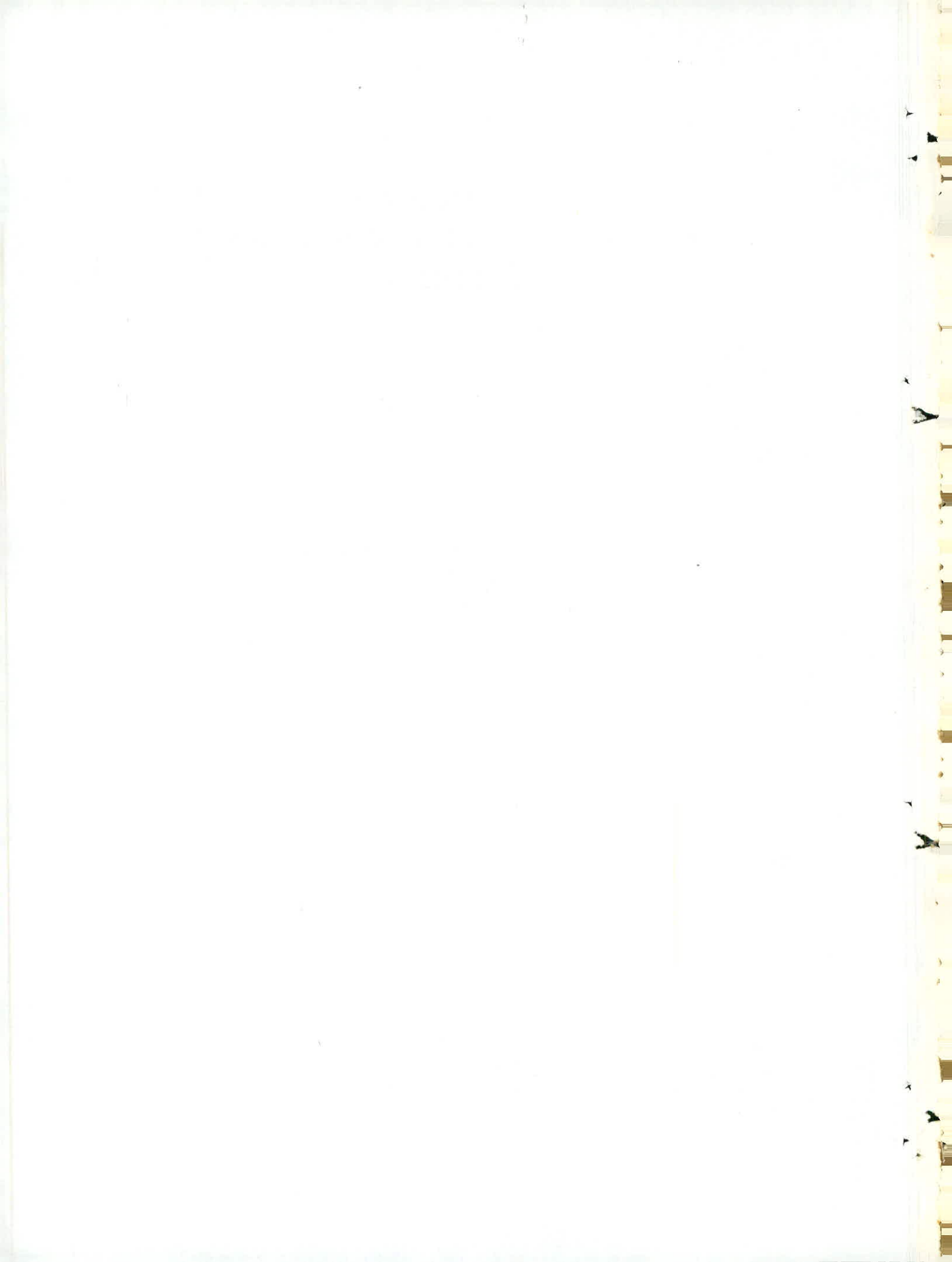


**Report of the  
Comptroller and Auditor General  
of India**

**for the year ended March 2001**

**UNION GOVERNMENT  
(DIRECT TAXES)  
NO. 12 OF 2002**



# CONTENTS

	<i>Page</i>
<i>Prefatory Remarks</i>	v
<i>Overview</i>	vii-viii
<b>Chapter 1: Introduction</b>	<b>1-11</b>
◆ Chapter summary	1-1
◆ General, Statutory Audit and Present Report	3-3
◆ Non-receipt of Board's comments on draft paragraphs	4-4
◆ Local Audit Reports	4-8
◆ Internal Audit	8-10
◆ Records not produced to audit	10-11
<b>Chapter 2: Administration of Direct Taxes</b>	<b>13-38</b>
◆ Chapter summary	13-13
◆ Administration of Direct Taxes	15-15
◆ Broad functional profile of the Department of Revenue	15-15
◆ Position of Assessments	16-17
◆ Assessee profile	17-19
◆ PAN Applications	19-20
◆ Receipts under various Direct Taxes	20-21
◆ Growth rate/trend in tax collection	21-22
◆ Direct Taxes – GDP Ratio	22-23
◆ Analysis of collection	23-25
◆ Comparative position of Actual receipts vis-à-vis Budget Estimates	25-25
◆ Cost of collection	25-26
◆ Arrears of demands	26-29
◆ Tax Recovery Machinery	29-31
◆ Penalties	31-32
◆ Purchase by Central Government of immovable properties in certain cases of transfer	32-33
◆ Revenue demand written off	33-34
◆ Search and seizures	34-34
◆ Survey	35-35

◆ Appeals, Revision petitions and writs	35-36
◆ Refund cases and interest paid on refunds	36-37
◆ Cases settled by Settlement Commission	37-38

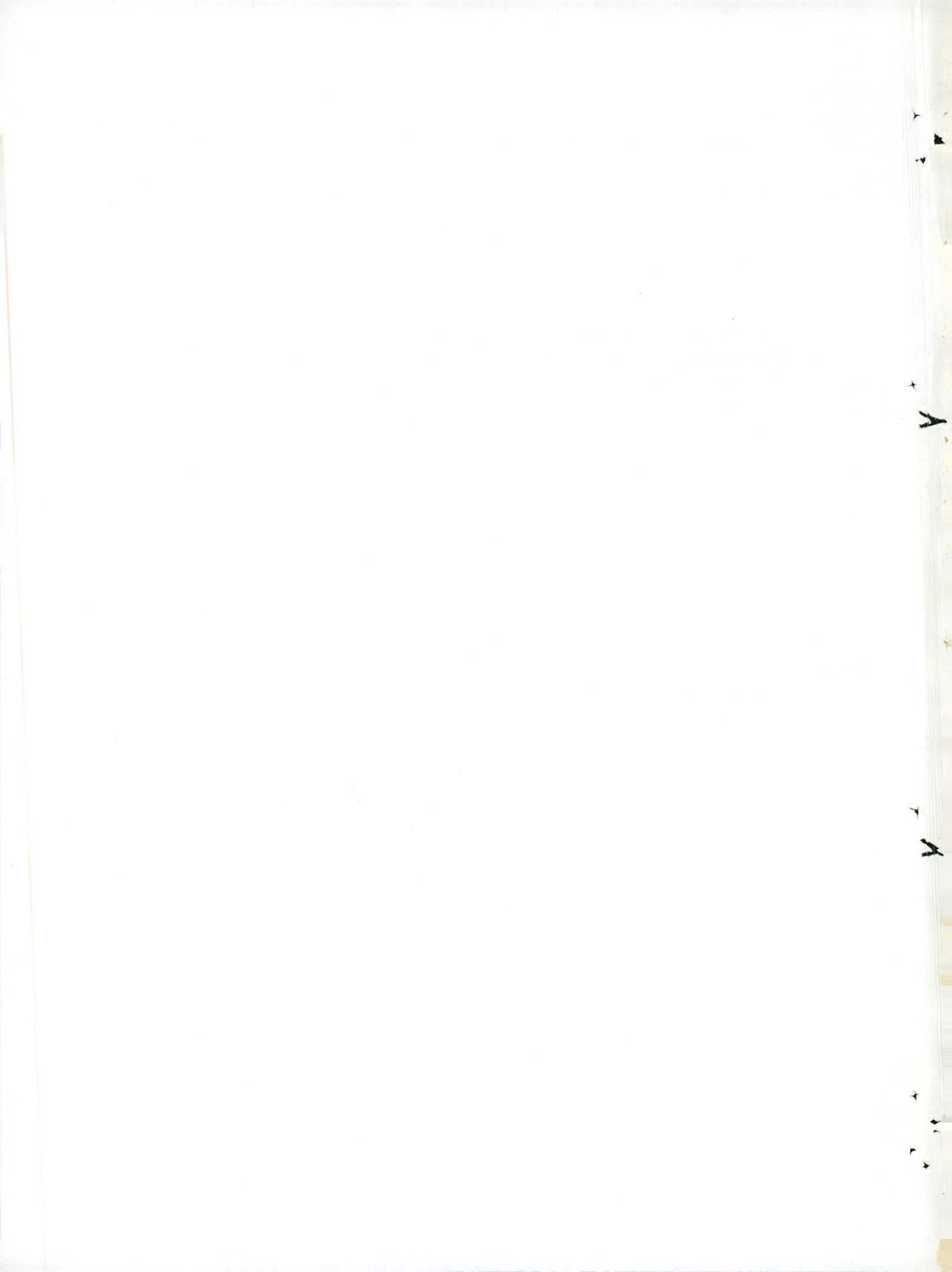
### **Chapter 3: Corporation Tax** **39-86**

◆ Chapter summary	39-39
◆ Companies profile, Assesseees, Receipts of Corporation tax, Assessment and Results of Audit	41-41
◆ Avoidable mistake and application of incorrect rate of tax	42-46
◆ Incorrect computation of business income	46-58
◆ Irregular allowance of depreciation, Investment allowance	58-62
◆ Capital gain, Income not assessed and Incorrect carry forward/set off losses	62-70
◆ Mistake in assessment while giving effect to appellate orders	70-70
◆ Irregular exemption and Incorrect deduction under Chapter VIA	70-82
◆ Non-levy of interest for delay in filing the return, short payment of advance tax and delay in payment of tax demand	82-84
◆ Non-levy and short-levy of additional tax, non deposit of credit to tax deducted at source	84-86

### **Chapter 4: Income Tax** **87-104**

◆ Chapter summary	87-87
◆ Receipts of Income tax, Assesseees, Assessment and Results of Audit	89-89
◆ Avoidable mistakes in computation of income and rate of tax etc.	89-91
◆ Incorrect computation of business income	91-93
◆ Irregular allowance of depreciation	93-94
◆ Capital gain, Assessment of firm and partner, Income not assessed and incorrect carry forward and set off of losses	94-98
◆ Incorrect deduction under Chapter VIA	99-100
◆ Non-levy of interest for default in submission of return, payment of advance tax and regular tax demand	100-103
◆ Miscellaneous and other topics of interest	103-104

<b>Chapter 5: Other Direct Taxes</b>	<b>105-121</b>
◆ Chapter summary	105-105
<b>A-Wealth Tax</b>	<b>107-113</b>
◆ Receipts of wealth tax, Assesseees, Assessment and Results of Audit	107-107
◆ Avoidable mistake in computation of wealth and tax	107-108
◆ Incorrect valuation of immovable property	108-108
◆ Lack of correlation of Income Tax records with the records of different Direct Taxes- Wealth escaping assessment	108-112
◆ Non levy of interest for late filing / non filing of return	112-113
◆ Non levy of interest for delay in payment of tax demand	113-113
<b>B-Gift Tax</b>	<b>114-116</b>
◆ Receipts of Gift tax and Results of Audit	114-114
◆ Non levy of tax on deemed gift	114-116
◆ Gift not assessed	116-116
◆ Excess levy of interest	116-116
◆ Other mistakes	116-116
<b>C-Interest Tax</b>	<b>117-120</b>
◆ Receipts of interest tax, Assesseees, Assessment and Results of Audit	117-117
◆ Short levy of interest for delay in payment of interest tax in advance	117-118
◆ Avoidable payment of interest by Govt. to the assessee	118-118
◆ Lack of correlation of Income Tax records with the records of different Direct Taxes- Omission to make assessment of interest tax	118-120
<b>D-Expenditure Tax</b>	<b>121-121</b>
◆ Short levy of expenditure tax due to mistake in calculation	121-121
◆ Annexures	123-131
◆ Glossary of terms	133-133



## PREFATORY REMARKS

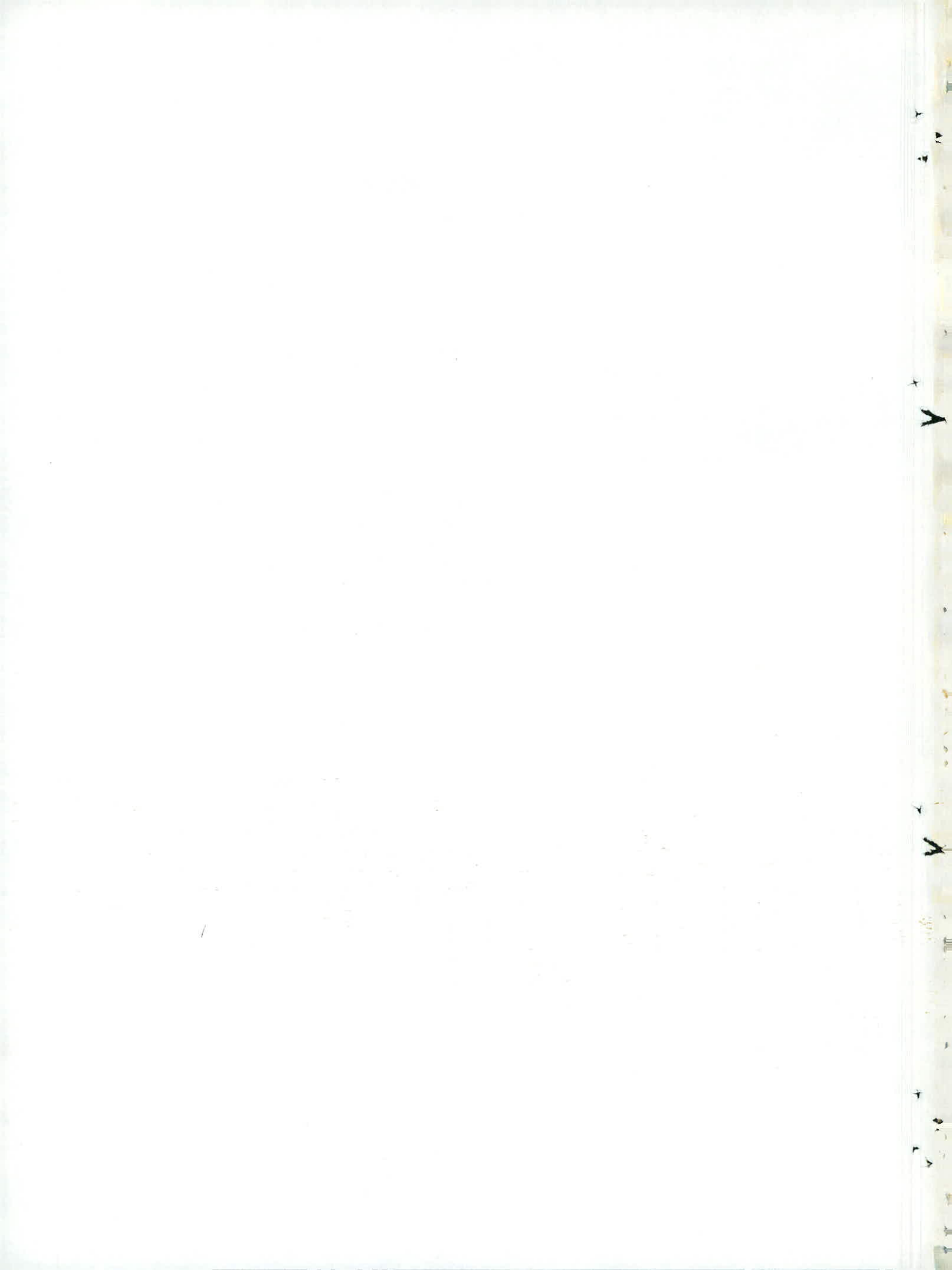
This Report for the year ended March 2001 has been prepared for submission to the president under Article 151(1) of the Constitution of India.

The audit of Revenue Receipts - Direct Taxes of the Union Government is conducted under Section 16 of the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971. The Report presents the results of audit of receipts under direct taxes comprising corporation tax, income tax, wealth tax, gift tax etc. The Report is arranged in the following order: -

- (i) Chapter 1 includes information on the arrangements for audit of direct taxes and mentions the results thereof;
- (ii) Chapter 2 incorporates important statistical information on the administration of direct taxes.
- (iii) Chapter 3 mention the issues resulting from the audit of corporation tax
- (iv) Chapter 4 deals with audit results of income tax and;
- (v) Chapter 5 highlights the results of the audit of wealth tax, gift tax, interest tax and expenditure tax;

The observations included in this Report have been selected from the findings of the test audit conducted during 2000-01 as well as in earlier years but which could not be covered in the previous Reports.

In this Report, the charges indicated as Bihar, Madhya Pradesh and Uttar Pradesh include the newly-created states of Jharkhand, Chattisgarh and Uttaranchal respectively.





## Overview

### Chapter 1 : Introduction

The audit of the revenues from Direct Taxes of the Union Government is conducted by the Comptroller and Auditor General of India under section 16 of the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971.

During the course of local test audit conducted in 2000-01, 15919 audit observations on underassessment of income involving tax effect of Rs. 4777.70 crore and 82 cases of over assessment involving tax effect of Rs. 49.24 crore have been intimated to the department on Corporation Tax, Income Tax and Other Direct Taxes. Out of 15919 observations, 1123 cases with a tax effect of Rs. 1627.86 crore have been issued to the Ministry as individual draft paragraphs out of which 1099 cases involving tax effect of Rs. 1580.57 crore have been included in this report.

### Chapter 2 : Administration of Direct Taxes

Out of 314.06 lakh assessments for disposal, 125.48 lakh assessments (40%) remained pending at the end of the year. Total assessees as on 31 March 2001 were 232.13 lakh which included 230.02 lakh income tax and corporation tax assessees, registering an increase of 31.11 lakh (15.48%) over the earlier year. Out of 40.84 lakh PAN applications for allotment, 17.84 lakh (43.68%) applications were pending at the end of the year. Total collection from various direct taxes for the year was Rs.68,305.39 crore. In the case of corporate assessees, 75 per cent and in the case of non-corporate assessees, 93 per cent of total collections were made at pre-assessment stage. Rs.56,431.25 crore on account of income tax and corporation tax remained uncollected as on 31 March 2001.

### Chapter 3 : Corporation Tax

Corporation tax collections amounted to Rs.35,696.27 crore during the year 2000-01, and constituted 52.26 per cent of total collections of direct taxes. The number of company assessees as on 31.03.2001 were 3,34,261. 781 audit observations involving revenue effect of Rs.1523.26 crore on various irregularities in corporation tax assessments such as avoidable mistakes in the computation in income and tax, incorrect applications of rate of tax, incorrect allowance by expenditure, liabilities, provisions and valuation of closing stock, incorrect set-off of losses, incorrect exemptions, deductions and short/non-levy of interest etc have been incorporated in the Chapter. The Ministry have accepted 84 cases involving tax effect of Rs.60.87 crore.

#### **Chapter 4 : Income Tax**

Income tax collections amounted to Rs.31,764 crore during the year 2000-01, and constituted 46.50 per cent of total collections of direct taxes. The number of income tax assesseees as on 31.3.2001 were 226.68 lakh. 198 audit observations involving revenue effect of Rs.47.40 crore on various irregularities in income tax assessments such as incorrect applications of rate of tax, incorrect computation of income, omissions to assess unexplained income, incorrect set-off of losses, incorrect deductions and short/non-levy of interest, etc., have been incorporated in the chapter. Out of the above 198 observations, Ministry have accepted 28 cases involving tax effect of Rs.4.56 crore.

#### **Chapter 5 : Other Direct Taxes**

As regards Wealth tax, Gift tax, Interest tax and Expenditure tax, short levy of tax of Rs.16.65 crore was noticed in 126 cases in various charges due to different types of mistakes such as mistake in computation, incorrect valuation, non/late filing of return, non-levy of tax on deemed gifts, omission to make assessments of interest tax etc. Most of these mistakes were caused due to non-correlation of income tax records with the records of other direct taxes.

# Chapter 1

## Introduction

- ◆ Chapter summary
- ◆ Audit of Direct Taxes
- ◆ Position of Ministry's replies on draft paragraphs
- ◆ Result of Test Audit
- ◆ Outstanding audit observations
- ◆ Remedial action time barred
- ◆ Internal audit
- ◆ Non production of records



## Chapter summary

- The audit of the revenues from Direct Taxes of the Union Government is conducted by the Comptroller and Auditor General of India under section 16 of the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971. This audit is conducted through test check of assessment and other records maintained by the Income Tax Department with a two-fold objective -- firstly to obtain an assurance that the systems and procedures laid down by the department in the critical areas of tax administration are working reasonably effectively and secondly, to evaluate the degree of compliance with tax laws, rules and judicial pronouncements in the assessment, demand and collection of tax revenues from various assessees.

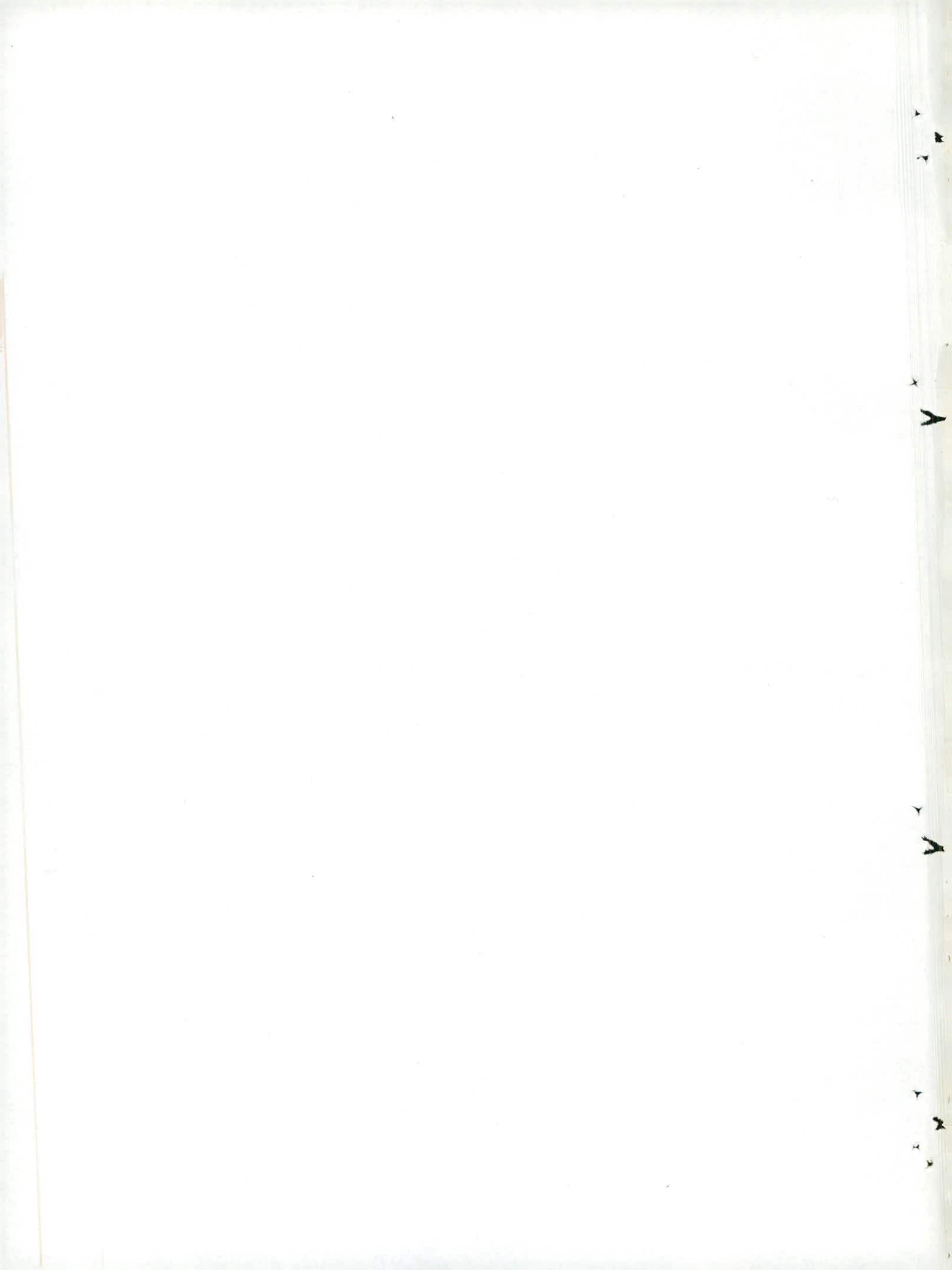
[Para No. 1.1 & 1.2]

- During the course of local test audit conducted in 2000-01, 15919 audit observations on underassessment involving tax effect of Rs. 4777.70 crore and 82 cases of over assessment involving tax effect of Rs. 49.24 crore have been intimated to the department on Corporation Tax, Income Tax and Other Direct Taxes. Out of 15919 observations, 1123 cases with a tax effect of Rs. 1627.86 crore have been issued to the Ministry as individual draft paragraphs out of which 1099 cases involving tax effect of Rs. 1580.57 crore have been included in this report.

[Para No. 1.3 & 1.5]

- This report has been prepared after considering the response of the Ministry of Finance to the audit observations, wherever received.

[Para No. 1.4]



## CHAPTER 1 : INTRODUCTION

### General

**1.1** Direct Taxes levied by Parliament comprise:

- **Corporation Tax**
- **Income Tax**
- **Wealth Tax**
- **Gift Tax**
- **Interest Tax**
- **Expenditure Tax**

Laws relating to Direct Taxes are administered by the Central Board of Direct Taxes (hereinafter called 'the Board'). The Board is under the overall control of Department of Revenue, Ministry of Finance. Revenue from Direct Taxes during 2000-01 was Rs.68305.39 crore. Time series data on revenue from various Direct Taxes and other related statistical information including on tax administration are presented in Chapter 2

### Statutory Audit

**1.2** Audit of Direct Taxes by the Comptroller and Auditor General of India is carried out under Section 16 of the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971.

Audit covers field offices and Central Board of Direct Taxes. It examines-

- (a) assessments through test check;
- (b) rationale for issue of instructions and circulars;
- (c) decisions taken in particular cases, and
- (d) efficacy of systems and procedure for collection.

Findings are communicated to field offices and important findings are communicated to Central Board of Direct Taxes/Ministry of Finance.

A report on Direct Taxes is transmitted to Parliament through President of India

### Present Report

**1.3** The arrangement of this Report has been mentioned in the prefatory remarks. In each case, response of the Ministry, where furnished, has been indicated. Where the reply of the Ministry is not acceptable, the reasons therefore have been mentioned along with the reply of the Ministry.

The present report contains 1099 audit observations out of 1123 audit observations referred to Ministry of Finance as detailed below:

(Rs. in crore)

**TABLE NO.1.1 DRAFT PARAGRAPHS ISSUED TO MINISTRY DURING 2001-02**

Category of tax	Number of DPs issued to Ministry	Tax effect	Number of DPs included in the Report	Tax effect
1	2	3	4	5
Corporation Tax	796	1562.89	781	1523.26
Income Tax	200	47.50	198	47.40
Wealth Tax	89	3.71	86	3.62
Gift Tax	11	1.36	11	1.36
Interest Tax	26	10.68	22	3.21
Expenditure Tax	1	1.72	1	1.72
<b>Total</b>	<b>1123</b>	<b>1627.86</b>	<b>1099</b>	<b>1580.57</b>

**Non-receipt of Board's comments on draft paragraphs**

A separate report No.12A of 2002 containing reviews has been prepared.

**1.4** Cases with substantial tax effect are brought to the notice of the Income Tax Department and the Ministry in the form of 'draft paragraphs'. Sufficient time is allowed thereafter for their response so that these could be considered before finalising this Report. However, despite Board's instructions that all 'draft paragraphs' cases should receive the personal attention of the Commissioners of Income Tax for expeditious action, inordinate delays continue to occur in the receipt of departmental responses as indicated below:

The position of replies received from the Ministry at the time of finalisation of Audit Report is given below:

<b>TABLE NO.1.2 NO. OF DRAFT PARAS ISSUED TO MINISTRY AND THEIR ACCEPTANCE</b>					
<b>Year of Report</b>	<b>Number of draft paragraphs issued</b>	<b>Replies received before finalisation of Audit Report</b>	<b>Percentage of cases in which replies were received</b>	<b>No. of cases accepted by Ministry</b>	<b>Percentage of cases accepted by Ministry</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
1996-97	685	405	59	295	73
1997-98	918	474	52	339	72
1998-99	870	441	51	352	80
1999-00	870	163	19	137	84
2000-01	1123	141	13	125	89

**Local Audit Reports**

**1.5** In the field, after completion of audit of each assessment units, audit observations are conveyed to the department through Local Audit Report. In case of important observations, a Statement of facts is issued to the department to verify the facts and to obtain their views on the observation.

**Results of Test Audit in general**

**1.5.1** Test audit conducted between 1 April 2000 and 31 March 2001 of the assessments completed by the Income Tax Department revealed 15919 cases of under-assessment involving a total revenue effect of Rs. 4777.70 crore and 82 over-assessment cases involving a total revenue effect of Rs. 49.24 crore, which were referred to the department. The department has so far accepted the observations in 1616 cases involving tax effect of Rs. 71.11 crore. A resume of the deficiencies noticed is given below:

**Corporation Tax and Income Tax**

(i) During the period under report 14567 cases involving a tax effect of Rs.4732.18 crore were referred to the department. Of these cases, major audit observations were raised in 9342 cases involving short levy of tax of Rs. 4726.27 crore. The remaining 5223 cases accounted for under-assessment of tax of Rs. 6.08 crore.

The reasons for under-assessment of tax of Rs. 4732.18 crore (including potential tax) are categorised as follows:

<b>TABLE NO.1.3 CATEGORIES OF OMISSIONS IN INCOME TAX/CORPORATION TAX</b>			
		<b>No. of cases</b>	<b>Tax effect (Rs.in crore)</b>
1.	Avoidable mistakes in computation of income and tax	1268	234.75
2.	Failure to observe the provisions of the Finance Acts	541	132.89
3.	Incorrect status adopted in assessments	115	15.07



**TABLE NO.1.3 CATEGORIES OF OMISSIONS IN INCOME TAX/CORPORATION TAX**

		No. of cases	Tax effect (Rs.in crore)
4.	Incorrect computation of salary income	355	17.62
5.	Incorrect computation of income from house property	204	13.01
6.	Incorrect computation of business income	3954	2288.02
7.	Irregularities in allowing depreciation	1178	236.16
8.	Irregular computation of capital gains	307	63.55
9.	Mistakes in assessments of firm	261	5.19
10.	Omission to club the income of spouse/minor child etc.	72	9.34
11.	Income not assessed	1098	619.42
12.	Irregular set-off of losses	432	227.82
13.	Mistakes in assessments while giving effect to appellate orders	66	14.49
14.	Irregular exemptions and excess relief given	1041	282.87
15.	Excess or irregular refunds	494	51.67
16.	Non-levy/incorrect levy of interest for delay in submission of returns, delay in payment of tax etc.	1541	234.84
17.	Avoidable or incorrect payment of interest by Government	199	15.58
18.	Omission/short levy of penalty	523	57.10
19.	Other topics of interest (miscellaneous cases)	887	211.69
20.	Under-assessment of surtax	31	1.10
	<b>Total</b>	<b>14567</b>	<b>4732.18</b>

**Wealth Tax**

(ii) During test audit of assessments made under Wealth Tax Act, 1957, short levy of tax of Rs.32.54 crore was referred to the department in 1101 cases.

The omissions/irregularities and mistakes can be categorised under the following heads:

(Rs. in crore)

**TABLE NO.1.4 CATEGORIES OF OMISSIONS IN WEALTH TAX**

		No. of Cases	Amount
1	2	3	4
1.	Wealth not assessed	778	23.01
2.	Incorrect valuation of assets	96	4.57
3.	Mistakes in computation of net wealth	59	1.60
4.	Incorrect status adopted in assessments	10	0.35
5.	Irregular/excessive exemptions	14	0.14
6.	Mistakes in calculation of tax	20	0.19
7.	Non-levy or incorrect levy of additional wealth tax	42	0.51
8.	Non-levy or incorrect levy of penalty and non-levy of interest	47	0.37
9.	Miscellaneous	35	1.80
	<b>Total</b>	<b>1101</b>	<b>32.54</b>

(iii) During test check of gift tax assessments 43 cases involving short levy of tax of Rs.2.31 crore were referred to the department.

**Interest Tax**

(iv) In the course of test audit of Interest Tax assessments it was noticed that in 204 cases there was short levy of interest tax of Rs. 10.16 crore.

**Expenditure Tax**

(v) During test check of expenditure tax assessments 4 cases involving short levy of tax of Rs. 0.50 crore were referred to the department.

**Outstanding audit observations**

**1.5.2** According to the departmental instructions, observations of statutory audit are to be replied to within a period of six weeks. The Public Accounts Committee (Ninth Lok Sabha) in their 20<sup>th</sup> Report recommended that the responsibility for the settlement of audit observations rests with the department and it cannot be contented merely with sending replies to audit observations. In their Action Taken Note, the Ministry of Finance had stated that they would endeavour to see that the targets for settlement of audit observations were achieved. However, large number of audit observations made in 2000-01 and earlier years are still to be settled. The details are mentioned below:

**Gift Tax**

(a) On 31 March 2001, 79288 observations involving a revenue effect of Rs.12823.94 crore were pending for final action. This does not include the audit observations communicated during 1 April 2000 to 31 March 2001. The year-wise particulars of the pendency are as follows:

(Rs. in crore)

**TABLE NO.1.5 OBSERVATIONS PENDING IN THE MINISTRY FOR FINAL ACTION**

Year	Income Tax and Corporation Tax		Other Direct Taxes (Wealth Tax, Gift Tax, Interest Tax, Expenditure Tax and Estate Duty)		Total	
	Items	Revenue effect	Items	Revenue effect	Items	Revenue effect
1	2		3		4	
1997-98 & before	53332	7254.89	6211	116.02	59543	7370.91
1998-99	9726	2548.32	590	27.93	10315	2576.25
1999-00	8751	2838.89	678	37.90	9429	2876.79
<b>Total</b>	<b>71809</b>	<b>12642.09</b>	<b>7479</b>	<b>181.85</b>	<b>79288</b>	<b>12823.94</b>

(b) There were 7432 pending audit observations as on 31 March 2001 with a revenue effect of Rs.10368.42 crore (as against 6932 cases with a revenue effect of Rs.10239.38 crore in earlier year) where the income tax involved in each individual case exceeded Rs.10 lakh. The break-up of such cases in respect of a few charges where number of outstanding items are 50 or more is shown below:

**TABLE NO.1.6 PENDING IT/CT CASES**

Sl. No.	Name of charge	Items	Amount (Rs. in crore)
1	2	3	4
1.	Andhra Pradesh	132	100.39
2.	Assam	162	305.29
3	Bihar	143	254.89
4.	Gujarat	432	274.17
5	Haryana	64	37.59

TABLE NO.1.6 PENDING IT/CT CASES

Sl. No.	Name of charge	Items	Amount (Rs. in crore)
6	Kerala	282	189.77
7.	Jammu & Kashmir	4	245.00
8.	Karnataka	302	328.71
9.	Maharashtra	1814	3533.67
10.	Madhya Pradesh	565	895.19
11.	Orissa	81	54.76
12.	Punjab	174	224.82
13.	Rajasthan	224	133.47
14.	Tamil Nadu	820	1040.51
15.	Haryana(UT)	71	140.42
16.	New Delhi	719	810.92
17.	West Bengal	1125	1743.54
18.	Uttar Pradesh	296	293.86
19.	Himachal Pradesh	22	3.99

(c) Pending audit observations in other taxes where the tax involved in each case exceeded Rs.5 lakh are as under:

(Rs. in crore)

TABLE NO 1.7 PENDING OTHER DIRECT TAXES CASES

Sl.No.	Category of tax	Number of audit observations	Tax effect
1	2	3	4
1.	Wealth Tax	211	52.74
2.	Gift Tax	116	95.02
3.	Interest Tax	30	1090.55
4.	Expenditure Tax	2	0.18
5.	Estate Duty	14	7.44

Of the 79288 pending cases with revenue effect of Rs.12823.94 crore, 7726 cases (9.74 percent) of high tax effect accounted for Rs. 10529.90 crore (82.11 percent). This underlines the need to assign priority to the settlement of observations with high money value.

**1.5.3** The Action Plan of the department for 2000-01 provided for 100 percent disposal of all pending major audit observations. In respect of current statutory audit observations upto 31 December 2000 (i.e. period of report being 2000-01), replies are to be sent in 100 percent of the cases.

The targets for settlement of the major statutory audit observations for the year 2000-01 according to Action Plan and actual achievements were as under:

(Rs. in crore)

**TABLE NO.1.8 ACTION PLAN & ACTUAL ACHIEVEMENTS OF THE MINISTRY**

Audit observations					
	For disposal	To be settled as per targets fixed	Settled	Achievements	
				Target	Achieved
1	2	3	4	5	6
Current	9485 (4658.45)	7588 (80% of objections received upto 31.12.2000)	2191 (896.12)	(80% of objections received upto 31.12.2000)	23%
Arrears	26773 (8554.32)	24096 (90 %)	6147 (881.38)	90%	23%

Figures in brackets indicate amount

The achievements were, therefore, very much short of targets.

(Rs. in lakh)

**Remedial action time barred**

**1.5.4** The Board have issued specific instructions for taking timely action on audit observations so as to avoid cases becoming time-barred leading to loss of revenue. The Public Accounts Committee (150<sup>th</sup> Report-Eighth Lok Sabha) have also recommended that the Board may review old outstanding observations in consultation with Audit.

In a few charges reviewed during the year 2000-01, number of audit objections issued during the period 1978-79 to 1991-92 where remedial action became time barred were noticed. Details of these cases have been forwarded to the respective Commissioners. The number of such cases alongwith tax effect are mentioned in table No.1.9.

**TABLE NO.1.9 REMEDIAL ACTION BECAME TIME BARRED**

Sl. No.	Name of the State	Income Tax		Other Direct Taxes	
		Item	Amount	Item	Amount
1	2	3	4	5	6
1.	Haryana	17	7.64	-	-
2.	Haryana (UT)	47	5.02	-	-
3.	Bihar	180	184.01	-	-
4.	Gujarat	184	44.56	8	0.94
5.	Orissa	250	665.47	-	-
<b>Total</b>		<b>678</b>	<b>906.70</b>	<b>8</b>	<b>0.94</b>

**Internal Audit**

**1.6** In addition to the statutory audit, the department also has an Internal Audit Department (IAD) which is required to conduct 100 percent and 50 percent audit of all immediate and priority assessment cases respectively (as defined under departmental instructions of September 2000). Based on this the department had determined the number of auditable cases by their IAD during 2000-01 as 4.17 lakh. However, the target was fixed at a level base on

**TABLE NO.1.10 PERFORMANCE OF INTERNAL AUDIT**

Total auditable cases	Targets for disposal	Total cases audited	Shortfall
1	2	3	4
416791	198000	190774	7226

150 audit parties working during the period from 1 April 2000 to 31 March 2001 and each party being required to audit 110 cases every month. An analysis of their performance is given in table No. 1.10.

The target itself set for internal audit does not cover all the cases. The shortfall is mounting year after year and statistics for last three years are given in table No. 1.11.

### Outstanding audit observations of Internal Audit

**1.6.1** According to the departmental instructions, observations of Internal Audit Department are to be attended to by the assessing officer within three months. However, this did not happen. As on 31 March 2001, 37,739 audit observations of the Internal Audit involving a tax effect of Rs.5425.58 crore were pending for settlement. This included 15136 observations with money value of Rs.4811.35 crore made during 2000-01.

The details of the major observations of IAD and their settlement is mentioned in the following table:

(Rs. in crore)

**TABLE NO.1.12 PERFORMANCE OF IAD IN RESPECT OF MAJOR OBJECTIONS**

Financial year	No. of cases for disposal	No. of cases settled	Percentage of total cases disposed	No. of pending cases
1	2	3	4	5
1996-97	19,881 (1314.28)	8,080 (363.33)	41	11,801 (950.95)
1997-98	19,097 (1363.05)	6,235 (251.69)	33	12,862 (1111.36)
1998-99	21,909 (1686.06)	6,924 (603.81)	32	14,985 (1082.25)
1999-00	22,943 (1708.09)	8,823 (537.36)	38	14,120 (1170.73)
2000-01	21364 (5975.67)	7738 (576.59)	36	13626 (5399.08)

Figures in brackets indicate amount.

(Rs. in lakh)

The Public Accounts Committee, in their 150<sup>th</sup> Report submitted to Eighth Lok Sabha in April 1989, had recommended that observations of Internal Audit should be analysed with reference to the year of assessment apart from the year in which these were raised, so that greater attention could be given to the settlement of observations relating to earlier years, before the cases became time-barred for re-opening. The Ministry of Finance (Department of Revenue) in their action taken note had stated that assessment year-wise and age-wise classification was being made so that greater attention could be paid to settlement of older and revenue significant objections. Since the normal period available for re-opening of cases is four years, all observations pertaining to 1997-98 and earlier years should have been settled by March 2001. However, this did not happen as shown in the table No. 1.13, which gives age-wise, analysis of the pending items at the end of 2000-01 and revenue effect involved:

**TABLE NO 1.13 NO. OF PENDING ITEMS IN THE MINISTRY**

Year in which objection raised	No. of cases	Revenue Effect
1	2	3
1997-98 and earlier years	4463	367.20
1998-99	2335	156.80
1999-00	2371	270.43
2000-01	4457	4604.65
<b>Total:</b>	<b>13626</b>	<b>5399.08</b>

**Action on observations of internal audit**

**1.6.2** The target for settlement of Major Internal Audit arrear and current objections (for the year 2000-01) has been fixed at 90 percent and 80 percent respectively.

The target according to Action Plan and actual achievement in settlement of the major internal audit observations for the year 2000-01 were as under:

(Rs. in crore)

**TABLE NO.1.14 TARGET & ACTUAL ACHIEVEMENT OF INTERNAL AUDIT**

Audit observations					
1	For disposal	To be settled as per targets fixed	Settled	Achievements (in percentage)	
				Target	Achieved
				5	
Current	7244 (4804.94)	5795 80%	2787 (200.29)	80	48
Arrears	14120 (1170.73)	12708 90%	4951 (376.29)	90	39

Figures in brackets indicate amount

The achievements thus fell short of the targets.

**Records not produced to audit**

**1.7** With a view to securing an effective check on the assessment, collection and proper allocation of taxes and to satisfy that such regulations and procedures are being observed, the receipt audit scrutinizes the assessment records. It is incumbent on the Department to expeditiously produce the records and furnish relevant information to Audit.

During the period under report 52410 assessment records were not produced to Audit as shown in table No. 1.15. Test check of these cases could not be carried out.

**TABLE NO.1.15 RECORDS NOT PRODUCED TO AUDIT**

Sl.No.	Name of CIT charge	No. of assessment files
1	2	3
1	Delhi	5626
2.	Bihar	285
3.	Haryana	578
4.	Himachal Pradesh	946
5.	Karnataka	1868
6.	Kerala	1181
7.	Madhya Pradesh	1417
8.	Maharashtra	8374
9.	Orissa	559
10.	Punjab	10110
11.	West Bengal	891
12.	Gujarat	4912
13.	Andhra Pradesh	2803
14.	Haryana (UT)	995
15.	Tamil Nadu	7763
16.	Rajasthan	3418
17.	Uttar Pradesh	520
18.	Jammu & Kashmir	164
<b>Total</b>		<b>52410</b>





# Chapter 2

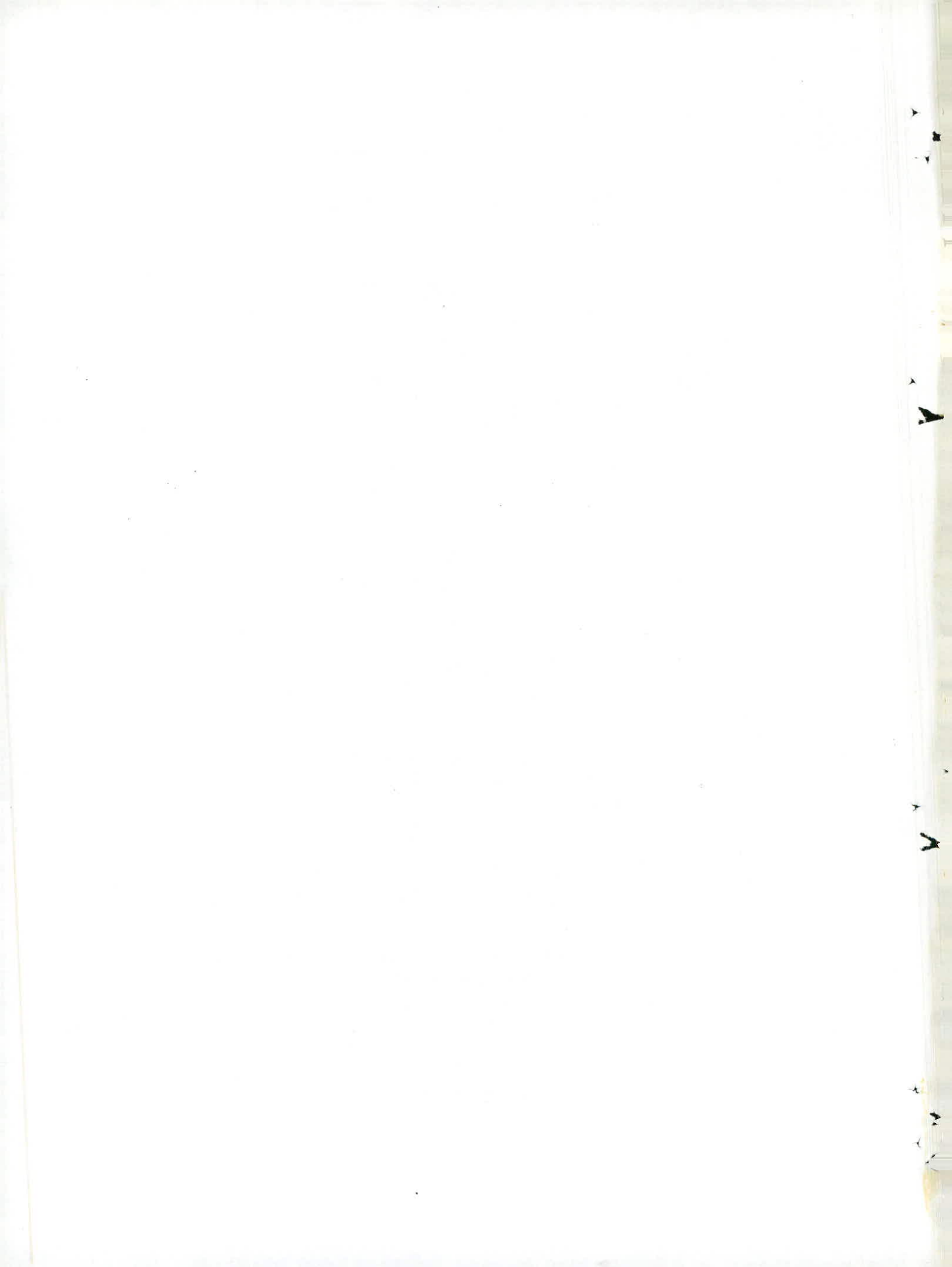
## Administration of Direct Taxes

- ◆ Chapter summary
- ◆ Organisation
- ◆ Assessments
- ◆ Assessee profile and related issues
- ◆ Direct Tax Receipts
- ◆ Arrears of demands
- ◆ Tax Recovery Machinery
- ◆ Search & Seizure/Survey
- ◆ Appellate Machinery
- ◆ Settlement Commission



## Chapter summary

- Out of 314.06 lakh assessments for disposal, 125.48 lakh assessments (40%) were pending at the end of the year.  
[Table 2.2]
- Total assesseees as on 31 March 2001 were 232.13 lakh which included 230.02 lakh Income tax and Corporation tax assesseees.  
[Table 2.5]
- Out of 40.84 lakh PAN applications for allotment 17.84 lakh applications were pending on 31 March 2001.  
[Table 2.7]
- The total collection from various direct taxes for the year 2000-01 was Rs.68,305.39 crore. Tax revenues, on an average, grew at an annual average rate of 20.53 percent during the last 10 years.  
[Table 2.8 & 2.9]
- Tax buoyancy decreased to 1.67 during the year as compared to 2.16 in 1999-2000.  
[Table 2.11]
- In the case of corporate assesseees, 75 percent and in the case of non-corporate assesseees, 93 percent of total collections were made at pre-assessment stage.  
[Table 2.12]
- The amount of income tax and corporation tax which remained uncollected as on 31 March 2001 was Rs.56,431.25 crore. Arrears on account of wealth tax was Rs.844.10 crore.  
[Table 2.18, 2.19 & 2.22]
- The demand recovered during the year as a percentage of total demand certified to the tax recovery officer was 21.66 percent.  
[Table 2.24]
- Out of 3,35,850 income tax and corporation tax cases where penalty proceedings were initiated, 1,38,686 cases were disposed of during 2000-01. Penalty was levied in 33,874 cases.  
[Table 2.27 & 2.28]
- 5321 cases of search and seizure were conducted during 2000-01 and assets worth Rs. 512.36 crore were seized.  
[Table 2.36]



## Chapter 2 : Administration of Direct Taxes

### Administration of Direct Taxes

**2.1** The administration of Direct Tax Laws comprises mainly Income tax, Corporation tax and Wealth tax.

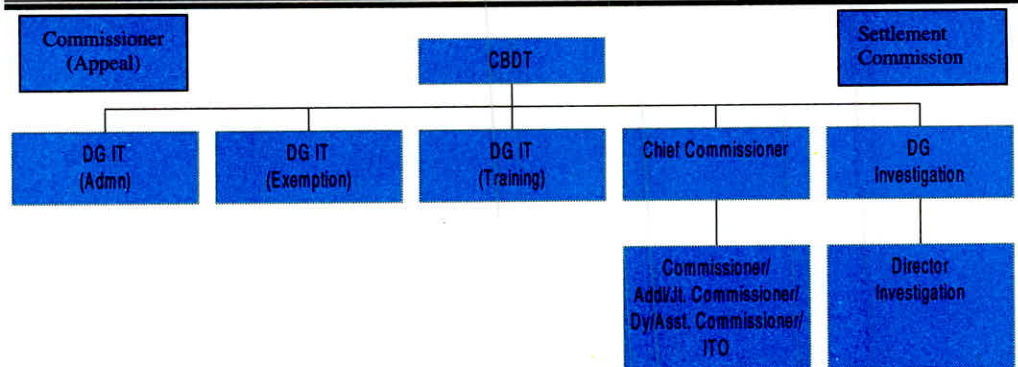
Income tax is chargeable on the total income of the previous year of every person. The term 'person' includes an individual, a Hindu undivided family, a company, a firm, an association of persons, a body of individuals, a local authority and an artificial juridical person.

Wealth tax is charged for every assessment year on net wealth on the relevant valuation date of every individual, HUF and Company at specified rates on certain specified assets. For assessment year 2000-01, no wealth tax was payable in respect of net wealth below Rs.15 lakh.

### Broad functional profile of the Department of Revenue

**2.2** The overall responsibility for administration of Direct Tax Laws lies with the Department of Revenue which functions through the Income Tax Department with a staff strength of around 60,000 and Central Board of Direct Taxes (Board) at its apex.

**CHART NO 1: ORGANISATION SET UP OF THE INCOME TAX DEPARTMENT**



The Board consists of a Chairman and six members, and have several attached and subordinate offices throughout the country. The attached offices function under three Directors General of Income Tax. The Chief Commissioners of Income Tax/Directors General of Income Tax oversee the work of the Commissioners/Directors of Income Tax in their respective charges and have also been given certain powers under the Income Tax Act, regarding discovery, production of evidence by any person, to requisition books of accounts, call for information etc., whereby they can issue summons. They are also empowered to authorise search and seizure operations.

The Commissioners/Directors of Income Tax oversee the work of the Addl. and Jt. Commissioners/Dy.Commissioners/Asstt. Commissioners/Income Tax Officers and also have similar powers under the Act as given to the Chief Commissioners. Besides they are also empowered to set aside assessments/orders prejudicial to the interests of revenue (section 263) as well as revise other orders (section 264). There is an appellate machinery under Commissioners (Appeal), who perform the work of quasi-judicial nature and consider appeals against the orders of the assessing officers.

The Settlement Commission, which was constituted under the Income Tax Act with effect from April 1, 1976 provides a statutory remedy for protracted litigation between the assessee and the department.

**Position of assessments**

**2.3** The limitation period for completion of assessments is two years. Working strength of assessing officers and position of assessments is given in succeeding tables.

**TABLE 2.1 WORKING STRENGTH OF OFFICERS AND THEIR ALLOCATION OF DUTIES**

Nature of Post	1998-99		1999-00		2000-01	
	Assessment Duty	Non-Assessment Duty	Assessment Duty	Non-Assessment Duty	Assessment Duty	Non-Assessment Duty
1	2		3		4	
Addl.CIT/Addl DIT/ Jt CIT/ Jt DIT	244	313	178	552	178	552
DCIT/Dy.DIT/ Asstt. CIT/Asstt. DIT	1,020	161	1527	712	1,527	712
ITOs/AADIT	2,142	560	2,137	734	2,137	734
<b>Total</b> (% age to total strength)	3,406 (76.7)	1,034 (23.3)	3,842 (65.8)	1,998 (34.2)	3,842 (65.8)	1,998 (34.2)

**TABLE 2.2 POSITION OF INCOME TAX INCLUDING CORPORATION TAX ASSESSMENTS\***

Financial year	Assessments due for disposal			Assessments completed (percentage)			Assessments pending (percentage)		
	Scrutiny	Summary	Total	Scrutiny	Summary	Total	Scrutiny	Summary	Total
1	2	3	4	5	6	7	8	9	10
1996-97	5,28,154	1,15,83,285	1,21,11,439	3,66,329 (69.36)	1,00,82,930 (87.05)	1,04,49,259 (86.28)	1,61,825 (30.64)	15,00,355 (12.95)	16,62,180 (13.72)
1997-98	11,08,764	1,27,51,169	1,38,59,933	9,20,701 (83.04)	1,03,54,926 (81.21)	1,12,75,627 (81.35)	1,88,063 (16.96)	23,96,243 (18.79)	25,84,306 (18.65)
1998-99	5,98,076	1,78,32,219	1,84,30,295	2,01,849 (33.75)	83,52,299 (46.84)	85,54,148 (46.41)	3,96,227 (66.25)	94,79,920 (53.16)	98,76,147 (53.59)
1999-00	5,53,637	2,68,46,956	2,74,01,593	3,16,223 (57.12)	1,40,43,850 (52.31)	1,43,60,073 (52.41)	2,37,414 (42.88)	1,28,04,106 (47.69)	1,30,41,520 (47.59)
2000-01	3,60,141	3,10,46,331	3,14,06,472	2,25,730 (62.68)	1,86,33,110 (60.02)	1,88,58,840 (60.05)	1,34,411 (37.32)	1,24,13,221 (39.98)	1,25,47,632 (39.95)

- Though percentage of disposal of both scrutiny as well as summary cases has increased as compared to 1999-00 but these continue to be significantly below the level achieved in 1997-98 and the percentage of pendency is still very high. About 40 percent of summary and scrutiny cases were pending at the end of the year.

\* Status wise and Category wise details given in Annexure-I

**TABLE 2.3 POSITION OF WEALTH TAX ASSESSMENTS**

Year	Assessments due for disposal			Assessments completed (percentage)			Assessments pending (percentage)		
	Company	Non-company	Total	Company	Non-company	Total	Company	Non-company	Total
1	2	3	4	5	5	6	7	8	9
1998-99	8,722	1,10,755	1,19,477	5,108 (58.56)	76,279 (68.87)	81,387 (68.12)	3,614 (41.44)	34,476 (31.13)	38,090 (31.88)
1999-00	9,759	1,16,218	1,25,977	3,859 (39.54)	62,444 (53.73)	66,303 (52.63)	5,900 (60.46)	53,774 (46.27)	59,674 (47.37)
2000-01	9,580	1,06,826	1,16,406	4,947 (51.64)	61,366 (57.44)	66,313 (56.97)	4,633 (48.36)	45,460 (42.56)	50,093 (43.03)

Though the percentage disposal of wealth tax assessments has increased during 2000-01, more than 43 percent cases were still pending at the end of the year.

Interest tax has been discontinued from 1 April 2000 but about 60% assessment cases are still pending.

**TABLE NO 2.4 POSITION OF INTEREST TAX ASSESSMENTS**

Year	Assessments due for disposal	Assessments completed (%)
1997-98	4756 (34.04)	9,215 (66.96)
1998-99	6,539 (39.44)	10,042 (60.56)
1999-2000	9,095 (42.79)	12,162 (57.21)
2000-2001	8,014 (40.78)	11,636 (59.22)

#### Assessee profile

2.4. Number of assessees have increased by 31,11,381 over the last year. Income tax including corporation tax assessee have increased by 31,25,252 but wealth tax and interest tax assessee have decreased by 13,871 as shown in the table below:

**TABLE 2.5 ASSESSEES ON THE BOOKS OF THE DEPARTMENT**

Number of assessees	31 March 1999	31 March 2000	31 March 2001
1	2	3	4
Income Tax (including Corporation Tax) <sup>1</sup>	1,72,54,211	1,98,77,024	2,30,02,276
Wealth Tax	2,24,929	2,15,717	2,02,171
Interest Tax	7,834	9,319	8,994
<b>Total</b>	<b>1,74,86,974</b>	<b>2,01,02,060</b>	<b>2,32,13,441</b>

<sup>1</sup> Status wise and income wise breakup given in Annexure-II

**TABLE 2.6 CATEGORY WISE AND STATUS WISE DETAILS OF INCREASE OF INCOME TAX AND CORPORATION TAX ASSESSEES DURING LAST 5 YEARS<sup>2</sup>**

<b>(A) NON-CORPORATE ASSESSEES</b>					
Income level	1996-97	2000-01	Compound Average Annual growth	Present share in total assessees	
				1996-97	2000-01
1	2	3	4	5	
A*	1,10,01,991	2,16,06,692	18.38	96.37	95.32
B* (lower)	3,00,915	6,25,216	20.06	2.64	2.76
B* (higher)	57,947	3,46,818	56.41	0.51	1.53
C*	30,975	72,921	23.87	0.27	0.32
D*	24,487	16,368	(-) 9.58	0.21	0.07
<b>Total</b>	<b>1,14,16,315</b>	<b>2,26,68,015</b>	<b>18.71</b>	<b>100.00</b>	<b>100.00</b>

The number of non-corporate assessees has increased by an average of 18.71 percent per annum during 1996-2001. The increase has been the sharpest for income category B (higher), i.e. income level of Rs.5.00 lakh and above but below Rs.10 lakh. Number of assessees in the income category C has increased by an average annual rate of 23.87 percent. However, despite the relatively faster increase in these two income groups, the coverage in terms of number of assessees as percentage to total households with an average income of Rs.5 lakh and above continues to remain poor. As per the household income survey conducted by National Council of Applied Economic Research(NCAER), there were a total of 9.66 lakh households (5.69 urban and 3.97 rural) with an average annual household income in excess of Rs.5 lakh in 1998-99. While there may be a number of households within these income groups where income of some of the individual assessees may be less than this level, there may also be a number of households with more than one assessee in these income groups. Even allowing for the agricultural income, which does not attract any income tax, the overall coverage of 4.197 lakh assessees in these two income groups indicate a coverage of around 50 percent of the potential level.

The other factor, which is important in determining the tax potential, is the coverage in terms of income. As per the All India Income Tax Statistics (AIITS) for the assessment year 1997-98, the gross income reported by the non-corporate assessees was Rs.102560 crores. This constituted only 8.86 percent of the aggregate personal income as indicated by National accounts of the year. Given the inequalities of income where 5.70 of the households had access to 25.89 percent of the disposable income (NCAER Survey 1998-

<sup>2</sup> Year-wise/Category-wise details of assessees given in Annexure-III

\* Category 'A' assessees- Company assessments with income/loss below Rs.50,000 and non-company assessments with income/loss below Rs. 2 lakh.

\* Category 'B' assessees (lower income group) - Company assessments with income /loss of Rs.50,000 and above but below Rs.5 lakh and non-company assessments with income/loss of Rs.2 lakh and above but below Rs.5 lakh.

\* Category 'B' assessees (higher income group) - Company and non-company assessments with income/loss of Rs.5 lakh and above but below Rs.10 lakh.

\* Category 'C' assessees - Company and non-company assessments with income/loss of Rs.10 lakh and above.

\* Category 'D' assessees - Search and Seizure assessments.



99), this coverage fell significantly short of the potential. The recent drive for bringing individuals under tax net may not have pushed this up to even 10 percent.

The All India Income Tax Statistics (AIITS) released by the department also indicate that in 1996-97, nearly 70 percent of the tax was collected from tax payers whose income was less than Rs. 5 lakh. Average tax paid by non-corporate assessees according to AIITS's sample study was 16.08 percent of their net taxable income and amounted to Rs.13980 per assessee. However, based on actual tax collected and including the cases of search and seizures, the average tax collected per assessee works out to be a little higher at Rs. 16006. In 2000-01, compared to 1996-97, there have been two changes in the tax rate structure. While the peak rate was reduced from a level of 40 percent to 30 percent, a surcharge of 12 percent and 17 percent of the tax paid was levied on incomes above Rs.60,000 and Rs.1,50,000 respectively. Since these changes had opposite revenue implication, it may be safe to assume that overall impact of these would be revenue neutralizing. Using these averages across the four income categories and multiplying the same with the number of assessees in each of these categories yield an overall income tax revenue of Rs.38,425 crores as against Rs.31,764 crores actually collected in 2000-01, a shortfall of around 17 percent. Average tax paid by each non-corporate assessee on the basis of tax actually collected also works out to be Rs.14,013 as against the average yield of Rs.16,006 in 1996-97. The process of widening the coverage has, therefore, made little qualitative change in tax collection in terms of income groupings.

<b>(B) CORPORATE ASSESSEES</b>					
Income level	1996-97	2000-01	Compound Average Annual growth	Present share in total assessees	
				1996-97	2000-01
1	2	3	4	5	
A	1,28,137	1,95,713	11.17	56.39	58.55
B (lower)	43,622	55,026	5.98	19.20	16.46
B (higher)	25,277	41,331	13.08	11.12	12.36
C	26,951	40,366	10.63	11.86	12.08
D	3,241	1,825	(-) 13.37	1.43	0.55
<b>Total</b>	<b>2,27,228</b>	<b>3,34,261</b>	<b>10.13</b>	<b>100.00</b>	<b>100.00</b>

For corporate assessees, average annual growth in income category B (higher) and C has not shown any relative acceleration, and their relative share in total corporate assessees has only marginally improved. Overall coverage of corporate assessees in terms of the potential continues to be static at little over 60 percent during this period.

#### PAN applications

**2.5** In order to generate more revenue it is necessary to allot the Permanent Account Numbers at the earliest to the persons who apply for the same. The table below shows that the allotment of PAN is not being given adequate priority.

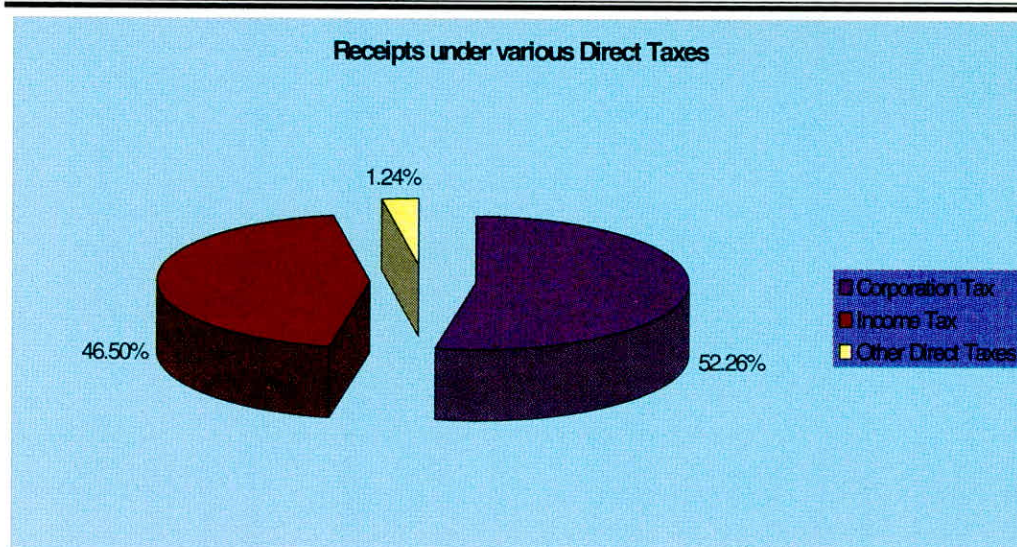
Applications pending on 1 April 2000	Applications received during the year	Total applications	PAN allotted during the year	Balance
1	2	3	4	5
23,56,052	17,27,875	40,83,927	23,00,218	17,83,709

It would be seen that the permanent account numbers have not been allotted in respect of all applications pending at the beginning of the year. Out of 40.84 lakh applications permanent account number have been allotted in respect of 23 lakh (56.32 percent) applications only.

**Receipts under various Direct Taxes**

2.6 The total collections under the Direct Taxes have increased by Rs.10,346.42 crore over the previous year. The Direct Taxes collection for the year 2000-01 amounted to Rs.68,305.39 crore out of which Rs. 18,516.38 crore was assigned to the States.

**CHART NO. 2: COMPOSITION OF RECEIPTS UNDER VARIOUS DIRECT TAXES**



(Rs. in crore)

**TABLE 2.8 DETAILS OF COLLECTIONS UNDER VARIOUS HEADS\***

Head of account	Category of tax	1998-99	1999-00	2000-01	Increase in 2000-01 over the previous year
1	2	3	4	5	6
0020	Corporation Tax	24,528.87	30,692.29	35,696.27	5,003.98
0021	Taxes on income other than Corporation tax	20,240.15	25,654.50	31,763.98	6,109.48
0023	Hotel Receipts Tax	0.20	0.50	0.75	0.25
0024	Interest Tax	1263.82	1,211.54	414.48	(-) 797.06
0028	Other Taxes on Income and Expenditure	395.11	271.63	298.17	26.54
0031	Estate Duty	(-)0.08	(-)1.06	0.31	1.37
0032	Taxes on wealth	162.04	132.91	131.73	(-) 1.18

\* State/UT wise break up of direct tax collections given in Annexure IV

(Rs. in crore)

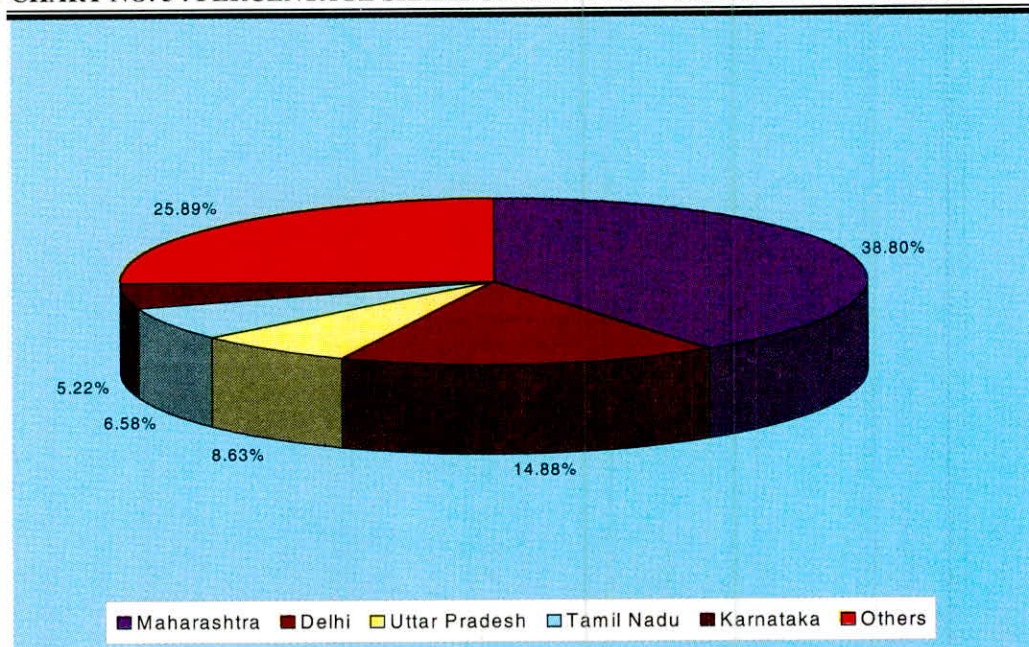
TABLE 2.8 DETAILS OF COLLECTIONS UNDER VARIOUS HEADS

Head of account	Category of tax	1998-99	1999-00	2000-01	Increase in 2000-01 over the previous year
0033	Gift Tax	9.96	(-)3.34	(-) 0.30	3.04
	Gross Receipts	46,600.07	57,958.97	68,305.39	10,346.42
	<b>Less: share of net proceeds assigned to the States</b>				
	Income Tax	14,480.36	16,522.81	18,516.38	
	Net Receipts	32,119.71	41,436.16	49,789.01	

- Collections under the direct taxes during 2000-01 increased by 17.85 percent over 1999-2000.
- Collection of Corporation tax and Income tax have increased by 16.30 percent and 23.81 percent respectively over the previous year.
- Collection from Wealth tax decreased by 0.89 percent.
- Interest tax has been discontinued from 1 April 2000.

Maharashtra had the largest tax collection followed by Delhi, Uttar Pradesh, Tamil Nadu and Karnataka.

CHART NO. 3 : PERCENTAGE SHARE OF REVENUE COLLECTION OF STATES



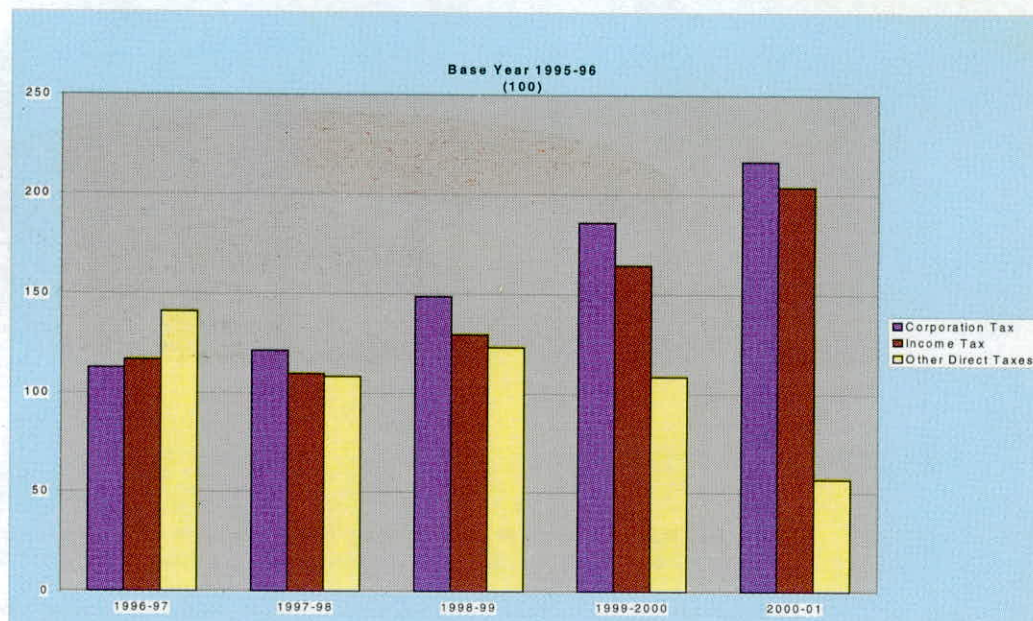
Growth rate/  
trend in tax  
collection

2.7 The annual growth rate, as shown below, reveals that the direct tax revenues, on an average grew at 20.53 percent per annum during the last 10 years. Average growth of corporation tax and income tax during the above period was at 21.46 and 19.92 percent respectively.

(Rs. in crore)

**TABLE 2.9 ANNUAL GROWTH OF DIRECT TAXES**

Year	Direct taxes		Corporation tax		Income tax		Other direct taxes	
	Amount	Percentage	Amount	Percentage	Amount	Percentage	Amount	Percentage
1	2		3		4		5	
1991-92	4323	39.20	2518	47.20	1356	25.23	449	140.75
1992-93	2790	18.17	1046	13.32	1167	17.34	577	75.13
1993-94	2156	11.88	1161	13.05	1225	15.51	(-) 230	(-) 17.10
1994-95	6673	32.88	3762	37.40	2906	31.85	05	0.45
1995-96	6593	24.44	2665	19.28	3563	29.62	365	32.59
1996-97	5331	15.88	2080	12.62	2642	16.94	609	41.01
1997-98	9385	24.13	1449	7.80	(-)1133	(-)6.21	9069	433.09
1998-99	(-)1680	(-)3.48	4513	22.55	3139	18.36	(-)9332	(-)83.59
1999-00	11359	24.38	6163	25.13	5415	26.75	(-)219	(-)11.96
2000-01	10346	17.85	5004	16.30	6109	23.81	(-) 767	(-)47.58

**CHART NO. 4 : TREND IN COLLECTIONS OF DIRECT TAXES SINCE 1996-97****Direct Taxes – GDP Ratio**

**2.8** Direct Taxes collections as percentage of the Gross Domestic Product has increased from 2.35 percent in 1991-92 to 3.15 percent in 2000-01 thereby registering an increase of 0.80 percent. The ratio continued showing growth but for the year 1998-99.

(Rs. in crore)

Year	Direct Tax Collections				GDP* (market price)	Percentage of GDP to Direct Taxes			
	Total Direct Taxes	Corporation Tax	Income Tax other than Corporation tax	Other Direct Taxes		Direct Taxes	Corporation tax	Income Tax other than corporation tax	Other Direct Taxes
1	2	3	4	5	6	7	8	9	10
1991-92	15352	7853	6731	768	653117	2.35	1.20	1.03	0.12
1992-93	18142	8899	7898	1345	748367	2.42	1.19	1.06	0.18
1993-94	20298	10060	9123	1115	859220	2.36	1.17	1.06	0.13
1994-95	26971	13822	12029	1120	1012770	2.66	1.36	1.19	0.11
1995-96	33564	16487	15592	1485	1188012	2.83	1.39	1.31	0.12
1996-97	38895	18567	18234	2094	1368208	2.84	1.36	1.33	0.15
1997-98	48280	20016	17101	11163	1522441	3.17	1.31	1.12	0.73
1998-99	46600	24529	20240	1831	1758276	2.65	1.40	1.15	0.10
1999-00	57959	30692	25655	1612	1956997	2.96	1.57	1.31	0.08
2000-01	68305	35696	31764	845	2166787**	3.15	1.65	1.47	0.04

(Rs. in crore)

Tax buoyancy is a key indicator of efficiency of revenue mobilisation in response to growth in GDP, measured by the ratio of percentage change in tax revenues to percentage change in GDP at current prices. Analysis of 10 year time series data from 1991-92 to

Year	Growth in revenue		Growth in GDP		Buoyancy
	Amount	Percentage	Amount	Percentage	
1	2	3	4	5	6
1991-92	4323	39.20	84443	14.85	2.64
1992-93	2790	18.17	95250	14.58	1.25
1993-94	2156	11.88	110853	14.81	0.80
1994-95	6673	32.88	153550	17.87	1.84
1995-96	6593	24.44	175242	17.30	1.41
1996-97	5331	15.88	180196	15.17	1.05
1997-98	9385	24.13	154233	11.27	2.14
1998-99	-1,680	-3.48	235835	15.49	-0.22
1999-00	11359	24.38	198721	11.30	2.16
2000-01	10346	17.85	209790	10.72	1.67

2000-01 regarding relative growth in GDP vis-à-vis tax revenues revealed that the tax buoyancy of 2.64 in 1991-92 has decreased to 1.67 in 2000-01.

### Analysis of collection

**2.9** Under the Income Tax Act, 1961, income tax is chargeable for every assessment year in respect of the total income of the previous year at the rates prescribed in the annual Finance Act. The Act provides for pre-assessment collection by way of deduction of tax at source, advance tax and payment of tax on self-assessment. The post-assessment collection is of additional demand arising after assessment. In case of non-corporate assessees, the tax collected at self-assessment level has increased from 87

\* Economic Survey (Central Statistical Organisation).

\*\* Estimated assessing growth of 10.72% as reported by CSO for GDP at factor cost

percent in 1997-98 to 93.2 percent in 2000-01. This could primarily be attributed to the increased coverage of organised sector employees in the tax net.

(Rs. in crore)

**TABLE NO 2.12 DETAILS OF TAX COLLECTIONS FOR COMPANIES AND NON-COMPANIES AT PRE- ASSESSMENT AND POST-ASSESSMENT STAGES**

Tax collections								
Year	Tax Deducted at source	Advance Tax	Self Assessment	Regular Assessment	Other Receipts	Total Collections	Refunds (percentage of total collection)	Net Collections
1	2	3	4	5	6	7	8	9
<b>Company</b>								
1997-98	3,984.32	16,416.67	1,927.13	3,469.94	616.73	26,414.79	6,398.79 (24.22)	20,016.00
1998-99	4,505.06	19,077.46	2,386.64	5,255.02	1,388.22	32,612.40	8,083.53 (24.78)	24,528.87
1999-00	3,144.21	23,797.99	1,885.37	5,414.77	4,908.75	39,151.09	8,458.80 (21.60)	30,692.29
2000-01	5,982.28	25,266.76	2,639.48	6,891.29	4,268.11	45,047.92	9,351.65 (20.76)	35,696.27
<b>Non-company</b>								
1997-98	9,803.23	4,644.10	2,317.72	1,484.41	1,020.73	19,270.19	2,169.60 (11.25)	17,100.59
1998-99	11,752.80	5,287.15	2,349.31	1,570.06	1,452.66	22,411.98	2,171.83 (9.69)	20,240.15
1999-00	15,401.85	7,051.09	2,624.06	1,350.93	2,256.36	28,684.29	3,029.79 (10.56)	25,654.50
2000-01	22,230.98	7,347.22	3,202.27	1,230.05	1,152.09	35,162.61	3,398.63 (9.67)	31,763.98

- In the case of corporate assesseees 75 percent and in the case of non-corporate assesseees 93 percent of gross collections were realised at pre-assessment stage during the year.
- The gross collections from company as well as non company assesseees have increased during 2000-01 as compared to 1999-2000.

(Rs. in crore)

**TABLE NO 2.13 DETAILS OF TAX DEDUCTED AT SOURCE**

	1998-99	1999-00	2000-01
1	2	3	4
Salaries	6,440.76	9,353.55	13,820.73
Interest on securities	1,276.79	1,592.72	1,846.85
Dividends	443.41	369.31	338.35
Interest	2,767.33	3,201.00	3,769.97
Winnings from lottery or crossword puzzles	69.76	115.62	74.70
Winnings from horse races	43.30	29.56	6.56
Payments to contractors and sub-contractors	3,779.84	3,678.11	4,209.34
Insurance commission	135.43	172.15	203.24
Payment to non-residents and others	1,301.24	34.04	3,943.52
<b>Total</b>	<b>16,257.86</b>	<b>18,546.06</b>	<b>28,213.26</b>

About 49 percent deductions are from salaries followed by payments to contractors and sub-contractors (15 percent).

**TABLE NO 2.14 DETAILS OF RETURNS FILED BY TAX DEDUCTORS FOR THE YEAR 2000-01**

1.	Number of tax deductors as on 1 April 2000	8,79,663
2.	Adjustment/progressive additions upto 31 March 2001	86,916
3.	Effective tax deductors (1+2)	9,66,579
4.	Number of returns required to be filed by tax deductors	9,66,579
5.	Returns received upto 31 March 2001	8,09,343
6.	Balance (4-5)	1,57,236

The above position revealed that 16 percent of the effective tax deductors have not filed their returns during the year.

(Rs.in crore)

Comparative position of actual receipts vis-à-vis budget estimates

**2.10** Collection of Corporation tax and Income tax has been as per budget estimate but collections from Other direct taxes has fallen short of budget estimates.

**TABLE NO 2.15 COMPARATIVE POSITION OF ACTUAL RECEIPTS VIS-À-VIS BUDGET ESTIMATES\***

Year	Budget Estimates	Actuals	Variation	percentage of variation
1	2	3	4	5
<b>0020-Corporation Tax</b>				
1998-99	26,550.00	24,528.87	(-)2,021.13	(-) 7.61
1999-00	30,850.00	30,692.29	(-)157.71	(-) 0.51
2000-01	35,040.00	35,696.27	656.27	1.87
<b>0021-Taxes on income other than Corporation Tax</b>				
1998-99	20,930.00	20,240.15	(-) 689.85	(-) 3.30
1999-00	26,910.00	25,654.50	(-) 1,255.50	(-) 4.67
2000-01	30,510.00	31,763.98	1253.98	4.11
<b>0028-Other taxes on Income and Expenditure</b>				
1998-99	300.00	395.11	95.11	31.70
1999-00	330.00	271.63	(-)58.37	(-)17.68
2000-01	330.00	298.17	(-)31.83	(-)9.65
<b>0032-Wealth tax</b>				
1998-99	145.00	162.04	17.04	11.75
1999-00	145.00	132.91	(-) 12.09	(-) 8.33
2000-01	145.00	131.73	(-)13.27	(-)9.15

Cost of collection

**2.11** Year-wise total expenditure incurred during the years 1991-92 to 2000-01 in collecting income tax including corporation tax has revealed that on an average, it cost 3.49 paisa to collect a rupee.

\* Sub head wise details given in Annexure-V

**TABLE NO 2.16 COST OF COLLECTION PER RUPEE**

Year	Collections (Rs. in crore)		Cost of collection (Rs. in crore)		Cost (paise) per rupee of tax	
	Corporation tax	Income tax	Corporation tax	Income tax	Corporation tax	Income tax
1	2	3	4	5	6	7
1991-92	7853	6731	31	232	0.39	3.45
1992-93	8899	7898	35	274	0.39	3.47
1993-94	10060	9123	40	305	0.40	3.34
1994-95	13822	12029	47	331	0.34	2.75
1995-96	16487	15592	53	398	0.32	2.55
1996-97	18567	18234	60	452	0.32	2.48
1997-98	20016	17101	88	646	0.44	3.78
1998-99	24529	20240	98	754	0.40	3.73
1999-00	30692	25655	106	788	0.35	3.07
2000-01	35696	31764	107	822	0.30	2.59

Cost of collection per assessee has increased from Rs.2000 in 1991-92 to Rs. 3200 in 2000-01 in the case of corporation tax and from Rs.300 to Rs 360 in the case of income tax.

**TABLE NO 2.17 COST OF COLLECTION PER ASSESSEE**

Year	No. of assessees		Collection (Rs. in crore)		Cost of collection (Rs. in crore)		Per assessee revenue collection (Rs. in lakh)		Per assessee cost of collection (Rs.)	
	CT	IT	CT	IT	CT	IT	CT	IT	CT	IT
1	2	3	4	5	6	7	8	9	10	11
1991-92	134779	7660407	7853	6731	31	232	5.82	0.09	2000	300
1992-93	155418	9151288	8899	7898	35	274	5.72	0.09	2000	300
1993-94	161075	9415102	10060	9123	40	305	6.24	0.10	2000	300
1994-95	176594	10108012	13822	12029	47	331	7.82	0.12	3000	300
1995-96	187574	10476940	16487	15592	53	398	8.79	0.15	3000	400
1996-97	227228	11416315	18567	18234	60	452	8.17	0.16	3000	400
1997-98	274319	12893417	20016	17101	88	646	7.29	0.13	3000	500
1998-99	295327	16958884	24529	20240	98	754	8.30	0.12	3000	400
1999-00	309627	19567397	30692	25655	106	788	9.91	0.13	3000	400
2000-01	334261	22668015	35696	31764	107	822	10.68	0.14	3200	360

**Arrears of demands**

**2.12** The Income Tax Act, 1961, provides that when any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under the Act, a notice of demand shall be served upon the assessee. The amount specified as payable in the notice of demand has to be paid within 30 days unless the time for payment is extended by the assessing officer on application made by the assessee. The Act has been amended with effect from 1 October 1975 to provide that an appeal against an assessment order would be barred unless the admitted portion of the tax as per return has been paid before filing the appeal.

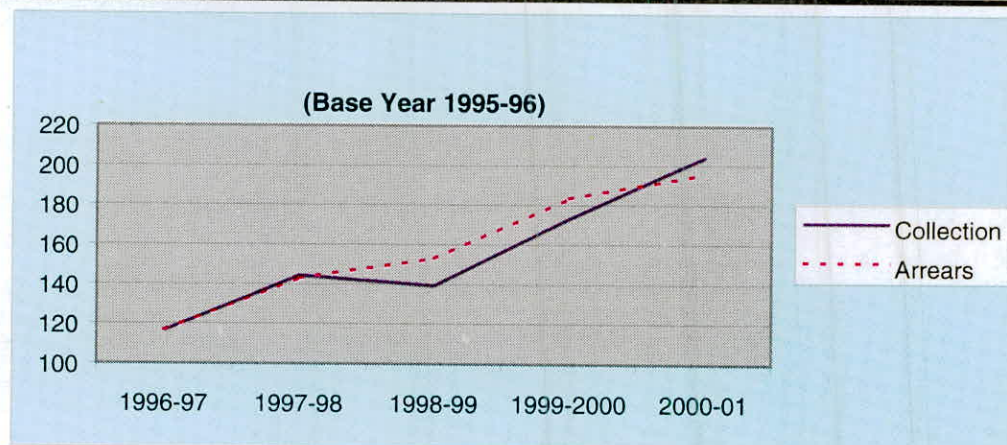


(Rs. in crore)

**TABLE 2.18 ARREARS OF INCOME TAX INCLUDING CORPORATION TAX**

Year	Tax collected			Tax remaining uncollected		
	CT	IT	Total	CT	IT	Total
1	2	3	4	5	6	7
1991-92	7853	6731	15352	5038	3423	8461
1992-93	8899	7898	18142	5624	3587	9211
1993-94	10060	9123	20298	6627	4153	10780
1994-95	13822	12029	26971	9890	12809	22699
1995-96	16487	15592	33564	12434	16536	28970
1996-97	18567	18234	38895	15433	18152	33585
1997-98	20016	17101	48280	20062	21168	41230
1998-99	24529	20240	46600	21954	22189	44143
1999-00	30692	25655	57959	28349	24621	52970
2000-01	35696	31764	68305	24402	32029	56431

Arrears of demand both in corporation tax as well as income tax continued to mount despite direction of the Board for according priority for collection and reduction of the arrear demand.

**CHART NO. 5 : GROWTH IN COLLECTION AND AMOUNT REMAINING UNCOLLECTED**

(Rs. in crore)

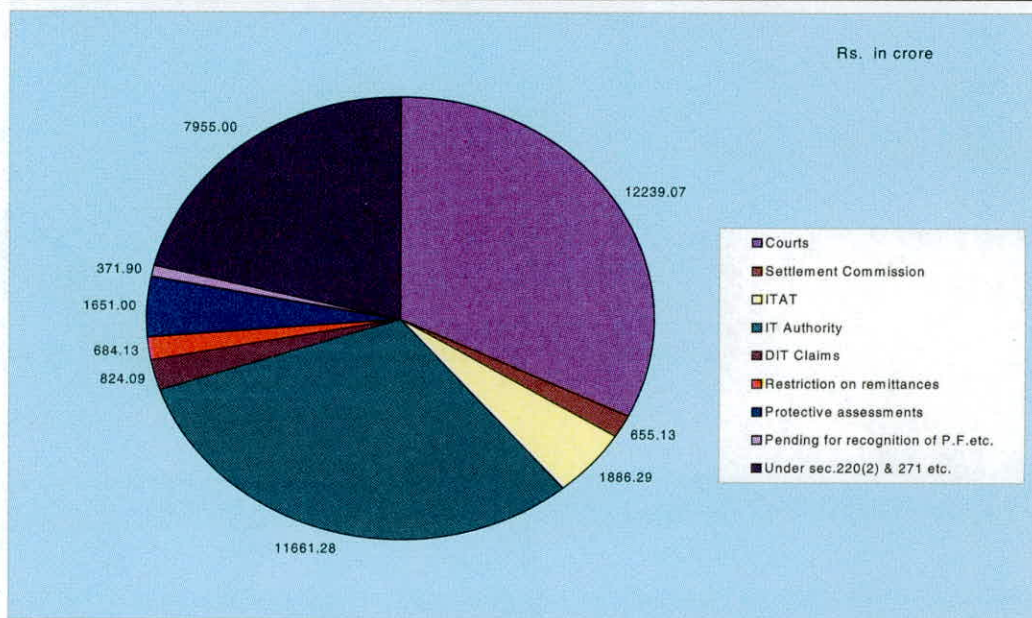
**TABLE 2.19 DETAILS OF ARREARS OF DEMAND**

	1999-00	2000-01
Total amount of tax remaining uncollected as on 31 March	52,969.76	56,431.25
Arrears not fallen due as on 31 March	12,520.10	11,170.70
Amount claimed to have been paid pending verification	1,644.26	1,802.01
Amount stayed/kept in abeyance	32,330.18	37,927.89
Amount for which instalments had been granted	693.85	523.95

Amount remaining uncollected for the year 2000-01 has increased by Rs.3,461 crore constituting 6.87 percent over the previous year.

A major cause for the increase in arrears was a large amount stayed/kept in abeyance by courts/tribunals/revenue appellate authorities. This also included interest and penalties under section 220(2) and section 271.

**CHART NO. 6 : AMOUNTS STAYED/KEPT IN ABEYANCE**



The total outstanding demand of Rs.56,431.25 crore, remaining uncollected as on 31 March 2001, comprised arrear demand of Rs.31,757.77 crore of earlier years.

(Rs. in crore)

**TABLE 2.20 YEARWISE DETAILS OF ARREAR DEMAND OF EARLIER YEARS**

		Corporation Tax	Income Tax	Interest	Others	Total
1	2	3	4	5	6	7
1	Over 1 year but less than two years	2,642.71	2,273.02	4,391.26	736.61	10,043.60
2	Over 2 years but less than 5 years	2,567.09	5,383.82	6,487.23	479.28	14,917.42
3	Over 5 years but less than 10 years	1,196.20	2,115.16	2,459.92	300.53	6,071.81
4	Over 10 years	200.46	228.95	202.60	92.93	724.94
<b>Total</b>		<b>6,606.46</b>	<b>10,000.95</b>	<b>13,541.01</b>	<b>1,609.35</b>	<b>31,757.77</b>

Out of Rs. 31,757.77 crore of arrear demand Rs. 6,796.75 crore (21.40 percent) are over 5 years old.

(Rs. in crore)

**TABLE 2.21 AMOUNT WISE DETAILS OF GROSS ARREARS AND NET\* ARREARS**

	Company cases			Non-company cases			Total		
	No. of cases	Gross arrears	Net arrears	No. of cases	Gross arrears	Net arrears	No. of cases	Gross arrears	Net arrears
1	2	3	4	5	6	7	8	9	10
Upto Rs.1 lakh in each case	2,26,609	6,233.84	1,134.94	66,11,532	3,442.54	97.84	68,38,141	9,676.38	1,231.78
Over Rs.1 lakh to Rs.10 lakh in each case	25,473	1,562.07	329.30	904.24	1,503.08	308.12	1,15,896	3,065.15	637.42
Over Rs.10 lakh to Rs.1 crore in each case	10,319	3,841.45	353.73	9,133	2,387.44	567.82	19,452	6,228.89	921.55
Over Rs. 1 crore in each case	2,371	20,391.77	1,095.31	1,734	17,069.96	820.64	4,105	37,460.83	1,915.95
<b>Total</b>	<b>2,64,772</b>	<b>32,029.13</b>	<b>2,912.28</b>	<b>67,12,822</b>	<b>24,402.12</b>	<b>1,794.82</b>	<b>69,77,594</b>	<b>56,431.25</b>	<b>4,706.70</b>

Out of total gross arrears of Rs.56,431.25 crore, net arrears outstanding as on 31 March 2001 amounted to Rs.4,706.70 crore. Out of the net arrears Rs.2,837.50 crore related to high demand cases of Rs.10 lakh and above, thus constituting 60.29 percent of the net arrears.

The arrears of wealth tax, though decreased as compared to last year, still continue to be very high. The arrears need to be collected expeditiously.

(Rs. in crore)

**TABLE NO 2.22 AGE WISE POSITION OF WEALTH TAX AND INTEREST TAX ARREARS**

	Wealth Tax	Interest Tax
1	2	3
Over one year but less than two years	414.53	97.93
Over two years but less than five years	318.80	141.05
Over five years but less than ten years	70.57	0.47
Over ten years	40.20	0.02
<b>Total</b>	<b>844.10</b>	<b>239.47</b>

### Tax Recovery Machinery

**2.13** Under the Income Tax Act, 1961, every demand of tax, interest, penalty or fine payable under the Act should be paid within thirty days of the service of notice of demand. On the default of an assessee in this respect, the assessing officer may forward a certificate specifying the demand of arrears to the Tax Recovery Officer for recovery of demand. The latter will serve a notice on the defaulter requiring him to pay the demand within fifteen days. If the amount mentioned in the notice is not paid within the time specified therein or within such further time as the Tax Recovery Officer may grant at his discretion, he shall

**TABLE NO 2.23 TOTAL TAX RECOVERY OFFICERS**

Year	Sanctioned Strength	Working Strength
1	2	3
1998-99	202	168
1999-00	242	145
2000-01	204	179

\* Net arrears comprise gross arrears minus arrears not fallen due, amounts claimed to have been paid pending verification, amount for which instalments were granted and amount stayed/kept in abeyance

proceed to realise the amount together with interest at the rate of 1.5 percent per month or part of month on the outstanding till the date of recovery by one or more of the following modes:

- (a) by attachment and sale of the defaulter's movable property;
- (b) by attachment and sale of the defaulter's immovable property;
- (c) by arrest of the defaulter and his detention in prison;
- (d) by appointing a receiver for management of defaulter's movable and immovable properties

(Rs. in crore)

**TABLE NO 2.24 TAX DEMANDS CERTIFIED TO THE TAX RECOVERY OFFICER AND DEMAND RECOVERED**

Year	Demand at the beginning of the year	Demand certified during the year	Total demand	Demand recovered during the year	Balance at the end of the year
1	2	3	4	5	6
1998-99	3,581.80	2,490.08	6,071.88	1,173.66 (19.33)	4,898.22
1999-00	4,898.22	2,647.77	7,545.99	986.85 (13.08)	6,559.14
2000-01	6,559.14	3,706.51	10,265.65	2,223.74 (21.66)	8,041.91*

Though the demand recovered during the year as a percentage of total demand certified has increased as compared to last year, the balance of unrecovered demand at the end of the year is still very high.

(Rs. in crore)

**TABLE NO 2.25 DISPOSAL AND PENDENCY OF ATTACHED PROPERTIES**

Particulars	Movable properties			Immovable properties		
	No. of cases	No. of properties	Approximate value	No. of cases	No. of properties	Approximate value
1	2	3	4	5	6	7
Properties attached	1,965	-	157.10	3,721	7,553	752.87
Sales conducted	1	-	0.22	1	1	0.59
Sales not conducted						
(i) More than six months but less than one year	265	-	15.77	-	-	-
(ii) More than one year but less than three years	-	-	-	1,064	2,416	119.01
(iii) More than three years	-	-	-	995	3,062	294.04

\* Year wise, tax wise and amount wise breakup given in Annexure-VI

**TABLE NO 2.26 RECEIVERS APPOINTED/ARREST PROCEEDINGS INITIATED**

	Number	Amount (Rs.in crore)
Cases in which receiver appointed	7	3.60
Defaulters against whom arrest proceedings initiated	89	15.12

**Penalties**

**2.14** Failure to furnish return of income/wealth or filing a false return invites penalties under the relevant tax law. It also constitutes an offence for which the tax payer can be prosecuted. The tax law also provides for levy of penalty and prosecution for failure to produce accounts and documents, failure to deduct or pay tax, etc.

**TABLE NO 2.27 INCOME TAX CASES WHERE PENALTY PROCEEDINGS INITIATED, DISPOSED OF AND PENDING**

Year	Opening balance	Additions	Total	Disposal	Closing balance
1	2	3	4	5	6
1998-99	2,03,488	58,669	2,62,157	60,912	2,01,245
1999-00	2,01,245	69,472	2,70,717	60,052	2,10,665
2000-01	2,10,665	1,25,185	3,35,850	1,38,686	1,97,164

Only 41.29 percent penalty cases were disposed of during the year.

**TABLE NO 2.28 NATURE OF OFFENCES AND PENALTIES IMPOSED DURING THE YEAR 2000-01**

Nature of offence	Number of cases	Cases disposed of	Balance	Balance less than 6 months	Balance more than 6 months	Penalties imposed	
						Cases	Amount (Rs in crore)
1	2	3	4	5	6	7	8
For Concealment	2,13,672	94,365	1,19,307	25,760	93,547	11,860	567.15
Other than concealment	1,22,178	44,321	77,857	21,240	56,617	22,014	107.60
<b>Total:</b>	<b>3,35,850</b>	<b>1,38,686</b>	<b>1,97,164</b>	<b>47,000</b>	<b>1,50,164</b>	<b>33,874</b>	<b>674.75</b>

Out of 1,38,686 cases, penalties were imposed in 33,874 cases constituting 24.42 percent of total cases disposed of.

(Rs.in crore)

**TABLE NO 2.29 PENALTY AND COMPOSITION MONEY LEVIED, COLLECTED AND PENDING**

Year	Opening balance		Levied during the year		Total		Collected during the year		Balance outstanding	
	Penalty	*Comp money	Penalty	*Comp money	Penalty	*Comp money	Penalty	*Comp money	Penalty	*Comp money
1	2	3	4	5	6	7	8	9	10	11
1998-99	506.89	240.77	245.80	150.50	752.69	391.27	116.32	47.22	636.37	344.05
1999-00	636.37	344.05	69.56	238.09	705.93	582.14	125.31	51.10	580.62	531.04
2000-01	580.62	531.04	684.94	793.83	1265.56	1324.87	288.94	88.23	976.62	1236.64

\* Composition money

Demand outstanding by way of penalty and composition money is very high.

**TABLE NO 2.30 WEALTH/GIFT TAX CASES WHERE PENALTY PROCEEDINGS INITIATED, DISPOSED OF AND PENDING**

Year	Opening balance	Additions	Total	Disposal	Closing balance
1	2	3	4	5	6
1997-98	32,335	4143	36,478	5,839	30,639
1998-99	30,639	2,435	33,074	5,021	28,053
1999-00	28,053	(-) 3,071	24,982	3,904	21,078
2000-01	21,078	2,773	23,859	3,293	20,558

Only 13.81 percent penalty cases of Wealth/Gift tax were disposed of during the year.

(Rs. in crore)

**TABLE NO 2.31 PENALTY AND COMPOSITION MONEY LEVIED, COLLECTED AND PENDING IN WEALTH/GIFT TAX CASES**

Year	Opening balance		Levied during the year		Total		Collected during the year		Balance outstanding	
	Penalty	*Comp money	Penalty	*Comp money	Penalty	*Comp money	Penalty	*Comp money	Penalty	*Comp money
1	2	3	4	5	6	7	8	9	10	11
1998-99	18.04	8.80	3.06	0.05	21.10	8.85	5.34	0.72	15.76	8.13
1999-00	15.76	8.13	1.82	3.59	17.58	11.72	6.16	1.28	11.42	10.44
2000-01	11.42	10.44	4.60	0.91	16.02	11.35	2.04	2.64	13.98	8.71

\* Composition money

Demand outstanding by way of penalty and composition money is very high.

**Purchase by Central Government of immovable properties in certain cases of transfer**

**2.15** With a view to countering tax evasion and to curb the circulation of unaccounted money in real estate transactions, a new Chapter XX- C was inserted in the Income Tax Act, 1961, with effect from 1 October 1986 empowering the Central Government to purchase immovable properties in certain cases of transfer.

**TABLE NO 2.32 PROPERTIES PURCHASED BY CENTRAL GOVERNMENT DURING THE YEAR 2000-01**

	Mumbai	Kolkata	Delhi	Chennai	Bangalore	Ahmedabad	Lucknow	Total
1	2	3	4	5	6	7	8	9
(i) No. of statements received in form 37-1	182	39	250	86	134	173	49	913
(ii) No. of properties purchased	-	-	4	-	-	1	3	8
(iii) Value of properties purchased (Rs. in crore)	-	-	3.08	-	-	0.58	0.82	4.48
(iv) No. of properties where consideration exceeds Rs.50 lakh	-	-	3	-	-	1	-	4

(Rs.in crore)

**TABLE NO 2.33 PROPERTIES SOLD DURING 2000-01 BY THE APPROPRIATE AUTHORITY AND THOSE AWAITING DISPOSAL**

Properties awaiting disposal at the beginning of the year		Properties acquired during the year		Total properties		Properties sold		Properties awaiting disposal	
No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
161	175.40	8	4.48	169	179.88	5	4.07	164	175.81

Revenue demand written off

**2.16** Upto Rs.10,000 the total amount of arrears, for which recovery certificates were issued to Tax Recovery Officers, amounted to Rs.798.04 crore involving 4,91,578 assessee/cases. Out of these, the department identified 89,712 assessee/cases for possible write-off involving Rs.13.78 crore and out of this, the department had written off a sum of Rs.11.56 crore in respect of 72,750 assessee/cases.

(Rs. in 000)

**TABLE NO 2.34 AMOUNT WRITTEN OFF DURING THE YEAR 2000-01**

No. of cases identified involving arrear demand of Rs.10,000 and below where recovery certificates were issued			Cases written off during the year			Balance		
No. of assessees	No. of entries	Total amount involved	No. of assessees	No. of entries	Total amount written-off	No. of assessees	No. of entries	Amount
89,712	1,04,993	1,37,776	72,750	85,953	1,15,628	16,962	19,040	22,148

(Rs.in crore)

**TABLE NO 2.35 CATEGORY-WISE DETAILS OF REVENUE DEMANDS WRITTEN OFF DURING 2000-01**

Category	Company cases		Non-company cases		Total cases	
	No.	Amount	No.	Amount	No.	Amount
1	2	3	4	5	6	7
(a) Assessee having died leaving behind no assets/ have become insolvent/gone into liquidation/are defunct	3	2.17	2314	1.14	2317	3.31
(b) Assessee being untraceable.	16	0.01	34355	3.13	34371	3.14
(c) Assessee having left India	-	-	345	0.01	345	0.01
(d) Assessee who are alive but have no attachable assets/amounts being petty/amounts written off as a result of scaling down of demand.	440	0.01	62218	10.36	62658	10.37
(e) Amount written off on grounds of equity or as a matter of international courtesy, or where time, labour and expense involved in legal remedies for realisation are considered disproportionate to the recovery.	-	-	1019	0.56	1019	0.56
<b>Total:</b>	<b>459</b>	<b>2.19</b>	<b>100251</b>	<b>15.20</b>	<b>100710</b>	<b>17.39</b>

(Rs. in crore)

**TABLE NO 2.35 CATEGORY-WISE DETAILS OF REVENUE DEMANDS WRITTEN OFF DURING 2000-01**

Category	Wealth Tax		Gift Tax	
	No.	Amount	No.	Amount
Amount written off due to untraceability of assessees	82	0.0066	79	0.0114

**Searches & seizures**

2.17 Assessment of search cases are governed by Chapter XIV-B of the Income Tax Act. The books of accounts and other documents cannot be retained by the assessing officer for more than 180 days from the date of seizure unless the Commissioner approves of the retention for longer period

**TABLE NO 2.36 SEARCHES AND SEIZURES CONDUCTED**

Year	Number of searches and seizures conducted	Value of assets seized (Rs. in crore)
1	2	3
1998-99	5,746	300.54
1999-00	5,469	384.18
2000-01	5,321	512.36

**TABLE NO 2.37 PROSECUTIONS LAUNCHED, CONVICTIONS OBTAINED, COMPOUNDED AND ACQUITTALS**

Year	Number of prosecutions launched			Disposal of cases				Cases pending
	Opening balance	Additions	Total	Convictions	Compounding	Acquittals	Total	Balance
1	2	3	4	5	6	7	8	9
1998-99	14,606	184	14,790	77	184	407	668	14,122
1999-00	14,122	343	14,465	14	128	1,465	1,607	12,858
2000-01	12,858	228	13,086	17	254	22	293	12,793

Percentage of disposal has drastically come down to 2.24 as compared to 11.11 in 1999-2000.

**TABLE NO 2.38 CASES WHERE ASSETS RETURNED, INTEREST PAID AND BALANCE PENDING ON 31MARCH 2001**

Cases where assets were due for return			Cases where assets were returned	Cases where interest was paid during the year	Balance cases pending
Opening balance	Added during the year	Total			
882	2085	2967	236	-	2731



## Survey

2.18 The department is required to make surveys in order to bring more tax payers in the tax net.

TABLE NO 2.39 SURVEYS CONDUCTED

Year	No. of premises surveyed	
	Under section 133A	Under section 133B
1	2	3
1998-99	7,466	1,87,545
1999-00	10,527	1,13,756
2000-01	9,438	78,751

TABLE NO 2.40 CASES WHERE EVIDENCE ABOUT OSTENTATIOUS EXPENDITURE WERE COLLECTED UNDER SECTION 133A(5)

Year	1998-99	1999-00	2000-01
No. of cases	125	105	56

Appeals, Revision  
Petitions and  
Writs

2.19 Under the Income Tax Act, 1961, if an assessee is not satisfied with an assessment, a refund order etc., he can file an appeal with the Commissioner (Appeals).

A second appeal can be taken to the Income Tax Appellate Tribunal. After the Tribunal's decision, appeal on a point of law can be made to the High Court. An appeal thereafter lies to the Supreme Court. The assessee can also initiate writ proceedings under Article 226 of the Constitution.

A taxpayer can approach the Commissioner of Income Tax to revise an order passed by an assessing officer within one year from the date of such order. The Commissioner can also take up for revision an order, which in his view, is prejudicial to the interests of revenue.

There were 207 Commissioners of Income Tax (Appeals) during the year 2000-01.

TABLE NO 2.41 APPEALS PENDING WITH THE COMMISSIONERS (APPEALS) ON 31 MARCH 2001

	Total appeals	High demand* appeals	With demand of Rs. 10-25 lakh	With demand of Rs.25 lakh and above
Appeals for disposal	2,70,537	60,889	8,521	10,766
Disposal	98,568	28,835	4,625	5,580
Pending	1,71,969	32,054	3,896	5,186

TABLE NO 2.42 APPEALS PENDING WITH SUPREME COURT/HIGH COURT/ INCOME TAX APPELLATE TRIBUNAL ON 31 MARCH 2001

Period	With Supreme Court	With High Court	With ITAT
Appeals, references and writs for disposal	7,037	39,765	1,14,452
Disposal	155	10,592	30,210
Pending	6,882	29,173	84,242

\* An appeal in which tax involved is more than Rupees one lakh

**TABLE NO 2.43 AGE-WISE DETAILS OF PENDING CASES**

Period	With Supreme Court	With High Court	With ITAT
1	2	3	4
Less than one year	3,783	12,328	36,394
One to two years	948	4,399	14,703
Two to three years	755	2,800	8,606
Three to four years	448	2,659	6,351
Four to five years	300	3,697	15,272
Above five years	648	3,290	2,916
<b>Total</b>	<b>6,882</b>	<b>29,173</b>	<b>84,242</b>

Refund cases and interest paid on refunds

**2.20** Where the amount of tax paid exceeds the amount of tax payable, the assessee is entitled to a refund of the excess amount. Simple interest at the prescribed rate also becomes payable to the assessee on the amount of such refund as per law. Refund of any amount which may become due to an assessee as a result of any order passed in appeal or other proceedings without his having to make any claim on that behalf is also admissible. Simple interest at the prescribed rate is payable to the assessee in such cases too.

**TABLE NO 2.44 CASES OF DIRECT REFUNDS FOR WHICH CLAIMS WERE MADE**

Financial year	Opening balance	Claims received during the year	Total	No. of claims disposed of	Balance outstanding
1	2	3	4	5	6
1998-99	73,669	1,30,649	2,04,318	1,07,600	96,718
1999-00	96,718	3,73,295	4,70,013	3,15,583	1,54,430
2000-01	1,54,430	2,78,979	4,33,409	3,00,397	1,33,012

**TABLE NO 2.45 CASES RESULTING IN REFUND AS A RESULT OF APPELLATE ORDERS AND REVISION ORDERS, ETC**

Financial Year	Opening Balance	Addition	Total	Disposal	Closing Balance
1	2	3	4	5	6
1998-99	3,825	23,623	27,448	24,590	2,858
1999-00	2,858	66,296	69,154	60,349	8,805
2000-01	8,805	26,033	34,838	26,370	8,468**

**TABLE NO 2.46 INTEREST PAID ON REFUNDS BY THE GOVERNMENT**

Section under which interest paid	1998-99		1999-00		2000-01	
	No. of assessments	Amount (Rs in crore)	No. of assessments	Amount (Rs in crore)	No. of assessments	Amount (Rs in crore)
1	2	3	4	5	6	7
214	131	52.53	751	1.04	80	7.55
243	-	-	198	0.02	-	-

\*\* Year-wise break-up given in Annexure VII

**TABLE NO 2.46 INTEREST PAID ON REFUNDS BY THE GOVERNMENT**

Section under which interest paid	1998-99		1999-00		2000-01	
	No. of assessments	Amount (Rs in crore)	No. of assessments	Amount (Rs in crore)	No. of assessments	Amount (Rs in crore)
244	2,05,274	74.49	2,45,540	44.20	2,31,201	82.97
244A	13,02,282	1,727.12	16,67,038	1,144.39	25,07,021	2,531.85
<b>Total</b>	<b>15,07,687</b>	<b>1,854.14</b>	<b>19,13,527</b>	<b>1,189.65</b>	<b>27,38,302</b>	<b>2,622.37</b>

**Cases settled by Settlement Commission**

**2.21** Under the Income Tax Act, 1961, and the Wealth Tax Act, 1957, an assessee may at any stage of a case relating to him, make an application to the Settlement Commission to have the case settled. While making an application to Settlement Commission, an assessee shall make full and true disclosure of his income (not disclosed before the assessing officer) and the additional amount of income tax payable on such income. The Settlement Commission admits/rejects the application after calling for the report from the Commissioner.

**TABLE NO 2.47 CASES SETTLED BY THE SETTLEMENT COMMISSION**

Year	Opening balance	Additions	Total cases for disposal	Number of cases settled	Percentage of cases settled	Number of cases pending
1	2	3	4	5	6	7
<b>Income Tax</b>						
1998-99	1,981	619	2,600	840	32.30	1,760
1999-00	1,760	421	2,181	462	21.18	1,719
2000-01	1,719	466	2,185	330	15.10	1,855
<b>Wealth Tax</b>						
1998-99	188	15	203	71	34.97	132
1999-00	132	4	136	30	22.05	106
2000-01	106	(-) 1	105	22	20.95	83

The percentage of income tax cases settled by the Settlement Commission during the year 2000-01 has decreased to 15.10 percent as compared to 21.18 percent in 1999-2000. In wealth tax also percentage disposal has come down to 20.95 percent from 22.05 percent.

**TABLE NO 2.48 CASES PENDING FOR ADMISSION/HELD UP WITH SETTLEMENT COMMISSION AS ON 31 MARCH 2001**

Cases pending for admission before Settlement Commission	330
Cases held up with Settlement Commission for want of comments of the department	102

(Rs. in lakh)

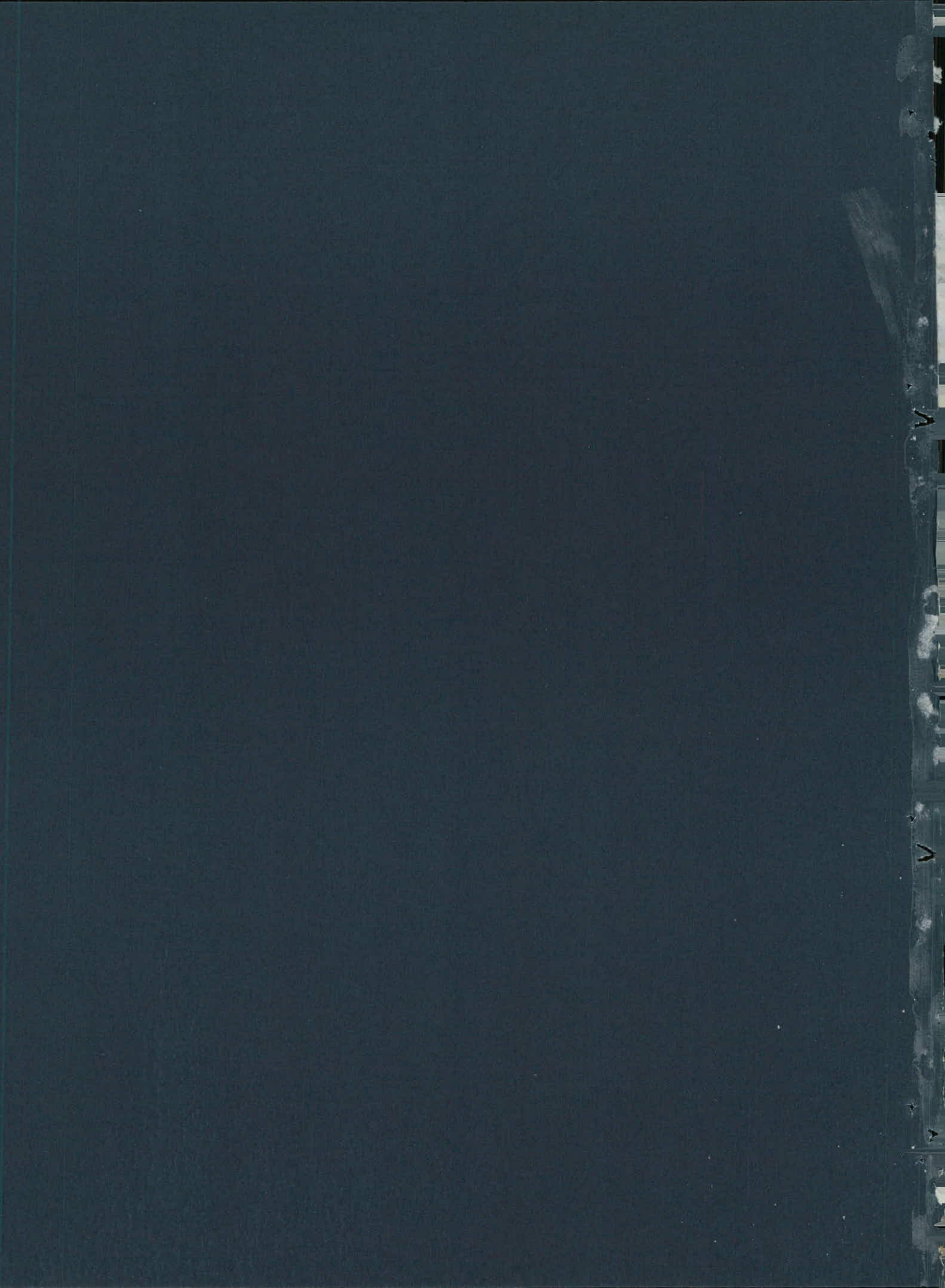
**TABLE NO 2.49 YEAR-WISE POSITION OF TAX DETERMINED (EXCLUDING INTEREST AND PENALTY) IN CASES SETTLED BY SETTLEMENT COMMISSION**

Financial Year	Income Tax		Wealth Tax	
	Additional tax paid /payable on admission of application	Gross demand created in respect of cases settled	Additional tax paid /payable on admission of application	Gross demand created in respect of cases settled
1	2	3	4	5
1996-97	4245.36	5179.99	30.68	122.54
1997-98	3284.36	8509.12	16.90	203.27
1998-99	2734.33	7824.74	4.04	279.53
1999-00	3071.65	3905.61	3.40	96.08
2000-01	8786.75	4608.77	1.14	16.11

# Chapter 3

## Corporation Tax

- ◆ Chapter summary
- ◆ Companies profile, assessee and receipts of Corporation tax
- ◆ Avoidable mistakes
- ◆ Incorrect computation of business income
- ◆ Mistakes in allowance of depreciation and Investment allowance
- ◆ Income not assessed and Incorrect carry forward and set off of losses
- ◆ Incorrect deduction under Chapter VIA
- ◆ Excess refund, non submission of returns, short payment of advance tax and delay in payment of tax demand
- ◆ Miscellaneous and other topics of interest



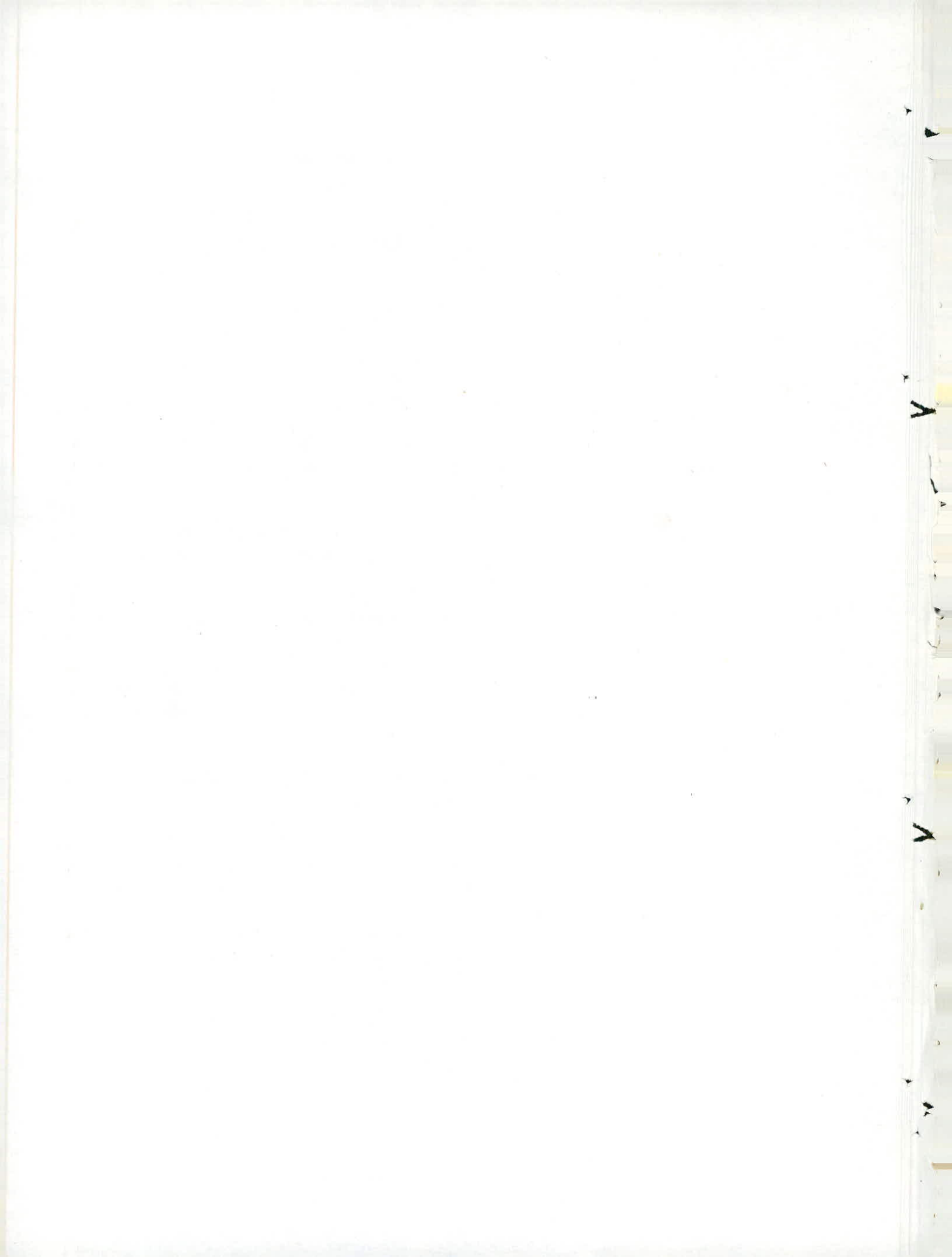
## Chapter summary

- Corporation tax constituted about 52.26 percent of the total collections from direct taxes during the year 2000-01. The number of company assessees as on 31.3.2001 was 3,34,261, an increase of 7.96 per cent over the previous year.
- 796 audit observations involving tax effect of Rs.1562.89 crore on various irregularities, omissions and mistakes in corporate tax assessments were issued to the Ministry of Finance for their comments.

[Paras 3.3. and 3.5]

### Of these, the major cases are highlighted below:

- Incorrect valuation of closing stock in the case of **M/s Indian Oil Corporation Ltd., M/s BPC Ltd, M/s Hindustan Lever** and others in Maharashtra charge led to undercharge of tax of Rs. 52,304.26 lakh.  
[Para 3.11]
- Overcharge of interest in the case of **M/s Videsh Sanchar Nigam Limited** led to excess demand of tax of Rs. 6287.33 lakh.  
[Para 3.6.1]
- Excess carry forward of loss in the case of **The West Bengal Power Development Corporation Limited** resulted in undercharge of tax of Rs. 6061.24 lakh.  
[Para 3.19(a)]
- Irregular exemption towards interest from tax-free bonds and on loans and advances for purchase abroad of raw materials in the case of **M/s State Bank of India** resulted in undercharge of tax of Rs.5644.32 lakh.  
[Para 3.21(a)]
- Incorrect computation of book profit under the special provision of the Act in the case of **M/s Indian Railway Finance Corporation Ltd.** resulted in short levy of tax of Rs. 5457.73 lakh.  
[Para 3.31(a)]
- Incorrect allowance of provision for unascertained/contingent liability in the case of **M/s Indian Bank** resulted in short levy of tax of Rs. 3188.05 lakh.  
[Para 3.12(a)]
- Avoidable mistakes in computation of income in the cases of **M/s Rajasthan State Electricity Board** and **M/s State Bank of Saurashtra** led to aggregate undercharge of tax of Rs. 4795.26 lakh.  
[Para 3.6.2]





## CHAPTER 3 : CORPORATION TAX

### Number of companies

3.1 According to the Ministry of Law, Justice and Company Affairs (Department of Company Affairs), the number of companies under various categories and the paid-up capital in the case of limited companies, as on 31 March 2001\* stood as under:

Sl. No.	Category	No. of companies	Paid-up capital (Rs. in crore)
1	2	3	4
1.	Foreign companies as defined under Section 591 of the Companies Act, 1956	1141	-
2.	Associations 'not for profit' but registered as companies	2918	-
3.	Unlimited companies	461	-
4.	Limited companies		
	a) Government companies	1266	1,04,323.98
	b) Non-Government companies -	5,67,834	2,36,906.50
	(i) Private limited companies	4,92,840	1,07,008.47
	(ii) Public limited companies	76,260	2,34,222.01
	<b>Total</b>	5,69,100	3,41,230.48

### Number of assesseees

3.2 The number of company assesseees on the records of the Income Tax Department as on 31 March 2001 were 3,34,261 as compared to 3,09,627 as on 31 March 2000.

### Receipts of Corporation Tax

3.3 During 2000-2001, Corporation Tax receipts were Rs. 35,696.27 crore vis-à-vis Rs. 30,692.29 crore in 1999-2000. For details Table 2.8 of this Report may be referred to.

### Status of assessments

3.4 Particulars of assessments due for disposal, assessments completed and pending are given in Table 2.2 of this Report.

### Results of audit

3.5 A total number of 773 draft paragraphs involving undercharge of tax of Rs.1489.14 crore and 23 draft paragraphs involving overcharge of tax of Rs.73.75 crore have been issued to the Ministry of Finance for their comments. Out of these cases, 781 cases involving tax effect of Rs.1523.26 crore are indicated in the succeeding paragraphs. The Ministry have accepted the observations in 84 cases involving tax effect of Rs. 60.87 crore. Replies are awaited in respect of 685 cases.

\* Figures supplied by the Ministry are provisional

**Avoidable mistakes in computation of income and tax**

**3.6** Under the Income Tax Act, 1961, an assessment may be completed in a summary manner after, inter alia, rectifying any arithmetical error in the return, accounts and accompanying documents. In a scrutiny assessment, the assessing officer is required to make a correct assessment of the total income or loss of the assessee and

determine the correct sum payable by him or refundable to him on the basis of such assessment. Despite this and instructions issued by the Government from time to time, such mistakes continue to occur suggesting the need for better vigilance. Various types of mistakes included, inter alia, incorrect adoption of figures, arithmetical errors, double allowance etc. The extent of such mistakes noticed during test check of the assessments completed by the assessing officers during last five years are given in Table No.3.2.

Cases of each type noticed in test check during the year ended March 2001 are given below.

**3.6.1 Overassessment of income and tax**

**TABLE NO 3.3 OVERASSESSMENT OF INCOME AND TAX**

Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs in lakh)
1	2	3	4	5	6
1.	M/s Videsh Sanchar Nigam [City-I, Mumbai]	1997-98	143(3)	Interest was charged at higher rate on demand and further, interest was charged on refund as well.	6287.33
2.	M/s Tata Chemicals Ltd. [City-I, Mumbai]	1997-98	143(3)	Interest was charged in excess.	215.74
3.	M/s The Bank of Rajasthan Ltd. [Udaipur, Rajasthan]	1997-98	143(3)	Tax deducted at source was more than the assessed tax and as such interest was not leviable on non-payment of advance tax.	133.77
4.	M/s Gujarat State Fertilizers & Chemicals Co. Ltd. [Gujarat-I, Ahmedabad]	1992-93	143(3)	Interest was levied in excess.	122.26
5.	M/s Williamson Financial Services Ltd. [Assam, Guwahati]	1997-98	143(3)	Surcharge was levied at higher rate and while computing interest on the assessed tax the amount of additional tax was included.	79.86
6.	M/s Business India Information Technology Ltd. [City-III, Mumbai]	1997-98	143(3)	Incorrect adoption of figures.	75.78

(Rs. in crore)

**TABLE NO 3.2 MISTAKES NOTICED DURING TEST CHECK OF ASSESSMENTS**

Year	Number of items	Amount of tax under assessed
1	2	3
1996-97	1,450	418.34
1997-98	1,531	192.32
1998-99	1,567	216.63
1999-00	1,167	297.62
2000-01	<b>1268</b>	<b>234.13</b>

**TABLE NO 3.3 OVERASSESSMENT OF INCOME AND TAX**

Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs in lakh)
7.	M/s Kalinga Cements Ltd. [Orissa, Bhubaneswar]	1995-96 to 1997-98	143(3)	Unabsorbed losses were ignored though there was positive income in subsequent years which resulted in over assessment of income.	67.01
8.	M/s Bharat Pump & Compressors Ltd. [Allahabad, U.P]	1996-97	143(3)	The depreciation debited to Profit & Loss account was wrongly added in excess while computing income.	(56.53)
9.	M/s Indian Hotels Ltd. [City-I, Mumbai]	1997-98	143(3)	Interest was charged at higher rate.	55.86

\* Figures in brackets denotes potential tax effect

Similar mistakes led to overassessment of Rs.281.05 lakh in 14 other cases in Orissa, Gujarat, Maharashtra, Punjab, Rajasthan, Uttar Pradesh and West Bengal charges.

The Ministry have accepted the audit observation at Sl.No.3 and 5 of the statement and in 2 out of 14 other cases.

### 3.6.2 Underassessment of income and tax

(Rs. in lakh)

**TABLE NO 3.4 UNDERASSESSMENT OF INCOME AND TAX**

Sl. No	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs in lakh)
1	2	3	4	5	6
1.	M/s Rajasthan State Electricity Board [Jaipur, Rajasthan]	1996-97	143(3)	Incorrect adoption of figures while totalling the disallowances.	(2539.00)
2.	M/s State Bank of Saurashtra [Rajkot, Gujarat]	1997-98	143(3)	Incorrect deduction allowed on account of depreciation allowance.	2256.26
3.	M/s Metal Box India Ltd. [WB-IV, Kolkata]	1993-94	143(3)	Incorrect adoption of figures resulted in excess computation of loss.	(743.47)
4.	M/s HCL Info System Ltd. [Delhi-I]	1997-98	143(3)	While computing the total assessed loss, deduction disallowed was increased.	(590.77)
5.	M/s Southern Petrochemicals Industries Corpn. Ltd. [TN-I, Chennai]	1996-97	143(3)	Double deduction of income was claimed and allowed under the head "Income from other sources" once by the assessee and again by the Assessing Officer.	(485.51)
6.	M/s Metchem Canada Inc. [City-II, Mumbai]	1996-97	143(3)	Net professional receipts were grossed up at 35 percent instead of 65 percent by adopting the receipt net of taxes.	470.83
7.	M/s West Bengal State Electricity Board [WB-I, Kolkata]	1996-97	143(3)	The depreciation actually debited to Profit & Loss account was not added while computing total income.	(450.92)

TABLE NO 3.4 UNDERASSESSMENT OF INCOME AND TAX

Sl. No	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs in lakh)
8.	M/s Rajendra Steels Ltd. [Kanpur, U.P.]	1997-98	144 143(1)(a)	The depreciation actually debited to Profit and Loss account was not added while computing income/ loss.	(306.56) 65.91
9.	M/s Garden Reach Ship Builders & Engg. Ltd. [WB-III, Kolkata]	1997-98	143(3)	Refund already adjusted with demand in summary assessment was not taken into account at the time of revising assessment under scrutiny.	355.64
10.	M/s Opel Telecommunication Ltd. [Bhopal, M.P.]	1997-98	143(3)	Non-assessment of income offered by the assessee.	339.56
11.	M/s Tata Lucent Technologies Ltd. [Karnataka-I]	1997-98	143(3)	Foreign exchange losses disallowed were not added back to income in full.	(190.11)
12.	M/s Naffar Chandra Jute Mills Ltd. [WB-VI, Kolkata]	1992-93	143(3)	The business profit was erroneously taken as a loss figure while revising the assessment	(125.95)
13.	M/s Carona Ltd. [City-V, Mumbai]	1996-97	143(3)	Amortization of compensation of voluntary retirement scheme not added back to income.	(115.79)
14.	M/s Sona Stearing System Ltd. [Delhi-VII]	1997-98	143(3)	Tax demand already adjusted with demand in summary assessment was not fully taken into account at the scrutiny stage.	88.24
15.	M/s Unity Paints & Chemicals Co. Pvt. Ltd. [WB-VI, Kolkata]	1997-98	143(1)(a)	Excess deduction was allowed by the assessing officer.	84.66
16.	M/s Comet Glass Ltd. [Delhi-I]	1996-97	144	Opening stock was depicted in excess.	84.47
17.	M/s MMTTC Ltd. [Delhi-I]	1991-92	143(3)	The amount already adjusted against the demand was omitted while allowing refunds.	77.20
18.	M/s Indian Bank [TN-I, Chennai]	1994-95	143(3)	The additional income proposed was not fully added back in total income.	(76.07)
19.	M/s Motor and General Finance Ltd. [Delhi-VII]	1994-95	143(3)	The deduction on account of depreciation and interest was not disallowed during computation though it was proposed while completing the assessment.	75.90
20.	M/s State Bank of India [City-III, Mumbai]	1997-98	143(3)	The income on account of house property was not added at the time of making assessment.	71.66
21.	M/s Covelong Beach Hotel Ltd. [TN-III, Chennai]	1997-98 1998-99 1999-2000	143(3) 143(1)(a) 143(1)(a)	The incorrect adoption of business income and total receipts resulted in excess allowance of deductions.	64.10

TABLE NO 3.4 UNDERASSESSMENT OF INCOME AND TAX

Sl. No	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs in lakh)
22.	M/s Hindustan Organics Chemicals Ltd. [City-V, Mumbai]	1997-98	143(3)	The provision of tax was added as per provisional accounts instead of the figure adopted in revised return.	(63.85)
23.	M/s GE Lighting (I) Ltd. [City-III, Mumbai]	1997-98	143(3)	The assessee's claim for expenditure on acquisition of copyright was disallowed in the assessment order but not deducted from the book loss.	(62.96)
24.	M/s Oasis India Ltd. [Delhi-III]	1996-97	144	Incorrect adoption of figure of unexplained expenditure.	61.13
25.	M/s Gas Authority of India Ltd. [Delhi-I]	1997-98	143(3)	While determining the tax demand after scrutiny assessment, the tax already assessed was incorrectly deducted.	59.23
26.	M/s Incorporated Engineers Ltd. [City-I, Mumbai]	1996-97	143(3)	While computing total income, the returned income was taken as negative figure instead of positive figure.	53.12 (1.52)
27.	M/s Crest Paper Mills Ltd. [City-VI, Mumbai]	1998-99	143(1)(a)	Disallowable deductions were added to book loss instead of being reduced and admissible deductions were reduced instead of being added.	(50.63)

\*Figures in brackets denotes potential tax effect

Similar mistakes in computation of income and tax in 67 cases in Andhra Pradesh, Bihar, Delhi, Gujarat, Karnataka, Maharashtra, Madhya Pradesh, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Chandigarh and West Bengal charges resulted in an aggregate short levy of tax of Rs. 1103.46 lakh.

The Ministry have accepted the audit observation at Sl.No.1 of the statement and in 10 out of 67 cases.

#### Application of incorrect rate of tax

3.7 Under the provisions of the Income Tax Act, 1961, income tax is chargeable for every assessment year in respect of the total income of the previous year of an assessee according to the rates prescribed under the relevant Finance Act. A domestic company is chargeable to tax at specified rates depending on whether it is a company in which public are substantially interested, and if not, whether it is an industrial company or trading and investment company or any other company. Further as per the Finance Act, 1996 the amount of income tax so computed in the case of every domestic company having total income exceeding seventy five thousand rupees shall be increased by a surcharge at the rate of 7.5 percent on such income tax.

Few cases of incorrect application of rates are illustrated below:

(Rs. in lakh)

TABLE NO 3.5 INCORRECT APPLICATION OF RATE OF TAX

Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6
1.	M/s Mid East India Ltd. [Central-I, Delhi]	1997-98	143(3)	Surcharge was not levied.	136.79
2.	M/s Oracle Corporation Ltd. [Delhi-I]	1997-98	143(1)(a)	Tax was levied at lower rate.	102.23
3.	M/s Vatsa Corporation [Central-I, Mumbai]	1997-98	143(3)	Surcharge was not levied.	84.90
4.	M/s Mesco Pharma Ltd. [Central-I, Delhi]	1997-98	143(3)	Surcharge was not levied.	57.69

Similarly in 12 cases in Andhra Pradesh, Gujarat, Maharashtra, Orissa, Tamil Nadu, Uttar Pradesh and West Bengal charges, the mistakes committed in assessments for levying tax at incorrect rates resulted in aggregate short levy of tax of Rs. 163.72 lakh.

The Ministry have accepted the audit observation in 4 out of 12 cases.

The replies of the Ministry to the audit observations at Sl.No.1 to 4 of the statement have not been received.

#### Incorrect allowance of capital expenditure

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

- It has been judicially held<sup>1</sup> that where the expenditure incurred bring into existence a new asset or where the cost of replaced parts constitute substantial value (20 percent) of the old machinery, the expenditure incurred would constitute capital expenditure.
- It has further been held<sup>2</sup> that where the assessee purchases securities at a price determined with reference to their actual value as well as the interest accrued thereon till the date of purchase, the entire price paid for them would be in the nature of a capital outlay and no part of it can be set off as an expenditure against the income of interest received on securities.
- It has also been judicially held<sup>3</sup> that interest paid before commencement of production on amounts borrowed by the assessee for the acquisition and installation of plant and machinery forms part of the actual cost of the assets.

Cases where the above provisions were not applied are illustrated below:

<sup>1</sup> CIT Vs Balimal Naval Kishore 224-ITR-414 (SC)

<sup>2</sup> Vijaya Bank Ltd. Vs CIT 187 ITR 541 (SC)

<sup>3</sup> CIT Vs Bokaro Steel Ltd. 236-ITR-315 (SC)

(Rs. in lakh)

TABLE NO. 3.6 INCORRECT ALLOWANCE OF CAPITAL EXPENDITURE					
Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect
1	2	3	4	5	6
1.	M/s Gujarat Electricity Board Co. [Baroda, Gujarat]	1993-94	143(3)	Repayment of principal amount on account of lease of asset was a capital expenditure and hence deduction allowed was not admissible.	621.00
2.	M/s Usha Ispat Co. Ltd. [Kolhapur, Maharashtra]	1996-97	143(3)	Expenditure incurred to bring into existence a new asset or deriving an advantage of an enduring nature by replacing the entire machinery was treated as revenue expenditure.	529.31
3.	M/s The Indian Bank [TN-I, Chennai]	1996-97	143(3)	The interest paid on buy-back transaction of securities was treated as revenue expenditure and allowed as a deduction.	(277.90)
4.	M/s Dharani Sugars & Chemicals Ltd. [TN-IV, Chennai]	1995-96	143(3)	The interest paid relating to funds borrowed for setting up a distillery unit which had not commenced production was not treated as capital expenditure.	175.92
5.	M/s Tube Investments of India Ltd. [TN-I, Chennai]	1997-98	143(3)	The interest paid on capital borrowed towards capital works-in-progress was capitalised but treated as revenue expenditure for I.T. purposes which was required to be disallowed.	162.57
6.	The Indian Iron & Steel Co. Ltd. [WB-I, Kolkata]	1997-98	143(1)(a)	Loans and advances written off in the case of a non-banking company is not an admissible deduction being of capital nature.	(133.18) 26.64
7.	M/s Asahi India Safety Glass Ltd. [Delhi-I]	1997-98	143(3)	The treatment of interest amount as revenue expenditure in respect of a new unit was irregular.	159.10
8.	M/s S.Kumar Ltd. [City-III, Mumbai]	1997-98	143(3)	The amount on account of purchase of machinery was allowed as deduction.	93.55
9.	M/s Bharat Hotel Ltd. [Delhi-III]	1997-98	143(3)	The expenditure incurred on "Fixed wood work" under "Repair and Maintenance" head was allowed as deduction though the assessee had derived advantage of enduring nature.	80.96

\*Figures in brackets denotes potential tax effect

Mistakes of similar nature in 11 other cases in Delhi, Gujarat, Karnataka, Maharashtra, Tamil Nadu and Uttar Pradesh charges resulted in short levy of tax aggregating to Rs.169.13 lakh.

The Ministry have accepted the audit observations at Sl.No.6 of the statement.

**Incorrect allowance of provisions**

**3.9** Under the Income Tax Act, 1961, a provision made in the accounts for an accrued or known liability is an admissible deduction, while other provisions made do not qualify for deduction. It has been judicially held<sup>1</sup> that for a loss to be deductible it must have actually arisen and incurred and not merely anticipated as certain to occur in future. Only such expenses are allowable as deduction from previous year's income as are relevant to that year. A mere claim against the assessee is not sufficient to justify deduction. It has been judicially held<sup>2</sup> that where a liability to pay damages is under dispute, such liability would accrue only when the settlement of dispute is made, even if the assessee is following mercantile system of accounting.

Cases where the above provision was not adhered to are given below:

TABLE NO 3.7 INCORRECT ALLOWANCE OF PROVISIONS					
Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs. in lakh)
1	2	3	4	5	6
1.	M/s Engineers India Ltd. [Delhi-VII]	1997-98	143(3)	The provision made on account of revision of salary in the absence of any approval was an unascertained liability and does not qualify for deduction.	822.11
2.	M/s GEC Alstom India Ltd. [TN-II, Chennai]	1994-95	143(1)(a)	Provision for voluntary retirement scheme payment in excess of actual expenditure was not an admissible deduction.	18.55 (627.27)
3.	M/s Mahanagar Telephone Nigam Ltd. [Delhi-III]	1996-97	143(3)	Provisions made on account of pension contribution to the staff on deputation on adhoc basis was erroneously allowed.	609.62
4.	M/s Thiru Arooran Sugars Ltd. [TN-II, Chennai]	1993-94	143(1)(a)	The provision made towards purchase tax liability was allowed as deduction.	239.56
5.	M/s HMT Ltd. [Karnataka-II]	1997-98	143(1)(a)	Even though provisions for doubtful debts and contingencies were not accrued or ascertained liabilities, these were allowed as deductions.	26.35 (131.75)
6.	M/s Wartsila Diesel (I) Ltd. Co. [City-III, Mumbai]	1995-96	143(3)	Provision for trade guarantee was allowed as deduction in the absence of any details of expenditure.	161.32

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

<sup>2</sup> CIT Vs Phalton Sugar Works Ltd. 162 ITR 622 (Bombay)



Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs. in lakh)
7.	M/s Goodricke Group Ltd. [WB-II, Kolkata]	1997-98	143(3)	The provision for doubtful debts was not an allowable deduction.	100.68
8.	M/s HMT Ltd. [Karnataka-II]	1996-97	143(1)(a)	Though the provision for doubtful debts, advance and contingencies were unascertained liabilities, deduction was allowed.	(65.77) 13.15

\*Figures in brackets denotes potential tax effect

Other mistakes of similar nature in 16 cases in Delhi, Gujarat, Haryana, Maharashtra, Tamil Nadu and West Bengal charges resulted in total short levy of tax of Rs.254.25 lakh.

The Ministry has accepted the audit observation in 1 out of 16 other cases.

The replies of the Ministry to the audit observations at Sl.No. 1 to 8 of the statement have not been received.

#### Incorrect allowance of liability

**3.10** Under the Income Tax Act, 1961, as applicable from the assessment year 1984-85, certain deductions are allowable only on actual payment of expenditure as specified under section 43B of the Act.

- From 1<sup>st</sup> April 1988, tax or duty actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income shall also be allowed as deduction.
- From 1<sup>st</sup> April 1989, cess, fee or any sum payable by an assessee as employer by way of contribution to any provident fund, superannuation fund or gratuity fund etc. or any sum payable to an employee as bonus or commission for services rendered or any sum payable as interest on any loan from any public financial institution are also deductible on actual payment basis. No deduction in respect of contribution to the above funds is however, allowable where such sum has actually been paid before the stipulated due date as specified under the relevant statute governing the funds.
- It has been judicially held<sup>1</sup> that the amount of sales tax collected by a trader in the course of business constitutes his trading or business income. Further, as applicable from assessment year 1997-98, a deduction otherwise allowable under the Act in respect of any sum payable by the assessee as interest on term loan from a scheduled bank in accordance with the terms and conditions of the agreement governing such loan shall be allowed in computing the business income of that previous year in which such sum is actually paid and not merely on the basis of accrual of the liability. Interest actually paid on or before the due date of submission of the return of income for the relevant previous year shall also be allowed as deduction. The CBDT, in consultation with the Ministry of Law, have clarified vide Circular No.496 dated 25-9-87 that in regard to cases where sales tax payable by a registered dealer has been deferred under specific sales tax deferment scheme of a State Government and the tax so deferred is deemed to have been paid in the year in which the liability thereof has arisen, the dealer would be entitled to claim in the relevant assessment year, the amount of tax deemed to have been paid in the relevant previous year.

<sup>1</sup> Chowringhee Sales Bureau Pvt. Ltd. Vs CIT 87 ITR 542 (SC)

Cases where the above provisions were not adhered to are given below:

TABLE NO 3.8 INCORRECT ALLOWANCE OF LIABILITY					
Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs. in lakh)
1	2	3	4	5	6
1.	The West Bengal Power Development Corporation Ltd. [WB-III, Kolkata]	1997-98	143(3)	Interest debited to Profit and Loss account was not paid before the due date of submission of return and yet was allowed as a deduction.	1183.48 (820.40)
2.	M/s Madhumilan Syntex Ltd. [City-III, Mumbai]	1994-95 1995-96	143(1)(a) 143(3)	The sale was reflected as net of sales tax and excise duty and again sales tax was debited as payable and hence the deduction allowed was irregular.	188.74
3.	M/s Bhopal Sugar India Ltd. [Bhopal, M.P.]	1997-98	143(1)(a)	Interest payable to the scheduled bank on a term loan treating it as deemed payment was allowed as deduction.	178.10
4.	M/s Hindustan Cables Ltd. [WB-XI, Kolkata]	1994-95 and 1995-96	143(3)	Excise duty was not added to income though collected from traders and not paid to Government account.	(177.20)
5.	M/s Andrew Yule & Co. Ltd. [WB-II, Kolkata]	1995-96	143(3)	Excess deductions were allowed against the total amount of additions in respect of non-payment of interest which was irregular.	(126.35)
6.	M/s Bharat Brakes and Valves Ltd. [WB-IV, Kolkata]	1994-95	143(3)	Sales tax was not added to income though collected from traders and not paid to Government account.	(106.22)
7.	M/s J.K. Jute Mills Co. Ltd. [Kanpur, U.P.]	1996-97	143(3)	Liability was incorrectly allowed in assessment year 1997-98 in place of assessment year 1996-97.	(87.93) 17.59
8.	M/s Polar Latex Ltd. [WB-III, Kolkata]	1996-97	143(1)(a)	Deduction on account of payment of tax and duty was allowed in absence of any supporting evidence of payment in lieu thereof.	93.53
9.	M/s Optel Telecommunications Ltd. [Bhopal, M.P.]	1997-98	143(3)	The sales tax collected was treated as loan under the sales tax deferment scheme but there was no proof of its conversion into loan by the specified agency and hence the deduction allowed was irregular.	(84.84)

TABLE NO 3.8 INCORRECT ALLOWANCE OF LIABILITY

Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs. in lakh)
10.	M/s Cauvery Sugars and Chemicals Ltd. [TN-I, Chennai]	1994-95	143(3)	The interest on loan borrowed was not paid either during the previous year or before the due date of filing of return and hence deduction allowed was not correct.	(80.57)
11.	M/s National Textile Corporation P. Ltd. [Indore, M.P]	1988-89	143(3)	Though provident fund and E.S.I Fund were not deposited with the appropriate authority within the stipulated due date, yet these were allowed as deduction.	(71.46)
12.	M/s Stilbene Chemicals Ltd. [Central Bangalore, AP]	1996-97	143(3)	The unpaid liability was incorrectly quantified and disallowed on a proportionate basis instead of disallowing the entire unpaid liability.	54.44

\*Figures in brackets denotes potential tax effect

Similar nature of mistakes in 22 other cases in Delhi, West Bengal, Maharashtra, Uttar Pradesh, Karnataka, Madhya Pradesh, Gujarat, Orissa, Andhra Pradesh, Punjab and Bihar charges resulted in short levy of tax aggregating to Rs.375.87 lakh.

The Ministry have accepted the audit observation in 2 out of 22 other cases.

The replies of the Ministry to the audit observations at Sl.No.1 to 13 of the statement have not been received.

#### Incorrect valuation of closing stock

**3.11** Under the Income Tax Act, 1961, the income of an assessee from business or profession shall be computed in accordance with the method of accounting regularly employed by the assessee. It has been judicially held<sup>1</sup> that any system of accounting which excludes for the valuation of closing stock-in-trade all costs other than the cost of raw material is likely to result in a distorted picture of the true state of business for the purpose of computing its chargeable income. The Board clarified in 1981 that central excise/custom duties, if any payable by the manufacturer/trader should go into calculation of production cost and the closing inventory should include an element of this duty to represent such cost.

It has also been judicially held<sup>2</sup> that the difference between the stock disclosed to the commercial bank and the stock valued in the books of account should be treated as income from undisclosed sources and added to the income of the assessee. In order to determine the profit from business, an assessee who maintains accounts on mercantile basis may choose to value closing stock of his business every year at cost or at market price, whichever is lower. Further, the valuation of stock is a vital factor in determining the taxable income from business, as correct profits of the assessee cannot be ascertained unless the opening and closing stocks are valued correctly.

Cases where the above provision were not adhered to are given below:

<sup>1</sup> CIT Vs British Paint India Ltd. 188 ITR 44 (SC)

<sup>2</sup> M/s Swadeshi Cotton Mills Co. Ltd. Vs CIT 180-ITR-651 (SC)

TABLE NO 3.9 INCORRECT VALUATION OF CLOSING STOCK					
Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs. in lakh)
1	2	3	4	5	6
1.	M/s Indian Oil Corporation Ltd. [City-II, Mumbai]	1997-98	143(3)	Excise/Custom duty payable on products and crude stored in a bonded warehouse had not been included in the value of closing stock.	31555.29
2.	M/s BPC Ltd. and 36 others [City-I to VI, Mumbai and Pune]	1994-95 to 1997-98	143(3)	Excise/custom duty payable on finished goods had not been included in the value of closing stock nor were the same debited to the P&L Account on accrual basis.	16165.61
3.	M/s Hindustan Lever Ltd and 12 others [City-I, II, III, IX, Pune, Central-I, Mumbai]	1994-95 to 1997-98	143(1)(a) and 143(1)	Excise duty payable on finished goods had not been included in the value of closing stock.	4583.36
4.	M/s Indian Metal and Ferro Alloys and 11 others [Orissa, Bhubaneswar]	1994-95 1996-97 1997-98 1998-99	144 143(3) 143(3) 143(1)(a)	Excise duty was not considered for valuing the closing stock of finished goods.	916.30
5	M/s KCP Ltd. [Central, Bangalore, AP]	1993-94 and 1994-95	143(3)	Closing stock of finished goods were valued without including the element of excise duty.	414.94 (404.06)
6.	M/s Sanghi Polysters Ltd. [Central, Bangalore, AP]	1996-97	143(3)	Differential value of stock valuation towards the element of excise duty payable on the finished bonded goods were not added to closing stock.	(701.99)
7.	M/s ITI Ltd. [Karnataka-II]	1996-97	143(3)	Unpaid Excise duty was not included in the closing stock	(523.21)
8.	M/s Rajender Pipes Ltd. [Kanpur, U.P]	1997-98	144	Excise duty payable on finished goods was not included in the value of closing stock of finished goods.	(384.40)
9.	M/s Rajender Steels Ltd. [Kanpur, U.P]	1997-98	144	Excise duty payable on finished goods was not included in the value of closing stock of finished goods.	384.40
10.	M/s Hindustan Development Corporation Ltd. [Central Circle-II, Kolkata, WB]	1996-97 and 1997-98	143(3)	Customs duty and excise duty payable on materials lying in bond and in factory had not been included in the valuation of closing stock.	238.18
11.	M/s Spartek Ceramics India Ltd. [Vijayawada, A.P]	1997-98	143(3)	Excise duty paid/payable was not included in the valuation of closing stock of finished goods.	(79.22)
12.	M/s Hoechst S.A. Ltd. [City-III, Mumbai]	1996-97	143(3)	Difference between stock declared to the bank and in books of accounts not added back.	137.35

TABLE NO 3.9 INCORRECT VALUATION OF CLOSING STOCK

Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs. in lakh)
13.	M/s K.M. Sugar Mills Ltd. [Kanpur, U.P]	1997-98 1998-99	143(3)	Excise duty leviable on the value of closing stock of finished goods was not included in the value of closing stock.	(107.81)

\*Figures in brackets denotes potential tax effect

Similar nature of mistakes in 7 other cases in the charges of West Bengal, Orissa, Delhi, Uttar Pradesh, Gujarat and Karnataka resulted in an aggregate short levy of tax of Rs.120.09 lakh.

The replies of the Ministry to the audit observations have not been received.

**Incorrect  
computation of  
income of  
financial  
corporations**

**3.12 (a)** Under the Income Tax Act, 1961, as amended with effect from 1 April 1992, by Finance (No.2) Act, 1991, in the case of a public financial institution or a scheduled bank or a State Financial Corporation or State Industrial Corporation, the income by way of interest in relation to such categories of bad or doubtful debts as may be prescribed, having regard to the guidelines issued by RBI and subsequently clarified in March 1993 with reference to Section 43(D) of the Income Tax Act, 1961, that such debts, shall be chargeable to tax in the previous year in which it is credited by the public financial institution or the scheduled bank or the State Financial Corporation or State Industrial Corporation to its Profit and Loss Account for that year or as the case may be in which it is actually received by that institution or bank or corporation whichever is earlier.

In Tamil Nadu-I, Chennai charge, the assessment of a scheduled bank (**M/s Indian Bank**) for the assessment year 1993-94 was completed after scrutiny in June 1996 adopting Nil income. Audit scrutiny revealed that while computing the total income, the assessee bank had debited a sum of Rs.5525.73 lakh towards 'Provisions for Prudential Norms' representing interest on non-performing assets under the head 'Provisions and Contingencies'. Under the instructions issued by the Reserve Bank of India in April 1992, Scheduled Banks and other financial institutions/ corporations are required to classify all advances irrespective of size into performing and non-performing assets. Provisions are required to be made taking into account the time lag between an account becoming doubtful of recovery, its recognition as such, the classification of security and erosion over time in value of security charged. Though the provision of Rs.5525.73 lakh for interest on non-performing assets was made in the accounts as per the Prudential Norms set out by RBI, the fact remained that the amount represented only provision for future loss/ liability which were only estimated and not ascertained. Incorrect provision of Rs.5525.73 lakh for unascertained/contingent liability resulted in under assessment of income by Rs.5500.42 lakh after allowing further deduction of Rs.25.31 lakh for provision for bad debts in respect of foreign branches with consequential short levy of tax of Rs.3188.05 lakh including withdrawal of interest granted on refund.

The reply of the Ministry to the audit observation has not been received.

**(b)** Under the Income Tax Act, 1961 financial corporations engaged in providing long term finance for industrial or agricultural development in India, are entitled to a special deduction of an amount transferred by them out of their profits, to a special reserve account upto an amount not exceeding 40 percent of their total income. Similarly, in respect of any provision for bad and doubtful debts made by the public financial institutions or state financial corporation or state industrial investment corporation, an

amount not exceeding five percent of the total income is admissible. The total income in either case is computed before allowing this deduction and any deduction under Chapter VIA. Further, the corporation should be approved by Central Government for the purpose of this clause.

Cases where the above provisions were not adhered to are given below:

(Rs. in lakh)

**TABLE NO 3.10 INCORRECT COMPUTATION OF INCOME OF FINANCIAL CORPORATIONS**

Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6
1.	M/s Housing Urban Development Corpn. [Delhi-I]	1996-97	143(3)	The deduction allowed was not restricted to the amount of special reserve created.	1515.51
2.	M/s Power Finance Corporation Ltd. [Delhi-III]	1997-98	143(3)	The deduction allowed was not restricted to the amount of special reserve created.	1336.44
3.	M/s Housing Urban Development Corpn. Ltd [Delhi-I]	1998-99	143(1)(a)	As the special reserve have to be maintained and kept intact from assessment year 1988-89, the adjustment made was not in order and the entire provision was to be added back.	1221.55
4.	M/s Tourism Finance Corporation of India Ltd. [Delhi-III]	1998-99	143(1)(a)	The amount of withdrawal from the special reserve created was given deduction instead of showing it as withdrawal and treating it as income.	315.00
5.	M/s Industrial Promotion and Investment Corporation of Orissa Ltd. [Orissa, Bhubaneswar]	1997-98	143(3)	The assessee's claim of excess provision of bad debts over and above the prescribed 5 percent of its total income was allowed as deduction.	198.26
6.	M/s UPSIDC Ltd. [Kanpur, U.P]	1995-96 and 1996-97	143(3)	The deduction allowed was not restricted to the amount of special reserve created.	143.09
7.	M/s National Insurance Co. Ltd. [WB-V, Kolkata]	1996-97 and 1997-98	143(3)	The deduction on account of bad and doubtful debts was allowed in excess of 5% of the total income of the assessee.	90.47

The replies of the Ministry to the audit observations have not been received.

**Other mistakes  
in computation  
of business  
income**

**3.13** Under the Income Tax Act, 1961, if an expenditure is of an enduring nature, the expenditure may be charged as capital expenditure and not as business expenditure. It was judicially held<sup>1</sup> that fee paid to obtain licence to investigate, search and find out mineral is not admissible as business expenditure. Income from other sources is liable to be assessed as such and it should not be reduced from the cost of the installation of plant and machinery or any other asset.

<sup>1</sup> R.B. Seth Mool Chand Sughan Chand Vs CIT 86-ITR-647 (SC)

- It has been judicially held by the Supreme Court<sup>1</sup> that if there is no business income, no set off from the interest income on the fixed deposits can be allowed before the commencement of the business for pre-operative expenditure.
- With effect from 1 April 1987, the Act provides that in respect of any provision for bad and doubtful debts made by a scheduled or non-scheduled bank, an amount not exceeding five percent of its total income (computed before making any deduction under this provision and chapter VIA) shall be allowed as deduction while computing the business income of the assessee.
- Only such expenses are allowable as deduction from a previous year's income as are relevant to that year.
- The admissible deduction towards preliminary expenses incurred prior to the commencement of business or in connection with extension of industrial undertaking is allowed subject to limitations in the Act in equal instalments spread over ten years. This deduction is admissible only from the initial year of production.
- With effect from assessment year 1998-99 dividend received from any Indian company is exempt from tax in the hands of the recipient. The CBDT vide circular issued in October 1999, had clarified that in cases of exempted receipts, it is the net income flowing therefrom that is exempt from tax.
- The CBDT issued instructions in December 1981 that interest tax assessments should as far as possible be completed along with the income tax assessments.
- It has been judicially held<sup>2</sup> that transaction in land which is in the assessee's line of business, is adventure in the nature of trade, even if it is a solitary transaction.
- With effect from 1 April 1986, where the assessee has paid in any previous year lump sum consideration for acquiring any 'know how' for use for the purpose of his business, one-sixth of the amount so paid shall be deducted in computing the business income for that year and the balance shall be deducted in equal instalments in each of the five immediately succeeding previous years.

Cases where the above provisions were not adhered to are given below:

TABLE NO 3.11 OTHER MISTAKES IN COMPUTATION OF BUSINESS INCOME					
Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs. in lakh)
1	2	3	4	5	6
1.	M/s U.P. State Spinning Co. Ltd. [Kanpur, U.P.]	1997-98	143(3)	The receipt of interest on term loan waived off was not added in the total income.	(606.77)
2.	M/s K.R. Steel Unions Ltd. [City-V, Mumbai]	1995-96	143(3)	The disputed liability for contractual obligation was allowable in the assessment year relevant to previous year in which it was finally settled.	(298.63)

<sup>1</sup> Tuticorin Alkali Chemicals and Fertilizers Ltd. Vs CIT 227-ITR-172 (SC)

<sup>2</sup> Saroj Kumar Mazumdar Vs CIT 37-ITR-242 (SC)

TABLE NO 3.11 OTHER MISTAKES IN COMPUTATION OF BUSINESS INCOME

Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs. in lakh)
3.	M/s Rajasthan State Electricity Board [Jaipur, Rajasthan]	1996-97	143(1)(a)	The fuel-related receivables and claims against sundry receivables did not include net claim of coal grade difference recoverable from a company.	(162.19)
4.	M/s South Eastern Coal Fields Ltd. [Raipur, M.P.]	1995-96	143(1)(a)	The amount payable to state government for rehabilitation of people and declared as akin to fee for use of land for mining was allowed as deduction.	108.02 + 21.60(A)
5.	M/s Bridge Stone ACC India Ltd. [Indore, M.P.]	1998-99	143(1)(a)	The amount of interest on fixed deposits was set off against pre-operative expenditure instead of taxing it as income from other sources.	(116.14)
6.	M/s Sul India Ltd. [Bhopal, M.P.]	1997-98	143(3)	The premium received on account of allotment of share was to be disallowed as the bonafides of transaction were not proved.	(114.63)
7.	M/s Rom Industries Ltd [Patiala, Punjab]	1997-98	143(1)(a)	The deduction on account of "modvat balance written off" was not admissible as no expenditure on this account was incurred.	(89.73) + 17.95
8.	M/s Standard Chartered Bank [City-III, Mumbai]	1995-96	143(3)	Deduction in respect of provision for bad and doubtful debts before set off of losses was irregular.	103.89
9.	M/s Monica Electronics Ltd. [Delhi-II]	1996-97	143(3)	The expenditure under the head "Pinnacle and Super Summit" was entertainment expenditure and as such inadmissible.	90.57
10.	M/s Goetze (India) Ltd. [Delhi-II]	1997-98	143(3)	The expenditure of earlier years debited to Profit and Loss account of previous year relevant to assessment year 1997-98 was allowed as deduction.	79.38
11.	M/s Century Tubes Ltd. [Rohtak, Haryana]	1990-91 to 1995-96	143(3)	The company had not started production in the new unit due to dispute and hence the deduction claimed by the assessee on account of interest payable to the debenture holders and the expenditure charged to 'preliminary expenses' for issue of debenture should not have been allowed as deduction.	(69.03) 13.81



Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs. in lakh)
12.	M/s Assam Company Ltd. [Shillong, Assam ]	1997-98	143(3)	The accumulated receipts towards sales tax have not been shown as trading receipt and assessing officer omitted to assess the same.	56.77
13.	M/s Gravity Realty Ltd. [City-V, Mumbai]	1998-99	143(1)(a)	As dividend income is exempt, expenditure by way of interest and other expenses incurred to earn the same should have been disallowed.	(56.36)
14.	M/s Elbee Airlines Ltd. [City-II, Mumbai]	1996-97	143(3)	The expenditure incurred on training, public related sales promotion and advertisement prior to the date of commencement of business was not an admissible expenditure and should have been disallowed.	(55.55)
15.	M/s Indian Bank [TN-I, Chennai]	1993-94	143(3)	As per the revision of interest tax assessment to give effect to appellate orders the interest tax liability was reduced and hence excess liability should have been withdrawn.	53.95
16.	M/s Billimoria Construction (P) Ltd. [City-II, Mumbai]	1995-96	143(3)	The profit on sale of flats should have been treated as business income as this was the assessee's main business activity.	52.44
17.	M/s National Aluminum Co. [Orissa, Bhubaneswar]	1997-98	143(3)	The amount paid by the assessee to a foreign technology supplier towards technical assistance fee was fully allowed as expenditure instead of restricting it to 1/6 <sup>th</sup> while computing taxable income.	(51.88)
18.	M/s Global Telesystem Ltd. [City-XII, Mumbai]	1996-97	143(1)(a)	Expenditure incurred on issuing shares to increase its capital was allowed as deduction in full instead of restricting it to 1/10 <sup>th</sup> .	50.27

\*Figures in brackets denotes potential tax effect

Mistakes of similar nature in 42 other cases in West Bengal, Tamil Nadu, Maharashtra, Karnataka, Rajasthan, Assam, Delhi, Gujarat, Madhya Pradesh, Uttar Pradesh, Kerala, Punjab and Himachal Pradesh charges resulted in total short levy of tax of Rs.797.70 lakh.

The Ministry have accepted the audit observation in 3 out of 42 other cases.

**Irregular  
allowance of  
depreciation**

The replies of the Ministry to the audit observations at Sl.No.1 to 18 of the statement have not been received.

**3.14** Under the Income Tax Act, 1961 deduction on account of depreciation on block of plant and machinery and other assets is admissible at the prescribed rates while computing the business income of the assessee if these are owned by the assessee and used for the purpose of business during the relevant previous year.

(a) To be eligible for deduction as depreciation, the assessee must be the owner of the assets and those assets must have been used by him in the course of his business. It has been judicially held<sup>1</sup> that tax planning may be legitimate provided it is within the framework of law and colourable devices cannot be part of tax planning. Tax planning should not be done with the intent to defraud revenue and all methods which are resorted to impair the true construction of statute resulting in availing undue advantage of law would be termed as colourable devices.

In Orissa, Bhubaneswar charge, the assessment of a State Government Corporation (**The Industrial Development Corporation of Orissa**) engaged in business of promotion and development of industries for the assessment year 1996-97, the assessing officer allowed 100% depreciation allowance of Rs.2500.00 lakh on addition of plant and machinery (Energy Monitoring System) acquired under a Sale-Cum-Lease Back arrangement from another State Government Corporation of Orissa. There was no transfer of goods as the assessee company did not take delivery of the plant and machinery. The assessee company also retained Rs.500.00 lakh as security deposit from the consideration to be paid and it was further stipulated that the asset will be retransferred after 60 months. Also the assets were not used in the course of its business during the previous year. The ownership and usufructuary on assets was retained with the seller company. The assessee thus adopted colourable devices by way of claiming ownership and depreciation on such assets, and receipt of lease rent was assessed as business income. The transaction was undertaken with an intention to avoid tax and it involved potential tax and non-levy of tax (inclusive of surcharge and interest under section 234B of the Income Tax Act, 1961) of Rs.207.56 lakh and Rs.192.27 lakh respectively.

The reply of the Ministry to the audit observation has not been received.

(b) It has been judicially held<sup>2</sup> that commencement of trial production does not amount to manufacture and as such the deduction on account of depreciation cannot be allowed as the plant and machinery was not used for the purpose of business.

Cases of incorrect allowance of depreciation noticed during test check are illustrated below:

---

<sup>1</sup> McDowell and Company Ltd. Vs CIT 154-ITR-148 (SC)

<sup>2</sup> Metropolitans Springs Pvt. Ltd. Vs CIT (Central) Mumbai 132-ITR-893 (Mumbai)

(Rs. in lakh)

TABLE NO 3.12 IRREGULAR ALLOWANCE OF DEPRECIATION

Sl. No.	Name of the assessee CIT's charge	Assessment year	Section under which assessed	Nature of mistake	*Tax effect
1	2	3	4	5	6
1.	M/s Rural Electrification Corporation [Delhi-II]	1995-96	143(3)	Depreciation already allowed in an earlier year was again considered though the written down value was nil.	(1619.48)
2.	M/s Indo Gulf Industries Ltd. [Delhi-I]	1996-97	143(3)	Depreciation was allowed on assets in the unit which had not started commercial production during the relevant previous year.	182.57 (151.57)
3.	M/s DCM Shriram Consolidated Ltd. [Delhi-I]	1996-97 1997-98	143(1)(a)	Depreciation was allowed on book value of assets instead of their written down value	31.60 (157.98)
4.	M/s Piccadily Agro Industries Ltd. [Panchkula, Haryana]	1996-97	143(3)	Depreciation was allowed on plant and machinery on which no commercial production had commenced.	(161.59)
5.	M/s Hind Syntex Ltd. & one other [Bhopal]	1996-97	143(3)	Depreciation was allowed on assets which were not in use.	93.10
6.	M/s Ramanuj Leasing Ltd. [Delhi-I]	1994-95 1995-96	143(3)	Depreciation was allowed at higher rate on the assets leased out.	90.22

\*Figures in brackets denotes potential tax effect

Similar nature of mistakes in 37 cases of Delhi, Gujarat, Karnataka, Madhya Pradesh, Andhra Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal charges resulted in aggregate short levy of tax of Rs.604.24 lakh.

The Ministry have accepted the audit observation in 1 out of 37 other cases.

The replies of the Ministry to the audit observations at SI No. 1 to 7 of the statement have not been received.

(c) Depreciation is calculated on the cost of written down value of the assets according to the rates prescribed in the Income Tax Rules 1962. Where any asset falling within a block of assets is acquired by the assessee during the previous year and is put to use for the purpose of business or profession for a period of less than one hundred and eighty days in that previous year, the deduction in respect of such asset shall be restricted to fifty percent of the amount calculated at the percentage prescribed in respect of the block of assets comprising such assets.

Cases of incorrect application of rates of depreciation noticed during test check are illustrated below:

**Incorrect application of rates of depreciation**

(Rs. in lakh)

TABLE NO 3.13 INCORRECT APPLICATION OF RATES OF DEPRECIATION					
Sl. No	Name of the assessee CIT's charge	Assessment year	Section under which assessed	Nature of mistake	*Tax effect
1	2	3	4	5	6
1.	Haryana State Electricity Board [Panchkula, Haryana]	1992-93 1993-94 1994-95	143(3) 143(3) 143(1)(a)	Depreciation was allowed in full on assets added to the block of assets for which there was no details and put to use for less than 180 days.	(1660.74)
2.	M/s South India Shipping Corporation Ltd. [Central-I, Chennai, TN]	1994-95	143(3)	Depreciation was allowed in full even though the plant and machinery was put to use for less than 180 days.	762.61
3.	M/s W.S. Industries (India) Ltd. [TN-II, Chennai]	1999-2000	143(1)(a)	Depreciation was allowed in full even though the assets were put to use for less than 180 days.	(65.99)
4.	M/s Enviro Clean Systems [AP-I, Hyderabad]	1995-96	143(1)(a)	Depreciation granted on block of assets acquired during the year at 100 % instead of the admissible rate of 25%	59.93
5.	M/s Alfa Laval Financial Services Ltd. [City-II, Mumbai]	1996-97	143(3)	Depreciation was allowed in full even though the plant and machinery was put to use for less than 180 days.	50.61

\*Figures in brackets denotes potential tax effect

Similar nature of mistakes in 19 other cases in Andhra Pradesh, Bihar, Delhi, Gujarat, Kerala, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh charges led to aggregate short levy of tax of Rs.217.38 lakh.

The Ministry have accepted the audit observation at Sl.No.1 of the statement and in 5 out of 19 other cases.

**3.15** Under the Income Tax Act, 1961, the written down value of any block of assets in respect of any previous year relevant to the assessment year commencing on or after the first day of April 1989 is the written down value of that block of assets at the beginning of the previous year as increased by the actual cost of any asset falling within that block acquired during the previous year and as reduced by the moneys payable in respect of any asset falling within that block which is sold or discarded or destroyed during the previous year. The Act provides for the calculation of depreciation on the cost or written down value of the asset according to the rates prescribed in the Income Tax Rules 1962.

Cases of incorrect application of the above provisions are indicated below:

(Rs. in lakh)

Sl. No	Name of the assessee CIT's charge	Assessment year	Section under which assessed	Nature of mistake	*Tax effect
1	2	3	4	5	6
1.	M/s Karnataka Electricity Board [Karnataka-II, Bangalore]	1997-98	143(3)	Excess depreciation was granted due to incorrect adoption of written down value.	(137.80)
2.	M/s Supreme Industries Ltd. [City-IV, Mumbai]	1996-97	143(3)	Incorrect adoption of figures of addition to fixed assets resulted in excess allowance of depreciation.	121.01
3.	M/s MVR Industries Ltd. & M/s Maxwell Exim Ltd. [Central-I, Chennai]	1994-95 to 1995-96	143(3)	Though depreciation claimed was disallowed yet value of assets was not reduced to the extent of the value of deductions held as bogus by the assessing officer resulting in excess allowance of depreciation.	83.42

\*Figures in brackets denotes potential tax effect

Similar nature of mistakes in 6 cases in Karnataka, Rajasthan, Tamil Nadu and West Bengal and Gujarat charges resulted in aggregate short levy of tax of Rs.99.05 lakh.

The replies of the Ministry to the audit observations have not been received.

**Incorrect carry forward/ set off of unabsorbed depreciation / investment allowance**

**3.16** Under the Income Tax Act, 1961, where for any assessment year unabsorbed depreciation or investment allowance under the head 'profits and gains of business or profession' cannot be set off against any other income in the relevant assessment year, such unabsorbed investment allowance shall be carried forward to the following assessment year and shall be set off against the profits and gains of any business or profession and if there is no positive income in that year also, it can be carried forward to the subsequent year for set off upto a maximum of eight assessment years, immediately succeeding the assessment year for which it was first computed.

Cases where the above provisions were not correctly applied are given below:-

Sl. No	Name of the assessee CIT's charge	Assessment year	Section under which assessed	Nature of mistake	*Tax effect (Rs. in lakh)
1	2	3	4	5	6
1.	M/s Tamil Nadu Electricity Board [TN-III, Chennai]	1997-98	143(1)(a)	Failure to rectify the mistake of assessment year 1996-97 in assessment year 1997-98 resulted in non-adoption of the correct amount of loss and in turn excess was carried forward as unabsorbed depreciation.	(169.42)

**TABLE NO 3.15 INCORRECT CARRY FORWARD/ SET OFF OF UNABSORBED DEPRECIATION / INVESTMENT ALLOWANCE**

Sl. No	Name of the assessee CIT's charge	Assessment year	Section under which assessed	Nature of mistake	*Tax effect (Rs. in lakh)
2.	M/s Devesh Metcast Ltd. [Gujarat-I, Ahmedabad]	1997-98	143(1)(a)	The set-off of unabsorbed depreciation pertaining to earlier years against short term capital gain was not in order.	166.81
3.	M/s Chambal Fertilisers & Chemicals Ltd. [Jaipur, Rajasthan]	1997-98	143(3)	Incorrect figures of depreciation were adopted and allowed.	(111.76)
4.	M/s Assam Gas Company Ltd. [Shillong, Assam]	1992-93	143(3)	Past losses of unabsorbed depreciation for assessment year 1988-89 were set off in assessment year 1989-90 while unabsorbed depreciation for assessment years 1986-87 and 1987-88 still remained unadjusted.	60.04
5.	M/s Pratappur Sugar & Industries Ltd. [WB-IV, Kolkata]	1995-96	143(3)	Set off of unabsorbed depreciation /investment allowance in assessment year 1995-96 was irregular as the entire amount was to be set off in assessment year 1994-95	51.35

\*Figures in brackets denotes potential tax effect

Similar mistakes in 17 other cases in Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan and Tamil Nadu charges resulted in aggregate short levy of tax of Rs.237.62 lakh.

The Ministry have accepted the audit observation at Sl.No.4 of the statement and in 3 out of 17 other cases.

**Incorrect computation of capital gains**

**3.17 (a)** Under the Income Tax Act, 1961, any profits and gains arising from the transfer of capital asset are chargeable to tax under the head 'Capital gains' and is taxable in the year in which the transfer takes place. As per the amended provisions of the Act with effect from 1 April 1995 (assessment year 1995-96) profits from transfer of capital asset including 'Goodwill' where the cost of acquisition is nil, is required to be taxed as capital gains.

In City V Mumbai charge, the assessment of a company (**M/s Duphar Interfran Ltd.**) for the assessment year 1996-97 was completed in a summary manner in September 1997 at a loss of Rs.701.55 lakh. Audit scrutiny revealed that while computing the taxable income, the assessee had reduced Rs.2997.63 lakh received on account of sale of its "Crocini" brand, which was credited to the profit and loss account, claiming the receipts to be capital in nature. However, capital gains remained to be assessed under the above provisions of the Act resulting in underassessment of income of Rs.2296.08 lakh involving short levy of tax of Rs.792.15 lakh and additional tax of Rs.206.84 lakh.

The reply of the Ministry to the audit observation has not been received.

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

in the case of acquisition of such asset by the assessee by purchase from a previous owner, shall be the amount of the purchase price and in any other case it shall be taken to be 'nil'. From the assessment year 1993-94 'Indexed cost of acquisition' and 'Indexed cost of improvement' would apply in the case of transfer of long-term capital assets. From the assessment year 1998-99, however, provisions relating to indexed cost of acquisition and indexed cost of improvement would not apply to the long term capital gains arising from the transfer of long term capital assets on bond or debenture other than capital indexed bond issued by the government. It has also been judicially held<sup>1</sup> that where shares are acquired by certain companies which sold them to another member of the same group of companies to which the assessee belonged, profit motive was patent in such transactions and the said transactions in shares was in the nature of a business deal.

Instances of failure to apply the above provisions correctly are given below:

(Rs. in lakh)

Sl. No	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect
1	2	3	4	5	6
1.	M/s Graphite India Ltd. [WB-IV, Kolkata]	1996-97	143(1)(a)	The additional amount received as a consideration for transfer of the rights of the cement plant in progress was not included in the computation of income and resulted in under assessment of short term capital gains.	162.45 (36.93)
2.	M/s New Ambadi Estates (P) Ltd. [TN-I, Chennai]	1994-95	143(1)(a)	There was omission to disallow the notional loss on the purported sale/transfer of rights on partially convertible debentures.	113.01 (7.30)
3.	M/s Balmer Lawrie & Co. Ltd. [WB-II, Kolkata]	1998-99	143(1)(a)	The transfer of capital assets being bonds took place in the previous year relevant to assessment year 1998-99 and hence the benefit of indexation to the assessee was not available.	(63.43) 12.82 0.67
4.	M/s Rallis India Ltd. [WB-II, Kolkata]	1997-98	143(3)	The capital gain on profits for surrender of tenancy rights was calculated on the basis of market value which was not in order.	60.42
5.	M/s Tube Investments of India Ltd. [TN-I, Chennai]	1993-94 and 1994-95	143(3)	The exemption granted under section 47 (iv) from the operation of capital gains tax is not admissible.	57.45

\*Figures in brackets denotes potential tax effect

Similar and other mistakes in computation of capital gains in 8 other cases in the charges of Delhi, Haryana, Madhya Pradesh, Maharashtra, Tamil Nadu and West Bengal led to total short levy of tax of Rs.171.54 lakh.

The replies of the Ministry to the audit observations have not been received.

<sup>1</sup> Jaipuria Bros Ltd Vs. CIT 180-ITR208 (Calcutta)

**Income  
escaping  
assessment**

**3.18** Under the Income Tax Act, 1961, the total income of a person for any previous year includes all incomes from whatever source derived which is received or which accrues or arises in such previous year unless specifically exempted from tax by the provisions of Act.

- It has been explained that consideration received from transfer of all or any rights including the granting of a license, in respect of a patent, invention, model, design, secret formula or process or trademark or similar property, is income.
- It has judicially been held<sup>1</sup> that any amount that is not taxable in the year of receipt as being of revenue character, changes its character when the amount becomes the assessee's own money because of limitation or by any other statutory or contractual right and the amount should be treated as income of the assessee. Further, in view of amended provision of the Act from 1 April 1989, the amount of any debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year is allowable as deduction in computing the income chargeable to tax.
- It has been provided by the Finance Act, 1987 that from the assessment year 1988-89, income includes, inter-alia, any sum received by the assessee from his employer as contributions to any provident fund or superannuation fund or any other fund set up for the welfare of such employees. However, a deduction in respect of any such sum shall be allowed to the assessee if the same is credited to the account of the employee in the relevant fund on or before the due date prescribed under the Act governing the fund.

Cases where income escaped assessment are given below:

<b>TABLE NO 3.17 INCOME ESCAPING ASSESSMENT</b>					
<b>Sl. No</b>	<b>Name of the assessee CIT's charge</b>	<b>Assessment Year</b>	<b>Section under which assessed</b>	<b>Nature of mistake</b>	<b>*Tax effect (Rs. in lakh)</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
1.	M/s Damodar Valley Corporation [WB-I, Kolkata]	1996-97	143(1)(a)	The power sales realisable from State Electricity Boards on account of increased rate of tariff effected by the assessee company were not taken into account in the computation of income.	317.92 (1589.60)
2.	M/s Indian Syntans Ltd. [TN-IV, Chennai]	1997-98	143(3)	The receipts were not distinguishable between capital and revenue and hence entire receipts should have been brought to tax and treated as income.	787.82
3.	M/s West Bengal Industrial Development Corpn. Ltd. [WB-II, Kolkata]	1996-97	143(3)	The interest income on loans advanced for assessment year 1996-97 on accrual basis was not included in the computation of income.	770.64
4.	M/s South India Shipping Corpn. Ltd. [Central-I, Chennai]	1994-95	143(3)	The gain on cancellation of forward cover contract with the banks to guard against future fluctuations in the rate of exchange in respect of repayment of loans as well as purchase of plant and machinery was not treated as revenue.	235.18

<sup>1</sup> CIT Vs T.V. Sundaram Iyengar & Sons Ltd. 222 ITR 344 (SC)



TABLE NO 3.17 INCOME ESCAPING ASSESSMENT

Sl. No	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs. in lakh)
5.	M/s Star Estate Management (P) Ltd. [Delhi-III]	1995-96	143(3)	The sundry debtors were not reflected in the accounts and hence income escaped assessment.	176.36
6.	M/s Jenny Agro Foods Ltd. [TN-IV, Chennai]	1995-96	143(3)	The income received by way of liquidation of liabilities was not considered in computation of income for assessment year 1995-96.	161.07
7.	M/s Trishala Veneers (P) Ltd. [Rajkot, Gujarat]	1998-99	144	The unexplained investment was deleted at the time of passing assessment order without recording any reasons.	62.06
8.	M/s Garden Reach Ship Builders & Engineers Ltd. [WB-III, Kolkata]	1997-98	143(3)	Non-inclusion of the interest receivable was irregular as assessee was following mercantile system of accounting.	71.81
9.	M/s Tarmat Infrastructure & Engg. P Ltd. [City-VI, Mumbai]	1996-97	143(3)	Contract receipts were not credited to the profit and loss account in full.	68.21
10.	M/s Coal India Ltd. [WB-II, Kolkata]	1997-98	143(3)	In the absence of any approved pension fund the amount of employee's contribution to such fund was liable to be taxed which was not done.	(60.73)

\*Figures in brackets denotes potential tax effect

Similar and other mistakes in 17 cases in Delhi, Gujarat, Haryana, Madhya Pradesh, Maharashtra, Kerala, Tamil Nadu and West Bengal charges led to short levy of tax of Rs.362.87 lakh.

The Ministry have accepted the audit observation in 3 out of 17 other cases.

The replies of the Ministry to the audit observations at Sl.No.1 to 10 of the statement have not been received.

**Incorrect  
carry  
forward/set  
off of losses**

**3.19 (a)** Under the Income Tax Act, 1961, where the net result of the computation under the head 'Profits and gains of business or profession' is a loss to the assessee and such loss including depreciation can not be wholly set off against income under any other head of the relevant year, so much of the loss as has not been set off shall be carried forward to the following assessment year/years to be set off against the profits and gains of business or profession. With effect from 1 June 1999, section 143(1) of the Income Tax Act, 1961 was amended that simplified the procedure of processing of the return of income in a summary manner and doing away with prima facie adjustment, additional tax and issue of intimation. The Act also provides that the department shall initiate proceedings of scrutiny assessment after the return of income is processed in a summary manner. Where the examination of records and return for the year and other information on record warrant that it is necessary or expedient to ensure that the assessee has not understated the income and that the income returned does not reflect the correct income on which an assessee is assessable the case is selected for scrutiny assessment. The CBDT instruction no 1942 issued in July 1997 also stipulated selection of cases for scrutiny.

In West Bengal III, Kolkata charge, the assessment of a state government company (**The West Bengal Power Development Corporation Ltd.**) for the assessment year 1998-99 was completed in a summary manner in November 1999 at a loss of Rs. 16653.74 lakh, as returned. The loss of Rs. 16653.74 lakh was arrived at after setting off the unabsorbed loss of assessment years 1995-96 and 1996-97 amounting to Rs. 18893.69 lakh against the income of Rs. 2239.95 lakh for assessment year 1998-99. The case was not selected for scrutiny assessment. Audit scrutiny revealed that the assessment of the company for the assessment year 1997-98 was made after scrutiny in August 1999 wherein the income of Rs. 2121.61 lakh of the year was adjusted against the unabsorbed losses for the assessment years 1995-96 and 1996-97 to the extent of Rs. 2009.09 lakh and Rs. 112.52 lakh respectively and the balance loss of Rs.1907.91 lakh pertaining to assessment year 1996-97 was carried forward for set off against future profit. The unabsorbed loss of Rs. 1907.91 lakh pertaining to the assessment year 1996-97 instead of Rs. 18893.69 lakh as done could only be correctly set off against the income of Rs. 2239.95 lakh of the assessment year 1998-99. Omission to select the case for scrutiny assessment resulted in under assessment of income of Rs. 332.04 lakh (i.e Rs. 2239.95 lakh-Rs. 1907.91 lakh) and excess carry forward of loss of Rs. 16985.78 lakh (i.e Rs. 18893.69 lakh-Rs. 1907.91 lakh) involving under charge of tax of Rs. 6061.24 lakh including potential tax effect of Rs. 5945.02 lakh.

The reply of the Ministry to the audit observation has not been received.

(b) Under the Income Tax Act, 1961, when the net result of the computation under the head "profits and gain of business or profession" is a loss to the assessee and such loss can not be wholly set off against income under any other head of the relevant year so much of the loss as has not been set off shall be carried forward to the following assessment year/years to be set off against the profits.

- No loss shall be carried forward for more than eight assessment years immediately succeeding the assessment year for which the loss was first determined.
- Further, no loss is allowed to be carried forward for set off unless the assessee has filed the return of loss voluntarily within the due date or within such further time as may be allowed by the assessing officer. When any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under the Act, the assessing officer shall serve upon the assessee a notice of demand in the prescribed form specifying the sum so payable and if a refund is due, it shall be granted to the assessee.

Cases of incorrect carry forward/set off of losses noticed during test check are given below:

TABLE NO 3.18 INCORRECT CARRY FORWARD/SET OFF OF LOSSES

Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs. in lakh)
1	2	3	4	5	6
1	M/s ICI (India) Ltd [WB IV Kolkata]	1995-96 and 1996-97	143(1)(a)	The assessment was completed in a summary manner and thereafter under scrutiny subsequent to the filing of return in which long term capital gain was determined instead of long term capital loss. As a result, the revised intimation was required to be issued withdrawing the set off of long term capital losses which was not done.	1397.76
2.	M/s Bharat Hotels Limited [Delhi III]	1995-96	143(1)(a)	The assessment was revised reducing the losses to be carry forward in subsequent years but the intimation issued earlier was not revised which resulted in excess carry forward of loss.	(1524.22)
3.	M/s IPI Steel Ltd M/s Jaiswal Plastic Tubes Ltd. [Orissa Bhubaneswar]	1996-97 1998-99	143(3) 143(1)(a)	The carry forward of losses were incorrectly adopted.	437.45
4.	The Kerala State Electricity Board [Trivandrum, Kerala]	1997-98	143(3)	Business loss for A.Y. 1988-89 was incorrectly allowed to be carried forward to the A.Y. 1996-97.	(435.73)
5	M/s Sandvik Chokshi Ltd. Co. [CIT-I Gujarat]	1998-99	143(1)(a)	The assessment was completed in a summary manner and thereafter under scrutiny subsequent to the filing of return. Processing of return under summary should have been revised to withdraw excess carry forward of loss and fresh intimation sent.	(398.50)
6.	M/s Madras Fertilisers Ltd. [ TN II, Chennai]	1997-98	143(3)	Unabsorbed losses were available for carry forward and subsequent set off but the unabsorbed losses were incorrectly carried forward.	(358.70)
7.	M/s Salora International Ltd. [Delhi III]	1997-98	143(3)	Out of the total income a part of income was related to business income and hence set off was to be restricted to that extent only.	331.53

TABLE NO 3.18 INCORRECT CARRY FORWARD/SET OFF OF LOSSES					
Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs. in lakh)
8.	M/s Ganga Automobile Ltd. [City VII Delhi]	1997-98	143(3)	Carry forward of the business loss was allowed though the return of income was filed after the due date.	(278.04)
9.	M/s Union Bank of India [City III, Mumbai]	1992-93	143(3)	Omission to issue notice of demand resulted in excess set off of losses.	248.36
10.	M/s Alakananda Manufacturing Finance Ltd. [Central I, Kolkata]	1996-97	143(3)	While computing the total business income the figures were incorrectly adopted which resulted in excess set off of capital loss.	224.41
11.	M/s Kumar's Metallurgical Corporation Ltd. [Central Bangalore, AP]	1994-95	143(3)	While computing the income instead of starting the computation from loss as per Profit & Loss Account the computation was made from the loss as returned by the assessee.	(167.43)
12.	M/s Hindustan Vegetables Oils Corporation Ltd. [Delhi I]	1996-97	143(3)	As the unabsorbed business loss could be adjusted only against the business income, the adjustment of unabsorbed business loss against the income from other sources was not in order.	145.04
13.	M/s Tamil Nadu Magnesite Ltd. [Tamil Nadu, Coimbatore]	1997-98	143(3)	As per revision made the business losses that could be carried forward were less whereas set off of unabsorbed business losses were allowed in excess.	(142.41)
14.	M/s Teesta Agro Industries Ltd. [WB IV, Kolkata]	1994-95	143(1)(a)	The scrutiny assessment for assessment year 1993-94 was completed after the date of filing of return of income for assessment year 1994-95 and as such the order allowing carry forward of loss processed as per return for assessment year 1994-95 was required to be revised to allow carry forward of loss and fresh intimation was required to be sent which was not done.	87.23 (41.17)
15.	M/s UP State Leather Development Corporation Ltd. [Agra, Uttar Pradesh]	1997-98	143(3)	Set off of business loss was allowed beyond the prescribed period of 8 years.	(114.69)

TABLE NO 3.18 INCORRECT CARRY FORWARD/SET OFF OF LOSSES

Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect (Rs. in lakh)
16.	M/s M.S.A (India) Ltd. [WB IV, Kolkata]	1994-95 and 1995-96	143(1)(a)	The assessment completed under summary manner was revised after scrutiny after the date of filing of return leaving no loss to be carried forward. Accordingly the summary assessments were required to be revised and revised intimation to be issued for the demand payable after withdrawing the carried forward loss which was not done.	47.52 (55.47)
17.	M/s Ashok -Alcohem Ltd. [City III, Mumbai]	1996-97	143(3)	Though no loss was available to be carried forward yet set-off was allowed in assessment year 1994-95 and in assessment year 1995-96 inspite of the carry forward amount being less than that set off in assessment year 1996-97.	92.02
18	M/s Abhishek Industries Ltd. [Ludhiana, Central Punjab]	1993-94	143(3)	The assessee company had not filed its return of loss before the prescribed due date and as such no business loss could be carried forward to subsequent years.	86.17
19.	M/s Vishnu Forge Ltd. [Karnataka, Central Bangalore]	1997-98	143(3)	The unabsorbed business loss was erroneously allowed to be carried forward beyond 8 years. Besides excess amount was allowed for set off in assessment year 1996-97.	(80.75)
20.	M/s Pratap Spinning Weaving & Manufacturing Co. Ltd. [Nasik, Maharashtra]	1997-98	143(3)	Business loss and investment allowance was erroneously allowed to be carried forward beyond 8 years.	(73.90)
21.	M/s Canal Investments & Industries Ltd. [WB IV, Kolkata]	1996-97	143(3)	Speculation loss was irregularly set off against income from other sources.	63.48
22.	M/s Chemicals & Alkali Distributors Pvt. Ltd. [City-II, Mumbai]	1997-98	144	The returned loss included loss under the head capital gains which was allowed to be set off against the business income.	56.26

\*Figures in brackets denotes potential tax effect

In 43 other cases in Andhra Pradesh, Delhi, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal charges

similar mistakes of irregular/incorrect set off of losses resulted in aggregate short levy of tax of Rs. 644.51 lakh.

The Ministry have accepted the audit observation at Sl.No. 4, 13 and 20 of the statement and in 11 out of 43 other cases.

**Mistake in assessments while giving effect to appellate orders**

**3.20** Under the Income Tax Act, 1961, an assessee who is aggrieved can appeal to the Commissioner of Income Tax (Appeals) against the assessment made by an assessing officer and the assessing officer shall comply with the directions given in the appellate order.

Instances where appellate orders were not complied with properly are indicated below:

(Rs. in lakh)

<b>TABLE NO. 3.19 MISTAKE IN GIVING EFFECT TO APPELLATE ORDERS</b>					
<b>Sl. No.</b>	<b>Name of the assessee CIT's charge</b>	<b>Assessment Year</b>	<b>Section under which assessed</b>	<b>Nature of mistake</b>	<b>Tax effect</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
1.	M/s Bank of Baroda [City-III, Mumbai]	1993-94	143(3)	The deduction on account of bad debts was to be allowed in respect of Indian branches only as per appellate order but it was allowed in respect of foreign branches as well.	847.74
2.	M/s NEPC Micon Ltd. [Central-I, Chennai, TN]	1994-95	143(3)	The relief allowed by the department was more than that given by the appellate authority.	128.85
3.	M/s Universal Ferro & Allied Chemicals Ltd. [City-VI, Mumbai]	1989-90	143(3)	The deduction on account of refund of electricity charges was allowed in excess by the department than that given by the appellate authority.	129.14

In 8 other cases in Assam, Gujarat, Karnataka, Maharashtra, Punjab and Tamil Nadu charges mistakes committed in assessments while giving effect to appellate orders resulted in short levy of tax aggregating to Rs.147.30 lakh.

The Ministry have accepted the audit observation in 1 out of 8 other cases.

The replies of the Ministry to the audit observations at Sl.No. 1 to 3 of the statement have not been received.

**Irregular exemption**

**3.21 (a)** Under the Income Tax Act, 1961, interest payable by an industrial undertaking in India on any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of raw materials or components or capital plant and machinery to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, is exempt from tax in the hands of recipient. The CBDT vide circular issued in October 1999 had clarified that in cases of exempted receipts, it is the net income flowing therefrom that is exempt from tax.

In City III, Mumbai charge the assessment of **M/s State Bank of India** for the assessment year 1997-98 was completed after scrutiny in March 2000. Audit scrutiny revealed that the assessee had claimed exemption in respect of interest of Rs. 7095.73 lakh and Rs. 20461.92 lakh from tax-free bonds and on loans advanced for purchase outside India of raw materials etc. respectively. However while the exemption in respect of receipts from tax-free bonds was restricted to the net income after deduction of proportionate expense, it was not so restricted in respect of interest received on the aforesaid loans. This resulted in underassessment of income of Rs. 13126.32 lakh with consequent short levy of tax of Rs. 5644.32 lakh.

The reply of the Ministry to the audit observation has not been received.

b) Under the Income Tax Act, 1961, the total income of any previous year includes all income from whatever sources derived or which accrues during the previous year unless specifically exempted from tax by the provisions of the Act. It has been further provided that dividend income shall be chargeable to tax under the head "income from other sources". However, dividend from Unit Trust of India, or from a Mutual Fund has been made exempt by an amendment made by Finance Act 1999 with effect from assessment year 2000-2001 only.

In Tamil Nadu I, Chennai charge, the assessment of **M/s United India Insurance Co. Ltd.** for the assessment year 1999-2000 was completed in a summary manner in March 2000 on an income of Rs. 17527.67 lakh excluding dividend income of Rs. 4231.57 lakh, treated as exempt. Audit scrutiny revealed that the exempted income included, inter alia, dividend from units of Unit Trust of India and Mutual Fund of Rs. 221.42 lakh and Rs. 6.20 lakh respectively. As the dividend income from units of Unit Trust of India and Mutual funds are exempt only from the assessment year 2000-2001, the incorrect allowance of exemption aggregating Rs. 227.62 lakh resulted in short levy of tax of Rs. 90.42 lakh including withdrawal of interest on refund made.

The reply of the Ministry to the audit observation has not been received.

Excess  
deduction  
under  
chapter VIA

3.22 (a) Under the provisions of Chapter VIA of the Income Tax Act 1961, certain deductions are admissible from the gross total income of an assessee in arriving at the total income chargeable to tax. The Act further provides that where deduction is required to be made under any section (except section 80 M) included in 'C-deduction in respect of certain incomes' under Chapter VIA in respect of any income which is included in the gross total income, for the purpose of computing the deduction under that section the amount of that nature (before making any deduction under Chapter VIA) shall alone be deemed to be the income of that nature which is received by the assessee and included in his gross total income.

In City I and City VI, Mumbai charges, the assessments of three companies (**M/s Voltas International Ltd., M/s Lupin Agro Chemical (I) Ltd., and M/s Sadhana Nitro Chem Ltd.**) for the assessment years 1994-95 and 1995-96 were completed after scrutiny in February 1997, February 1998 and March 1998 after allowing deductions of Rs. 227.87 lakh, Rs. 169.57 lakh and Rs. 85.89 lakh respectively under the provisions of Chapter VIA. Audit scrutiny revealed that instead of restricting the Chapter VIA deductions to the extent of income from profit and gains of business, the deductions were allowed on income inclusive of income from other sources. As per the provisions of the Act, the Chapter VIA deductions (except Sec.80 M) should have been restricted to the nature of income included in gross total income. Accordingly, the deduction should have been restricted to the business incomes of Rs. 172.57 lakh, Rs. 126.59 lakh and Rs. 68.57 lakh

respectively. Omission to do so resulted in excess allowance of deductions aggregating Rs. 1150.60 lakh with consequent total short levy of tax of Rs. 126.38 lakh.

The reply of the Ministry to the audit observation has not been received.

(b) In 6 other cases of Kerala, Maharashtra, Orissa, Tamil Nadu and Uttar Pradesh charges, non-observance of the above provisions led to short levy of tax aggregating to Rs.124.46 lakh.

The replies of the Ministry to the audit observations have not been received.

**3.23 (a)** Under the Income Tax Act, 1961 where the gross total income of an assessee includes profits and gains derived from an industrial undertaking set up in an industrially backward state after 31 March 1993, the assessee company is entitled to a deduction of hundred percent of such profits and gains provided it is not formed by splitting up or reconstruction of a business already in existence.

In Delhi-I charge, the assessment of **M/s B.R. Industries Ltd.** for the assessment year 1996-97 was completed after scrutiny in February 1998 allowing a deduction of Rs. 125.19 lakh under the above provision. Audit scrutiny revealed that the assessee company was incorporated during the year by reconstruction of business already in existence with the main object to acquire and take over the running business and the value of transferred plant and machinery was Rs.6.07 lakh against the total value of plant and machinery of Rs. 6.70 lakh. As the value of transferred plant and machinery was also more than 20 percent of the total value thereof, the assessee was not eligible for this deduction. The irregular deduction resulted in underassessment of income of Rs. 125.19 lakh with consequent short levy of tax of Rs. 84.08 lakh (including interest).

The reply of the Ministry to the audit observation has not been received.

(b) In 6 other cases in Maharashtra, Tamil Nadu and West Bengal charges non-observance of the above provisions led to short levy of tax aggregating to Rs.103.36 lakh.

The Ministry have accepted the audit observation in 1 out of 6 other cases.

**3.24** Under the Income Tax Act, 1961, an assessee being an Indian company or other assessee, resident in India, engaged in the business of export is entitled to a deduction equal to the profits derived from the export of goods or merchandise if the sale proceeds are received in convertible foreign exchange. Where the export out of India is of goods or merchandise manufactured or processed by the assessee and also of trading goods, the profit derived from such export shall be the aggregate of the adjusted profits in proportion to the export turnover in relation to the manufacturing/processing of goods and in relation to the trading activity, the amount arrived after deducting the direct and indirect costs of the trading from the export turnover of the activity. The profit so arrived at shall be further increased by ninety percent profit on sale of licenses and export incentives in the ratio of export turnover to total turnover.

In the following cases test checked considerable amounts of short levy of tax had occurred due to incorrect application of the above provisions.

**Incorrect allowance of deduction in respect of profits from new industrial undertakings set up in industrially backward state.**

**Incorrect allowance of relief in respect of profits from export business**



**TABLE NO 3.20 INCORRECT ALLOWANCE OF RELIEF IN RESPECT OF PROFITS FROM EXPORT BUSINESS**

Sl. No	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect (Rs. in lakh)
1	2	3	4	5	6
1.	M/s I.T.D.C. Ltd. [Delhi-I]	1997-98	143(3)	Deduction on account of export profit earned on sale of goods from duty free shops was not admissible as confirmed by ITAT.	691.63
2.	M/s Geekay Exim India Ltd. [WB-IV, Kolkata]	1997-98	143(3)	While allowing deduction the export turnover in respect of trading goods after deduction of direct and indirect costs was incorrectly taken.	285.41
3.	M/s Wockhardt Ltd. [City-V, Mumbai]	1996-97 1997-98	143(3)	While computing the deductions, income from other sources and 90 percent of interest and rental income included in profit were not reduced and the income from diagnostic and hospital services was not considered for total turnover even though the income has arisen in the course of normal business activity. After considering these items the resultant amount will be negative and the assessee would not be eligible for any deduction towards export profits.	125.39 115.40
4.	M/s I.T.C. Ltd. [WB-III, Kolkata]	1992-93	143(3)	In the revised assessment the figure of total turnover was incorrectly adopted.	233.76
5.	M/s Rajrani Exports (P) Ltd. [WB-III, Kolkata]	1996-97	143(3)	The deduction allowed and claimed was calculated taking into consideration that the assessee exported goods manufactured/processed by itself and that export turnover of trading goods reduced by direct/indirect costs to be further increased by 90 percent of the export incentives in proportion to export turnover to total turnover was ignored while computing the profits.	196.66
6.	M/s King Fisheries [Trivandrum, Kerala]	1994-95	143(3)	While allowing deduction, loss sustained by the assessee from export of trading goods during the relevant previous year was not considered.	124.35
7.	M/s Tungabhadra Machinery & Tools Co. [AP-II, Hyderabad]	1994-95	143(3)	While quantifying the amount of deduction towards export profits, 90 percent of other income i.e. technical know-how was not reduced from the profits of the business to arrive at the adjusted profits.	94.49

**TABLE NO 3.20 INCORRECT ALLOWANCE OF RELIEF IN RESPECT OF PROFITS FROM EXPORT BUSINESS**

Sl. No	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect (Rs. in lakh)
8.	M/s Anchor Electronics & Electricals Ltd. [City-III, Mumbai]	1996-97	143(3)	90 percent of other income such as dividend, rent, royalty etc. were not reduced and net interest was deducted as against gross interest. Also while calculating the indirect cost in respect of trading goods exported, interest paid by the assessee had not been allocated.	90.47
9.	M/s Vardhman Spinning and General Mills Ltd. [Ludhiana]	1997-98	143(3)	While computing the business profit income on account of receipt of dividend was not deducted from the profit of the business. Further, the Assessing Officer omitted to consider the loss sustained by assessee from export of trading goods.	69.72
10.	M/s Parekh Platinum Ltd [City-IV, Mumbai]	1996-97	143(3)	90 percent of labour charges receipts and receipts from fees for technical knowhow received in foreign exchange had not been reduced from business profits, and hence the assessee would not be entitled to any deduction.	58.31

In 33 other cases mistakes of similar and of other nature in allowance of deduction in respect of export profits resulted in aggregate short levy of tax of Rs.606.15 lakh in Delhi, Gujarat, Kerala, Karnataka, Maharashtra, Punjab, Tamil Nadu and West Bengal charges.

The Ministry have accepted the audit observation at Sl.No.7 of the statement and in 2 out of 33 other cases.

**Mistake in allowance of deduction of profits derived from services provided to foreign tourists.**

**3.25** Under the provisions of the Income Tax Act, 1961, with effect from assessment year 1989-90, in the case of an assessee being an Indian company or other person resident in India engaged in the business of hotel or of a tour operator there shall be allowed in computing the total income of the assessee, a sum equal to the aggregate of 50 percent of the profit derived from services provided to foreign tourists and so much of the amount out of remaining profits derived as is debited to profit and loss account and credited to a reserve account to be utilised by the assessee for the purpose of his business under the conditions prescribed in the Act. For this purpose, the profits derived from services provided to foreign tourists shall be the amount which bears to the profits of the business as computed under the head 'profits and gains of business or profession' the same proportion as the receipts in relation to services for foreign tourists received in convertible foreign exchange bears to the total receipts of the business carried on by the assessee.

Details of cases where the above provisions were not applied correctly are indicated below:

(Rs. in lakh)

**TABLE NO 3.21 MISTAKE IN ALLOWANCE OF DEDUCTION OF PROFITS DERIVED FROM SERVICES PROVIDED TO FOREIGN TOURISTS**

Sl. No	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6
1.	M/s Asian Hotels Ltd. [Delhi-I]	1997-98	143(3)	Receipts from money changing business and expenditure tax were not included in the total receipts of the business while computing deduction.	630.62
2.	M/s I.T.C. Hotels Ltd. [Karnataka-II]	1996-97	143(3)	The profits of the business computed were to be taken as a whole irrespective of various units and accordingly the deductions were to be allowed which was not done and resulted in excess allowance of deduction.	362.94
3.	M/s Piem Hotels Ltd. [City-IV, Mumbai]	1989-90 1990-91 1994-95	143(3)	The encashment receipts were reduced from the gross receipts from business as well as receipts from foreign exchange instead of including it in the gross receipts of business.	71.96

In 5 other cases in Delhi, Kerala, Karnataka and Maharashtra charges non-observance of the above provisions led to short levy of tax aggregating to Rs.97.49 lakh.

The Ministry have accepted the audit observation in 1 out of 5 other cases.

The replies of the Ministry to the audit observations at Sl.No. 1 to 3 of the statement have not been received.

**Incorrect allowance of deduction in respect of profits and gains from industrial undertakings established after 31 March 1981**

**3.26** Under the Income Tax Act, 1961, where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking established after 31 March 1981, the assessee is entitled to a deduction of twenty five percent (thirty percent in respect of profits derived from a company established on or after 1 April 1990 but before 31 March 1991) of such profits and gains for the initial assessment year and each of the seven subsequent assessment years. It is further provided that where any deduction is required to be allowed under these provisions in respect of any income then the income as computed in accordance with the provisions of the Act shall alone be deemed to be the income which is derived or received by the assessee and which is included in his gross total income. It has also been judicially held<sup>1</sup> that the use of the term "derived from" in the relevant provisions of the Act indicates the restricted meaning given by the legislature to cover only the profits and gains directly accruing from the conduct of the business undertaking.

Cases of incorrect computation of income under the above provisions leading to short levy of tax are as under:-

<sup>1</sup> Cambay Electric Supply Industrial Co. Ltd. Vs CIT Gujarat II 113-ITR-84 (SC)

(Rs. in lakh)

**TABLE NO 3.22 INCORRECT ALLOWANCE OF DEDUCTION IN RESPECT OF PROFITS AND GAINS FROM INDUSTRIAL UNDERTAKINGS ESTABLISHED AFTER 31 MARCH 1981**

Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6
1.	M/s Secure Meters Ltd. [Udaipur, Rajasthan]	1997-98 and 1998-99	143(3)	The deductions allowed were irregular as the production was started in previous year relevant to assessment year 1989-90 and hence the deduction u/s 80-I was admissible upto assessment year 1996-97 being the 8th year.	221.10
2.	M/s Usha Beltron Ltd. [Ranchi, Bihar]	1996-97	143(3)	The deduction allowed from interest income was not in order and the deduction was admissible only in respect of profits derived from manufacturing activity.	93.02

Similar and other nature of mistakes committed in allowance of deductions under the above provisions in 15 other cases resulted in aggregate short levy of tax of Rs.167.15 lakh in Andhra Pradesh, Chandigarh, Gujarat, Haryana, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal charges.

The Ministry have accepted the audit observation in 3 out of 15 other cases.

The replies of the Ministry to the audit observations at Sl.No.1 and 2 of the statement have not been received.

**Incorrect allowance of deduction in respect of profits and gains from industrial undertakings established after 31 March 1991**

**3.27** Under the Income Tax Act, 1961, where the gross total income of an assessee includes profits and gains derived from an industrial undertaking established after 31 March 1981, the assessee is entitled for a deduction of 25 percent of such profits and gain derived from that undertaking. The deduction equal to 30 percent of such profit is allowable to those units which are established after 31 March 1991. Further, before allowing the deduction past losses of that unit will have to be taken into account for the purpose of determining the profit of the unit for the relevant year even though the same might have been set off in earlier years against other income of the assessee. It has also been judicially held<sup>1</sup> that the use of the term "derived from" in the relevant provisions of the Act indicates the restricted meaning given by the legislature to cover only the profits and gains directly accruing from the conduct of the business undertaking.

Cases of incorrect application of the above provision are given below:

<sup>1</sup> Cambay Electric Supply Industrial Co. Ltd. Vs CIT Gujarat II 113-ITR-84 (SC)

(Rs. in lakh)

**TABLE NO 3.23 INCORRECT ALLOWANCE OF DEDUCTION IN RESPECT OF PROFITS AND GAINS FROM INDUSTRIAL UNDERTAKINGS ESTABLISHED AFTER 31 MARCH 1991**

Sl. No	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect
1	2	3	4	5	6
1	M/s G.V.K. Industries Ltd. [CIT Central, Bangalore] Andhra Pradesh	1997-98	143(1)(a)	Deduction towards profit from new industrial undertaking claimed by the assessee was not disallowed in computing the loss.	195.14 (975.74)
2	M/s Wockhardt Ltd. [City-V, Mumbai]	1996-97 1997-98	143(3)	Past losses of respective units were not set off before allowing the deduction.	424.24
3.	M/s Titanor Components Ltd. [Delhi III]	1997-98	143(3)	Deduction allowed on other income was not admissible.	115.82
4.	M/s Pharmaceutical Products (I) Ltd. [City I Mumbai]	1995-96	143(3)	While computing the profit, book depreciation was not added nor depreciation as per Income tax Act allowed as deduction. Further research and development expenditure allowed was also not reduced from profits.	65.45
5.	M/s Jaybharat Fabrics Mills Ltd. [City-IV, Mumbai]	1996-97	143(3)	The deduction was computed without considering depreciation allowable under the Income Tax Act which resulted in excess allowance of deduction.	51.78
6.	M/s Brooke Bond Lipton (India) Ltd. [WB II, Calcutta]	1996-97	143(3)	Profits of the two units for the purpose of deduction were not reduced by the amount of sales tax deducted. Besides sales tax payment allowed otherwise as a revenue item was also required to be considered in arriving at the profits of the units which was not done.	50.60

\*Figures in brackets denotes potential tax effect

Similar mistakes in 10 other cases of Delhi, Maharashtra, Gujarat, Tamil Nadu and Uttar Pradesh charges led to aggregate short levy of tax of Rs.123.34 lakh.

The Ministry have accepted the audit observation in 1 out of 10 other cases.

The replies of the Ministry to the audit observations at Sl.No.1 to 6 of the statement have not been received.

**Incorrect allowance of deduction in respect of certain inter-corporate dividends.**

**3.28** Under the Income Tax Act, 1961 in the case of a domestic company, where the gross total income includes any income by way of dividends from another domestic company, there shall be allowed in computing the total income, a deduction of an amount equal to so much of the amount of income by way of dividends from another domestic company as does not exceed the amount of dividend distributed by the former company on or before the due date. The Act was amended through Finance (No.2) Act, 1980, with retrospective effect from April 1968 to provide that the deduction on account of inter-

corporate dividends is to be allowed with reference to the net dividend income as computed in accordance with the provisions of the Act and not on the gross amount of dividends. The Act further provides that where any domestic company receives any income by way of dividend from the units of the Unit Trust of India, such dividend shall be eligible for deduction to the extent of four-fifth of such income in respect of the previous year relevant to the assessment year 1994-95 and two-fifth of such income in respect of the previous year relevant to the assessment year 1995-96. It has been judicially held<sup>1</sup> that proportionate management expenses should be deducted from the gross dividend for the purposes of deduction.

Cases of incorrect allowance of deduction noticed in test check are given below:

(Rs. in lakh)

TABLE NO 3.24 INCORRECT ALLOWANCE OF DEDUCTION IN RESPECT OF CERTAIN INTER-CORPORATE DIVIDENDS					
Sl. No	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect
1	2	3	4	5	6
1.	M/s Gas Authority of India Ltd. [Delhi I]	1997-98	143(3)	The deduction was allowed inadvertently for excess amount.	528.97
2.	M/s Escorts Finance Ltd. [Delhi-I]	1994-95 and 1995-96	143(3)	The proportionate expenses in the ratio of dividend income to total receipts were to be deducted before allowing deduction u/s 80-M.	87.83

\*Figures in brackets denotes potential tax effect

In 6 other cases in Kerala, Madhya Pradesh, Punjab and West Bengal charges mistakes in allowance of deduction under the above provision resulted in total short levy of tax of Rs.87.54 lakh.

The replies of the Ministry to the audit observations have not been received.

**Incorrect allowance of deduction in respect of commission etc from foreign enterprises**

**3.29** Under the Income Tax Act, 1961, where the gross total income of an assessee includes any income by way of royalties, commission, fee or any other similar payment received by him in convertible foreign exchange from a foreign government/enterprise and brought into India within a period of six months from the end of the relevant previous year or within such extended period as may be allowed, a deduction equal to fifty percent of such income is allowed in computing the total income of the assessee. The deduction is to be computed after deducting expenditure incurred in respect of each such income. The CBDT have clarified that the technical services for the purpose of section 80 O should only relate to the productive fields and services such as those relating to management, organisation etc. would not qualify for the purpose.

Details of cases where the above provisions were not applied correctly are indicated below:

<sup>1</sup> CIT Vs United General Trust Ltd. 200-ITR-488 (S.C)

(Rs. in lakh)

**TABLE NO 3.25 INCORRECT ALLOWANCE OF DEDUCTION IN RESPECT OF COMMISSION ETC FROM FOREIGN ENTERPRISES**

Sl. No	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6
1.	M/s Engineers (I) Ltd. [CIT VII, Delhi]	1997-98	143(3)	Even though the assessee was not entitled to deduction as it brought the amount after more than six months from the end of the previous year and no extension was obtained from the competent authority yet the deduction was allowed.	147.52
2.	M/s Crove Boda & Co. Pvt. Ltd. and M/s Hindustan Thompson Associates Ltd. [City-IV and VI Mumbai]	1995-96 1996-97	143(3) and 143(1)(a)	The deduction was allowed on the gross income of the service charges instead of the net income.	83.73
3.	M/s Continental Carriers [Delhi-VIII]	1997-98	143(3)	Even though the assessee was not providing any services eligible for deduction towards commission received from foreign enterprises yet the deductions were allowed.	78.55
4.	M/s Kinetic Technology India Ltd. [Delhi-VII]	1997-98	143(3)	While determining expenses against receipts only direct expenses were considered whereas total expenses were required to be allocated on pro-rata basis between foreign and local receipts.	53.39

Similar mistakes in 9 other cases in Delhi, Maharashtra and West Bengal charges resulted in aggregate short levy of tax of Rs.181.30 lakh.

The replies of the Ministry to the audit observations have not been received.

**Incorrect allowance of Double Taxation relief**

**3.30** Under the Income Tax Act, 1961, a person resident in India is entitled to a relief of his foreign income taxed both in India and in a foreign country. The quantum of relief is governed by agreement entered into by the two countries. In terms of such convention entered into in December 1990 between the government of United States of America and the government of Republic of India, the taxes covered in the agreement shall not include any amount payable in respect of any default or omission in relation to the taxes or which represent a penalty imposed relating to those taxes.

In City-III, Mumbai charge, the assessment of **M/s Bank of India** for the assessment year 1994-95 was finalised after scrutiny in March 1997 at "nil" income after setting off brought forward losses. Audit scrutiny revealed that deduction aggregating Rs.670.28 lakh was allowed in respect of the foreign branches on (i) New York State Corporation Tax-- Rs.25.25 lakh (ii) business tax and perfectual tax Rs.176.05 lakh and (iii) Investment depreciation – Rs.468.98 lakh. Since the profits and losses of foreign branches are ignored for computation of taxable income in view of Double Taxation

Avoidance Agreement, the deduction allowed as above was also not eligible in computing the total income of the assessee. Omission to disallow the same resulted in underassessment of income of Rs.670.28 lakh involving potential short levy of tax of Rs.346.87 lakh.

The reply of the Ministry to the audit observation has not been received.

**Incorrect computation of business income under special provisions**

**3.31** Under the Income Tax Act, 1961, where in case of an assessee being an Indian company the total income as computed under this Act in respect of any previous year is less than 30 percent of its book profit, the total income of such assessee chargeable to tax shall be deemed to be an amount equal to thirty percent of such profit. For this purpose, book profit means the net profit as per the profit and loss account subject to certain additions/deletions. According to explanation 9(b) to sub-section 2 of Section 115JA the amount carried to any reserve by whatever name called is to be added to net profit. Brought forward loss or unabsorbed depreciation whichever is less would be reduced in arriving at the book profit. Under the Act, determination of deemed income under the special provisions of minimum alternate tax shall not affect the determination of loss to be carried forward and set off in subsequent assessment years.

(a) In Delhi-I charge, the assessment of **M/s Indian Railway Finance Corporation Ltd.** for the assessment year 1997-98 was completed after scrutiny in March 2000 at Rs.5451.59 lakh under the special provisions (being 30 percent of book profit of Rs.18171.96 lakh). Audit scrutiny of the profit and loss account however, revealed that the company had arrived at net profit (before tax) after allowing a deduction of Rs.25334.10 lakh from the income of lease rent being lease equalisation amount and without adding back the deduction for arriving at the book profit as required under the Act. Even though the assessing officer in his assessment order had held that there was no justification for allowing the deduction and that the same was to be written back for estimating the net profit, he omitted to write back the same while calculating the book profit. This resulted in reducing the book profit to that extent and taxable income by Rs.7600.23 lakh with consequent short levy of tax of Rs.5457.73 lakh (including interest).

The reply of the Ministry to the audit observation has not been received.

(b) In Tamil Nadu I, Chennai charge, the assessment of **M/s Indian Overseas Bank** for the assessment year 1998-99 was completed in a summary manner in March 1999 at a loss of Rs.5483.31 lakh as returned by the bank and computed under the normal provisions of the Act and a refund of Rs.2646.37 lakh was made. Audit scrutiny revealed that considering the net profit of Rs.11305.93 lakh as per the printed profit and loss account, the book profit worked out to Rs.14861.99 lakh after certain adjustments. The 30 percent of book profit thereof amounting to Rs.4458.60 lakh was not brought to tax even though the same was more than the profits under the normal provisions. Omission to apply the special provisions and assess the above income resulted in short levy of tax of Rs.1872.61 lakh including additional tax of Rs.312.10 lakh leviable under section 143 (1)(a).

The reply of the Ministry to the audit observation has not been received.

(c) Cases where the provisions were not applied correctly are illustrated below:



(Rs. in lakh)

**TABLE NO 3.26 INCORRECT COMPUTATION OF BUSINESS INCOME UNDER SPECIAL PROVISIONS**

Sl. No	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	*Tax effect
1	2	3	4	5	6
1.	M/s Reliance Capital Ltd. [City-VI, Mumbai]	1997-98	143(1)(a)	The amount carried to reserves was required to be added to profit as prima facie adjustment under the special provisions which was not done and resulted in loss in book profit adjusted by the department.	626.96
2.	M/s Madras Refineries Ltd. (Presently Chennai Petroleum Corpn. Ltd.) [TN-II, Chennai]	1997-98	143(3)	The interest income credited to assessee's account as evidenced by TDS certificates and interest received on refund of income tax was not taken into account while computing the income.	97.12 (323.74)
3.	M/s Coal India Ltd. [WB-II, Kolkata]	1997-98	143(3)	While arriving at the book profit the incorrect figure of unabsorbed depreciation was adopted.	256.06
4.	M/s C.J. International Hotels Ltd. [Delhi-III]	1997-98	143(3)	The prior period depreciation charged to Profit and Loss account consequent to change in the method of calculation of depreciation on building resulted in under statement of net profits and consequently book profits.	242.55
5.	M/s Kopran Ltd. [City-VI, Mumbai]	1998-99	143(1)(a)	While computing the income under special provisions, deduction under section 47(iv) was irregularly allowed.	195.96 (5.69)
6.	M/s Kitply Industries Ltd. [Shillong, Assam]	1997-98 and 1998-99	143(3)	While computing the book profit transport subsidy was not added in the income under summary manner and this adjustment was also confirmed while revising the assessment under scrutiny manner.	(160.98)
7.	M/s E.I.D. Parry India Ltd. [TN-I, Chennai]	1997-98	143(3)	The provisions made towards doubtful debts and advances, purchase tax and cane subsidy were not added to the book profits as required under the special provisions.	104.57
8.	M/s GKW Ltd. [WB-IV, Kolkata]	1997-98	143(3)	The provision for voluntary separation liability scheme being unascertained liability was not added back to net profit while arriving at the book profits.	89.11
9.	M/s Tuticorin Alkali Chemical & Fertilisers Ltd. [TN-I, Chennai]	1989-90	143(3)	As a result of revising the life of assets from 13 years to 15 years ab-initio the excess allowance of depreciation was not considered while computing the book profit under the special provision.	59.64

\*Figures in brackets denotes potential tax effect

Similar and other mistakes in computation of book profits in 26 cases in Andhra Pradesh, Assam, Delhi, Madhya Pradesh, Maharashtra and Tamil Nadu charges resulted in aggregate short levy of tax of Rs.444.12 lakh.

The Ministry have accepted the audit observation in 3 out of 26 other cases.

The replies of the Ministry to the audit observations at Sl.No.1 to 9 of the statement have not been received.

**Non levy of interest for delay in filing the return**

**3.32 (a)** Under the Income Tax Act, 1961, where the return for any assessment year is furnished after the specified due date, the assessee shall be liable to pay interest at two percent (one and half percent from 1 June 1999) per month from the date immediately following the specified due date to the date of filing the return or where no return is furnished to the date of completion of regular assessment on the amount of tax determined on regular assessment as reduced by the advance tax, if any, paid and any tax deducted at source.

In Delhi, Central II Charge, the assessment of **M/s Kuber Planters Ltd.** for the assessment year 1997-98 was completed in best judgement manner in March 2000 at an income of Rs. 3482.20 lakh. Audit scrutiny revealed that though the return was not submitted by the assessee within the stipulated date, yet the interest was not levied by the assessing officer. The mistake resulted in non-levy of interest of Rs. 149.73 lakh.

The reply of the Ministry to the audit observation has not been received.

**(b)** Mistakes of similar nature in 9 cases in Andhra Pradesh, Delhi, Gujarat, Maharashtra, Tamil Nadu and West Bengal charges resulted in short levy of interest of Rs. 102.30 lakh.

The Ministry have accepted the audit observation in 2 out of 9 other cases.

**Short levy/non-levy of interest for short payment of advance tax**

**3.33** Under the Income Tax Act, 1961, where in any financial year, an assessee who is liable to pay advance tax, has failed to pay such tax or, where the advance tax paid by such assessee is less than ninety percent of the assessed tax, the assessee shall be liable to pay simple interest at the rate of one and one half percent (two percent upto 31 May 1999) for every month reckoned from 1 April next following such financial year to the date of determination of total income by processing the return of income and where a regular assessment is made, to the date of such regular assessment on the amount equal to the assessed tax or as the case may be, on the amount by which the advance tax paid falls short of the assessed tax. The Act further provides that the self-assessment tax paid should include interest, if any, liable to be paid by the assessee, under any provision of the Act. In the event of shortfall of the aggregate of the tax and interest, the amount so paid shall first be adjusted towards interest payable and balance if any, be adjusted towards tax payable.

Cases of short levy/non-levy of interest noticed during test check are given below:

(Rs. in lakh)

**TABLE NO 3.27 SHORT LEVY/NON-LEVY OF INTEREST FOR SHORT PAYMENT OF ADVANCE TAX**

Sl. No	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6
1	M/s Indian Oil Corporation Ltd. [Mumbai City II]	1997-98	143(3)	While computing interest leviable the amount paid by the assessee by way of self-assessment tax was fully reduced from the tax payable without being adjusted first towards interest payable on the date of payment.	193.68
2.	M/s Times Guaranty Financials Ltd. [City-III, Mumbai]	1993-94	143(3)	The interest on short payment of advance tax was short levied.	164.37
3.	M/s New Ambadi Estates (P) Ltd.. [TN I, Chennai]	1994-95	143(1)(a)	While doing reassessment the interest for short payment of advance tax was wrongly calculated.	76.79
4.	M/s George Williamson (Assam) Ltd. [Guwahati, Assam]	1997-98	143(3)	Advance tax paid fell short of 90% of assessed tax and hence interest was short levied.	56.95
5.	M/s Southern Township Founders Ltd. [TN III Chennai]	1995-96	143(3)	Interest for default in payment of advance tax was short levied.	55.18

In 21 other cases short levy of interest for short payment of advance tax resulted in aggregate loss of revenue of Rs. 282.02 lakh in Delhi, Madhya Pradesh, Maharashtra, Gujarat, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal charges.

The Ministry have accepted the audit observation in 6 out of 21 other cases.

The replies of the Ministry to the audit observations at Sl.No.1 to 5 of the statement have not been received.

**Delay in  
payment of tax  
demand**

**3.34** Under the Income Tax Act, 1961, as amended from 1 April 1989, any demand for tax should be paid by an assessee within thirty days (thirty five days prior to the assessment year 1989-90) of service of notice of the relevant demand. Failure to do so would attract levy of simple interest at one and one half per cent per month or part thereof (twelve percent per annum upto 30 September 1984 and fifteen percent per annum upto March 1989) from the date of default till actual payment. In April 1992 CBDT issued instructions clarifying that the interest is to be calculated with reference to the date of service of original demand notice on tax finally determined in cases of assessment set aside or varied by the appellate authority. The fact that during the intervening period there was no tax payable by the assessee under any operative order would make no difference to the position.

Cases of short levy/non-levy of interest under the above provisions are given below:-

(Rs. in lakh)

**TABLE NO 3.28 SHORT LEVY/NON-LEVY OF INTEREST DUE TO DELAY IN PAYMENT OF TAX DEMAND**

Sl. No.	Name of the assessee CIT's charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6
1.	M/s State Bank of Patiala. [Patiala, Punjab]	1995-96	143(1)(a)	Interest was not levied on belated payment of tax demand.	536.20
2.	M/s Pro-Agro Seeds Ltd. [Delhi I]	1994-95	143(3)	The tax demand was not paid and even then interest was not levied.	127.01
3.	M/s Garden Reach Ship Builders & Engineers Ltd. [WB-III]	1993-94	143(1)(a)	Interest was short levied than that becoming due actually.	110.77
4.	M/s The Burrakar Coal Co. Ltd. [WB II]	1976-77, 1977-78, 1978-79, 1980-81, 1986-87, 1995-96	144/147  143(3)	Even though the assessee did not pay the tax demanded on the dates specified in the demand notices the assessing officer did not raise interest demand.	74.84

Similar cases of non-levy of interest in 15 cases in Delhi, Gujarat, Karnataka, Maharashtra, Tamil Nadu and West Bengal charges resulted in aggregate loss of revenue of Rs. 249.29 lakh.

The Ministry have accepted the audit observation in 3 out of 15 other cases.

The replies of the Ministry to the audit observations at Sl.No.1 to 4 of the statement have not been received.

#### Non-levy/Short levy of additional tax

**3.35 (a)** Under the Income Tax Act, 1961, a return filed by an assessee under section 139 or in response to a notice issued under section 142(1) shall be processed first mandatorily. While doing so certain prima facie adjustment relating to inadmissible claims, incorrect deduction/relief etc., shall be made to the income or loss declared in the return. To discourage the assessee from making inadmissible claim of the incorrect deduction, etc., a provision has been made to levy additional income tax at 20 percent of the tax on the additions made. Where the loss returned is reduced or converted into income due to prima facie additions, additional income tax equal to 20 percent of the tax that would have been chargeable on the amount of the adjustment/addition as if it had been the total income of the assessee shall be levied.

In Assam, Shillong charge, the assessments of **M/s Assam Company Ltd.** for the assessment year 1996-97 and 1997-98 were processed in summary manner in November 1997 and September 1998 on income of Rs.189.67 lakh and Rs.142.89 lakh respectively. The accounts revealed that the interest receipts during the relevant previous year amounting to Rs. 797.93 lakh and Rs. 1014.50 lakh were set off against interest payments chargeable under the head 'Profits and gains of business or profession'. Audit scrutiny revealed that the interest income was correctly assessable under the head 'Income from other sources'. In the regular assessment for the assessment year 1996-97 completed in December 1998 the interest income was assessed under the head 'Other sources'. However, omission to disallow the incorrect set off, apparent from records accompanying the returns, by making prima facie adjustment while processing the returns resulted in

underassessment of income of Rs. 1087.46 lakh in aggregate involving short levy of additional tax of Rs. 96.39 lakh.

The reply of the Ministry to the audit observation has not been received.

(b) In Karnataka II, Bangalore charge, the assessment of **M/s Karnataka Food and Civil Supplies Corporation Ltd.** for the assessment year 1997-98 was processed in summary manner in November 1998 after making prima-facie additions to the extent of Rs. 1319.02 lakh and income was determined at Rs. 1319.02 lakh instead of as Rs.622.17 lakh. A net demand of Rs. 887.69 lakh was raised which included additional income tax of Rs. 113.44 lakh on the additions made. The intimation was revised in March 1999 to determine the correct income and tax and total income was determined at Rs. 622.43 lakh after further disallowing Rs. 0.26 lakh and a net demand of Rs. 438.32 lakh was raised, including additional income tax of Rs. 57.26 lakh. Audit scrutiny revealed that additional income tax of Rs. 57.26 lakh was erroneously levied with reference to the tax on the net income of Rs. 622.43 lakh instead of Rs. 113.46 lakh on the tax of Rs. 1319.28 lakh being the actual additions made. The mistake resulted in short levy of additional income tax of Rs. 56.20 lakh.

The reply of the Ministry to the audit observation has not been received.

Irregular  
grant of credit/  
non-deposit of  
tax deducted  
at source

**3.36 (a)** Under the Income Tax Act, 1961, if any person who is responsible for deducting the tax at source, does not deduct or after deducting tax fails to pay the tax as required, such person shall be deemed to be an assessee in default. Besides initiation of penal action, such person shall be liable to pay simple interest at the rate of fifteen percent per annum upto May 1999 and eighteen percent per annum thereafter on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid.

In Central Circle Kanpur, Uttar Pradesh charge, the assessment of **M/s Khaitan Overseas Finance Co.** for the assessment year 1997-98 was completed after scrutiny in January 2000. Audit scrutiny revealed that the assessee company had deducted tax at source amounting to Rs. 159.41 lakh during the financial year 1996-97 relevant to the assessment year 1997-98 from interest credited to the accounts (on the loans received from various persons), which was not remitted to the government account. The assessee was thus liable to pay the amount of tax deducted at source and interest for default in remittance to the government account. Besides, the assessee was also liable for maximum penalty not exceeding an amount equal to tax not deposited. The omission resulted in aggregate under charge of revenue of Rs. 389.77 lakh.

The reply of the Ministry to the audit observation has not been received.

(b) Under the Income Tax Act, 1961, any tax deducted at source shall be treated as a payment of tax on behalf of the person from whose income the deduction was made and credit shall be given to him for the amount so deducted in respect of the assessment year for which such income was assessable. The related receipt of the tax deducted has to be taken into account in computing the assessee's total income.

In West Bengal III, Kolkata charge, the assessment of **M/s SBI Home Finance Ltd.** for the assessment year 1996-97 was completed after scrutiny in March 1999 at a total income of Rs. 1619.46 lakh. Audit scrutiny revealed that while determining the quantum of tax payable credit was allowed for a sum of Rs. 315.17 lakh towards tax deducted at source. It was however, noticed that total tax deducted at source amounting to Rs. 244.50 lakh was only credited to profit and loss account. Since income on which tax of Rs.244.50 lakh deducted towards tax at source was offered as assessable income in the

relevant previous year, the balance tax deducted at source of Rs. 70.67 lakh should not have been allowed credit in the said previous year since the relevant income was not assessable to tax. The mistake resulted in excess credit of Rs. 70.67 lakh involving short demand of tax of Rs. 121.55 lakh including interest.

The reply of the Ministry to the audit observation has not been received.

(c) Similar mistakes in 7 cases in the charges of Tamil Nadu, Gujarat and Delhi resulted in aggregate short levy of tax of Rs.57.60 lakh.

The replies of the Ministry to the audit observations have not been received.

**Incorrect grant  
of allowance**

**3.37** The Finance Act, 1997 introduced the Voluntary Disclosure of Income Scheme with effect from 1 July 1997. Under the Scheme, all persons including firms and companies could file a declaration containing particulars of income which had not been previously declared in any return under the Income Tax Act or in respect of which full and true particulars had not been furnished in any return filed under the Act, and the declaration was to be filed with the Commissioner of Income tax on or before 31 December 1997. The scheme further provided that the voluntarily disclosed income will not be included in the total income of the declarant for any assessment year under the Income Tax Act.

In West Bengal IV, Calcutta charge, the assessment of a company for the assessment year 1995-96 was completed after scrutiny in March 1998 allowing a deduction of Rs. 192.13 lakh being income declared under Voluntary Disclosure of Income Scheme, 1997. In declaring the aforesaid amount, the assessee contended that deduction of Rs. 325.10 lakh claimed originally by it in respect of profits from export of computer software was not properly computed. Audit scrutiny revealed that the assessing officer, while rectifying the summary assessment in March 1997, recomputed and allowed the amount of deduction at Rs. 114.96 lakh. It was, thus, seen that there was incorrect computation of Rs. 210.14 lakh out of which Rs. 192.13 lakh was subsequently offered for taxation under VDIS, 97 bearing a lower rate of tax. Any disallowance already made by the department under the normal provisions of the Income Tax Act, does not come under the ambit of the VDIS, 1997. Hence allowance of deduction of Rs. 192.13 lakh declared under the VDIS, 1997 in the computation of total income was not in order and resulted in underassessment of income by like amount with consequent short levy of tax of Rs. 72.66 lakh including interest.

The reply of the Ministry to the audit observation has not been received.

**General**

**3.38** Other mistakes in computation of income and tax, allowance of deductions etc., resulted in non-levy/short levy of tax aggregating Rs.592.02 lakh in 39 cases under various CIT charges.

The Ministry have accepted the audit observation in 6 out of 39 cases.

# Chapter 4

## Income Tax

- ◆ Chapter summary
- ◆ Mistakes in computation of Income and Tax
- ◆ Incorrect computation of business income
- ◆ Mistake in allowance of depreciation
- ◆ Irregular computation of capital gains
- ◆ Incorrect carry forward and set off of losses
- ◆ Incorrect deductions under Chapter VIA
- ◆ Non-levy of interest for default in submission of return, payment of advance tax and regular tax





## Chapter summary

- During the year 2000-2001, Income Tax collections amounted to Rs. 31764 crore and constituted 46.50 percent of the total collections of direct taxes. The number of income tax assesseees as on 31-3-2001 was 226.68 lakh and recorded an increase of 15.85 percent over the number of assesseees as on 31-3-2000.

[Para No. 4.1 & 4.2]

- 198 audit observations involving revenue effect of Rs. 47.40 crore on various irregularities in income tax assessments such as incorrect application of rate of tax, incorrect computation of business income, omission to assess unexplained income, incorrect set-off of losses, incorrect deductions and short / non-levy of interest etc have been incorporated in the chapter.

[Para No. 4.4]

### Of these, the major cases are highlighted below:

- Incorrect allowance of provisions in case of a Co-operative bank (**The Gujarat State Co-operative Bank Ltd.**) in Gujarat led to short levy of tax of Rs. 328.10 lakh.

[Para No. 4.9]

- Short-term capital gain arising on sale of land was not taxed in case of an individual (**Shri Anthony John Pereira**) in Rajasthan resulting in short levy of tax of Rs. 935.38 lakh.

[Para No. 4.17]

- Incorrect deduction for setting up a new industrial undertaking in case of **M/s Indian Farmers Fertilizer Corporation Ltd** in Delhi charge led to short levy of tax of Rs. 417.36 lakh.

[Para No. 4.21]

### Chapter Summary

- During the year 2004-2005, Income Tax collection amounted to Rs. 7,39,47,12,000 and constituted 50.04 percent of the total collection for that year. The number of income tax assessors in the FY 2004-2005 was 1,10,56,000 and an added 10,00,000 assessors in 10.05 percent over the number of assessors in FY 2003-2004.

Page No. 11 of 11

- The main objective involves revenue effect of Rs. 47,40,000 over the income tax collection in respect of tax assessor such as revenue application of the law, correct computation of business income, correct assessment of tax, correct assessment of loss, correct deduction and other provisions of income tax law as mentioned in the chapter.

Page No. 12 of 12

In these, the report cases are highlighted below:

- Income tax effect of provisions in case of a Co-operative bank of the Republic of India. Co-operative bank Ltd. is defined in section 25 of the Income Tax Act, 1961.

Page No. 13 of 13

- Special provisions relating to the tax on the income of the bank. The Income Tax Act, 1961 provides for the taxation of the income of the bank. The bank is defined in section 25 of the Income Tax Act, 1961.

Page No. 14 of 14

- Income tax effect of setting up a new industrial undertaking in case of M/s. Indian Furniture Corporation Ltd. in India charge but to show loss of Rs. 11,75,000.

Page No. 15 of 15



Similar mistakes in 14 cases in computation of income and tax in Gujarat, Uttar Pradesh, Tamil Nadu, Maharashtra, Rajasthan, Karnataka and Kerala charges resulted in an aggregate short levy of tax of Rs.64.37 lakh.

The Ministry have accepted one audit observation at Sl.No.2 of the statement and in three out of 14 other cases.

(b) Overassessment of income and tax

(Rs. in lakh)

TABLE NO. 4.2 OVERASSESSMENT OF INCOME AND TAX						
Sl. No	Name of the assessee (status)	CIT charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6	7
1.	Association of State Road Transport undertaking (AOP)	Delhi City VIII	1989-90	143(3)	Taxable income was erroneously adopted at higher figure	142.91
2.	Association of State Road Transport undertaking (AOP)	Delhi City VIII	1990-91	143(3)	Taxable income was erroneously adopted at higher figure	115.20
3.	M/s. MP State Co-op. Marketing Federation (Co-operative Society)	Bhopal (MP)	1995-96	143(1)(a)	Excess additional tax and surcharge was levied though no surcharge was leviable on Co-operative society	13.37

The replies of the Ministry to the audit observations have not been received.

**Application of incorrect rate of tax**

**4.6** Under the Income Tax Act, 1961, income tax including surcharge is charged at the rates as prescribed under the relevant Finance Act.

Following cases where correct rates of tax were not applied are illustrated below:

(Rs. in lakh)

TABLE NO 4.3 APPLICATION OF INCORRECT RATE OF TAX						
Sl. No	Name of the assessee (status)	CIT charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6	7
1.	Shri Tribhuban Mahto (individual)	Ranchi, Bihar	1992-93 & 1993-94	143(3)	Surcharge was not levied	19.39
2.	Shri P. Dayanand Pai (HUF)	Karnataka III	1986-87 to 1991-92	144	Tax was levied as applicable to HUF (ordinary) instead of specified HUF.	16.47

Similar mistakes in three cases in Bihar, West Bengal and Karnataka charges resulted in aggregate short levy of tax of Rs.16.78 lakh.

The Ministry have accepted the audit observation in one out of three other cases.

**Incorrect status adopted in assessment**

**4.7** Under the Income Tax Act, 1961, a firm shall be assessed as a firm, if the partnership is evidenced by an instrument and a certified copy of instrument of

partnership deed duly certified in writing by all the partners accompanies the return of income of the firm. Where any change has taken place in previous year, the firm shall furnish a certified copy of the revised instruments of partnership deed along with the return. On failure to comply with these provisions, a firm shall be assessed for the assessment year as an association of persons and all the provisions of this Act shall apply accordingly.

In Gujarat II, Ahmedabad charge, assessment of an assessee firm (**M/s Kirti Chemicals**) for the assessment year 1999-2000 was completed in a summary manner in March 2000 at an income of Rs.63.46 lakh. Audit scrutiny revealed that though there was change in constitution of the firm, revised partnership deed duly signed by all partners was not filed with the return. The firm was, therefore, required to be treated as AOP & interest payment of Rs.27.93 lakh made to partners was required to be disallowed. Incorrect adoption of status resulted in underassessment of income of Rs.27.93 lakh with short levy of tax Rs.11.64 lakh (including interest).

Similar mistakes in two cases in Kerala charge resulted in aggregate tax effect of Rs.16.19 lakh.

The Ministry have accepted two audit observations in other cases.

**Incorrect computation of business income**

**4.8** Under the Income Tax Act, 1961, the total income of a person for any previous year includes all income from whatever sources derived which is received or which accrues or arises during such previous year unless specifically exempt from tax under the provisions of the Act.

Following cases of incorrect computation of business income noticed in audit are shown below:

(Rs. in lakh)

TABLE NO 4.4 INCORRECT COMPUTATION OF BUSINESS INCOME						
Sl. No	Name of the assessee (status)	CIT charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6	7
1.	M/s Rajkumar Ramprasad (Firm)	Mumbai City VIII	1996-97	143(3)	Brokerage received by the firm on the sales effected through sub brokers was not computed & added to income	27.41
2.	M/s B. Chandrashekar (Firm)	Pune, City-I Maharashtra	1995-96	143(3)	Cash payments exceeding ten thousand rupees were not disallowed and added back to income.	19.35
3.	M/s Rajdev Singh and Co. (Firm)	Delhi City VIII	1997-98	143(3)	Liability relating to the accounts of previous year was charged off incorrectly.	15.20
4.	M/s Sikand & Co. (Firm)	Delhi City VIII	1997-98	143(3)	Excess interest debited in profit and loss account was not disallowed.	13.30
5.	Smt Moza Cherry (Individual)	Delhi City VIII	1997-98	143(3)	Incorrect allowance of deduction of loss on sale of capital investment resulted in underassessment of income.	10.12

Similar mistakes in 16 cases in Maharashtra, Delhi, Karnataka, Gujarat, Haryana, West Bengal and Bihar charges led to aggregate short levy of tax of Rs.71.11 lakh.

The replies of the Ministry to the audit observations have not been received.

**Incorrect allowance of provisions**

**4.9** Under the Income Tax Act, 1961, a provision made in the accounts for an accrued or known liability is an admissible deduction while other provisions made do not qualify for deduction. The Act further provides that only such expenditures which are covered under sections 28 to 40 of the I.T. Act 1961, as admissible deduction shall be allowed for the purpose of determining income from business or profession for the purpose of computation of tax.

In Gujarat II, Ahmedabad charge, the assessment of a Co-operative bank (**The Gujarat State Co-operative Bank Ltd.**) for the assessment year 1997-98 was completed after scrutiny in January 2000, allowing deductions on account of provision made for (1) Training project fund (2) Rural Development Fund (3) Welfare Fund (4) Over due interest reserve aggregating Rs.575 lakh. Audit scrutiny revealed that since Income Tax Act does not provide for such deduction, expenditure was required to be disallowed. The omission resulted in under assessment of income of Rs.575 lakh with consequent short levy of tax of Rs.328.10 lakh including interest.

Similar mistake in another case of this charge resulted in short levy of tax of Rs 8.25 lakh.

The replies of the Ministry to the audit observations have not been received.

**Incorrect allowance of liability**

**4.10** Under the Income Tax Act, 1961, certain deductions being cess, fee or any sum payable by an assessee as employer by way of contribution to any provident fund, superannuation fund or gratuity fund etc. are deductible on actual payment basis. It is further provided that if the payment is made before the due date of filing of the return, the expenditure would be allowable.

In Uttar Pradesh, Lucknow charge, the assessment of a Co-operative Society (**M/s U P Co-operative Sugar Factory Federation Ltd.**), for the assessment year 1997-98 was completed after scrutiny in January 2000 allowing, inter-alia, deduction of Rs.425 lakh towards cess pertaining to the assessment year 1996-97, as claimed by the assessee. Audit scrutiny revealed that the amount of cess disallowed in the assessment year 1996-97 was paid in October 1997, hence it was deductible from the income of the accounting year relevant to the assessment year 1998-99 & allowance thereof in the assessment year 1997-98 resulted in under assessment of income by R.425 lakh involving potential tax effect of Rs.148.71 lakh.

Similar mistake in two cases in Bihar & Andhra Pradesh charges resulted in aggregate short levy of tax of Rs.7.59 lakh.

The Ministry have accepted one audit observation out of two other cases.

**Mistake in valuation of stock**

**4.11** Under the Income Tax Act, 1961, income under the head 'profits and gains of business and profession' shall be computed in accordance with the method of accounting regularly employed by the assessee. Where an assessee follows mercantile system of accounting, the closing stock at the end of a financial year, should appear as the opening stock at the beginning of the next financial year. It has further been judicially held\* that in case of withdrawal of stock-in-trade from the business, the assessee would have to credit the business with the cost price of the withdrawn stock in trade

Following cases were noticed wherein stock was not valued correctly:

---

\* 241 ITR 506 (SC)

(Rs. in lakh)

Sl. No.	Name of the assessee (status)	CIT charge	Assessment year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6	7
1	M/s R K Electricals (Firm)	Bhopal (MP)	1997-98	143(3)	There was a mistake in valuation of stock	28.12
2	M/s Kalpataru Agro Forest Enterprises (Firm)	West Bengal IV	1997-98	143(3)	Understatement of stock by lowering the figure of opening stock of materials	11.97
3	M/s Kirti Developers (Firm)	Surat Gujarat	1992-93 to 1994-95	143(3) to 143(1)(a)	Stock of land was valued without considering expenditure incurred on development of land	10.44

The replies of the Ministry to the audit observations have not been received.

**Incorrect allowance of provision for bad and doubtful debts**

**4.12** Under the Income Tax Act, 1961, a scheduled or non-scheduled bank may make a provision for bad and doubtful debts of an amount not exceeding five percent of total income of the bank (computed before making this deduction and any deductions under Chapter VI-A) and not exceeding ten percent of the aggregate average advances made by the rural branches of such bank computed in prescribed manner.

Following cases of incorrect allowance of provision for bad and doubtful debts were noticed:

(a) In Gujarat II, Ahmedabad charge, the assessment of **The Gujarat State Co-operative Bank Ltd.** for the assessment year 1997-98 was completed after scrutiny in January 2000 determining income at Rs.13.95 lakh. Audit scrutiny revealed that assessee was allowed an amount of Rs.250 lakh towards provisions for bad and doubtful debt as against deduction allowable for Rs.27.81 lakh (being 5 percent of Rs.556.27 lakh). The mistake resulted in excess allowance of provision for bad and doubtful debts of Rs.222.19 lakh with a short levy of tax of Rs.130.60 lakh (including interest).

(b) In Uttar Pradesh, Varanasi charge, the assessment of **M/s Ballia Kshetriya Gramin Bank** for the assessment year 1997-98 was completed after scrutiny in March 2000 at a loss of Rs.2258.24 lakh. Audit scrutiny revealed that the assessee was allowed a provision for bad and doubtful debts for Rs.543.46 lakh and Rs.182.04 lakh being ten percent of the advances made by the rural branches of the bank and five percent of the total income of the bank respectively. However, as per provisions of the Income Tax Act, 1961, a sum of Rs.543.46 lakh was allowable for provision of bad and doubtful debts to the assessee. The mistake resulted in under assessment of income by an amount of Rs.182.04 lakh involving potential tax effect of Rs.63.68 lakh.

The replies of the Ministry to the audit observations have not been received.

**Mistake in allowance of depreciation**

**4.13** Under the Income Tax Act, 1961, where for any assessment year unabsorbed depreciation can not be set off against any other income in the relevant year, such unabsorbed depreciation shall be carried forward to the following assessment year and shall be set off against the profit and gains of business or profession of that year provided that the business or profession for which the depreciation allowance was originally

computed continued to be carried on by him in the previous year relevant for that assessment year.

Following cases of mistakes in allowance of depreciation were noticed in audit:

(Rs. in lakh)

TABLE NO 4.6 MISTAKES IN ALLOWANCE OF DEPRECIATION						
Sl. No	Name of the assessee (status)	CIT charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6	7
1.	Sardar Vallabhbai Patel Khand Udyog (Coop. Society)	Rajkot, Gujarat	1995-96	143(3)	Irregular setting off of unabsorbed depreciation was made after discontinuation of business	99.17
2.	The Gujarat State Cooperative Marketing Federation Ltd. (Coop. Society)	Ahmedabad II Gujarat	1999-2000	143(1)(a)	Irregular set off of unabsorbed depreciation was made beyond the eighth year.	43.27
3.	M/s Sidhomal Paper Conversion Ltd. (Firm)	Delhi City I	1994-95	143(3)	Full depreciation was made though the assets were purchased and used for less than 180 days.	32.31
4.	M/s United Hatcheries (Firm)	Hyderabad II Andhra Pradesh	1996-97, 1997-98, 1998-1999	143(3) (143(1)(a))	Excess depreciation allowance due to adoption of incorrect rate.	19.78

Similar mistakes in five cases in Mumbai, Orissa, Gujarat, Madhya Pradesh and Karnataka charges resulted in aggregate short levy of tax of Rs.22.69 lakh.

The Ministry have accepted one audit observation at Sl.No.1 of the statement and one audit observation out of five other cases.

**4.14** Under the Income Tax Act, 1961, any profits and gains arising from the transfer of a depreciable asset effected during the previous year shall be chargeable to income tax as short term capital gains for the previous year in which the transfer took place. The Act further provides that for purpose of computation of short-term capital gains, the written down value of the assets at the beginning of the previous year is to be taken as the cost of acquisition of the assets. Further in certain cases the capital gains are exempt subject to fulfillment of prescribed conditions.

Audit scrutiny revealed incorrect computation of short term capital gains & irregular exemption of capital gains even though the required conditions were not fulfilled leading to short levy of tax as given below:

**Incorrect computation of capital gains**



(Rs. in lakh)

**TABLE NO 4.7 INCORRECT COMPUTATION OF CAPITAL GAINS**

Sl. No	Name of the assessee (status)	CIT charge	Assessment year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6	7
1.	M/s RMP Bearing Co. (Firm)	City VI Mumbai	1996-97	143(3)	Short term capital gain was computed by taking cost of assets transferred to new unit at their book value instead of written down value	22.14
2.	M/s Verma Industries (Firm)	Bhopal (M P)	1996-97	143(1)(a)	Excess cost of acquisition of assets over the written down value resulted in short term capital gain not being taxed.	21.53
3.	Shri Gurdial Singh (HUF)	Rohtak Haryana	1997-98	143(3)	Incorrect exemption of capital gains on purchase of agriculture land out of sale proceeds of old agriculture land (not applicable to HUF) was granted.	11.93

Similar mistakes in four cases in Madhya Pradesh, Karnataka, and Gujarat charges resulted in aggregate short levy of tax of Rs.21.48 lakh.

The Ministry have accepted one audit observation out of four other cases.

**Mistake in assessment of firm and partners**

**4.15** Under the Income Tax Act, 1961, up to assessment year 1992-93 in assessment of a partnership firm, the assessing officer was required to notify the firm by an order in writing the amount of its total income assessed and the apportionment thereof amongst the several partners. The Central Board of Direct Taxes issued instructions in November 1981, that where the firm and its partners are assessed in different wards, the assessing officer assessing the firm should communicate the share income of each partner to the officer having jurisdiction on such partners immediately after completion of the assessment of the firm.

Following cases of mistakes in assessment of firm and partners noticed in audit are illustrated below:

**TABLE NO 4.8 MISTAKES IN ASSESSMENT OF FIRM AND PARTNERS**

Sl. No	Name of the assessee (status)	CIT charge	Assessment year	Section under which assessed	Nature of mistake	Tax effect (Rs. in lakh)
1	2	3	4	5	6	7
1.	M/s Hotel Sri Raj (Firm)	Bangalore Karnataka III	1992-93	143(3)	Divisible income was not allocated amongst partners and communicated to concerned assessing officers.	153.87
2.	M/s Gopal Krishna Brothers & M/s Novacham (Firm)	West Bengal-V	1997-98 & 1998-99	143(3) & 143(1)(a)	Partner's remuneration was not disallowed though it was not specified in the partnership deed.	18.12

**TABLE NO 4.8 MISTAKES IN ASSESSMENT OF FIRM AND PARTNERS**

Sl. No	Name of the assessee (status)	CIT charge	Assessment year	Section under which assessed	Nature of mistake	Tax effect (Rs. in lakh)
3.	Shri J. Anand (Firm)	Tamil Nadu, Coimbatore	1991-92	143(1)(a)	The income of the firm was adopted provisionally at nil and the correct share income of the partner was not assessed .	17.53

Similar mistakes in 11 cases in Gujarat, Haryana, Bihar, Mumbai and Uttar Pradesh charges resulted in short levy of tax of Rs.36.62 lakh.

The Ministry have accepted one audit observation at Sl.No.3 of the statement.

**Unexplained investment**

**4.16** Under the Income Tax Act,1961, where in any financial year, the assessee has made investments and the assessing officer finds that the amounts expended on making such investments exceeds the amount recorded in this behalf in the books of accounts maintained by the assessee and the assessee offers no explanation about such excess amount or the explanation offered by him is not satisfactory, the excess amount shall be deemed to be the income of the assessee for such financial year.

Following cases following cases where the unexplained investments were not treated as income, were noticed in audit:

(Rs. in lakh)

**TABLE NO 4.9 UNEXPLAINED INVESTMENT NOT TREATED AS INCOME**

Sl. No	Name of the assessee (status)	CIT charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6	7
1.	Smt Rama Puri (individual)	City VIII Delhi	1997-98	143(3)	No corrective action was taken by the assessing officer even after communication of the correct value of investment made by another assessing officer.	56.97
2.	M/s Elder Exports (Firm)	City XIII Mumbai	1995-96	-do-	As the genuineness of the loan liability was not explained satisfactorily, the amount was required to be treated as income.	38.96
3.	Shri Rajkumar O. Maheshwari (individual)	Rajkot Gujarat	1994-95	-do-	Loan obtained by the assessee from third party was accepted without explaining the source of money.	13.48

Similar omissions in two cases in Gujarat and Uttar Pradesh charges resulted in short levy of tax of Rs.8.63 lakh.

The replies of the Ministry to the audit observations have not been received.

**Income not assessed**

**4.17** Under the Income Tax Act, 1961, Income tax shall be charged for every assessment year in respect of total income of the previous year of every person. Income includes almost every kind of receipts and gain coming with some sort of regularity from

definite sources. The term 'income' has an inclusive definition under the Act and includes capital gains, unexplained investment etc.

Test check in audit revealed that in the following cases the income were not subject to tax.

(Rs. in lakh)

TABLE NO. 4.10 INCOME NOT ASSESSED						
Sl. No	Name of the assessee (status)	CIT charge	Assessment Year	Section under which assessed	Nature of amount escaping assessment	Tax effect
1	2	3	4	5	6	7
1.	Shri Anthony John Pereira (individual)	Thane, Mumbai	1992-93	143(3)	Profit earned from a Co-operative housing against sale of land was not taxed as short term 'capital gain'.	935.38
2.	Shri Ram Swaroop Mundra & 5 others (individual)	Udaipur Rajasthan	1988-89 to 1997-98	158 BB	The assessing officer inadvertently reduced an amount of Rs.193.36 lakh as against Rs.12.63 lakh from undisclosed income.	108.49
3.	Shri Purna Chandra Patra (individual)	Bhubaneshwar Orissa,	1994-95 to 1997-98	143(3)	Income arising out of land dealing was considered under capital gains instead of business income.	40.08
4.	M/s Katia Steel Rolling Works (Firm)	West Bengal II	1997-98 & 1998-99	143(3)	Payment of interest on fixed deposits were not added to the income though TDS was deducted at source.	14.55
5	Shri Parmar Meghajibhai Laxmanbhai (Individual)	Rajkot Gujarat	1995-96 & 1996-97	143(3)	The assessing officer considered the contractual receipts at Rs.17.53 lakh and Rs.20.34 lakh as against actual receipts at Rs.37.28 lakh and Rs.24.19 lakh.	14.41
6	Smt Ushaben & Shri Ravindra M Patel (Individual)	Baroda Gujarat	1995-96	143(3)	Irregular exemption of capital gains in respect of compensation of agriculture land acquired by Gujarat Housing Board.	12.06
7.	M/s Kishan Sahakari Chini Mills Ltd. (Co-operative Society)	Varanasi UP	1997-98	143(3)	An amount of Rs.32.41 lakh received during the assessment year was omitted to be included in income.	11.31

Similar mistakes in six cases in Tamil Nadu, Maharashtra, Gujarat, Himachal Pradesh, charges were noticed which resulted in total short levy of tax of Rs.32.21 lakh

The Ministry have accepted one audit observation at Sl.No.2 of the statement.

**Incorrect carry forward and set-off of losses**

**4.18** Under the Income Tax Act, 1961, where, on scrutiny assessment or best judgment assessment or revision, rectification or on settlement relating to any earlier assessment year and made subsequent to the filing of the return of income processed under the summary assessment for any subsequent year, there is any variation in the carry forward of loss, deduction, allowance etc and as a result of which if any tax or interest is found due, an intimation shall be sent to the assessee specifying the sum so payable. Further, in case of change in constitution of firm, loss pertaining to deceased/retired partner shall not be carried forwarded and set off. Further, no loss shall be carried forward unless return of income is filed within the stipulated time.

Cases of incorrect carry forward and set-off of losses noticed in test check are illustrated below:

(Rs. in lakh)

Sl. No.	Name of the assessee (status)	CIT charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6	7
1.	M/s Goindwal Cooperative Spinning Mills Ltd. (Co-operative Society)	Amritsar Punjab	1992-93	143(3)	Excess loss was set off erroneously	15.64
2.	Marudamalai Srimurugan Textiles (Firm)	Coimbatore Tamil Nadu	1997-98	143(1)(a)	Incorrect carry forward and set off of loss was made	15.14

Similarly mistakes in six cases in Karnataka, Mumbai, Tamil Nadu and Gujarat, charges resulted in aggregate short levy of tax of Rs.35.48 lakh

The Ministry have accepted one audit observation at Sl.No.2 of the statement.

**Mistake in assessment while giving effect to appellate order**

**4.19** Under the Income Tax Act, 1961, an assessee who is aggrieved can appeal to the Commissioner of Income Tax (Appeals) against an order of assessment made by the Assessing Officer and the latter shall comply with the direction given in the Appellate orders.

In Karnataka III, Bangalore charge, assessment of an assessee firm (**M/s K. Reheja Development Corporation**) for the assessment year 1995-96 was completed after scrutiny in March 1998 determining income at Rs.355.40 lakh after allowing set off of Rs.49.58 lakh being unabsorbed loss relating to the assessment year 1994-95 and making additions to the extent of Rs.63.18 lakh to the returned income. On an appeal made by the assessee, the appellate Commissioner granted a relief of Rs.48.05 lakh. The order giving effect to the appellate order was passed in December 1998 by allowing further set off of unabsorbed loss of Rs.88.05 lakh for assessment year 1994-95. Audit scrutiny revealed that while giving appeal effect, unabsorbed loss, of Rs.38.47 lakh was required to be set off instead of Rs.88.05 lakh as Rs.49.58 lakh was already set off. This mistake resulted in excess set off of Rs.49.58 lakh with consequent short levy of tax of Rs.27.81 lakh.

A similar case in Tamil Nadu charge resulted in short levy of tax of Rs.5.20 lakh.

The replies of the Ministry to the audit observations have not been received.

**Incorrect allowance of deduction in respect of export profits**

**4.20** Under the Income Tax Act, 1961, an assessee being an Indian company or other assessee resident in India, engaged in export business, is entitled to a deduction equal to the profit derived from the export of goods or merchandise other than the exempted items if the sale proceeds thereof are received in convertible foreign exchange. Where the business of the assessee does not consist exclusively of export of goods/merchandise, profit derived from export shall be the amount which bears to the profit of the assessee as computed under the head 'profits and gains of business or profession' the same proportion as export turnover bears to total turnover. With effect from 1 April 1992, for the purpose of the deduction, 'profits of the business' means the profits of the business as computed under the 'head profits and gains of business or profession' as reduced by ninety percent of certain receipts specified in the Act.

Cases of incorrect/irregular allowance of deductions under the above provisions noticed in test check are given below:

(Rs. in lakh)

**TABLE NO 4.12 INCORRECT ALLOWANCE OF DEDUCTION IN RESPECT OF EXPORT PROFITS**

Sl. No	Name of the assessee (status)	CIT charge	Assessment Year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6	7
1.	M/s Classic Enterprises (Firm)	Karnataka III, Bangalore	1994-95 & 1995-96	143(3)	Deduction under section 80HHC was erroneously calculated and allowed on the lines of exemption available under section 10B of I.T.Act.	25.22
2.	M/s Universal Trades Corporation (Firm)	Cochin Kerala	1996-97	143(1)(a)	The profits derived from export was further increased by 90% of receipts of export incentive instead of limiting it to the proportion as the export turnover bears to the total turnover.	15.11

Similar omissions were noticed in 10 cases in Maharashtra, Gujarat, Karnataka, Punjab, Haryana, West Bengal, Tamil Nadu and Rajasthan charges which resulted in total short levy of tax of Rs.45.09 lakh

The Ministry have accepted one audit observation at Sl.No.2 of the statement and three out of 10 other cases.

**Incorrect allowances of deduction to new industrial undertaking after 31 March 1981**

**4.21** Under the Income Tax Act, 1961, where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking established after 31 March 1981, the assessee is entitled to a deduction of twenty percent of such profit.

In Delhi VII charge, the assessment of a society (**M/s Indian Farmers Fertilizers Corporation Ltd**) for the assessment year 1993-94 was completed after scrutiny in March 2000 at an income of Rs.10457.25 lakh after allowing deduction of Rs.2616.43 lakh under section 80-I in respect of Aonla Unit of the society. While working out the income, the assessee has deducted an amount of Rs.5323.46 lakh from the consolidated income of the society on account of subsidy received for Aonla Unit as the same was already offered for tax in the assessment year 1992-93. Audit scrutiny revealed that the said amount of Rs.5323.46 lakh was also required to be deducted from income of Aonla

Unit while computing the deductions under section 80-I. The omission resulted in excess deduction under section 80-I by an amount of Rs.1064.69 lakh involving tax effect of Rs.417.36 lakh.

The reply of the Ministry to the audit observation has not been received.

**Incorrect allowance of deduction in respect of royalties etc. received from foreign enterprises**

**4.22** Under the provision of the Income Tax Act, 1961, where the gross total income of an assessee includes any income by way of royalty, commission, fees or any similar payment received by him in convertible foreign exchange from a foreign government or enterprise, in consideration of technical services to such government or enterprise, a deduction equal to fifty percent of such income is allowed in computing the total income of the assessee. The Board have clarified that the technical services for the purposes of section 80-O should only relate to the productive fields, and services such as those relating to management, organisation etc. would not qualify for the purpose.

In Delhi VIII charge, the assessments of an individual (**Shri Arun Jogodia**) for the assessment years 1996-97 and 1997-98 were completed after scrutiny in March 1999 and October 1999 after allowing deduction of Rs.22.57 lakh and Rs.27.56 lakh respectively towards commission received from foreign enterprises. Audit scrutiny revealed that the assessee provides services as broker between various ship owners all over the world as well as with various cargo owners and in consideration of the services rendered as above, the ship owners pay commission to the assessee. As the brokerage received from ship owner for working as cargo agent could not be treated as commission received in consideration of technical services rendered to foreign enterprise in the productive fields, the assessee was not entitled to deduction under section 80-O. The irregular allowance of deduction resulted in under assessment of income of Rs.50.13 lakh in the aggregate involving tax effect of Rs.33.11 lakh (including interest).

The reply of the Ministry to the audit observation has not been received.

**Short levy/Non-levy of interest**

**4.23** Following cases of short levy/non levy of interest for default in filing the return, payment of advance tax and regular tax were noticed in audit.

**Short levy of interest for default in filing the return**

(i) Under the Income Tax Act, 1961, where the return for any assessment year is furnished after the specified due date, the assessee shall be liable to pay interest at two percent per month or part thereof (from 1 April 1989), on the amount of tax from the date immediately following the specified due date to the date of filing the return or where no return is furnished, upto the date of completion of regular assessment. The Act further provides that where, with a view to reassessment, the return of income required by a notice issued after the completion of regular assessment is furnished after the expiry of the time allowed in such notice, the assessee shall be liable to pay simple interest at the rate of two percent for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time allowed and ending on the date of furnishing the return on the amount by which the tax on the total income determined on the basis of such reassessment exceeds the tax on the total income determined under regular assessment.

Instances of short levy/non-levy of interest for the default in filing the returns are given below:

(Rs. in lakh)

**TABLE NO 4.13 SHORT/NON-LEVY OF INTEREST FOR DEFAULT IN FILING THE RETURN**

Sl. No.	Name of the assessee (status)	CIT charge	Assessment Year	Section under which assessed	Tax effect
1	2	3	4	5	6
1.	M/s Magadh Distributors (Firm)	Patna Central, Bihar	1994-95	144	37.78
2.	Shri Bhadresh J. Shah (Individual)	Ahmedabad II Gujarat	1992-93 & 1994-95	144	30.66
3.	Shri Rakesh Gandhi (individual)	Patna, Central Bihar	1994-95	144	14.69
4.	Dr L. Prakash & Shri L. Pradeep (Individual)	Tamil Nadu Central-I, Chennai	1995-96	143(3)	10.51
5.	M/s Dawood & co. (Firm)	City I, Mumbai	1993-94 to 1994-95	143(3)	10.38

Similar omissions were noticed in 10 cases in West Bengal, Gujarat, Karnataka, Hayana, Punjab, West Bengal, Tamil Nadu and Rajasthan charges which resulted in total short levy of interest of Rs.53.28 lakh.

The Ministry have accepted two audit observations at Sl.No.1&3 of the statement and in three observations out of 10 other cases.

**Short levy of interest for default in payment of advance tax**

(ii) Under the Income tax Act, 1961, where an assessee who is liable to pay advance tax for any financial year on the basis of his own estimate has failed to pay such tax or where the advance tax paid falls short of 90 percent of tax determined on regular assessment or on summary manner, interest at the rate of two percent for every month or part of month is payable by the assessee on the amount by which the advance tax paid falls short of the assessed tax from the first day of the next financial year to the date of determination of total income in a summary manner or regular assessment. It has been judicially held\* that when the initial order of assessment gets effaced by the appellate or revisional order the only effective order is the ultimate order of the superior authority. The original order of assessment becomes part of the entire proceedings culminating in the ultimate order, which for all practical purposes should be treated as the order on regular assessment.

Cases of short levy of interest under the above provisions noticed in audit are illustrated below:

\* 1. CIT Vs Calcutta Electric Supply Corporation Ltd. 179 ITR 580 (Cal)  
2. CIT Vs Deepchand Kishorilal 183 ITR 299 (Kar)

(Rs. in lakh)

**TABLE NO 4.14 SHORT LEVY OF INTEREST FOR DEFAULT IN PAYMENT OF ADVANCE TAX**

Sl. No.	Name of the assessee (status)	CIT charge	Assessment year	Section under which assessed	Nature of mistake	Tax effect
1	2	3	4	5	6	7
1.	Shri Govind Mahto (individual)	Ranchi, Bihar	1991-92 to 1993-94	143(3)	Interest for non payment of advance tax was charged upto the date of first regular assessment which was completely set aside instead of upto the date of fresh assessment	121.86
2.	Shri Baikunth Nath Dey (individual)	Ranchi, Bihar	1991-92 to 1993-94	143(3)	Interest for non payment of advance tax was charged upto the date of first regular assessment which was reopened instead of upto the date of fresh assessment	119.71
3.	M/s Kwality Steel Suppliers (Firm)	Gujarat II, Ahmedabad	1993-94	143(3)	Interest was incorrectly worked out	41.77
4.	M/s Malik enterprises (Firm)	Patna Central Bihar,	1991-92 to 1992-93	143(3)	Interest for non-payment of advance tax was charged upto the date of first regular assessment which had become non-est instead of the date of re-assessment	35.33
5	Smt Leema Rose (Individual)	Coimbtore Tamil Nadu	1996-97	143(3)	Interest for short payment of advance tax was incorrectly computed	17.68
6	Shri Bhadresh J Shah (Individual)	Gujarat II Ahmedabad	1992-93	144	Interest for short payment of advance tax was incorrectly computed	13.24
7	Dipesh Chandak & Sons (Firm)	Central Patna, Bihar	1992-93 to 1993-94	143(3)	Interest for default in payment of advance tax was charged upto the date of Ist regular assessment instead of the date of fresh assessment	12.95
8	M/s Continental Transport & Construction Corporation (Firm)	Dhanbad Bihar	1993-94	143(3)	Interest for short payment of advance tax was incorrectly computed	12.44
9	Shri Ashok Manilal Thakkar (Individual)	Ahmadabad II Gujarat	1993-94	143(3)	Interest for short payment of advance tax was incorrectly computed	12.18



Similar omissions were noticed in 11 cases in Mumbai, Gujarat, Karnataka, Punjab charges which resulted in total short levy of interest of Rs.47.01 lakh.

The Ministry have accepted one audit observation at Sl.No.5 of the statement and two audit observations out of 11 other cases.

**Non-levy of interest for delay in payment of tax**

(iii) Under the Income Tax Act, 1961, any demand for tax should be paid by an assessee within thirty days of service of notice of the relevant demand. Failure to do so would attract levy of simple interest at one and one half per cent per month or part thereof from the date of default till the date of actual payment. Where the assessment made originally by the assessing officer is either varied or even set aside by one appellate authority but on further appeal the original order of the assessing officer is restored either in part or wholly, the interest payable will be computed with reference to the due date reckoned from the original demand notice.

Further, if a person responsible for deducting tax at source fails to deduct or after deducting fails to pay the tax to the credit of the Central Government, he will be deemed to be an assessee in default and shall be liable to pay penalty which shall not exceed the arrears of tax. Besides, he shall also be liable to pay simple interest at fifteen percent per annum on the amount of such tax from the date on which such tax was deductible to the date on which tax is actually paid.

Cases of short levy/non-levy of interest for default in payment of tax in time are given below:

(Rs. in lakh)

**TABLE NO 4.15 SHORT/NON-LEVY OF INTEREST FOR DEFAULT IN PAYMENT OF TAX**

Sl. No.	Name of the assessee (status)	CIT charge	Assessment year	Section under which assessed	Tax effect
1	2	3	4	5	6
1.	Shri Chandrakant N. Sheth (individual)	West Bengal IV	1985-86	143(3)	53.73
2.	Shri Trilochana K. Doshi (individual)	Mumbai IV	1993-94	143(3)	39.70
3.	M/s Shreyash Equipments (Firm)	Ahmedabad Central, Gujarat	1994-95	143(3)	35.83

Similar mistakes in five cases in Maharashtra and Uttar Pradesh charges resulted in short/non-levy of interest to Rs.28.78 lakh

The Ministry have accepted one audit observation out of five other cases.

**Omission to levy penalty**

**4.24** Under the Income Tax Act, 1961, if the assessing officer, in the course of any proceedings under the Act, is satisfied that any person has failed to pay the tax demanded within the stipulated time he may direct such person to pay by way of penalty, in addition to any tax payable by him, a sum to the extent of tax in arrears. Penalty is to be imposed even if the tax has been paid after the default in payment has occurred

In Mumbai City I charge, the assessment of an individual (**Shri Yash Raj Chopra**) for the assessment year 1996-97 was completed after scrutiny in January 1999 at Rs.1402.46 lakh. Audit scrutiny revealed that while disposing the assessee's petition in connection with levy of penalty, the assessing officer directed the assessee to pay Rs.80 lakh on or before 31 March 1999 and that the balance demand shall not be pressed before 30 September 1999 or the order of the learned CIT (Appeals), whichever is earlier. There

was nothing on record to indicate that the amount of Rs.80 lakh was paid by the assessee within the specified time. Therefore, penalty proceedings should have been initiated and minimum penalty leviable was Rs.80 lakh. On being pointed out by audit the assessment officer imposed a penalty of Rs.30 lakh.

Similar three cases in Gujarat and Himachal Pradesh charges resulted in non-levy of penalty of Rs16.10 lakh.

The replies of the Ministry to the audit observations have not been received.

**General**

**4.25** Other mistakes involving incorrect determination of income and computation of tax, irregular deductions and non-levy of interest etc. were noticed in 18 cases in various charges notably in Gujarat, Bihar, Delhi, Haryana, Mumbai, Tamil Nadu, Kerala and Assam charges resulting in a total loss of tax revenue of Rs.113.24 lakh.

The Ministry have accepted one audit observation out of above 18 cases.

# Chapter 5

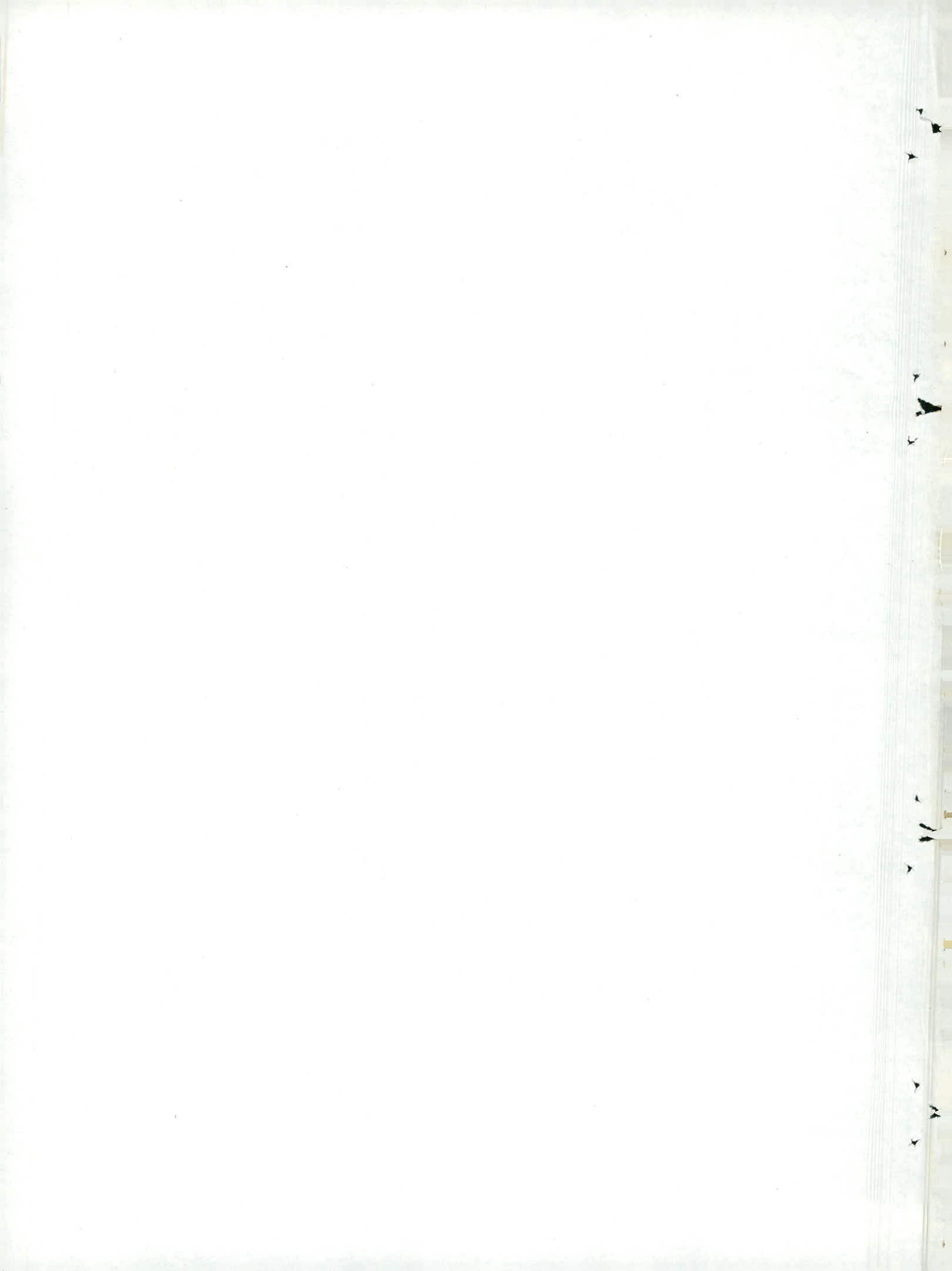
## Other Direct Taxes

- ◆ Chapter summary
- ◆ Wealth Tax
- ◆ Gift Tax
- ◆ Interest Tax
- ◆ Expenditure Tax



## Chapter summary

- Avoidable mistake in computation of wealth and tax resulted in short levy of wealth tax of Rs. 4.30 lakh in two cases in Tamil Nadu charge. [Para 5.5]
- Incorrect valuation of immovable property resulted in short levy of wealth tax aggregating to Rs. 8.36 lakh in 3 cases in Tamil Nadu, Delhi and West Bengal charges. [Para 5.6]
- Non-correlation of Income Tax records with the records of wealth tax resulted in non levy of wealth tax aggregating Rs.231.22 lakh in 21 cases in different charges. [Para 5.7]
- Non-filing/late filing of return of wealth led to short levy of interest of Rs. 11.42 lakh in 4 cases in different charges. [Para 5.8]
- Non-levy of tax on deemed gift in 5 cases aggregated to Rs. 106.35 lakh in different charges. [Para 5.12]
- Due to non-assessment of gift in 1 case there was non-levy of gift tax of Rs.12.14 lakh in Haryana charge. [Para 5.13]
- For default in furnishing return of gift interest was incorrectly overcharged by Rs.12.44 lakh in one case of Tamil Nadu charge. [Para 5.14]
- For default in payment of interest tax in advance, interest was short levied by Rs.57.99 lakh in 1 case of West Bengal charge. [Para 5.20]
- Due to avoidable mistake in adjustment of refund, interest was paid in excess by Rs.82.08 lakh in 1 case of Punjab charge. [Para 5.21]
- Omission in making assessment of interest tax led to non-levy of interest tax aggregating Rs.166.27 lakh in 9 cases in different charges. [Para 5.22]
- Due to mistake in calculation of chargeable expenditure, expenditure tax was short levied by Rs.172.35 lakh in 1 case of West Bengal charge. [5.23]



## CHAPTER 5 - OTHER DIRECT TAXES

### A-Wealth tax

Revenue  
from  
wealth tax

**5.1** The following table gives a time series analysis of wealth tax receipts as against budget estimates during 1996-97 to 2000-2001.

(Rs.in crore)

**TABLE NO 5.1 BUDGET ESTIMATES VERSUS ACTUAL  
WEALTH TAX COLLECTION**

Year	Budget estimates	Actuals	Variation	Percentage
1	2	3	4	5
1996-97	110.00	77.44	(-)32.56	(-)29.6
1997-98	130.00	113.03	(-)16.97	(-)13.0
1998-99	145.00	162.04	(+)17.04	(+)11.75
1999-00	145.00	132.91	(-)12.09	(-) 8.33
2000-01	145.00	131.73	(-)13.27	(-)9.15

Number of  
assesseees

**5.2** The number of wealth tax assesseees borne on the books of the Income Tax Department as on 31 March 2000 and 2001 were 2,15,717 and 2,02,171 respectively as given in table 2.5 below para 2.4 of Chapter 2 of this Report.

Status of  
assessment

**5.3** Particulars of assessments completed, assessments pending and demands in arrear for the last three years ending 31 March 2001 are as given in table 2.3 below para 2.3 and table 2.22 below para 2.12 of Chapter 2 of this Report. Arrears of wealth tax are alarmingly high in comparison to the collection made during the year 2000-2001.

Results of  
audit

**5.4** During the test audit of assessments completed under the Wealth Tax Act, 1957, conducted during the period 1 April 2000 to 31 March 2001, short levy of wealth tax of Rs.32.54 crore was noticed in 1101 cases.

A total number of 89 draft paragraphs involving undercharge of wealth tax of Rs 370.61 lakh were sent to Ministry of Finance for their comments. Out of these 86 cases involving tax of Rs.362.50 lakh have been included in succeeding paragraphs from 5.5 to 5.9. Ministry have accepted the audit observations in 9 cases involving tax effect of Rs.19.75 lakh. Their reply in remaining cases has not been received.

Avoidable  
mistakes in  
computation of  
wealth and tax

**5.5** Under the Wealth Tax Act, 1957, in a scrutiny assessment, the assessing officer shall make a correct assessment of taxable wealth of the assessee and determine the correct tax payable by him on the basis of such assessment. The Central Board of Direct Taxes from time to time issued instructions stressing the necessity for ensuring accuracy in the computation of wealth and tax.

In Tamil Nadu III, Chennai charge, the wealth tax assessment of an individual, **Smt. Padma Narasimhan**, for the assessment year 1990-91, completed after scrutiny in February 1993 on a net wealth of Rs.48.62 lakh, was reassessed in March 1997 on a net wealth of Rs.143.55 lakh. Likewise, the assessment for assessment year 1991-92 was completed after scrutiny in March 1997 on a net wealth of Rs.236.53 lakh after allowing liabilities to the extent of Rs.53.12 lakh. Audit scrutiny revealed that for assessment year

1990-91, the revised return filed by the assessee in December 1995 declaring an enhanced net wealth of Rs.173.99 lakh, was not considered, while for assessment year 1991-92, a sum of Rs.53.12 lakh was allowed against the allowable liabilities of Rs.5.32 lakh. Similarly, in Tamil Nadu II, Chennai charge, in the wealth assessment of another company **M/s Wheels (India) Ltd.** for the assessment year 1998-99, a tennis court measuring 8645 Sq. Ft of the value of Rs 103.39 lakh was omitted to be included in the net wealth though it was brought to tax in the earlier assessment year 1997-98 and assessment year 1993-94. The above mistakes resulted in aggregate under assessment of wealth of Rs.267.87 lakh involving short levy of wealth tax of Rs.4.30 lakh in two cases.

Similar mistakes in three cases involving tax effect of Rs.2.49 lakh were noticed in West Bengal and Gujarat charges.

The reply of the Ministry to the audit observations has not been received

**Incorrect valuation of immovable property**

**5.6** Under the provisions of Section 40 of Finance Act, 1983, with effect from the assessment year 1984-85, companies other than those in which the public are substantially interested are liable to wealth tax at a flat rate of two percent (plus surcharge of 10 percent for the assessment year 1988-89) of the net wealth comprising the aggregate market value upto the assessment year 1991-92. The value of the assets (as amended by the Finance (No.2) Act,1991, with effect from the assessment year 1992-93) shall be either as determined in the manner laid down in Schedule III to the Wealth Tax Act, or the value disclosed in the balance sheet of the company on the valuation date, whichever is higher.

In Tamil Nadu I, Chennai charge, the wealth tax assessment of a company, **M/s The Wheel & Rim Co. of India** for the assessment year 1990-91 was completed after scrutiny in March 1994 on a net wealth of Rs.40.49 lakh. Audit scrutiny revealed that the value of a property consisting of land and building was determined at Rs.40.12 lakh following the rent capitalisation method as specified in Schedule III to Wealth Tax Act, instead of adopting its market value of Rs.292.60 lakh as adopted for the assessment year 1988-89. As the market value of the asset was to be taken into account in respect of closely held companies upto assessment year 1991-92, the value of Rs.40.12 lakh adopted based on rent capitalisation method was not correct. If the market value of Rs.292.60 lakh, as for assessment year 1988-89, was considered in the absence of correct market value, for the assessment year 1990-91, there would be an addition to net wealth by Rs.252.48 lakh involving tax effect of Rs.5.05 lakh.

Similar mistakes in two cases involving tax effect of Rs.3.31 lakh were noticed in Delhi and West Bengal charges.

The reply of the Ministry to the audit observations has not been received

### **5.7 Lack of correlation of Income Tax records with the records of different Direct Taxes**

The Central Board of Direct Taxes issued instructions (November 1973, April 1979 and September 1984), for proper co-ordination amongst assessment records pertaining to different direct taxes and for simultaneous disposal of income tax and wealth tax assessment cases, so that there is no evasion of tax. The instructions were not complied with strictly by the department as is revealed from the following cases where most of the observations have been taken from the scrutiny of the Income Tax assessment records as shown below:

**Wealth escaping assessment**

**5.7.1** Under the Wealth Tax Act, 1957, prior to 1 April 1993, wealth tax on assesseees other than companies is chargeable in respect of each assessment year on the net wealth of the assessee as on the valuation date relevant to that assessment year at the rates



prescribed in the schedule to the Act. Further, under the Act, net wealth means the aggregate value of all assets wherever located, belonging to the assessee as reduced by the aggregate value of all admissible debts owed by him on the valuation date.

(i) In Kolkata Central II charge, the income tax 'Block Assessments' of two individuals, **Shri Shankar Lal Saraf and Shri Radhe Shyam Tulsian** for the block assessment years 1987-88 to 1997-98, were completed after scrutiny in November 1997. Audit scrutiny revealed that in the said assessments, the sums of Rs.307.75 lakh and Rs.223.35 lakh being the undisclosed income arrived at by means of disclosure of peak credit respectively relating to the assessment year 1991-92 were offered to income tax. The said income jointly disclosed by the assessees during search had already been invested during financial year 1991-92 and as such it formed part of capital asset of the assessees. Such undisclosed income and capital assets attracted levy of wealth tax for the assessment years 1991-92 and 1992-93. However, these were neither returned by the assessees nor included by the assessing officer in their wealth tax assessments completed in April 1995 and March 1995 respectively. Non-inclusion of such undisclosed income and capital asset resulted in under assessment of wealth of Rs.1062.20 lakh with consequent under charge of tax of Rs.20.04 lakh including interest.

The reply of the Ministry to the audit observation has not been received

(ii) In Haryana, Rohtak charge, the income tax assessment of an individual, **Shri Bishan Dayal** for the assessment year 1992-93, completed after scrutiny in March 1995 determining the taxable income at Rs.421.26 lakh on the basis of assets and cash seized during the search operations conducted in the premises of the assessee in January 1992, was set aside by the Commissioner of Income Tax (Appeals) and redone after scrutiny in March 1998 at the same income. Audit scrutiny revealed that silver and cash amounting to Rs.421.06 lakh seized during search operation constituted wealth of the assessee attracting levy of wealth tax. However, the assessee did not file any wealth tax return nor did the department initiate any wealth tax proceedings. The omission resulted in wealth of Rs.185.41 lakh escaping assessment with consequent non-levy of wealth tax of Rs.8.17 lakh (including interest).

The reply of the Ministry to the audit observation has not been received

(iii) In Bihar, Patna charge, the income tax assessment of an individual, **Shri Dipesh Chandak** for the assessment year 1987-88 to 1990-91 was completed in a best judgment manner in March 2000. Audit scrutiny revealed that the assessee had huge investments in the shape of shares and these were considered as unexplained investment and brought to income tax. These unexplained investments constituted wealth of the assessee attracting levy of wealth tax. However, the assessee did not file return of wealth for any of the four assessment years nor did the department initiate any wealth tax proceedings. The omission resulted in wealth escaping assessment involving non-levy of wealth tax aggregating to Rs.7.19 lakh.

The reply of the Ministry to the audit observation has not been received

(iv) In Bihar, Patna charge, audit scrutiny of the income tax assessment records of four individuals, **Shri Sone Lal Hembram., Smt. Alka Yadav, Shri K.P. Sinha and Shri S.K. Nagar** for the block assessment year 1988-89 to 1997-98 and up to 27.11.97 assessed under section 158BC in November 1999 disclosed that the assessees owned wealth consisting of urban land, house property, jewellery, Maruti car and cash in hand of gross value of Rs.394.37 lakh, which was liable to wealth tax under the Act. The assessees did not file any return of wealth tax nor did the department initiate any wealth tax proceeding. The omission resulted in non-assessment of net wealth aggregating to

Rs.349.37 lakh with consequent non-levy of wealth tax of Rs.6.14 lakh (including interest).

Similar mistakes in 8 cases involving tax effect aggregating Rs.14.60 lakhs in Tamil Nadu, Kerala, Gujarat, Karnataka and Bihar charges were also noticed from the scrutiny of Income Tax records.

The Ministry have accepted the audit observation in two cases of Kerala and Bihar charges. Their reply in remaining cases has not been received

**5.7.2** Under the provision of the Wealth Tax Act, 1957, from April 1, 1993, where net wealth on the corresponding valuation date, of an individual, Hindu Undivided Family and company exceeds Rs.15 lakh, tax is levied at the rate of 1 percent of the amount by which the net wealth exceeds Rs.15 lakh. Net wealth means the aggregate value of certain specified assets wherever located, belonging to the assessee as reduced by the aggregate value of all admissible debts owed by the assessee on the valuation date. Under the Act, 'specified assets', inter-alia, include certain house properties, urban land, motor cars, boats, air crafts, jewellery, cash in hand in excess of fifty thousand rupees etc.

The table below shows the observations taken from the scrutiny of Income Tax records in different charges:

(Rs.in lakh)

Sl. No	Name of assessee / Status	CIT charge	Assessment Year	Property escaped assessment	Under assessment	Tax effect
1	2	3	4	5	6	7
1	M/s Orissa Stevedors (P) Ltd (Company)	Bhubaneswar	1993-94 to 1995-96	Buildings & Motor cars	349.94	7.18
2.	M/s Andrew Yule & Co. Ltd. (Company)	WB-II, Kolkata	1993-94 to 1996-97	Residential flats Guest houses & Motor cars/jeeps	645.57	5.88

**Note:** Tax effect includes interest also.

Similar mistakes in 9 cases involving tax effect aggregating Rs.15.39 lakh in Delhi, West Bengal, Karnataka, Tamil Nadu and Madhya Pradesh charges were also noticed from the scrutiny of Income Tax/Wealth Tax records.

The reply of the Ministry to the audit observations has not been received

**5.7.3** From assessment year 1997-98, specified assets, inter-alia, include commercial properties also attracting levy of wealth tax

(i) In Delhi I charge, audit scrutiny of the income tax assessment records of two companies, **M/s A. B. Hotels Ltd. and M/s Atma Ram Properties (P) Ltd.** for the assessment year 1997-98 revealed that the assessee companies were in receipt of maintainable rent of Rs.588.85 lakh (net) from house properties. The capitalised value of the above properties was Rs.5744.12 lakh, which constituted wealth of the assessee attracting levy of wealth tax. However, the assessee companies did not file the return nor did the department initiate any wealth tax proceedings. The omission resulted in under assessment of net wealth of Rs.5744.12 lakh with consequent non-levy of wealth tax of Rs.90 lakh (including interest).

The reply of the Ministry to the audit observation has not been received

(ii) In City-VI, Mumbai charge, audit scrutiny of the income tax assessment records of a company, **M/s REPL Enterprises Ltd** for the assessment years 1997-98 and 1998-99 revealed that the assessee had disclosed rental income of Rs.31.92 lakh from let out

commercial property. However, the assessee did not file his returns of net wealth nor did the department initiate wealth tax proceedings. The omission resulted in wealth of Rs.1120 lakh escaping assessment with consequent non-levy of wealth tax of Rs.16.27 lakh.

The reply of the Ministry to the audit observation has not been received

(iii) In Tamil Nadu II, Chennai charge, the income tax assessments of a company, **M/s Savorit Ltd.** for the assessment years 1997-98 and 1998-99 were completed after scrutiny and in summary manner in March 2000 and March 1999 on an income of Rs.29.58 lakh and Rs.12.35 lakh respectively. Audit scrutiny revealed that during the assessment years 1997-98 and 1998-99, the assessee had received rental income of Rs.41.38 lakh and Rs.42.38 lakh respectively, from let-out building. Also, the assessee owned motor car, the written down value of which for the assessment years 1997-98 and 1998-99, as per the depreciation schedules worked out to Rs.17.51 lakh and Rs.14.43 lakh respectively. The value of the let-out building adopting the rent capitalisation method works out to Rs.439.70 lakh and Rs.450.25 lakh and that of the motor car, after deducting the liability of Rs.8.17 lakh from the respective written down values works out to Rs.9.34 lakh and Rs.6.26 lakh respectively. The total wealth assessable for these years thus aggregates to Rs.449.04 lakh and Rs.456.50 lakh respectively. However, the assessee company did not file its return of wealth nor did the department initiate any wealth tax proceedings for these assessment years. The omission resulted in non-assessment of wealth by like values for the two assessment years and consequent non-levy of wealth tax aggregating to Rs.15.23 lakh including interest for default in filing the returns, upto the date of audit i.e. October 2000.

Some more cases involving substantial tax effect, noticed from scrutiny of Income Tax records, are tabulated below:

(Rs.in lakh)

**TABLE NO 5.3 WEALTH ESCAPING ASSESSMENT W.E.F.01-04-1997**

Sl. No	Name of assessee/ Status	CIT charge	Assessment Year	Property escaping assessment	Under assessment	Tax effect
1	2	3	4	5	6	7
1.	M/s Rajni Priya Trust (Others)	Indore	1997-98 & 1998-99	Landed Property & Interest on deposits	851.73	12.64
2.	Shri Atul Ishwardas Chardila (Individual)	City II, Pune	1996-97 to 1998-99	Motor Cars, Jewellery and immovable property	464.98	8.01
3.	M/s Martin Burn Ltd. (Company)	WB I Kolkata	1997-98	Five house properties	557.28	6.61
4.	M/s Mcleod & Co. Ltd. (Company)	WB IX Kolkata	1997-98	House property	577.90	5.63
5.	M/s Prashant Glass Works (P) Ltd. (Company)	Delhi II	1997-98 & 1998-99	House property and Motor Cars	373.05	5.49
6.	M/s Master Trust Ltd. (Company)	Ludhiana	-do-	Commercial building	206.52	5.29
7	M/s Southern Sea Foods Ltd. M/s. Tablets (I) Ltd. (Company)	TN II, Chennai	1997-98, 1998-99	Motor Cars Vehicles & Urban land	566.56	5.06

**Note :** Tax effect at Sl. No.1 to 3 and 5 includes interest. Tax effect at Sl. No.6 includes interest and penalty

The Ministry have accepted the audit observation at Sl.No. 3 of the table above. Their reply in the other cases have not been received.

Similar mistakes in 32 cases involving tax effect aggregating Rs.62.38 lakhs in West Bengal, Tamil Nadu, Maharashtra, Madhya Pradesh, Kerala, Bihar, Karnataka, Delhi and Gujarat charges were also noticed

The Ministry have accepted the observation in two cases of West Bengal charge. Their reply in remaining cases has not been received.

**5.7.4** Under the provision of section 40 of the Finance Act, 1983, companies other than those in which public are substantially interested, were liable to wealth tax at a flat rate of 2 percent of the net wealth comprising the aggregate value it would fetch if sold in the open market upto the assessment year 1991-92 and for the assessment year 1992-93, the value either disclosed in the balance sheet or computed in accordance with the provision of Schedule III to the Act, whichever is higher, of all the specified assets belonging to the company on the valuation date as reduced by the aggregate value of all admissible debts owed by it on the valuation date. From the assessment year 1993-94 all companies have come under the purview of wealth tax and the tax is leviable on the specific assets at the rate of 1 percent as in the case of individuals and HUFs. Under the provision of schedule III, the value of land shall be the price of the land in the open market.

In West Bengal III, Kolkata charge, the income tax assessment of a company, **M/s J. B. S. Builders & Traders (P) Ltd.** for the assessment year 1994-95 was processed in a summary manner in February 1996. Audit scrutiny revealed that the assessee company had lease hold right in a plot of land acquired by it in July 1974 for a period of 99 years and extendable for a further period of 99 years. The said plot of land was taken over by the government in December 1993 on payment of compensation of Rs.60.91 lakh to it. As the said land constituting wealth was held by the assessee company upto December 1993, it was liable to wealth tax from the assessment year 1984-85 to 1993-94. However, the assessee company did not file any return of wealth nor did the assessing officer initiate any wealth tax proceeding for any of the assessment years. Omission resulted in wealth escaping assessment for a substantial amount which, if computed, in absence of market value, by way of discounting method on the basis of the compensation value would work out to Rs.357 lakh involving non levy of wealth tax of Rs.6.39 lakh besides interest leviable for non-submission of return.

Similar mistakes in three cases involving tax effect aggregating Rs.4.69 lakh in West Bengal and Kerala charges were also noticed.

The Ministry have accepted the audit observation in one case of Kerala charge. Their reply in the remaining cases has not been received

**Non-levy of interest for late filing/non filing of return**

**5.8** Under the Wealth Tax Act, 1957 where return of net wealth for any assessment year is furnished after the specified due date or is not furnished, the assessee shall be liable to pay simple interest at the rate of 2 percent for every month or part of the month from the date immediately following the due date to the date of filling the return or where no return is furnished to the date of completion of regular assessment on the amount of tax determined in regular assessment.

In Central II, Kolkata charge, the wealth tax assessment of a company, **M/s Park Hotel (P) Ltd.** for the assessment year 1991-92 was completed after scrutiny in March 1996. Audit scrutiny revealed that the assessee company filed return of its net wealth on April 4,1995 against the specified due date, i.e. by December 31,1991. The assessee was therefore, liable to interest for the default in submission of return. Omission resulted in non-levy of interest of Rs.8.39 lakh.

Similar mistakes in three cases involving tax effect aggregating Rs.3.03 lakhs in Haryana, Punjab and Karnataka charges were also noticed.

**Non levy of  
interest for  
delay in  
payment of  
tax demand**

The Ministry have accepted the observation in two cases of Punjab and Haryana charge. Their reply in remaining cases has not been received

**5.9** Under the Wealth Tax Act, 1957, a demand of tax should be paid by an assessee within thirty days of service of notice of demand. Failure to do so attracts simple interest at one and one half percent per month or part thereof from the date of default till the date of actual payment.

In Kerala, Cochin charge, the wealth tax assessment of an individual, **Shri Arvind V. Saraf** for the assessment year 1991-92 was completed in March 1997 raising a demand of Rs.21.58 lakh and the demand notice was issued on 18 March 1997. Audit scrutiny revealed that the demand of tax was paid/adjusted in instalments on various dates between November 1997 and July 1999 and the tax demand was closed without charging any interest for delay in payment of tax demand. The omission resulted in non levy of interest of Rs.3.20 lakh.

The Ministry have accepted the audit observation.

Similar mistakes in three cases involving tax effect aggregating Rs.4.24 lakh were noticed in Madhya Pradesh and Tamil Nadu charges.

The reply of the Ministry to the audit observations has not been received.

**B-Gift Tax**

**Introductory**

**5.10** The Finance (No.2) Act, 1998, has abolished the Gift Tax Act, 1958 w.e.f. 1 October 1998 whereby Gift Tax will not be chargeable in respect of any gift made on or after the 1<sup>st</sup> day of October 1998. Hence no budget provision for gift tax has been made from the financial year 1999-2000. However, Gift tax assessments pending during the year were to be determined by the department.

**Results of audit**

**5.11** During the test audit of assessments completed under the Gift Tax Act, 1958, conducted during the period 1 April 2000 to 31 March 2001, short levy of gift tax of Rs. 2.31 crore was noticed in 43 cases.

A total number of 11 audit observations involving tax effect of Rs.136.26 lakh were issued to the Ministry of Finance as draft paragraphs for comments but no reply of the Ministry to the audit observations has been received.

The observations sent to Ministry have been discussed in succeeding paragraphs from 5.12 to 5.15.

**Non-levy of tax on deemed gift**

**5.12.1** Under the Gift Tax Act, 1958, from 1<sup>st</sup> April 1992, the value of the property as on the date of the transfer and determined in the manner laid down in Schedule II to the Act which exceeds the value of the consideration shall be deemed to be a gift made by the transferor. As per Schedule II, with effect from the assessment year 1993-94, the break up value of an unquoted equity share in any company other than an investment company shall be determined by dividing the excess of assets over liabilities by the paid up equity share capital and multiplying the result by paid up value of each equity share. An amount equal to eighty percent of the break-up value so determined shall be the value of the unquoted equity share.

(i) In Tamil Nadu Coimbatore charge, the income tax assessment of a company, **M/s Centwin Textile Mills Ltd.** in which public are not substantially interested for the assessment year 1997-98 was completed after scrutiny in March 2000 on an income of Rs.39.08 lakh. During the previous year relevant to the assessment year, the assessee company allotted 30,000 numbers of equity shares at the face value of Rs.100/- per share to three persons who were interested in the affairs of the company. Audit scrutiny revealed that the value of the equity shares transferred, numbering 30000, determined in the manner laid down in Schedule II to the Act, worked out to Rs.122.61 lakh as against the consideration received of Rs.30 lakh. This was due to the fact that while face value of the shares transferred were only Rs.100/-per share, the valuation as per Schedule II to the Gift Tax Act works out to Rs.408.71 per share. Thus the value of equity shares transferred in excess of the consideration received amounting to Rs.92.61 lakh were to be treated as deemed gift made by the transferor company. However, the assessee did not file any return of gift nor did the department initiate any gift tax proceedings. The omission resulted in deemed gift of Rs.92.61 lakh escaping assessment with consequent non-levy of gift tax of Rs.50.40 lakh including interest for non-filing of return.

The reply of the Ministry to the audit observation has not been received

(ii) In Tamil Nadu, Coimbatore charge, the income tax assessments of **Shri K. Rajagopal H.U.F. and M/s. Kay Arr Enterprises**, firm for the assessment year 1996-97 were completed after scrutiny in March 1999 on a total income of Rs.85.69 lakh and Rs.34.48 lakh respectively. Audit scrutiny revealed that these assessee had transferred 56712 shares of a company, M/s Laxmi Card Clothing Ltd, for a consideration of Rs.220 per share whereas the fair market value of these unquoted equity shares worked out to

Rs.334 and Rs.366 per share as on 31.3.95 and 31.3.96 respectively. Audit scrutiny further revealed that even adopting the value of Rs.334 per share as on 31.3.95, the transfer of these shares for inadequate consideration by Rs.114 per share by both the assesseees amounted to non-assessment of deemed gift of Rs.64.65 lakh for 56712 unquoted equity shares. However, the assesseees did not file any gift tax return nor did the department initiate any proceedings to assess the deemed gift. The omission resulted in non-levy of gift tax of Rs.34.20 lakh including interest for default in furnishing of return of gift.

The reply of the Ministry to the audit observation has not been received.

**5.12.2** Under the Gift Tax Act, 1958, prior to 1 April 1992, where property is transferred otherwise than for adequate consideration, the amount by which the market value of the property on the date of transfer exceeds the value of the consideration shall be deemed to be a gift made by the transferor. From 1 April 1992 the value of the property as on the date of the transfer and determined in the manner laid down in schedule II to the Act which exceeds the value of the consideration shall be deemed to be a gift made by the transferor. As per schedule II, the value of the gifted property shall be determined in accordance with the valuation provisions of assets of schedule III to the Wealth Tax Act, 1957.

(i) In Maharashtra City XIII, Mumbai charge, the audit scrutiny of the income tax records of an individual, **Shri Pravin D.Khatau** for the assessment year 1995-96, the assessment of which was completed in summary manner in December 1996, revealed that the assessee had sold a flat in 1994 for Rs.6.40 lakh which was purchased for Rs.1 lakh in 1963. The assessee was having one third share in the property. Considering the cost of real estate price in Mumbai at the relevant time and to examine the gift tax liability on account of deemed gift, the valuation of property was required to be determined in accordance with Schedule II to the Gift Tax Act or the same was required to be referred to the valuation cell. However, the department did not undertake the exercise of determination of valuation of the property nor was the case referred to the valuation cell and thereby liability to Gift Tax was not examined. The omission resulted in non-levy of gift tax of Rs.7.99 lakh.

The reply of the Ministry to the audit observation has not been received.

(ii) In Tamil Nadu, Coimbatore charge the wealth tax assessment of an individual, **Smt D. Janaki** for the assessment year 1990-91 was completed after scrutiny in December 1993. Audit scrutiny of wealth tax assessment records for the assessment year 1990-91 revealed in August 1995 that five individuals gifted to the assessee one-sixth share owned in the land and godown building valued Rs.15.30 lakh as stridhan in November 1989. As the property was transferred in favour of the assessee without adequate consideration, the same was liable to be assessed to gift tax. However, "donors" did not file any gift tax returns. The omission resulted in taxable gift aggregating Rs.11.25 lakh escaping assessment leading to non-levy of gift tax of Rs.7.56 lakh including interest.

The reply of the Ministry to the audit observation has not been received.

(iii) In Kerala, Calicut charge, the income tax assessment records of two individuals, **Shri P.M.Razak and Shri K. Mustafa** for the assessment years 1990-91 and 1992-93 respectively revealed that they sold lands and buildings for a consideration of Rs.7 lakh and Rs.3 lakh respectively. By applying the provisions of Schedule II to Wealth Tax Act, the market value of those properties worked out to Rs.12.72 lakh and Rs.5.29 lakh respectively. The difference between two values constituted deemed gift aggregating Rs.8.01 lakh attracting levy of gift tax. However, the assesseees did not file any gift tax

returns nor did the department initiate any gift tax proceedings. The omission resulted in non-levy of gift tax of Rs.6.20 lakh (including interest).

The reply of the Ministry to the audit observation has not been received.

**Gift not assessed**

**5.13** Under the Gift Tax Act, 1958, gift means the transfer by one person to another of an existing movable or immovable property made voluntarily and without consideration in money or money's worth.

In Haryana, Panchkula charge, audit scrutiny of the income tax assessment of an individual, **Col. S.C.Dhawan (Retd.)** for the assessment year 1995-96 completed after scrutiny in March 1997 revealed that the assessee purchased house property valued at Rs.81.50 lakh in the name of his wife as co-owner. This transaction without any consideration constituted gift in favour of assessee's wife and attracted Gift Tax liability. However, the assessee did not file gift tax return nor did the department initiate any assessment proceedings. The omission resulted in non-levy of gift tax of Rs.12.14 lakh after allowing statutory deduction.

The reply of the Ministry to the audit observation has not been received

**Excess levy of interest**

**5.14** Under the Gift Tax Act, 1958, where a return of gift for any assessment year, is furnished after the 30th day of June of such year or is not furnished, the assessee shall be liable to pay simple interest at the rate of two percent for every month or part of a month, on the amount of tax payable on the taxable gifts as determined upto the date of regular assessment.

In Tamil Nadu, Madurai charge, the gift tax assessments of **Shri M.Subramanian & Shri M. Narayanan, HUF** for the assessment year 1990-91 were completed after scrutiny in March 1999 on a taxable gift of Rs.12.49 lakh each. Audit scrutiny revealed that while computing the gift tax demand payable, the interest for default in furnishing of return of gift was incorrectly levied at Rs.12.44 lakh each against the correctly leviable amount of Rs.6.22 lakh. The mistake resulted in excess levy of interest aggregating to Rs.12.44 lakh.

The reply of the Ministry to the audit observation has not been received

**Other mistakes**

**5.15** There involved tax effect aggregating Rs. 5.33 lakh in 4 cases in Himachal Pradesh, Kerala and Haryana charges caused due to different types of mistakes.

The reply of the Ministry to the audit observations has not been received.



<b>C-Interest Tax</b>
-----------------------

**Revenue from interest tax**

**5.16** The Finance Act, 2000 has abolished the Interest Tax Act, 1974 w.e.f. 1 April 2000 whereby Interest Tax will not be chargeable in respect of any chargeable interest accruing or arising after the 31<sup>st</sup> day of March 2000. Hence no budget provision for interest tax has been made from the financial year 2000-2001. However, in the financial years 1996-97 to 2000-01, interest tax receipts vis-à-vis the budget estimates were as given below: -

(Rs.in crore)

<b>TABLE NO 5.4 BUDGET ESTIMATES VERSUS ACTUAL INTEREST TAX COLLECTION</b>				
Year	Budget estimates	Actuals	Variation	Percentage variation
1	2	3	4	5
1996-97	1,250.00	1,712.39	(+464.39)	(+37.00)
1997-98	2,400.00	1,205.18	(-)194.82	(-)49.70
1998-99	920.00	1,263.82	(+343.82)	(+27.20)
1999-00	1000.00	1,211.54	(+211.54)	(+21.15)
2000-01	-	414.48	-	-

**Number of assesseees**

**5.17** The number of interest tax assesseees borne on the books of the Income Tax Department as on 31 March 2000 and 2001 were 9,319 and 8,994 as given in table 2.5 below Para 2.4 of Chapter 2 of this Report.

**Status of assessment**

**5.18** Particulars of assessments completed, assessments pending and demands in arrear for the last three years ending 31 March 2001 were as given in table 2.4 below para 2.3 and table 2.22 below para 2.12 of Chapter 2 of this Report.

**Results of audit**

**5.19** During the test audit of assessments completed under the Interest Tax Act, 1974, conducted during the period 1 April 2000 to 31 March 2001, short levy of interest tax of Rs. 10.16 crore was noticed in 204 cases.

A total number of 26 audit observations involving tax effect of Rs.1068.04 lakh were issued to the Ministry of Finance as draft paragraphs for comments. The Ministry have accepted the audit observation in three cases involving tax effect of Rs.8.26 lakh. Their reply in remaining cases is awaited.

Out of the audit observations sent to Ministry of Finance, 22 observations involving tax effect of Rs.321.43 lakh have been discussed in succeeding paragraphs from 5.20 to 5.22.

**Short levy of interest for default in payment of interest tax in advance**

**5.20** Under the Interest Tax Act, 1974, as re-introduced with effect from 1 October 1991, by the Finance (No.2) Act, 1991, where an assessee, liable to pay interest tax in advance, has failed to pay such tax, or where the interest tax so paid falls short of ninety percent of the tax determined, simple interest at the rate of two percent for every month or part of a month is payable by the assessee on the amount by which the advance tax paid falls short of the assessed tax from the 1<sup>st</sup> day of the next financial year to the date of determination of chargeable interest. The Act, further provides that the self-assessment tax paid should include interest, if any, liable to be paid by the assessee, under any provision of the Act. In the event of shortfall of the aggregate of the tax and interest, the amount so paid shall first be adjusted towards interest payable and the balance, if any, be adjusted towards the tax payable.

In West Bengal III, Kolkata charge, the interest tax assessment of a company, **M/s The Peerless General Finance & Investment Co. Ltd.** for the assessment year 1997-98 was competed after scrutiny in March 2000. Audit scrutiny revealed that the interest leviable for default in payment of interest tax in advance was charged less by Rs.57.99 lakh

Similarly, chargeable interest was short levied in one case involving tax effect of Rs.1.48 lakh in Gujarat charge.

The reply of the Ministry to the audit observation has not been received

**Avoidable litigation and payment of interest by government to the assessee**

**5.21** Under the provision of Interest Tax Act, 1974 and Income Tax Act, 1961, where a refund becomes due to the assessee the assessing officer may, in lieu of payment of refund, set off the amount of refund or any part of that refund against outstanding dues of the assessee under the Act after giving him intimation about the proposed action. It has been judicially held\* that no adjustment of refund due to assessee can be made against the outstanding demand without service of a proper notice and without giving proper opportunity of hearing to the assessee. It has also been judicially held\*\* that amount refundable to an assessee under one Act can not be set off against the amount of tax payable by him under another Act.

In Punjab, Patiala charge, in the interest tax assessments of a company, **M/s State Bank of Patiala** for the assessment year 1993-94 and 1994-95 originally completed in December 1995 and December 1996 respectively there arose a refund of Rs. 349.25 lakh on account of interest tax as a result of an appellate order which was given effect in April 1997. Out of this refund, a sum of Rs.293.14 lakh was adjusted by the assessing officer against the Income Tax demand for the assessment year 1994-95 and the balance amount of Rs.56.11 lakh was refunded to the assessee in April 1997. However, in pursuance of decision of Hon'ble Punjab & Haryana High Court dated 5<sup>th</sup> May 1999 on the writ petition of the assessee, the amount of refund of Rs.293.14 lakh adjusted earlier against the demand of Income Tax for the assessment year 1994-95 was refunded to the assessee company (July 1999) alongwith interest of Rs.82.08 lakh because the assessee had not been given prior intimation before adjustment of refund by the assessing officer and moreover it had already been judicially held<sup>1</sup> that no inter-statute adjustment of tax can be made. This resulted in avoidable litigation and payment of interest of Rs.82.08 lakh from April 1997 to July 1999 by the Government to the assessee.

The reply of the Ministry to the audit observation has not been received

#### **5.22 Lack of correlation of Income Tax records with the records of different Direct Taxes**

The Central Board of Direct Taxes issued instructions (November 1973, April 1979 and September 1984), for proper co-ordination amongst assessment records pertaining to different direct taxes and for simultaneous disposal of income tax and different direct tax assessments cases viz., Wealth tax, Gift tax, Interest tax etc., so that there is no evasion of tax.

The scrutiny of the following cases revealed that department has failed to comply with these instructions:

\* Shiv Nandan Shiv Hare Vs. ACIT (Inv.) and others (1996) 222-ITR-620

\*\* Shri Vijay Kumar Bhatti Vs CIT and another (1994) 118-CTR-65 (Delhi)

<sup>1</sup> Princes Usha Trust Vs CIT (1989) 176-ITR-227

**Omission to  
make  
assessment of  
Interest tax**

**5.22.1** Under the Interest Tax Act, 1974, the interest income chargeable to tax includes interest on loans and advances, commitment charges on unutilized portion of any credit sanctioned and discount on promissory notes and bills of exchange. The return of chargeable interest are required to be filed by 1 December of the relevant assessment year.

In the cases tabulated below the chargeable interest escaping assessment involved substantial tax revenue.

(Rs.in lakh)

**TABLE NO.5.5 INTEREST ESCAPING ASSESSMENT**

Sl. No.	Name of assessee/ Status	CIT Charge	Assessment Year	Items not assessed as interest	Non/under assessment	Tax effect
1	2	3	4	5	6	7
1.	M/s The East India Hotel Ltd. (Company)	WB-III Kolkata	1994-95	Interest on deposits	512.97	40.93
2.	M/s Gujarat Gas Financial Services Ltd. (Company)	Gujarat-I Ahmedabad	1997-98	Lease rent, hire charges, bill discounting charges and interest	1323.23	39.69
3.	M/s Pinnacle Finance Ltd. (Company)	- do -	1997-98	Lease rent, hire purchase finance charges and bill discounting charges	1110.00	33.30
4.	M/s India Housing Finance & Development Corpn. Ltd. (Company)	Central-I Tamil Nadu	1995-96 & 1996-97	Interest on housing loan	632.99	18.99
5.	M/s Pinnacle Project and Infrastructure Pvt. Ltd. (Company)	Gujarat-I, Ahmedabad	1997-98	Interest income	170.23	8.60
6.	M/s Nagarjuna Housing Development Finance Ltd. (Company)	Central Bangalore	1994-95 & 1995-96	Interest on loans/ advances/ deposits	75.75	7.09
7.	M/s Commercial House Private Ltd.	WB-VI Kolkata	1993-94 to 1995-96	Interest on loans	78.58	6.21
8.	M/s Khaitan Overseas and Finance Ltd. (Company)	Central Kanpur	1997-98	Interest on loans	77.83	5.32

**NOTE:** Tax effect at Sl.No.1,4 to 8 includes interest also

Similar mistakes in 10 more cases involving tax effect aggregating Rs.13.61 lakh were also noticed in West Bengal, Punjab, Gujarat, Assam, Uttar Pradesh and Himachal Pradesh charges during scrutiny of Income Tax records.

The Ministry have accepted the audit observation in two cases of Gujarat and West Bengal charges. Their reply in remaining cases has not been received.

**5.22.2** Under the Interest Tax Act, 1974, in computing the income of a credit institution chargeable to income tax under the head profits and gains of business or profession, the interest tax payable by the institution for any assessment year shall be deductible from the profits and gains of the institution assessable for that year.

In Cochin, Kerala charge, the income tax assessment of a company, **M/s The Kerala State Financial Enterprises Ltd.** for the assessment year 1997-98 was completed after scrutiny in December 1999 allowing a deduction of Rs.107 lakh towards interest tax liability. Audit scrutiny revealed that the interest tax assessment for the assessment year 1997-98 was completed in March 2000 and the tax payable was determined at Rs.99.66 lakh. However, the excess interest tax liability of Rs.7.34 lakh allowed in the income tax assessment was not withdrawn. The omission resulted in excess allowance of interest tax liability of Rs.7.34 lakh with consequent short levy of tax of Rs.6.14 lakh.

The Ministry have accepted the audit observation.

**D-Expenditure Tax**

**Short levy of  
expenditure  
tax due to  
mistake in  
calculation**

**5.23** Under the provisions of the Expenditure Tax Act, 1987 there shall be charged a tax at the rate of twenty percent (ten percent with effect from 1 June 1994) of the chargeable expenditure incurred in a hotel wherein the room charges for any unit of residential accommodation are one thousand two hundred rupees or more (four hundred rupees or more upto 31 May 1992). The Act further provides for levy of expenditure tax at fifteen percent of the chargeable expenditure incurred in a restaurant between 1 October 1991 and 31 May 1992.

In West Bengal III, Kolkata charge the expenditure tax assessment of a company, **M/s I.T.C Ltd.** for the assessment year 1991-92 and 1993-94 were completed after scrutiny in February 1996 and March 1998 determining chargeable expenditure at Rs.3490.09 lakh and Rs.9120.19 lakh including Rs.1.48 lakh for running restaurant respectively. Audit scrutiny revealed that the expenditure tax for the assessment years 1991-92 and 1993-94 would be leviable at Rs.698.02 lakh and Rs.1823.96 lakh including Rs.22,179 for running restaurant respectively instead of Rs.653.38 lakh and Rs.1696.25 lakh levied respectively by the department. The mistake resulted in under charge of tax of Rs.172.35 lakh in aggregate for the two assessment years.

The Ministry have accepted the audit observations.



(MUKESH ARYA)

Principal Director of Receipt Audit  
(Direct Taxes)

New Delhi

Dated: 27 February 2002

Countersigned



(V.K.SHUNGLU)

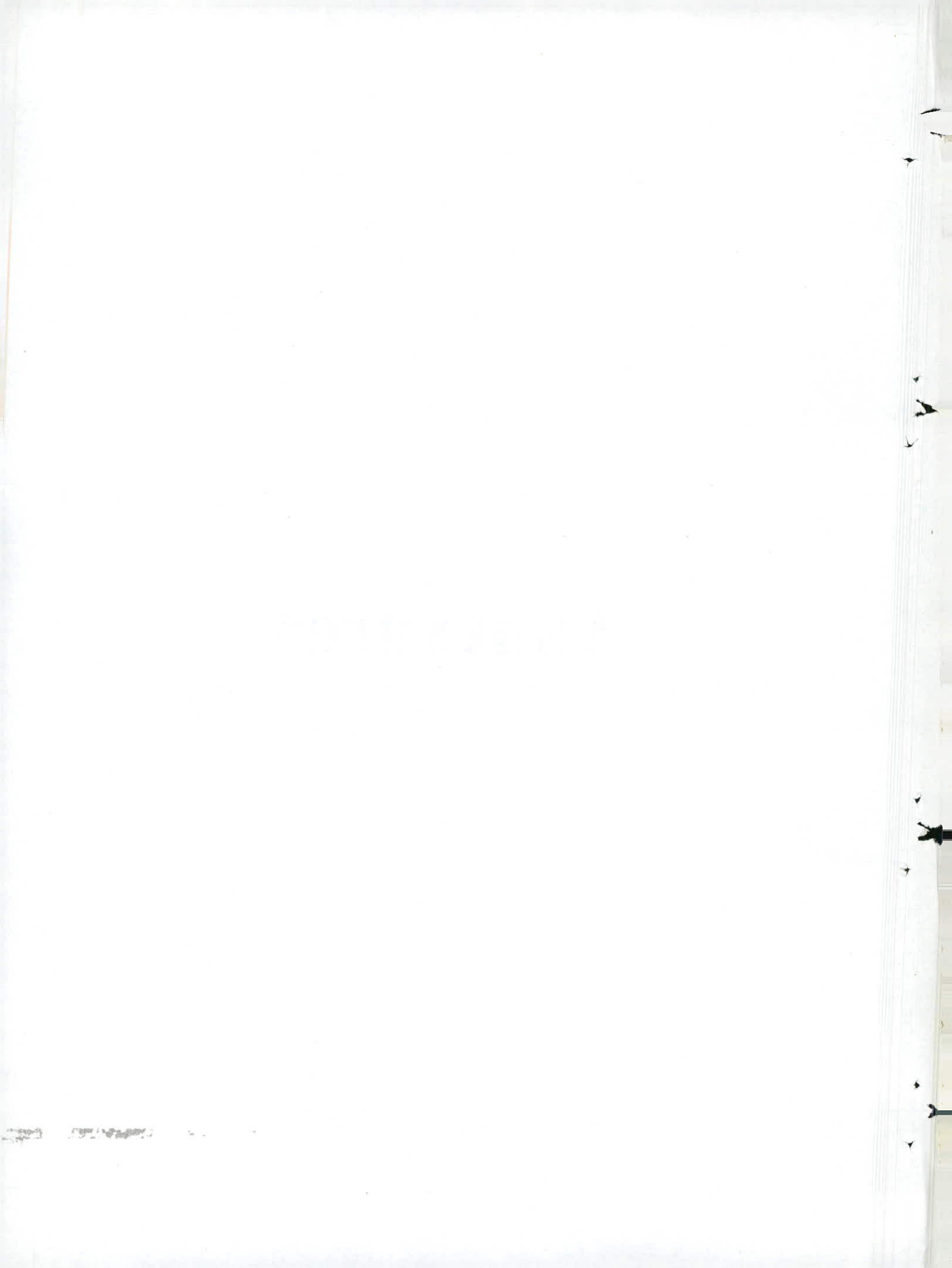
Comptroller and Auditor General of India

New Delhi

Dated: 27 February 2002



# **Annexures**





**Annexure I**  
[Reference: Table 2.2]

**(i) STATUS-WISE AND CATEGORY-WISE BREAK-UP OF WORK LOAD, DISPOSALS AND PENDING OF ASSESSMENTS AS ON 31 MARCH 2001**

			Workload		Disposal		Balance	
			Scrutiny	Non-Scrutiny	Scrutiny	Non-Scrutiny	Scrutiny	Non-Scrutiny
1.	Category 'A' Assessments	Company	16,345	2,98,934	9,887	1,81,553	6,458	1,17,381
		Non-Company	1,96,976	2,92,89,975	1,28,632	1,76,44,190	68,340	1,16,45,785
2.	Category B (lower) Assessments	Company	11,788	99,233	9,048	59,079	2,740	40,154
		Non-company	32,060	7,77,394	23,134	4,27,218	8,926	3,50,176
3.	Category 'B' (higher) assessments	Company	7,565	44,957	5,759	26,636	1,806	18,321
		Non-company	12,118	4,04,158	8,560	2,13,796	3,558	1,90,362
4.	Category 'C' Assessments	Company	31,192	26,431	13,562	21,211	17,630	5,220
		Non-Company	24,848	90,712	11,064	49,342	13,784	41,370
5.	Category 'D' Assessments	Company	3,936	12,147	2,269	9,883	1,667	2,264
		Non-Company	23,316	2,390	13,814	202	9502	2,188
6.	Total	Company	70,826	4,81,702	40,525	298,362	30,301	1,83,340
		Non-Company	2,89,315	3,05,64,629	1,85,205	1,83,34,748	1,04,110	1,22,29,881

**(ii) STATUS-WISE BREAK-UP OF INCOME TAX (INCLUDING CORPORATION TAX) ASSESSMENTS COMPLETED DURING THE YEARS 1998-99 TO 2000-01**

		1998-99	1999-00	2000-01
(a)	Individuals	73,12,213	1,26,85,785	1,70,53,114
(b)	Hindu undivided families	2,76,718	3,60,538	3,95,802
(c)	Firms	6,67,834	9,44,656	9,79,654
(d)	Companies	2,14,922	2,83,975	3,38,887
(e)	Others	82,551	85,119	91,383
	<b>Total</b>	<b>85,54,148</b>	<b>1,43,60,073</b>	<b>1,88,58,840</b>

**(iii) BREAK-UP OF COMPANY AND NON-COMPANY ASSESSMENTS COMPLETED**

Assessments	1998-99	1999-00	2000-01
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Company	2,14,922	2,83,975	3,38,887
Non company	83,39,226	1,40,76,098	1,85,19,953
<b>Total</b>	<b>85,54,148</b>	<b>1,43,60,073</b>	<b>1,88,58,840</b>

**(iv) STATUS WISE AND YEAR WISE BREAK-UP OF PENDING ASSESSMENTS**

	Status	Upto 1998-99	1999-00	2000-01	Total
<b>Company assessments</b>					
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
(i)	Regular	1,285	37,132	1,58,446	1,96,863
(ii)	Re-opened/set aside	2,268	12,892	1,258	16,778
	<b>Total</b>	<b>3,913</b>	<b>50,024</b>	<b>1,59,704</b>	<b>2,13,641</b>
<b>Non-company assessments</b>					
(i)	Regular	42,395	31,44,656	89,27,491	1,21,14,542
(ii)	Re-opened/set aside	18,141	21,210	1,80,098	2,19,449
	<b>Total</b>	<b>60,536</b>	<b>31,65,866</b>	<b>91,07,589</b>	<b>1,23,33,991</b>
	<b>Grand total</b>	<b>64,449</b>	<b>32,15,890</b>	<b>92,67,293</b>	<b>1,25,47,632</b>

**Annexure II**  
(Reference: Table 2.5)

**(i) STATUS-WISE BREAK-UP OF INCOME TAX (INCLUDING CORPORATION TAX) ASSESSEES**

	31 March 2000	31 March 2001
1	2	3
Individuals	1,76,53,745	2,06,62,926
Hindu undivided families	5,07,843	5,53,194
Firms	12,72,217	13,36,861
Companies	3,09,627	3,34,261
Trusts	87,165	63,999
Others	46,427	51,035
<b>Total</b>	<b>1,98,77,024</b>	<b>2,30,02,276</b>

**(ii) INCOME-WISE BREAK-UP OF INCOME TAX (INCLUDING CORPORATION TAX) ASSESSEES AS ON 31 MARCH 2001**

Category	Individuals	Hindu undivided families	Firms	Companies	Others (including Trusts)	Total
1	2	3	4	5	6	7
Category 'A'	1,97,52,381	5,17,733	12,30,849	1,95,713	1,05,729	2,18,02,405
Category 'B' (Lower)	5,45,583	21,673	53,361	55,026	4,599	6,80,242
Category 'B' (Higher)	2,97,931	9,650	36,405	41,331	2,832	3,88,149
Category C'	54,805	3,027	13,384	40,366	1,705	1,13,287
Category 'D'	12,226	1,111	2,862	1,825	169	18,193
<b>Total</b>	<b>2,06,62,926</b>	<b>5,53,194</b>	<b>13,36,861</b>	<b>3,34,261</b>	<b>1,15,034</b>	<b>2,30,02,276</b>

**(iii) STATUS-WISE BREAK-UP OF WEALTH TAX ASSESSEES**

	31 March 2000	31 March 2001
Individuals	1,86,912	1,75,468
Hindu undivided families	21,876	19,758
Companies	6,929	6,945
<b>Total</b>	<b>2,15,717</b>	<b>2,02,171</b>

**Annexure-III**  
[Reference: Table 2.6]

**Year-wise/category wise details of assessees**

Category	1996-97	1997-98	1998-99	1999-00	2000-01	Increase in 5 Years
----------	---------	---------	---------	---------	---------	---------------------

**INDIVIDUALS**

A	94,43,293	1,07,84,480	1,46,43,551	1,69,79,832	1,97,52,381	1,03,09,088 (109.17)
B(Lower)	2,40,262	2,35,298	3,05,352	4,06,736	5,45,583	3,05,321 (127.09)
B(Higher)	40,964	1,33,720	1,38,433	2,12,414	2,97,931	2,56,967 (627.30)
C	19,149	27,796	33,031	42,519	54,805	35,656 (186.20)
D	17,758	13,659	15,589	12,244	12,226	(-) 5,532 (- 31.15)
<b>Total</b>	<b>97,61,426</b>	<b>1,11,94,953</b>	<b>1,51,35,956</b>	<b>1,76,53,745</b>	<b>2,06,62,926</b>	<b>1,09,01,500</b> <b>(111.68)</b>

**HUFs**

A	3,92,243	4,15,738	4,38,199	4,76,317	5,17,733	1,25,490 (31.99)
B(Lower)	12,162	11,692	11,935	20,115	21,673	9,511 (78.20)
B(Higher)	3,696	6,122	11,854	7,598	9,650	5,954 (161.09)
C	2,321	2,117	2,884	2,715	3,027	706 (30.42)
D	2,048	1,582	4,858	1,098	1,111	(-) 937 (- 45.75)
<b>Total</b>	<b>4,12,470</b>	<b>4,37,251</b>	<b>4,69,730</b>	<b>5,07,843</b>	<b>5,53,194</b>	<b>1,40,724</b> <b>(34.12)</b>

**Firms**

A	10,91,502	10,91,366	11,40,744	11,70,186	12,30,849	1,39,347 (12.77)
B(Lower)	41,946	40,459	44,729	59,114	53,361	11,415 (27.21)
B(Higher)	12,474	27,502	26,732	28,815	36,405	23,921 (191.85)
C	7,860	9,359	10,393	10,723	13,384	5,524 (70.28)
D	4,537	3,961	5,425	3,379	2,862	(-) 1,675 (- 36.92)
<b>Total</b>	<b>11,58,319</b>	<b>11,72,647</b>	<b>12,28,023</b>	<b>12,72,217</b>	<b>13,36,861</b>	<b>1,78,542</b> <b>(15.41)</b>

**Companies**

A	1,28,137	1,60,961	1,73,251	1,82,666	1,95,713	67,576 (52.74)
B(Lower)	43,622	54,675	53,001	57,803	55,026	11,404 (26.14)
B(Higher)	25,277	31,514	37,711	34,377	41,331	16,054 (63.51)
C	26,951	25,465	29,676	33,378	40,366	13,415 (39.78)
D	3,241	1,704	1,688	1,403	1,825	(-) 1,416 (- 43.69)
<b>Total</b>	<b>2,27,228</b>	<b>2,74,319</b>	<b>2,95,327</b>	<b>3,09,627</b>	<b>3,34,261</b>	<b>1,07,033 (47.10)</b>

**Others (including Trusts)**

A	74,953	78,508	1,16,692	1,17,613	1,05,729	30,776 (41.06)
B(Lower)	6,545	3,907	4,352	4,233	4,599	(-) 1,946 (- 29.73)
B(Higher)	813	4,386	2,213	9,729	2,832	2,019 (248.34)
C	1,645	1,498	1,688	1,587	1,705	60 (3.65)
D	144	267	230	430	169	25 (17.36)
<b>Total</b>	<b>84,100</b>	<b>88,566</b>	<b>1,25,175</b>	<b>1,33,592</b>	<b>1,15,034</b>	<b>30,934 (36.78)</b>

**Total**

A	1,11,30,128	1,25,31,053	1,65,12,437	1,89,26,614	2,18,02,405	1,06,72,277 (95.89)
B(Lower)	3,44,537	3,46,031	4,19,369	5,48,001	6,80,242	3,35,705 (97.44)
B(Higher)	83,224	2,03,244	2,16,943	2,92,933	3,88,149	3,04,925 (366.39)
C	57,926	66,235	77,672	90,922	1,13,287	55,361 (95.57)
D	27,728	21,173	27,790	18,554	18,193	(-) 9,535 (- 34.35)
<b>Total</b>	<b>1,16,43,543</b>	<b>1,31,67,736</b>	<b>1,72,54,211</b>	<b>1,98,77,024</b>	<b>2,30,02,276</b>	<b>1,13,58,733 (97.55)</b>

**Note: Figures in parenthesis depict percentage increase in specific income category**

**Annexure IV**  
[Reference: Table 2.8]

**STATE/UT WISE BREAK UP OF DIRECT TAXES**

States	0020	0021	0023	0024	0028	0031	0032	0033	Total
	Corporation tax	Income Tax	Hotel Receipts Tax	Interest Tax	Expenditure Tax	Estate Duty	Wealth Tax	Gift Tax	
<b>(Rs. in crore)</b>									
Andhra Pradesh	1051.45	1417.49	0.38	0.80	7.39	0.00	3.75	(-)0.19	2481.07
Arunachal Pradesh	0.00	5.01	0.00	0.00	0.00	0.00	0.00	0.00	5.01
Assam	194.27	486.19	0.00	0.04	0.03	0.00	0.60	0.00	681.13
Bihar	21.70	583.91	0.00	0.02	0.00	0.00	0.59	0.10	606.32
Goa	69.46	137.78	0.00	0.69	0.05	0.00	0.65	0.09	208.72
Gujarat	761.22	1944.88	0.36	0.59	2.29	0.00	4.60	0.34	2714.28
Haryana	102.31	466.14	0.00	0.18	0.06	0.00	0.79	0.00	569.48
Himachal Pradesh	71.85	131.88	0.00	0.02	0.06	0.00	0.18	0.00	203.99
Jammu & Kashmir	53.68	108.96	0.00	0.08	0.00	0.00	0.08	0.00	162.80
Karnataka	1244.13	2304.77	0.00	(-)6.92	14.43	0.20	7.94	0.42	3564.97
Kerala	361.10	646.89	0.00	4.12	2.74	0.00	1.99	0.25	1017.09
Madhya Pradesh	871.23	758.20	0.01	0.16	(-)0.18	0.00	0.98	(-)0.11	1630.29
Maharashtra	16310.65	9657.20	0.00	363.20	117.30	0.05	54.35	(-)1.47	26501.28
Manipur	0.20	13.21	0.00	0.00	0.00	0.00	0.00	0.02	13.43
Meghalaya	2.24	21.74	0.00	0.04	0.00	0.00	0.04	0.00	24.06
Mizoram	0.00	0.31	0.00	0.00	0.00	0.00	0.00	0.00	0.31
Nagaland	0.05	3.48	0.00	0.00	0.00	0.00	0.02	0.00	3.55
New Delhi	5872.84	4186.67	0.00	22.29	66.11	0.00	17.81	0.02	10165.74
Orissa	560.67	246.01	0.00	0.94	0.00	0.00	0.26	0.00	807.88
Punjab	388.01	708.75	0.00	(-)0.59	0.00	0.00	2.30	(-)0.19	1098.28
Rajasthan	119.59	640.71	0.00	(-)0.82	5.61	0.00	1.06	0.00	766.15
Sikkim	0.00	1.00	0.00	0.00	0.00	0.00	0.00	0.00	1.00
Tamil Nadu	1838.70	2603.26	0.00	14.30	21.81	0.04	15.42	0.18	4493.71
Tripura	0.05	22.22	0.00	0.00	0.00	0.00	0.01	0.00	22.28
Uttar Pradesh	4333.61	1548.82	0.00	6.52	2.23	0.02	3.01	0.30	5894.51
West Bengal	1400.28	1819.23	0.00	8.49	58.24	0.00	14.93	(-)0.06	3301.11
<b>Union Territories</b>									
Andaman and Nicobar Islands	0.98	3.27	0.00	0.00	0.00	0.00	0.00	0.00	4.25
Chandigarh	34.39	205.03	0.00	0.25	0.00	0.00	0.18	0.00	239.85
Daman	0.38	2.02	0.00	0.00	0.00	0.00	0.03	0.00	2.43
Diu	0.00	0.16	0.00	0.00	0.00	0.00	0.00	0.00	0.16
Dadra and N.Haveli	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Pondicherry	9.59	26.49	0.00	0.08	0.00	0.00	0.16	0.00	36.32
Lakshadweep	0.00	0.02	0.00	0.00	0.00	0.00	0.00	0.00	0.02
Silvassa	0.04	0.32	0.00	0.00	0.00	0.00	0.00	0.00	0.36
<b>Total</b>	<b>35674.67</b>	<b>30702.02</b>	<b>0.75</b>	<b>414.48</b>	<b>298.17</b>	<b>0.31</b>	<b>131.73</b>	<b>(-)0.30</b>	<b>67221.83</b>
<b>CTDS (Prov)</b>	<b>21.60</b>	<b>1061.96</b>							<b>1083.56</b>
<b>Grand Total</b>	<b>35696.27</b>	<b>31763.98</b>	<b>0.75</b>	<b>414.48</b>	<b>298.17</b>	<b>0.31</b>	<b>131.73</b>	<b>(-)0.30</b>	<b>68305.39</b>

**Annexure V**  
(Reference: Table 2.15)

**Details of variation under the heads subordinate to the  
Major heads 0020 and 0021 for the year 2000-01**

Sl. No.	Head of revenue	Budget Estimates	Actuals	Variation	Percentage of variation
		(Rs. in crore)			
<b>0020-Corporation Tax</b>					
(i)	Income Tax on companies	30,882.00	31,428.16	546.16	1.77
(ii)	Surcharge	3,037.00	1,274.54	(-)1762.46	(-)58.03
(iii)	Other receipts	1,121.00	2,993.57	1,872.57	167.04
(iv)	<b>Total</b>	<b>35,040.00</b>	<b>35,696.27</b>	<b>656.27</b>	<b>1.87</b>
(v)	Deduct share of proceeds assigned to States		10,518.74		
	<b>Net Collection</b>		<b>25,177.53</b>		
<b>0021 - Taxes on income other than Corporation Tax</b>					
(i)	Income tax	25,756.00	30,611.91	4,855.91	18.85
(ii)	Surcharge	3,016.00	913.28	(-)2,102.72	(-)69.72
(iii)	Other receipts	1,738.00	238.79	(-)1,499.20	(-)86.26
(iv)	<b>Total</b>	<b>30,510.00</b>	<b>31,763.98</b>	<b>1,253.98</b>	<b>4.11</b>
(v)	Deduct share of proceeds assigned to States		7,997.64		
	<b>Net Collection</b>		<b>23,766.34</b>		

**Annexure VI**  
[Reference: Table 2.24]

(Rs. in crore)

(i) **YEAR-WISE BREAK-UP OF TAX RECOVERY CERTIFICATES  
PENDING AS ON 31 MARCH 2001 AND AMOUNT OF DEMAND**

Year	No. of Certificates	Amount
1996-97 and earlier years	5,39,139	1,422.30
1997-98	10,279	539.69
1998-99	13,811	869.49
1999-00	13,931	1,595.53
2000-01	20,104	3,614.90
<b>Total</b>	<b>5,97,264</b>	<b>8,041.91</b>

(Rs. in crore)

(ii) **TAX-WISE AND AMOUNT-WISE ANALYSIS OF PENDING TAX RECOVERY  
CERTIFICATES**

	Range of Demand	Corporation Tax		Income Tax		Wealth Tax	
		No.	Amount	No.	Amount	No.	Amount
(a)	Upto Rs.10,000	33,492	4.58	3,98,134	784.63	48,547	6.50
(b)	Over Rs.10,000 and below Rs.1 lakh	5,324	7.94	69,589	124.52	5,593	6.16
(c)	Over Rs.1 lakh to Rs.5 lakh	1,051	13.87	10,377	207.59	535	6.47
(d)	Over Rs.5 lakh to Rs.10 lakh	537	24.22	3,705	332.85	111	7.40
(e)	Over Rs.10 lakh	1,176	1,467.65	6,478	4,956.42	169	44.66
	<b>Total</b>	<b>41,580</b>	<b>1,518.26</b>	<b>4,88,283</b>	<b>6,406.01</b>	<b>54,955</b>	<b>71.19</b>

(Rs.in crore)

	Range of Demand	Gift Tax		Sur Tax		Others		Total	
		No.	Amount	No.	Amount	No.	Amount	No.	Amount
(a)	Upto Rs.10,000	9,139	2.10	1,510	0.12	756	0.11	4,91,578	798.04
(b)	Over Rs.10,000 and below Rs.1 lakh	644	0.65	122	0.47	65	0.15	81,337	139.89
(c)	Over Rs.1 lakh to Rs.5 lakh	35	1.26	31	0.68	29	0.56	12,058	230.43
(d)	Over Rs.5 lakh to Rs.10 lakh	23	4.02	10	2.50	21	1.57	4,407	372.56
(e)	Over Rs.10 lakh	11	4.71	14	3.81	36	23.74	7,884	6,500.99
	<b>Total</b>	<b>9,858</b>	<b>12.74</b>	<b>1,687</b>	<b>7.58</b>	<b>907</b>	<b>26.13</b>	<b>5,97,264</b>	<b>8,041.91</b>



**Annexure VII**  
**[Reference: Table 2.45]**

**Year-wise analysis of the closing balance**

---

---

<b>Financial Year in which application was made</b>	<b>Number of cases pending</b>
1996-97 and earlier years	194
1997-98	125
1998-99	463
1999-00	5670
2000-01	2016
<b>Total:</b>	<b>8468</b>



**Glossary of terms used in the Report**

Adtl. Commissioners	Additional Commissioner
AO	Assessing Officer
AOP	Association of Persons
Asstt. Commissioner	Assistant Commissioner
AY	Assessment Year
B/F	Brought forward
C.T	Corporation Tax
CBDT	Central Board of Direct Taxes
CCIT	Chief Commissioner of Income Tax
CIT	Commissioner of Income Tax
Co. (P) Ltd.	Company private limited
D.P.	Draft Paragraph
DGIT	Director General of Income Tax
Dy. Commissioner	Deputy Commissioner
E.S.I.	Employees State Insurance
ED	Estate Duty
Exp. Tax	Expenditure Tax
G.T	Gift Tax
GDP	Gross domestic product
HC	High Court
HUF	Hindu Undivided family
I.T.	Income Tax
I.T.O.	Income Tax Officer
IAD	Internal Audit Department
Intt. Tax	Interest Tax
ITR	Income Tax Reporter
Jt. Commissioner	Joint Commissioner
NCAER	National Council of Applied Economics and Research
P	Potential Tax
P.Y.	Previous Year
PAC	Public Accounts Committee
PAN	Permanent Account Number
PF	Provident Fund
RSP	Research, Statistics, Publications & Public Relations
SC	Supreme Court
TDS	Tax deduction at source
TE	Tax effect
TRO	Tax Recovery Officer
UT	Union Territory
u/s	Under Section
W.T.	Wealth Tax

