry in its reply stated (September 2022) that the CPC processes the returns u/s 143(1) based on provisions of Section 143(1)(a) of the Income Tax Act. There is no provision in Section 143(1)(a) for bringing to tax the difference between sales declared in Profit and Loss Accounts and sales declared by CA in the Audit report /data available with CPC (TDS).

Although the reply of the Ministry is acceptable in principle, the Department may review/revisit the CASS parameters so that high turnover assessees do not escape the tax ambit. Further, collation and correlation of the information already available with the Income Tax Department in the CPC database/ITBA server/e-filing portal, like Sales/excise duty, VAT and other taxes and levies, depicted in Profit and loss account or Form 3CD/ITR may be reviewed and strengthened to minimize risk of routing of unaccounted amount by entities of Distilleries and Breweries sector and to prevent possibility of tax evasion.

- **The CBDT may consider making appropriate amendments/provisions in the IT Act or consider issuing a SOP/MoP for specifically requisitioning information/ Statement of Financial Transactions (SFTs)¹/AIR or non-AIR from the State Excise Authorities is mandatory, where necessary, on a stipulated total monetary threshold to be decided by the ITD while conducting assessment of the Distilleries and Breweries Sector.**

Ministry in its reply stated (July 2022) that the provisions of Income Tax Act empower the Assessing Officer to seek relevant information from other agencies including the State Excise Authorities, during the course of assessment proceedings. Further, the assessing officer decides whether any information is required to be called for from the other agencies, depending on the facts and circumstances of each case. Therefore, it may not be feasible to mandate the AO to seek information from State Excise Authorities above a threshold limit.

Reply of the Ministry is not tenable as the Distilleries and Breweries sector is a specialized nature of business activity, in which State Excise duty is the significant tax paid and claimed by the assessee as expenditure, which is directly proportional to the income offered for taxation. Therefore, the provision for information regarding payment of State Excise Duty from the respective State Government department relating to the concerned PAN may be included in the SFT information. This would equip the Assessing Officer with the necessary information to allow the correct claim of Excise Duty during the assessment proceedings.

- **The CBDT may consider devising a standard operating procedure for the assessment of entities engaged in the business of distilleries and breweries to ensure error-free assessments. The SOP may include instructions to the Assessing officer(s) for :**
 - Sharing and seeking necessary information from the Jurisdictional AO for verification, through the online system. A certificate to this effect may be given by the assessing officer.**
 - Exercising power as envisaged in Section 133(6) of the IT Act to call for information viz., Excise duty, VAT and other taxes/ duties from the**

¹ **Statement of Financial Transactions (SFTs)** - Before the Introduction of the Faceless Assessment, the verification of the data provided by the system in AIR (Annual Information Return)/CIB from 7 modes was carried out by issuing notices and individually collecting information and details of verification forwarded to concerned Pr. CCITs for further necessary action.

After the Introduction of the Faceless Assessment, verification of data is discontinued from 2.12.2020, and the Data from the DG System is pushed to DGIT Intelligence & Criminal Investigation (DGIT (I&CI)) (erstwhile CIB) through the insight portal. The insight portal deals with SFTs (Statements of Financial Transactions) instead of AIR. Specific limits are set for SFTs, below which, data are also available in the systems. There are 18 SFTs (as 7 in AIR) through which data from third party (Entities) is received in the form of returns under sections 61, 61A & 61B. The Registered Entities (REs) are required to file returns before the due date every year with their ITDREIN (Income Tax Department Registered Individual Number) like PAN/TAN.

respective State Government Authorities to ensure genuineness and correctness of information furnished by an assesseees

- iii. Ensuring that business activity codes are filled compulsorily and correctly in their ITRs and examining the possibility of re-opening assessments and imposing penalty for wrong filling up of business codes.**
- iv. According high priority to cases involving discrepancies in quantitative disclosures of finished products made in Tax Audit Report.**

Ministry for considering devising an SOP stated (July 2022) that a chapter on the assessment of Liquor Trade is provided in Volume 5 of the Manual on Techniques of Investigation, which provides an overview of the sector that will be helpful to the Assessing Officers in conducting assessment proceedings. Further, para no. 14, 15 and 16 of the said chapter details risk areas specific to this sector. The manner of inquiries/ verification during the course of assessment proceedings may vary from case to case, depending on the facts and circumstances of the case. Therefore, it may not be possible to have a Standard Operating Procedure for assessment of entities engaged in distilleries and breweries.

The reply of the Ministry is not tenable as Volume 5 of the Manual on Techniques of Investigation is the guideline for the Investigation Wing dealing in the Liquor Trade. The CBDT may consider devising a detailed Standard Operating Procedure in line with the above manual to be used as guidelines for the assessment of entities engaged in the business of distilleries and breweries.

Ministry, in response to (i) above, stated (September 2022) that under the Faceless Assessment Scheme, the necessary information may be shared by Faceless AOs with the JAOs by using the 'Issue letter functionality' in ITBA. Further, if any verification is required to be carried out by the Faceless Assessing Officers, the same is to be carried out by the Verification Units and not the Jurisdictional AO. There already exists functionality in the Income Tax Business Application (ITBA), over which assessment proceedings are being carried out in a faceless manner, for the Faceless AO to send requests for carrying out verifications to the Verification Unit.

For assessment cases outside the Faceless Assessment Scheme (like the assessments carried out by the Central and International Taxation charges), the assessment proceedings are carried out by Jurisdictional AO. Further, the facility of inter-jurisdictional sharing of details to ensure effective utilization of information through timely sharing of inputs within the ITD is also available in ITBA. The Jurisdictional AO may disseminate information to other Jurisdictional AOs through the Investigation Module of ITBA. This functionality is available in

ITBA w.e.f. 27.02.2020. Furthermore, it is submitted that JAOs have functionalities under the ITBA portal (like Issue letter functionality) along with the webmail facility to seek/share information wherever deemed fit.

The audit noted that the functionality, as stated by the Ministry, was not available during the Audit period. The new facility in ITBA was introduced with effect from 27.02.2020. The implementation of this functionality will be monitored in the succeeding Assessment Years.

Ministry in response to (ii) above, stated (July 2022) that the provisions of the Income Tax Act empower the Assessing Officer to seek relevant information from other agencies, including the State Government Authorities, during the course of assessment proceedings. Further, the Assessing Officer decides whether any information is required to be called for from other agencies depending on the facts and circumstances of each case.

Reply of the Ministry is not tenable as State Excise Duty is the major tax paid in the liquor manufacturing industry claimed by the assessee as expenditure directly impacts the income offered for taxation. In all the cases audited, the assessing officers during the assessment proceeding have not exercised the power laid down under Section 133(6) of the Act to call for information from the respective State Excise Authorities to confirm the actual State Excise duty paid by the assessee. Substantial information available with the State Excise Department is required to be collected by ITD in a routine manner by establishing a mechanism to ensure that such details are reconciled by the assessing officers while concluding assessments for realistic determination of tax effect. Hence, provisions of Section 133(6) of the Act should invariably be invoked by the Assessing Authorities in the interest of revenue from the concerned State Excise Department rather than calling for individual challans on a test-check basis.

Ministry in response to (iii) above, stated (July 2022) that the business codes are filled by assessee while filing the return of income online. There are penal provisions available for furnishing false information in the Income Tax Returns e.g. any deliberate attempt to give wrong information in an ITR can lead to possible prosecution and/or penalty under the Income Tax Act.

The reply of the Ministry is not tenable as though the Business Codes are filled up by the assessee; the same is also required to be certified by the Chartered Accountant through a tax Audit Report. The errors in codes filled in by the assessee may be updated during subsequent scrutiny assessments, especially based on available information, to ensure correct activity/ business-wise categorization of assessee and ensure reliable MIS generated from the database maintained centrally within the ITD. The CBDT may consider issuing necessary instructions in this regard, including the option of issuing notice to the

assessee for incorrect reporting of business codes at the time of scrutiny assessment.

Ministry in response to (iv) above, stated (September 2022) that this suggestion will be examined while framing the rules for CASS selection criteria.

Audit will await the final outcome of the efforts made by the Ministry to streamline the system. (February 2024).

- **Considering the specialized nature of business activity of the assesseees of Distilleries and Breweries 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 agreements entered into where the issues related to mismatch in the disclosure of Sales of the main assessee vis-à-vis their related parties are noticed.**

Ministry stated (July 2022) that as per the provisions of Section 142(2A) of the Income Tax Act, the Assessing Officer may form an opinion whether it is necessary to conduct a special Audit in a particular case after taking into consideration various factors like nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialized nature of business activity of the assessee and the interest of the revenue. Therefore, whether or not the special audit has to be conducted is to be decided on a case-to-case basis by the Assessing Officer.

The reply of the Ministry is not tenable as the assesseees of the Distilleries and breweries sector are involved in a multiplicity of transactions, and the Assessing Officer, in the normal course of assessment, does not recommend a special audit. In all the cases audited, the AO failed to identify the tax evasion as pointed out by Audit. However, the ITD, in one case, referred the case of M/s P1 Pvt. Ltd AY 2017-18 for special Audit u/s 142(2A) of the Act. Accordingly, on 'reconciliation of excise returns w.r.t. to income reflected in Profit and Loss account', the SA reported an unverified quantity amounting to ₹ 956.61 crore, out of which the ITD made an addition of ₹ 206.84 crore, which includes an addition of ₹ 191.32 crore on account of the above-unverified account.

- **The CBDT on a certain threshold turnover limit for this sector may consider making it compulsory for the Auditor to mention the necessary details of VAT/ other duties/Taxes in Form 3CD, which were not routed through the Profit and Loss Account. The Auditor should also mention the Sale at 34(a) was either gross sale or net sale. Further, the Auditor should specifically mention the bifurcation of total sales into TCS/Non-TCS sales with the corresponding Excise Duties in the Profit and Loss Account.**

Ministry in its reply stated (September 2022) that Sub-Section (1) of Section 206C of the Act provides for collection of tax by the seller at the time of debiting of account with the amount payable by the buyer or at the time of receipt of consideration from the buyer of alcoholic liquor for human consumption at the rate of one *percent*. Such tax has to be deposited by the seller to the credit of the Central Government within the prescribed time.

In clause 34(a) of Form 3CD, the auditor is required to report the details of tax deduction and tax collection made by the taxpayer during the year such as nature of payment, Section under which tax is to be deducted /collected etc. Hence the TCS is collected on gross amount which is already being reported in clause 34(a) of Form No. 3CD.

The suggestion of Audit that clause 34(a) should have a bifurcation of gross vs net and TCS vs non-TCS is not feasible. The purpose of clause 34(a) is to capture TDS and TCS details which can then be verified, if needed. While designing Audit form, it has to be ensured that it does not become bulky and does not lead to unnecessary compliance burden.

Although the Ministry's reply is acceptable in principle, the Ministry may decide on a threshold turnover limit for this specific sector, wherein the Auditor has to mandatorily mention the bifurcation of Gross sale or net sale, TCS and non-TCS sale, etc., in Form 3CD. Details of TCS and non-TCS sales with corresponding excise duty, VAT, and other duties will enable the assessment of the correct income in the interest of revenue.

- **The CBDT may consider issuing elaborate business codes for the Distilleries and breweries sector. These business activity codes would enable ITD to prepare and update a comprehensive database of all the distilleries and breweries, which will facilitate the identification and selection of assessees in this sector for scrutiny assessment under CASS parameters.**

Ministry for considering issuing elaborate business codes stated that (July 2022) the business codes are filled by assessees while filing the return of income online. It may not be possible for the AOs to ensure the correctness of the business codes.

Reply of the Ministry is not tenable as the CBDT may consider having elaborative business codes prescribed for the Distilleries and breweries sector. Although the Business Codes are filled up by the assessees, the same is also required to be certified by the Chartered Accountant through a Tax Audit Report. The errors in codes filled up by the assessee may be updated during subsequent scrutiny assessments, especially based on available information, to ensure correct activity/ business-wise categorization of assessees and ensure reliable MIS generated from the database maintained centrally within the ITD.

- **The CBDT may consider examining reasons for the non-verification of differences in the disclosure of stocks as per ITR/Profit and Loss Account and TAR, specifically in entities with large sales turnover, at the stage of scrutiny assessment. Further, where the value of stocks has been shown in ITR and Annual accounts but the quantitative details have not been disclosed, and vice versa, the reasons for the same and their impact on profitability should be ascertained in the assessment to minimize the risk of non-routing of finished products by entities of Distilleries and breweries sector and to prevent the possibility of tax evasion.**

Ministry in its reply stated (July 2022) that this para will be answered in the respective illustrated cases.

Audit will await case-wise specific reply from the Ministry. (February 2024).

- **The CBDT may strengthen the existing mechanism for inter-departmental sharing of inputs, including Excise duty, VAT, and other taxes/duties details, with the Assessing Officers of the counterparties for examination and cross-verification of the Excise duty, VAT, and other taxes/duties disclosed by the assessee(s) during the assessment of the Distilleries and Breweries Sector.**

Ministry, in its reply, stated (September 2022) that the Income Tax Department (ITD) takes appropriate action as per law against various categories of Tax evaders, including assessees dealing in the business of breweries & distilleries. While taking such action, ITD does not distinguish between various categories of tax evaders. Whenever any instance of tax evasion and unaccounted/ black money comes to the notice, the Income Tax Department takes appropriate action as per the provisions of the Income Tax Act, including issuing summons, calling for information, conducting search and survey, assessment and reassessment of income, levy & recovery of tax, imposition of penalty, launching a prosecution etc.

Moreover, it may also be submitted that with effect from 01.04.2021, the scheme of reassessment under the Income Tax Act has been amended. The procedure for selection of a case (including the case of an assessee dealing in the business of brewery & distillery) for reassessment is now subjected to a risk management strategy at an appropriate level. This ensures a focused approach on the part of the assessing officer on the risk parameters let out, thereby aiding him in unearthing corresponding tax evasion.

In addition to the above, it may be submitted that the ITD receives information regarding tax evasion by any assessee (including the assessees dealing in the business of distilleries and breweries) through various channels. These channels, inter-alia, include the following:

- a) Information sharing platforms between various government agencies/organizations like the Central Economic Intelligence Bureau (CEIB) and the Regional Economic Intelligence Committee (REIC), wherein the ITD receives/shares information from /to other member agencies, including the state agencies.
- b) Information filed with the ITD in the form of SFTs (Specified Financial Transactions) above notified thresholds relating to specified transactions.
- c) Suspicious Transaction Reports (STRs) received through FIU-IND.
- d) Specified information received from any other Law Enforcement Agency (LEA) for appropriate action, etc.
- e) Tax Evasion Petitions (TEPs) and informers.

All the aforementioned information about tax evasion provides information irrespective of the category of tax evaders. As and when such information is shared with the ITD, it takes action in the manner in accordance with the provision of Direct tax laws.

Though the Ministry's response is acceptable in principle, however the reply is silent specifically on the information sharing mechanism with the State Excise Department, where there is a wealth of information as highlighted by Audit in its Report. Audit noted that this information was not shared between the ITD and State Excise Authorities of the respective State Governments. No efforts seem to have been made by the AO while concluding the assessment proceedings to reconcile the different amounts of sale appearing at different places like Form 3CD, Profit and Loss Account, CPC(TDS), Vaishali, Ghaziabad and with the Excise Authorities. This is evident from the observations pointed out by Audit with respect to assessees of this sector. Sales figures at all these places were required to have been reconciled and verified in the interest of revenue. The risk of revenue leakage with respect to these assessees involved in Liquor manufacturing, requires timely action by the ITD to ensure that such loopholes/gaps do not exist in the system in subsequent years.

- **The CBDT may examine whether the instances of 'errors' noticed are errors of omission or commission, and if these are errors of commission, then they should ensure necessary action, including fixing responsibility where glaring mistakes have been pointed out by Audit, during examination of companies dealing in the business of Distilleries and Breweries, as per law.**

Chapter-1: Introduction and Audit Approach

Section-I Introduction

1.1 Overview

India is one of the fastest-growing alcohol markets in the world. The rapid increase in urban population, a sizeable middle-class population with rising spending power and a growing economy are significant reasons attributed to the increase in the consumption of alcohol in India.

State Excise Duty and VAT are State subject and decided by the respective State Governments, and every State has its own regulations. Liquor business is governed by Government regulations; alcohol production, distribution and sales are regulated by each State.

Income Tax and Corporate Tax are central subject, and are collected as per provisions of the IT Act 1961 (Act).

Stakeholders: There are three main sets of stakeholders: distilleries and breweries, State Excise Authorities, and the Income Tax Department (ITD).

1.2 Distilleries and Breweries:

Distilleries and Breweries are the key players engaged in the manufacturing, bottling and selling of alcoholic products under the stringent control of the State Excise Department.

The distilling industry is that part of the food and beverage industries engaged in clarifying, flavouring, blending and ageing alcohol to make potable spirits (e.g., brandies, grain spirits, rum) and establishments which manufacture ethyl alcohol, whether they are or are not used in potable spirits. Manufacturers of methyl, butyl or isopropyl alcohol are considered part of the chemical industries. The distilling industry is a world-class multinational industry.

A **brewery** or **brewing company** is a business that makes and sells beer. The place at which beer is commercially made is either called a brewery or a beerhouse, where distinct sets of brewing equipment are called plant.

Brewing typically undergoes the following procedures: milling, malting, and mashing¹, lautering², boiling³, fermenting⁴, conditioning⁵, filtering⁶, and filling.

Contract manufacturing is when one distillery or brewery utilizes the manufacturing capacity of another distiller or brewer to produce its product. They may enter into business agreements to finally get a finished product of their own quality. The terms of a contract being agreed upon by the parties cannot override the applicable provisions of the relevant Act and also cannot shift the ownership right of a manufactured item.

Distilleries and Breweries are responsible for collecting Tax at Source (TCS) at specified rates at the time of sale and filing TCS returns with the ITD. They are responsible for obtaining PAN and file a return for their income with the ITD. They have to keep their financial statements in such a way that all the transactions in respect of all income and expenditure accruing to the manufacturing unit are included in its accounts, and the same are audited under section 44AB, satisfying the specified conditions under the Act. Then, they are supposed to file their income tax return within the due dates decided by the CBDT along with attachments like Form 3CD, financial statements, and their related schedules under the provisions of the Act, which are statutory.

ITD carries out the necessary verification, viz., correct computation of income by the assessee, reconciliation between the P&L Account, Form 3CD and what offered in the ITR/computation of income, correct claim of expenditure and taxes paid, correct determination and allowance of set-off of current year/brought forward losses, correct determination and allowance of MAT credit etc. as described under different sections of the Act and ensures that the true income and expenditure have been reflected in Financial Statements and the assessee has not indulged in any tax evasion.

¹ **Mashing** is the process of mixing milled, usually malted grain with water and heating it with rests at a certain temperature to allow enzymes in the malt to break down the starches in the grain into sugars, especially maltose.

² **Lautering** is the separation of the extracts won during mashing from the spent grain to create wort.

³ **Boiling** the wort ensures its sterility, helping to prevent contamination with undesirable microbes. During the boil, hops are added, contributing aroma and flavour compounds to the beer, especially their characteristic bitterness. Along with the heat of the boil, they cause proteins in the wort to coagulate and the pH value of the wort to fall, and they inhibit the later growth of certain bacteria. Finally, the vapours produced during the boil volatilize off flavours, including dimethyl sulfide precursors. The boil lasts between 60 and 120 minutes, depending on its intensity, the hop addition schedule, and the volume of wort the brewer expects to evaporate.

⁴ **Fermentation** begins as soon as yeast is added to the cooled wort. This is also the point at which the product is first called beer. It is during this stage that fermentable sugars won from the malt are metabolized into alcohol and carbon dioxide.

⁵ **Conditioning** starts when the sugars in the fermenting beer have been almost completely digested, the fermentation process slows and the yeast cells begin to die and settle at the bottom of the tank. At this stage, especially if the beer is cooled to around freezing, most of the remaining live yeast cells will quickly become dormant and settle, along with the heavier protein chains, due simply to gravity and molecular dehydration.

⁶ **Filtering** of the beer stabilizes flavour and gives it a polished, shiny look. The beer is finally packaged in containers like bulk tank or bottle, can, etc.

1.3 State Excise Authorities:

The main objective(s) of State Excise Authorities are to regulate the legitimate sale of liquor, help promote the development of alcohol/molasses-based industries, and earn maximum revenue through the controlled and legitimate sale of Alcohol for the welfare of the state.

The Distilleries and Breweries business is very closely monitored by the State Excise Department of every State to prevent the revenue leakage of State Excise Duty and VAT and to regulate arbitrary price fixation [ex-distillery price (EDP) and Ex-brewery price (EBP)] of the alcoholic products by the Distilleries and Breweries.

The determination of EDP/ EBP is an important responsibility of the Excise Department, which ensures both the availability of liquor at reasonable prices and adequate revenue collection from liquor sales. The key elements of pricing of liquor (MRP calculation) are as depicted in **Table I –**

Table I Key Elements of Pricing of Liquor		
Sl. No.	Elements	Basis of calculation
1.	Ex-distillery price/ Ex-brewery price (EDP/ EBP)	EDP and EBP is the price at which the manufacturers supply Indian Made Foreign Liquor (IMFL) and Beer respectively to wholesalers before adding excise duty, profit margins of wholesalers and retailers. EDP/ EBP is offered by the distilleries/ breweries and approved by the Excise Commissioner.
2.	Excise duty	The State Government periodically fixes this as a percentage of EDP/ EBP on IMFL/ Beer.

Source: Excise policy, Government of Uttar Pradesh

1.4 Income Tax Department (ITD) Role:

The Central Board of Direct Taxes (CBDT) is the highest body in the Direct Tax system. The Assessing Officer (AO) is responsible for assessing a taxpayer in his or her respective jurisdiction.

As per section 144B of the Act, the CBDT introduced (August 2020) a Faceless Assessment Scheme 2019 with its amendments. After the faceless assessment is completed, all the electronic records of the case are transferred to the Assessing officer having jurisdiction over the said case for such action as may be required under the provisions of the Act.

The Income-tax authorities have the power to collect information, call for information, possess books of accounts and discover and produce evidence.

All assesses are to file their Income Tax Returns (ITRs) within the due dates decided by the CBDT, along with necessary attachments like Form 3CD,

Financial Statements and their related schedules. While filing an ITR, the assessee has to fill in the relevant business activity codes⁷.

As per the provisions of the IT Act, every TCS collector is required to furnish a TCS return. As a part of the risk management strategy⁸, the ITD adopts the following procedure:-

- (a) Assessment is completed under Section 143(1) through computerized processing known as summary assessment. All Returns of Income (ROIs) are processed to check for arithmetical errors, incorrect claims apparent from returns, allowances of loss, expenditures, deductions, tax calculation, and verification of tax payments.
- (b) Assessment is completed by passing an order by the AO under Section 143(3) of the Act, known as scrutiny assessment, after verification of the assessee's income and expenditures. The cases for scrutiny assessments are to be selected from the Income Tax Return (ITR) filed by an assessee through Computer-Aided Scrutiny Selection (CASS) on the basis of parameters identified and pre-defined by the ITD. These cases are closely examined to arrive at the correct assessments to ensure that there is no evasion of taxes.

Section-II Audit Approach

1.5 Audit Objectives:

The objectives of this Audit are to ascertain –

- I. Whether all receipts and expenditure of selected distilleries and breweries have been accounted for and correctly offered for tax as per the provisions of the Income Tax Act, 1961?
- II. Whether third party reporting was taken into cognizance for ensuring there was no evasion of tax by distilleries and breweries?
- III. Whether any mechanism of inter-departmental and intra-departmental co-ordination exists with the IT department with regard to distilleries and breweries?
- IV. Whether the mechanism in the ITD in place for collating and correlating the existing documents/records was efficient and effective?

⁷ **Business Activity Code**- A business activity code classifies a taxpayer according to its primary activity. There may be different codes for entities operating in multiple businesses.

⁸ **The risk management strategy** reflects the view of ITD as to how it intends to manage risk potentially of all types but at least within a discrete category of risk, including policies, procedures, and standards to be used to identify, assess, respond to, monitor and govern risk in the interest of revenue implementing the intent of the legislature through the provisions of the Act.

1.6 Why we chose this topic:

India is one of the fastest-growing alcohol markets in the world and with the rapid increase in consumption of the alcoholic products and expansion of the business of the companies involved in this sector led to the high value of transactions. Income Tax Act provides for reporting/certification through the audit of accounts and audit reports from an Accountant. It needs to be ensured that the books of accounts of the assessee reflect the true income of the taxpayer and the same is being offered for computation of income tax. This is a tool in the hands of the Department while deciding the correctness of the income declared by the assessee and determining the true and correct income of the assessee and detecting tax evasion and avoidance.

Audit intended to derive an assurance that, the income, being offered for taxation for the purposes of computation of income tax, being disclosed/accounted in the Financial Statements and consequently depicting the consistencies in the accounts. It was also essential to find mismatch, if any, in the sales made and duties paid in the State Excise Department vis a vis that reflected in the financial statement, mechanism for inter-departmental and intra-departmental coordination/reconciliation with the assessee.

1.7 Audit Scope and Sample Selection:

We selected eleven companies of this sector (**Annexure A-1**) for examination covering the period of 10 years, i.e., from the Assessment Years 2009-10 to 2018-19.

An audit of records of these eleven companies falling within the ITD jurisdiction in the states of Uttar Pradesh, Maharashtra, Karnataka, and New Delhi was conducted. The records of the relevant Assessment Years were requisitioned, and observations were made on the basis of cases assessed under Section 143(3)⁹ as well as those processed under Section 143(1)¹⁰ of the Act. Records of assessee viz. Return of Income (ROI), Audit Report, Balance Sheet, Profit & Loss Account, related schedules, etc., were requisitioned and obtained from the ITD. Information regarding TCS sales of identified assessee from CPC (TDS), Vaishali, Ghaziabad was requisitioned and obtained.

Information was also requisitioned from the State Excise Department of Uttar Pradesh, New Delhi, Maharashtra and Karnataka regarding sales made, excise

⁹ **Section 143(3) of IT Act** provides that AO has to determine and assess the income correctly. Different types of claims together with accounts records and all documents enclosed with the return are required to be examined in detail in scrutiny assessments. CBDT has also issued instructions in this regard from time to time.

¹⁰ **Section 143(1) of IT Act** provides that an AO can complete the assessment without passing a regular assessment order. Processing of return of income under section 143(1) is mandatory even if scrutiny notice is issued under Section 143(2).

duty paid, working licenses granted and agreements entered relating to concerned distilleries/breweries and obtained only from the Uttar Pradesh State Excise Department.

1.8 Audit Criteria:

The audit analyzed the data obtained from CPC (TDS), Vaishali and relevant provisions of the Income Tax Act, manuals, rules, and government notifications to evaluate the performance of the Income Tax Department with respect to the assessment of distilleries and breweries. The following sources of criteria were considered:

- (i) Income Tax Act, 1961
- (ii) ICAI Guidelines issued from time to time
- (iii) State Excise Licenses from and other data provided by the Uttar Pradesh State Excise Department & other State Excise Departments.
- (iv) Judicial pronouncements
- (v) White Paper on Black Money published by Ministry of Finance in 2012
- (vi) Working Agreements between the companies, if any

1.9 Legal Provisions:

Judicial pronouncements, legal provisions, relevant provisions of the Act, rates, etc., are summarized in **Annexure A-2**.

1.10 Constraints:

Non-Production of records¹¹: We were limited to the records provided by the ITD, as the following records were neither found placed in the assessment folders nor did the respective Assessing Officers make them available to Audit:

- (i) Copy/reference of agreement(s) between Manufacturing Units i.e. M/s W1 Ltd., M/s U1 Ltd. and M/s M1 Ltd. of Liquor/Beer with others, if any, for Assessment Years 2009-10 to 2018-19.
- (ii) A list of Sundry Debtors/Creditors/Advances/other liabilities was not available in the schedule of the Balance Sheet, and their confirmations were also not available in the scrutiny assessment records. Hence, the Audit requisitioned the details of the top five Sundry Debtors/Creditors/Advances/other liabilities of M/s W1 Ltd., M/s U1 Ltd. and M/s M1 Ltd. for Assessment Years 2009-10 to 2018-19, which were not furnished to Audit.

¹¹ **Non Production of Records:** Section 18 of CAG's (DPC) Act, 1971, provides that the CAG shall have the authority to require that any accounts, books, papers and other documents which deal with or form the basis of or otherwise relevant to the transactions to which his duties in respect of Audit extend, shall be sent to such place as he may appoint for his inspection. It is also incumbent on ITD to expeditiously produce records and furnish relevant information for auditing.

- (iii) The appraisal report was not provided to Audit; only an extract of the draft Appraisal report was provided in the case of M/s U1 Ltd.
- (iv) In the case of four assessees viz. M/s P1 Pvt. Ltd., M/s R1 Ltd., M/s S1 Ltd. and M/s M3 Pvt. Ltd., details of Non-TCS sale were not given in the Audit Report, besides the column prescribed in the guidance note issued by the ICAI. Certificates as required under Sections 195/197 of the IT Act, for there was no deduction or lower deduction of tax at source, were not provided to Audit in the case of M/s R1 Ltd. Bifurcation of sale as TCS and Non-TCS sale was not provided in the Profit and Loss accounts. VAT and other levies were not routed through Profit and Loss accounts and their details were not provided in the Audit Report.
- (v) An appraisal report was not provided to Audit regarding the search conducted on M/s P1 Pvt. Ltd. and M/s R1 Ltd.
- (vi) A complete Report of the Special Auditor under Section 142(2A) of the Act for the Assessment Year 2017-18 in the case of M/s P1 Pvt. Ltd. was not provided.
- (vii) Financial Statements of Assessment Year 2018-19 were not furnished to Audit in the case of M/s P1 Pvt. Ltd. and M/s R1 Ltd.
- (viii) Details of Tax collected at source and corresponding sale for Assessment Year 2018-19 were not available in CPC Data in the case of M/s S1 Ltd.
- (ix) Details of trade discounts, breakage during manufacturing, sales returns, and scrap sales directly linked to net profit were neither provided in the profit and loss accounts nor in the balance sheet in the case of M/s M2 Ltd.
- (x) Details of Tax collected at source and corresponding sale for Assessment Years 2016-17, 2017-18 and 2018-19 were not available in CPC Data in the case of M/s M2 Ltd.
- (xi) Excise Duty deposited in the State Excise Department and the corresponding sale, as well as confirmation from the State Excise Department, was not available in the Scrutiny Assessment records in the cases of eleven assessees viz. M/s.W1 Ltd., M/s U1 Ltd., M/s M1 Ltd., M/s P1 Pvt. Ltd., M/s R1 Ltd., M/s S1 Ltd., M/s M2 Ltd., M/s M3 Ltd., M/s A1 Ltd., M/s U2 Ltd. and M/s U3 Ltd.
- (xii) ITR of M/s M2 Ltd. for the Assessment Year 2018-19 was not provided.
- (xiii) Reference of self-consumption of the products was not given in the Sl. No. 35bB of Audit Report. 'Any other report of Form 3CD i.e., notes forming part of Form 3CD' was not provided to Audit with the attached documents uploaded with ITRs in case of M/s M2 Ltd.
- (xiv) Assessment Order passed under section 147 of M/s A1 Ltd. for Assessment Year 2015-16 was not provided.

- (xv) Assessment folders/case records viz., Assessment orders, Audit Report, and Financial Statements in respect of M/s U2 Ltd. for the Assessment Years 2013-14, 2017-18 and 2018-19 were not provided.
- (xvi) The Department did not provide bifurcation for the figures of sale under 'Tie-up Agreements' as appearing in the Profit and Loss Account of M/s U2 Ltd. for the Assessment Year 2014-15 to 2016-17. Assessment folders/case records viz., Audit Report, Financial Statements in respects M/s U3 Ltd. for the Assessment Year 2018-19 were not provided.
- (xvii) Superintendent, State Excise Duty, Aurangabad, under the State Government Maharashtra, has provided the details of Sales (own brand) and Excise duty paid, which was only a part of the Sales and Excise duty claimed in the Profit & Loss accounts. Part information regarding Import Permit on liquor stock in Delhi was provided by the office of the Commissioner of Excise, ENTT. & L Tax Department, Government of National Capital Territory of Delhi. The State Excise Department of Karnataka provided the details of the sale made by the Distillery and Brewery units of M/s U2 Ltd. and M/s U3 Ltd. within the State, which does not cover other States.

Owing to the non-production of records as detailed above, Audit was constrained in examining/ verifying these records as a result Audit was unable to get assurance regarding the due diligence exercised by the AO while concluding these assessments.

1.11 Acknowledgement:

We acknowledge the cooperation of the Income Tax Department in facilitating the audit by providing the records and information related to the conduct of the "examination of assesseees involved in the business of Distilleries and Breweries", except the non-production as detailed above. On this account, Audit was constrained in examining the extent of compliance in these cases.

Chapter-2: Audit Findings

Audit noted that there was short accounting of sale under the garb of agreement with other parties; lack of inter/intra-departmental coordination and non-reconciliation with the assessee; arithmetical discrepancy and certification by the Auditor with respect to Quantitative Abstract of the finished product in Audit report; calculation mistakes; revenue impact due to lack of inter-departmental coordination; and non-adherence to the powers conferred by the provisions of the Act efficiently and effectively by the Assessing Officers. The Gist of the Audit findings is detailed below in **Table II**:

Table II-Gist of Audit Observations			
Title of Para	Para No.	Name of Assesseees	Tax effect (₹ in crore)
1. Short accounting of sale under the garb of agreement with other parties.	2.3.1.1(a) to (e)	M/s W1 Ltd.	2,688.77
	2.3.1.2	M/s U1 Ltd.	1,020.53
	2.3.1.3(a) to (c)	M/s M1 Ltd.	729.81
2. Lack of inter-departmental and intra-departmental coordination/reconciliation with the assessee.	2.3.2.1(a) & (b)	M/s U1 Ltd.	41.21
	2.3.2.2	M/s P1 Pvt. Ltd.	4,589.42
	2.3.2.3	M/s R1 Ltd.	2,126.21
	2.3.2.4	M/s S1 Ltd.	664.22
	2.3.2.5	M/s M3 Pvt. Ltd.	85.42
	2.3.2.6	M/s M2 Ltd.	93.96
	2.3.2.7	M/s A1 Ltd.	133.22
	2.3.2.8	M/s U2 Ltd.	4,396.48
	2.3.2.9	M/s U3 Ltd.	642.49
	2.3.2.10	M/s M1 Ltd.	8.59
3. Arithmetical discrepancy and certification by the Auditor with respect to the Quantitative Abstract of the finished product.	2.3.3.1(a) & (b)	M/s W1 Ltd.	278.45
	2.3.3.2	M/s R1 Ltd.	416.96
	2.3.3.3	M/s M2 Ltd.	8.81
	2.3.3.4	M/s A1 Ltd.	0.79
4. Calculation mistakes	2.3.4.1	M/s P1 Pvt Ltd.	1.36
	2.3.4.2	M/s S1 Ltd.	2.00
5. Revenue impact due to lack of inter-departmental coordination.	2.3.5 (i), (ii) & (iii)	All the selected 11 companies.	Systemic Issue
6. Non-adherence to the powers conferred by the provisions of the Act.	2.3.6.1(a) (i) to (iii)	M/s W1 Ltd.	Systemic Issue
	2.3.6.1(b)	M/s U1 Ltd.	Systemic Issue
	2.3.6.1(c) (i) to (iv)	M/s M1 Ltd.	Systemic Issue
	2.3.6.2	M/s W1 Ltd., M/s U1 Ltd., and M/s M1 Ltd.	Systemic Issue

Audit findings during the test check of the records for Assessment Years 2009-10 to 2018-19 are discussed in the succeeding paragraphs.

2.1 General Audit Observations:

2.1.1 Applicability of Section 68/69C:

Section 68 of the Act implies that if any sum is found credited in the books or books of account of the assessee and the assessee is not able to explain/prove the source and genuineness of the aforesaid sum to the satisfaction of the Assessing Officer; then the same may be added under Section 68 of the Act.

As per section 69C of the Act any expenditure incurred by the assessee where no explanation about the source of such expenditure is offered by the assessee to the satisfaction of the AO, then the same may be deemed to be the income of the assessee for such financial year.

The onus of proving the genuineness and source of such income and expenditure lies with the assessee.

Audit observed that the assessees involved in the business of Distilleries and Breweries

- a) have not accounted for the entire sale of alcoholic products
- b) and have not accounted for the entire expenditure for which corresponding State Excise Duty was deposited with the respective State Governments.
- c) The income reflected in the Profit and Loss Account has been found to be under/short-reported when compared with the information made available by the State Excise Department.
- d) The income reflected in the Profit and Loss Account has been found to be under/short-reported when compared with the information reported by the Auditor in form 3CD.
- e) In 03 cases out of a total sample of 11 cases, assessees have stated that there were agreements with other parties for whom they were manufacturing and selling their products but not bringing the transactions into their books of accounts.
- f) Further, the Assessing Officers neither exercised the powers conferred to them by the Act to ensure the correctness of the sale/expenditure reflected in the Profit and Loss Account by confronting the assessees during the assessment proceedings nor called for the information from the respective State Excise Departments to arrive at the true and correct income during the assessment proceedings.

The income, though accruing, but not offered for taxation for the purposes of computation of income tax, however, was found credited in books falling in consonance with Section 2(12A) of the Act¹² were not disclosed/accounted in the Financial Statements and consequently depicted the inconsistencies in the accounts and remained unexplained. The above omissions/lapses resulted in evasion of tax by the respective assessees.

Therefore, in such cases, in the opinion of Audit, additions are required to be added under the relevant Section 68/69C of the Act.

2.1.2 Mismatch in Sales figures in Books of Accounts vis-à-vis Tax Audit Report (TAR):

To discourage tax avoidance and tax evasion and to ensure that the books or books of accounts of the assessee faithfully reflect the income of the taxpayer, the Income Tax Act provides for reporting/certification through the audit of accounts and audit reports from an Accountant. It facilitates the administration of tax laws by a true/proper presentation of the accounts before the tax authorities. Accountants have been mandated to be facilitators for the Income Tax Department in administering the provisions of the Act correctly. The assessing officer is expected to make an independent judgement while finalizing the assessment and can require the assessee to justify his claims with reference to records and evidence.

Consequent to the audit of the Financial Statements of an assessee by an Accountant registered with the Institute of Chartered Accountants of India, the report is submitted in Form No. 3CD, which is the Statement of particulars required to be furnished under section 44AB of the Income-tax Act. This form is devised by the Institute of Chartered Accountants of India and is recommendatory in nature, which the members of the Institute may like to abide. This report is considered a report of the third party, which has its own recognition and is a tool in the hands of the Department while deciding the correctness of the income declared by the assessee and determining the true and correct income of the assessee.

The audit reviewed the assessment records of the specified corporate assessee with a defined sample size to ensure that the tax audit reports, particularly figures reported at Sl. No. 34(a) were complete in themselves to provide sufficient and requisite information to the Assessing Officer aiding him in completing the assessment as required under the Act.

¹² **Section 2(12A) of the Act**- Books or Books of Account" includes ledgers, day-books, cash books, account-books and other books, whether kept in the written form or in electronic form or in digital form or as print-outs of data stored in such electronic form or in digital form or in a floppy, disc, tape or any other form of electro-magnetic data storage device.

The current report has taken into cognizance the figures reported by the Auditors in Form No. 3CD, particularly at Sl. No. 34(a), which have then been compared and verified with the figures reported in the Financial Statements vis-a-vis the information obtained from different agencies like the State Excise Department, CPC(TDS), Vaishali, Ghaziabad, etc. The purpose is to determine any variation/underreporting of the income to safeguard the interest of revenue and to ensure that the intent of the legislature embedded in the different section/provisions of the IT Act are being complied with by the taxpayers and the tax authorities. However, it was observed during the audit that the figure for sales appeared in profit and loss accounts and in the tax audit report (TAR), at Sl.No. 34(a) could not be reconciled.

In response, ITD stated that the Excise Duty paid by the assesseees is routed through the Profit and Loss Account. However, the VAT and other taxes paid by the assesseees are not routed through the Profit and Loss Account but are included in the Tax Audit Report at Sl.No. 34(a). In the absence of bifurcation of the figures appearing at Sl.No. 34(a), which has been stated to be comprising of TCS sale plus Excise Duty plus VAT & other taxes, Audit could not derive an assurance about the correctness of the different amounts included in the TAR as aforesaid, which could then be compared with the amount of sale either Gross (including Excise) or Net (excluding excise) in the Profit and Loss Account, thus exhibiting inherent inconsistencies.

2.1.3 Non-bifurcation of TCS/Non-TCS Sale:

TCS is collected on the liquor of alcoholic nature made for human consumption at specified rates as per the provision of the Act. However, there are certain sales on which the seller is not required to collect the TCS, like sale to CSD canteens, clubs, Corporations etc.

The sales reflected in the Profit and Loss Account (P&L) comprise sales on which TCS was collected and also sales on which no TCS was collected. However, the bifurcation of this TCS and Non-TCS sale in the P&L Account is not provided by any of the Assessee in the audit sample. The issue to confirm the TCS sale in the P&L Account with the TCS sale in Form 3CD at Sl.No. 34(a) where the Accountant has not bifurcated the figure of TCS sale (where it is a combined figure of TCS sale, excise duty, VAT and other taxes) was also not examined by the Assessing Officers during the course of assessment proceedings. As figures were not provided separately in P&L Account and TAR, Audit could not verify the correctness of these figures.

Further, Audit noted that Certificates issued, if any, for no deduction/ collection or lower deduction/collection of tax at source required under Sections 195/197 of the IT Act, were not available in the case records. In

their absence, Audit could not establish an assurance about the correctness of these figures.

It may be noted that Para 58.10 of the Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961, issued by ICAI for reporting of TCS/Non-TCS sales, states that in column (6) the tax auditor is required to furnish the total amount out of the amount deductible or collectible as mentioned in column (5) of Sl. No. 34(a) at which the tax was deducted or collected at the specified rate.

2.1.4 Reopening of cases:

The Assessing Officer may, subject to the provisions of Sections 148 to 153, assess or reassess such income and any other income chargeable to tax that comes to his notice and has escaped assessment. Changes made vide respective Finance Acts are as detailed below:-

- (a) **Prior to the Finance Act 2021**, reopening was permissible for a maximum period of six years and, in some cases, even beyond the period of six years, subject to certain conditions.
- (b) **By the Finance Act 2021**, Sections 147 to 149 and Section 151 have been substituted. No notice under Section 148 of the Act can be issued without following the procedure prescribed under Section 148A. Along with the notice under Section 148, the Assessing Officer is required to serve the order passed under Section 148A of the Act. Section 148A is a new provision in the nature of a condition precedent.
- (c) **As per the Finance Act 2022**, the Time limit for issue of notice u/s 149 is amended as follows: If three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of an asset, expenditure in respect of a transaction or in relation to an event or occasion or an entry or entries in the books of account which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more.

The IT Act empowers the Assessing Officers by way of the provisions of the Act as above to address the cases of revenue leakage. However, due diligence is to be adopted by authorities to minimize the chances of such leakages. Measures need to be developed by the monitoring authorities to ensure that cases do not become time-barred and revenue leakage cases are rectified suo-moto.

2.2 Systemic Issues:

2.2.1 Use of General Business Activity Codes till AY 2017-18

Audit noticed that the assessee pertaining to the Distilleries and Breweries sector filed their ITR using Business activity code '0124' related to 'Manufacturing Activity (Others)' during the Assessment Years 2009-10 to 2017-18. The ITD has allocated codes, i.e., 'Manufacturing of wines- 04016' 'Manufacture of beer- 04017', 'Manufacture of malt liquors- 04018', 'Distilling and blending of spirits, production of ethyl alcohol- 04019', etc. from Assessment Year 2018-19. The ITD had not allocated any specific business activity code with respect to the Distilleries and Breweries sector till Assessment Year 2017-18, which resulted in the non-identification of assessee operating the business of Distilleries and Breweries while deciding the parameters for selection of the cases for scrutiny assessments under CASS.

2.2.2 Lack of Standard Operating Procedure (SOP) for assessment of Distilleries and Breweries –

Audit noticed that the ITD does not have a specific Standard Operating Procedure (SOP) or instructions for the Assessing Officer to deal with the assessee specific to the Distilleries and Breweries sector. Such an SOP may have helped avoid the issues discussed in the subsequent paragraphs.

2.3 Compliance Issues:

2.3.1 Short accounting of sale under the garb of agreement with other parties:

The liquor business is quite different from other businesses, as it is highly regulated. No company can set up a distillery and manufacture and sell alcoholic beverages without a license granted by the State Government. The terms of granting licenses are highly stringent and closely monitored by the excise authorities of the State. The terms of a contract being agreed upon by the parties cannot override the applicable provisions of the relevant Act and cannot shift the ownership right over a manufactured item.

Audit examination of records of three companies, viz. M/s W1 Ltd., M/s U1 Ltd., and M/s M1 Ltd. engaged in the business of liquor revealed that these companies were required to offer the income from business under the head income "Profits and gains from business or profession" after getting the books of accounts audited under Section 44AB of IT Act. The companies

were carrying out their business activity under close monitoring of the UP State Excise Department. Details of Income and Expenditure during the manufacturing and selling process were required to be included in the Profit and Loss Accounts of the respective years to compute the net profit. However, these companies, being contract manufacturing units, excluded the income and expenditure from their Profit and Loss Accounts/ITR under the garb of "agreement", but these were included in the return filed with the State Excise Authorities and were subjected to levy of State Excise. The ITD could not compute the income correctly and could not apply the special rate required. On being pointed out, the ITD reopened the cases under Section 147¹³. Detailed observations, along with the reply of the Department, are illustrated below:

2.3.1.1 PCIT Bareilly – M/s W1 Ltd.

Audit requisitioned the records (July 2019 and September 2021) with respect to M/s W1 Ltd. from the Assessment Years 2009-10 to 2018-19.

Non-Production/Non-Availability of the records:

The copy/reference of agreement(s) for manufacturing liquor/beer between the Assessee and other parties was not available in the case records. A list of Sundry Debtors/Creditors/Advances/other liabilities was not available in the schedule of the Balance Sheet, and their confirmations were also not available in the Scrutiny assessment records. Hence, Audit requisitioned the details of the top five Sundry Debtors/Creditors/Advances/other liabilities of M/s W1 Ltd. for Assessment Years 2009-10 to 2018-19, which were not furnished to Audit. Excise Duty was deposited with the State Excise Department, and the corresponding sale was not available in the ITD Scrutiny Assessment records.

(I) Overview: During the test check for the period of ten Assessment Years i.e., the Assessment Years 2009-10 to 2018-19, Audit noted the details of summary/scrutiny assessments during this period as mentioned in **Table 2.1.1** below:

¹³ **Section 147 of the IT Act** provides that if any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the Assessing Officer may assess or reassess such income for such assessment year in respect of any issue, which has escaped assessment.

Table 2.1.1- M/s W1 Ltd.								
(₹ in crore)								
Asst. Year	Business Activity Code	Assessed/ Processed under Section	Date of Assessment order	Sales/ Gross Receipts in P/L	Excise duty debited in P/L	Excise duty deposited in Excise Department	Returned Income/ Loss	Assessed Income/ Loss
2009-10	0124	143(1)	01.11.2010	0	0	Not available	-0.26	-0.26
2010-11	0124	143(3)	30.03.2013	651.00	481.97	Not available	-9.59	-9.54
2011-12	0124	143(1)	10.01.2012	1,231.67	932.55	1,013.56	-0.06	-0.06
2012-13	0124	143(3)	16.01.2014	1,463.72	1,133.62	1,362.38	-14.60	-14.42
2013-14	0124	143(3)	22.10.2014	1,382.06	1,055.58	1,527.71	30.90	30.90
2014-15	0124	143(3)	15.02.2016	1,627.13	1,305.75	1,852.00	32.98	32.98
2015-16	0124	143(1)	01.03.2016	2,170.68	1,791.63	2,461.04	47.15	47.15
2016-17	0124	143(1)	15.08.2017	2,203.98	1,868.03	2,718.87	38.64	38.64
2017-18	0124	143(3)	03.12.2019	2,277.24	1,868.00	2,290.61	38.14	38.14
2018-19	04016/ 04018/ 04019	143(1)	14.02.2020	2,482.67	1,978.88	3,088.55	133.06	133.10

- a) Scrutiny assessment under Section 143(3) was done only in five years, i.e., Assessment Years 2010-11, 2012-13 to 2014-15 and 2017-18. The returns for the remaining five Assessment Years 2009-10, 2011-12, 2015-16, 2016-17 and 2018-19 were processed through summary assessment under Section 143(1).
- b) In three Assessment Years: 2013-14, 2014-15 and 2017-18, the assessment was completed without making any addition(s) to the returned income of the company.
- c) In the remaining two Assessment Years 2010-11 and 2012-13, the scrutiny assessment was completed by making minimal additions of ₹ 0.05 crore and ₹ 0.18 crore respectively, to the returned loss.

(II) Audit Analysis of Assessments:

Audit scrutiny (June 2021) of the related records of M/s W1 Ltd. revealed that the assessee engaged in liquor business was carrying out the activities of manufacturing, bottling and sale of alcoholic products as laid down in the conditions of the State Excise Licenses granted by the UP State Excise Department. M/s W1 Ltd. had also entered into agreements with M/s U3 Ltd., as detailed below:

- (i) Brewing & Distribution Agreement with effect from 01.10.2011 which was renewed up to 30.06.2016 wherein M/s W1 Ltd. was responsible to manufacture and sell M/s U3 Ltd.'s brand liquor.

(ii) Thereafter, two new agreements came into force viz., 'Beer Purchase Agreement' and 'Contract Packing Agreement' with effect from 01.07.2016 which was renewed up to 30.06.2020 wherein as per the 'Beer Purchase Agreement', M/s W1 Ltd. manufactured and sold Beer of M/s U3 Ltd.'s brand in bulk and as per 'Contract Packing Agreement', M/s W1 Ltd. packaged the beer of M/s U3 Ltd. in bottles and cans which was finally sold by M/s U3 Ltd. The arrangement between M/s. W1 Ltd. and M/s. U3 Ltd has been explained in the form of flow chart given in **Annexure I**.

Audit collected detailed information of sales made, excise duty paid, working licenses granted and agreements entered by M/s W1 Ltd. from the Uttar Pradesh State Excise Department wherein Audit noticed that M/s W1 Ltd. was granted licenses viz., B-1 & PD-2 for manufacturing of liquor, FL-3 for bottling and FL-1 for sale.

Audit noted that Uttar Pradesh State Excise Department had also granted licenses to M/s U3 Ltd. and M/s A2 Ltd. – (i) FL3A for assigning bottling privilege of M/s W1 Ltd., on lease by obtaining the liquor/beer at M/s W1's premises putting its brand label and (ii) FL1A for sale of bottled items. The arrangement between M/s. W1 Ltd. and M/s. A2 Ltd has been explained in the form of flow chart given in **Annexure II**.

Audit observed that the total sale of M/s W1 Ltd. subject to levy of State Excise was not taken into the Profit and Loss Accounts for the purpose of IT calculations, as detailed below:

(a) Audit noticed (July 2019) from examination of the records of M/s W1 Ltd. pertaining to three Assessment Years 2011-12 to 2013-14 (Summary Assessment in Assessment Year 2011-12 and Scrutiny Assessment in Assessment Years 2012-13 and 2013-14) that the total sale reported by the assessee in the Profit and Loss Account was ₹ 4,035.81 crore, whereas information made available by the UP State Excise Department revealed that the sale reported by the assessee was ₹ 5,414.17 crore, resulting in under-reporting of sale amounting to ₹ 1,378.36 crore (₹ 5,414.17 crore - ₹ 4,035.81 crore) (**Annexure B-1**) in the Profit and Loss Account. Omission to consider the under-reported sales of ₹ 1,378.36 crore by the ITD in Assessment Years 2011-12 to 2013-14 resulted in short computation of income by an amount of ₹ 1,378.36 crore involving a tax effect of ₹ 448.10 crore excluding interest under Sections 234A and 234B of IT Act, as applicable.

In reply (January 2022), PCCIT (CCA) Lucknow stated that the notice under Section 148 had been issued for the Assessment Year 2013-14. However, a reply for Assessment Years 2011-12 and 2012-13 is still awaited (February 2024).

Audit observed that the order under Section 147 was passed (March 2022) for Assessment Year 2013-14 by National Faceless Assessment Centre Delhi at income of ₹ 187.46 crore by making an addition of ₹ 156.56 crore on account of sale made by M/s W1 Ltd. regarding to M/s U3 Ltd.'s brand. The audit noted that the sale pertaining to M/s A2 Ltd. was neither added to the assessed income nor discussed by the Assessing Officer of NaFAC in the assessment order passed under Section 147 of the IT Act for Assessment Year 2013-14. Further, ACIT Circle 2 Bareilly did not provide details to justify the basis of not making additions with respect to sales pertaining to M/s A2 Ltd. in the reassessment order.

Thus, the Audit could not verify and ascertain the reasons for making addition only on account of sales of M/s U3 Ltd.'s brand while leaving out sales of M/s A2 Ltd.'s brand.

The audit noted that as per the existing provisions of section 148 of the Act, cases could be reopened up to 10 years. However, the cases for Assessment Years 2011-12 and 2012-13 have become time-barred due to the delay in taking the remedial action in a timely manner. ITD may examine these assessee in detail for the succeeding Assessment Years also so as to prevent the probable revenue leakage to the exchequer under intimation to Audit. Reply of the Ministry is awaited (February 2024).

(b) Audit noticed (July 2019) from examination of the records of M/s W1 Ltd. pertaining to three Assessment Years 2014-15 to 2016-17 (Scrutiny Assessment in Assessment Year 2014-15 and Summary Assessment in Assessment Years 2015-16 and 2016-17) that the assessee had declared gross sales of ₹ 5,874.73 crore in its Profit and Loss Account instead of ₹ 9,026.22 crore, as certified by the Auditor in Form 3CD at Sl. No. 34(a) against Section 206C of the Act and also as reported by the assessee to CPC(TDS), Vaishali, Ghaziabad, thereby under-reporting the sales of ₹ 3,151.49 crore (₹ 9,026.22 crore - ₹ 5,874.73 crore) (**Annexure B-2**). Further, the State Excise Department had also confirmed that the sale made by M/s W1 Ltd. pertaining to M/s U3 Ltd.'s brand was ₹ 2,977.00 crore (₹ 907.68 crore + ₹ 974.91 crore + ₹ 1,094.41 crore) and Audit noticed that the same were not accounted for by M/s W1 Ltd. in its Profit and Loss Account. Omission to consider the under-reported sales of ₹ 3,151.49 crore, which was inclusive of sale of M/s U3 Ltd.'s brand of ₹ 2,977.00 crore, by the ITD in Assessment Years 2014-15 to 2016-17 resulted in short computation of income of ₹ 3,151.49 crore involving tax effect of ₹ 1,078.46 crore, excluding interest under Sections 234A and 234B of IT Act, as applicable.

Audit noted that the transactions pertaining to M/s U3 Ltd.'s brand were not shared and verified by the Assessing Officer of M/s W1 Ltd. with the

Jurisdictional Assessing Officer of M/s U3 Ltd. Similarly, the same was also not shared and verified by the Assessing Officer of M/s U3 Ltd. with the Assessing Officer of M/s W1 Ltd.

In reply (January 2022), PCCIT (CCA) Lucknow, while accepting the fact that the practice adopted by the assessee has resulted in suppression of turnover of income, issued notices under Section 148, for the respective years.

Audit noted that the Department took remedial action in three Assessment Years: 2014-15, 2015-16 and 2016-17 by passing orders (March 2022) under Section 147 read with Section 144B of the IT Act at income of ₹ 256.81 crore, ₹ 264.88 crore and ₹ 253.21 crore respectively. The addition of ₹ 223.83 crore, ₹ 217.73 crore and ₹ 214.58 crore was made on account of sale of M/s U3 Ltd.'s brand in respective Assessment Years.

Audit observed from the reassessments concluded that although remedial action was taken at the instance of Audit, the additions were made under Section 28 read with Section 37 of the Act and not under Section 68/69C of the IT Act as pointed out by Audit, which led to short computation of income by reducing the sale of M/s U3 Ltd.'s brand not taken earlier in the Profit and Loss accounts. Further, the expenditure incurred by M/s W1 Ltd. towards State Excise Duty paid on account of M/s U3 Ltd.'s brand, kept out of the books, was not considered for addition in the reassessment order.

(c) Audit noticed (July 2019) from examination of the scrutiny records of M/s W1 Ltd. pertaining to Assessment Year 2017-18 that the sale declared by the assessee in its Profit and Loss Account was ₹ 2,245.46 crore; Sale as certified by the Auditor in Form 3CD at Sl. No. 34(a) against Section 206C of the Act was ₹ 2,307.10 crore, and the sale as reported by assessee to the CPC (TDS) was ₹ 2,797.17 crore. Audit noted that the assessee had under reported the sales by ₹ 551.71 crore (₹ 2,797.17 crore - ₹ 2,245.46 crore) **(Annexure B-3)**. Omission to consider the under-reported sales of ₹ 551.71 crore by the ITD in Assessment Year 2017-18 resulted in a short computation of income involving tax effect of ₹ 190.94 crore excluding interest under Sections 234A and 234B of the IT Act, as applicable. Had the provision of section 68/69C of the Income Tax Act been invoked, the tax impact/effect would have been higher¹⁴.

In reply (January 2022), the PCCIT(CCA) Lucknow, while accepting the fact that the practice adopted by the assessee has resulted into suppression of turnover of income, issued notice under Section 148 for the respective year.

Audit noted that the Assessing Officer of NaFAC took remedial action for Assessment Year 2017-18 by passing order (March 2022) under Section 147

¹⁴ The probable amount of tax effect u/s 68/69C works out to be ₹ 426.19 crore (approximately).

read with Section 144B of the IT Act at income of ₹ 127.19 crore by making an addition of ₹ 89.05 crore on account of sale of M/s U3 Ltd.'s brand.

Audit observed from the reassessments concluded that although remedial action was taken at the instance of Audit but, the additions were made under Section 28 read with Section 37 of the Act. However, the expenditure incurred by M/s W1 Ltd. towards State Excise Duty paid on account of M/s U3 Ltd.'s brand, kept out of books, was not considered for addition in the reassessment order.

(d) Audit noticed (September 2021) from examination of the information made available by the UP State Excise Department pertaining to M/s W1 Ltd. and summary records for Assessment Year 2018-19 that the assessee had made the transaction of ₹ 1,594.03 crore (sale ₹ 697.05 crore + excise duty ₹ 896.98 crore) of M/s U3 Ltd.'s brand as per the UP State Excise Department which was not included in the Profit and Loss Accounts of the assessee, thereby resulting in under-reporting of income of ₹ 1,594.03 crore. Omission to consider the under-reported amount of ₹ 1,594.03 crore by the ITD in Assessment Year 2018-19 resulted in the short computation of tax of ₹ 551.66 crore, excluding interest under Sections 234A and 234B of the IT Act, as applicable. Had the provision of section 68/69C of the Income Tax Act been invoked, the tax impact/effect would have been higher¹⁵.

Audit noted that the transactions pertaining to M/s U3 Ltd.'s brand were not shared and verified by the ACIT Circle 2 Bareilly, Assessing Officer of M/s W1 LTD. with the DCIT Circle 7(1)(1) Bangalore, Jurisdictional Assessing Officer of M/s U3 Ltd. No efforts seems to have been made to share and verify details by the DCIT Circle 7(1)(1) Bangalore, Assessing Officer of M/s U3 Ltd. with the ACIT Circle 2 Bareilly, Assessing Officer of M/s W1 Ltd. or vice versa.

In reply (January 2022), the PCCIT (CCA) Lucknow stated that necessary action is under consideration by the respective Assessing Officer. Details of further action taken by the Department are awaited (February 2024).

Audit, further, cross-verified the records of M/s U3 Ltd. for Assessment Years 2014-15 to 2017-18 and noticed that M/s U3 Ltd. has limited itself to offering income on the basis of information provided by the Contract Manufacturing Units (CMUs), i.e. unaudited figures. Accounts of M/s U3 Ltd. do not provide the bifurcation of the net income from different CMUs in its Profit and Loss Account. Therefore, it could not be ascertained whether any income from manufacturing by M/s W1 Ltd., based on even unaudited figures, was

¹⁵ The probable amount of tax effect u/s 68/69C works out to be ₹ 1,231.39 crore (approximately).

included in the Profit and Loss Accounts of M/s U3 Ltd. The possibility of sale proceeds of liquor/beer not being taken into account for tax under the garb of agreement at either M/s W1 Ltd. or M/s U3 Ltd. was high, and the risk of evasion of tax cannot be ruled out.

(e) Audit examined (July 2019 and September 2021) the assessment records of M/s W1 Ltd. pertaining to five Assessment Years 2014-15 to 2018-19 (Scrutiny Assessment in Assessment Years 2014-15 & 2017-18 and Summary Assessment in Assessment Years 2015-16, 2016-17 and 2018-19) along with the information provided by the UP State Excise Department and noticed that the assessee had sold IMFL of ₹ 1,219.49 crore including Excise duty of ₹ 911.66 crore under M/s A2 Ltd.'s brand as provided by the UP State Excise Department, but the same was not included in the Profit and Loss Accounts (**Annexure B-4**) of the assessee, thereby resulting in under-reporting of sales of ₹ 1,219.49 crore. Omission to consider the under-reported amount of ₹ 1,219.49 crore by the ITD in Assessment Years 2014-15 to 2018-19 resulted in a short levy of tax of ₹ 419.61 crore, excluding interest under Sections 234A and 234B of the IT Act, as applicable. Had the provision of section 68/69C of the Income Tax Act been invoked, the tax impact/effect would have been higher¹⁶.

The audit noted that the transactions pertaining to the M/s A2 Ltd.'s brand were not shared and verified by the ACIT Circle 2 Bareilly, i.e., the Assessing Officer of M/s W1 Ltd., with the Jurisdictional Assessing Officer of M/s A2 Ltd. Similarly, the same was not shared and verified by the Assessing Officer of M/s A2 Ltd. with the ACIT Circle 2 Bareilly, i.e., the Assessing Officer of M/s W1 Ltd.

In reply (January 2022), the PCCIT (CCA), Lucknow mentioned that all the Audit objections for the Assessment Year 2014-15 would be sent to the NeAC from where the assessment is to be made in a faceless manner and there all the issues raised by Audit may be examined again during the course of proceeding under Section 143(3)/147 of Income tax Act. No reply has been furnished to Audit with respect to observations pertaining to Assessment Years 2015-16 to 2018-19. Details of further action taken by the Department and reply of the Ministry are awaited in Audit (February 2024).

Audit noted that the order under Section 147 read with Section 144B of the IT Act was passed (March 2022) for Assessment Year 2014-15 by an Assessing Officer of NaFAC at the income of ₹ 256.81 crore by making an addition of ₹ 223.83 crore pertaining to the sale of M/s U3 Ltd.'s brand; however, sale

¹⁶ The probable amount of tax effect u/s 68/69C works out to be ₹ 639.67 crore (approximately).

pertaining to M/s A2 Ltd. was neither added in assessed income nor any details mentioned by the Assessing Officer in the assessment order passed under Section 147 of the IT Act for the Assessment Year 2014-15. Further, ACIT Circle 2 Bareilly did not provide any reason or supporting evidence for not making an addition with respect to the sale pertaining to M/s. A2 Ltd. in the reassessment order.

Thus, the Audit could not verify and ascertain the reasons for making additions only on account of sales of M/s U3 Ltd.'s brand while leaving out sales of M/s A2 Ltd.'s brand.

Details of further action taken by the Department and reply of the Ministry are awaited in Audit (February 2024).

2.3.1.2 PCIT- I, Kanpur – M/s U1 Ltd.

Audit requisitioned records (June 2019 and September 2021) with respect to M/s U1 Ltd. from the Assessment Years 2009-10 to 2018-19.

Non-Production/Non-Availability of the records:

A Search was conducted (July 2014), but the Appraisal report was not provided to Audit, and only an extract of the draft Appraisal report was provided. The copy/reference of agreement(s) for manufacturing liquor/beer between the Assessee and other parties was not found available in the case records or in the extract of the Draft Appraisal Report. A list of Sundry Debtors/Creditors/Advances/other liabilities was not available in the schedule of the Balance Sheet, and their confirmations were also not available in the Scrutiny assessment records. Hence, the Audit requisitioned the details of the top five Sundry Debtors/Creditors/Advances/other liabilities of M/s U1 Ltd. for Assessment Years 2009-10 to 2018-19, which were not furnished to the Audit. The Department did not provide bifurcation for the figures of sale under 'Tie-up Agreements' as appearing in the Profit and Loss Account of M/s U2 Ltd. Excise Duty deposited with the State Excise Department, and the corresponding sale was not available in the Scrutiny Assessment records.

(I) Overview: During the test check for the period of ten Assessment Years, i.e., the Assessment Years 2009-10 to 2018-19, the period of sample selection, Audit noted the details of summary/scrutiny assessments during this period, as mentioned in **Table 2.1.2** below:

Table 2.1.2- M/s U1 Ltd.								
								(₹ in crore)
Asst. Year	Business Activity Code	Assessed/ Processed under Section	Date of Assessment order	Sales/ Gross Receipts in P/L	Excise duty debited in P/L	Excise duty deposited in the Excise Department	Returned Income/ Loss	Assessed Income/ Loss
2009-10	0124	153A ¹⁷	30.12.2016	444.73	331.54	316.70	(-).04	(-).04
2010-11	0124/0204	153A	30.12.2016	380.50	290.66	301.60	1.75	1.75
2011-12	0124/0204	153A	30.12.2016	384.80	306.30	405.57	0	0
2012-13	0124	153A	30.12.2016	435.56	355.73	497.54	0	0
2013-14	0124	153A	30.12.2016	568.88	469.49	691.81	1.12	1.12
2014-15	0124	153A	30.12.2016	590.93	490.06	749.62	1.05	1.05
2015-16	0124	143(3)	30.12.2016	595.12	501.08	785.87	0.01	0.01
2016-17	0124	143(1)	07.12.2016	662.19	572.90	777.78	-4.30	-4.30
2017-18	0124	143(1)	Awaited in audit	606.10	530.28	563.56	0	Awaited in audit
2018-19	04017	143(1)	Awaited in audit	405.21	353.61	350.18	Awaited in audit	Awaited in audit

(a) A search and seizure operation under Section 132¹⁸ of the IT Act was conducted in T1 Group of cases on 09.07.2014. Simultaneously, a search and seizure operation was also conducted at the business/residential premises of M/s U1 Ltd. Warrants of authorization under Section 132 were issued in the name of above-mentioned assessee company which were duly executed. This case was centralized in the Central Circle, Kanpur and assessments were concluded accordingly. Subsequently, the cases for the Assessment Years 2009-10 to 2015-16 were selected for Scrutiny assessment.

(b) The assessment with respect to search cases under Section 153A in six Assessment Years 2009-10 to 2014-15 and under Section 143(3) for the Assessment Year 2015-16 were concluded. Summary assessment for Assessment Years 2016-17 to 2018-19 were processed under Section 143(1).

(c) Assessments for the Assessment Years 2009-10 to 2015-16 were completed without making any addition to the returned income, even after the search and seizure operations.

(II) Audit Analysis of Assessments:

Audit scrutiny (November 2020 and November 2021) of the related records of M/s U1 Ltd. revealed that the assessee was engaged in the liquor business and doing manufacturing, bottling and sale of alcoholic products in accordance with

¹⁷ Section 153A of IT Act provides that the Assessing Officer can frame assessment of a searched person for six assessment years immediately preceding the year of search. Search and Seizure, including surveys, are amongst the main evidence-collecting mechanisms which are used in cases where credible information about tax evasion is in possession of the ITD. These cases are then closely examined to arrive at the correct assessments to ensure that there is no evasion of taxes.

¹⁸ Section 132 of the IT Act provides that any person in charge of or in any building, place, vessel, vehicle or aircraft authorised to be searched shall allow authorized officers free ingress thereto and afford all reasonable facilities for a search therein.

the terms and conditions of the State Excise Licenses. In the absence of the Appraisal Report, the Audit could not ascertain that the objective(s) and result of the Search were duly considered during the Assessment proceedings as no addition was made to the returned income during finalizing the Assessment. Audit collected details of sales made, excise duty paid, working licenses granted and agreements entered by M/s U1 Ltd. from the Uttar Pradesh State Excise Department. Audit noticed that M/s U1 Ltd. was granted various licenses, viz., PD-2 for manufacturing liquor, FL-3 for bottling and FL-1 for sale. M/s U2 Ltd. was granted license FL3A in respect of undertaking the bottling privilege of M/s U1 Ltd., on a lease, by obtaining the liquor/beer at M/s U1 Ltd.'s premises and putting brand label of M/s. U2 Ltd. and License FL1A for sale of bottled items under FL3A The arrangement between M/s. U1 Ltd. and M/s. U2 Ltd has been explained in the form of flow chart given in **Annexure III**.

Audit noticed that:

(i) Although M/s U1 Ltd. sold 'Indian Made Foreign Liquor (IMFL)' and paid State Excise duty, these transactions were not routed through its Profit and Loss Account. Only the sale of 'Country Liquor' was included and routed through its Profit and Loss Account.

(ii) Audit obtained a copy of the agreement dated 16.09.2009 from the UP State Excise Department and noticed that there was an agreement "Assignment of Bottling Privilege" between M/s U1 Ltd. and M/s U2 Ltd. till 30.06.2016 wherein M/s U2 Ltd. approached M/s U1 Ltd. for assignment of the bottling work. However, Audit noted that the agreement had not specified conditions for accounting and selling of such bottled IMFL. Audit noted that the said agreement was not placed in the assessment records of M/s U1 Ltd. Further, no reference to the agreement was made during the assessment proceedings. While confirming the status to Audit, ACIT 2(1)(1) Kanpur informed Audit that as per the assessment record relating to F.Y. 2008-09 to 2017-18, no copy of the agreement made by M/s U1 Ltd with M/s U2 Ltd. and other parties are available.

Audit examined (June 2019) the assessment records of M/s U1 Ltd. pertaining to seven Assessment Years 2010-11 to 2016-17 (Scrutiny Assessment in Assessment Years 2010-11 to 2015-16 and Summary Assessment in Assessment Year 2016-17) along with the information provided by the UP State Excise Department and noticed that the assessee had manufactured and sold IMFL amounting to ₹ 3,082.65 crore (Net sale ₹ 1,865.75 crore + excise duty ₹ 1,216.90 crore) (**Annexure-C**) of M/s U2 Ltd.'s brand as provided by UP State Excise Department which was not taken in the Profit and Loss Accounts of the assessee thereby resulting in under-reporting of income of ₹ 3,082.65 crore. Omission to consider the under-reported amount of ₹ 3,082.65 crore by the

ITD in Assessment Years 2010-11 to 2016-17 resulted in a short computation of tax of ₹ 1,020.53 crore, excluding interest under Sections 234A and 234B of the IT Act, as applicable.

Further, Audit cross-verified the records viz. Audit report, Balance sheet and Profit & Loss Accounts of M/s U2 Ltd. for Assessment Years 2014-15 to 2016-17. Audit noticed that the Statutory Auditor of M/s U2 Ltd. in the "Notes to the Financial Statements" certified the 'income arising from the sale by manufacturers under 'Tie-up' agreements' to the extent of the basis of information (unaudited figures) provided by the Tie up units/ arrangements. Details of bifurcation of net income from different tie-up units/ arrangements, as given in the Profit and Loss Account of M/s U2 Ltd., were not provided to Audit. Therefore, the entire manufacturing, sales, and related expenditure were kept out from the Accounts of M/s U1 Ltd. At the other end, Audit could not get an assurance that even the 'Income arising from the sale by manufacturers under 'Tie-up' agreements (Tie-up units)' in the Profit & Loss Accounts of M/s U2 Ltd. included the sale of IMFL made by M/s U1 Ltd. (i.e. M/s U2 Ltd.'s brand).

Audit noted that transaction details pertaining to M/s U2 Ltd.'s brand were not shared and verified by the DCIT CC I Kanpur, Assessing Officer of M/s U1 Ltd. with the JCIT Special Range 7 Bengaluru, the Jurisdictional Officer of M/s U2 Ltd. No effort seems to have been made to share and verify details by the JCIT Special Range 7 Bengaluru, Assessing Officer of M/s U2 Ltd. with the DCIT CC I Kanpur, Assessing Officer of M/s U1 Ltd. either.

In reply (May 2022), the PCCIT (CCA), Kanpur, stated that notices under Section 148 of the Act have been issued for Assessment Years 2013-14 to 2017-18. In respect of the cases pertaining to Assessment Years 2009-10 to 2012-13, time limit for remedial action had already elapsed at the time of raising Audit objection itself.

Reply of the Ministry is awaited (February 2024).

2.3.1.3 PCIT I Lucknow - M/s M1 Ltd.

Audit requisitioned records (May 2019 and September 2021) with respect to M/s M1 Ltd. from the Assessment years 2009-10 to 2018-19.

Non-Production/Non-Availability of the records:

The copy/reference of agreement(s) for manufacturing liquor/beer between the Assessee and other parties was not available in the case records. A list of Sundry Debtors/Creditors/Advances/other liabilities was not available in the schedule of the Balance Sheet, and their confirmations were also not available in the Scrutiny assessment records. Hence, Audit requisitioned the

details of the top five Sundry Debtors/Creditors/Advances/other liabilities of M/s M1 Ltd. for Assessment Years 2009-10 to 2018-19, which were not furnished to the Audit. Details of Excise Duty deposited with the State Excise Department and the corresponding sale were not available in the Scrutiny Assessment records.

(I) **Overview:** During the test check for the period of ten Assessment Years i.e., the Assessment Years 2009-10 to 2018-19, the period of sample selection, Audit noted the details of summary/scrutiny assessments during this period, as mentioned in **Table 2.1.3** below:

Table 2.1.3- M/s M1 Ltd.								(₹ in crore)
Asst. Year	Business Activity Code	Assessed/ Processed under Section	Date of Assessment order	Sales/ Gross Receipts in P&L	Excise duty debited in P/L	Excise duty deposited in Excise Department	Returned Income/ Loss	Assessed Income/ Loss
2009-10	0124	143(1)	05.09.2010	4.34	0	NA	-0.77	-0.77
2010-11	0124	143(1)	15.03.2011	4.26	0	NA	0	0
2011-12	0124	143(1)	10.01.2012	2.53	0	NA	-15.63	-15.63
2012-13	0124	143(3)	26.03.2015	1.02	0	NA	-1.11	-0.94
2013-14	0124	143(3)	21.03.2016	1.00	0	NA	-1.77	-0.58
2014-15	0124	143(3)	21.12.2016	67.33	34.35	34.35	-0.79	-0.69
2015-16	0124	143(1)	20.08.2016	76.50	40.87	40.87	-0.17	-0.17
2016-17	0124	143(1)	07.12.2016	14.41	0	NA	-67.60	-67.60
2017-18	0124	143(1)	30.10.2018	45.36	8.18	NA	-19.43	-19.43
2018-19	04017	143(1)	04.10.2019	236.30	120.78	661.35	-12.02	-12.02

- (a) Scrutiny assessment under Section 143(3) was done only in three years i.e., Assessment Years 2012-13 to 2014-15 and the remaining seven Assessment Years 2009-10 to 2011-12 and 2015-16 to 2018-19 were processed under summary assessment under Section 143(1).
- (b) In three Assessment Years: 2012-13, 2013-14 and 2014-15, the scrutiny assessment was completed by making the addition of ₹ 0.17 crore, ₹ 0.17 crore and ₹ 0.10 crore respectively, to the returned loss.

(II) Audit Analysis of Assessments:

Audit collected detailed information on Sales made, excise duty paid, working licenses granted and agreements entered by M/s M1 Ltd. from the Uttar Pradesh State Excise Department. Audit noticed that M/s M1 Ltd. was granted various licenses, viz., B-1 for manufacturing beer, FL-3 for bottling and FL-1 for sale. M/s C1 Pvt. Ltd. was granted the license FL3A for undertaking the bottling privilege of M/s M1 Ltd., on a lease, by obtaining the liquor/beer at M/s M1 Ltd.'s premises and putting brand label of M/s C1 Pvt. Ltd. M/s C1 Pvt. Ltd. was also granted license FL 1A for the sale of bottled

items under FL3A. The arrangement between M/s. M1 Ltd. and M/s. C1 Ltd has been explained in the form of flow chart given in **Annexure IV**.

Further, Audit noticed from the agreement entered by M/s M1 Ltd. with M/s C1 Pvt. Ltd. in February 2015 with a supplemental agreement in July 2015 that it was valid for a period of ten years. As per the agreement, the Contract Brewer (M/s M1 Ltd.) was responsible for brewing, manufacturing, filling and packaging of products for sale to customers, dispatch of finished products, sale of finished products to customers and all activities incidental and ancillary to the attainment of the same. Excise duty, bottling fee, franchisee fee, label registration fee and brand fee will be payable by the contract brewer. Further, the Contract brewer was to raise the invoice to the customers with a legible note advising customers to pay all the proceeds to M/s C1 Pvt. Ltd. directly.

Audit observed (May 2019 and November 2021) that the total sale of M/s M1 Ltd. was not taken into the Profit and Loss Accounts, as detailed below:

(a) Audit examined (May 2019) the records of M/s M1 Ltd. and noticed in two Assessment Years: 2016-17 & 2017-18 (Summary Assessment in Assessment Years 2016-17 and 2017-18) that the assessee had declared the gross sales of ₹ 13.13 crore in its Profit and Loss Account instead of ₹ 1,114.70 crore as certified by the Auditor in Form 3CD at Sl. No. 34(a) against Section 206C of the Act and also as reported by the assessee to the CPC (TDS) Vaishali, Ghaziabad, thereby under reportingsales by ₹ 1,101.57 crore (₹ 1,114.70 crore - ₹ 13.13 crore) (**Annexure-D**). Omission to consider the under-reported sales of ₹ 1,101.57 crore by the ITD in Assessment Years 2016-17 & 2017-18 resulted in short computation of income involving tax effect of ₹ 381.23 crore excluding interest under Sections 234A and 234B of IT Act, as applicable. Had the provision of section 68/69C of the Income Tax Act was invoked, the tax impact/effect would have been higher¹⁹.

In reply (January 2022), the PCCIT(CCA), Lucknow, while accepting the Audit observation, stated that the matter requires a thorough examination of accounts as the case of the assessee has not been subjected to scrutiny assessment in either of these years. Final reply is awaited (February 2024).

(b) Audit examined (September 2021) the Summary records of M/s M1 Ltd. pertaining to Assessment Year 2018-19 along with the information provided by the UP State Excise Department and noticed that the assessee had made a sale of ₹ 1,201.48 crore, (which includes Sale of M/s M1 Ltd. of ₹ 194.26 crore + Sale of M/s C1 Pvt. Ltd. of ₹ 1,007.22 crore) as intimated by UP State Excise Department. However, the sale reported by the assessee in the Profit and

¹⁹ The probable amount of tax effect u/s 68/69C works out to be ₹ 736.46 crore (approximately).

Loss Account was ₹ 194.26 crore only, thereby resulting in under-reporting of income of ₹ 1,007.22 crore (₹ 1,201.48 crore - ₹ 194.26 crore). Omission to consider the under-reported sale of ₹ 1,007.22 crore by the ITD in Assessment Year 2018-19 resulted in the short computation of tax of ₹ 348.58 crore, excluding interest under Sections 234A and 234B of the IT Act, as applicable. Had the provision of section 68/69C of the Income Tax Act was invoked, the tax impact/effect would have been higher²⁰.

Audit noted that the transactions pertaining to M/s C1 Pvt. Ltd.'s brand were not shared and verified by the DCIT Circle 4 Lucknow, Assessing Officer of M/s M1 Ltd. with the ACIT Circle 4(2) Delhi, Jurisdictional Assessing Officer of M/s C1 Pvt. Ltd. No effort seems to have been made to share and verify details by the ACIT Circle 4(2) Delhi, AO of M/s C1 Pvt. Ltd. with the DCIT Circle 4 Lucknow, Assessing Officer of M/s M1 Ltd.

Reply is still awaited from the PCCIT (CCA), Lucknow (February 2024).

(c) Audit examined (September 2021) the Summary records of M/s M1 Ltd. pertaining to Assessment Year 2018-19 and noticed that the assessee declared the sale of alcoholic products in the Profit and Loss Account of ₹ 194.26 crore and with CPC (TDS) of ₹ 481.15 crore. However, the sale of ₹ Nil was certified by the Auditor in Form 3CD. Thus, the assessee had filed an incorrect return in the CPC for the Assessment Year 2018-19. Audit noticed that the Chartered Accountant (CA) had also reported incorrect (NIL) sales in the Audit report at Sl. No. 34(a) of Form 3CD.

Audit, further cross-verified the records of M/s C1 Pvt. Ltd. for Assessment Year 2018-19 and noticed that M/s C1 Pvt. Ltd. in its Profit and Loss Account recognized the transactions of the Contract Manufacturing Units (CMUs) as gross revenue, purchases, excise duty and expenses as they were transactions of the company only when the amount of revenue can be reliably measured and is probable that future economic benefits flow to the company and specific criteria have been met for company's activities. However, there was no reference to CMU's income in the revenue recognition of the financial statement of M/s C1 Pvt. Ltd. for the Assessment Years 2016-17 & 2017-18. It is pertinent to mention that M/s M1 Ltd. was not the only CMU of M/s C1 Pvt. Ltd. In the absence of availability of breakup/bifurcation of gross sales from different CMUs of M/s C1 Pvt. Ltd., Audit could not verify whether the gross sales of M/s C1 Pvt. Ltd., included the sale of alcoholic products of M/s M1 Ltd.

During the Assessment Year 2016-17, Audit noticed that the sales, as reported with CPC (TDS) in respect of M/s M1 Ltd., was ₹ 268.51 crore, whereas the sale

²⁰ The probable amount of tax effect u/s 68/69C works out to be ₹ 778.08 crore (approximately).

offered by M/s C1 Pvt. Ltd. against CMU income was only ₹ 196.27 crore in its Notes to Account annexed with the Profit and Loss Account. The audit could not ascertain the reasons for the underreporting of sales by M/s C1 Pvt. Ltd., as the sale of M/s M1 Ltd. itself exceeded by an amount of ₹ 72.24 crore of the total sales reported by M/s C1 Pvt. Ltd.

Reply is still awaited from the PCCIT (CCA), Lucknow (February 2024).

2.3.1.4 Conclusion:

While examining the cases of the Assesseees who have entered into the manufacturing agreement with other parties, Audit observed various irregularities/deficiencies, e.g. the Sales, Excise Duty, etc. given in Profit and Loss Accounts were not in consonance with the figures of the Form 3CD as well as not correlated with the information/data available with the ITD in CPC(TDS) and the State Excise Authority at summary stage resulting in incorrect computation of business income under the head "Profit and gains from business or profession" Chapter IV of the Income Tax Act.

Audit noted that the scrutiny assessments were completed without due examination/verification of the sale and payment of excise duty of other brands and without cross-verification with the records of the State Excise Authorities or returns furnished by the assessee to the State Excise Authorities. Such irregularities had an underlying high risk of tax evasion that required further detailed examination and investigation, which were not carried out by the concerned AOs while making the assessment, especially the scrutiny assessment.

ITD may examine these assesseees in detail for the succeeding Assessment Years also so as to prevent the probable revenue leakage to the exchequer and inform the progress to Audit.

2.3.2 Lack of inter-departmental, intra-departmental co-ordination and reconciliation with the assessee:

The Assessing Officer has to determine and assess the income correctly after calling for desired/related documents in connection with the correct levy of tax and minimizing the scope of revenue leakage.

Audit noticed that the respective Assessing Officers failed to exercise the power to call for information as envisaged in Section 133(6) of the Act, which would have been useful for, or relevant to, any enquiry or proceeding under the Act. Failure to call for information pertaining to Sales from the respective State Excise authorities during scrutiny assessment indicates a high risk of

revenue escaping the Government exchequer and exhibits a lack of adequate inter-departmental coordination.

Sharing of information within the Income Tax Department (ITD) was not effectively utilized by the assessment units, thereby impacting the quality of scrutiny assessments and thus, possibility of revenue leakage cannot be ruled out. Audit findings are discussed in succeeding paragraphs.

2.3.2.1 PCIT, I Kanpur – M/s U1 Ltd.

Audit scrutiny (June 2019 and November 2021) of the related records of M/s U1 Ltd. revealed that the assessee was engaged in the liquor business and doing manufacturing, bottling and sale of alcoholic products binding with regards to the terms and conditions of the relevant State Excise Licenses, and also observed the short accounting of Country Liquor by M/s U1 Ltd., as detailed below:

(a) Audit examined (June 2019) the assessment records of M/s U1 Ltd. pertaining to five Assessment Years 2009-10 to 2013-14 (Scrutiny Assessment in Assessment Years 2009-10 to 2013-14) and the information provided by the UP State Excise Department and noticed that the assessee had manufactured and sold Country Liquor amounting to ₹ 2,273.23 crore, as per the records of UP State Excise Department, whereas the sale reported by the assessee in its Profit and Loss Account was ₹ 2,189.28 crore (**Annexure E-1**) thereby resulting in under-reporting of sale amounting to ₹ 83.95 crore. Omission to consider the under-reported sale of ₹ 83.95 crore by the ITD in Assessment Years 2009-10 to 2013-14 resulted in a short computation of tax of ₹ 27.92 crore, excluding interest under Sections 234A and 234B of the IT Act as applicable.

(b) Audit examined (June 2019 and September 2021) the assessment records of M/s U1 Ltd. and noticed in four Assessment Years 2015-16 to 2018-19 (Scrutiny assessment in Assessment Year 2015-16 and Summary Assessment in Assessment Years 2016-17 to 2018-19) that the assessee had declared gross sales of ₹ 2,263.94 crore in its Profit and Loss Account instead of ₹ 2,302.36 crore as certified by the Auditor in Form 3CD at Sl. No. 34(a) against Section 206C of the IT Act, thereby under-reporting sales of ₹ 38.42 crore (₹ 2,302.36 crore - ₹ 2,263.94 crore) (**Annexure E-2**). Omission to consider the under-reported sales of ₹ 38.42 crore by the ITD in Assessment Years 2015-16 to 2018-19 resulted in a short computation of income involving tax effect of ₹ 13.29 crore excluding interest under Sections 234A and 234B of IT Act, as applicable. Had the provision of section 68/69C of the Income Tax Act been invoked, the tax impact/effect could have been higher²¹.

²¹ The probable amount of tax effect u/s 68/69C works out to be ₹ 24.82 crore (approximately).

In reply (May 2022) for (a) and (b) above, the PCCIT (CCA), Kanpur stated that notices under Section 148 of the Act have been issued for Assessment Years 2013-14 to 2017-18. The cases have become time-barred for Assessment Years 2009-10 to 2012-13. Further, in respect of the case for Assessment Year 2018-19, the Joint Commissioner of Income Tax (OSD) Circle 2(1)(1) Kanpur stated (June 2022) that the observation made by Audit appears to be acceptable. Accordingly, the initiation of reassessment proceedings is contemplated in this case. Details of further action taken by the Department are awaited (February 2024).

Reply of the Ministry is awaited (February 2024)

2.3.2.2 PCIT (Central) - 3 New Delhi - M/s P1 Pvt. Ltd.

Audit requisitioned the records (September 2019) with respect to M/s P1 Pvt. Ltd. for the Assessment years 2009-10 to 2018-19.

Non-Production/Non-Availability of the records:

Details of Non-TCS sales were not given in the Audit Report in spite of the column prescribed in the guidance note issued by the ICAI. Bifurcation of sale as TCS and Non-TCS was not provided in the Profit and Loss accounts. The details of VAT and other levies not routed through the Profit and Loss accounts were not provided in the Audit Report. A search operation was conducted (February 2011); however, the Appraisal report was not provided for audit. Complete Report of a Special Auditor under Section 142(2A) of the Act for the Assessment Year 2017-18 was also not provided to Audit. Financial Statements of Assessment Year 2018-19 were not furnished to Audit. Excise Duty deposited with the State Excise Department and the corresponding sale, as well as confirmation from the State Excise Department, was not available in the Scrutiny Assessment records.

(I) Overview: During the test check for the period of ten Assessment Years, i.e., the Assessment Years 2009-10 to 2018-19, the Audit analysed and noted the details of summary/scrutiny assessments, as mentioned in **Table 2.2** below:

Table 2.2- M/s P1 Pvt Ltd.								
(₹ in crore)								
Asst. Year	Business Activity Code	Assessed/ Processed under Section	Date of order	Sales/ Gross Receipts in P&L	Excise duty debited in P/L	Excise duty deposited in Excise Department	Returned Income/ Loss	Assessed Income/ Loss
2009-10	0124	153(A) rws 144C	04.02.2015	1,876.48	446.61		399.64	665.30
2010-11	0124/ 0204	153(A) rws 144C	04.02.2015	3,241.32	1,167.39		661.28	971.84
2011-12	0124/ 0204	143(3) rws 144C	04.02.2015	4,391.58	1,619.24		526.94	951.32
2012-13	0124	143(3) rws 144C	26.04.2016	5,940.78	2,403.78		857.14	1,039.96
2013-14	0124/ 0204	143(3) rws 144C	23.12.2016	7,216.42	2,870.41		1,104.61	1,316.81
2014-15	0124/ 0204	143(3) rws144C	30.11.2017	8,614.49	3,479.21	Awaited in Audit	1,276.59	1,521.47
2015-16	0124/ 0204	143(3) rws 144C	07.02.2019	10,161.33	4,040.64		1,460.77	1,601.56
2016-17	0124/ 0204	143(3) rws 144C	11.02.2020	12,112.78	5,252.50		1,714.51	1,808.02
2017-18	0124/ 0204	143(3) rws 144C	11.03.2022	12,848.62	6,325.13		1,549.32	1,789.13
2018-19	04011/ 04018/ 04019/ 09007	143(3) rws 144C	26.10.2021	15,744.22	8,581.28		2,147.89	2,235.72

The assessment with respect to search cases under Section 153A in two Assessment Years: 2009-10 and 2010-11 and scrutiny assessment for eight Assessment Years 2011-12 to 2018-19 under Section 143(3) were concluded.

(II) Audit Analysis of Assessments:

Audit examined (October 2019 and December 2020) assessment records of M/s P1 Pvt. Ltd. and noticed in four Assessment Years: 2014-15 to 2017-18 (Scrutiny Assessments) that the assessee had declared net sales of ₹ 24,679.79 crore which included TCS sale of ₹ 16,546.32 crore in Profit and Loss Account. However, the sale certified by the Auditor in Form 3CD at Sl. No.34 (a) against Section 206C of the Act was ₹ 29,926.66 crore²². Thus, consequent under-reporting of sales was determined at ₹ 13,380.34 crore (₹ 29,926.66 crore - ₹ 16,546.32 crore) (**Annexure-F**). Due diligence exercised by DCIT Central Circle 31, New Delhi could not be ascertained in Audit as no supporting documents/details were found on records. Omission to consider the under-reported sales of ₹ 13,380.34 crore by the ITD in Assessment Years

²² Sales reported by assessee with the CPC (TDS) was ₹ 29,923.58 crore which was almost similar to the sale certified by the Auditor in the Form 3CD at Sl. No.34 (a) against Section 206C of the Act.

2014-15 to 2017-18 resulted in short computation of income involving tax effect of ₹ 4,589.42 crore excluding interest under Sections 234A and 234B of IT Act, as applicable. Had the provision of section 68/69C of the Income Tax Act been invoked, the tax impact/effect could have been higher²³.

In reply, DCIT Central Circle 31 New Delhi stated (August 2020) that the figures mentioned in the Audit report for sales are inclusive of various items such as Excise Duty/VAT, other levies as per requirement of TCS law and excluding sales on which TCS provisions are not applicable. However, sales declared in the Profit & Loss Accounts are net of all the taxes, duties, VAT, etc., included in the invoice value. There were taxes and duties included in sales appearing in the Tax Audit Report but not in the Profit and Loss Account.

Audit examined the reply (August 2020) provided by the DCIT Central Circle 31 New Delhi and noted that the AO had stated that the figures mentioned in the Audit report for sales are inclusive of Excise Duty/VAT, other levies whereas the reconciliation has been made with the figures in Audit report including VAT and other levies only excluding excise duty. It means that the reconciliation has been made of the Net TCS sales (i.e. excluding excise) reported in Profit and Loss Account by adding to it VAT and other levies (those taxes and duties appearing in TAR but not in P/L) with the TCS sale reported in 3CD, the element of excise duty has been left out. Further it is also not clear, whether these taxes and duties include VAT and other levies pertaining to the Non TCS sale. Thus the reconciliation provided by the Assessing Officer was not tenable in Audit. Moreover, no supporting documents were provided by the Department; except a reconciliation statement of the sales, for the Assessment Years 2014-15 to 2016-17. The case for Assessment Year 2017-18 was pending for scrutiny assessment.

Further, the PCIT Central- 3, New Delhi, stated (July 2021) that the observations pointed out by the Audit will be acted upon while making an assessment/reassessment. The cases pertaining to Assessment Years 2013-14 to 2016-17 had been reopened under Section 147 read with Section 148 of the IT Act and the assessment proceedings for Assessment Year 2017-18 read with Section 142(2A) of the Act are pending. Thus it is evident, that the action undertaken by ITD, in accordance to the provisions of the IT Act 1961 had been taken in agreement with the contention of Audit that the reconciliation provided by Assessing Officer was not found tenable.

The DCIT Central Circle 31, New Delhi replied (June 2022) that the Assessments under Section 147 of the Act are still pending for the Assessment Years 2013-14 to 2016-17.

²³ The probable amount of tax effect u/s 68/69C works out to be ₹ 5,579.52 crore (approximately).

The audit noted that the DCIT Central Circle 31, New Delhi, had reopened the cases for four Assessment Years, 2013-14 to 2016-17, which are still pending re-assessment. The case was referred for Special Audit (SA) under Section 142(2A) of the Act for one Assessment Year 2017-18. The SA made a reconciliation of the Excise returns with the income reflected in the profit and loss account and it was concluded that income amounting to ₹ 956.61 crore was under reported in the profit and loss account i.e. ₹ 956.61 crore was not offered for taxation in the instant Assessment Year. This confirms the view of Audit that there was under reporting of income in the profit and loss account leading to tax evasion.

Further, after receiving the report of Special Auditor (SA) (October 2021), the Assessing Officer made an addition (March 2022) of ₹ 206.84 crore, which includes addition of ₹ 191.32 crore by estimating the net profit on 20% (approx.) of ₹ 956.61 crore of the unverified quantity determined by Special Auditor upon "Reconciliation of the Excise Returns with the income reflected in the Profit and Loss Account". The audit noted that the total unverified quantity determined by SA was not added to income under Section 68 of the Act by the DCIT Central Circle 31, New Delhi. Thus, the Department has short-computed the income by ₹ 765.29 crore (₹ 956.61 crore - ₹191.32 crore) which is required to be added to the income under the provision of Section 68 of the IT Act.

Audit further observed that the under-reported income for AY 2017-18 was ₹ 2321.88 crore whereas the under-reported income arrived at during Special Audit conducted by the Department was ₹ 956.61 crore. Audit noted that the Special Auditor concluded the under-reported amount based on the excise returns. As complete special audit report along with the excise returns were not made available, the audit could not verify the correctness of the under-reporting of income arrived at during the special audit for which further examination is required.

The CBDT may consider reopening the case for reassessment in AY 2017-18. The assessment for AY 2018-19 as well as AYs 2014-15 to 2016-17 also requires/warrants a similar level of examination. The assessment order did not contain any details/documents which ensure that the issues pointed out by the Special Auditor in AY 2017-18 were considered for examination during the assessment proceedings of AY 2018-19, ensuring that there was no unverified quantity upon reconciliation of the Excise returns with the income reflected in the Profit and Loss Account. Reply of the Ministry is awaited (February 2024).

2.3.2.3 PCIT (Central) -3 New Delhi - M/s R1 Ltd.

Audit requisitioned the records (September 2019) with respect to M/s R1 Ltd. for the Assessment years 2009-10 to 2017-18.

Non-Production/Non-Availability of the records:

Details of Non-TCS sales were not given in the Audit Report besides the column prescribed in the guidance note issued by the ICAI. Certificates as required under sections 195/197 for no deduction or lower deduction of tax at source were not provided to Audit. Bifurcation of sales as TCS sales and Non-TCS sales was not provided in the Profit and Loss accounts. VAT and other levies were not routed through Profit and Loss accounts; their details were not provided in the Audit Report. A search was conducted (February 2011); however, the Appraisal report was not provided to Audit. Financial Statements of Assessment Year 2018-19 were not furnished to Audit. Excise Duty deposited with the State Excise Department and the corresponding sale, as well as confirmation from the State Excise Department, was not available in the Scrutiny Assessment records.

(I) **Overview:** During the test check for the period of ten Assessment Years i.e., the Assessment Years 2009-10 to 2018-19, Audit noted the details of summary/scrutiny assessments as detailed in **Table 2.3** below:

Table 2.3- M/s R1 Ltd.								
								(₹ in crore)
Asst. Year	Business Activity Code	Assessed/ Processed under Section	Date of order	Sale/ Gross receipts in P&L	Excise duty debited in P/L	Excise duty* deposited in Excise Department	Returned Income/ Loss	Assessed Income/ Loss
2009-10	0124	153(A)	03.06.2013	1,174.72	478.70		-37.77	-37.23
2010-11	0124	153(A)	03.06.2013	1,481.26	645.70		-0.93	- 0.62
2011-12	0124	153(A)	03.06.2013	1,742.31	745.86	Awaited in Audit	63.91	64.42
2012-13	0124	143(3)	25.08.2014	1,981.39	837.62		25.49	35.81
2013-14	0124	143(3)	23.12.2015	2,488.91	1,230.52	1,054.97	90.49	88.50
2014-15	0124	143(3)	19.04.2016	3,045.11	1,593.41	1,342.32	88.67	88.67
2015-16	0124	154/143(1)	16.12.2016	3,212.56	1,724.17	1,483.11	52.40	52.40
2016-17	0124	143(3)	14.05.2018	3,603.87	2,060.78	1,749.17	76.89	76.89
2017-18	0124	143(3)	29.12.2019	4,867.95	3,188.05	2,363.85	32.42	32.61
2018-19	04097, 04018, 04019	143(1)	25.02.2020		Awaited in Audit		114.10	116.10

*Amount of excise duty confirmed by State Excise Department u/s 133(6) of the Act and communicated to audit by ITD (September 2022)

- (a) The assessment with respect to search cases under Section 153A in three Assessment Years 2009-10 to 2011-12, scrutiny assessment for five Assessment Years 2012-13 to 2014-15 and 2016-17 to 2017-18 under Section 143(3) were concluded, while one Assessment Year 2015-16 was processed under summary assessment under Section 143(1) and remaining one case for the Assessment Year 2018-19 is pending for assessment.
- (b) In three Assessment Years 2013-14, 2014-15 and 2016-17, the assessment was completed without making any addition(s) to the returned income of the company. In the remaining three Assessment Years, 2009-10, 2010-11 and 2011-12, scrutiny assessment was completed by making the addition of ₹ 0.54 crore, ₹ 0.31 crore and ₹ 0.51 crore, respectively, to the returned income/loss.

(II) Audit Analysis of Assessments:

Audit examined (October 2019 and December 2020) the assessment records of M/s R1 Ltd. and noticed in four Assessment Years 2014-15 to 2017-18 (Scrutiny Assessment in Assessment Years 2014-15, 2016-17 & 2017-18 and Summary Assessment in Assessment Year 2015-16) that the assessee had declared the net sales of ₹ 5,402.85 crore which included TCS sale of ₹ 2,412.18 crore in Profit and Loss Account instead of ₹ 8,601.04 crore as certified by the Auditor in Form 3CD at Sl. No.34(a) against Section 206C of the Act and reported by the assessee to the CPC (TDS), thereby resulting in under-reporting of the sale of ₹ 6,188.86 crore (₹ 8,601.04 crore - ₹ 2,412.18 crore) **(Annexure-G)**. Due diligence exercised by DCIT Central Circle 31, New Delhi could not be ascertained in Audit as no supporting documents/details were found on records. Omission to consider the under-reported sales of ₹ 6,188.86 crore by the ITD in Assessment Years 2014-15 to 2017-18 resulted in short computation of income involving tax effect of ₹ 2,126.21 crore, excluding interest under Sections 234A and 234B of IT Act, as applicable. Had the provision of Section 68/69C of the Income Tax Act been invoked, the tax impact/effect would have been higher²⁴.

The response(s) of the Department were received from time to time but were not found convincing due to the reason(s) stated in the **Table 2.3.1** below:

²⁴ The probable amount of tax effect u/s 68/69C works out to be ₹ 2,982.69 crore (approximately).

Table-2.3.1 M/s R1 Ltd.		
Reply received from	Responses of the Income Tax Department	Comment(s) of Audit
A	B	C
DCIT Central Circle 31 New Delhi (August 2020)	<p>The sale value reported in clause 34(b) of form 3CD is the total invoice value on which TCS was collected, i.e. inclusive of excise duty, VAT and other levies also, since, as per the provision of section 206C, the TCS is to be collected on the invoice value (inclusive of all the duties taxes levied therein). Accordingly, the Taxes and duties are included in sales appearing in the Tax Audit Report but not included in the sales net of excise shown in the Profit & Loss account. The sum of excise duty and VAT (and other levies) as provided by the ITD for the relevant AYs are ₹ 8,566.41 crore and ₹ 6,476.29 crore, respectively. Further, ITD reconciled the net sales reported in Profit & Loss accounts (excluding excise) with the sales reported in 3CD. Sale in Profit & Loss accounts include TCS as well as Non-TCS sales amounting to ₹ 2,412.18 crore and ₹ 2,990.67 crore, respectively.</p> <p>Department also stated that ₹ 1,197.70 crore were taxes and duties included in sales appearing in Tax Audit Report (TAR) but not in the Profit and Loss Account.</p>	<p>The reply of DCIT Central Circle 31 New Delhi is not convincing for the reasons stated below:</p> <p>(i) The statement of ITD was contradictory in itself as the sale shown in 3CD (₹ 8,601.04 crore) was less than the sum of basic price, excise duty, VAT and other levies. The sum of only Excise Duty, VAT and other levies is ₹ 15,042.70 crore (₹ 8,566.41 crore + ₹ 6,476.29 crore), which itself is much more than the sale reflected in Form 3CD. Further, it is clarified that the comments of Audit are based on clause 34(a) of Audit report, not on clause 34(b) as stated by ITD. Hence, the contention of the department is not acceptable.</p> <p>(ii) In line with its contention, ITD should have had reconciled the Gross sales (including excise) reported in Profit & Loss account with the sale reported in 3CD (considering it as including excise) but the reconciliation was done with the Net sales which was contradicting its own contention. The sale amounting to ₹ 8,601.04 crore was reported in the Form 3CD for AYs 2014-15 to 2017-18 which excluded excise duty. Net sales means that excise duty has been excluded.</p>
PCIT, Central- 3, New Delhi (July 2021)	<p>Observations pointed out by the Audit will be acted upon while making assessment/ reassessment as the cases pertaining to Assessment Years 2013-14 to 2017-18 had been reopened under Section 147 read with Section 148 of the IT Act.</p>	No comments.
DCIT Central Circle 31, New Delhi (June 2022)	<p>Assessments under Section 147 of the IT Act were passed (February 2022) by the Department for the Assessment Years 2014-15 to 2017-18.</p>	No comments.
	<p>Objections raised by the Audit were examined, and notice u/s 148 of the Act was issued to the assessee. After examination of the replies of the assessee for the AY 2014-15 to 2017-18 Department stated that: -</p> <p>(i) Assessee Company submitted the complete bifurcations of the sale on which</p>	<p>Audit examined the reply and details provided by the DCIT Central Circle 31, New Delhi and observed that: -</p> <p>(i) Excise duty on sale value of liquor is leviable irrespective of TCS sale and Non-TCS</p>

Table-2.3.1 M/s R1 Ltd.		
Reply received from	Responses of the Income Tax Department	Comment(s) of Audit
A	B	C
DCIT Central Circle 31, New Delhi (September 2022)	<p>TCS is applicable and that on which TCS is not applicable, along with corresponding Excise duty, VAT/CST, etc. Further, a chart showing reconciliation for the AY 2014-15 was provided in which total sale of the alcoholic product of ₹ 2,797.40 crore was bifurcated as TCS Sale ₹ 1,581.09 crore (Basic Value ₹ 414.98 + Excise Duty ₹ 1,166.11 crore) and Non-TCS Sale ₹ 1,216.30 crore (Basic Value ₹ 789.01 crore+ Excise Duty ₹427.29 crore). Further, there were VAT/CST and other levies of ₹ 31.58 crore reported in the TCS return, which was not part of the Profit and Loss Account. Thus, the total invoice value on which TCS was applicable reported in TCS return was ₹ 1,612.67 crore (₹ 1,581.09 crore + ₹ 31.58 crore). Hence, the sale amount reflected in the Profit and Loss account is found to be correct.</p> <p>(ii) The Department further examined the information sought by the State Excise department and details of Challans submitted by the assessee wherein Excise duty claimed in Profit and Loss account and amount of Excise duty confirmed by the State Excise Department and the amount of Excise duty supported by documents filed by the assessee was compared for the Assessment Years 2014-15 to 2017-18 which comes to 87.13% to 90.38% as checked by the department. The details of the Excise Duty as provided by the AO are given in columns A to F in Table 2.3.2 below.</p>	<p>sale of the alcoholic products. As per the Statement given by the Department for AY 2014-15, it was noted that the sales (Basic Value) on which TCS was applicable was ₹ 414.98 crore on which Excise Duty was ₹ 1,166.11 crore, however, sale (Basic Value) on which TCS was not applicable was ₹ 789.01 crore on which Excise Duty was ₹ 427.29 crore only.</p> <p>The Department earlier (August 2020) stated that ₹ 1,197.70 crore (₹ 1,166.11 crore + ₹ 31.58 crore) were taxes and duties included in sales appearing in TAR but not in the Profit and Loss Account. Further, ITD stated that the assessment records have been examined with reference to the reply of the assessee with respect to the half-margin, and the facts and figures have been found to be correct. However, the facts and figures that were found to be correct by ITD in August 2020 have now been found incorrect in September 2022. In September 2022, the statement was changed, and it was stated that out of ₹ 1,197.70 crore, an amount of ₹ 1,166.11 crore was Excise Duty, which was included in the Profit and Loss Account.</p> <p>Similar treatment/explanation was also given by the Assessing Officer for other Assessment Years.</p> <p>(ii) The Department has provided the details of the Excise duty deposited by the Assessee as obtained from the State Excise Department for Assessment Years 2013-14 to 2017-18, however Audit noticed that in Profit and Loss accounts Excise duty was allowed in excess by ₹ 1,316.58 crore, which was not added back to the income of the assessee. Details are worked out in Column G of Table 2.3.2 below:</p>

Table 2.3.2 M/s R1 Ltd.						
Details of Excise duty provided by AO						
(₹ in crore)						
Asst. Years	Excise Duty claimed in Profit & Loss account	Amount of Excise duty confirmed by State Excise Department u/s 133(6) of the Act	Amount of Excise duty supported by documents filed by the assessee	Total Amount of Excise duty checked by the Department	% of the Excise duty checked by the Department	Claim of Excise duty excess allowed as per Audit (B-C)
A	B	C	D	E	F	G
2013-14	1,230.52	1,054.97	34.96	1,089.93	88.58%	175.55
2014-15	1,593.41	1,342.32	46.05	1,388.37	87.13%	251.09
2015-16	1,724.17	1,483.11	45.33	1,558.44	90.38%	241.06
2016-17	2,060.78	1,749.17	63.47	1,812.63	87.95%	311.61
2017-18*	2,701.14	2,363.85	12.38	2,376.23	87.97%	337.29
Total	9,310.02	7,993.42	202.19	8,225.60	-	1316.60

***For the AY 2017-18, the excise duty amounting to ₹ 486.92 crore belongs to contract bottling units not related to R1 Ltd. (Consolidated due to IND AS requirement)**

Further, Audit noted that the ITD has not complied with the provision for Non-TCS sale of alcoholic products. Certificates issued, if any, for no deduction or lower deduction of tax at source required under sections 195/197 of the Act were not provided by the DCIT Central Circle 31, New Delhi so that the Non-TCS sale could be examined in Audit. Further, it is pertinent to mention the fact that the amount of TCS at a lower rate or nil rate reported by the Chartered Accountant was not in conformity with the amount of Non-TCS sales allowed by the AO. Para 58.10 of the Guidance note on Tax Audit under Section 44AB of the Income-tax Act issued by ICAI for reporting of Non-TCS sales is reproduced as under:

In Column 6, the tax auditor is required to furnish the total amount out of the amount deductible or collectible as mentioned in column (5) of Sl. No. 34(a) at which the tax was deducted or collected at the specified rate. The auditor has to consider the deduction rates as per the law relevant to the previous year. Further, as per the provisions of sections 195/ 197, a certificate can be issued for no deduction or lower deduction of tax at source. The tax auditor should refer to the relevant provisions, rules, circulars, notifications and such certificates obtained from the auditee to verify the cases where tax has been short-deducted at source. In case the payer deducts/recipient collects tax at source at a rate lower than the specified rate on the basis of a certificate issued under Section 195 or 197, the lower rate or nil rate, as the case may be, will be considered as the specified rate for the purpose of reporting under this clause.

The audit noted that the reassessment of M/s R1 Ltd. was completed without making any reconciliation of the Excise Returns with the income reflected in the Profit and Loss Account. (Refer to Para 2.3.2.2 (II) of the report where the AO has made an addition in the case of M/s P1 Pvt. Ltd. for Assessment year 2017-18 on account of the non-reconciliation of the Excise Returns with the income reflected in the Profit and Loss Account based on the findings of Special Auditor under Section 142(2A) of the Act).

Details of further action taken by the Department and reply of the Ministry are awaited (February 2024).

2.3.2.4 PCIT Delhi-8 - M/s S1 Ltd.

The audit requisitioned the records (September 2019 and September 2021) for M/s S1 Ltd. for the Assessment years 2009-10 to 2018-19.

Non-Production/Non-Availability of the records:

Details of Non-TCS sales were not given in the Audit Report besides the column prescribed in the guidance note issued by the ICAI. Bifurcation of sales as TCS sales and Non-TCS sales was not provided in the Profit and Loss accounts. VAT and other levies were not routed through Profit and Loss accounts, and their details were not provided in the Audit Report. Details of Tax collected at source and corresponding sale for Assessment Year 2018-19 were not available in CPC Data. Excise Duty deposited with the State Excise Department, and the corresponding sale and confirmation from the State Excise Department were not available in the Scrutiny Assessment records.

(I) **Overview:** During the test check for ten Assessment Years, i.e., the Assessment Years 2009-10 to 2018-19, Audit noted the details of summary/scrutiny assessments, as detailed in **Table 2.4** below:

Table 2.4 M/s S1 Ltd.								
								(₹ in crore)
Asst. Year	Business Activity Code	Assessed/ Processed under Section	Date of Assessment order	Sale/ Gross Receipt in P&L	Excise duty debited in P/L	Excise duty deposited in the Excise Department	Returned Income/ Loss	Assessed Income/ Loss
2009-10	0124	143(3)	22.12.2011	417.31	212.10		-34.74	-32.58
2010-11	0124	143(3)	20.03.2013	365.33	211.05		0	1.64
2011-12	0124	143(3)	28.03.2014	529.85	293.95		-7.66	-4.52
2012-13	0124	143(3)	26.03.2015	382.53	258.74		-17.23	-15.30
2013-14	0124	143(3)	29.03.2016	546.09	384.85	Awaited in	0	0
2014-15	0124	143(3)	29.12.2016	551.94	418.02	audit	0	0
2015-16	0124	143(1)	29.03.2016	564.27	450.84		-1.98	-1.98
2016-17	0124	143(1)	29.03.2017	447.35	356.05		-0.49	-0.49
2017-18	0124	143(1)	18.01.2019	573.94	471.11		Nil	Nil
2018-19	04097	143(1)	Awaited in audit	387.16	321.66		-0.54	Awaited in audit

- (a) The scrutiny assessment under Section 143(3) was completed in six years, i.e., Assessment Years 2009-10 to 2014-15 and the remaining four Assessment Years 2015-16 to 2018-19 were processed under summary assessment under Section 143(1).
- (b) In three Assessment Years, 2009-10 to 2012-13, scrutiny assessment was completed by making the addition of ₹ 2.16 crore, ₹ 1.64 crores, ₹ 3.14 crore and ₹ 1.93 crores, respectively, to the returned income/loss.
- (c) During Assessment Years 2013-14 and 2014-15, scrutiny assessment was completed accepting the returned income without making any addition(s).

(II) Audit Analysis of Assessments:

Audit examined (October 2019 and September 2021) assessment records of M/s S1 Ltd. and noticed in five Assessment Years 2014-15 to 2018-19 (Scrutiny Assessment in Assessment Year 2014-15 and Summary Assessment in Assessment Years 2015-16 to 2018-19) that the assessee had declared net sales of ₹ 494.25 crore (Total sale ₹ 2,511.94 crore - excise duty ₹ 2,017.69 crore) in Profit and Loss Account instead of ₹ 2,427.96 crore as certified by the Auditor in Form 3CD at Sl. No.34(a) against Section 206C of the Act, thereby resulting in underreporting of sales amounting to ₹ 1,933.71 crore (₹ 2,427.96 crore – ₹ 494.25 crore) **(Annexure-H)**. Omission to consider the under-reported sales of ₹ 1933.71 crore by the ITD in Assessment Years 2014-15 to 2018-19 resulted in short computation of income involving tax effect of ₹ 664.22 crore, excluding interest under Sections 234A and 234B of IT Act, as applicable. Had the provision of section 68/69C of the Income Tax Act been invoked, the tax impact/effect would have been higher²⁵.

Non Reconciliation with CPC (TDS) data:

The audit further examined the data provided by CPC (TDS) and noted that in Assessment Year 2018-19, details of Tax collected at source and the corresponding sale were not available in CPC (TDS) data. Besides the fact that the TCS sale was reported by the CA in Form 3CD, the information was required to be passed to the TDS wing for necessary verification during the finalization of the Assessment; however, no effort of DCIT Circle-7(1) New Delhi was noticed.

Due diligence exercised by DCIT Circle-7(1) New Delhi could not be ascertained in Audit as no supporting documents/details were found on records.

²⁵ The probable amount of tax effect u/s 68/69C works out to be ₹ 997.32 crore (approximately).

PCIT -7, New Delhi (July 2021) stated that the sale at Sl.No. 34(a) in the Tax Audit Report includes excise duty, and the sale in the Profit and Loss Account includes Non-TCS sales. Moreover, other taxes and duties are included in the Tax Audit Report but not in the Profit and Loss Account. It was also replied that the assessee had provided reconciliation turnover shown in the Profit and Loss Account and turnover shown in clause 34(a) of form 3CD.

Reply of the PCIT-7, New Delhi is not acceptable for the following reasons:

(i) **Assessment Year 2014-15:** Although the case was selected for scrutiny, details of non-TCS sale, VAT and other taxes/duties were neither available in the assessment folder nor was any query made by the Income Tax Officer Ward- 22(3), New Delhi. PCIT-7, New Delhi had furnished reply after a lapse of 22 months of the issue of the Audit observation (October 2019) with the new facts, which were not found placed in the case records earlier. Documents have not been furnished by PCIT-7, New Delhi, in support of reconciliation. The audit noted that post-assessment facts can be examined and verified after reopening the case under Section 147 of the Act.

(ii) **Assessment Years 2015-16 to 2018-19:** In the summary assessment cases, details of Non-TCS sales, VAT and other taxes/duties were not available in Profit and Loss Accounts. Since the case was not selected for scrutiny during this period, the facts not provided in the ITR and its attachments are required to be verified, examined and ascertained by reopening the case under Section 147 of the Act. Documents have not been furnished by PCIT, Central- 7, New Delhi, in support of reconciliation.

Further, the Department may reassess the cases for all the Assessment Years 2014-15 to 2018-19 after reconciling the Excise Returns with the income reflected in the Profit and Loss Account and inform the progress to Audit. {Refer to Para 2.3.2.2 (II) of the report, where the AO has made an addition on account of the non-reconciliation of the Excise Returns with the income reflected in the Profit and Loss Account based on the findings of the Special Auditor.}

Details of further action taken by the Department and a reply from the Ministry are awaited (February 2024).

2.3.2.5 PCIT (Central) -1 New Delhi - M/s M3 Pvt. Ltd.

Audit requisitioned the records (September 2019 and September 2021) with respect to M/s M3 Pvt. Ltd. for the Assessment years 2009-10 to 2018-19.

Non-Production/Non-Availability of the records:

Details of Non-TCS sales were not given in the Audit Report besides the column prescribed in the guidance note issued by the ICAI. Bifurcation of sales as TCS sales and Non-TCS sales was not provided in the Profit and Loss

accounts. VAT and other levies were not routed through Profit and Loss accounts; their details were not provided in the Audit Report. Excise Duty deposited with the State Excise Department and the corresponding sale and confirmation from the State Excise Department were not available in the Scrutiny Assessment records.

(I) **Overview:** During the test check for ten Assessment Years, i.e., the Assessment Years 2009-10 to 2018-19, Audit noted the details of summary/scrutiny assessments, as detailed in **Table 2.5** below:

Table 2.5 M/s M3 Pvt. Ltd.								
								(₹ in crore)
Asst. Year	Business Activity Code	Assessed/ Processed under Section	Date of Assessment order	Sale/ Gross Receipt in P&L	Excise duty debited in P/L	Excise duty deposited in the Excise Department	Returned Income/ Loss	Assessed Income/ Loss
2009-10	0124	143(3)	30.12.2011	423.07	139.70		0.61	0.68
2010-11	0124	143(3)	28.03.2013	384.89	85.16		3.04	3.07
2011-12	0124	143(3)	28.03.2014	414.02	91.90		8.32	8.34
2012-13	0124	143(3)	26.06.2014	479.51	90.80		-2.58	-2.56
2013-14	0124	143(3)	27.05.2015	535.47	121.31		0.14	0.17
2014-15	0124	143(3)	30.09.2016	517.51	117.52	Awaited in	-20.10	-20.06
2015-16	0124	143(3)	05.09.2017	525.66	116.15	audit	-2.07	-2.07
2016-17	0124	143(1)	22.09.2017	575.07	132.14		0.10	0.10
2017-18	0124	143(1)	13.12.2018	581.78	116.21		0.01	0.66
2018-19	04019 04017 04015	143(3)	24.12.2020	655.77	132.09		8.81	8.81

- (a) The scrutiny assessment under Section 143(3) was completed for eight years, i.e., Assessment Years 2009-10 to 2015-16 & 2018-19 and the remaining two Assessment Years 2016-17 & 2017-18 were processed under summary assessment under Section 143(1).
- (b) During Assessment Years 2009-10, 2010-11, 2011-12, 2012-13, 2013-14 and 2014-15, the scrutiny assessment was completed by making additions of ₹ 0.07 crore, ₹ 0.03 crore, ₹ 0.02 crore, ₹ 0.02 crore, ₹ 0.03 crore and ₹ 0.04 crore respectively to the returned income/loss.
- (c) During Assessment Years 2015-16 and 2018-19, the scrutiny assessments were completed, accepting the returned income without making any additions.

(II) Audit Analysis of Assessments:

Audit examined (October 2019 and September 2021) the assessment records of M/s M3 Pvt. Ltd. and noticed in five Assessment Years 2014-15 to 2018-19 (Scrutiny Assessment in Assessment Years 2014-15 to 2015-16 and Summary

Assessment in Assessment Years 2016-17 to 2018-19) that the assessee had declared net sales of ₹ 2,098.57 crore (Total sale ₹ 2,712.67 crore less excise duty ₹ 614.10 crore) in the Profit and Loss Account instead of ₹ 2,348.70 crore as certified by the Auditor in Form 3CD at Sl. No.34(a) against Section 206C of the Act, thereby resulting in underreporting of sales amounting to ₹ 250.13 crore (₹ 2,348.70 crore – ₹ 2,098.57 crore) **(Annexure-I)**. Omission to consider the under-reported sales of ₹ 250.13 crores by the ITD in Assessment Years 2014-15 to 2018-19 resulted in the short computation of income involving tax effect of ₹ 85.42 crores excluding interest under Sections 234A and 234B of the IT Act, as applicable. Had the provision of section 68/69C of the Income Tax Act been invoked, the tax impact/effect would have been higher²⁶.

Non Reconciliation with CPC (TDS) data:

The audit further examined the data provided by CPC (TDS) and noted that in five Assessment Years, 2014-15, 2015-16, 2016-17, 2017-18 and 2018-19, sales on which Tax at source was collected were ₹ 32.53 crore, ₹ 31.02 crore, ₹ 32.27 crore, ₹ 33.75 crore and ₹ 26.30 crore respectively; however, in 3CD the sales were ₹ 462.22 crore, ₹ 443.84 crore, ₹ 441.87 crore, ₹ 463.38 crore and ₹ 537.38 crore respectively. The information was required to be passed to the TDS wing for necessary verification during the finalization of the Assessment. However, no effort was made by DCIT Central Circle-8 Delhi to scrutinize assessment cases. Details of sales reported by CPC (TDS) are given in **Table 2.5.1** below:

Table 2.5.1 M/s M3 Pvt. Ltd.				
				(₹ in crore)
Asst. Year	Sale including excise duty in P/L	Excise duty as per P/L	Sale on which Tax at source collected as per 3CD/ 34(a)	Sale as per CPC (TDS)
2014-15	473.86	117.52	462.22	32.53
2015-16	480.52	116.15	443.84	31.02
2016-17	534.12	132.14	441.87	32.27
2017-18	575.60	116.21	463.38	33.75
2018-19	648.56	132.09	537.38	26.30

Due diligence exercised by DCIT Central Circle-8 Delhi could not be ascertained in Audit as no supporting documents/details were found in records.

The PCIT, Central- 1, New Delhi (April 2021, January 2022 and April 2022) stated that the sale at Sl. No. 34(a) in the Tax Audit Report includes excise duty, and the sale in the Profit and Loss Account includes Non-TCS sales.

²⁶ The probable amount of tax effect u/s 68/69C works out to be ₹ 96.03crore (approximately).

Moreover, other taxes and duties are included in the Tax Audit Report but not in the Profit and Loss Account.

Reply of the PCIT Central- 1, New Delhi is not acceptable for the following reasons-

(i) **Assessment Years 2014-15 to 2015-16:** Although the case was selected for scrutiny, the details of Non-TCS sale, VAT and other taxes/duties were neither available in the assessment folder nor any query made by the Assistant Commissioner of Income Tax Central Circle - 8, New Delhi. Further, PCIT, Central- 1, New Delhi furnished a reply to Audit after a lapse of 18 months of the issue of the Audit memo (October 2019) with new facts, which were not found placed in the case records earlier. The audit noted that post-assessment facts could be examined and verified after reopening the case under Section 147 of the Act. Further, PCIT Central-1, New Delhi had not furnished any supporting documents in favour of his reply.

(ii) **Assessment Years 2016-17 to 2018-19:** In the summary assessment cases, details of non-TCS sales, VAT and other taxes/duties were not available either in the Profit and Loss Accounts or the ITR and its attachments. Hence, details could only be verified, examined and ascertained by reopening the case under Section 147 of the Act. Further, PCIT Central-1, New Delhi, had not furnished any supporting document in favour of his reply.

After reconciling the Excise Returns with the income reflected in the Profit and Loss Account, the Department may reassess the cases for all the Assessment Years 2014-15 to 2018-19. (Refer Para 2.3.2.2 (II) of the report, wherein Audit noted that the AO had made an addition in the case of M/s P1 Pvt. Ltd. for Assessment year 2017-18 on account of the non-reconciliation of the Excise Returns with the income reflected in the Profit and Loss Account based on the findings of Special Auditor under Section 142(2A) of the Act).

Details of further action taken by the Department and reply of the Ministry are awaited (February 2024).

2.3.2.6 PCIT 6 New Delhi- M/s M2 Ltd.

Audit requisitioned the records of M/s M2 Ltd. for the Assessment years 2009-10 to 2018-19 (September 2019 and September 2021).

Non-Production/Non-Availability of the records:

Details of Trade discount, Breakage during manufacturing, sales return and sale of Scrap directly linked to the net profit were neither indicated in the Profit and Loss accounts nor the Balance sheet. Details of Tax collected at source and corresponding sale for Assessment Years 2016-17, 2017-18 and 2018-19 were not available in CPC Data. Excise Duty deposited with the State Excise Department and the corresponding sale and confirmation from

the State Excise Department were not available in the Scrutiny Assessment records. Reference of self-consumption of the products was not given in Sl. No. 35bB of Audit Report. 'Any other report of Form 3CD, i.e., notes forming part of Form 3CD' was not provided to Audit with the attached documents uploaded with ITRs. ITR for the Assessment Year 2018-19 was not produced to Audit.

(l) **Overview:** During the test check for the period of ten Assessment Years, i.e., the Assessment Years 2009-10 to 2018-19, Audit noted the details of summary/scrutiny assessments, as detailed in **Table 2.6** below:

Table 2.6 M/s M2 Ltd.								
(₹ in crore)								
Asst. Year	Business Activity Code	Assessed/ Processed under Section	Date of Assessment order	Sale/ Gross Receipt in P/L	Excise duty debited in P/L	Excise duty deposited in the Excise Department	Returned Income/ Loss	Assessed Income/ Loss
2009-10		143(3)	12.10.2011	306.06	85.24		0	0
2010-11		143(3)	02.11.2012	237.86	22.82		0	0
2011-12	Not mentioned	143(3)	16.12.2013	410.42	66.17		0	0
2012-13		143(3)	02.03.2015	414.86	110.82		-39.82	-37.91
2013-14		143(3)	03.12.2015	449.74	115.04		-25.53	-23.64
2014-15	0124/0118	143(3)	29.12.2016	330.29	28.97	Awaited	-46.07	-45.51
2015-16	0124/0118	143(3)	29.03.2016	360.04	22.24	in audit	-22.44	-22.44
2016-17	0124/0118	143(3)	11.12.2018	357.35	48.63		-6.68	-6.11
2017-18	0124	143(1)	Awaited in audit	422.60	81.29		-4.98	Awaited in audit
2018-19	04006, 04097	143(3)	22.04.2021	502.78	107.95		-31.47	-27.80

- (a) The scrutiny assessment under Section 143(3) was completed in nine years, i.e., Assessment Years 2009-10 to 2016-17 & 2018-19, and the remaining one, Assessment Year 2017-18, was processed under summary assessment under Section 143(1).
- (b) During Assessment Years 2009-10, 2010-11 & 2011-12, the scrutiny assessment was completed accepting the returned income of nil amount.
- (c) During Assessment Years 2012-13 to 2016-17 and 2018-19, the scrutiny assessment was completed by making additions of ₹ 1.91 crore, ₹ 1.89 crore, ₹ 0.56 crore, ₹ 0.01 crore, ₹ 0.57 crore & ₹ 3.67 crore respectively to the returned loss.
- (d) During Assessment Years 2009-10 to 2013-14, the business activity code was not mentioned in the relevant column of Income Tax Returns filed by the assessee.

(II) Audit Analysis of Assessments:

Audit examined (September 2019 and September 2021) the assessment records of M/s M2 Ltd. and noticed in five Assessment Years 2014-15 to 2018-19 (Scrutiny Assessment in Assessment Years 2014-15 to 2016-17 & 2018-19 and Summary Assessment in Assessment Year 2017-18) that the assessee had declared net sales of ₹ 329.54 crore (Total sale ₹ 618.62 crore less excise duty ₹ 289.08 crore) in the Profit and Loss Account instead of ₹ 601.26 crore as certified by the Auditor in Form 3CD at Sl. No.34(a) against Section 206C of the Act, thereby resulting in underreporting of sales amounting to ₹ 271.72 crore (₹ 601.26 crore – ₹ 329.54 crore) **(Annexure-J)**. Omission to consider the under-reported sales of ₹ 271.72 crores by the ITD in Assessment Years 2014-15 to 2018-19 resulted in the short computation of income involving tax effect of ₹ 93.96 crores excluding interest under Sections 234A and 234B of the IT Act, as applicable. Had the provision of section 68/69C of the Income Tax Act been invoked, the tax impact/effect would have been higher.²⁷

Non Reconciliation with CPC (TDS) data:

Audit further extracted the data provided by CPC (TDS) and noted that in two Assessment Years, 2014-15 and 2015-16, sales on which Tax at source were collected were ₹ 27.52 lakh and ₹ 4.44 lakh, respectively; however, in the Form 3CD, the sales were ₹ 26.09 crore and ₹ 40.19 crore respectively. In three Assessment Years 2016-17, 2017-18 and 2018-19, details of Tax collected at source and corresponding sale were not available in CPC (TDS) data. Besides the fact that the TCS sale was reported by the CA in Form 3CD, the information was required to be passed to the TDS wing for necessary verification during the finalization of the Assessment; however, no effort of DCIT Circle-16(1) Delhi was noticed on scrutiny Assessment cases. Details of sales reported by CPC (TDS) are given in **Table 2.6.1** below:

Table 2.6.1 M/s M2 Ltd.				
				(₹ in crore)
Asst. Year	Sale including excise duty in P/L	Excise duty as per P/L	Sale on which Tax at source collected as per 3CD/ 34(a)	Sale as per CPC (TDS)
2014-15	49.65	28.97	26.09	0.28
2015-16	54.17	22.24	40.19	0.04
2016-17	105.61	48.63	99.93	Not in CPC data
2017-18	167.28	81.29	169.85	Not in CPC data
2018-19	241.92	107.95	265.20	Not in CPC data

²⁷ The probable amount of tax effect u/s 68/69C works out to be ₹ 185.68 crore (approximately).

The due diligence exercised by DCIT Circle-16(1) Delhi could not be ascertained in the Audit, as no supporting documents/details were found in the records.

The DCIT, Circle-16(1), Delhi (February 2021) stated that clarifications/submissions had been sought from the assessee for Assessment Years 2014-15, 2015-16, 2016-17 and 2017-18. No reply was provided by the ITD with respect to Assessment Year 2018-19 (June 2022).

Further, DCIT (Hq.) (Coord. II) Delhi stated (July 2022) that the cases for Assessment Years 2014-15, 2015-16 and 2018-19 are not acceptable. However, the cases for Assessment Years 2014-15 to 2017-18 were reopened under Section 148 of the IT Act, out of which the proceedings for Assessment Years 2014-15 and 2017-18 have been stayed by the Delhi High Court, and final comments on Audit objections raised for Assessment Years 2014-15 and 2017-18 will be submitted after conclusion.

It was further stated (July 2022) by DCIT (Hq.) (Coord.II) Delhi that the assessments for the Assessment Years 2015-16 and 2016-17 have been completed by NaFAC. Nodal Officer O/o the PCIT-4 New Delhi provided (September 2022) Assessment Orders passed under Section 147 read with section 144B of the IT Act for the Assessment Years 2015-16 and 2016-17.

Audit noted that the details of trade discount, nature of trade discount, breakage during manufacturing, sales return and sale of Scrap, etc. were not available in the assessment records. DCIT Circle-16(1) Delhi relied on the unaudited information provided by the assessee. Reconciliation of difference in sale was not done with the TCS return filed by the assessee in the TDS wing of the Income Tax Department at CPC (TDS). Any efforts to coordinate with the concerned State Excise Department to obtain the details of the sale could not be verified in the audit. The issue of lack of inter-department and intra-department coordination during assessment/re-assessment proceedings needs to be addressed in the interest of revenue. Further, Nodal Officer O/o the PCIT-4 New Delhi had not furnished any supporting document in favour of his reply.

The Department may reassess the Assessment Years 2015-16, 2016-17 and 2018-19 after reconciling the Excise Returns with the income reflected in the Profit and Loss Account. (Refer Para 2.3.2.2 (II) of the report, wherein Audit noted that the AO had made an addition in the case of M/s P1 Pvt. Ltd. for Assessment year 2017-18 on account of the non-reconciliation of the Excise Returns with the income reflected in the Profit and Loss Account based on the findings of Special Auditor under Section 142(2A) of the Act).

Details of further action taken by the Department and reply of the Ministry are awaited (February 2024).

2.3.2.7 PCIT 1 Mumbai- M/s A1 Ltd.

Audit requisitioned records (July 2019 and October 2021) with respect to M/s A1 Ltd. for the Assessment years 2012-13 to 2018-19.

Non-Production/Non-Availability of the records:

Excise Duty deposited with the State Excise Department and the corresponding sale, as well as confirmation from the State Excise Department, were not available in the Scrutiny Assessment records. The Assessment Order passed under section 147 for the Assessment Year 2015-16 was not produced to Audit.

Overview: During the period of ten Assessment Years, i.e., the Assessment Years 2009-10 to 2018-19, Audit noted the details of summary/scrutiny assessments, as detailed in **Table 2.7** below:

Table 2.7 M/s A Ltd.								
(₹ in crore)								
Asst. Year	Business Activity Code	Assessed/ Processed under Section	Date of Assessment order	Sale/ Gross Receipt in P/L	Excise duty debited in P/L	Excise duty deposited in the Excise Department	Returned Income/ Loss	Assessed Income/ Loss
2009-10	0124	143(3) rws 144C(13)	08.03.2013	1330.37	NA		-116.98	-38.55
2010-11	0124	143(3)	06.05.2014	1314.33	NA		-194.29	-117.82
2011-12	0124	143(3) rws 144C(13)	28.01.2016	1517.86	NA		-88.82	-23.78
2012-13	0124	143(3)	24.01.2017	2,987.07	1,146.32	Awaited in audit	-133.08	-35.62
2013-14	0124	143(3)	30.10.2017	3,453.77	1,457.24		-81.27	-33.17
2014-15	0124	143(3)	25.10.2018	3,475.83	1,555.60		-80.18	-30.90
2015-16	0124	143(1)	25.03.2016	3,593.33	1,653.63		-66.14	0
2016-17	0124	143(3)	30.06.2021	3,827.68	1,739.97		-32.93	47.58
2017-18	0124	143(3)	30.09.2021	3,144.40	1,526.44		-243.69	32.05
2018-19	04017	143(3)	30.09.2021	3,042.91	1,684.45		0	1.28

(a) The scrutiny assessments under Section 143(3) were completed for nine years, i.e., Assessment Years 2009-10 to 2014-15 & 2016-17 to 2018-19. In the remaining Assessment Year, 2015-16, the case was processed under summary assessment under Section 143(1) and later re-opened (March 2019) under Section 147 of the Act.

(II) Audit Analysis of Assessments:

Audit examined (October 2021) the assessment records of M/s A1 Ltd. and noticed in two Assessment Years 2015-16 and 2016-17 (Scrutiny Assessment in Assessment Years 2015-16 & 2016-17) that the assessee had declared the net sales of ₹ 3,818.22 crore in Profit and Loss Account instead of ₹ 4,207.81 crore as certified by the Auditor in Form 3CD at Sl. No. 34(a) against Section 206C of the Act, thereby resulting in underreporting of sales amounting to ₹ 389.59 crore (₹ 4,207.81 crore – ₹ 3,818.22 crore) (**Annexure-K**). The omission to consider the under-reported sales of

₹ 389.59 crore by the ITD resulted in the short computation of income involving tax effect of ₹ 133.22 crores, excluding interest under Sections 234A and 234B of the IT Act, as applicable.

The reply of the PCIT- 1, Mumbai, was still awaited (February 2024).

2.3.2.8 PCIT 2 Bengaluru- M/s U2 Ltd.

Audit requisitioned the records (September 2021) with respect to M/s U2 Ltd. for the Assessment years 2009-10 to 2018-19.

Non-Production/Non-Availability of the records:

Excise Duty deposited with the State Excise Department and the corresponding sale and confirmation from the State Excise Department was not available in the Scrutiny Assessment records. Assessment folders/case records viz., Audit Report, Financial Statements for the Assessment Years 2013-14, 2017-18 and 2018-19 were not produced to Audit. The Department did not provide bifurcation for the figures of sale under 'Tie-up Agreements' as appearing in the Profit and Loss Account of M/s U2 Ltd. for the Assessment Year 2014-15 to 2016-17.

(i) **Overview:** During the test check for the period of ten Assessment Years, i.e., the Years 2009-10 to 2018-19, the Audit analyzed and noted the details of summary/scrutiny assessments, as mentioned in **Table 2.8** below:

Table 2.8 M/s U2 Ltd.								(₹ in crore)	
Asst Year	Business Activity Code	Assessed/ Processed under Section	Date of order	Sale/ Gross Receipt in P/L	Excise duty debited in P/L	Excise duty deposited in the Excise Department	Returned Income/ Loss	Assessed Income/ Loss	
2009-10	0124	143(3)	30.12.2011	7,113.08	3,365.42		496.64	550.34	
2010-11	0124	143(3)	28.03.2013	8,779.07	4,254.94		389.97	431.80	
2011-12	0124	143(3)	31.03.2014	12,366.12	6,467.71		515.17	543.61	
2012-13	0124	143(3) rws 144C(13)	31.01.2017	16,046.43	8,503.76		513.47	990.14	
2013-14	Awaited in audit	Awaited in audit	Awaited in audit	18,834.40	10,516.23		Awaited in audit	Awaited in audit	
2014-15	0124/0204	143(3) rws 144C(13)	10.10.2018	20,734.88	12,308.53		387.70	1,609.01	
2015-16	0124/0204	143(3) rws 144C(13)	25.10.2019	20,502.54	12,550.89	Awaited in audit	250.86	1,688.41	
2016-17	0124/0204	143(3) rws 144C rws 144B	30.04.2021	22,241.98	13,209.68		-157.54	1,734.35	
2017-18	0124/0204	Scrutiny in progress	Awaited in audit	Awaited in audit	Awaited in audit		75.59	Awaited in audit	
2018-19	04018/ 04019	Scrutiny in progress	Awaited in audit	Awaited in audit	Awaited in audit		772.52	Awaited in audit	

- (a) As per the records provided by the ITD, the scrutiny assessment under Section 143(3) was completed in seven years, i.e., Assessment Years 2009-10 to 2012-13 & 2014-15 to 2016-17.
- (b) Details of Assessment Years 2013-14, 2017-18 and 2018-19 are still awaited in audit.

(II) Audit Analysis of Assessments:

(a) Audit examined (January 2022) the assessment records of M/s U2 Ltd. of three Assessment Years 2014-15 to 2016-17 (Scrutiny Assessments in Assessment Years 2014-15 to 2016-17) and noticed that the assessee had declared the net sales of ₹ 24,015.56 crore in Profit and Loss Account instead of ₹ 36,908.66 crore as certified by the Auditor in Form 3CD at Sl. No. 34(a) against Section 206C of the Act, thereby resulting in under reporting of sale amounting to ₹ 12,893.10 crore (₹ 36,908.66 crore – ₹ 24,015.56 crore) **(Annexure-L)**. Omission to consider the under-reported sales of ₹ 12,893.10 crore by the ITD in Assessment Years 2014-15 to 2016-17 resulted in short computation of income involving tax effect of ₹ 4,396.48 crore, excluding interest under Sections 234A and 234B of IT Act, as applicable.

Reply of the PCIT-2, Bengaluru is awaited (February 2024).

(b) The audit noted (December 2022) that during the Assessment Years 2015-16 to 2018-19, M/s U2 Ltd. had six Distilleries in the State of Karnataka. The produce from these distilleries was exclusively sold to M/s K1 Ltd., which sold the produce to licensed retailers. Audit sought the details of sales made by each Distillery unit in Karnataka for the period Assessment Years 2015-16 to 2018-19 from the State Excise Department. Further, Audit compared the aggregate purchases reported by M/s K1 Ltd. with the total sales reported by the six Distillery units of M/s. U2 Ltd. in the State Excise Department Karnataka for the AYs 2015-16 to 2018-19. Audit noted that in Assessment Years 2015-16 to 2018-19 there was short accounting in sales made by these distillery units of ₹ 544.93 crore **(Annexure-L1)**. The substantial mismatch in the purchase and sales accounting indicates the inherent risk in the distillery units' current accounting practice, which is prejudicial to the interest of revenue. The inconsistencies were required to have been addressed in the assessment proceedings of the respective Assessment Years. The reason for the difference could not be ascertained in Audit.

Reply of the PCIT- 2, Bengaluru is awaited (February 2024).

(c) State Excise Department Karnataka reported the sale of produce made by M/s U2 Ltd. in respect of Chamundi Unit of ₹ 280.43 crore in Assessment Year 2015-16; however, M/s K1 Ltd. reported the purchase of sale produce of Chamundi Unit as Nil. The reason for the difference in sales could not be ascertained in the audit. A reply from PCIT-2, Bengaluru, is awaited (February 2024).

2.3.2.9 PCIT-2, Bengaluru- M/s U3 Ltd.

Audit requisitioned the records (September 2021) with respect to M/s U3 Ltd. for the Assessment years 2009-10 to 2018-19.

Non-Production/Non-Availability of the records:

Excise Duty deposited with the State Excise Department and the corresponding sale, as well as confirmation from the State Excise Department, were not available in the Scrutiny Assessment records. Assessment folders/case records, viz., Audit Report, and Financial Statements for the Assessment Year 2018-19, were not produced to Audit.

(i) **Overview:** During the test check for the period of ten Assessment Years, i.e., the Assessment Years 2009-10 to 2018-19, Audit analyzed and noted the details of the summary/scrutiny assessments, as mentioned in **Table 2.9** below:

Table 2.9 M/s U3 Ltd.								(₹ in crore)
Asst. Year	Business Activity Code	Assessed/ Processed under Section	Date of order	Sale/ Gross Receipt in P/L	Excise duty debited in P/L	Excise duty deposited in the Excise Department	Returned Income/ Loss	Assessed Income/ Loss
2009-10	0124/0204	143(3)	21.12.2011	2,460.45	762.18		77.35	96.17
2010-11	0124/0204	143(3)	28.03.2013	2,955.80	958.35		154.74	205.15
2011-12	Not mentioned	143(3)	26.03.2014	4,557.12	1,543.92		0	33.50
2012-13	Not mentioned	143(3) rws 147	22.05.2019	5,864.94	2,237.25		132.93	342.68
2013-14	Not mentioned	143(3) rws 144C(13)	09.10.2017	6,530.23	2,627.09		264.12	322.46
2014-15	0124	143(3) rws 144C(1)	26.09.2018	7,261.84	3,026.34		313.01	349.98
2015-16	0124	143(3) rws 144C(13)	21.10.2019	8,238.68	3,546.39	Awaited in audit	349.76	429.75
2016-17	0124	143(3) rws 144C(13) rws 144B	30.04.2021	9,167.73	4,086.25		461.47	640.40
2017-18	0124	143(3) rws 144B	22.04.2021	10,228.16	5,500.61		385.30	1122.29
2018-19	04017	Awaited in audit	Awaited in audit	Awaited in audit	Awaited in audit		Awaited in audit	Awaited in audit

(a) As per the records provided by the ITD, the scrutiny assessments under Section 143(3) were completed for nine years for the Assessment Years 2009-10 to 2017-18.

(b) Details of Assessment Year 2018-19 are awaited in Audit.

(II) Audit Analysis of Assessments:

(a) Audit examined (January 2022) the assessment records of M/s U3 Ltd. pertaining to four Assessment Years 2014-15 to 2017-18 (Scrutiny Assessment in Assessment Years 2014-15 to 2017-18) and noticed that the assessee had declared net sales of ₹16,795.20 crore in Profit and Loss Account instead of ₹ 18,657.94 crore as certified by the Auditor in Form 3CD at Sl. No. 34(a) against Section 206C of the Act, thereby resulting in underreporting of sales amounting to ₹ 1,862.74 crore (₹ 18,657.94 crore – ₹ 16,795.20 crore) **(Annexure-M)**. Omission to consider the under-reported sales of ₹ 1,862.74 crore by the ITD in Assessment Years 2014-15 to 2017-18 resulted in short computation of income involving tax effect of ₹ 642.49 crore excluding interest under Sections 234A and 234B of IT Act, as applicable. Had the provision of section 68/69C of the Income Tax Act been invoked, the tax impact/effect would have been higher²⁸.

Reply of the PCIT- 2, Bengaluru is still awaited (February 2024).

(b) The audit noted (December 2022) that during the Assessment Years 2015-16 to 2018-19, M/s U3 Ltd. had three Breweries viz. Mangaluru, Nelamangala and Nanjangud in the State of Karnataka. The produce from these Breweries was exclusively sold to the M/s K1 Ltd., which sold them to the licensed retailers. Audit sought the details of sales made by Mangaluru, Nelamangala and Nanjangud units in Karnataka for the period Assessment Years 2015-16 to 2018-19 from the State Excise Department. Further, Audit compared the aggregate purchases reported by M/s K1 Ltd. with the total sales reported by the three Brewery units of M/s U3 Ltd. in the State Excise Department Karnataka for the Assessment Years 2015-16 to 2018-19. The audit noted that in Assessment Years 2015-16 to 2018-19, there was short accounting in sales made by these Brewery units of ₹ 449.74 crores **(Annexure-M1)**. The substantial mismatch in the accounting of sales and purchases indicates the inherent risk in the current accounting practice of the brewery units, which is prejudicial to the interest of revenue. The inconsistencies were required to have been addressed in the assessment proceedings of the respective Assessment Years. The reason for the difference could not be ascertained in Audit.

Reply of the PCIT-2, Bengaluru is awaited (February 2024).

²⁸ The probable amount of tax effect u/s 68/69C works out to be ₹ 1281.12crore (approximately).

2.3.2.10 PCIT-I, Lucknow - M/s M1 Ltd.:

Audit examined (May 2019) the assessment records of M/s M1 Ltd. and noticed in two Assessment Years, 2014-15 & 2015-16 (Scrutiny Assessment in Assessment Year 2014-15 and Summary Assessment in Assessment Year 2015-16) that the assessee had paid royalty to M/s U3 Ltd. amounting to ₹ 37.15 crore (₹ 17.09 crore and ₹ 20.06 crore respectively). However, M/s U3 Ltd., in its Profit and Loss Account, had shown royalty income of ₹ 11.87 crore only (₹ 5.04 crore + ₹ 6.83 crore) in the respective Assessment Years from all the CMUs. In the absence of details of royalty in the Accounts of M/s U3 Ltd., the exact royalty payment made by M/s M1 Ltd. to M/s U3 Ltd. could not be verified. Audit noted that the excess claim of expenditure amounted to at least ₹ 25.28 crore (₹ 37.15 crore - ₹ 11.87 crore) involving tax effect of ₹ 8.59 crore, excluding interest under Sections 234A and 234B of the IT Act in Assessment Years 2014-15 & 2015-16.

The audit noted that the AO of M/s M1 Ltd. did not communicate the details of royalty payment to the Jurisdictional AO of M/s U3 Ltd. to ensure that they duly paid the tax on account of royalty income. During this period, the AO of M/s U3 Ltd. also did not make any effort to get these details verified from the concerned AO of M/s M1 Ltd. and other Contract Manufacturing Units.

In reply (January 2022), Pr. CCIT(CCA), Lucknow stated that remedial action under Section 147 of the Act has been initiated for Assessment Year 2014-15 and for Assessment Years 2015-16 to 2017-18 proposed for reopening the cases under Section 147 read with Section 148 of the Act.

Details of further action taken by the Department are awaited (February 2024).

2.3.2.11 Conclusion:

The absence of a clear provision bifurcating total sales into TCS/ Non TCS in Sl. No. 34(a), Excise duty, VAT, and other taxes/duties in the Tax Audit Report and the failure of the Assessing Officers to call for such details at the scrutiny assessment stage impacted the quality of scrutiny assessments, indicating that the possibility of revenue leakage cannot be ruled out.

Further, the absence of a focused approach to address the risks specific to this sector gets compounded due to deficient verification and monitoring mechanism at the field level. Such irregularities had underlying risk of tax evasion that requires further probing and detailed examination. Further, ITD had yet to take appropriate action on the audit observations, in some cases even after a lapse of more than four years of the issuance of observations.

ITD may also examine these assesseees in detail for the succeeding Assessment Years under intimation to audit to prevent probable revenue leakage to the exchequer.

2.3.3 Arithmetical discrepancy and certification by the Auditor with respect to the Quantitative Abstract of the finished products

During the examination of records of four companies viz., M/s W1 Ltd., M/s R1 Ltd., M/s M2 Ltd. and M/s A1 Ltd. engaged in the business of liquor, Audit noticed that the ITD system could not identify cases where the arithmetical discrepancies in the figures reported at Sl.no. 35bB of Form 3CD were depicted and certified by the Auditor in the quantitative abstract of finished products. Observations are illustrated below:

2.3.3.1 PCIT Bareilly – M/s W1 Ltd.

(a) Audit noticed (October 2019) from examination of scrutiny assessment records pertaining to the Assessment Year 2014-15 that there was an arithmetical discrepancy with respect to the Quantitative Abstract of finished products (e.g., Rectified Spirits, Silent Spirits, Cane Juice Spirits, Malt Spirits, Grain Spirits and Pet Bottles) vide Sl.no. 35bB of Form 3CD and the same was certified by the Auditor, which resulted in short accounting by 2,17,74,342 litres (**Annexure N-1**). Omission to verify the details by the AO in Assessment Year 2014-15 resulted in short computation of income by ₹ 87.10 crore (2,17,74,342 @ ₹ 40 per litre) involving tax effect of ₹ 29.60 crore, excluding interest under Sections 234A and 234B of Income tax Act, as applicable.

In reply (January 2022), the PCCIT (CCA), Lucknow stated that for the Assessment Year 2014-15, all Audit objections will be sent to the NeAC from where the assessment is to be made in the faceless manner and there all the points may be examined again during the course of proceeding under Section 143(3)/147 of Income tax Act.

The audit noted that an order under Section 147 read with Section 144B of the IT Act was passed (March 2022) for Assessment Year 2014-15 at an income of ₹ 256.81 crore by making an addition of ₹ 223.80 crore pertaining to the sale of the M/s U3 Ltd.'s brand. But short accounting pointed out by Audit was neither added to the assessed income nor mentioned by the NeFACin the assessment order passed in March 2022. Reasons for non-addition could not be ascertained by Audit.

It may be mentioned that on account of difference in figures of raw material consumed as reported in Audit Report in Form 3CD in different Assessment Years 2014-15 to 2017-18 and those reported with the UP State Excise Department, a Draft Para namely "Non-realization of revenue due to concealment of the quantity of consumed excise material and interest

thereon" with a money value of ₹ 1,646.04 crore (Excise duty ₹ 816.58 crore + interest ₹ 829.46 crore) was printed in the Report of the Comptroller and Auditor General of India on Revenue Sector for the year ended 31 March 2019 -Government of Uttar Pradesh-Report No.3 of 2020.

Details of further action taken by the Department and reply of the Ministry are awaited in Audit (February 2024).

(b) Audit noticed (November 2021) from examination of Summary records pertaining to Assessment Year 2018-19 that there was an arithmetical discrepancy with respect to quantitative Abstract of finished product (e.g., ENA/RS manufactured, blending stock (IMFL), blending stock (CL), malt (SELF MRF), beer (strong) etc. vide Sl.no. 35bB of Form 3CD and certified by the Auditor, which resulted in short accounting by 13,49,56,782 litres (**Annexure N-2**). This resulted in short computation of income by ₹ 719.05 crore (13,49,56,782 liters @ ₹ 53.28 per litre) involving tax effect of ₹ 248.85 crore excluding interest under Sections 234A and 234B of IT Act, as applicable.

Audit further noticed that after processing of the income tax return under Section 143(1), the Assessee had submitted in October 2020 a revised Audit Report after eight months of processing of ITR under Section 143(1) without specifying any reasons, which was allowed and accepted by the ITD System. In the revised Audit Report, Audit noted that differences as pointed out by Audit were modified and uploaded by the assessee, which were allowed by the ITD System. Since the reporting of facts and revised figures differed from the original figures, the differential amount/figures modified impacted the Profit and Loss Account of the assessee, having revenue implications of ₹ 719.05 crore. ITD may consider detailed examination by reopening the case under Section 147 of the Act.

Reply of the PCCIT (CCA), Lucknow is still awaited (February 2024).

2.3.3.2 PCIT (Central) -3 New Delhi - M/s R1 Ltd.:

Audit noticed (October 2019) from examination of records pertaining to three Assessment Years 2015-16 to 2017-18 (Scrutiny Assessment in Assessment Year 2016-17 and Summary Assessment in Assessment Years 2015-16 and 2017-18), there were arithmetical discrepancies with respect to quantitative Abstract of finished product (e.g. Rectified Spirits, Silent Spirits, Cane Juice Spirits, Malt Spirits, Grain Spirits and Pet Bottles) vide Sl.no. 35bB of Form 3CD and certified by the Auditor which resulted in short accounting by 1,05,13,80,157 units. This resulted in short computation of income by ₹ 1,211.61 crore as worked out at the value given at note 42(b) of Profit and

Loss Account (**Annexure-O**) involving tax effect of ₹ 416.96 crore, excluding interest under Sections 234A and 234B of IT Act, as applicable.

The PCIT, Central- 3, New Delhi (July 2021) while stating that the observations pointed out by the Audit will be acted upon while making assessment/ reassessment as the cases pertaining to Assessment Years 2013-14 to 2017-18 have been reopened under Section 147 read with Section 148 of the IT Act.

Audit noted that the cases for three Assessment Years 2015-16 to 2017-18 were reopened on the basis of Audit observations but re-assessment completed (February 2022) without making any addition(s). DCIT Central Circle 31, New Delhi has not provided the details justifying the reason(s) for not considering Audit observation while finalizing the reassessment order. Audit could not ascertain the reason or justification for not considering the Audit observations while taking remedial action.

DCIT CC-31 New Delhi replied (September 2022) that the assessee has reported complete purchases which included both trading purchases and purchase utilized for further production. The assessee furnished the details of traded purchases as well as those consumed in manufacturing. Further, it was stated that Rectified spirit has been consumed for production of silent spirits and combined consumption of silent spirit, cane juice spirit, Malt spirit and Grain spirit is utilized for manufacturing of total quantity of IMFL and country liquor.

Audit noted that the DCIT CC-31 New Delhi, has provided the reconciliation chart for arithmetical discrepancy and certification by the Auditor with respect to Quantitative Abstract of finished product for the Assessment Years 2015-16, 2016-17 and 2017-18 in the format of **Table 3.2** below containing columns A to I.

Table 3.2								
Item name	Unit	Opening Stock	Purchase	Quantity manufac tured	Sales during previous year	Consumed during previous year	Closing Stock	Shortage/ Excess, if any
A	B	C	D	E	F	G	H	I

Audit noted that the reconciliation was provided by inserting a new column G in details of Sl. No.35bB, prescribed by ICAI. DCIT CC-31 New Delhi had not furnished any supporting documents in respect of reconciliation. In absence of the details of Consumed finished products during previous year (as per Column G) the Audit could not ascertain due diligence exercised by DCIT Central Circle 31, New Delhi during finalizing the Assessment order to examine the arithmetical discrepancy and certification by the Auditor with respect to quantitative abstract of finished product.

Moreover, during AY 2014-15, there was no difference in the quantitative abstract of sale of items at Sl.No.35bB of 3CD, inspite of the fact that there was manufacturing and consequent sale of the finished products in the P&L account and net profit offered for taxation.

Details of further action taken by the Department and reply of the Ministry are awaited (February 2024).

2.3.3.3 PCIT Delhi-6 - M/s M2 Ltd.:

Audit noticed (October 2019 and November 2021) from examination of records pertaining to four Assessment Years 2014-15, 2015-16, 2017-18 and 2018-19 (Scrutiny Assessment in Assessment Years 2014-15, 2015-16 & 2018-19 and Summary Assessment in Assessment Year 2017-18) that there were arithmetical discrepancies with respect to quantitative Abstract of finished product (e.g. Spirit and Extra Neutral Alcohol) vide Sl.no. 35bB of Form 3CD and certified by the Auditor which resulted in short accounting by 12239 kiloliters. Omission to verify the details by the DCIT Circle-16(1), Delhi in four Assessment Years 2014-15, 2015-16, 2017-18 and 2018-19 resulted in short computation of income by ₹ 25.79 crore, as worked out at the value given at note 42(b) of Profit and Loss Account (**Annexure-P**) involving tax effect of ₹ 8.81 crore excluding interest under Sections 234A and 234B of IT Act, as applicable.

DCIT (Hq.) (Coord.II) Delhi stated (July 2022) that the cases for Assessment Years 2014-15, 2015-16 and 2018-19 are not acceptable but reopened the cases for three Assessment Years 2014-15 to 2017-18. DCIT (Hq.) (Coord.II) Delhi stated (July 2022) that cases for two Assessment Years 2014-15 and 2017-18 have been stayed by Delhi High Court and re-assessment order for Assessment Year 2015-16 was passed without making any additions. DCIT (Hq.) (Coord.II) Delhi further stated that final comments on Audit objections raised for Assessment Years 2014-15 and 2017-18 will be submitted after conclusion.

ACIT, Circle 16(1) New Delhi replied (September 2022) that finished goods spirit and ENA has been used by the assessee for self-consumption (used for production of country liquor). The quantity of such finished goods is also mentioned in the note in TAR.

Reply furnished by the ACIT Circle 16(1) New Delhi is not tenable in Audit as reference to self-consumption of the products was not given in the Sl. No. 35bB of Audit Report and 'Any other report of Form 3CD' was not provided to Audit along with the attached documents uploaded with ITRs, so that Audit could verify that the arithmetical discrepancy and certification by the Auditor with respect to Quantitative Abstract of finished product was examined by

the ACIT Circle 16(1) New Delhi at the time of finalizing the Assessment Order. Further, the treatment of self-consumed spirit & ENA for production of Country Liquor in the books of accounts was not provided with the reply. It is pertinent to mention that sale of Country Liquor was not reflected in the Profit & Loss Accounts prepared for the Assessment Year 2015-16, 2017-18 and 2018-19. The case for Assessment Year 2018-19 was not reopened.

Details of further action taken by the Department and reply of the Ministry are awaited (February 2024).

2.3.3.4 PCIT 1 Mumbai- M/s A1 Ltd.:

Audit noticed (October 2021) from examination of Summary records pertaining to Assessment Year 2018-19 that there was arithmetical discrepancy with respect to the quantitative Abstract of finished product (e.g. Beer strong) vide Sl.no. 35bB of Form 3CD and certified by the Auditor which resulted in short accounting by 4,50,001 liters. Omission to verify the details by the DCIT Circle 9(1)(2) Mumbai in Assessment Year 2018-19 resulted in short computation of income by ₹ 2.40 crore (**Annexure-Q**) involving tax effect of ₹ 0.79 crore excluding interest under Sections 234A and 234B of IT Act, as applicable.

Reply of PCIT- 1, Mumbai is still awaited (February 2024).

2.3.3.5 Conclusion:

Audit noted instances of arithmetical discrepancy and certification in quantitative disclosures made through TARs indicative of the fact that the ITD systems had deficiencies in detecting discrepancies and gaps during assessment proceedings. Such irregularities had underlying risk of tax evasion that requires further probing and detailed examination.

ITD may examine these assesseees in detail for the succeeding Assessment Years also so as to prevent the probable revenue leakage to the exchequer under intimation to Audit.

2.3.4 Calculation mistakes:

2.3.4.1 Interest for deferment of advance tax under Section 234C:

PCIT (Central)-3 New Delhi- M/s P1 Pvt. Ltd.

Audit examined (October 2019) the records related to scrutiny assessment of Assessment Year 2014-15 and noticed that DCIT Central Circle -31, New Delhi had not levied interest of ₹ 1.36 crore under Section 234C as declared by the Assessee on the Returned income of ₹ 1,276.59 crore while computing the tax in ITNS. The mistake resulted in non-levy of interest of ₹ 1.36 crore under Section 234C of the IT Act.

The PCIT Central 3 New Delhi (July 2021) stated that the observations pointed out by Audit will be acted upon while making assessment/reassessment as the case pertaining to Assessment Year 2014-15 has been reopened under Section 147 read with Section 148 of the IT Act, 1961. Further, the DCIT Central Circle 31, New Delhi replied (June 2022) that the Assessment under Section 147 of the Act is still pending.

Details of further action taken by the Department are awaited (February 2024).

2.3.4.2 Arithmetical mistake in computation of income:

PCIT Delhi-8 - M/s S1 Ltd.

Audit examined (June 2015) records of scrutiny assessment of Assessment Year 2012-13 and noticed that ACIT Circle -22(1), New Delhi had made an addition of ₹ 1.34 crore on account of pro-rata interest worked out on loans/advances of ₹ 14.62 crore given to related parties, out of which ₹ 6.16 crore was given to M/s S2 Pvt. Ltd. and was reflected twice in the Balance sheet resulting in over statement by an amount of ₹ 6.16 crore. Omission to disallow the same resulted in over-assessment of loss by ₹ 6.16 crore involving potential tax effect of ₹ 2.0 crore.

In reply (February 2021), the JCIT (OSD), Circle 22(2), New Delhi, while accepting the Audit observation, took remedial action (December 2019) by passing an order under Section 144 read with Section 147 of the Act, thereby reducing the loss of ₹ 6.16 crore.

2.3.4.3 Conclusion:

The Assessing Officers committed arithmetical errors in certain cases while concluding assessments. Further, errors in levy of interest for default in payment of advance tax point towards weaknesses in assessment procedure and internal controls of ITD which needs to be addressed.

2.3.5 Revenue impact due to lack of inter-departmental coordination:

The ITD is mandated to promote compliance with direct tax laws, through caring taxpayer service and enforcement of the provisions of the Income Tax Act to realize maximum resources for the Nation. For this, correct assessment of income and levy of tax of an assessee is required to be ensured. Further, details of expenditure claimed by the assessee should also be verified and only after checking genuineness, such expenditure for running the business should be allowed as per the provisions of the Act. The Act empowers the ITD

to obtain/call for any information by issuing notice under Section 133(6)²⁹ of the Income Tax Act. In the interest of revenue, the Assessing Officer(s) needs to call for complete information from the State Excise Department for assesses in the alcoholic sector for cross verification and ensure the correctness of the duty deposited.

In the business of alcohol, the State Excise Department is an important key stakeholder and Excise Duty is the main tax/duty paid by the company. Excise duty claimed by the Distilleries/Breweries was required to be verified from the concerned State Excise Department by the ITD before allowing claim to this expenditure.

During the examination of records of 11 companies, Audit noticed that the Excise duty claimed by them was allowed by the Assessing Officer without verifying the genuineness/correctness of the claim. As they had reduced the sale by debiting excise duty ₹ 1,76,952.57crore during Assessment Years 2009-10 to 2018-19 (**Annexure-R**) but evidence for payment of such duty was not found placed on the record. Since the amount of excise duty paid, claimed and allowed impacted the net profit of the assessee, the respective Assessing Officers were required to call for the information from the State Excise Department invoking provisions of Section 133(6) of the Income Tax Act, especially at the stage of scrutiny assessment.

Audit of records of these eleven companies falling within the ITD jurisdiction in the States of Uttar Pradesh, Maharashtra, Karnataka and New Delhi were taken up. The records of the relevant Assessment Years were requisitioned and observations made on the basis of cases assessed under Section 143(3) as well as those processed under Section 143(1) of the Act.

Information was also requisitioned from the State Excise Department of Uttar Pradesh, New Delhi, Maharashtra and Karnataka regarding Sales made, excise duty paid, working licenses granted and agreements entered relating to concerned distilleries/breweries and obtained only from the Uttar Pradesh State Excise Department.

Non Production/Non Availability of the records:

Superintendent, State Excise Duty, Aurangabad under the State Government Maharashtra has provided the details of Sales (own brand) and Excise duty paid, which was only a part of the Sales and Excise duty claimed in the Profit & Loss accounts. Part information regarding Import

²⁹ *Section 133(6) of IT Act provides that the Assessing Officer may require any person to furnish statements of accounts and affairs verified in the manner specified by the AO giving information in relation to such points or matters as in the opinion of the AO will be useful for or relevant to any enquiry or proceedings.*

Permit on liquor stock in Delhi was provided by the office of the Commissioner of Excise, ENT. & L Tax Department, Government of National Capital Territory of Delhi. State Excise Department of Karnataka provided the details of sale made by the Distillery and Brewery units of M/s U2 Ltd. and M/s U3 Ltd. within the State only.

Due to non-production/non-availability of above mentioned information in the Assessment records by the aforesaid offices, Audit could not draw assurance that these facts were examined by the Assessing Officers while finalizing the assessment proceedings.

Further, based on year-wise data/information of actual excise duty provided by the UP State Excise Department with regards to the three companies (viz., M/s W1 Ltd., M/s U1 Ltd. and M/s M1 Ltd.), Audit made a comparison of the excise duty deposited with the amount claimed by the assesseees in their Profit and Loss accounts/ITRs. Audit noted that there were variations, which were not reconciled by the Assessing Officers at the stage of scrutiny assessments under Section 143(3).

Observations are as under-

(i) Audit noticed (November 2020) that the three companies namely, (a) M/s W1 Ltd. for the assessment Years 2011-12 to 2018-19, had deposited excise duty of ₹ 16,314.71 crore with the State Excise Department as against the claim of ₹ 11,934.04 crore, **[Annexure R-1(a)]** (b) M/s U1 Ltd. for Assessment Years 2010-11 to 2017-18 had deposited excise duty of ₹ 4,773.34 crore as against claim of ₹ 3,516.50 crore **[Annexure R-1(b)]** and (c) M/s M1 Ltd. for the Assessment Year 2018-19, had deposited excise duty of ₹ 661.35 crore with the State Excise Department as against the claim of ₹ 120.78 crore in their respective Profit and Loss Accounts **[Annexure R-1(c)]**. Reasons for excess deposit/unclaimed excise duty/variations were neither called for from the assessee at the stage of scrutiny, nor was the same reconciled from the UP State Excise Department invoking the provisions of Section 133(6) of the Act, indicating lack of inter-departmental coordination.

(ii) Audit noticed (November 2020) that M/s U1 Ltd. for Assessment Years 2009-10 and 2018-19 had deposited excise duty of ₹ 316.70 crore and ₹ 350.18 crore respectively **(Annexure R-2)** with the State Excise Department as against the claim of ₹ 331.54 crore and ₹ 353.61 crore in their Profit and Loss Accounts of the respective years. Reasons for excess claim of excise duty/variations was neither called for from the assessee nor was the same

reconciled from the UP State Excise Department invoking the provisions of Section 133(6) of the Act indicating lack of inter-departmental coordination.

(iii) Audit noticed (November 2020) that M/s M1 Ltd. for Assessment Years 2014-15 and 2015-16 had deposited excise duty of ₹ 34.35 crore and ₹ 40.88 crore (**Annexure R-2**) with the State Excise Department as against claim of ₹ 34.35 crore and ₹ 40.88 crore in their Profit and Loss Accounts of respective years. Thus, there was no variation in the amount of excise duty paid with the State Excise Department and that claimed in their Profit and Loss Accounts.

In reply (January 2022), PCCIT (CCA) Lucknow with respect to M/s W1 Ltd. stated that notice under Section 148 has been issued for Assessment Year 2013-14 to 2017-18. However, no reply with respect to Assessment Years 2009-10, 2010-11, 2011-12, 2012-13 and 2018-19 was furnished.

The audit noted that the orders under Section 147 were passed for Assessment Years 2013-14 to 2017-18 (March 2022) by the National Faceless Assessment Centre Delhi. However, neither reconciliation of difference in excise duty as pointed out by Audit was addressed in the assessment order nor did the ACIT 2 Bareilly furnish the reasons for not considering the issues raised by Audit.

In reply (May 2022), the PCCIT (CCA), Kanpur with respect to M/s U1 Ltd. stated that notices under Section 148 of the Act have been issued for Assessment Years 2013-14 to 2017-18. The cases have become time-barred for Assessment Years 2009-10 to 2012-13. Further, in respect of case for Assessment Year 2018-19, Joint Commissioner of Income Tax (OSD) Circle 2(1) (1) Kanpur stated (June 2022) that the observation made by Audit appears to be acceptable. Accordingly, initiation of reassessment proceedings is contemplated in this case. Details of further action are awaited (February 2024).

In reply (January 2022), Pr. CCIT(CCA), Lucknow with respect to M/s M1 Ltd., stated that the remedial action under Section 147 of the Act has been initiated for the Assessment Years 2013-14 and 2014-15, for the Assessment Years 2015-16 to 2017-18 proposed for reopening of the cases under Section 147 read with Section 148A of the Act. The cases have become time-barred for the Assessment Years 2009-10 to 2012-13. No reply in respect of Assessment Year 2018-19 was furnished to Audit. Details of further action taken are awaited (February 2024).

2.3.5.1 Conclusion:

While examining the cases, Audit noticed that the respective Assessing Officers did not exercise the power to call for information as envisaged in Section 133(6) of the Act to ensure the genuineness/correctness of Excise duty, VAT and other taxes/ duties claimed by the assesseees from the respective State Government authorities, indicating weakness in inter-departmental coordination.

2.3.6 Non-adherence to the powers conferred by the provisions of the Act:

Audit, during examination of records, noticed that three companies were allowed huge amount of rebate, discount, etc. as expenditure in the books of records; however, documents/details in support of verification of the genuineness of such claim allowed were neither found placed in case records nor the Assessing Officers asked for the information from the assessee invoking the provisions of Section 37³⁰ of the Income Tax Act. Audit noted that the Income Tax Department had no specific direction(s) in this regard. Observations are illustrated below:

2.3.6.1 Allowance of Rebate and/or Discount without verification:

During the examination of records of three companies namely M/s W1 Ltd., M/s U1 Ltd. and M/s M1 Ltd., Audit noticed that rebate and/or discount were allowed as expenditure in the books of records without verifying the genuineness/correctness of the claim. Since claims of expenditure have a direct impact on the net profit of the assessee, due diligence exercised by the respective Assessing Officers in this regard could not be verified by Audit.

(a) PCIT Bareilly –M/s W1 Ltd.:

(i) Audit noticed (July 2019) from examination of scrutiny assessment records of M/s W1 Ltd. pertaining to Assessment Year 2010-11 that the assessee had declared sale of ₹ 651.00 crore in its Profit and Loss Account made to M/s F1 Pvt. Ltd. It was observed from the "Reconciliation of Account Statement as on 31.03.2010", that the sale of ₹ 651.00 crore also included "Material in transit for purchase made in April 2011" of ₹ 17.88 crore. Audit noted that the balance as mentioned in "Reconciliation of Account Statement" was required to be examined and verified by ACIT, Circle -2,

³⁰ **Section 37**-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 in computing the income chargeable under the head "Profits and gains of business or profession".

Bareilly, UP at the stage of scrutiny assessment invoking the provisions of Section 37 of the Income Tax Act.

In reply (January 2022), PCCIT (CCA) Lucknow stated that the case of Assessment Year 2010-11 has become time barred.

(ii) Audit noticed (July 2019) from examination of scrutiny assessment records of M/s W1 Ltd. pertaining to Assessment Year 2012-13 that the assessee had shown unsecured loan of ₹ 27.00 crore in its balance sheet which was carried forward for the subsequent Assessment Years i.e. from Assessment Year 2013-14. However, it was observed from the 'Summary statement of Unsecured loan' of M/s. W1 Ltd. that this amount was received through RTGS against sale from P2 Pvt Ltd, and therefore should not have been treated as Unsecured Loan. Audit noted that an incorrect liability was created and reflected in the Balance Sheet during Assessment Year 2012-13 and carried forward subsequently which undermined the Sales amount and reduced the net profit of the Assessee; ACIT Circle -2 Bareilly, UP should have examined the details invoking the provisions of the Income Tax Act before finalizing the assessment.

No reply was received in respect of Assessment Year 2012-13. However, PCIT Bareilly (January 2022) stated that Audit objection will be examined while concluding assessment for Assessment Year 2013-14.

Audit observed that an order under Section 147 was passed (March 2022) for Assessment Year 2013-14 at an income of ₹ 187.46 crore by making an addition of ₹ 156.56 crore on account of sale made by M/s W1 Ltd. regarding to M/s U3 Ltd.'s brand. However, no additions were made to the income of the assessee on account of this specific issue.

Audit could not ascertain the reason for not considering the Audit observation as ACIT Circle-2 Bareilly did not provide details to conclude the basis of not making addition with respect to the liability created in the Balance Sheet.

Reply of the Ministry is awaited (February 2024).

(iii) Audit examined (July 2019) the Scrutiny Assessment records of M/s W1 Ltd. and noticed from the records of Assessment Year 2013-14 that the assessee had claimed rebate of ₹ 73.80 crore which was allowed without verifying the genuineness/correctness of the claim, as no details/documents like rebate policy, name & PAN of parties etc. were found to be placed on record. Since the expenditure impacted the net profit of the assessee, ACIT

Circle-2, Bareilly, UP was required to call for details/information from the assessee by invoking the provisions of Section 37 of the Income Tax Act, if required.

In reply (January 2022), PCCIT (CCA) Lucknow stated that details were called for and no discrepancy was noticed. Reply of the Department could not be verified, as details called for and examined were not provided to Audit. Audit noted that the procedural examination as mandated by the provisions of the Act at the time of conclusion of assessment does not seem to be complied with in the instant case as ITD was required to call for details/information from the assessee by invoking the relevant provisions and examine the applicability of Section 37 of the Income Tax Act, during the assessment proceedings. However these details were called for from the Assessee after being pointed out in audit.

Reply of the Ministry is awaited (February 2024).

(b) PCIT, I Kanpur – M/s U1 Ltd.:

Audit examined (June 2019) records of M/s U1 Ltd. and noticed in seven Assessment Years 2009-10 to 2015-16 (Scrutiny Assessment in Assessment Years 2009-10 to 2015-16) that the assessee had claimed discount of ₹ 111.15 crore (₹ 0.29 crore + ₹ 28.79 crore + ₹ 33.92 crore + ₹ 2.32 crore + ₹ 7.30 crore + ₹ 12.89 crore + ₹ 25.64 crore) which was allowed without verifying the genuineness/correctness of the claim as basic details of discount policy, name & PAN of parties etc. were also not found placed on record. Since the expenditure claimed and allowed impacted the net profit of the Assessee, ACIT Central Circle -1, Kanpur, UP was required to verify the details and place on record details collected from the Assessee by invoking the provisions of Section 37 of the Income Tax Act at the stage of scrutiny assessment, if required.

In reply (May 2022), the PCCIT (CCA) Kanpur regarding M/s U1 Ltd. stated that notices under Section 148 of the Act have been issued for the Assessment Years 2013-14 to 2017-18. The cases have become time-barred for Assessment Years 2009-10 to 2012-13.

Reply of the Ministry is awaited (February 2024).

(c) PCIT II Lucknow - M/s M1 Ltd.:

(i) Audit noticed (May 2019) from the scrutiny records of Assessment Years 2012-13 and 2013-14 that the assessee had received Share Application money of ₹ 35.41 crore (₹ 1.85 crore + ₹ 33.56 crore). Audit further noted that details of the same were neither submitted by the Assessee nor called

for by ACIT- IV, Lucknow at the stage of scrutiny assessment from the assessee invoking the provisions of the Income Tax Act. Further, it could not be ascertained whether the provision in Section 42 of the Companies Act had been complied with.

In reply (January 2022), Pr. CCIT (CCA), Lucknow replied that the objection raised is general in nature and hence not accepted. Reply is not tenable as Audit noted that as per the provision laid down in section 69(4)(b) and (5) of the Companies Act³¹1956 and Section 42(6) of the Companies Act³², 2013, the Company should allot shares within the specified dates from the receipt of the share application money. Further, the books of accounts are to be prepared as per the Companies Act which are important assessment records in determining correct income of the assessee. Hence, scrutinising the assessment records including the books of accounts correctly and accurately is the prime responsibility of the AO while concluding assessment in the interest of revenue. Further, the 'White Paper on Black Money' published by the Ministry of Finance in 2012³³, has also flagged the issue of introducing capital through share application money as one of the modus operandi for generating black money, therefore this issue was required to be examined in detail by AO under Section 143(3) of the IT Act.

Reply of the Ministry is awaited (February 2024).

³¹ **Section 69(4)(b) of the Companies Act 1956:** All moneys received from applicants for shares shall be deposited and kept deposited in a Scheduled Bank- where certificate to commence business has already been obtained, until the entire amount payable on applications for shares in respect of the minimum subscription has been received by the company, and where such amount has not been received by the company within the time on the expiry of which the moneys received from the applicants for shares are required to be repaid without interest under sub-section (5), all moneys received from applicants for shares shall be returned in accordance with the provisions of that sub-section. In the event of any contravention of the provisions of this sub-section, every promoter, director or other person who is knowingly responsible for such contravention shall be punishable with fine which may extend to [fifty] thousand rupees.

Section 69(5) of the Companies Act 1956: If the conditions aforesaid have not been complied with on the expiry of one hundred and twenty days after the first issue of the prospectus, all moneys received from applicants for shares shall be forthwith repaid to them without interest ; and if any such money is not so repaid within one hundred and thirty days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of six per cent per annum from the expiry of the one hundred and thirtieth day : Provided that a director shall not be so liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

³² As per **Section 42(6) of the Companies Act, 2013**, the Company shall allot shares within 60 days from the receipt of the share application money. If it fails to allot the share within 60 days, the share application money shall be refunded within 15 days from the expiry of 60 days. If the Company fails to repay the application money within the aforesaid period, it shall be liable to repay that money with interest at the rate of 12 per cent per annum from the expiry of the 60th day. Further, the above Act also requires that an assessee follows the proper procedure of preparing its B/S & P/L account, disclosing every material feature in respect of all transactions of any nature.

³³ **The 'White Paper on Black Money'** published by the Ministry of Finance in 2012 described two different modus operandi for the generation of black money. The first is the approach of not declaring or reporting the whole of the income or the activities leading to it. The other more sophisticated approach for the generation of black money, often preferred, involves the manipulation of financial records and accounting by which the accounts prepared for reporting and presenting before the authorities are manipulated to misrepresent and under-disclose income, thereby generating unaccounted, undeclared and unreported income that amounts to black money. Some ways for manipulating books of accounts identified in the above document were the introduction of capital through share application money, issuing shares at a heavy premium and introducing own money and share capital through foreign companies/entities.

(ii) Audit noticed (May 2019) that for the Assessment Years 2012-13 and 2013-14, the Chartered Accountant (CA) in the disclosure on the related party transactions in the balance sheet certified that the Assessee had taken the unsecured loan of ₹ 59.04 crore (₹ 29.50 crore + ₹ 29.54 crore). The details of the same were neither submitted by the Assessee nor called for by ACIT-IV, Lucknow from the Assessee invoking the provisions of the Income Tax Act at the stage of scrutiny assessments.

In reply (January 2022), Pr. CCIT(CCA) Lucknow replied that remedial action has been initiated under Section 147 of the Act for Assessment Year 2013-14, and action for Assessment Year 2012-13 has become time-barred.

Reply of the Ministry is awaited (February 2024).

(iii) Audit examined (June 2019) the case records of M/s M1 Ltd. and noticed in two Assessment Years, 2014-15 and 2015-16 (Scrutiny Assessment in Assessment Year 2014-15 and Summary Assessment in Assessment Year 2015-16) that the assessee had claimed discount of ₹ 10.63 crore (₹ 5.42 crore + ₹ 5.21 crore) which was allowed without verifying the genuineness/correctness of the claim as essential details of name of parties, discount policy, name & PAN of parties etc. were not found placed on record. Since the expenditure claimed was allowed without verifying the details, it impacted the net profit of the assessee, and due diligence exercised by ACIT Circle-4, Lucknow, UP, could not be ascertained in the audit.

In reply (January 2022), Pr. CCIT (CCA), Lucknow, while not accepting the audit observation, stated that the assessee company had entered into an agreement with M/s U3 Ltd. to bottle the Kingfisher brand of beer and a discount was given as per the instruction of M/s U3 Ltd. The reply of the Department is not tenable as Audit had not questioned the prerogative of the business in giving a discount but commented upon the allowance of the same by the Assessing Officer without verification of the genuineness/correctness of the claim made by the assessee. Due diligence exercised by ACIT Circle-4, Lucknow, UP, could not be ascertained.

(iv) Audit examined (May 2019) the scrutiny assessments records for Assessment Year 2014-15, and noted that CA in Form 3CD vide Sl. No. 31a certified that the Assessee had taken a loan or deposit of ₹ 0.68 crore otherwise than through account payee cheque/draft, contravening the provisions of Section 269SS of the Act attracting a penalty of a sum equal to the amount of the loan or deposit under Section 271D. The details of the same were neither submitted by the Assessee nor called for by ACIT- IV,

Lucknow from the assessee invoking the penalty provisions under Section 271D contravening the provisions of Section 269SS of the Income Tax Act.

In reply (January 2022), Pr. CCIT (CCA), Lucknow, without providing any supporting evidence, stated that the said entry in the Audit Report was due to an inadvertent mistake by the Auditor. The reply is not tenable as no supporting evidence was furnished in support of the reply to Audit. As a result, Audit could not verify the reply forwarded by Pr. CCIT (CCA), Lucknow.

Details of further action taken and reply of the Ministry are awaited (February 2024).

2.3.6.2 Entries in the Balance Sheet accepted without the concurrence of the Auditor:

A list of Sundry Debtors/Creditors/Advances/other liabilities was not available in the schedule of the Balance Sheet, and their confirmations were also not available in the Scrutiny assessment records. Hence, Audit requisitioned the details of top five Sundry Debtors/Creditors/Advances/other liabilities of M/s W1 Ltd., M/s U1 Ltd. and M/s M1 Ltd. for Assessment Years 2009-10 to 2018-19, which were not furnished to Audit.

(a) PCIT Bareilly – M/s W1 Ltd.:

In the case of M/s W1 Ltd., Audit observed that the Balance Sheet for the Assessment Years 2009-10 to 2018-19 reflected balances of ₹ 641.29 crore (₹ 223.90 crore, ₹ 407.43 crore and ₹ 9.96 crore) (**Annexure S-1**) for Sundry Creditors, Sundry Debtors and Advances given respectively. Due diligence exercised by ACIT Circle-2, Bareilly could not be ascertained in Audit as no supporting documents/details were found on records. ACIT Circle-2, Bareilly should have called for details from the related parties invoking provisions of Section 133(6) of the Income Tax Act. Audit further requested (September 2021) to provide the details of top five debtors, creditors, loans and advances given or taken and details of other liabilities, etc. However, the same are still awaited (February 2024).

In reply (January 2022), PCCIT (CCA) Lucknow with respect to M/s W1 Ltd. stated that the notice under Section 148 has been issued for the Assessment Years 2013-14 to 2017-18. However, no reply with respect to the Assessment Years 2009-10, 2010-11, 2011-12, 2012-13 and 2018-19 was furnished (February 2024).

Audit noted that an order under Section 147 was passed for Assessment Year 2013-14 to 2017-18 (March 2022) by the National Faceless Assessment Centre Delhi. However, entries of Sundry Creditors, Sundry Debtors and Advances in the balance sheet were not verified while finalizing the reassessment. ACIT Circle-2 Bareilly has not furnished the reasons for not considering the issues raised by the Audit.

Reply of the Ministry is awaited (February 2024).

(b) PCIT, I Kanpur – M/s U1 Ltd.:

In the case of M/s U1 Ltd., Audit observed that the Balance Sheet for Assessment Years 2009-10 to 2018-19 reflected the balances of ₹ 208.46 crore (₹ 49.84 crore, ₹ 47.26 crore, ₹ 46.11 crore and ₹ 65.25 crore) **(Annexure S-2)** for Sundry Creditors, Sundry Debtors, Advances given and other liability respectively. Due diligence exercised by DCIT CC I Kanpur could not be ascertained in Audit as no supporting documents/details were found on records. DCIT CC I Kanpur should have called for details from the related parties invoking provisions of Section 133(6) of the Income Tax Act. Audit further requested (September 2021) to provide details of top five debtors, creditors, loans and advances given or taken and details of other liabilities, etc. However, the same are still awaited (February 2024).

In reply (May 2022), the PCCIT (CCA) Kanpur, with respect to M/s U1 Ltd., stated that notices under Section 148 of the Act have been issued for the Assessment Years 2013-14 to 2017-18. The cases have become time-barred for the Assessment Years 2009-10 to 2012-13. Further, in respect of case for Assessment Year 2018-19 Joint Commissioner of Income Tax (OSD) Circle 2(1) (1) Kanpur stated (June 2022) that the observation made by Audit appears to be acceptable. Accordingly, initiation of reassessment proceedings is contemplated in this case.

Reply of the Ministry is awaited (February 2024).

(c) PCIT II Lucknow - M/s M1 Ltd.:

In the case of M/s M1 Ltd., Audit observed that the Balance Sheet of Assessment Years 2009-10 to 2018-19 reflected balances of ₹ 231.22 crore (₹ 79.07 crore and ₹ 152.15 crore) **(Annexure S-3)** for Sundry Creditors and Sundry Debtors respectively. Due diligence exercised by DCIT Circle 4 Lucknow could not be ascertained in Audit as no supporting documents/details were found in the records. DCIT Circle 4 Lucknow should have called for details from the related parties invoking provisions of

Section 133(6) of the Income Tax Act. Audit further requested (September 2021) to provide the details of the top five debtors, creditors, loans and advances given or taken, details of other liabilities, etc. However, the same is still awaited. (February 2024).

In reply (January 2022), Pr. CCIT(CCA), Lucknow stated that remedial action under Section 147 of the Act had been initiated for Assessment Years 2013-14 and 2014-15, and for the Assessment Years 2015-16 to 2017-18, remedial action is proposed for reopening of the cases under Section 147 read with Section 148A of the Act. The cases have become time-barred for the Assessment Years 2009-10 to 2012-13. No reply regarding the Assessment Year 2018-19 has been furnished. (February 2024).

Reply of the Ministry is awaited (February 2024).

2.3.6.3 Conclusion:

Audit could not ascertain the existing mechanism in place within the Department for verification of veracity and genuineness of claims allowed on account of rebates, discounts, unsecured loans, sundry debtors, creditors, advances given, other liabilities and loans and deposits accepted/repaid in cash in excess of ₹ 20,000 at different stages of examination and finalization of assessment cases viz. summary processing through CPC and scrutiny assessment through ITD systems in the sample test checked.

By not verifying the share application money the risk of routing of black money or illegal money through the introduction of capital into the books of accounts could not be ruled-out during the assessment proceedings.

In certain cases, the Assessing Officers concluded assessments at their discretion without exercising due diligence in verifying details provided by the CA or assesseees in the financial statements. Audit was unable to get assurance regarding the due diligence exercised by the AO in verifying the correctness /genuineness of the Financial Statements.

ITD may also examine these assesseees in detail for the succeeding Assessment Years to prevent probable revenue leakage to the exchequer under intimation to Audit.

2.3.7 Recommendations:

2.3.7.1 The CBDT may strengthen the existing mechanism for reconciliation of assessment records viz-a-viz, Form 3CD, Profit and Loss account statement, State Excise records etc, especially after the introduction of the Faceless Assessment regime, wherein assessments are being concluded

jurisdiction-free to fill the existing gap by critically and correctly analyzing the books of accounts in order to arrive at the correct income of the assessee while concluding the assessment of the Distilleries and Breweries Sector.

[Para 2.3.1.1, 2.3.1.2 and 2.3.1.3, 2.3.6.1 and 2.3.6.2]

Ministry in its reply stated (July 2022) that the process of assessment in the Income Tax Department has undergone a transformation with the introduction of faceless assessment. Specialized units such as Assessment Units, Verification Units, Technical Units and Review Units have been put in place for optimum utilization of the resources through economies of scale and functional specialization. This is a team-based assessment procedure, where the Assessment Unit can request verification by the Verification Unit and seek technical assistance from the Technical Unit in order to prepare a speaking order. Under Faceless Assessment, the process of Review has been in-built to facilitate an error-free assessment order.

The reply of the Ministry is not tenable as for the purpose of critically and correctly analyzing books of accounts, it is essential, especially after the introduction of a faceless assessment regime, that the department needs to conclude the assessment proceedings after making reconciliation of the Excise Returns with the income reflected in the Profit and Loss Account in respect of assessee engaged in the business of distilleries and breweries. If any unverified quantity is detected during such reconciliation then the same needs to be added to the income of the assessee. Appropriate action needs to be taken to ensure complete accounting of income of the assessee for levy of tax to protect the interest of revenue.

Further, since the Department has introduced the assessment in faceless manner to make the assessment more transparent, the assessment order should be passed with speaking order so that the Assessment order is error free. Ministry needs to issue necessary direction to strengthen more effective optimum utilization of the resources to avoid recurrence of mistakes leading to revenue leakage. Ministry may reconsider its reply.

2.3.7.2 The CBDT may consider applying a combination of risk parameters for the identification of cases for limited as well as complete scrutiny under Computer Aided Scrutiny Selection (CASS) in respect of assessee engaged in Distilleries and Breweries business by also considering the Sales reported in ITR vis-à-vis Sales reported to the respective State Excise Authorities.

[Para 2.3.1.1, 2.3.1.2 and 2.3.1.3]

Ministry in its reply stated (September 2022) that this suggestion will be examined while framing the rules for CASS selection criteria.

Audit will await the action taken by the Ministry. (February 2024).

2.3.7.3 At the time of summary assessment for the distilleries and breweries sector, the information in documents attached with the Income Tax Return of the assessee, viz. sale, duties, etc., as given in Profit and Loss Accounts, should be correlated with that certified by the Auditor in Form 3CD. Information should also be in consonance with the data available from CPC (TDS).

[Para 2.3.1.1, 2.3.1.3 and 2.3.2.1(b)]

Ministry in its reply stated (September 2022) that the CPC processes the returns u/s 143(1) based on provisions of Section 143(1)(a) of the Income Tax Act. There is no provision in Section 143(1)(a) for bringing to tax the difference between sales declared in Profit and Loss Accounts and sales declared by CA in the Audit report /data available with CPC (TDS).

Although the reply of the Ministry is acceptable in principle, the Department may review/revisit the CASS parameters so that high turnover assesseees do not escape the tax ambit. Further, collation and correlation of the information already available with the Income Tax Department in the CPC database/ITBA server/e-filing portal, like Sales/excise duty, VAT and other taxes and levies, depicted in Profit and loss account or Form 3CD/ITR may be reviewed and strengthened to minimize risk of routing of unaccounted amount by entities of Distilleries and Breweries sector and to prevent possibility of tax evasion.

2.3.7.4 The CBDT may consider making appropriate amendments/provisions in the IT Act or consider issuing a SOP/MoP for specifically requisitioning information/Statement of Financial Transactions (SFTs)³⁴/AIR or non-AIR from the State Excise Authorities is mandatory, where necessary, on a stipulated total monetary threshold to be decided by the ITD while conducting assessment of the Distilleries and Breweries Sector.

[Para 2.3.1.1, 2.3.1.2 and 2.3.1.3]

³⁴ **Statement of Financial Transactions (SFTs)** - Before the Introduction of the Faceless Assessment, the verification of the data provided by the system in AIR (Annual Information Return)/CIB from 7 modes was carried out by issuing notices and individually collecting information and details of verification forwarded to concerned Pr. CCITs for further necessary action.

After the Introduction of the Faceless Assessment, verification of data is discontinued from 2.12.2020, and the Data from the DG System is pushed to DGIT Intelligence & Criminal Investigation (DGIT (I&CI))(erstwhile CIB) through the insight portal. The insight portal deals with SFTs (Statements of Financial Transactions) instead of AIR. Specific limits are set for SFTs, below which, data are also available in the systems. There are 18 SFTs (as 7 in AIR) through which data from third party (Entities) is received in the form of returns under sections 61, 61A & 61B. The Registered Entities (REs) are required to file returns before the due date every year with their ITDREIN (Income Tax Department Registered Individual Number) like PAN/TAN.

Ministry in its reply stated (July 2022) that the provisions of Income Tax Act empower the Assessing Officer to seek relevant information from other agencies including the State Excise Authorities, during the course of assessment proceedings. Further, the assessing officer decides whether any information is required to be called for from the other agencies, depending on the facts and circumstances of each case. Therefore, it may not be feasible to mandate the AO to seek information from State Excise Authorities above a threshold limit.

Reply of the Ministry is not tenable as the Distilleries and Breweries sector is a specialized nature of business activity, in which State Excise duty is the significant tax paid and claimed by the assessee as expenditure, which is directly proportional to the income offered for taxation. Therefore, the provision for information regarding payment of State Excise Duty from the respective State Government department relating to the concerned PAN may be included in the SFT information. This would equip the Assessing Officer with the necessary information to allow the correct claim of Excise Duty during the assessment proceedings. Ministry may reconsider its reply.

2.3.7.5 The CBDT may consider devising a standard operating procedure for the assessment of entities engaged in the business of distilleries and breweries to ensure error-free assessments. The SOP may include instructions to the Assessing officer(s) for:

- i. Sharing and seeking necessary information from the Jurisdictional AO for verification, through the online system. A certificate to this effect may be given by the assessing officer.**
- ii. Exercising power as envisaged in Section 133(6) of the IT Act to call for information viz., Excise duty, VAT and other taxes/ duties from the respective State Government Authorities to ensure genuineness and correctness of information furnished by an assessee**
- iii. Ensuring that business activity codes are filled compulsorily and correctly in their ITRs and examining the possibility of re-opening assessments and imposing penalty for wrong filling up of business codes.**
- iv. According high priority to cases involving discrepancies in quantitative disclosures of finished products made in Tax Audit Report.**

[Para 2.3.1.1, 2.3.1.2, 2.3.1.3, 2.3.6.1, 2.3.6.2, 2.3.2, 2.3.2.6, 2.3.3.1, 2.3.3.2 and 2.3.3.3]

Ministry for considering devising an SOP stated (July 2022) that a chapter on the assessment of Liquor Trade is provided in Volume 5 of the Manual on

Techniques of Investigation, which provides an overview of the sector that will be helpful to the Assessing Officers in conducting assessment proceedings. Further, para no. 14, 15 and 16 of the said chapter details risk areas specific to this sector. The manner of inquiries/ verification during the course of assessment proceedings may vary from case to case, depending on the facts and circumstances of the case. Therefore, it may not be possible to have a Standard Operating Procedure for assessment of entities engaged in distilleries and breweries.

The reply of the Ministry is not tenable as Volume 5 of the Manual on Techniques of Investigation is the guideline for the Investigation Wing dealing in the Liquor Trade. The CBDT may consider devising a detailed Standard Operating Procedure in line with the above manual to be used as guidelines for the assessment of entities engaged in the business of distilleries and breweries. Ministry may reconsider its reply.

Ministry, in response to (i) above, stated (September 2022) that under the Faceless Assessment Scheme, the necessary information may be shared by Faceless AOs with the JAOs by using the 'Issue letter functionality' in ITBA. Further, if any verification is required to be carried out by the Faceless Assessing Officers, the same is to be carried out by the Verification Units and not the Jurisdictional AO. There already exists functionality in the Income Tax Business Application (ITBA), over which assessment proceedings are being carried out in a faceless manner, for the Faceless AO to send requests for carrying out verifications to the Verification Unit.

For assessment cases outside the Faceless Assessment Scheme (like the assessments carried out by the Central and International Taxation charges), the assessment proceedings are carried out by Jurisdictional AO. Further, the facility of inter-jurisdictional sharing of details to ensure effective utilization of information through timely sharing of inputs within the ITD is also available in ITBA. The Jurisdictional AO may disseminate information to other Jurisdictional AOs through the Investigation Module of ITBA. This functionality is available in ITBA w.e.f. 27.02.2020. Furthermore, it is submitted that JAOs have functionalities under the ITBA portal (like Issue letter functionality) along with the webmail facility to seek /share information wherever deemed fit.

The audit noted that the functionality, as stated by the Ministry, was not available during the Audit period. The new facility in ITBA was introduced with effect from 27.02.2020. The implementation of this functionality will be monitored in the succeeding Assessment Years.

Ministry in response to (ii) above, stated (July 2022) that the provisions of the Income Tax Act empower the Assessing Officer to seek relevant information from other agencies, including the State Government Authorities, during the course of assessment proceedings. Further, the Assessing Officer decides whether any information is required to be called for from other agencies depending on the facts and circumstances of each case.

Reply of the Ministry is not tenable as State Excise Duty is the major tax paid in the liquor manufacturing industry claimed by the assessee as expenditure directly impacts the income offered for taxation. In all the cases audited, the assessing officers during the assessment proceeding have not exercised the power laid down under Section 133(6) of the Act to call for information from the respective State Excise Authorities to confirm the actual State Excise duty paid by the assessee. Substantial information available with the State Excise Department is required to be collected by ITD in a routine manner by establishing a mechanism to ensure that such details are reconciled by the assessing officers while concluding assessments for realistic determination of tax effect. Hence, provisions of Section 133(6) of the Act should invariably be invoked by the Assessing Authorities in the interest of revenue from the concerned State Excise Department rather than calling for individual challans on a test-check basis. The Ministry may reconsider its reply.

Ministry in response to (iii) above, stated (July 2022) that the business codes are filled by assesseees while filing the return of income online. There are penal provisions available for furnishing false information in the Income Tax Returns e.g. any deliberate attempt to give wrong information in an ITR can lead to possible prosecution and/or penalty under the Income Tax Act.

The reply of the Ministry is not tenable as though the Business Codes are filled up by the assesseees; the same is also required to be certified by the Chartered Accountant through a tax Audit Report. The errors in codes filled in by the assessee may be updated during subsequent scrutiny assessments, especially based on available information, to ensure correct activity/ business-wise categorization of assesseees and ensure reliable MIS generated from the database maintained centrally within the ITD. The CBDT may consider issuing necessary instructions in this regard, including the option of issuing notice to the assessee for incorrect reporting of business codes at the time of scrutiny assessment. The Ministry may reconsider its reply.

Ministry in response to (iv) above, stated (September 2022) that this suggestion will be examined while framing the rules for CASS selection criteria.

Audit will await the final outcome of the efforts made by the Ministry to streamline the system. (February 2024).

2.3.7.6 Considering the specialized nature of business activity of the assesseees of Distilleries and Breweries 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 agreements entered into where the issues related to mismatch in the disclosure of Sales of the main assessee vis-à-vis their related parties are noticed.

[Para 2.3.2.2 to 2.3.2.6]

Ministry stated (July 2022) that as per the provisions of Section 142(2A) of the Income Tax Act, the Assessing Officer may form an opinion whether it is necessary to conduct a special Audit in a particular case after taking into consideration various factors like nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialized nature of business activity of the assessee and the interest of the revenue. Therefore, whether or not the special audit has to be conducted is to be decided on a case-to-case basis by the Assessing Officer.

The reply of the Ministry is not tenable as the assesseees of the Distilleries and breweries sector are involved in a multiplicity of transactions, and the Assessing Officer, in the normal course of assessment, does not recommend a special audit. In all the cases audited, the AO failed to identify the tax evasion as pointed out by Audit. However, the ITD, in one case, referred the case of M/s P1 Pvt. Ltd AY 2017-18 for special Audit u/s 142(2A) of the Act. Accordingly, on 'reconciliation of excise returns w.r.t. to income reflected in Profit and Loss account', the SA reported an unverified quantity amounting to ₹ 956.61 crore, out of which the ITD made an addition of ₹ 206.84 crore, which includes an addition of ₹ 191.32 crore on account of the above-unverified account. Ministry may reconsider its reply.

2.3.7.7 The CBDT on a certain threshold turnover limit for this sector may consider making it compulsory for the Auditor to mention the necessary details of VAT/ other duties/Taxes in Form 3CD, which were not routed through the Profit and Loss Account. The Auditor should also mention the Sale at 34(a) was either gross sale or net sale. Further, the Auditor should specifically mention the bifurcation of total sales into TCS/Non-TCS sales with the corresponding Excise Duties in the Profit and Loss Account.

[Para 2.3.2.2 to 2.3.2.10]

Ministry in its reply stated (September 2022) that Sub-Section (1) of Section 206C of the Act provides for collection of tax by the seller at the time of debiting of account with the amount payable by the buyer or at the time of receipt of consideration from the buyer of alcoholic liquor for human consumption at the rate of one *percent*. Such tax has to be deposited by the seller to the credit of the Central Government within the prescribed time.

In clause 34(a) of Form 3CD, the auditor is required to report the details of tax deduction and tax collection made by the taxpayer during the year such as nature of payment, Section under which tax is to be deducted/collected etc. Hence the TCS is collected on gross amount which is already being reported in clause 34(a) of Form No. 3CD.

The suggestion of Audit that clause 34(a) should have a bifurcation of gross vs net and TCS vs non-TCS is not feasible. The purpose of clause 34(a) is to capture TDS and TCS details which can then be verified, if needed. While designing Audit form, it has to be ensured that it does not become bulky and does not lead to unnecessary compliance burden.

Although the Ministry's reply is acceptable in principle, the Ministry may decide on a threshold turnover limit for this specific sector, wherein the Auditor has to mandatorily mention the bifurcation of Gross sale or net sale, TCS and non-TCS sale, etc., in Form 3CD. Details of TCS and non-TCS sales with corresponding excise duty, VAT, and other duties will enable the assessment of the correct income in the interest of revenue.

2.3.7.8 The CBDT may consider issuing elaborate business codes for the Distilleries and breweries sector. These business activity codes would enable ITD to prepare and update a comprehensive database of all the distilleries and breweries, which will facilitate the identification and selection of assesseees in this sector for scrutiny assessment under CASS parameters.

[Para 2.3.2 and 2.3.2.6]

Ministry for considering issuing elaborate business codes stated that (July 2022) the business codes are filled by assesseees while filing the return of income online. It may not be possible for the AOs to ensure the correctness of the business codes.

Reply of the Ministry is not tenable as the CBDT may consider having elaborative business codes prescribed for the Distilleries and breweries sector. Although the Business Codes are filled up by the assesseees, the same is also required to be certified by the Chartered Accountant through a Tax Audit Report. The errors in codes filled up by the assessee may be updated during subsequent scrutiny assessments, especially based on available information,

to ensure correct activity/ business-wise categorization of assessees and ensure reliable MIS generated from the database maintained centrally within the ITD. Ministry may reconsider its reply.

2.3.7.9 The CBDT may consider examining reasons for the non-verification of differences in the disclosure of stocks as per ITR/Profit and Loss Account and TAR, specifically in entities with large sales turnover, at the stage of scrutiny assessment. Further, where the value of stocks has been shown in ITR and Annual accounts but the quantitative details have not been disclosed, and vice versa, the reasons for the same and their impact on profitability should be ascertained in the assessment to minimize the risk of non-routing of finished products by entities of Distilleries and breweries sector and to prevent the possibility of tax evasion.

[Para 2.3.3.1, 2.3.3.2 and 2.3.3.3]

Ministry in its reply stated (July 2022) that this para will be answered in the respective illustrated cases.

Audit will await case-wise specific reply of the Ministry. (February 2024).

2.3.7.10 The CBDT may strengthen the existing mechanism for inter-departmental sharing of inputs, including Excise duty, VAT, and other taxes/duties details, with the Assessing Officers of the counterparties for examination and cross-verification of the Excise duty, VAT, and other taxes/duties disclosed by the assessee(s) during the assessment of the Distilleries and Breweries Sector.

[Para 2.3.5]

Ministry, in its reply, stated (September 2022) that the Income Tax Department (ITD) takes appropriate action as per law against various categories of Tax evaders, including assessees dealing in the business of breweries & distilleries. While taking such action, ITD does not distinguish between various categories of tax evaders. Whenever any instance of tax evasion and unaccounted/ black money comes to the notice, the Income Tax Department takes appropriate action as per the provisions of the Income Tax Act, including issuing summons, calling for information, conducting search and survey, assessment and reassessment of income, levy & recovery of tax, imposition of penalty, launching a prosecution etc.

Moreover, it may also be submitted that with effect from 01.04.2021, the scheme of reassessment under the Income Tax Act has been amended. The procedure for selection of a case (including the case of an assessee dealing in the business of brewery & distillery) for reassessment is now subjected to a risk management strategy at an appropriate level. This ensures a focused

approach on the part of the assessing officer on the risk parameters let out, thereby aiding him in unearthing corresponding tax evasion.

In addition to the above, it may be submitted that the ITD receives information regarding tax evasion by any assessee (including the assessees dealing in the business of distilleries and breweries) through various channels. These channels, inter-alia, include the following:

- a) Information sharing platforms between various government agencies/organizations like the Central Economic Intelligence Bureau (CEIB) and the Regional Economic Intelligence Committee (REIC), wherein the ITD receives/shares information from /to other member agencies, including the state agencies.
- b) Information filed with the ITD in the form of SFTs (Specified Financial Transactions) above notified thresholds relating to specified transactions.
- c) Suspicious Transaction Reports (STRs) received through FIU-IND.
- d) Specified information received from any other Law Enforcement Agency (LEA) for appropriate action, etc.
- e) Tax Evasion Petitions (TEPs) and informers.


All the aforementioned information about tax evasion provides information irrespective of the category of tax evaders. As and when such information is shared with the ITD, it takes action in the manner in accordance with the provision of Direct tax laws.

Though the Ministry's response is acceptable in principle, however the reply is silent specifically on the information sharing mechanism with the State Excise Department, where there is a wealth of information as highlighted by Audit in its Report. Audit noted that this information was not shared between the ITD and State Excise Authorities of the respective State Governments. No efforts seem to have been made by the AO while concluding the assessment proceedings to reconcile the different amounts of sale appearing at different places like Form 3CD, Profit and Loss Account, CPC(TDS), Vaishali, Ghaziabad and with the Excise Authorities. This is evident from the observations pointed out by Audit with respect to assessees of this sector. Sales figures at all these places were required to have been reconciled and verified in the interest of revenue. The risk of revenue leakage with respect to these assessees involved in Liquor manufacturing requires timely action by the ITD to ensure that such loopholes/gaps do not exist in the system in subsequent years. Ministry may reconsider its reply.

2.3.7.11 The CBDT may examine whether the instances of 'errors' noticed are errors of omission or commission, and if these are errors of commission, then they should ensure necessary action, including fixing responsibility where glaring mistakes have been pointed out by Audit during examination of companies dealing in the business of Distilleries and Breweries, as per law.

[Para 2.2 and 2.3]

**New Delhi
Dated: 14 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**

ANNEXURES

Annexure A-1

Sl. No.	Name of the Unit	AO Charge
O/o Director General of Audit (Central), Lucknow		
1	M/s W1 Ltd.	ACIT 2 Bareilly
2	M/s U1.Ltd.	Central Circle 1 Kanpur
3	M/s M1 Ltd.	ACIT Circle 4 Lucknow
O/o Director General of Audit (CR), New Delhi		
4	M/s P1 Pvt Ltd.	Central Circle 31 Delhi
5	M/s R1.Ltd.	Central Circle 31 Delhi
6	M/s S1 Ltd.	Circle 22(1) Delhi
7	M/s M2 Ltd.	Ward 17(3) Delhi
8	M/s M3 Pvt. Ltd.	Central Circle 8 Delhi
O/o Director General of Audit (Central), Mumbai		
9	M/s A1 Ltd.	Circle 9(1)(2) Mumbai
O/o Principal Director of Audit (Central), Bengaluru		
10	M/s U2 Ltd.	Special Range 7 Bengaluru
11	M/s U3 Ltd.	Special Range 7 Bengaluru

Annexure A-2

Legal Framework and Judicial Pronouncements:

Section 16 of the Comptroller and Auditor General's Duties, Powers and Conditions of Service (DPC ACT, 1971): It shall be the duty of the Comptroller and Auditor-General to audit all receipts which are payable into the Consolidated Fund of India and of each State and of each Union territory having a Legislative Assembly 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.

Section 18 of the Comptroller and Auditor General's Duties, Powers and Conditions of Service (DPC ACT, 1971):

1. *The Comptroller and Auditor-General shall in connection with the performance of his duties under this Act, have authority-*
 - a. *to inspect any office of accounts under the control of the union or of a State, including treasuries, and such offices responsible for the keeping of initial or subsidiary accounts, as submit accounts to him;*
 - b. *to require that any accounts, books, papers and other documents which deal with or form the basis of or are otherwise relevant to the transactions to which his duties in respect of audit extend, shall be sent to such place as he may appoint for his inspection;*
 - c. *to put such questions or make such observations as he may consider necessary, to the person in charge of the office and to call for such information as he may require for the preparation of any account or report which it is his duty to prepare.*
2. *The person in charge of any office or department, the accounts of which have to be inspected and audited by the Comptroller and Auditor-General, shall afford all facilities for such inspection and comply with requests for information in as complete a form as possible and with all reasonable expedition.*

Section 28 IT Act 1961: *The following income shall be chargeable to income-tax under the head "Profits and gains of business or profession",—*

- (i) *the profits and gains of any business or profession which was carried on by the assessee at any time during the previous year ;*
- (ii) *any compensation or other payment due to or received by,—*
 - (a) *any person, by whatever name called, managing the whole or substantially the whole of the affairs of an Indian company*
 - (b) *any person, by whatever name called, managing the whole or substantially the whole of the affairs in India of any other company*

(c) any person, by whatever name called, holding an agency in India for any part of the activities relating to the business of any other person.

(d) any person, for or in connection with the vesting in the Government, or in any corporation owned or controlled by the Government.

(e) any person, by whatever name called, at or in connection with the termination or the modification of the terms and conditions, of any contract relating to his business;

(iii) income derived by a trade, professional or similar association from specific services performed for its members ;

(iiia) profits on sale of a licence granted under the Imports (Control) Order, 1955, made under the Imports and Exports (Control) Act, 1947 (18 of 1947) ;

(iiib) cash assistance (by whatever name called) received or receivable by any person against exports under any scheme of the Government of India ;

(iiic) any duty of customs or excise re-paid or re-payable as drawback to any person against exports under the Customs and Central Excise Duties Drawback Rules, 1971 ;

(iiid) any profit on the transfer of the Duty Entitlement Pass Book Scheme, being the Duty Remission Scheme under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) ;

(iiie) any profit on the transfer of the Duty Free Replenishment Certificate, being the Duty Remission Scheme under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) ;

(iv) the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession ;

(v) any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm :

(va) any sum, whether received or receivable, in cash or kind, under an agreement for—

(a) not carrying out any activity in relation to any business or profession; or

(b) not sharing any know-how, patent, copyright, trade-mark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services:

(vi) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

(via) the fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset determined in the prescribed manner

(vii) any sum, whether received or receivable, in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as a deduction under section 35AD.

Section 29 IT Act 1961: *The income referred to in section 28 shall be computed in accordance with the provisions contained in sections 30 to 43D.*

As per the provisions of Income Tax Act 1961, total income of any previous year of a person, who is a resident includes all income from whatever source derived which is received or deemed to be received in India in such year by or on behalf of such person or accrues or arises or is deemed to accrue or arise to him in India during such year.

Case Law- *Revenue had filed five Appeals to the Hon'ble High Court for AYs 2008-09 to 2012-13 raising the Substantial Questions of law in relation to additions made by AOs, where it was held that the taxability will arise in the hands of the assessee (i.e. the license holder for manufacturing of alcohol) and not of the other party in the light of the decision dated 25th September 2018 of Hon'ble High Court of Karnataka in case of Principal Commissioner of Income Tax, Bangalore Vs. M/s Chamundi Winery & Distillery, (2018) 97 taxman.com 568 (Karnataka)/(2018)408 ITR 402 (Karnataka).*

As per provision of section 206(C) of the Act, every person, being a seller of liquor shall, at the time of debiting of the amount payable by the buyer, collect tax at source (TCS) equal to the one percentage from the buyer.

As per the provision of section 44AB of the IT Act 1961, every person carrying on business (as specified in the section) get his accounts of such previous year audited by an accountant before the specified date and furnish by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

As per Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 issued by ICAI, which is required to be followed by CA for preparation of audit report, Para 58.6 of Guidance note is summarized as under

Para 58.6 of Guidance Note *stated that in column (4) of Sl.no. 34(a), the auditor is required to furnish the details of the total amount of payment or receipt of the nature specified in column (3). The details in the said column may be drawn from the TDS/TCS statements furnished by the assessee to the Department along with the books of accounts and other relevant documents which include aggregate of payments on which tax is liable to be deducted as well as not liable to be deducted. Auditor may maintain working paper giving reconciliation of amount as per books of accounts and amount on which TDS/TCS is required to be deducted/ collected.*

Form 3CD is reporting format which should be used by an auditor who is auditing the books of accounts of taxpayers to whom tax audits are applicable. The provisions of the Income Tax Act which govern a tax audit mandate that a Chartered Accountant should furnish an audit report in the specified form. It is prepared by a Chartered Accountant on behalf of the assessee who

get their accounts audited. The objective of the form is to specify the particulars of the audit report under any of the forms specified under Section 44AB.

A Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 was issued by ICAI, which is required to be followed by CA for preparation of audit report, Para 62 of Guidance note provided the checklist for clause 35b of the form 3CD. Clause 35b of Form 3CD consists of details regarding –

In case of the assessee being a manufacturing concern, CA will give quantitative details of the principal items of raw materials, finished products and by-products.

Clause 35bB- Finished products/by-products:

Opening stock; (ii) purchases during the previous year; (iii) quantity manufactured during the previous year; (iv) sales during the previous year; (v) closing stock; (vi) shortage/excess, if any.

Checklist for CA: Auditor should obtain certificates from the assessee in respect of the principal items of goods traded, the balance of the opening stock, purchases, sales and closing stock and the extent of shortage/excess/damage and the reasons thereof.

Section 153C of IT Act provides that the Assessing Officer can frame assessment of a person other than the person searched for six assessment years immediately preceding the year of search.

Section 115BBE of IT Act provides that where the total income of an assessee determined by the Assessing Officer includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, if such income is not reflected in the return of income furnished under section 139, the income-tax payable shall be the aggregate of the amount of income-tax calculated on the income at the rate of sixty per cent.

Applicable rates and taxes			
Sl. No.	Section	AY	Tax Rate
1	Tax u/s 115BBE	2014-15 to 2016-17	Tax @30% + surcharge+ Ed. Cess
		2017-18 & 2018-19	Tax @60% + Surcharge @25%+ Ed. Cess
2	TCS u/s 206C on alcoholic products		@1% of total amount of the receipt from buyer

Annexure B-1 (Para No. 2.3.1.1(II)(a)) M/s W1 Ltd											
Sl. No.	AYs	Assessment under section	Total Sale as per P/L account	Sale as per State Excise Department					(₹ in lakh)		Tax Effect (₹ in crore)
				M/s W1 Ltd. (Dist. Div)	M/s W1 Ltd. (Brew. Div)	M/s A2 Ltd.	M/s U3 Ltd.	Total	Total Difference (I-D)		
A	B	C	D	E	F	G	H	I	J	K	
1	2011-12	143(1)	1,23,015.44	1,21,808.84	0	12,783.50	0	1,34,592.34	11,576.90	38.45	
2	2012-13	143(3)	1,45,539.09	1,39,269.96	6,269.13	24,531.29	11,674.88	1,81,745.26	36,206.17	117.47	
3	2013-14	143(3)	1,35,026.68	1,15,383.63	19,643.05	27,847.40	62,205.17	2,25,079.25	90,052.57	292.18	
Total			4,03,581.21	3,76,462.43	25,912.18	65,162.19	73,880.05	5,41,416.85	1,37,835.64	448.10	

Source: Data furnished by UP State Excise Department to O/o Principal Accountant General (Audit II), Lucknow

Annexure B-2 (Para No. 2.3.1.1(II)(b)) M/s W1 Ltd.								
Sl. No.	AY	Assessed/ Processed under section	Alcoholic sale as per CPC data	Sale as per 3CD/ 34(a)	Gross sale (Liquor + Beer + Scrap) including excise duty in P/L	(₹ in lakh)		Tax Effect (₹ in crore)
						Difference of sale as per 3CD & P/L, (E-F)		
A	B	C	D	E	F	G	H	
1	2014-15	143(3)	2,52,875.45	2,52,875.45	1,58,747.12	94,128.33		319.94
2	2015-16	143(1)	3,16,057.11	3,16,057.13	2,12,739.34	1,03,317.79		351.18
3	2016-17	143(1)	3,33,689.15	3,33,689.15	2,15,986.84	1,17,702.31		407.34
Total			9,02,621.71	9,02,621.73	5,87,473.30	3,15,148.43		1,078.46

Annexure-B-3 (Para No. 2.3.1.1(II)(c)) M/s W1 Ltd.									
Sl. No.	AY	Assessed/ Processed under section	Sale as per 3CD/ 34(a)	Alcoholic sale as per CPC data	Gross alcoholic sale including excise duty in P/L	(₹ in lakh)		Tax Effect (₹ in crore)	Tax effect u/s 68/69C (₹ in crore)
						Difference (E-F)			
A	B	C	D	E	F	G	H	I	
1	2017-18	143(1)	2,30,710.68	2,79,716.53	2,24,545.70	55,170.83		190.94	426.19

Annexure B-4 (Para No. 2.3.1.1(e))						
M/s W1 Ltd.						
(Relating to M/s A2 Ltd.)						
					(₹ in lakh)	
Sl. No.	AY	Assessed/ Processed under section	Sale including excise duty relating to M/s A2 Ltd. as per state excise	Excise duty	Tax Effect (₹ in crore)	Tax effect u/s 68/69C (₹ in crore)
A	B	C	D	E	F	G
1	2014-15	143(3)	15,854.81	11,077.79	53.89	53.89
2	2015-16	143(1)	23,495.93	17,914.87	79.86	79.86
3	2016-17	143(1)	30,992.02	25,836.18	107.26	107.26
4	2017-18	143(1)	21,392.99	15,046.27	74.04	165.26
5	2018-19	143(1)	30,213.40	21,291.22	104.56	233.40
Total			1,21,949.15	91,166.33	419.61	639.67

Annexure C (Para No.2.3.1.2(II))						
M/s U1Ltd.						
					(₹ in lakh)	
Sl. No.	AY	Sale including Excise*	Excise#	Net Sale value (C-D)	Tax Effect (₹ in crore)	
A	B	C	D	E	F	
1	2010-11	690.87	426.93	263.94	2.35	
2	2011-12	41,546.81	9,926.46	31,620.35	138.01	
3	2012-13	62,890.48	14,181.08	48,709.40	204.05	
4	2013-14	1,03,186.00	22,231.88	80,954.12	334.79	
5	2014-15	36,067.94	25,956.69	10,111.25	122.59	
6	2015-16	37,980.01	28,479.42	9,500.59	129.09	
7	2016-17	25,903.34	20,488.29	5,415.05	89.65	
Total		3,08,265.45	1,21,690.75	1,86,574.70	1,020.53	

*Source: : Data furnished by UP State Excise Department to O/o Principal Accountant General (Audit II), Lucknow (September 2019)

#Source: Data furnished by UP State Excise Department to O/o Principal Accountant General (Audit II), Lucknow(May 2020)

Annexure D (Para No. 2.3.1.3(II)(a))
M/s M1 Ltd

Sl. No.	AY	Sale as per 3CD/ 34(a)	Gross sale including excise duty in P/L	Difference of sale as per 3CD & P/L, (C-D)	Sale made by assessee on which Tax at source was collected, as per CPC (TDS) Vaishali, Ghaziabad			Tax Effect (₹ in crore)	Tax effect u/s 68/ 69C (₹ in crore)
					Alcoholic Sale	Scrap Sale	Total Sale		
A	B	C	D	E	F	G	H	I	J
1	2016-17	26,851.24	0	26,851.24	26,776.99	73.76	26,850.75	92.93	92.93
2	2017-18	84,618.72	1,312.98	83,305.74	84,478.30	140.00	84,618.30	288.30	643.53
Total		1,11,469.96	1,312.98	1,10,156.98	1,11,255.29	213.76	1,11,469.05	381.23	736.46

Annexure E-1 (Para No. 2.3.2.1(a))
M/s U1 Ltd.

Sl. No.	AY	Sale as per State Excise Department ¹		Sale as per P/L account			(₹ in lakh)	Tax Effect (₹ in crore)
		Sale value (excluding excise)	Excise	Sale (including excise)	Sale (including excise) (Country liquor+ trading sales-petroleum product)	Excise	Short reporting of sale (E-F)	
A	B	C	D	E	F	G	H	I
1	2009-10	12,394.73	31,669.98	44,064.71	43,634.26	33,154.26	430.45	1.46
2	2010-11	10,367.12	29,732.75	40,099.87	37,427.38	29,066.47	2,672.49	9.08
3	2011-12	9,732.17	30,630.15	40,362.32	37,719.95	30,630.15	2,642.37	8.78
4	2012-13	8,806.07	35,572.64	44,378.71	43,424.21	35,572.65	954.50	3.10
5	2013-14	11,468.67	46,948.79	58,417.46	56,722.67	46,948.80	1,694.79	5.50
Total		52,768.76	1,74,554.31	2,27,323.07	2,18,928.47	1,75,372.33	8,394.60	27.92

¹ Source: : Data furnished by UP State Excise Department to O/o Principal Accountant General (Audit II), Lucknow dated 15.05.2020

Annexure E-2 (Para No. 2.3.2.1(b))
M/s U1 Ltd.

Sl. No.	AY	Assessed/ Processed under section	Sale as per State Excise Department	Sale as per 3CD/ 34(a)	Gross sale including excise duty in P/L	(₹ in lakh)	Tax Effect (₹ in crore)	Tax effect u/s 68/69C (₹ in crore)
						Difference of sale as per 3CD & P/L (E-F)		
A	B	C	D	E	F	G	H	I
1	2015-16	143(3)	59,410.70	59,414.68	59,265.11	149.57	0.51	0.51
2	2016-17	143(1)	67,024.50	67,026.17	66,037.77	988.40	3.42	3.42
3	2017-18	143(1)	62,262.89	62,265.60	60,569.81	1,695.79	5.87	13.10
4	2018-19	143(1)	39,653.01	41,529.79	40,520.95	1,008.84	3.49	7.79
Total			2,28,351.1	2,30,236.24	2,26,393.64	3,842.60	13.29	24.82

**Annexure F (Para-2.3.2.2(II))
M/s P1 Pvt. Ltd.**

(₹ in lakh)												Tax Effect (₹ in crore)	Tax effect u/s 68/69C (₹ in crore)
Sl. No.	AY	Sale as per Profit and Loss Account					As per ITD			Sale on which Tax at source collected as per 3CD/ 34(a)	Difference of sale (K-J)		
		Wine and Spirit Manufactured	Wine and Spirit Traded	Scrap sale	Sale including excise duty in P/L (C+D+E)	Excise duty as per P/L	Sale excluding excise duty (F-G)	Sale on which Tax at source not collected**	Sale on which Tax at source collected (H-I)				
A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	2014-15	8,36,673.60	24,454.60	1,976.60	8,63,104.80	3,47,920.90	5,15,183.90	2,31,089.80	2,84,094.10	5,91,214.25	3,07,120.15	1,043.90	1,043.90
2	2015-16	9,76,936.70	38,873.50	2,172.30	10,17,982.50	4,04,063.50	6,13,919.00	2,75,660.60	3,38,258.40	6,98,631.98	3,60,373.58	1,224.91	1,224.91
3	2016-17	11,53,045.00	57,886.20	2,795.00	12,13,726.20	5,25,250.20	6,88,476.00	3,06,597.00	3,81,879.00	8,20,231.13	4,38,352.13	1,517.05	1,517.05
4	2017-18	12,79,671.00	0.00	3,242.90	12,82,913.90	6,32,513.10	6,50,400.80	0*	6,50,400.80	8,82,589.20	2,32,188.40	803.56	1,793.66
Total		42,46,326.30	1,21,214.30	10,186.80	43,77,727.40	19,09,747.70	24,67,979.70	8,13,347.40	16,54,632.30	29,92,666.56	13,38,034.26	4,589.42	5,579.52

*treated Nil as not provided by ITD.

** as per reply of ITD August 2020.

**Annexure G (Para-2.3.2.3(II))
M/s R1 Ltd.**

Sl. No.	AY	Sale as per Profit and Loss Account											(₹ in lakh)		Tax Effect (₹ in crore)	Tax effect u/s 68/69C (₹ in crore)
		Alcohol & other alcoholic products	Blends & other	Traded IMFL	Traded Alcohol	Traded Imported liquor	Scrap sale	Sale including excise duty in P/L (C+D+E+F+G+H)	Excise duty as per P/L	Sale excluding excise (including TCS+ without TCS) (I-J)	Sale on which Tax at source not collected*	Sale on which Tax at source collected (K-L)	Sale on which Tax at source collected as per 3CD/ 34(a)	Difference of sale (N-M)		
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q
1	2014-15	2,74,219.82	1,418.15	1,160.30	1,197.52	642.41	1,101.79	2,79,739.99	1,59,340.56	1,20,399.43	78,901.20	41,498.23	1,61,267.87	1,19,769.64	407.10	407.10
2	2015-16	2,90,527.60	513.43	966.65	3,384.74	454.85	1,393.72	2,97,240.99	1,72,416.95	1,24,824.04	81,367.98	43,456.06	1,76,599.43	1,33,143.37	452.55	452.55
3	2016-17	3,36,726.25	534.36	705.06	263.97	889.37	1,385.04	3,40,504.05	2,06,077.85	1,34,426.20	83,779.40	50,646.80	2,15,767.35	1,65,120.55	571.45	571.45
4	2017-18	4,75,487.01	612.57	829.70	-	730.13	1,781.22	4,79,440.63	3,18,805.32	1,60,635.31	55,018.76	1,05,616.55	3,06,469.29	2,00,852.74	695.11	1,551.59
Total		13,76,960.68	3,078.51	3,661.71	4,846.23	2,716.76	5,661.77	13,96,925.66	8,56,640.68	5,40,284.98	2,99,067.34	2,41,217.64	8,60,103.94	6,18,886.3	2,126.21	2,982.69

* as per reply of ITD August 2020.

Annexure H (Para-2.3.2.4(II))														
M/s S1 Ltd.														
Sl. No.	AY	Assessed/Processed under section	Sale As per Profit and Loss Account								(₹ in lakh)		Tax Effect (₹ in crore)	Tax effect u/s 68/69C (₹ in crore)
			Spirit	IMFL Traded	Molasses	Scrap	Sale including excise duty in P/L (D+E+F+G)	Excise duty as per P/L	Sale excluding excise (H-I)	Sale as per 3CD/ 34(a)	Difference of sale (K-J)			
A	B	C	D	E	F	G	H	I	J	K	L	M	N	
1	2014-15	143(3)	54,577.15	193.72	4.21	0	54,775.08	41,802.36	12,972.72	50,679.22	37,706.50	128.16	128.16	
2	2015-16	143(1)	56,123.83	169.41	4.50	0	56,297.74	45,083.63	11,214.11	54,445.29	43,231.18	146.94	146.94	
3	2016-17	143(1)	44,258.06	134.67	0	11.73	44,404.46	35,605.47	8,798.99	43,114.23	34,315.24	118.76	118.76	
4	2017-18	143(1)	57,159.54	128.82	0	22.56	57,310.92	47,111.24	10,199.68	56,404.43	46,204.75	159.91	356.93	
5	2018-19	143(1)	38,384.65	0	0	20.71	38,405.36	32,165.86	6,239.50	38,152.97	31,913.47	110.45	246.53	
Total			2,50,503.23	626.62	8.71	55	2,51,193.56	2,01,768.56	49,425.00	2,42,796.14	1,93,371.14	664.22	997.32	

Annexure I (Para-2.3.2.5(II))
M/s M3 Pvt.Ltd.

Sl. No.	AY	Assessed/ Processed under section	Sale As per Profit and Loss Account											Tax Effect	
			Beer Manufactured	IMFL Manufactured	Spirit Manufactured	Beer Traded	IMFL Traded	Scrap#	Sale including excise duty in P/L (D+E+F+G+H+I)	Excise duty as per P/L	Sale excluding excise (J-K)	Sale as per 3CD/34(a)	Difference of sale (M-L)	(₹ in crore)	u/s 68/69C (₹ in crore)
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
1	2014-15	143(3)	9,759.48	11,970.40	1,090.17	2,090.20	22,183.06	#292.58	47,385.89	11,752.13	35,633.76	46,221.86	10,588.10	35.99	35.99
2	2015-16	143(3)	7,061.04	16,155.77	1,757.21	1,241.30	21,496.12	##340.46	48,051.90	11,614.52	36,437.38	44,384.34	7,946.96	27.01	27.01
3	2016-17	143(1)	6,396.44	18,122.95	1,880.13	1,214.45	25,318.50	##479.60	53,412.07	13,213.71	40,198.36	44,187.07	3,988.71	13.80	13.80
4	2017-18	143(1)	*27,802.48	0	0	*29,137.67	0	###620.25	57,560.40	11,620.53	45,939.87	46,338.15	398.28	1.38	3.08
5	2018-19	143(3)	**29,760.67	0	0	34,403.31	0	@692.42	64,856.40	13,209.24	51,647.16	53,738.20	2,091.04	7.24	16.15
Total			80,780.11	46,249.12	4,727.51	68,086.93	68,997.68	2,425.31	2,71,266.66	61,410.13	2,09,856.53	2,34,869.62	25,013.09	85.42	96.03

*The figure represents total of manufactured and traded goods in AY 2017-18 taken from the previous year figure of Schedule – of 2018-19. Bifurcation of separate items not available.

Represents other miscellaneous sale (schedule-21) Includes sale of scrap, sale of mixture of materials,etc, separate figure is not available.

Represents the figure of sale of scrap in schedule-22 other income and the figure of sale of scrap included in other miscellaneous sale schedule-21.

Represents the figure of sale of scrap in schedule-29 other income and the figure of sale of scrap included in other miscellaneous sale schedule-28.

**The figure represents total of manufactured and traded goods in AY 2018-19. Bifurcation of separate items is not available.

@Represents the figure of sale of scrap in schedule-29 other income and the figure of sale of scrap included in other miscellaneous sale schedule-28(Other Miscellaneous Sales + Sale of Scrap =510.35+182.07).

Annexure J (Para-2.3.2.6(II))
M/s M2 Ltd.

Sl. No.	AY	Assessed/Processed under section	Sale as per Profit and Loss Account										(₹ in lakh)		Tax Effect (₹ in crore)	Tax effect u/s 68/69C (₹ in crore)
			Molasses Manufactured	Spirit Manufactured	ENA Manufactured	IMFL Manufactured	Country Liquor	Special Denatured Spirit	Scrap	Sale including excise duty in P/L (D+E+F+G+H+I+J)	Excise duty as per P/L	Sale excluding excise (K-L)	Sale as per 3CD/ 34(a)	Difference of sale (N - M)		
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q
1	2014-15	143(3)	539.30	0	0	1,986.81	1031.90	1406.82	0	4,964.83	2,897.38	2,067.45	2,608.59	541.14	1.84	1.84
2	2015-16	143(3)	622.07	8.64	0	3,190.47	0	1595.45	0	5,416.63	2,224.01	3,192.62	4,019.20	826.58	2.81	2.81
3	2016-17	143(3)	885.78	17.66	0	8,690.28	0	967.65	0	10,561.37	4,862.59	5,698.78	9,993.49	4,294.71	14.86	14.86
4	2017-18	143(1)	895.51	16.95	0	15,315.50	0	499.58	0	16,727.54	8,129.49	8,598.05	16,984.92	8,386.87	29.03	64.79
5	2018-19	143(3)	325.85	39.49	0	23,083.43	0	742.94	0	24,191.71	10,794.77	13,396.94	26,519.93	13,122.99	45.42	101.38
Total			3,268.51	82.74	0	52,266.49	1,031.9	5,212.44	0	61,862.08	28,908.24	32,953.84	60,126.13	27,172.29	93.96	185.68

Annexure K (Para No 2.3.2.7(II))									
M/s A1 Ltd.									
Sl.No.	AY	Sale as per Profit and Loss Account					(₹ in lakh)		Tax Effect (₹ in crore)
		Sale of manufacturing goods	Excise Duty	Net Manufacturing Sale (C-D)	Traded Sale	Total Net Sale (E+F)	Sale as per 3 CD(34a)	Difference (H-G)	
A	B	C	D	E	F	G	H	I	J
1	2015-16	3,41,192.74	1,65,363.36	1,75,829.38	8,133.49	1,83,962.87	2,10,063.89	26,101.02	88.72
2	2016-17	3,59,856.62	1,73,997.16	1,85,859.46	11,999.29	1,97,858.75	2,10,717.48	12,858.73	44.50
Total		7,01,049.36	3,39,360.52	3,61,688.84	20,132.78	3,81,821.62	4,20,781.37	38,959.75	133.22

Annexure L (Para No. 2.3.2.8(II)(a))										
M/s U2 Ltd.										
(₹ in lakh)										Tax Effect (₹ in crore)
Sl. No.	AY	Sale As per Profit and Loss Account					Alcoholic Sale as per 3CD/34(a)(206C)	Difference of sale as per 3CD & P/L(I-H)	K	
A	B	Gross sale own manufactured goods	Traded goods	Scrap Sale	Total Sale (C+D+E)	Excise Duty	Net sale (F-G)	I		J
1	2014-15	18,97,897.92	1,25,230.60	3,733.03	20,26,861.55	12,30,853.14	7,96,008.41	16,09,489.20	8,13,480.79	2,765.02
2	2015-16	18,59,305.57	1,41,492.48	2,963.92	20,03,761.97	12,55,089.44	7,48,672.53	9,96,165.47	2,47,492.94	841.23
3	2016-17	19,68,377.78	2,06,282.00	3,182.76	21,77,842.54	13,20,967.84	8,56,874.70	10,85,211.21	2,28,336.51	790.23
Total		57,25,581.27	4,73,005.08	9,879.71	62,08,466.06	38,06,910.42	24,01,555.64	36,90,865.88	12,89,310.24	4,396.48

Annexure L1 (Para No. 2.3.2.8(II)(b))											
M/s U2 Ltd.											
Distillery Unit wise details of sale figure vis-à-vis Purchases reported by M/s. K1 Ltd.											
(₹ in lakh)										Difference (₹ in crore) (J-I)	
Sl. No.	AY	Sale As per State Excise Department						Total Sales	Total purchases reported by M/s K1 Ltd.L		Difference (J-I)
A	B	U2 Kumbalgodu Unit	U2 Chamundi Unit	U2 Hassan Unit	U2 Hubli Unit	U2 Kalaburgi Unit*	U2 Nelamangala Unit	I	J	K	L
1	2015-16	1,60,805.44	28042.93#	99,932.76	1,07,042.82	No sales	2,00,384.52	5,68,165.54	5,94,259.86	26,094.32	260.94
2	2016-17	1,72,366.56	29,902.52	98,438.61	1,17,494.54	No sales	2,32,489.58	6,50,691.81	6,53,103.30	2,411.49	24.11
3	2017-18	1,63,252.89	55,449.87	1,32,961.92	1,16,067.28	51,330.70	2,11,363.10	7,30,425.76	7,43,481.16	13,055.40	130.55
4	2018-19	2,22,023.02	59,252.16	1,39,438.60	1,19,377.37	1,11,774.42	1,98,139.33	8,50,004.90	8,62,937.72	12,932.82	129.33
Total								27,99,288.01	28,53,782.04	54,494.03	544.93

*Started production from AY 2017-18

#Sale of produce of Chamundi Unit was not taken in comparison as purchase regarding Chamundi unit was reported as Nil by M/s K1 Ltd.

Annexure M (Para No.2.3.2.9(II)) M/s U3 Ltd.								
							(₹ in lakh)	
Sl. No.	AY	Sale As per Profit and Loss Account*			Alcoholic Sale as per 3CD/34(a)(206C)	Difference of sale (F-E)	Tax Effect (₹ in crore)	Tax effect u/s 68/69C (₹ in crore)
		Sale of alcoholic product as per P/L Account	Excise duty as per P/L	Sale excluding excise (C-D)				
A	B	C	D	E	F	H	I	J
1	2014-15	6,76,697.00	3,02,634.00	3,74,063.00	3,81,359.00	7,296.00	24.80	24.80
2	2015-16	7,66,369.00	3,54,639.00	4,11,730.00	4,39,342.00	27,612.00	93.85	93.85
3	2016-17	8,58,518.00	4,08,625.00	4,49,893.00	4,51,495.00	1,602.00	5.54	5.54
4	2017-18	9,93,895.00	5,50,061.00	4,43,834.00	5,93,598.00	1,49,764.00	518.30	1,156.93
Total		32,95,479.00	16,15,959.00	16,79,520.00	18,65,794.00	1,86,274.00	642.49	1,281.12

Annexure M1 (Para No. 2.3.2.9(II)(b)) M/s U3 Ltd. Brewery Unit wise details of sale figure vis-à-vis Purchases reported by M/s. K1 Ltd.								
							(₹ in lakh)	
Sl. No.	AY	Sale as per State Excise Department				Total purchases reported by M/s. K1 Ltd.	Difference(F-G)	Difference(F-G) (₹ in crore)
		Mangaluru Unit	Nelamangala Unit	Nanjangud Unit	Total Sale			
A	B	C	D	E	F	G	H	I
1	2015-16	45,276.54	77,343.23	63,326.81	1,85,946.58	1,81,374.05	4,572.53	45.73
2	2016-17	38,930.47	74,657.06	1,07,859.44	2,21,446.97	2,12,314.63	9,132.34	91.32
3	2017-18	35,894.71	86,359.08	1,11,406.21	2,33,660.00	2,15,134.88	18,525.12	185.25
4	2018-19	37,128.33	1,04,632.30	1,27,661.01	2,69,421.64	2,56,677.21	12,744.43	127.44
Total					9,10,475.19	8,65,500.77	44,974.42	449.74

**Annexure N-1 (Para No. 2.3.3.1(a))
M/s W1 Ltd.**

Sl. No.	A Y	Item name	Unit	Opening Stock	Purchase	Quantity manufactured	Sales during previous year	Closing Stock	Shortage/ excess, if any	Difference as per audit			Tax Effect (₹ in crore)
										Quantity	EDP of economy category (IMFL) per litre *	Value (in ₹)	
A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	2014-15	Extra Neutral Alcohol (ENA) MFR	Residual	11,48,142	0	2,13,66,731	49,000	9,99,623	0	2,14,66,250	40	85,86,50,000	
		Rectified Sprit (RS)	Residual	1,32,060	0	2,59,486	0	83,454	0	3,08,092	40	1,23,23,680	
Total										2,17,74,342		87,09,73,680 (or 87.10 crore)	29.60

*As per UP State excise policy FY 2013-14, EDP of economy category (IMFL) was ₹ 30 per bottle (750 ml).

Annexure-N-2 (Para No. 2.3.3.1(b))													
M/s W1 Ltd.													
Sl. No.	AY	Item name	Unit	Opening Stock	Purchase	Quantity manufactured	Sales during previous year	Closing Stock	Shortage/excess, if any	Difference as per audit			Tax Effect (₹ in crore)
										Quantity (in litres)	EDP of economy category (IMFL) per litre *	Value (In ₹)	
A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	2018-19	ENA/RS Manufactured	Litre	42,31,895	0	2,26,27,360	0	38,92,374	0	2,29,66,881	53.28	1,22,36,75,419.68	
		Blending Stock (IMFL)	Litre	0	0	1,24,81,047	0	48,171	0	1,24,32,876	53.28	66,24,23,633.28	
		Blending Stock (CL)	Litre	41,299	0	2,77,34,915	0	1,269	0	2,77,74,945	53.28	1,47,98,49,069.60	
		Blending Stock (ODS/CDS)	Litre	25,948	0	4,23,666	0	67,481	0	3,82,133	53.28	2,03,60,046.24	
		MALT (SELF MRF)	Litres	1,51,643	0	45,993	0	1,57,689	0	39,947	53.28	21,28,376.16	
		Beer (Strong)	Kilolitres	48,389	0	10,05,806	9,38,421	44,414	0	7,13,60,000	53.28	3,80,20,60,800.00	
		Total								13,49,56,782		7,19,04,97,344.96	
		Total										7,19,04,97,345	248.85
												Or (₹ 719.05crore)	

*As per UP State excise policy FY 2017-18, EDP of economy category (IMFL) was Rs.39.96 per bottle (750 ml).

Annexure O (Para-2.3.3.2)
M/s R1 Ltd.

Sl. No	AY	Item name	Unit	Sales during previous year								Difference as per audit		Tax Effect (₹ in crore)	
				Opening Stock	Purchase	Quantity manufactured	Quantity	Value as per note (in lakh)	Reference note in P/L	Rupees per unit	Closing Stock	Excess/shortage, if any	Quantity		Value In (₹)
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
1	2015-16	Rectified Spirit	Litre	2,95,711	0	4,36,41,802	2,58,925	79.66	42(b)	30.77	3,74,482	2,698	4,33,01,408	1,33,23,84,324.16	130.00
		Silent Spirit	Litre	53,68,962	52,97,000	4,32,95,116	2,93,35,542	16,429.58		56.01	54,38,531	1,27,038	1,90,59,967	1,06,75,48,751.67	
		Cane Juice Spirit	Litre	0	0	3,06,070	1,37,081	82.02		59.83	-	16,093	1,52,896	91,47,767.68	
		Malt Spirit	Litre	12,74,292	0	4,63,355	3,23,431	749.33		231.68	9,62,625	5,502	4,46,089	10,33,49,899.52	
		Grain Spirit	Litre	30,58,008	4,30,000	3,09,17,129	1,60,37,447	7,461.75		46.53	24,12,742	45,012	1,59,09,936	74,02,89,322.08	
		Pet Bottles*	Numbers	83,08,610	0	53,21,87,532	28,82,08,565	6,820.88		2.37	1,10,27,451	-	24,12,60,126	57,17,86,498.62	
		Total				1,83,05,583	57,27,000	65,08,11,004	33,43,00,991	31,623.22		427.19	2,02,15,831	1,96,343	
2	2016-17	Rectified Spirit	Litre	3,74,482	0	4,63,78,670	7,21,660	209.51	43(b)	29.03	5,52,574	6,052	4,54,72,866	1,32,00,77,299.98	124.97
		Silent Spirit	Litre	54,38,531	6,00,000	4,27,88,814	2,66,77,635	12,984.13		48.67	47,05,076	1,19,565	1,73,25,069	84,32,11,108.23	
		Cane Juice Spirit	Litre	0	0	3,94,013	91,859	65.19		70.97	-	9,904	2,92,250	2,07,40,982.50	
		Malt Spirit	Litre	9,62,625	0	6,01,431	3,78,364	1,018.60		269.21	9,63,772	3,372	2,18,548	5,88,35,307.08	
		Grain Spirit	Litre	24,12,742	0	3,17,81,768	1,52,61,905	6,874.07		45.04	11,89,742	47,850	1,76,95,013	79,69,83,385.52	
		Pet Bottles	Numbers	1,10,27,451	0	51,43,24,841	26,45,26,780	5,954.42		2.25	69,62,388	-	25,38,63,124	57,11,92,029.00	
		Total				2,02,15,831	6,00,000	63,62,69,537	30,76,58,203	27,105.92		465.17	1,43,73,552	1,86,743	
3	2017-18	Rectified Spirit	Litre	5,52,574	0	6,13,71,718	3,04,236	88.04	49(b)	28.94	2,06,101	16,032	6,13,97,923	1,77,68,55,891.62	161.99
		Silent Spirit	Litre	47,05,076	0	4,96,01,247	2,19,77,014	11538.01		52.5	14,37,077	1,04,457	3,07,87,775	1,61,63,58,187.50	
		Cane Juice Spirit	Litre	0	0	3,55,367	52,446	46.19		88.07	0	12,966	2,89,955	2,55,36,336.85	
		Malt Spirit	Litre	9,63,772	0	6,02,302	2,87,538	768.44		267.25	9,65,865	2,614	3,10,057	8,28,62,733.25	
		Grain Spirit	Litre	11,89,742	0	2,87,15,894	1,55,70,250	7,334.39		47.11	24,53,372	47,993	1,18,34,021	55,75,00,729.31	
		Pet Bottles	Numbers	69,62,388	0	52,18,54,155	22,96,95,364	4,889.93		2.13	73,58,045	0	29,17,63,134	62,14,55,475.42	
		Total				1,43,73,552	0	66,25,00,683	26,78,86,848	24,665		486	1,24,20,460	1,84,062	
Grand Total				5,28,94,966	63,27,000	1,94,95,81,224	90,98,46,042	83,394.14		1,378.36	4,70,09,843	5,67,148	1,05,13,80,157	12,11,61,16,029.90 or 1211.61 crore	416.96

Annexure P (Para-2.3.3.3)
M/s M2 Ltd.

Sl. No.	AY	Item name	Unit	Opening Stock	Purchase	Quantity manufactured	Sales during previous year	Closing Stock				Shortage / excess, if any as per 3CD	Difference as per audit		P
								Quantity	Value as per note (in lakh)	Reference note in P/L	Rupees per unit		Quantity	Value In (₹)	
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O (L*N)	P
													(E+G-I-M)		
1	2014-15	Spirit	Kilolitre	13	0	4,109	0	205	44.79	42(iii)	21,848.78	17	3,900	8,52,10,242	
		ENA	Kilolitre	152	0	36	0	4	0.41		10250	1	183	18,75,750	
						Total-A							4,083	8,70,85,992	2.96
2	2015-16	Spirit	Kilolitre	205	0	4328	24	222	56.89	43(iii)	25,626.13	17	4,270	10,94,23,575.1	3.72
3	2017-18	Spirit	Kilolitre	415	0	1873	48	827	212.07	46(iii)	25,643.29	7	1,406	3,60,54,465.74	1.25
4	2018-19	Spirit	Kilolitre	827	0	2573	111	796	81.35	47(iii)	10,219.84	13	2,480	2,53,45,203.2	0.88
						Total-B							8,156	17,08,23,244.04	5.85
						Grand Total (A + B)							12,239	25,79,09,236	8.81
														(or 25.79 crore)	

**Annexure Q (Para No 2.3.3.4)
M/s A1 Ltd.**

Sl. No.	AY	Item name	Unit	Opening Stock	Purchase during the previous year	Quantity manufactured during the previous year	Sales during previous year	Closing Stock	Shortage / excess, if any	Difference as per audit	EDP of economy category (IMFL) per litre *	Value (in ₹)	Tax Effect (₹ in crore)
A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	2018-19	Beer (Strong)	Residual	24,17,780	0	3,99,44,351	4,03,81,791	14,54,296	76,043	4,50,001	53.28	2,39,76,053 (2.40 crore)	0.79

*As per UP State excise policy FY 2017-18, EDP of economy category (IMFL) was ₹ 39.96 per bottle (750 ml).

Annexure R (Para No. 2.3.5)

(₹ in lakh)

Sl.No.	AY	M/s W1 Ltd.		M/s U1 Ltd.		M/s M1 Ltd.		M/s P1 Pvt. Ltd.	M/s R1 Ltd.	M/s S1 Ltd.	M/s M3 Pvt. Ltd.	M/s M2 Ltd.,	M/s A1 Ltd.	M/s U2 Ltd.	M/s U3 Ltd.
		(Excise duty debited in P/L)	Excise duty as per Excise Department ¹	(Excise duty debited in P/L)	Excise duty as per Excise Department ¹	(Excise duty debited in P/L)	Excise duty as per Excise Department ¹	(Excise duty debited in P/L)	(Excise duty debited in P/L)	(Excise duty debited in P/L)	(Excise duty debited in P/L)	(Excise duty debited in P/L)	(Excise duty debited in P/L)	(Excise duty debited in P/L)	(Excise duty debited in P/L)
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
1	2009-10	NA	NA	33,154.26	31,669.98	NA	NA	44,660.62	47,869.75	21,210.45	13,970.12	8,523.57	NA	3,36,542.08	76,217.72
2	2010-11	48,197.01	NA	29,066.47	30,159.68	NA	NA	1,16,738.78	64,570.40	21,105.27	8,516.04	2,282.45	NA	4,25,494.32	95,835.15
3	2011-12	93,254.94	1,01,355.96	30,630.15	40,556.61	NA	NA	1,61,924.16	74,585.58	29,395.33	9,190.23	6,617.48	NA	6,46,771.33	1,54,391.60
4	2012-13	1,13,362.19	1,36,238.12	35,572.65	49,753.73	NA	NA	2,40,378.40	83,761.87	25,873.75	9,080.35	11,081.90	1,14,631.51	8,50,375.89	2,23,725.00
5	2013-14	1,05,557.90	1,52,770.82	46,948.80	69,180.68	NA	NA	2,87,041.50	1,23,051.69	38,484.65	12,130.87	11,504.08	1,45,724.00	10,51,623.42	2,62,709.00
6	2014-15	1,30,575.44	1,85,199.92	49,005.68	74,962.37	3,434.73	3,434.73	3,47,920.90	1,59,340.56	41,802.36	11,752.13	2,897.38	1,55,560.15	12,30,853.14	3,02,634.00
7	2015-16	1,79,163.42	2,46,103.78	50,107.83	78,587.24	4,087.54	4,087.54	4,04,063.50	1,72,416.95	45,083.63	11,614.52	2,224.01	1,65,363.36	12,55,089.44	3,54,639.00
8	2016-17	1,86,802.98	2,71,887.13	57,289.88	77,778.16	0	NA	5,25,250.20	2,06,077.85	35,605.47	13,213.71	4,862.59	1,73,997.16	13,20,967.84	4,08,625.00
9	2017-18	1,86,799.46	2,29,060.60	53,028.41	56,355.88	817.52	NA	6,32,513.10	3,18,805.32	47,111.24	11,620.53	8,129.49	1,52,644.50	NA	5,50,061.00
10	2018-19	1,97,887.58	3,08,854.72	35,360.87	35,018.00	12,078.14	66,134.50	858128.26	NA	32,165.86	13,209.24	10,794.77	1,68,444.60	NA	NA
Total		12,41,600.92	16,31,471.05	4,20,165	5,44,022.33	20,417.93	73,656.77	3618619.42	12,50,479.97	3,37,838.01	1,14,297.74	68,917.72	1,076,365.28	71,17,717.46	24,28,837.47

Total Excise duty of all assesseees as debited in P/L(C+E+G+I+J+K+L+M+N+O+P)= ₹ 17695043.93 lakh or ₹ 176950.43 crores

¹Source: Data furnished by UP State Excise Department to O/o Principal Accountant General (Audit II), Lucknow August 2019,

Annexure R-1(a) (Para No. 2.3.5(i))						
M/s W1 Ltd.					(₹ in lakh)	
Sl. No.	AY	(Excise duty debited in P/L)	Excise duty as per Excise Department	Difference	Difference in (₹ in crore)	
A	B	C	D	E	F	
1	2011-12	93,254.94	1,01,355.96	8,101.02	81.01	
2	2012-13	1,13,362.19	1,36,238.12	22,875.93	228.76	
3	2013-14	1,05,557.90	1,52,770.82	47,212.92	472.13	
4	2014-15	1,30,575.44	1,85,199.92	54,624.48	546.25	
5	2015-16	1,79,163.42	2,46,103.78	66,940.36	669.40	
6	2016-17	1,86,802.98	2,71,887.13	85,084.15	850.84	
7	2017-18	1,86,799.46	2,29,060.60	42,261.14	422.61	
8	2018-19	1,97,887.58	3,08,854.72	1,10,967.14	1,109.67	
Total		11,93,403.91	16,31,471.05	4,38,067.14	4,380.67	

Annexure R-1(b) (Para No. 2.3.5(i))						
M/s U1 Ltd.					(₹ in lakh)	
Sl. No.	AY	(Excise duty debited in P/L)	Excise duty as per Excise Department	Difference	Difference (₹ in crore)	
A	B	C	D	E	F	
1	2010-11	29,066.47	30,159.68	1,093.21	10.93	
2	2011-12	30,630.15	40,556.61	9,926.46	99.26	
3	2012-13	35,572.65	49,753.73	14,181.08	141.81	
4	2013-14	46,948.80	69,180.68	22,231.88	222.32	
5	2014-15	49,005.68	74,962.37	25,956.69	259.57	
6	2015-16	50,107.83	78,587.24	28,479.41	284.79	
7	2016-17	57,289.88	77,778.16	20,488.28	204.88	
8	2017-18	53,028.41	56,355.88	3,327.47	33.28	
Total		3,51,649.87	4,77,334.35	1,25,684.48	1,256.84	

Annexure R-1(c) (Para No. 2.3.5(i))						
M/s M1 Ltd					(₹ in lakh)	Difference (₹ In crore)
Sl.No.	AY	(Excise duty debited in P/L)	Excise duty as per Excise Department	Difference		
A	B	C	D	E	F	
1	2018-19	12,078.14	66,134.5	54,056.36	540.56	

Annexure R-2 (Para No. 2.3.5(ii) & (iii))						Difference (₹ in crore)
					(₹ in lakh)	
Sl. No.	Name of Assessee	AY	(Excise duty debited in P/L)	Excise duty as per Excise Department	Difference	
A	B	C	D	E	F	G
1	M/s U1 Ltd.	2009-10	33,154.26	31,669.98	1,484.28	14.84
		2018-19	35,360.87	35,018.00	342.87	3.43
2	M/s M1 Ltd	2014-15	3,434.73	3,434.73	0	0
		2015-16	4087.54	4,087.54	0	0

Annexure S-1 (Para No.2.3.6.2(a))						Total (₹ in crore)
M/s W1 Ltd.					(₹ in lakh)	
Sl. No.	AY	Sundry Creditors	Sundry Debtors	Advances given	Total	
A	B	C	D	E	F	G
1	2009-10	-	-	-	-	-
2	2010-11	1,572.93	20.74	-	1,593.67	15.94
3	2011-12	-	-	-	-	-
4	2012-13	6,986.42	9,583.14	-	16,569.56	165.70
5	2013-14	7,529.66	18,202.99	201.08	25,933.73	259.33
6	2014-15	4,903.85	8,946.00	484.64	14,334.49	143.34
7	2015-16	-	-	-	-	-
8	2016-17	-	-	-	-	-
9	2017-18	-	-	-	-	-
10	2018-19	1,396.93	3,990.40	310.51	5,697.84	56.98
Total		22,389.79	40,743.27	996.23	64,129.29	641.29

Annexure S-2 (Para No.2.3.6.2(b)) M/s U1 Ltd. (₹ in lakh)							Total (₹ in crore)
Sl. No.	AY	Sundry Creditors	Sundry Debtors	Advances given	Other Liability	Total	
A	B	C	D	E	F	G	H
1	2009-10	288.91	570.43	288.25	-	1,147.59	11.48
2	2010-11	455.90	610.27	429.70	-	1,495.87	14.96
3	2011-12	651.34	262.17	474.11	-	1,387.62	13.88
4	2012-13	517.15	1,262.96	2,521.61	-	4,301.72	43.02
5	2013-14	817.56	84.21	245.03	-	1,146.80	11.47
6	2014-15	522.36	320.71	221.12	-	1,064.19	10.64
7	2015-16	562.20	220.71	-	4,558.31	5,341.22	53.41
8	2016-17	-	-	-	-	0	0
9	2017-18	-	-	-	-	0	0
10	2018-19	1,168.46	1,394.87	430.76	1,966.78	4,960.87	49.61
Total		4983.88	4,726.33	4,610.58	6,525.09	20,845.88	208.46

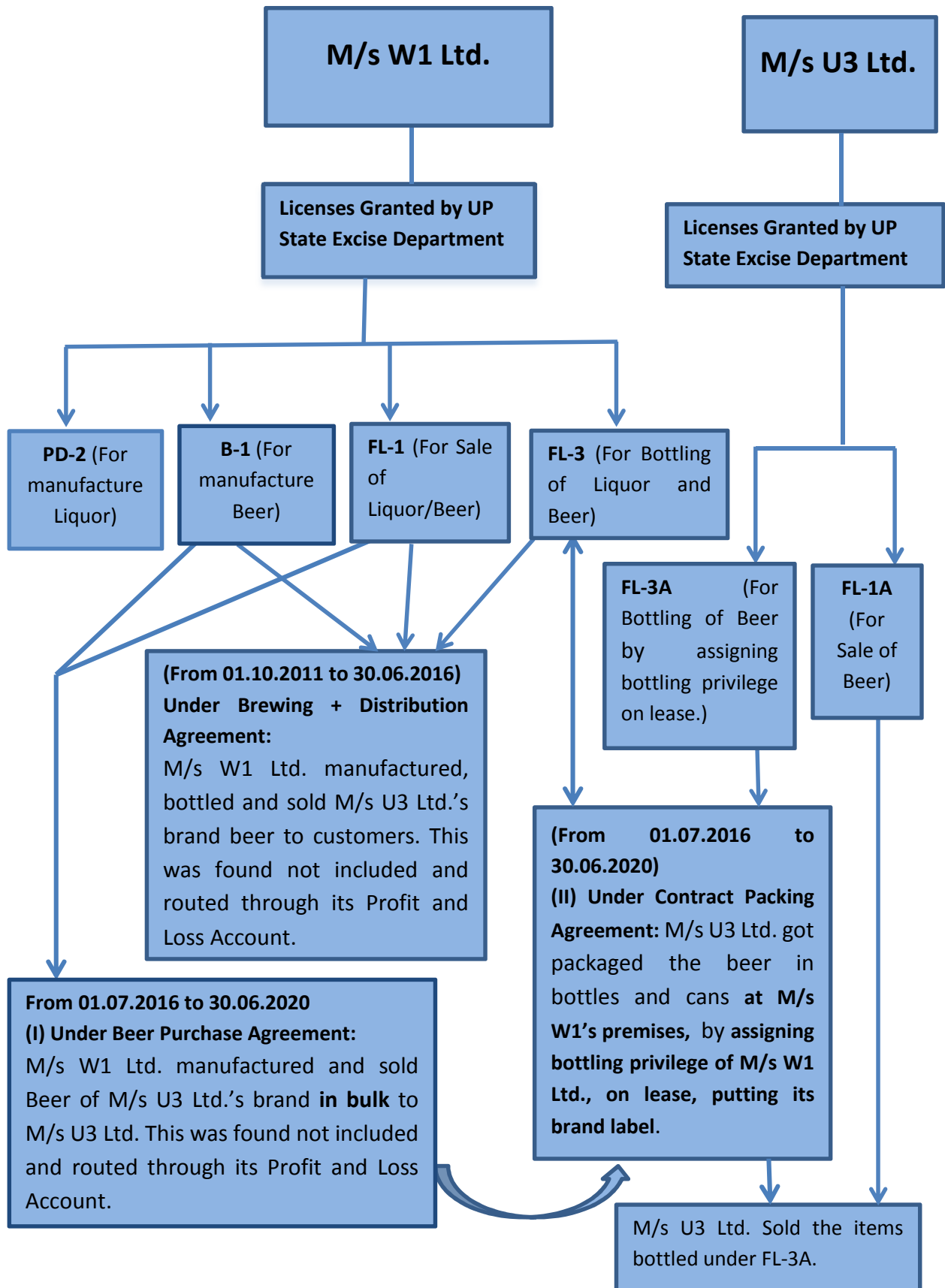
Annexure S-3 (Para No.2.3.6.2(c)) M/s M1 Ltd.					
Sl. No.	AY	Sundry Debtors	Sundry Creditors	Total (₹ in lakh)	Total (₹ in crore)
A	B	C	D	E	F
1	2009-10	1,424.02	3,528.9	4,952.92	49.53
2	2010-11	NA*	NA*	-	-
3	2011-12	142.81	471.02	613.83	6.14
4	2012-13	134.96	504.03	638.99	6.39
5	2013-14	45.21	202.38	247.59	2.48
6	2014-15	1,924.60	2,440.90	4,365.50	43.66
7	2015-16	5.30	895.87	901.17	9.01
8	2016-17	718.24	2,178.25	2,896.49	28.96
9	2017-18	1,048.44	2,015.81	3,064.24	30.64
10	2018-19	2,463.02	2,978.32	5,441.34	54.41
Total		7906.60	15,215.48	23,122.08	231.22

* DETAILS NOT AVAILABLE

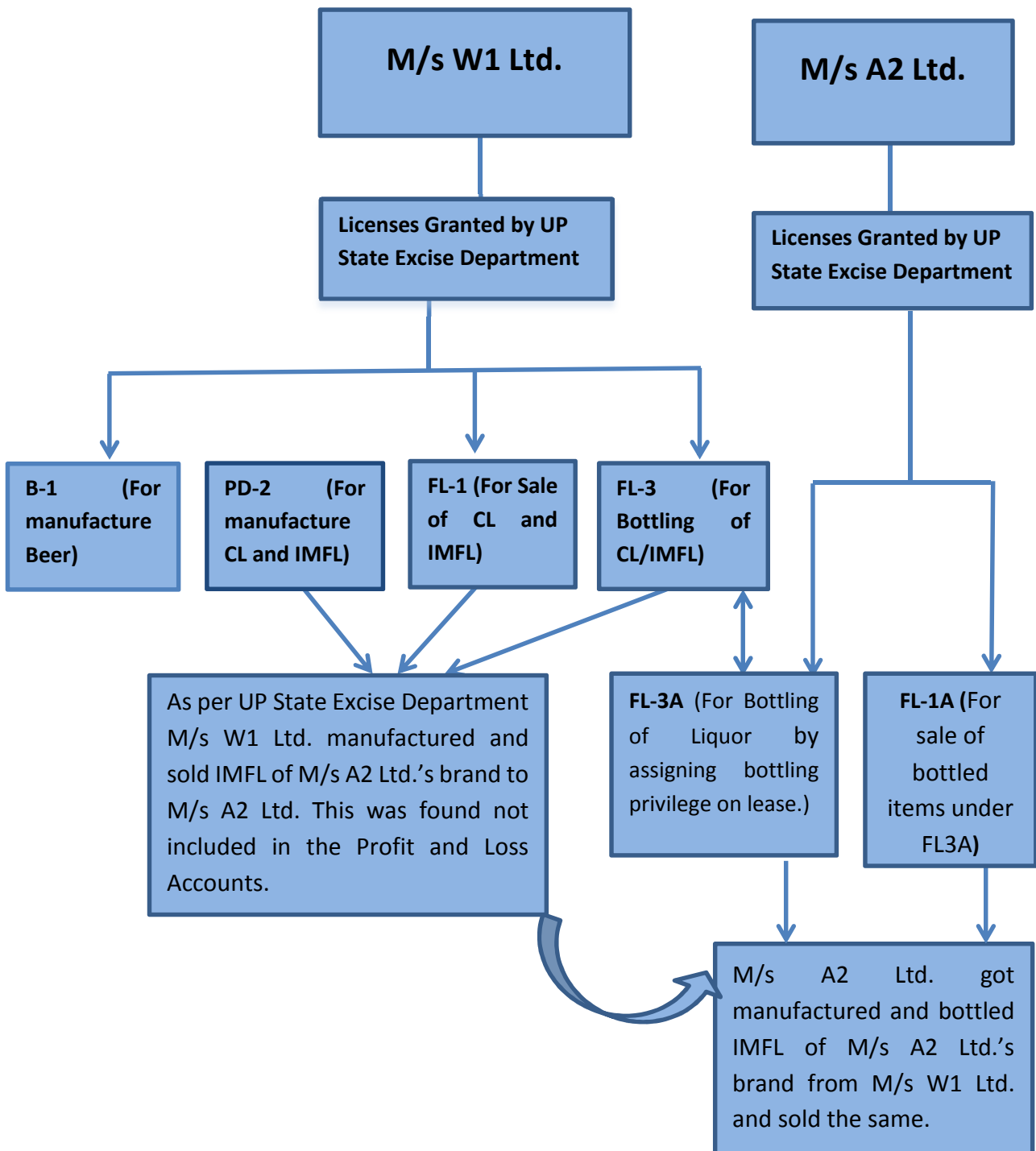
Annexure T- Audit observation wise tax effect															
Audit Observations	Name of assessee	AY 2009-10	AY 2010-11	AY 2011-12	AY 2012-13	AY 2013-14	AY 2014-15	AY 2015-16	AY 2016-17	AY 2017-18	AY 2018-19	Tax effect (₹ in crore)			
1. Short accounting of sale under the garb of agreement with other parties	M/s W1 Ltd.	Excise data was not made available by the State Excise Department		38.45	117.47	292.18	373.83	431.04	514.60	264.98	656.22	2688.77			
	M/s U1 Ltd.	Agreement was from AY 2010-11 to AY 2016-17		2.35	138.01	204.05	334.79	122.59	129.09	89.65	Agreement was from AY 2010-11 to AY 2016-17		1020.53		
	M/s M1 Ltd.	Agreement entered by M/s M1 Ltd. with M/s C1 Pvt. Ltd. in February 2015.								92.93	288.30	348.58	729.81		
2. Lack of Inter-departmental, intra-departmental and coordination/reconciliation with the assessee.	M/s U1 Ltd.	1.46	9.08	8.78	3.10	5.50	No such issue	0.51	3.42	5.87	3.49	41.21			
	M/s P1 Pvt. Ltd.								1043.90	1224.91	1517.05	803.56	Non-Production.	4589.42	
	M/s R1 Ltd.								407.10	452.55	571.45	695.11	-do-	2126.21	
	M/s S1 Ltd.								128.16	146.94	118.76	159.91	110.45	664.22	
	M/s M3 Pvt. Ltd.	The details of sale on which TDS/TCS is applicable was introduced in audit report {at Sl. No. 34(a) of Form 3CD} w.e.f. AY 2014-15 onwards.							35.99	27.01	13.80	1.38	7.24	85.42	
	M/s M2 Ltd.								1.84	2.81	14.86	29.03	45.42	93.96	
	M/s A1 Ltd.								No such issue		88.72	44.50	No such issue		133.22
	M/s U2 Ltd.								2765.02		841.23	790.23	Non-Production.		4396.48
	M/s U3 Ltd.								24.80		93.85	5.54	518.30	Non-Production.	
	M/s M1 Ltd.	There royalty income was shown by the assessee in AYs 2014-15 and 2015-16.							4.09	4.50	There royalty income was shown by the assessee in AYs 2014-15 and 2015-16.			8.59	
3. Arithmetical discrepancy and certification by the Auditor with respect to Quantitative Abstract of finished product.	M/s W1 Ltd.	No such issue.						29.60	No such issue.			248.85	278.45		
	M/s R1 Ltd.	No such issue.						130.00		124.97	161.99	Non-Production.		416.96	
	M/s M2 Ltd.	No such issue.						2.96	3.72	No such issue.		1.25	0.88	8.81	
	M/s A1 Ltd.	No such issue.											0.79	0.79	

4. Calculation mistakes	M/s P1 Pvt. Ltd.	No such issue.		1.36	No such issue.	Non-Production	1.36
	M/s S1 Ltd.	No such issue.	2.00		No such issue.		2.00
5. Revenue impact due to lack of inter-departmental coordination.	All the selected 11 companies.	Systemic Issue.					--
6. Non-adherence to the powers conferred by the provisions of the Act.	M/s W1 Ltd.	Systemic Issue.					--
	M/s U1 Ltd.						--
	M/s M1 Ltd.						--
Total							17928.70

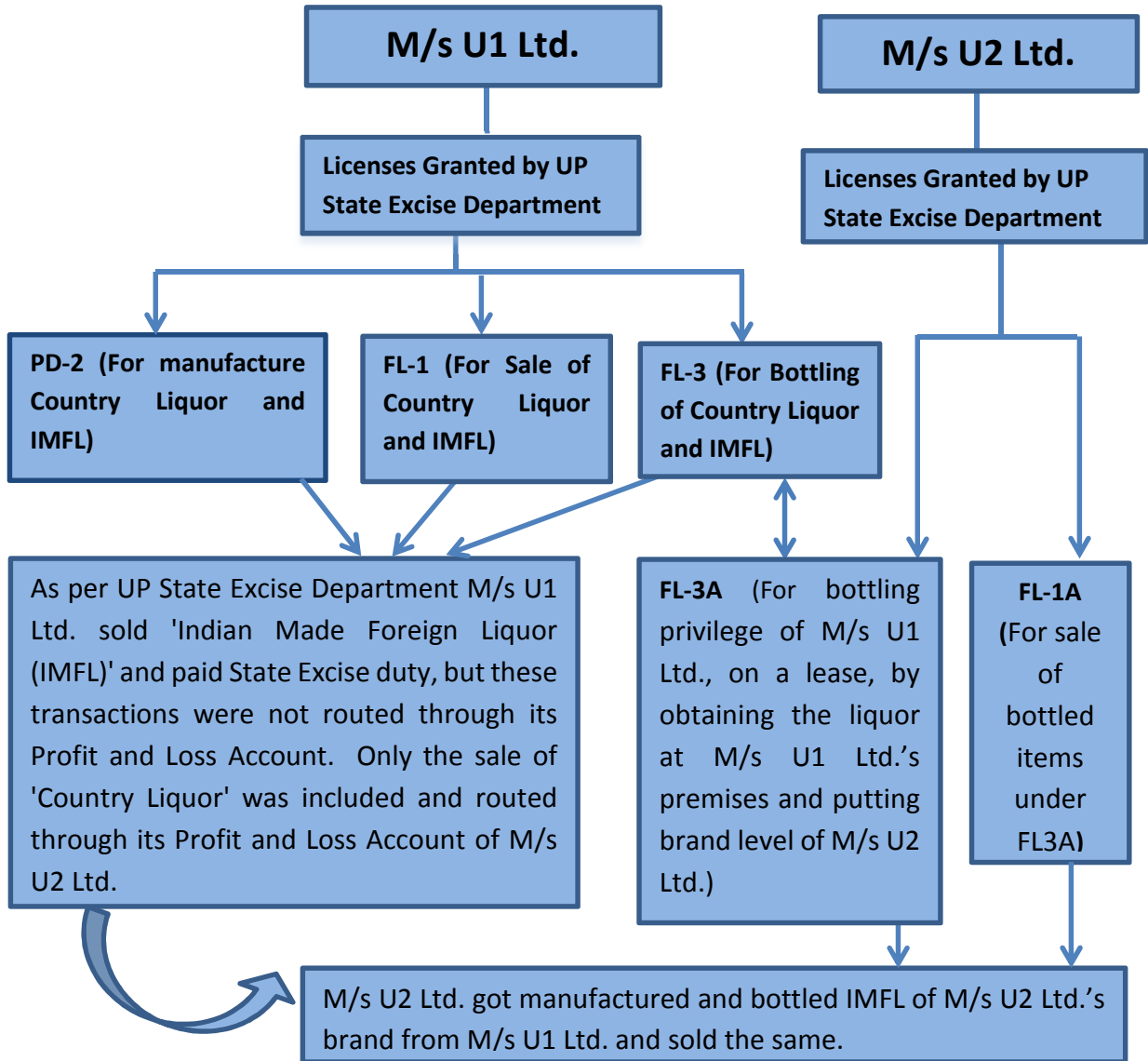
Annexure I
(Refer Para 2.3.1.1)



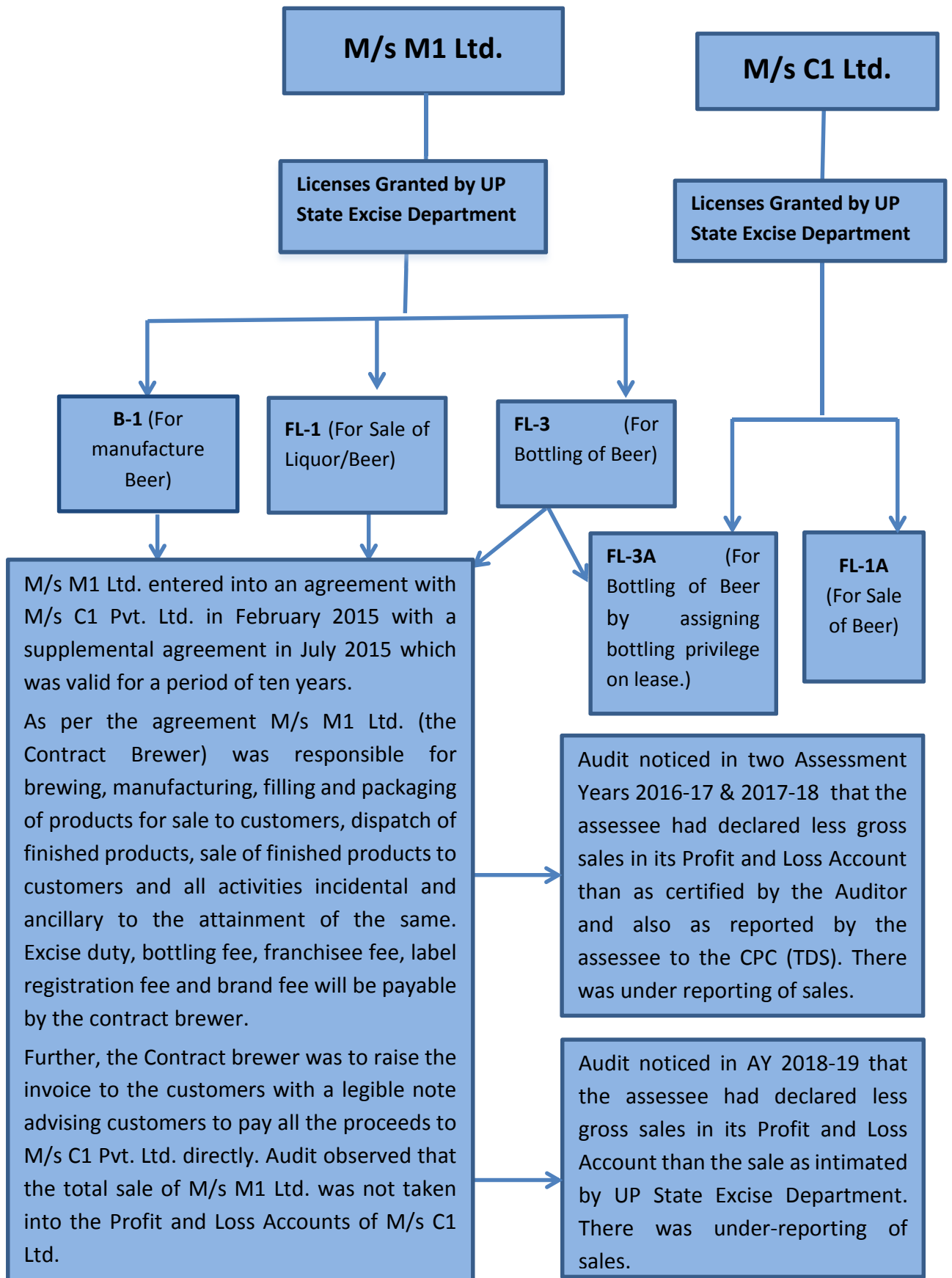
Annexure II
(Refer Para 2.3.1.1)



Annexure III
(Refer Para 2.3.1.2)



Annexure IV
(Refer Para 2.3.1.3)



List of Abbreviation(s)

Sl.No.	Abbreviation	Description
1	AO	Assessing Officer
2	AY	Assessment Year
3	CA	Chartered Accountant
4	CAG	Comptroller and Auditor General of India
5	CASS	Computer Aided Scrutiny Selection
6	CBDT	Central Board of Direct Taxes
7	CMU	Contract Manufacturing Unit
8	CPC (TDS)	Central Processing Centre (Tax Deducted at Source)
9	DPC, Act	C&AG's Duties, Powers and Conditions of Service 1971
10	EBP	Ex- Brewery price
11	EDP	Ex-Distillery price
12	IMFL	Indian Made Foreign Liquor
13	ITD	Income Tax Department
14	ITDREIN	Income Tax Department Registered Individual Number
15	ITR	Income Tax Return
16	MRP	Maximum Retail Price
17	NaFAC	National Faceless Assessment Centre
18	OSD	Officer on Special Duty
19	PAN	Permanent Account Number
20	P&L Account	Profit and Loss Account
21	RE	Registered Entity
22	ROI	Return of Income
23	SA	Special Audit
24	SFTs	Statement of Financial Transactions
25	SOP	Standing Operating Procedure
26	TAR	Tax Audit Report
27	TCS	Tax Collected at Source
28	VAT	Value Added Tax

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