



सत्यमेव जयते

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

for the year ended March 2003

**UNION GOVERNMENT
(DIRECT TAXES)
NO. 12 OF 2004**

1

2

3

4

5

41 300

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

for the year ended March 2003

**UNION GOVERNMENT
(DIRECT TAXES)
NO. 12 OF 2004**

Laid on the table of Lok Sabha/Rajya Sabha on

**13 जुलाई 2004
JUL 2004**



CONTENTS

| | <i>Page</i> |
|--|--------------|
| <i>Preface</i> | <i>v</i> |
| <i>Overview</i> | <i>vii</i> |
| Chapter I: Introduction | 1-12 |
| ◆ Chapter summary | 1-1 |
| ◆ General, Statutory Audit and Present Report | 3-4 |
| ◆ Non-receipt of Board's comments on draft paragraphs | 4-5 |
| ◆ Result of test audit in general | 5-9 |
| ◆ Internal Audit | 9-12 |
| ◆ Records not produced to audit | 12-12 |
| Chapter II: Tax Administration | 13-34 |
| ◆ Chapter summary | 13-14 |
| ◆ Administration of Direct Taxes | 15-15 |
| ◆ Broad functional profile of the Department of Revenue | 15-16 |
| ◆ Working strength of Officers | 16-17 |
| ◆ Actual receipts vis-à-vis budget estimates | 17-17 |
| ◆ Direct Tax collections-Recent trends | 17-18 |
| ◆ Direct Tax – GDP Ratio/Tax buoyancy | 19-19 |
| ◆ Pre-assessment and Post-assessment tax collections | 19-21 |
| ◆ Assessee profile | 21-23 |
| ◆ PAN Applications | 23-24 |
| ◆ Position of Assessments | 24-24 |
| ◆ Arrears of demand | 24-27 |
| ◆ Tax Recovery Machinery | 27-28 |
| ◆ Penalties | 28-29 |
| ◆ Search and seizure cases | 29-29 |
| ◆ Refund cases and interest paid on refunds | 29-31 |
| ◆ Cost of collection of taxes | 31-31 |
| ◆ Appeals, Revision petitions and writs | 32-33 |
| ◆ Purchase by Central Government of immovable properties in certain cases of transfer | 33-33 |

| | |
|--|-------|
| ◆ Cases settled by Settlement Commission | 33-34 |
| ◆ Revenue demand written off | 34-34 |

Chapter III: Corporation Tax **35-54**

| | |
|---|-------|
| ◆ Chapter summary | 35-35 |
| ◆ Status of Assessments and receipts from Corporation tax | 37-37 |
| ◆ Results of Audit | 37-37 |
| ◆ Mistakes in adoption of correct figures, applying correct rate of tax and levy of surcharge | 38-38 |
| ◆ Mistakes in computation of business/non business income and tea business income | 39-39 |
| ◆ Incorrect allowance of unentitled expenditure or provisions and claims | 40-43 |
| ◆ Irregularities in allowance/set off/carry forward of depreciation | 43-44 |
| ◆ Incorrect allowance of liability | 44-45 |
| ◆ Incorrect computation of capital gains and allowing income to escape assessment | 45-46 |
| ◆ Incorrect computation/carry forward and set off of losses | 47-48 |
| ◆ Mistakes in implementation of appellate orders | 48-48 |
| ◆ Mistakes in allowing reliefs and exemptions under Chapter VIA | 48-50 |
| ◆ Excess or irregular refunds, non levy/short levy of interest and other topics of interest | 51-53 |
| ◆ Assessee availing unentitled benefits in summary assessments | 53-54 |
| ◆ Cases of over assessment/overcharge | 54-54 |

Chapter IV: Income Tax **55-64**

| | |
|---|-------|
| ◆ Chapter summary | 55-55 |
| ◆ Assessee, Receipts of Income tax, Assessments, Results of Audit, status of Ministry's reply and Mistakes in adoption of correct figures | 57-58 |
| ◆ Application of incorrect rate of tax, Surcharge not levied and incorrect status adopted in assessment | 58-59 |
| ◆ Irregular exemptions and excess relief given, Excess allowance of Provisions and liabilities | 59-60 |
| ◆ Mistakes in allowance of depreciation, incorrect Computation of capital gains | 60-60 |
| ◆ Mistakes in assessment of firms and partners and Income not assessed | 60-61 |
| ◆ Incorrect set off of losses, Incorrect allowance of deduction in respect of export profits | 62-62 |
| ◆ Deduction in respect of newly established industrial | |

| | |
|---|---------------|
| undertakings, Irregular deduction under special provisions, Mistakes in levy of interest and non-levy of penalty | 62-63 |
| ◆ Other topics of interest | 63-63 |
| ◆ Assessee availing unentitled benefits in summary assessments | 64-64 |
| ◆ Cases of over assessment/over charge | 64-64 |
| Chapter V: Other Direct Taxes | 65-79 |
| ◆ Chapter summary | 65-65 |
| A-Wealth Tax | 67-72 |
| ◆ Revenues from wealth tax, Status of assessee and assessments | 67-68 |
| ◆ Results of Audit and Status of Ministry's replies | 68-68 |
| ◆ Mistake in computation of net wealth and tax | 69-70 |
| ◆ Non inclusion of taxable assets in the net wealth | 70-70 |
| ◆ Incorrect valuation of assets | 70-70 |
| ◆ Wealth not assessed due to non correlation of records | 70-71 |
| ◆ Non/short levy of interest | 71-72 |
| B-Gift Tax | 73-74 |
| ◆ General | 73-73 |
| ◆ Results of Audit | 73-73 |
| ◆ Non/short levy of tax on deemed gift | 73-74 |
| C-Interest Tax | 75-79 |
| ◆ General | 75-75 |
| ◆ Results of Audit and Status of Ministry's replies | 75-75 |
| ◆ Mistakes in assessment/underassessment of chargeable interest | 75-76 |
| ◆ Mistakes in applying correct rate of tax | 76-76 |
| ◆ Chargeable interest not assessed due to non correlation of records | 76-77 |
| ◆ Excess payment of interest by Government | 77-77 |
| ◆ Non/short levy of interest | 78-78 |
| ◆ Overassessment of chargeable interest | 79-79 |
| ◆ Appendices | 80-122 |

11

11

11

11

PREFACE

This report for the year ended March 2003 has been prepared for submission to the President under Article 151(1) of the Constitution of India.

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., and is arranged in the following order: -

- (i) Chapter I includes information on the arrangements for audit of direct taxes and mentions the results thereof.
- (ii) Chapter II incorporates important statistical information on the tax administration.
- (iii) Chapter III mentions issues arising out of the test check of assessments of corporation tax.
- (iv) Chapter IV deals with results of test check of income tax assessments, and
- (v) Chapter V highlights the results of test check of wealth tax, gift tax, interest tax and expenditure tax assessments.

The observations included in this report have been selected from the findings of the test check conducted during 2002-03 and in earlier years, which could not be covered in the previous reports.

11
11
11
11
11

OVERVIEW

Chapter I: Introduction

The Comptroller and Auditor General of India conducts the audit of revenues from direct taxes of the Union Government 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 2002-2003, Audit intimated 12557 audit observations on under assessment of various direct taxes involving tax effect of Rs.5684.83 crore and 132 cases of over assessment involving tax effect of Rs.357.27 crore to the assessing officers of the department. A total of 88,956 observations emanating out of local test audit of earlier years involving revenue effect of Rs.19,068.73 crore were pending settlement for want of replies. Nine hundred eighty observations with a tax effect of Rs.1418.75 crore were issued to the Ministry as individual draft paragraphs, consisting of 418 observations involving tax effect of Rs.640.62 crore that had arisen from local audit conducted in earlier years. Nine hundred sixty three observations involving tax effect of Rs.1415.07 crore have been included in this report. Department did not produce 50,378 cases or 11.47 per cent of cases requisitioned in 2002-2003 and 21,441 cases or 51.09 per cent of cases not produced during earlier audits and requisitioned again in 2002-2003, to audit. Consequently, audit of such cases could not be carried out.

Chapter II: Tax Administration

Total collections from various direct taxes increased from Rs.46,600 crore in 1998-99 to Rs.83,088 crore in 2002-03 at an annual rate of 12.03 percent. Pre assessment collections amounted to 83.58 percent in the case of corporate assesseees and 93.85 percent in the case of non corporate assesseees of gross collections in 2002-03. Total number of assesseees increased at an annual rate of 13.33 percent from 1.73 crore in 1998-99 to 2.85 crore in 2002-03. Disposal of scrutiny assessments had come down to 19 percent of the assessments due as compared to 77 percent in 2001-02 though disposal of summary cases had gone up to 92 percent of total summary assessments due for disposal as compared to 55 percent in 2001-02. Uncollected amount of Rs.67,638 crore of the total demand of Rs.1,50,726 crore as on 31 March 2003 comprised demand of Rs.48,821 crore of earlier years and demand of Rs.18,817 crore pertaining to 2002-03. Out of 16.14 lakh pending PAN applications as many as 12.60 lakh, i.e., 78 percent were core-deficiency cases

Chapter III: Corporation Tax

Receipts from corporation tax amounted to Rs.46,172 crore which constituted 55.57 per cent of the total collection from direct taxes. The number of corporate assesseees as on 31 March 2003 was 3,65,124 which represented an increase of 4.56 per cent over the previous year. Five hundred seventy five audit observations involving under charge of tax of Rs.1077.59 crore and 27 observations involving over charge of tax of Rs.284.91 crore were issued to Ministry representing various irregularities in corporation tax assessments such as assesseees availing unentitled benefits in summary assessments, mistakes in adoption of correct figures, application of incorrect rate of tax and levy of surcharge, mistakes in computation of business/non business income, incorrect allowance of unentitled expenditure or provision and claims, incorrect allowance of depreciation, incorrect computation of capital gains, incorrect carry forward and set off of losses, income escaping assessment, irregular allowance of reliefs and exemptions under chapter VI A, excess or irregular refunds and non levy/short levy of interest. Five hundred sixty four observations involving undercharge of tax of Rs.1074.10 crore and 27 observations involving overcharge of Rs.284.91 crore have been included. The Ministry have accepted the observations in 94 cases involving tax effect of Rs.56.05 crore till the date of issue of this report.

Chapter IV: Income Tax

Receipts from income tax amounted to Rs.36,866 crore which constituted 44.36 percent of the total collection from direct taxes. The number of income tax assesseees as on 31 March 2003 was 2.81 crore, which represented an increase of 8.59 percent over the previous year. One hundred ninety eight audit observations involving revenue effect of 40.79 crore on account of various irregularities in income tax assessments such as incorrect application of rate of tax, incorrect computation of income, omission to assess unexplained income, incorrect set off of losses, incorrect deductions and short/non-levy of interest etc. are included. Ministry of Finance have accepted the observations in 36 cases involving tax effect of Rs.6.46 crore.

Chapter V: Other Direct Taxes

One hundred seventy four cases of irregularities involving tax effect of Rs.15.27 crore relating to mistakes in computation of wealth tax, incorrect valuation of assets, non/short levy of interest due to default in filing return, non levy of tax on deemed gifts, omission to make assessments of interest tax etc. are included.

Chapter I

Introduction

- ◆ Audit of Direct Taxes
- ◆ Replies of Ministry
- ◆ Result of Test Audit
- ◆ Outstanding audit observations
- ◆ Remedial action time barred
- ◆ Internal audit
- ◆ Non production of records



Chapter Summary

Comptroller and Auditor General of India conducts audit of revenues from direct taxes of the Union Government under section 16 of the Comptroller and Auditor's General of India (Duties, Powers and Conditions of Service) Act, 1971 through test check of assessment and other records maintained by the Income Tax Department and Ministry of Finance. He examines the systems and procedures laid down by the department/government in critical areas of tax administration to assess the effectiveness of their working and evaluates 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)

Field offices under the Comptroller and Auditor General of India issued 12,557 audit observations on underassessment involving tax effect of Rs.5,684.83 crore and 132 cases of over assessment involving tax effect of Rs.357.27 crore during 2002-03 to the assessing officers of the department on corporation tax, income tax and other direct taxes. A total of 980 cases with tax effect of Rs.1,418.75 crore were issued to the Ministry as individual draft paragraphs out of which 963 cases involving tax effect of Rs.1,415.07 crore are included in this report.

(Para No. 1.3, 1.7 & 1.8)

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

(Para No. 1.5 & 1.6)

CHAPTER I: INTRODUCTION

General

1.1 Direct taxes levied by Parliament comprise:

- **Corporation tax**
- **Income tax**
- **Wealth tax**
- **Gift tax**
- **Interest tax and**
- **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 2002-03 was Rs.83088.57 crore. Time series data on revenue from various direct taxes and other related statistical information on tax administration are presented in Chapter II.

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 the field offices and the Board and involves examination of-

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

Audit observations are initially communicated to field offices and important findings are forwarded to the Board and Ministry of Finance. Finally, the Audit Report on direct taxes is forwarded to Parliament through the President of India.

Present Report

1.3 The preface describes the arrangement of this report. The Ministry's response, where furnished is indicated in each case. Where the reply of the Ministry is not acceptable, the reasons therefor have been mentioned along with the gist of the reply of the Ministry.

The present report contains 965 out of 980 audit observations referred to Ministry of Finance. Table 1.1 below contains the details of draft paragraphs¹ issued to Ministry and included in the report.

¹ It is an audit observation issued to the Ministry seeking their comments

(Rs. in crore)

TABLE 1.1: DRAFT PARAGRAPHS (DPs) ISSUED TO MINISTRY DURING 2003-04

| Category of tax | Number of Draft Paras issued to Ministry | Tax effect | Number of Draft Paras included in the Report | Tax effect |
|-----------------|--|----------------|--|----------------|
| 1 | 2 | 3 | 4 | 5 |
| Corporation Tax | 602 | 1362.50 | 591 | 1359.01 |
| Income Tax | 200 | 40.86 | 198 | 40.79 |
| Wealth Tax | 99 | 4.09 | 97 | 3.99 |
| Gift Tax | 5 | 0.38 | 4 | 0.36 |
| Interest Tax | 74 | 10.92 | 73 | 10.92 |
| Total | 982 | 1418.75 | 963 | 1415.07 |

Five hundred sixty two observations involving tax effect of Rs.778.13 crore had arisen out of local audit conducted during 2002-03 and 418 observations involving tax effect of Rs.640.62 crore were noticed during local audit conducted in earlier years.

1.4 A separate report No.13 of 2004 containing the results of reviews on system appraisals has been prepared on the following subjects:-

- (i) Operation of the scheme of taxation of companies under special provisions of Income Tax Act (section 115 JA/JB)
- (ii) Assessment of business of civil construction and
- (iii) Assessment of private schools, colleges and coaching centres.

1.5 Cases with substantial tax effect are brought to the notice of 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 finalisation of this report. However, despite Board's instructions that all 'draft paragraphs' cases should receive the personal attention of the Commissioners of Income Tax (CITs) for expeditious action, inordinate delays continue to occur in receipt of departmental responses.

1.6 Table 1.2 below contains the position of replies received from the Ministry till the finalisation of the Audit Report.

TABLE 1.2: DRAFT PARAS ISSUED TO MINISTRY AND THEIR ACCEPTANCE

| Year of Report | Number of draft paragraphs issued | Replies received before finalisation of Audit Report | Percentage of cases in which replies were received | No. of cases accepted by Ministry | Percentage of cases accepted by Ministry |
|----------------|-----------------------------------|--|--|-----------------------------------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 1998-99 | 870 | 441 | 51 | 352 | 80 |
| 1999-00 | 870 | 163 | 19 | 137 | 84 |
| 2000-01 | 1,123 | 141 | 13 | 125 | 89 |
| 2001-02 | 918 | 134 | 15 | 112 | 84 |
| 2002-03 | 980 | 178 | 18 | 170 | 95 |

Non-receipt of Board's comments on draft paragraphs

1.7 After completion of audit of each assessment unit, audit observations are conveyed to the department through a local audit report. In the case of important observations, a statement of facts is issued to the department for verification of facts and obtaining their comments.

Results of
test audit
in general

1.8 Audit of assessments conducted between 1 April 2002 to 31 March 2003 revealed 12,557 cases of under assessment and 132 cases of over assessment involving revenue effect of Rs.5,684.83 crore and Rs.357.27 crore respectively. Assessing officers accepted 3,195 audit observations (25.44%), did not accept 3,927 observations (31.27%) and did not respond to 5,435 observations (43.28%) involving tax effect of Rs.553.01 crore, Rs.1,373.07 crore and Rs.3,758.75 crore respectively.

Corporation
tax and
Income tax

1.8.1 A total of 11,730 observations pertain to corporation and income tax and involved tax effect of Rs.5,632.33 crore. Table 1.3 below contains an analysis of these observations in terms of nature of mistakes and other omissions that audit noticed in assessments.

(Rs. in crore)

TABLE 1.3: CATEGORIES OF OMISSIONS IN INCOME TAX/CORPORATION TAX

| | | No. of cases | Tax effect |
|-----|--|---------------|-----------------|
| 1. | Avoidable mistakes in computation of income and tax | 1,122 | 247.36 |
| 2. | Failure to observe the provisions of the Finance Acts | 334 | 69.34 |
| 3. | Incorrect status adopted in assessments | 38 | 7.76 |
| 4. | Incorrect computation of salary income | 313 | 3.68 |
| 5. | Incorrect computation of income from house property | 155 | 6.71 |
| 6. | Incorrect computation of business income | 2,959 | 1,437.89 |
| 7. | Irregularities in allowing depreciation | 668 | 580.25 |
| 8. | Irregular computation of capital gains | 186 | 62.36 |
| 9. | Mistakes in assessments of firm | 188 | 58.65 |
| 10. | Omission to club the income of spouse/minor child etc. | 15 | 10.54 |
| 11. | Income not assessed | 995 | 928.64 |
| 12. | Irregular set-off of losses | 268 | 213.82 |
| 13. | Mistakes in assessments while giving effect to appellate orders | 52 | 12.73 |
| 14. | Irregular exemptions and excess relief given | 885 | 977.63 |
| 15. | Excess or irregular refunds | 327 | 28.38 |
| 16. | Non-levy/incorrect levy of interest for delay in submission of returns, delay in payment of tax etc. | 1,746 | 812.17 |
| 17. | Avoidable or incorrect payment of interest by Government | 178 | 29.83 |
| 18. | Omission/short levy of penalty | 295 | 16.30 |
| 19. | Other topics of interest (miscellaneous cases) | 353 | 68.19 |
| 20. | Under-assessment of surtax | 653 | 60.10 |
| | Total | 11,730 | 5,632.33 |

Wealth tax

1.8.2 Similarly, 598 observations relating to wealth tax were issued involving tax effect of Rs.15.44 crore. Table 1.4 below contains an analysis of omissions in terms of nature of mistakes.

(Rs. in crore)

TABLE 1.4: CATEGORIES OF OMISSIONS IN WEALTH TAX

| | | No. of Cases | Amount |
|--------------|--|--------------|--------------|
| 1 | 2 | 3 | 4 |
| 1. | Wealth not assessed | 396 | 11.55 |
| 2. | Incorrect valuation of assets | 38 | 0.73 |
| 3. | Mistakes in computation of net wealth | 40 | 1.45 |
| 4. | Incorrect status adopted | 3 | 0.15 |
| 5. | Mistakes in calculation of tax | 8 | 0.01 |
| 6. | Non-levy or incorrect levy of additional wealth tax | 26 | 0.18 |
| 7. | Non-levy or incorrect levy of penalty and non-levy of interest | 53 | 0.19 |
| 8. | Miscellaneous | 34 | 1.17 |
| Total | | 598 | 15.44 |

Other Direct Taxes

1.8.3 Two hundred twenty nine observations relating to other direct taxes i.e. gift tax, interest tax etc were issued involving tax effect of Rs.37.06 crore as mentioned in Table 1.5 below.

(Rs. in crore)

TABLE 1.5: OTHER DIRECT TAXES

| S. No. | Category of tax | No. of cases | Tax effect |
|--------------|-----------------|--------------|--------------|
| 1 | Gift tax | 16 | 1.03 |
| 2 | Interest tax | 208 | 35.54 |
| 3 | Expenditure tax | 2 | 0.48 |
| 4 | Estate Duty | 3 | 0.01 |
| Total | | 229 | 37.06 |

Outstanding statutory audit observations

1.9 According to 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 20th Report underscored the fact that responsibility for settlement of audit observations rests with the department and it cannot remain content 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 targets for settlement of audit observations were achieved. However, large number of audit observations made in 2002-03 and earlier years are still to be settled.

1.9.1 As on 31 March 2003, 88,956 observations involving revenue effect of Rs.19,068.73 crore were pending. This does not include the audit observations communicated between 1 April 2002 to 31 March 2003. The year-wise particulars of the pendency are given in Table 1.6.

(Rs. in crore)

TABLE 1.6: OBSERVATIONS PENDING WITH DEPARTMENT 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 | |
| Upto 1999-2000 | 59,464 | 10,548.60 | 6,517 | 190.48 | 65,981 | 10,739.28 |
| 2000-01 | 10,824 | 4,043.96 | 1,164 | 42.27 | 11,988 | 4,086.23 |
| 2001-02 | 10,184 | 4,183.86 | 803 | 59.36 | 10,987 | 4,243.22 |
| Total | 80,472 | 18,776.42 | 8,484 | 292.31 | 88,956 | 19,068.73 |

1.9.2 A total of 9,153 audit observations relating to income tax and corporation tax were pending as on 31 March 2003 with revenue effect of Rs.14,490.64 crore (as against 8,559 cases with a revenue effect of Rs.12,305.34 crore in 2001-02) where income tax involved in each individual case exceeded Rs.10 lakh. Cases in respect of different charges are as shown below in Table 1.7.

(Rs. in crore)

TABLE 1.7: PENDING IT/CT CASES

| Sl. No. | Name of charge | Items | Amount |
|---------|-------------------------------|--------------|------------------|
| 1 | 2 | 3 | 4 |
| 1. | Andhra Pradesh | 133 | 119.56 |
| 2. | Assam | 186 | 306.39 |
| 3 | Bihar & Jharkhand | 216 | 278.22 |
| 4. | Gujarat | 559 | 588.09 |
| 5 | Haryana | 97 | 61.92 |
| 6 | Himachal Pradesh | 25 | 9.35 |
| 7. | Jammu & Kashmir | 25 | 20.03 |
| 8. | Karnataka | 330 | 300.43 |
| 9. | Kerala | 370 | 328.24 |
| 10. | Madhya Pradesh & Chhattisgarh | 639 | 1,588.85 |
| 11. | Orissa | 142 | 135.23 |
| 12. | Punjab | 271 | 307.39 |
| 13. | UT Chandigarh | 56 | 111.93 |
| 14. | Rajasthan | 179 | 140.88 |
| 15. | Tamil Nadu | 804 | 532.39 |
| 16. | Uttar Pradesh & Uttaranchal | 417 | 795.44 |
| 17. | Delhi | 1,162 | 1,539.77 |
| 18. | Maharashtra | 2,570 | 6,149.36 |
| 19 | West Bengal | 972 | 1,177.17 |
| | Total | 9,153 | 14,490.64 |

1.9.3 Table 1.8 contains audit observations pending in other direct taxes where the tax involved in each case exceeded Rs.5 lakh.

(Rs. in crore)

TABLE 1.8: PENDING CASES OF OTHER DIRECT TAXES

| Sl. No. | Category of tax | Number of audit observations | Tax effect |
|---------|-----------------|------------------------------|---------------|
| 1 | 2 | 3 | 4 |
| 1. | Wealth tax | 322 | 83.65 |
| 2. | Gift tax | 88 | 55.93 |
| 3. | Interest tax | 69 | 28.34 |
| 4. | Expenditure tax | 2 | 0.74 |
| 5. | Estate Duty | 6 | 7.02 |
| | Total | 487 | 175.68 |

1.9.4 Nine thousand six hundred forty cases (11 percent) accounted for Rs.14,666.32 crore (77 percent) of revenue effect of the total pending cases. Department needs to assign priority to settle observations of higher tax effect.

1.10 The action plan of the department for 2002-03 provided for 100 percent disposal of all outstanding major audit observations, but no targets were fixed for current major audit observations. In respect of pending statutory major audit observations up to 31 March 2002, 100 percent of the cases were to be settled up to 30 September 2002. However the actual achievement was only 16.95 percent for current observations and 29.90 percent for the observations in arrears.

1.10.1 Table 1.9 below indicates targets for settlement of major statutory audit observations for the year 2002-03 according to action plan and actual achievements:

TABLE 1.9: ACTION PLAN & ACTUAL ACHIEVEMENTS OF THE DEPARTMENT

| | Audit observations | | | | |
|---------|----------------------|------------------------------------|---------------------|-------------------|------------------------|
| | For disposal | To be settled as per targets fixed | Settled | Targets (percent) | Achievements (percent) |
| 1 | 2 | 3 | 4 | 5 | 6 |
| Current | 3,805 (1,065.25) | Not fixed | 645 (60.99) | Not fixed | 16.95 |
| Arrear | 14,912 (3,216.42) | 14,912 (3,216.42) | 4,459 (1,097.16) | 100 | 29.90 |

(Figures in brackets represent money value in crore of rupees)

The achievements were, therefore, short of targets.

Remedial action
time barred

1.11 The Board has issued specific instructions for taking timely action on audit observations so as to avoid cases becoming barred by limitation of time and leading to loss of revenue. The Public Accounts Committee (150th Report-Eighth Lok Sabha) had also recommended that the Board review old outstanding observations in consultation with Audit.

1.11.1 In a few charges where the status of audit observations issued between 1978-79 and 1996-97 was reviewed in 2002-03, cases where remedial action had become time barred were noticed. Details of these cases have been forwarded to the respective Commissioners. Table 1.10 contains the number of such cases alongwith tax effect.

(Rs. in crore)

| Sl. No. | Name of the State | Income Tax | |
|---------|------------------------------|--------------|---------------|
| | | Item | Amount |
| 1 | 2 | 3 | |
| 1. | Andhra Pradesh | 342 | 3.70 |
| 2. | Bihar & Jharkhand | 184 | 77.64 |
| 3. | Gujarat | 276 | 25.89 |
| 4. | Harayana | 20 | 0.32 |
| 5. | Himachal Pradesh | 291 | 5.23 |
| 6. | Jammu & kashmir | 2 | 0.12 |
| 7. | Madhya pradesh & Chhatisgarh | 3,943 | 796.15 |
| 8. | Orissa | 82 | 2.34 |
| 9. | Punjab | 10 | 1.92 |
| 10. | Rajashthan | 51 | 0.63 |
| 11. | Tamilnadu | 83 | 2.89 |
| | Total | 5,284 | 916.83 |

Internal Audit

1.12 The Board has introduced a new 'chain' system of internal audit in 2001, which involved 4626 officials drawn from all ranges and assessing offices as against only around 500 designated officials entrusted with the exclusive responsibility for internal audit earlier.

1.12.1 All auditable cases where assessments are completed during a month are to be audited in internal audit by the end of following month. Thus the disposal for year ending 31 March 2003 should have been of all cases where assessments had been completed by 28 February 2003. Department determined the number of auditable cases in 2002-03 as 15.57 lakh. An analysis of the performance is given in Table 1.11.

Table 1.11: Performance of Internal Audit

| Financial Year | Total auditable cases | Target for disposal | Total cases Audited | Shortfall with reference to total auditable cases | |
|----------------|-----------------------|---------------------|---------------------|---|------------|
| | | | | No. | Percentage |
| 1999-2000 | 3,70,617 | 1,98,000 | 1,94,859 | 1,75,758 | 47.42 |
| 2000-01 | 4,16,791 | 1,98,000 | 1,90,774 | 2,26,017 | 54.22 |
| 2001-02 | 4,84,263 | 4,84,263 | 41,837 | 4,42,426 | 91.37 |
| 2002-03 | 15,57,231 | 15,57,231 | 3,60,748 | 11,96,483 | 76.83 |

1.12.2 Though the number of cases audited had increased more than eight fold in 2002-03 compared to the position in 2001-02 when there was 91 percent shortfall in coverage, this increase ranged between 85 to 90 percent compared to the cases audited in 1999-2000 and 2000-01 respectively. It is pertinent to note that the manpower made available for internal audit had increased by 825 percent in 2002-03. Audit could not ascertain as to how the department was monitoring improvement in quality of internal audit in the absence of any evaluation of the work.

1.12.3 The number of observations raised in internal audit ranged from 15,136 in 2000-01, 1,364 in 2001-02 and 5,827 in 2002-03 involving money value of Rs.4,811 crore, Rs.63.76 crore and Rs.169.38 crore respectively. Details of internal audit observations accepted by assessing officers, amendments in law suggested, if any, to strengthen the tax administration or recoveries made as a result of internal audit during the period are not readily available with the department.

1.12.4 In addition to internal audit, department has a system of inspections carried out by Commissioners of Income Tax/Joint Commissioners of Income Tax covering procedural aspects of assessments, maintenance of records, adequacy of material collected and used and the correctness of lines of investigation in assessments by assessing officers in their jurisdiction. Departmental records indicated that though 983 inspections were proposed during 2001-02, only 314 inspections (32%) were carried out. Sixty one charges had not sent any report on inspection to Directorate of Income Tax (Income Tax) [DIT (IT)].

1.12.5 Board has introduced a new system of inspection with effect from October 2002 which inter alia requires each CIT to compulsorily conduct two inspections in each financial year, Directorate of Income Tax (Investigation) to inspect the work of his subordinate offices and range heads to inspect work of recovery officers annually according to a time schedule.

1.12.6 Inspection reports from field formations are scrutinised in the office of the DIT(IT) who highlights the important irregularities and good work noticed in annual review of inspection. Audit noticed that DIT(IT) could scrutinise only 39 to 59 percent of inspection reports every year that were received during the period 1997-98 to 2001-02. Internal audit and inspection alongwith results therefrom have to be critically reviewed and compliance improved urgently to increase the level of assurance obtained through internal controls.

Outstanding audit observations of internal audit

1.13 According to departmental instructions, internal audit observations are to be attended to by the assessing officer within three months. However, as on 31 March 2003, 11,522 audit observations of internal audit involving a tax effect of Rs.987.73 crore were pending settlement. This included 5,827 observations with money value of Rs.169.38 crore made during 2002-03.

1.13.1 Table 1.12 below contains information on major observations of internal audit and their settlement.

| 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 |
| 1998-99 | 21909(1686.06) | 6924(603.81) | 32 | 14985(1082.25) |
| 1999-00 | 22943(1708.09) | 8823(537.36) | 38 | 14120(1170.73) |
| 2000-01 | 21364(5975.68) | 7738(576.59) | 36 | 13626(5399.09) |
| 2001-02 | 5375 (814.84) | 1111(216.79) | 21 | 4264(598.05) |
| 2002-03 | 6635(1430.33) | 2348(452.13) | 35 | 4287(978.20) |

(figures in brackets represent money value in rupees crore)

1.13.2 Although the proportion of cases settled during the year 2002-03 (35 percent) has improved as compared to that in 2001-02, the achievement is still short of target of 100 percent. Further opening balance for 2002-03 does not tally with the closing balance for 2001-02, which was still under reconciliation in the department. Actual settlement achieved is thus likely to be much lower.

1.13.3 The Public Accounts Committee, in their 150th Report submitted to Eighth Lok Sabha in April 1989, had recommended that observations of internal audit 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 become 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 1998-99 and earlier years should have been settled by March 2002. However, this did not happen as shown in Table 1.13, which gives age-wise analysis of the pending items at the end of 2002-03 and revenue effect involved:

| Year in which objection raised | No. of cases | Revenue Effect (Rs. in crore) |
|---------------------------------------|---------------------|--------------------------------------|
| 1 | 2 | 3 |
| 1999-00 and earlier years | 1728 | 234.08 |
| 2000-01 | 1028 | 517.13 |
| 2001-02 | 461 | 77.08 |
| 2002-03 | 1070 | 149.91 |
| Total | 4287 | 978.20 |

Action on observations of internal audit

TABLE 1.14: TARGET & ACTUAL SETTLEMENT OF INTERNAL AUDIT OBJECTIONS

| Audit observations | | | | | |
|--------------------|---------------------|------------------------------------|-------------------|------------------|--------------------|
| | For disposal | To be settled as per targets fixed | Settled | Target (percent) | Achieved (percent) |
| 1 | 2 | 3 | 4 | 5 | |
| Current | 1,377 (164.52) | 1,377 (164.52) | 307 (14.61) | 100 | 17.1 |
| Arrears | 5,258 (1,265.81) | 5,258 (1,265.81) | 2,041 (437.52) | 100 | 38.81 |

Figures in brackets indicate value Rs. in crore

Achievements, thus fell short of the targets fixed.

Records not produced to audit

1.15 With a view to securing an effective check on the assessment, collection and proper allocation of taxes and examining that regulations and procedures are being observed, assessment records are scrutinised in revenue audit. It is incumbent on the Department to expeditiously produce records and furnish relevant information to audit.

Appendix-1 contains details of records not produced to audit. An analysis of the information reveals that on an average 11.47 percent of cases requisitioned in 2002-03 and 51.09 percent of cases not produced during earlier audits and requisitioned again in 2002-03, were not produced to audit. Consequently, audit of such cases could not be carried out.

Chapter II

Tax Administration

- ◆ Chapter summary
- ◆ Organisation
- ◆ Direct Tax collections
- ◆ Assessee profile
- ◆ PAN applications
- ◆ Assessments
- ◆ Arrears of demand
- ◆ Tax Recovery Machinery
- ◆ Penalties
- ◆ Search & Seizure cases
- ◆ Refund cases and interest paid on refunds
- ◆ Cost of collection
- ◆ Appellate Machinery
- ◆ Purchase by Central Government
- ◆ Settlement Commission
- ◆ Revenue written off



Chapter Summary

Total collections from various direct taxes increased from Rs.46,600 crore in 1998-99 to Rs.83,088 crore in 2002-03 at an compound annual rate of 12.03 percent.

Overall direct tax collections as percentage of GDP increased from 2.68 per cent in 1998-99 to 3.39 percent in 2002-03. Average tax buoyancy for last five years increased to 1.422 in 2002-03 as compared to 1.124 in 2001-02.

(Table 2.4)

Pre assessment collections amounted to 83.58 percent in the case of corporate assesseees and 93.85 percent in the case of non corporate assesseees of gross collections in 2002-03. Share of collection from regular assessments of corporate assesseees had declined to 14.18 percent in 2002-03 from 16.83 percent in 2001-02 while it increased from 2.82 percent to 4.32 percent in the case of non-corporate assesseees.

(Table 2.5)

Total number of assesseees increased at a compound annual rate of 13.33 percent from 1.73 crore in 1998-99 to 2.85 crore in 2002-03. Non-corporate assesseees increased from 1.70 crore in 1998-99 to 2.81 crore in 2002-03 at the compound annual rate of 13.46 percent and corporate assesseees increased from 2.95 lakh to 3.65 lakh at the compound annual rate 5.47 percent.

(Table 2.7 & 2.8)

Cost of collection as worked out by the department was 0.26 paise per rupee for corporation tax and 2.51 paise per rupee for income tax. It was Rs.3315 and Rs.329 respectively per assessee.

(Table 2.23)

Department could not fill up 488 posts (6.7 percent) of 7,297 posts sanctioned after approval of its restructuring in August 2000.

(Table 2.1 & 2.2)

Disposal of scrutiny assessments had come down to 19 percent of the assessments due as compared to 77 percent in 2001-02 though disposal of summary cases had gone up to 92 percent of total summary assessments due for disposal as compared to 55 percent in 2001-02

(Table 2.11)

Out of 16.14 lakh pending PAN applications as many as 12.60 lakh, i.e., 78 percent were core-deficiency* cases.

(Table 2.10)

Uncollected amount of Rs 67,638 crore of total demand of Rs. 1,50,726 crore as on 31 March, 2003 comprised demand of Rs.48,821 crore of earlier years and demand of Rs.18, 817 crore pertaining to current year 2002-03.

(Table 2.13)

Though percentage of recovery of demand increased to 22 percent (approx) during the year as compared to 14 percent during 2001-02, 78% of the certified amount remained uncollected at the end of the year

(Table 2.16)

* Core deficiency means absence of one or more of the following:- full name, date of birth, status, gender and father's name

Chapter II: Tax Administration

Administration of Direct Taxes

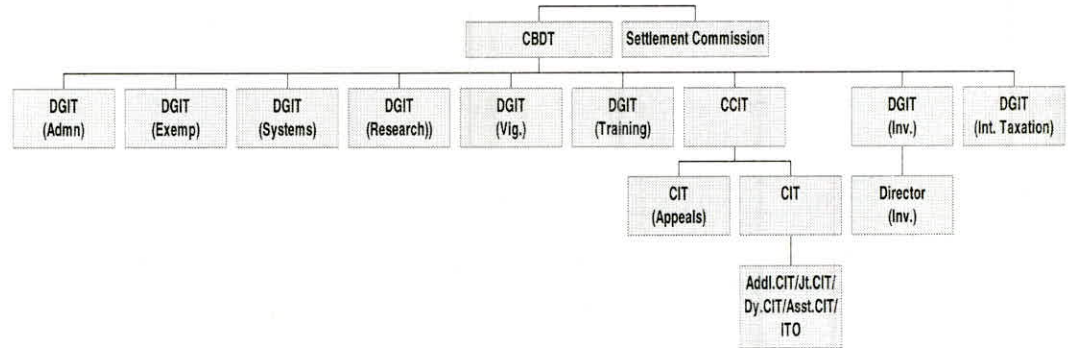
2.1 Income tax, Corporation tax and Wealth tax constitute the principal elements of direct taxes. Income tax is chargeable on the total income of the previous year of every person. The term ‘person’ includes an individual, a hindu undivided family (HUF), a company, a firm, an association of persons (AOP), a body of individuals (BOI), a local authority and an artificial juridical person. Income tax paid by companies is categorized as Corporation tax.

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. No wealth tax was payable in respect of net wealth valued below Rs.15 lakh with effect from assessment year 1993-94.

Broad functional profile of the Department of Revenue

2.2 The overall responsibility for administration of direct taxes lies with the Department of Revenue which functions through Income Tax Department with a staff strength of around 59,000 and Central Board of Direct Taxes (Board) at its apex.

CHART 1: ORGANISATIONAL SET UP OF THE INCOME TAX DEPTT.



The Board consists of a Chairman and six members, and has several attached and subordinate offices throughout the country. These offices function under 116 Directors General of Income Tax and Chief Commissioners of Income Tax who oversee the work of the Directors/Commissioners of Income Tax in their respective charges. The officials are empowered under the Income Tax Act (the Act) to enforce production of evidence by any person, requisition books of accounts, call for information and issue summons. Directors General of Investigation charges are also empowered to authorize search and seizure operations.

The Directors/Commissioners of Income Tax oversee the work of the Additional/ Joint Commissioners/Deputy Commissioners/Assistant Commissioners/Income Tax Officers and have similar powers under the Act as given to the Chief Commissioners. Besides they are also empowered to review/revise any order

passed by the assessing officer if the order is erroneous and prejudicial to the interests of revenue (section 263) as well as revise other orders (section 264). The appellate machinery under Commissioner (Appeals), considers appeals against the orders of the assessing officers.

The Settlement Commission provides a statutory remedy to protracted litigation between the assessee and the department.

2.3 Table 2.1 below shows the sanctioned strength of the officers in the department.

Sanctioned and working strength of officers

TABLE 2.1: SANCTIONED STRENGTH OF OFFICERS*

| Post | Sanctioned strength |
|--------------|---------------------|
| 1 | 2 |
| CCIT | 116 |
| CIT | 698 |
| Addl. CIT | 469 |
| Jt. CIT | 647 |
| DCIT | 1,240 |
| ACIT | 734 |
| ITO | 4,207 |
| Total | 8,111 |

Working strength of officers who are assigned assessment/non assessment duty is given in Table 2.2 below.

TABLE 2.2: WORKING STRENGTH OF OFFICERS ON ASSESSMENT AND NON-ASSESSMENT DUTY*

| Nature of Post | 2000-01 | | | 2001-02 | | | 2002-03 | | |
|---|------------------------|------------------------|--------------|-------------------------|-------------------------|--------------|------------------------|------------------------|--------------|
| | Asstt Duty | Non-Asstt Duty | Total | Asstt Duty | Non-Asstt Duty | Total | Asstt Duty | Non-Asstt Duty | Total |
| 1 | 2 | | | 3 | | | 4 | | |
| Addl.CIT/Addl DIT/ Jt CIT/ Jt DIT/ Dy.DIT/Dy CIT/ Asstt. DIT/Asstt. CIT | 1,705 | 1,264 | 2,969 | 1,455 | 1,226 | 2,681 | 1,519 | 1,173 | 2,692 |
| ITOs | 2,137 | 734 | 2,871 | 2,928 | 1,088 | 4,016 | 2,917 | 1,200 | 4,117 |
| Total (%age to total strength) | 3,842 (65.8) | 1,998 (34.2) | 5,840 | 4,383 (65.45) | 2,314 (34.55) | 6,697 | 4,436 (65.1) | 2,373 (34.9) | 6,809 |

* Furnished by Directorate of Income Tax (Research, Statistics, Publications and Public Relations)

Working strength of 6,809 officers on assessment and non-assessment duty is against the sanctioned strength of 7,297 posts (excluding CCIT and CIT) in their respective cadres. The department could not fill up all the posts sanctioned after its restructuring even though more than two years had elapsed since their creation.

The number of Dy.DIT/Dy CIT/Asstt. DIT/Asstt. CIT, both on assessment and non-assessment duty, decreased during the year as compared to 2001-02. No reason for reduction has been assigned.

Actual receipts
vis-à-vis
Budget
estimates

2.4 A comparative position of budget estimates and actual collections of major direct taxes reflecting fiscal marksmanship is indicated in Table 2.3 below.

(Rs in crore)

TABLE 2.3: COMPARATIVE POSITION OF ACTUAL RECEIPTS VIS-À-VIS BUDGET ESTIMATES*

| Year | Budget Estimates | Actuals | Variation | Percentage of variation |
|--|------------------|-----------|--------------|-------------------------|
| 1 | 2 | 3 | 4 | 5 |
| 0020-Corporation Tax | | | | |
| 2000-01 | 35,040.00 | 35,696.27 | 656.27 | 1.87 |
| 2001-02 | 44,200.00 | 36,609.13 | (-) 7,590.87 | (-) 17.17 |
| 2002-03 | 48,616.00 | 46,172.35 | (-) 2443.65 | (-) 5.03 |
| 0021-Taxes on income other than Corporation Tax | | | | |
| 2000-01 | 30,510.00 | 31,763.98 | 1,253.98 | 4.11 |
| 2001-02 | 40,600.00 | 32,004.09 | (-) 8,595.91 | (-) 21.17 |
| 2002-03 | 42,524.00 | 36,865.96 | (-) 5658.04 | (-) 13.30 |
| 0028-Other taxes on Income and Expenditure | | | | |
| 2000-01 | 330.00 | 298.17 | (-) 31.83 | (-) 9.65 |
| 2001-02 | 330.00 | 259.63 | (-) 70.37 | (-) 21.32 |
| 2002-03 | 300.00 | 170.63 | (-) 129.37 | (-) 43.12 |
| 0032-Wealth tax | | | | |
| 2000-01 | 145.00 | 131.73 | (-) 13.27 | (-) 9.15 |
| 2001-02 | 145.00 | 135.36 | (-) 9.64 | (-) 6.65 |
| 2002-03 | 145.00 | 153.88 | (+) 8.88 | (+) 6.12 |

Though the position improved in 2002-03 compared to that in 2001-02, except in the case of 'Other taxes', the incremental or specific contribution to revenues from the direct efforts of departmental officers through investigation, assessment and recovery was not ascertainable, as these details are not maintained.

Direct Tax
collections –
Recent Trends

2.5 Direct tax collections, as shown in Chart 2 below, increased from Rs.46,600 crore in 1998-99 to Rs.83,088 crore in 2002-03 at a compound annual rate of growth of 12.03 percent. The rate of growth, which had increased to 24.38

* Minor head wise details given in Appendix-2

percent in 1999-2000 decelerated to 17.85 per cent in 2000-01 but again increased to 20.07 per cent in 2002-03.

CHART 2: DIRECT TAX COLLECTIONS FROM 1998-99 TO 2002-03

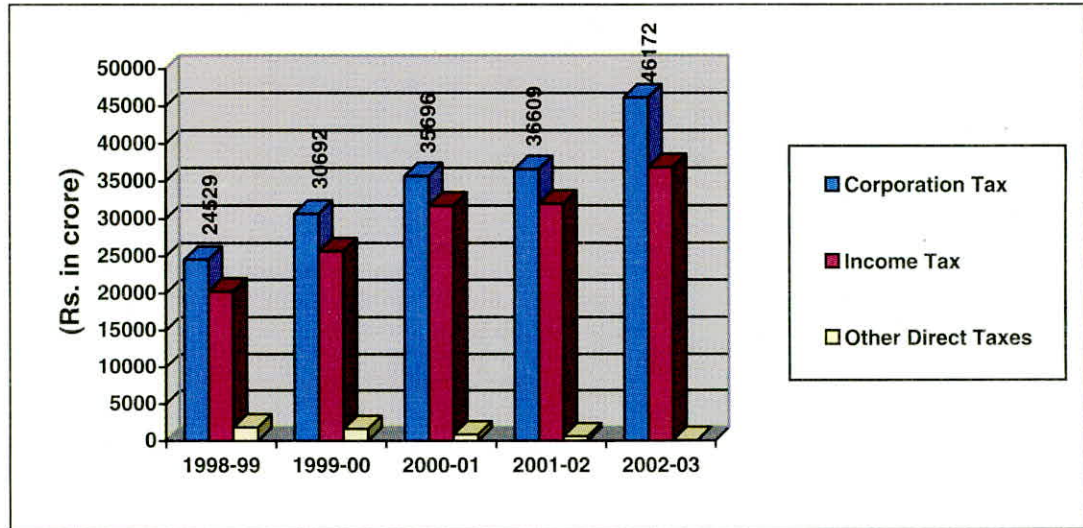
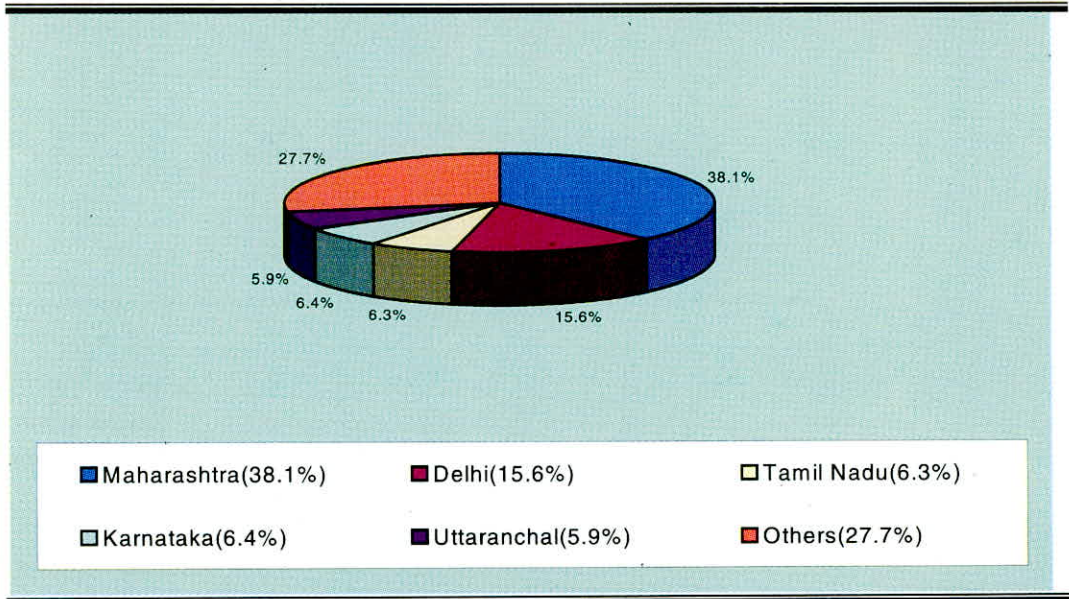


Chart 3 below depicts the percentage share of states in direct tax collections. Maharashtra had the largest tax collection followed by Delhi, Karnataka, Tamil Nadu and Uttaranchal.

CHART 3: PERCENTAGE SHARE OF REVENUE COLLECTION OF STATES



Broad parameters of Direct Tax collections

Overall direct tax collections, annual rates of growth, the ratio of direct taxes to GDP and their buoyancy are indicated in Table 2.4.

(Rs in crore)

TABLE 2.4: BROAD PARAMETERS OF DIRECT TAX COLLECTIONS*

| | 1998-99 | 1999-2000 | 2000-01 | 2001-02 | 2002-03 | Average |
|---|-----------|-----------|-----------|-----------|-----------|-----------|
| Corporation Tax | 24,529 | 30,692 | 35,696 | 36,609 | 46,172 | 34,740 |
| Income Tax | 20,240 | 25,655 | 31,764 | 32,004 | 36,866 | 29,306 |
| Other Direct Taxes | 1,831 | 1,612 | 845 | 585 | 50 | 985 |
| Total Direct Taxes | 46,600 | 57,959 | 68,305 | 69,198 | 83,088 | 65,030 |
| GDP | 17,40,985 | 19,36,925 | 21,04,298 | 22,96,049 | 24,51,038 | 21,05,859 |
| Rate of growth (per cent) | | | | | | |
| Corporation Tax | 22.55 | 25.13 | 16.30 | 2.56 | 26.12 | 18.53 |
| Income Tax | 18.36 | 26.75 | 23.81 | 0.76 | 15.19 | 16.97 |
| Total Direct Taxes | -3.44 | 24.38 | 17.85 | 1.31 | 20.07 | 12.03 |
| GDP | 14.35 | 11.25 | 8.64 | 9.11 | 6.75 | 10.02 |
| Tax Collections-GDP Ratio (per cent) | | | | | | |
| Corporation Tax | 1.41 | 1.58 | 1.70 | 1.59 | 1.88 | 1.63 |
| Income Tax | 1.16 | 1.32 | 1.51 | 1.39 | 1.50 | 1.38 |
| Total Direct Taxes | 2.68 | 2.99 | 3.25 | 3.01 | 3.39 | 3.06 |
| Tax Buoyancy** | | | | | | |
| Corporation Tax | 1.572 | 2.232 | 1.887 | 0.281 | 3.870 | 1.968 |
| Income Tax | 1.279 | 2.377 | 2.756 | 0.083 | 2.251 | 1.749 |
| Total Direct Taxes | -0.240 | 2.166 | 2.066 | 0.143 | 2.974 | 1.422 |

GDP ratio

Overall direct tax collections as percentage to GDP increased from 2.68 per cent in 1998-1999 to 3.25 percent in 2000-01, then declined to 3.01 per cent in 2001-02. This decline was also observed for corporation and income tax. However, direct tax collection-GDP ratio picked up to 3.39 per cent in 2002-03. Average tax buoyancy for last five years also increased to 1.422 in 2002-03 as compared to 1.124 in 2001-02.

Pre-assessment – Post-assessment tax collections

2.6 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. Post-assessment collection is additional demand arising after assessment. Table 2.5 below contains details of overall tax collected at the pre and post assessment level and percentage of refunds in the last three years.

* All India collection figures of Corporation Tax and Income Tax given in Appendix-3 and Head wise/State/UT wise break up given in Appendix-4

** Tax buoyancy is measured by the ratio of percentage change in tax revenues to percentage change in GDP.

(Rs. in crore)

TABLE 2.5: DETAILS OF TAX COLLECTIONS FOR COMPANIES AND NON-COMPANIES AT PRE-ASSESSMENT AND POST-ASSESSMENT STAGES

| Year | Tax Deducted at source | Advance Tax | Self Assessment | Regular Assessment | Other Receipts | Total Collections | Refunds | Net Collections |
|---------------------------------|------------------------|-------------------|-----------------|--------------------|-----------------|-------------------|-------------------|-----------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| Corporate Assesseees | | | | | | | | |
| 2000-01 | 5,982 (13.28) | 25,267 (56.09) | 2,639 (5.86) | 6,891 (15.30) | 4,268 (9.47) | 45,048 | 9,352 (20.76) | 35,696 |
| 2001-02 | 8,948 (17.73) | 27,293 (54.07) | 2,194 (4.35) | 8,495 (16.83) | 3,544 (7.02) | 50,475 | 13,866 (27.47) | 36,609 |
| 2002-03 | 8,961 (14.24) | 40,625 (64.54) | 3,026 (4.80) | 8,926 (14.18) | 1,412 (2.24) | 62,950 | 16,778 (26.65) | 46,172 |
| Non-Corporate Assesseees | | | | | | | | |
| 2000-01 | 22,231 (63.22) | 7,347 (20.89) | 3,202 (9.11) | 1,230 (3.50) | 1,152 (3.28) | 35,163 | 3,399 (9.67) | 31,764 |
| 2001-02 | 23,724 (67.10) | 6,801 (19.23) | 3,285 (9.29) | 997 (2.82) | 550 (1.56) | 35,358 | 3,354 (9.49) | 32,004 |
| 2002-03 | 27,607 (65.55) | 8,533 (20.26) | 3,388 (8.04) | 1,819 (4.32) | 772 (1.83) | 42,119 | 5,253 (12.47) | 36,866 |

Figures in brackets indicate percentage of total collection

In the case of corporate assesseees, 83.58 percent of gross collections was made at pre-assessment stage, of which 64.54 percent was by way of advance tax. In the case of non-corporate assesseees, 93.85 percent of the gross collection was made at pre-assessment stage, of which 65.55 percent was by way of TDS.

Percentage of refunds in respect of corporate assesseees declined from 27.47 in 2001-02 to 26.65 in 2002-03. However, in the case of non corporate assesseees it increased from 9.49 in 2001-02 to 12.47 in 2002-03.

TABLE 2.6: CATEGORY WISE DETAILS OF DEDUCTION OF TAX AT SOURCE

| Category | Amount of Tax Deducted (Rs in crore) | | | Per cent to total tax deducted | | |
|---|---|---------------|---------------|--------------------------------|---------------|------------|
| | 2000-01 | 2001-02 | 2002-03 | 2000-01 | 2001-02 | 2002-03 |
| Salaries | 13,821 | 14,668 | 16,293 | 48.99 | 44.90 | 44.55 |
| Interest on securities | 1,847 | 2,097 | 2,232 | 6.55 | 6.42 | 6.10 |
| Dividends | 338 | 249 | 1,098 | 1.20 | 0.76 | 3.00 |
| Interest | 3,770 | 4,464 | 4,485 | 13.36 | 13.66 | 12.26 |
| Winnings from lottery or crossword puzzles | 75 | 62 | 130 | 0.26 | 0.19 | 0.36 |
| Winnings from horse races | 7 | 8 | 6 | 0.02 | 0.03 | 0.02 |
| Payments to contractors and sub-contractors | 4,209 | 4,005 | 5,056 | 14.92 | 12.26 | 13.83 |
| Insurance commission | 203 | 321 | 384 | 0.72 | 0.98 | 1.05 |
| Payment to non-residents and others | 3,944 | 4,797 | 6,884 | 13.98 | 14.68 | 18.83 |
| Total | 28,213 | 32,672 | 36,568 | 100.00 | 100.00 | 100 |

Contribution from salaries to total TDS declined from about 49 per cent in 2000-01 to the current level of over 44 percent. Other sources, which contributed to TDS, were interest, payments to contractors, sub-contractors and non-residents. These sources together contributed over 89 percent of total TDS collections as indicated in Table 2.6.

Every person responsible for deducting tax at source under the Act has to submit a return within the prescribed time and in prescribed form to the income tax authority. In case of failure, penalty equal to a sum of one hundred rupees for every day during which the default continues, is payable.

In 2002-03, out of 11.02 lakh returns to be filed by tax deductors, only 4.48 lakh returns were filed whereas 6.54 lakh returns had not been filed. Though percentage of non-filers has slightly declined to 59.34 per cent as against 61.24 per cent in the previous year, a large number of tax deductors had not filed the returns.

Assessee Profile

2.7 The number of assesseees for direct taxes increased at a compound annual rate of 13.33 percent from 1.73 crore in 1998-99 to 2.85 crore in 2002-03. More than 98 per cent of the current assesseees were non-corporate assesseees and less than 2 per cent were corporate assesseees. Number of wealth tax assesseees declined from 2.16 lakh in 1998-99 to 1.28 lakh in 2002-03. Non-corporate assesseees increased from 1.70 crore in 1998-99 to 2.81 crore in 2002-03 i.e., at the compound annual rate of 13.46 per cent. Category wise details of increase are indicated in Table 2.7 below:

Non-corporate assesseees

TABLE 2.7: CATEGORY WISE INCREASE OF NON CORPORATE ASSESSEES DURING LAST 5 YEARS

| Income level | 1998-99 | 2002-03 | Compound Annual growth rate | Present share in total assesseees | |
|--------------|------------------|---------------|-----------------------------|-----------------------------------|---------------|
| | | | | 1998-99 | 2002-03 |
| | (Number in lakh) | | | (Percentage) | |
| A* | 163.39 | 255.25 | 11.80 | 96.34 | 90.84 |
| B* (lower) | 3.67 | 16.94 | 46.58 | 2.17 | 6.03 |
| B* (higher) | 1.79 | 4.95 | 28.95 | 1.06 | 1.76 |
| C* | 0.48 | 0.88 | 16.36 | 0.28 | 0.31 |
| D* | 0.26 | 2.98 | 84.00 | 0.15 | 1.06 |
| Total | 169.59 | 281.00 | 13.46 | 100.00 | 100.00 |

* Category 'A' assesseees- Assessments with income/loss below Rs. 2 lakh.

♦ Category 'B' assesseees (lower income group) - Assessments with income/loss of Rs.2 lakh and above but below Rs.5 lakh.

▼ Category 'B' assesseees (higher income group) - Assessments with income/loss of Rs.5 lakh and above but below Rs.10 lakh.

▲ Category 'C' assesseees - Assessments with income/loss of Rs.10 lakh and above.

* Category 'D' assesseees - Search and Seizure assessments.

Increased average annual growth rate was noticed in the income category B (lower), i.e. income level of Rs.2.00 lakh and above but below Rs 5.00 lakh and income category B (higher) i.e. income level of Rs.5.00 lakh and above but below Rs.10.00 lakh. The share of assessees belonging to income category A in total assessees declined in 2002-03.

Number of corporate assessees increased from 2.95 lakh in 1998-99 to 3.65 lakh in 2002-03, at a compound annual rate of 5.47 per cent. Category wise details of the corporate assessees are indicated in Table 2.8 below:

Corporate
assessees

TABLE 2.8: PROFILE OF CORPORATE ASSESSEES

| | 1998-99 | | 2002-03 | | Compound Annual growth rate | | Present share in total assessees | |
|--------------|------------------|-------------|------------------|---------------|-----------------------------|---|----------------------------------|--|
| | (Number in lakh) | | (Number in lakh) | | (Percentage) | | (Percentage) | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | |
| A* | 1.73 | 1.83 | 1.41 | 58.64 | 50.14 | | | |
| B* (lower) | 0.53 | 0.84 | 12.20 | 17.97 | 23.01 | | | |
| B* (higher) | 0.38 | 0.45 | 4.32 | 12.88 | 12.33 | | | |
| C* | 0.29 | 0.39 | 7.69 | 9.83 | 10.68 | | | |
| D* | 0.02 | 0.14 | 62.66 | 0.68 | 3.84 | | | |
| Total | 2.95 | 3.65 | 5.47 | 100.00 | 100.00 | | | |

Corporate assessees in income category B (lower) recorded a growth of 12.20 percent per annum during 1998-2003.

The number of limited companies, according to the Department of Company Affairs (DCA) as on 1 April 2002, was 5,87,985 which included 5,12,364 private limited companies and 75,621 public limited companies. Audit could not identify the reasons for the difference between the number of companies registered with DCA and the number of companies in the records of Income Tax department.

There has been an increase in the average tax collection per corporate assessee, though average tax collected per non-corporate assessee remained almost static. Table 2.9 below contains the details: -

* Category 'A' assessees- Assessments with income/loss below Rs.50,000

♦ Category 'B' assessees (lower income group) - Assessments with income /loss of Rs.50,000 and above but below Rs.5 lakh

▼ Category 'B' assessees (higher income group) - Assessments with income/loss of Rs.5 lakh and above but below Rs.10 lakh.

▲ Category 'C' assessees - Assessments with income/loss of Rs.10 lakh and above.

• Category 'D' assessees - Search and Seizure assessments.

TABLE 2.9: AVERAGE TAX COLLECTED FROM CORPORATE AND NON-CORPORATE ASSESSEES

| | 1998-99 | 1999-00 | 2000-01 | 2001-02 | 2002-03 |
|--|---------|---------|---------|---------|---------|
| Number of assessees (Number in lakh) | | | | | |
| Corporation Tax | 2.95 | 3.10 | 3.34 | 3.49 | 3.65 |
| Income Tax | 169.59 | 195.67 | 226.68 | 258.77 | 281.00 |
| Average Tax Collected per assessee (Rs in thousand) | | | | | |
| Corporation Tax | 831 | 991 | 1068 | 1048 | 1265 |
| Income Tax | 12 | 13 | 14 | 12 | 13 |

PAN Applications

2.8 The Act has made it mandatory for every person to quote his/her Permanent Account Number (PAN) in documents pertaining to specified transactions. In order to comply with the provisions of the Act it is necessary to allot PAN at the earliest to persons who apply for the same. As against 2.85 crore corporate and non-corporate assessees, the department has allotted PANs to 2.73 crore as on 31 March 2003. The extent of duplication of PAN and the gap in issue of PAN cards as against allotment of numbers are not identifiable from the data forwarded by the department.

TABLE 2.10: POSITION OF PAN APPLICATIONS

| Financial Year | Opening balance | Additions during the year | Core-field deficiency/duplicate PAN Cases | Net applications for allotment (2+3- 4) | PAN allotted During the year | Balance (including core field deficiency cases) | Net Pendency (5-6) |
|----------------|-----------------|---------------------------|---|---|------------------------------|---|--------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 1999-00 | 58,56,456 | 15,66,577 | 14,08,924 | 60,14,109 | 50,66,981 | 23,56,052 | 9,47,128 |
| 2000-01 | 23,56,052 | 17,27,875 | 13,84,272 | 26,99,655 | 23,00,218 | 17,83,709 | 3,99,437 |
| 2001-02 | 17,83,709 | 28,47,610 | 13,02,795 | 33,28,524 | 26,78,764 | 19,52,555 | 6,49,760 |
| 2002-03 | 19,52,555 | 55,36,180 | 12,60,432 | 62,28,303 | 58,74,623 | 16,14,112 | 3,53,680 |

The Public Accounts Committee (PAC) in their 51st Report (13th Lok Sabha) on "Allotment of PAN" observed that the objectives of PAN scheme were not fully achieved as even after five years of launch of the scheme, the department had not been able to allot PANs to all identified assessees. PAC observed that the delay in allotment of PAN card, failure of the government to link all major cities for sharing of data and to set up all India databank of major financial transactions somewhat diluted the efficacy of the scheme. PAC had recommended that the Ministry should urgently evolve a system where the 'corefield' deficiency cases could be instantly identified and pointed out at the time of receipt of applications at the counter of the concerned field offices. Table 2.10 shows that out of 16.14 lakh pending PAN applications as many as 12.60 lakh, i.e., 78 percent were core-deficiency cases. Immediate attention needs to be given for rectification/suitable

action in respect of these deficiency cases. The department have since outsourced the allotment of PAN, results of which will have to be watched.

Position of Assessments

2.9 Under the Act, limitation period for completion of assessments is two years. Position of assessments of income and corporation tax during the last five years is indicated in Table 2.11 below.

TABLE 2.11: 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 |
| 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) |
| 2001-02 | 2,17,540 | 3,65,08,234 | 3,67,25,774 | 1,68,010 (77.23) | 1,99,58,558 (54.67) | 2,01,26,568 (54.80) | 49,530 (22.77) | 1,65,49,676 (45.33) | 1,65,99,206 (45.20) |
| 2002-03 | 8,94,415 | 3,69,00,040 | 3,77,94,455 | 1,72,410 (19.28) | 3,37,92,795 (91.58) | 3,39,65,205 (89.87) | 7,22,005 (80.72) | 31,07,245 (8.42) | 38,29,250 (10.13) |

Number of cases selected for scrutiny during the year increased to 8.45 lakh as compared to 0.83 lakh in 2001-02 as shown in Table 2.12 below but position of disposal as shown in Table 2.11 was not encouraging. The number of assessing officers had increased by 15.46 percent after restructuring but it did not result in quicker disposal of scrutiny assessments, which could have yielded more revenue to government. Returns are accepted as filed by assesses in summary assessments without any scrutiny or investigation.

TABLE 2.12: CASES SELECTED FOR SCRUTINY DURING THE LAST 5 YEARS

| Financial year | Opening balance of scrutiny cases | Cases selected for scrutiny during the year | Total cases for disposal |
|----------------|-----------------------------------|---|--------------------------|
| 1 | 2 | 3 | 4 |
| 1998-99 | 1,88,063 | 4,10,013 | 5,98,076 |
| 1999-00 | 3,96,227 | 1,57,410 | 5,53,633 |
| 2000-01 | 2,37,414 | 1,22,727 | 3,60,141 |
| 2001-02 | 1,34,411 | 83,129 | 2,17,540 |
| 2002-03 | 49,530 | 8,44,885 | 8,94,415 |

Arrears of demand

2.10 The Act provides that when any tax, interest, penalty, fine or any other sum is payable in consequence of any order, a notice of demand shall be served upon the assessee. The amount specified in the notice has to be paid within 30 days unless the assessing officer on application extends the time for payment

* Status wise and Category wise details given in Appendix-5

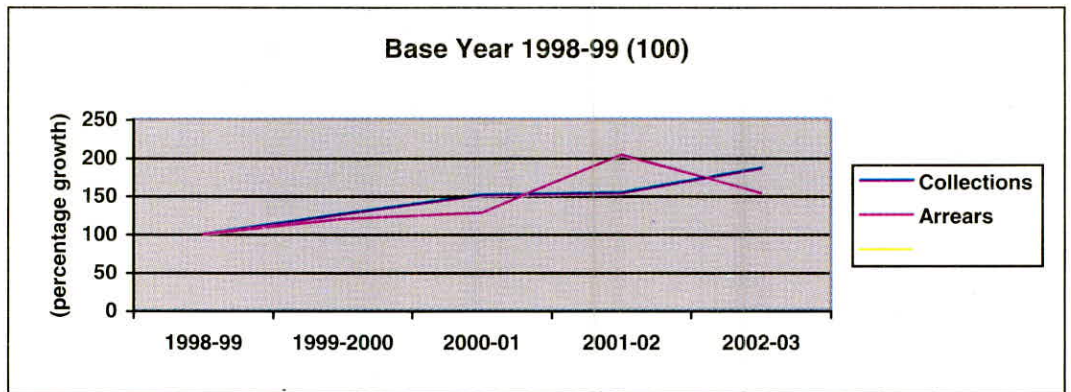
made by the assessee. The Act provides that an appeal against an assessment order would be barred unless the admitted portion of the tax as per the return is paid before filing the appeal. The amount which remains unpaid, becomes arrears. Table 2.13 below contains details of income tax and corporation tax collected and remaining uncollected during 1998-99 to 2002-03.

(Rs. in crore)

TABLE 2.13: INCOME TAX INCLUDING CORPORATION TAX COLLECTED AND REMAINING UNCOLLECTED

| Year | Tax collected | | | Tax remaining uncollected | | |
|---------|---------------|--------|--------|---------------------------|--------|--------|
| | CT | IT | Total | CT | IT | Total |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1998-99 | 24,529 | 20,240 | 44,769 | 21,954 | 22,189 | 44,143 |
| 1999-00 | 30,692 | 25,655 | 56,347 | 28,349 | 24,621 | 52,970 |
| 2000-01 | 35,696 | 31,764 | 67,460 | 24,402 | 32,029 | 56,431 |
| 2001-02 | 36,609 | 32,004 | 68,613 | 42,538 | 47,639 | 90,177 |
| 2002-03 | 46,172 | 36,866 | 83,038 | 35,057 | 32,581 | 67,638 |

CHART 4: GROWTH IN COLLECTION AND AMOUNT REMAINING UNCOLLECTED



Uncollected amount of Rs.67,638 crore comprised demand of Rs.48,821 crore of earlier years and current demand of Rs.18,817 crore outstanding as on 31 March 2003. Though outstanding demand both in corporation tax as well as income tax decreased as compared to last year, substantial amount still remained uncollected at the end of the year. At the end of March 2003, Rs.41,365.77 crore or 61 percent of total uncollected demand was stayed/kept in abeyance.

CHART 5: AMOUNTS STAYED/KEPT IN ABEYANCE

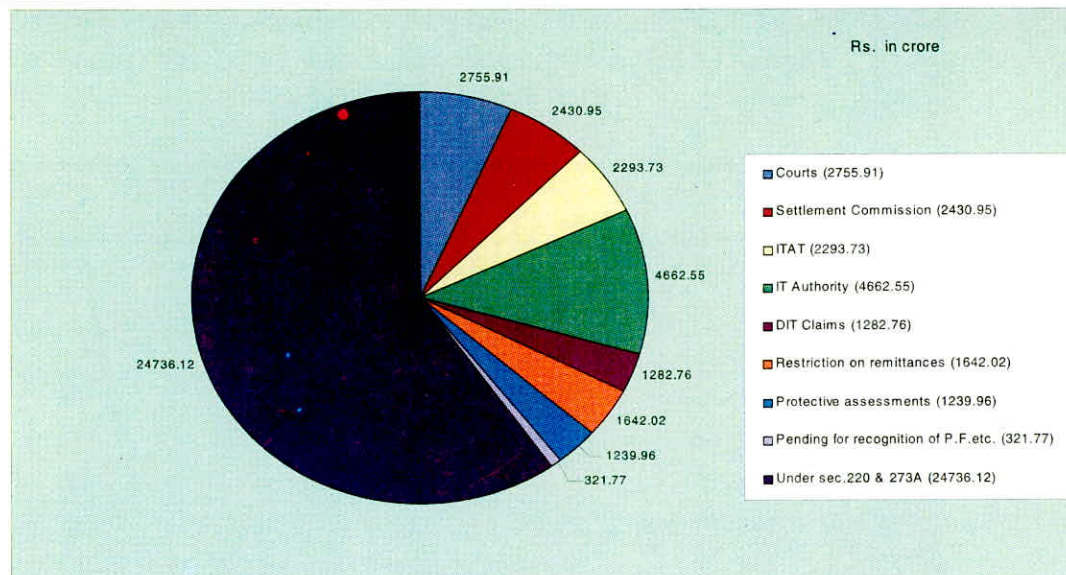


Table 2.14 below, containing year wise details of arrears, indicates that 23 percent of the arrears were over five years old.

(Rs in crore)

TABLE 2.14: 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 | 8,850.70 | 4,781.53 | 11,175.53 | 1,651.10 | 26,458.85 |
| 2 | Over 2 years but less than 5 years | 4,374.67 | 2,470.71 | 3,658.43 | 692.86 | 11,196.67 |
| 3 | Over 5 years but less than 10 years | 1,866.03 | 6,342.03 | 1,863.36 | 284.46 | 10,355.87 |
| 4 | Over 10 years | 323.68 | 267.88 | 174.64 | 43.71 | 809.91 |
| Total | | 15,418.08 | 13,866.15 | 16,876.96 | 2,678.13 | 48,828.30 |

More than 56 per cent of gross arrears as on 31 March 2003 consisted of cases where arrear in each case was Rs 1 crore and above. Details of arrears in terms of their value in each case are indicated in Table 2.15 below:

(Rs. in crore)

TABLE 2.15: 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 | 879938 | 6205.91 | 1213.19 | 32023396 | 10770.56 | 1016.88 | 32903334 | 16976.47 | 2230.07 |
| Over Rs.1 lakh to Rs.10 lakh in each case | 176888 | 2577.25 | 2204.11 | 572925 | 2194.73 | 1059.12 | 749813 | 4771.99 | 3263.23 |
| Over Rs.10 lakh to Rs.1 crore in each case | 64716 | 5141.70 | 1612.18 | 505874 | 2557.24 | 1033.80 | 570590 | 7698.94 | 2645.98 |
| Over Rs.1 crore in each case | 12023 | 21131.90 | 4489.35 | 40541 | 17058.93 | 1648.36 | 52564 | 38190.83 | 6137.71 |
| Total | 1133567 | 35059.76 | 9522.83 | 33142741 | 32587.46 | 4765.16 | 34276309 | 67647.23 | 14286.99 |

Tax
Recovery
Machinery

2.11 Every demand of tax, interest, penalty or fine, 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 (TRO) 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 is not paid within the time specified in the notice or within extended period, if any, the TRO shall proceed to realise the amount together with interest leviable for default in payment of tax demand by attachment and sale of the defaulter's movable property or by attachment and sale of the defaulter's immovable property or by arrest of the defaulter and his detention in prison or by appointing a receiver for management of defaulter's movable and immovable properties.

The administrative machinery of tax recovery has been strengthened by allocating one TRO exclusively for each range consequent to the implementation of the scheme of restructuring of the department. The demand certified to TROs and amount recovered is indicated in Table 2.16 below:

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

(Rs. in crore)

TABLE 2.16: 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 |
| 2000-01 | 6,559.14 | 3,706.51 | 10,265.65 | 2,223.74 (21.66) | 8,041.91 |
| 2001-02 | 8,041.91 | 7,885.96 | 15,927.87 | 2,229.48 (14.00) | 13,698.39 |
| 2002-03 | 13698.39 | 6,752.72 | 20,451.11 | 4441.85 (21.72) | 16,009.26* |

Though percentage of recovery of demand has increased to 22 percent (approx) during the year as compared to 14 percent during 2001-02, 78% of the certified amount still remained uncollected at the end of the year. This is despite the fact that the working strength of TROs increased to 509 as compared to 472 in 2001-02.

Penalties

2.12 If an assessee fails to furnish return of income/wealth or files a false return or fails to produce accounts and documents, penalty is leviable. The assessee is also liable to be prosecuted for the offence. Penalty is also leviable for failure to deduct or pay tax. Table 2.17 indicates that out of 2.46 lakh cases where penalty proceedings were initiated only 0.96 lakh cases, i.e., 38.90 percent of the total cases were finalized during the year.

TABLE 2.17: 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 |
| 2000-01 | 2,10,665 | 1,25,185 | 3,35,850 | 1,38,686 | 1,97,164 |
| 2001-02 | 1,97,164 | 48,172 | 2,45,336 | 63,547 | 1,81,789 |
| 2002-03 | 1,81,789 | 64,399 | 2,46,188 | 95,918 | 1,50,270 |

Out of 95,918 penalty cases disposed of during the year, penalty was imposed in 38.3 per cent or 36,795 cases. Fifty five per cent of the total cases for disposal pertained to concealment of income but only 24.18 per cent of these cases were disposed of. Table 2.18 below gives the details.

* Year wise, tax wise and amount wise breakup given in Appendix-6

TABLE 2.18: NATURE OF OFFENCES AND PENALTIES IMPOSED DURING THE YEAR 2002-03

| 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 |
| Concealment | 1,35,651 | 32,807 | 1,02,844 | 25,701 | 64,464 | 12,238 | 1,228.60 |
| Other than concealment | 1,10,537 | 63,111 | 47,426 | 20,957 | 33,293 | 24,557 | 351.57 |
| Total | 2,46,188 | 95,918 | 1,50,270 | 46,658 | 97,757 | 36,795 | 1,580.17 |

Though number of cases where penalties were imposed increased over last year, the amount of penalty imposed came down by Rs.689.52 crore.

Search and Seizure cases

2.13 Chapter XIV-B of the Act governs the assessment of search cases. The time limit for completion of block assessment is two years from the end of the month in which the last of the authorizations for search was executed. Table 2.19 summarizes the position of prosecutions launched, convictions obtained, offences compounded and acquittals allowed.

TABLE 2.19: PROSECUTIONS LAUNCHED, CONVICTIONS OBTAINED, OFFENCES 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 |
| 2000-01 | 12,858 | 235 | 13,093 | 20 | 279 | 419 | 718 | 12,375 |
| 2001-02 | 12,375 | 38 | 12,413 | 5 | 8 | 199 | 212 | 12,201 |
| 2002-03 | 12,201 | 102 | 12,303 | 18 | 11 | 404 | 433 | 11,870 |

Only 3.52 percent of total cases for prosecution were disposed of during the year. As many as 93.30 percent cases resulted in acquittal and only 4.16 per cent cases resulted in conviction. Department did not maintain separate details of net collection of revenue from assessments made in search and seizure cases which would have given an idea of effectiveness of quality of investigation and assessments. There is an urgent need for the Department to undertake a comprehensive review of the search and seizure mechanism for improving its effectiveness.

Refund Cases and interest paid on refunds

2.14 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 is payable on the amount of such refund. Refund of any amount as

a result of any order passed in appeal or other proceedings is also admissible along with simple interest at the prescribed rate.

TABLE 2.20: CASES OF 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 |
| 2000-01 | 1,54,430 | 2,78,979 | 4,33,409 | 3,00,397 | 1,33,012 |
| 2001-02 | 1,33,012 | 3,59,456 | 4,92,468 | 1,75,883 | 3,16,585 |
| 2002-03 | 3,16,585 | 4,18,570 | 7,35,155 | 5,15,427 | 2,19,728 |

Thirty percent of the refund claims out of total claims remained outstanding at the end of March 2003. Details are given in Table 2.20 above. Pendency of refund claims results in out flow of revenue from government by way of interest.

TABLE 2.21: 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 |
| 2000-01 | 8,805 | 26,033 | 34,838 | 26,370 | 8,468 |
| 2001-02 | 8,468 | 30,100 | 38,568 | 11,191 | 27,377 |
| 2002-03 | 27,377 | 58,480 | 85,857 | 49,022 | 36,835 |

Despite appeal/revision orders having been received, 36,835 cases, or 43 percent of total cases where refunds were due to assessees remained pending at the end of the year. Details are given in Table 2.21 above.

TABLE 2.22: INTEREST PAID ON REFUNDS BY THE GOVERNMENT

| Section under which interest paid | 2000-01 | | 2001-02 | | 2002-03 | |
|-----------------------------------|--------------------|----------------------|--------------------|----------------------|--------------------|----------------------|
| | No. of assessments | Amount (Rs in crore) | No. of assessments | Amount (Rs in crore) | No. Of assessments | Amount (Rs in crore) |
| 1 | 4 | 5 | 6 | 7 | 8 | 9 |
| 214 | 80 | 7.55 | 1 | 0.49 | 837 | 3.69 |
| 243 | - | - | - | - | 76,647 | 1.53 |
| 244 | 2,31,201 | 82.97 | 5,558 | 27.68 | 27,456 | 13.35 |
| 244A | 25,07,021 | 2,531.85 | 14,49,579 | 1,894.71 | 48,31,957 | 6,249.50 |
| Total | 27,38,302 | 2,622.37 | 14,55,138 | 1,922.88 | 49,36,897 | 6,277.07 |

Government paid Rs.1,922.88 crore by way of interest on refunds in 2001-02 which shot up to Rs.6,268.07 crore in 2002-03. This represents an increase of 226 per cent. Government refunded Rs.22,031 crore from gross collection of Rs.1,05,069 crore (Table 2.5) and paid interest amounting to Rs.6268 crore (Table 2.22) which worked out to 28.5 per cent of the amount refunded. The number of assessments had increased (239 percent) from 14.55 lakh in 2001-02 to 49.37 lakh

in 2002-03. Ninety two percent or 3.37 crore assessments were completed in summary manner.

Incorrect accounting of interest on refunds

Audit noticed that government was following an incorrect procedure of accounting for interest paid on refunds. Interest payment is a charge on the Consolidated Fund of India and therefore is payable through a proper budgetary mechanism. Accordingly, minor head "Interest on Refunds" exists under the Major Head '2020-Collection of Taxes on Income and Expenditure'. However, no budget provision for 'interest on refund' was made in the budget estimates for 2002-03 and the expenditure on interest on refunds amounting to Rs.6268.07 crore was treated as reduction in revenue. Accountal of interest on refund as reduction in revenue is fundamentally incorrect, as interest was never collected in the first instance.

The practice of showing interest on refund as reduction in revenue reduces transparency and denies the Parliament an opportunity to know the trends and quantum of such payments and the reasons therefor. The minor head 'Interest on Refunds' was provided only to achieve such transparency, which has now been negated. The matter was brought to the notice of Government in August 2003.

Cost of Collection of Taxes

2.15 Overall cost of collection of income and corporation taxes increased from Rs 852 crore in 1998-99 to Rs 1,048 crore in 2002-03. However, cost per rupee of corporation tax collected declined from 0.40 paise in 1998-99 to 0.26 paise in 2002-03. For income tax, cost of collection per rupee declined from 3.73 paise in 1998-99 to 2.51 paise in 2002-03. Cost per assessee, however, remained generally stable for corporation tax, though for income tax, there was a marginal decline. The position of cost of collection as depicted by the department needs to be viewed against the background that 93.85 percent and 83.58 percent of gross collections from non corporate and corporate assesses respectively, were realized at the pre-assessment stage i.e., in the form of advance tax, TDS and self assessment tax which did not test the efficiency of investigation or assessment skills of the department. Annual fluctuations in cost of collection of corporation and income tax are indicated in Table 2.23 below.

TABLE 2.23: COST OF COLLECTION OF CORPORATION AND INCOME TAX

| | 1998-99 | 1999-00 | 2000-01 | 2001-02 | 2002-03 |
|---|---------|---------|---------|---------|---------|
| Cost of Collection (Rs crore) | | | | | |
| Corporation Tax | 98 | 106 | 107 | 115 | 121 |
| Income Tax | 754 | 788 | 822 | 878 | 927 |
| Cost of Collection per rupee of tax collected (in paise) | | | | | |
| Corporation Tax | 0.40 | 0.35 | 0.30 | 0.31 | 0.26 |
| Income Tax | 3.73 | 3.07 | 2.59 | 2.74 | 2.51 |
| | 1998-99 | 1999-00 | 2000-01 | 2001-02 | 2002-03 |
| Cost of Collection per assessee (In rupees) | | | | | |
| Corporation Tax | 3,318 | 3,423 | 3,201 | 3,293 | 3315 |
| Income Tax | 445 | 403 | 363 | 339 | 329 |

Appeals, Revision
Petitions and
Writs

2.16 If an assessee is not satisfied with his assessment or refund order, he can file an appeal with the Commissioner (Appeals) and thereafter to Income Tax Appellate Tribunal (ITAT) and on any question of law arising out of such order to High Court and Supreme Court. The assessee can also initiate writ proceedings under Article 226 of the Constitution.

Clauses 6A to section 250 & 2A to section 254 have been inserted in the Income Tax Act, with effect from 1 June 1999 indicating time limits for disposal of an appeal which were one year for CIT (A) and four years for ITAT.

TABLE 2.24: APPEALS PENDING WITH THE COMMISSIONERS (APPEALS) ON 31 MARCH 2003

| | Total appeals | High demand* appeals | With demand of Rs. 10-25 lakh | With demand of Rs.25 lakh and above |
|----------------------|---------------|----------------------|-------------------------------|-------------------------------------|
| Appeals for disposal | 219966 | 56907 | 9239 | 11666 |
| Disposal | 118743 | 30325 | 4686 | 6173 |
| Pending | 101223 | 26582 | 4553 | 5493 |

As per instructions from the Board, each CIT (Appeal) is required to dispose of a minimum of 60 appeals per month. Thus about 2.08 lakh appeals should have been disposed of during the year on the basis of working strength of 289 CIT (Appeals). Table 2.24 above shows that only 1.19 lakh appeals were disposed of which is less than the required disposal.

TABLE 2.25: APPEALS PENDING WITH SUPREME COURT/HIGH COURT/ INCOME TAX APPELLATE TRIBUNAL ON 31 MARCH 2003

| Period | With Supreme Court | With High Court | With ITAT |
|--|--------------------|-----------------|-----------|
| Appeals, references and writs for disposal | 4861 | 31310 | 105361 |
| Disposal | 241 | 3266 | 34058 |
| Pending | 4620 | 28004 | 71303 |

Out of the cases referred to Supreme Court, High Court and ITAT till March 2003, 95 percent, 89 percent and 68 percent cases respectively remained pending as shown in Table 2.25.

Age wise details, given in Table 2.26 below, depict that 1,370 (29.65 percent), 6,217 (22.17 percent) and 15,827 (22.20 percent) cases respectively were above four years old.

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

TABLE 2.26: AGE-WISE DETAILS OF PENDING CASES

| Period | With Supreme Court | With High Court | With ITAT |
|---------------------|--------------------|-----------------|----------------|
| 1 | 2 | 3 | 4 |
| Less than one year | 1,459 | 10,750 | 27,191 |
| One to two years | 685 | 5,320 | 13,155 |
| Two to three years | 579 | 3,393 | 8,287 |
| Three to four years | 527 | 2,364 | 6,843 |
| Above four years | 1,370 | 6,217 | 15,827 |
| Total | 4,6220 | 28,0474 | 71,3073 |

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

2.17 With a view to countering tax evasion and curbing the circulation of unaccounted money in real estate transactions, 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. This chapter has since been deleted with effect from 1 July 2002. However, 254 properties valuing Rs.197.22 crore were pending sale by Appropriate Authority as on 31 March 2003.

Cases settled by Settlement Commission

2.18 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 such an application, 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 report from the Commissioner. Out of 2,171 cases for disposal by the Settlement Commission, 218 cases (10.04 percent) were settled. Percentage of disposal in respect of Income tax and Wealth tax, as shown in Table 2.27 below declined during the year as compared to last year.

TABLE 2.27: 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 |
| Income Tax | | | | | | |
| 2000-01 | 1,719 | 466 | 2,185 | 330 | 15.10 | 1,855 |
| 2001-02 | 1,855 | 29 | 1,884 | 306 | 16.24 | 1,578 |
| 2002-03 | 1,578 | 521 | 2,099 | 212 | 10.10 | 1,887 |
| Wealth Tax | | | | | | |
| 2000-01 | 106 | (-) 1 | 105 | 22 | 20.95 | 83 |
| 2001-02 | 83 | 6 | 89 | 17 | 19.10 | 72 |
| 2002-03 | 72 | - | 72 | 6 | 8.33 | 66 |

TABLE 2.28: CASES PENDING ADMISSION/HELD UP WITH SETTLEMENT COMMISSION

| | 31 March 2002 | 31 March 2003 |
|---|------------------|------------------|
| Cases pending admission before Settlement Commission | 619 | 577 |
| Cases held up with Settlement Commission for want of comments of the department | 267 | 203 |

Out of 1,953 pending Income tax and Wealth tax cases, 780 (40 per cent) cases were either pending with Settlement Commission or held up for want of comments from the department. No action was taken in respect of remaining 1,173 cases.

Revenue demand
written off

2.19 The total amount of arrears, for which recovery certificates were issued to Tax Recovery Officers, amounted to Rs.16,009.26 crore involving 3,94,337 assesseees. Out of this, Rs.243.99 crore involving 2,99,367 assesseees related to cases where demand in each case was upto rupees ten thousand. The department identified arrears in respect of 72,364 assesseees for possible write-off involving Rs.49.46 crore and Rs.16.73 crore was thereafter written off in respect of 39,922 assesseees.

Out of the total amount written off covering all cases, 11.6 percent pertained to cases where assesseees had died leaving behind no assets or had become insolvent or had gone into liquidation or where companies had become defunct and about 50.6 percent pertained to assesseees who were not traceable. Table 2.29 contains the details.

(Rs.in crore)

TABLE 2.29: CATEGORY-WISE DETAILS OF REVENUE DEMANDS WRITTEN OFF DURING 2002-03

| 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/become insolvent/gone into liquidation etc. | 26 | 8.36 | 811 | 2.29 | 837 | 10.65 |
| (b) Assessee being untraceable. | 39 | 34.37 | 15,958 | 11.92 | 15,997 | 46.29 |
| (c) Assessee having left India | - | - | 654 | 0.15 | 654 | 0.15 |
| (d) Assessee who is alive but has no attachable assets/amounts being petty/amounts written off as a result of scaling down of demand. | 18 | 1.72 | 29,960 | 32.59 | 29,978 | 34.31 |
| (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. | - | - | 650 | 0.12 | 650 | 0.12 |
| Total | 83 | 44.45 | 48,033 | 47.07 | 48,116 | 91.52 |

Chapter III

Corporation Tax

- ◆ Chapter summary
- ◆ Receipts from Corporation tax
- ◆ Results of Audit
- ◆ Assessee availing unentitled benefit in summary assessments
- ◆ Mistakes in:
 - adoption of correct figures, applying correct rate of tax and levy of surcharge
 - computation of business/non business income
 - allowing unentitled expenditure or provision and claims
 - allowing depreciation, computation of capital gains, carry forward and set off of losses and allowing income to escape assessment
 - allowing reliefs and exemptions under chapter VIA
- ◆ Excess or irregular refunds, non levy/short levy of interest and other topics of interest
- ◆ Cases of over assessment/overcharge



Chapter Summary

Corporation tax constituted 55.57 percent of the total collection from direct taxes in 2002-03. There were 3.65 lakh assessees as on 31 March 2003, which represented an increase of 4.56 per cent over the previous year.

(Para 3.1 & 3.2)

Audit issued 602 observations to the Ministry of Finance involving tax effect of Rs.1362.50 crore highlighting various irregularities, omissions and mistakes, for comments. Ministry accepted only 94 observations involving tax effect of Rs.56.05 crore.

(Para 3.4 & 3.5)

Assessees had availed unentitled benefits in summary assessments in 100 cases involving tax effect of Rs.145.68 crore.

(Para 3.33)

Assessing officers committed mistakes in:

- ◆ adoption of correct figures, applying correct rate of tax and levy of surcharge in 40 cases involving tax effect of Rs.22.09 crore.

(Para 3.6 to 3.8)

- ◆ computation of business/non business income in 53 cases involving tax effect of Rs.35.94 crore.

(Para 3.9)

- ◆ allowing unentitled expenditure or provision and claims in 68 cases involving tax effect of Rs.394.73 crore.

(Para 3.11 to 3.15)

- ◆ allowing depreciation, computation of capital gains, carry forward and set off of losses and allowing income to escape assessment in 124 cases involving tax effect of Rs.176.82 crore.

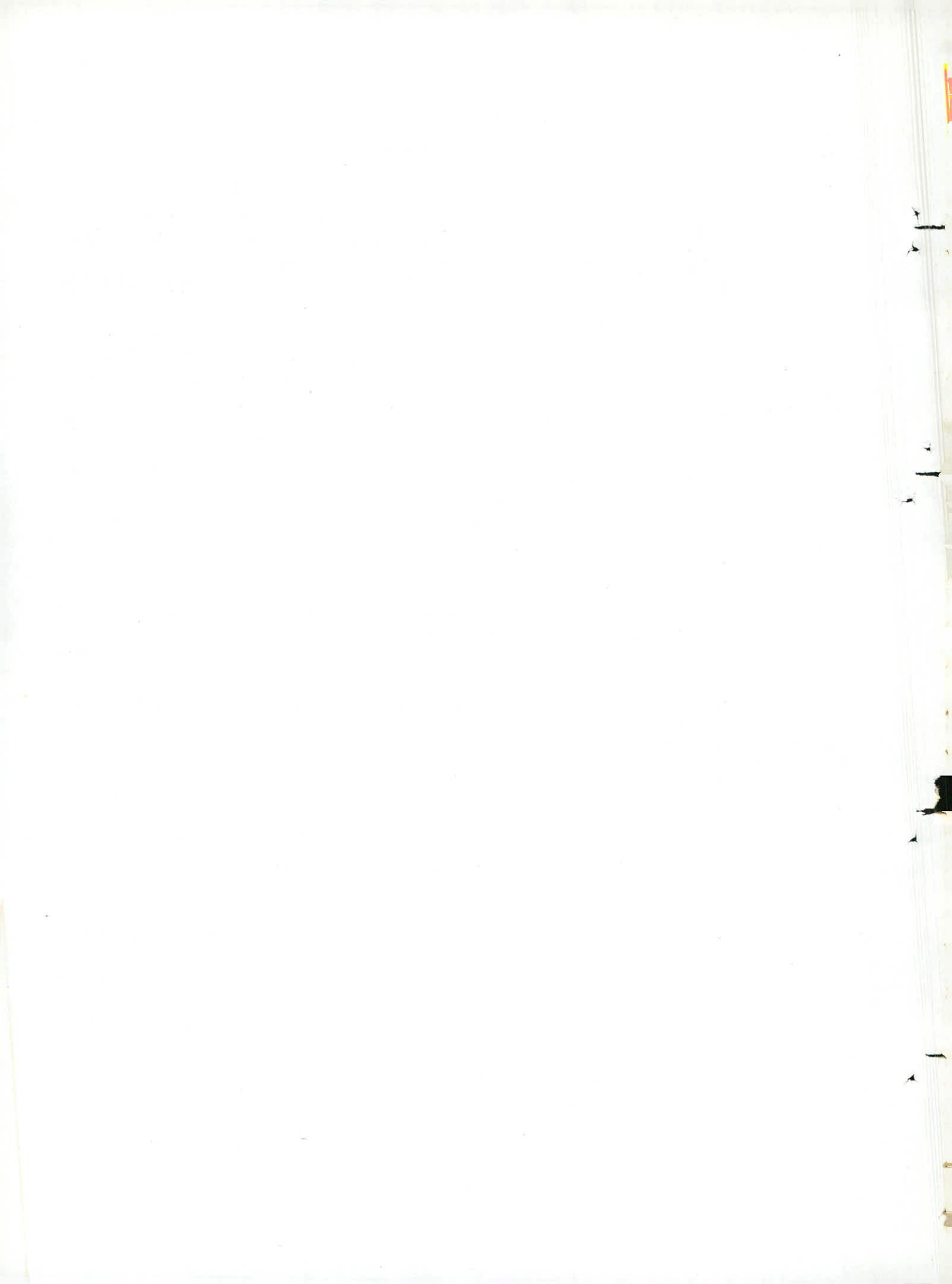
(Para 3.16 to 3.20)

- ◆ allowing reliefs and exemptions under chapter VIA in 42 cases involving tax effect of Rs.23.82 crore.

(Para 3.22 to 3.26)

- ◆ levy of interest in 82 cases involving tax effect of Rs.237.61 crore.

(Para 3.29)



CHAPTER III: CORPORATION TAX

Number of companies vis-à-vis company assessees

3.1 According to the records of Ministry of Finance, Department of Company Affairs, there were 5,87,985 limited companies as on 1 April 2002, which included 5,12,364 private limited companies and 75,621 public limited companies. However, as per the records of the Income Tax Department, the number of company assessees as on 31 March 2003 was 3,65,124 as compared to 3,49,185 as on 31 March 2002.

Receipts from corporation tax

3.2 During 2002-2003, corporation tax receipts were Rs.46,172 crore against Rs.36,609 crore in 2001-02. Table 2.4 of this Report contains the details.

Status of assessments

3.3 Table 2.11 (**Appendix-5**) of this report contains particulars of assessments due for disposal, assessments completed and pending.

Results of audit

3.4 Audit issued 575 draft paragraphs involving undercharge of tax of Rs.1077.59 crore and 27 draft paragraphs involving overcharge of tax of Rs.284.91 crore to the Ministry of Finance between March 2003 and October 2003 for eliciting their comments.

Out of 602 draft paragraphs issued to the Ministry, internal audit of the department had seen 37 cases in which mistakes could not be detected. Internal audit had not seen 438 cases at all. Out of 127 cases pertaining to Delhi, audit could not establish the number of cases seen by internal audit, as these details were not available in the departmental records.

Out of 602 draft paragraphs issued to the Ministry, 564 cases involving under charge of Rs.1074.10 crore and 27 cases involving overcharge of Rs.284.91 crore are indicated in the succeeding paragraphs. One hundred draft paragraphs related to summary assessments and involved under charge of tax of Rs.145.68 crore while 464 draft paragraphs related to scrutiny, best judgment and block assessments involving under charge of tax of Rs.928.42 crore.

Each paragraph indicates a particular category of mistakes and starts with a suitable preamble followed by combined/consolidated tax effect of all observations of similar nature. Cases with money value of more than Rs.10 crore each are illustrated while those more than Rs.50 lakh but below Rs.10 crore each are given in a tabular form in Appendices.

Status of replies received from Ministry of Finance

3.5 Of 591 cases included in this chapter, Ministry of Finance accepted audit observations in **94 cases** involving tax effect totalling **Rs.56.05 crore**. In three cases, Ministry have not accepted the audit observations. In the remaining 494 cases, Ministry's replies are awaited.

3.6 Non adherence to Provisions of the Act

Mistakes in adoption of correct figures

An assessment can be completed in a 'summary manner' without requiring the presence of the assessee or examination of accounts and documents accompanying the return of income. Only arithmetical errors are rectified in summary assessment. Accounts, claims, records and all documents are examined only in 'scrutiny' assessments. Assessing officers have thus to determine and assess the income correctly in scrutiny assessments. The Board have issued instructions to assessing officers and their supervising officers to ensure that mistakes in assessments do not occur.

Audit noticed that assessing officers had adopted incorrect figures, committed arithmetical errors, allowed claims twice, and did not add back inadmissible claims to income and thus short levied tax by **Rs.13.52 crore** in **21 cases** in Delhi, Gujarat, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. Two cases involving tax effect of more than Rs.50 lakh each are indicated at serial numbers **1 and 2 of Appendix-7.**

3.7 Incorrect application of rate of tax

Incorrect rate of tax

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 in the relevant Finance Act.

A domestic company is charged 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. Incidence of tax is lower in respect of a company in which public are substantially interested.

Assessing officers levied tax short by **Rs.3.01 crore** in **seven cases** in Bihar, Delhi, Gujarat, Tamil Nadu and West Bengal. Two cases each involving tax effect of more than Rs.50 lakh are indicated at serial numbers **3 and 4 of Appendix-7.**

3.8 Irregularities in levy of surcharge

Surcharge not levied or incorrectly levied

Surcharge is levied at prescribed rates in addition to tax in the case of a domestic company whose income exceeds Rs.75,000.

Audit noticed that either surcharge was not levied or levied short in **12 cases** in Bihar, Delhi, Gujarat, Jharkhand, Madhya Pradesh, Maharashtra, Uttar Pradesh and West Bengal involving tax effect of **Rs.5.56 crore**. Three cases each involving tax effect of more than Rs.50 lakh are indicated at serial numbers **5 to 7 of Appendix-7.**

3.9 Irregularities in computation of taxable income

Mistake in computation of business/non business income

Total income of a person for any previous year includes income from whatever source derived which is received or deemed to be received or which accrues or arises during such previous year unless it is specifically exempt from tax by other provisions of the Act.

The Act further provides that in respect of any capital expenditure incurred for acquiring any right to operate telecommunication services for which payment has actually been made, deduction shall be allowed equal to the appropriate fraction of the amount of such expenditure in relation to each of the relevant previous years.

Income under the head 'profits and gains of business or profession' is computed in accordance with the method of accounting regularly adopted by the assessee. Any stock-in-trade held by the assessee for the purpose of business or profession does not constitute capital asset of the assessee.

Valuation of closing stock is a vital factor in determining the taxable income from business, as correct profit of the assessee cannot be ascertained unless the opening and closing stock are valued correctly. Valuation of closing stock of finished goods is to be made at the prevailing rates.

Assessing officers did not apply the above provisions correctly, which resulted in short levy of tax totalling **Rs.35.94 crore** in **53 cases** in Andhra Pradesh, Chandigarh (UT), Delhi, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Uttar Pradesh, Tamil Nadu and West Bengal. Sixteen cases each involving tax effect of more than Rs.50 lakh, are indicated in **Appendix-8**.

3.10 Income from tea business incorrectly completed

Mistake in computation of income from tea business

Only 40 percent of the income derived from tea grown and manufactured by a seller in India is deemed to be income derived from manufacturing and selling operations of the assessee and is liable to income tax. The remaining 60 percent is deemed to relate to cultivation of tea, income from which is agricultural in nature and hence not liable to tax. This rule regarding apportionment of income applies only to income from tea business. It has been judicially held¹ that an assessee is entitled to deduction of cess on green leaves from 60 percent of the composite income i.e. the income, which is deemed to be related to cultivation of tea and is agricultural in nature.

The assessing officers did not apportion the expenditure on account of cess correctly which resulted in short levy of tax totalling **Rs.69.01 lakh** in **two cases** in Assam.

¹ Jorhat Group Ltd Vs Agricultural ITO 226-ITR-622 (Guwahati)

Incorrect allowance of inadmissible expenditure/claims

3.11 Capital and non-business expenditure incorrectly allowed

Any expenditure, not being in the nature of capital expenditure, laid out wholly or exclusively for the purpose of business, is allowable as deduction in computation of income chargeable under the head 'profits and gains of business or profession'.

No deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of total income under the Act.

Assessing officers incorrectly allowed capital and non-business expenditure which resulted in short levy of tax totalling **Rs.180.25 crore** in **29 cases** in Delhi, Gujarat, Maharashtra, Madhya Pradesh, Tamil Nadu, Uttar Pradesh and West Bengal. Three cases involving short levy of tax of more than Rs.10 crore each are illustrated below. Seven cases over Rs.50 lakh but below Rs.10 crore each are shown in the **Appendix-9**.

3.11.1 In Delhi-V charge, the assessing officer completed the income tax assessments of **M/s. Punjab National Bank**, for the assessment years 1997-98 and 1998-99 after scrutiny in February 2000 and March 2001 and that for the assessment year 2000-2001 in summary manner in March 2001. Audit scrutiny revealed that the assessing officer while completing the assessments, allowed exemption totalling Rs.259.86 crore for all three years towards interest on tax free bonds, dividend income and income from infrastructure projects. As the income representing interest on tax free bonds, dividend income and income from infrastructure projects did not form part of the total income, proportionate expenditure attributable to this income ought to have been disallowed from the total administrative expenses as claimed by the assessee. Thus, the allowable exemption worked out to Rs.19.50 crore only as against Rs.259.86 crore actually allowed. This resulted in under assessment of income of Rs.240.36 crore involving short levy of tax of Rs.102.10 crore (including interest).

3.11.2 In Delhi-V charge, the assessing officer completed the assessment of **M/s. Oriental Bank of Commerce**, for the assessment year 1997-98 after scrutiny in March 2000. Audit scrutiny revealed that the assessing officer while revising the assessment in March 2002, allowed a deduction of Rs.54.24 crore towards interest on tax-free bonds. As the income representing interest on tax-free bonds did not form part of the total income, proportionate administrative expenditure attributable to this income ought to have been disallowed from the total administrative expenses as claimed by the assessee. Thus, the allowable deduction worked out to Rs.7.22 crore as against Rs.54.24 crore actually allowed. This resulted in under assessment of income of Rs.47.02 crore involving short levy of tax of Rs.25.07 crore.

3.11.3 In Tamil Nadu, Chennai-I charge, the assessing officer completed assessment of **M/s. Tamil Nadu Newsprint and Papers Ltd.**, for the assessment year 1996-97 after scrutiny in October 1998 at a loss of Rs.83.92 crore. Audit scrutiny revealed that the assessee had incorrectly claimed and was allowed a deduction of Rs.49.93 crore towards pre-operative expenses even though the

amount was capitalised in the books of accounts. After allowing depreciation of Rs.6.24 crore on the amount capitalised, the total amount of capital expenditure to be disallowed worked out to Rs.43.69 crore. Thus there was an excess computation of loss by Rs.43.69 crore with consequential potential tax effect of Rs.20.10 crore. On audit pointing out the mistake, the department completed remedial action in March 2002 disallowing the capital expenditure of Rs.43.69 crore.

3.12 Preliminary and prior period expenses incorrectly allowed

Incorrect allowance of prior period expenses

Admissible deduction towards preliminary expenses incurred prior to commencement of business or in connection with extension of an industrial undertaking is limited to 2.5 per cent (5 per cent w.e.f. 1 January 1999) of the cost of the project or capital employed at the option of the assessee and is allowed in equal instalments spread over 10 years.

Audit noticed that assessing officers had incorrectly allowed preliminary and prior period expenses which resulted in short levy of tax totalling **Rs.6.75 crore** in **eight cases** in Delhi, Karnataka, Madhya Pradesh, Maharashtra and Uttar Pradesh. Four cases each involving tax effect of more than Rs.50 lakh are indicated at serial numbers **8 to 11 of Appendix-7**.

3.13 Payment made outside India for acquiring know-how deducted incorrectly

Incorrect allowance of expenditure for acquiring know-how

Any interest, royalty, fees paid for technical services or other sum payable outside India on which tax has not been paid or deducted at source, shall not be deducted in computing the income chargeable under the head 'profits and gains of business or profession'.

From the lump sum paid by the assessee in 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 profits and gains of business for that previous year. The balance amount shall be deducted in equal instalments for each of the five immediately succeeding previous years.

Audit noticed that the assessing officers did not adhere to the above provisions which resulted in short levy of tax totalling **Rs.67.41 lakh** in **three cases** in Karnataka, Maharashtra and West Bengal.

3.14 Provision for bad and doubtful debts incorrectly allowed

Mistakes in allowance of Provisions for bad and doubtful debts

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 under the head 'profits and gains of business or profession'. In the case of a bank where provision made for bad and

doubtful debts is admissible, the amount of deduction shall be limited to the amount by which such debt or part thereof exceeds the credit balance in the provision for bad and doubtful debts accounts made under the Act. No deduction for a bad debt or part thereof shall be allowed unless the assessee has debited the amount of such debt or part of debt in the previous year to the provision for bad and doubtful debts account. Besides, bad debts written off shall not include any provision for bad and doubtful debts made in the books.

Audit noticed that the assessing officers did not apply the above provisions correctly which resulted in short levy of tax totalling **Rs.182.14 crore** in **16 cases** in Delhi, Gujarat, Jammu & Kashmir, Kerala, Madhya Pradesh, Maharashtra, Punjab, Tamil Nadu and West Bengal. Two cases involving tax effect of more than Rs.10 crore each are illustrated below. Six cases with tax effect over Rs.50 lakh but below Rs.10 crore each are shown in **Appendix-10**.

3.14.1 In Tamil Nadu, Chennai-I charge, the assessing officer completed the income tax assessment of **M/s. Indian Overseas Bank Ltd.**, for the assessment years 1996-97, 1998-99 and 1999-2000 in December 1998, March 1999 and March 2000 respectively. Audit scrutiny revealed that the assessee had claimed a deduction of Rs.87.58 crore towards bad debts written off without creating any provision in the assessment year 1996-97. Also, without writing off any bad debts, the assessee had claimed a deduction totalling Rs.254.06 crore for the assessment years 1998-99 and 1999-2000. The assessing officer allowed the irregular claims, which resulted in under assessment of income of Rs.87.58 crore for the assessment year 1996-97 with consequential short demand of tax of Rs.40.29 crore. For the assessment years 1998-99 and 1999-2000 there was excess computation of loss carried forward totalling Rs.254.06 crore involving potential tax effect of Rs.88.92 crore.

3.14.2 In Punjab, Patiala charge, the assessing officer completed the income tax assessments of **M/s. State Bank of Patiala**, for the assessment years 1996-97 and 1997-98 after scrutiny in December 1998 and March 2000 respectively. Audit scrutiny revealed that the assessee had claimed a deduction of Rs.21.42 crore for the two years towards technical write off of bad debts in the books of accounts at the Head office only. Thereafter, the bank transferred the same to a separate account known as 'Advances under Collection Account'. This should have been disallowed, as technical write off of bad debts had no legal sanction under the Income Tax Act. Besides, the assessee had also incorrectly claimed a provision of Rs.70.12 crore towards bad and doubtful debts. The assessing officer incorrectly allowed the deduction on account of technical write off of bad debts and provision for bad and doubtful debts which resulted in under assessment of income by equal amount involving tax effect of Rs.40.65 crore for both the assessment years.

3.15 Other provisions not disallowed

Mistakes in allowance of provisions

A provision made in the accounts for an accrued or known liability is an admissible deduction while other provisions do not qualify for deduction under the Act.

It has been judicially held² that in order for a loss to be deductible, it must have actually arisen and incurred and not merely anticipated as certain to occur.

No deduction in respect of any provision for gratuity on retirement or on termination of employment for any reason shall be allowed unless it is by way of contribution towards an approved gratuity fund or for payment of gratuity that has become payable during the previous year.

Audit noticed that the assessing officers did not apply the above provisions correctly which resulted in short levy of tax totalling **Rs.24.92 crore** in **12 cases** in Delhi, Maharashtra, Orissa, Tamil Nadu, Uttar Pradesh and West Bengal. One case involving tax effect of more than Rs.10 crore is illustrated below. Three cases over Rs.50 lakh but below Rs.10 crore are indicated at serial numbers **12 to 14 of Appendix-7**.

3.15.1 In Orissa, Bhubaneswar charge, the assessing officer completed the assessments of **M/s. National Aluminium Company Ltd.**, for the assessment years 1999-2000 and 2000-2001. Audit scrutiny revealed that the assessee had made a provision totalling Rs.36.59 crore in the assessment years 1999-2000 and 2000-01 towards pay revision pending finalisation/approval. The provision was towards an unascertained liability and should have been disallowed. The assessing officer incorrectly allowed the provision of Rs.36.59 crore resulting in under assessment of income by Rs.36.59 crore involving short levy of tax of Rs.14.02 crore for both the assessment years.

3.16 Incorrect allowance/set off/carry forward of depreciation

Irregularities in allowance/set off/carry forward of depreciation

Where for any assessment year, unabsorbed depreciation cannot be set off against any other income in the relevant previous year, it shall be carried forward to the following assessment year. It shall be set off against profit and gains of business or profession of that year. If there is no positive income in that year also, it can be carried forward to the next year for set off up to a maximum of eight assessment years immediately succeeding the assessment year in which the asset was first put to use. According to the priority for set off of losses and allowances, business loss of earlier years has to be first set off followed by unabsorbed depreciation and investment allowance.

² CIT Vs Indian Overseas Bank 151 ITR 446 (Madras High Court)

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. No depreciation allowance is admissible on assets relating to the part of income, which is exempt from tax under the provisions of the Act. Cost of assets for the purpose of depreciation includes all expenses, which are directly relatable and paid or incurred for acquisition of the asset.

The assessing officers did not apply the above provisions correctly which resulted in short levy of tax totalling **Rs.57.25 crore** in **50 cases** in Andhra Pradesh, Delhi, Gujarat, Haryana, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. One case, involving tax effect of more than Rs.10 crore is illustrated below. Eight cases involving tax effect of more than Rs.50 lakh but below Rs.10 crore each are shown in **Appendix-11**.

3.16.1 In Delhi-IV charge, the assessing officer completed the assessment of **M/s. Gas Authority of India Ltd.**, for the assessment year 1998-99 after scrutiny in December 2000 at an income of Rs.1,042.68 crore after allowing depreciation of Rs.580.07 crore. Audit scrutiny revealed that the assessee had made additions to its assets during the second half of the year. Though the assessee had used these assets for less than 180 days, the assessing officer allowed depreciation of Rs.126.73 crore at the rate of 100 percent instead of restricting it to 50 percent. The excess allowance of depreciation of Rs.63.36 crore resulted in under assessment of income by an equal amount involving short levy of tax of Rs.34.71 crore.

3.17 Incorrect allowance of liability

Mistakes in allowance of liability

With effect from the assessment year 1984-85 certain deductions as specified in the Act, are allowable only on actual payment basis. From 1 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 unless such sum has actually been paid before the stipulated due date as specified under the relevant statute governing the funds.

Where sales tax payable by a registered dealer has been deferred under the 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.

A provision made in the account for accrued or known liability is an admissible deduction, while other provisions made do not qualify for deduction. For a loss to be deductible it must have actually arisen and incurred and not merely anticipated to occur in future.

Audit noticed that the assessing officers did not comply with the above provisions which resulted in short levy of tax totalling **Rs.39.78 crore** in **19 cases** in Andhra Pradesh, Delhi, Gujarat, Madhya Pradesh, Maharashtra, Orissa and West Bengal. Two cases each involving tax effect of more than Rs.10 crore each are illustrated below. Three cases of more than Rs.50 lakh but below Rs.10 crore are shown at serial numbers **15 to 17 of Appendix-7**.

3.17.1 In Andhra Pradesh, Hyderabad-I charge, the assessing officer completed the assessment of a company, **M/s. Andhra Pradesh State Electricity Board**, for the assessment year 1998-99 after scrutiny in February 2001 at nil income after adjusting the brought forward loss relating to the assessment year 1992-93. Audit scrutiny revealed that the assessing officer while computing total income did not add back undischarged liabilities of Rs.54.59 crore towards interest payable, which resulted in short computation of income by Rs.54.59 crore involving potential tax effect of Rs.19.11 crore. The department rectified the mistake by disallowing the deduction after audit had highlighted it.

3.17.2 In Orissa, Bhubaneshwar charge, the assessing officer completed the assessment of **M/s. National Aluminium Company Ltd.**, for the assessment year 1999-2000 after scrutiny in March 2002 and that for the assessment year 2000-01 in summary manner in March 2001. Audit scrutiny revealed that the assessee had made a provision of Rs.42.32 crore towards unascertained liabilities for both the assessment years. The assessing officer did not add back the provision to the income, which resulted in underassessment of an equal amount involving short levy of tax of Rs.15.61 crore for both the assessment years.

3.18 Incorrect computation of capital gains

Irregularities in computation of capital gains

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 assets and the cost of any improvement thereto and of expenditure incurred wholly and exclusively in connection with such transfer. 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. However, from the assessment year 1998-99 these provisions are not applicable to bonds or debentures other than capital indexed bonds issued by the government.

The assessing officers did not apply the above provisions correctly which resulted in short levy of tax totalling **Rs.1.19 crore** in **five cases** in Delhi, Gujarat, Punjab and West Bengal.

Income
escaping
assessment

3.19 Income not assessed

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. The related receipt in respect of any tax deducted at source has to be taken into account in computing the total income of the assessee.

It has been judicially held³ that mercantile system of accounting was relevant only to determine the point of time at which tax liability was attracted. It could not determine the range of taxable income or the ambit of taxation. It was further held that any receipt would be subject to tax only in the relevant year in which the right to receive accrued or arose to the assessee and could not be spread over to future years.

Audit noticed that the assessing officers did not apply the above provisions correctly which resulted in short levy of tax totalling **Rs.28.54 crore** in **18 cases** in Andhra Pradesh, Delhi, Karnataka, Maharashtra, Orissa, Tamil Nadu and West Bengal. Two cases each involving tax effect of more than Rs.10 crore are illustrated below. One case of tax effect of over Rs.50 lakh but below Rs.10 crore is indicated at serial number **18 of Appendix-7**.

3.19.1 In Delhi-I charge, the assessing officer completed the assessments of **M/s. Bharat Heavy Electricals Ltd.**, for the assessment years 1997-98 to 1999-2000 after scrutiny in February 2000, March 2001 and February 2002 respectively. Audit scrutiny revealed that the assessee had credited simple interest in the accounts, whereas the memorandum of understanding between the assessee and Andhra Pradesh State Electricity Board for supply of electric power provided for compound interest. The difference between simple and compound interest worked out to Rs.32.63 crore. As the assessee followed mercantile system of accounting, the assessing officer should have brought accrued interest to tax. Omission to do so resulted in short levy of tax of Rs.12.64 crore.

3.19.2 In Delhi-I charge, the assessing officer completed the assessment of **M/s. Airports Authority of India**, for the assessment year 1998-99 after scrutiny in November 2000 at an income of Rs.437.29 crore. Audit scrutiny revealed that neither had the assessee included the interest of Rs.20.65 crore received from the income tax department in the computation of income nor did the assessing officer add back the amount at the time of assessment. This resulted in under assessment of income by Rs.20.65 crore involving tax of Rs.11.20 crore including interest.

³ CIT Vs Motor Credit (P) Ltd [127 ITR 572 (MAD)]
EID Parry (I) Ltd Vs DCIT [46 ITR 391 (MAD)]

3.20 Incorrect computation, carry forward and set off of losses

Mistakes in computation of carry forward and set off of losses

Where the net result of 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 of those years.

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 can 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.

It has been judicially held⁴ that loss of one assessee cannot be set off against the income of another assessee. The loss of an association of persons (AOP) can be set off only against its own profits and not against the profits of its members. Similarly, a member of an AOP cannot claim set off of loss of an AOP, as both are independent taxable entities.

Loss under the head 'capital gains' can be set off only against income from capital gains in subsequent years.

The assessing officers did not apply the above provisions correctly which resulted in short levy of tax totalling **Rs.50.06 crore** in **32 cases** in Andhra Pradesh, Assam, Delhi, Gujarat, Haryana, Karnataka, Kerala, Maharashtra, Tamil Nadu and West Bengal. Two cases each involving tax effect of more than Rs.10 crore are illustrated below. Eleven cases of tax effect of over Rs.50 lakh but below Rs.10 crore each are shown in **Appendix-12**.

3.20.1 In West Bengal-I, Kolkata charge, the assessing officer completed the assessment of **M/s. Calcutta Electric Supply Company Ltd.**, for the assessment year 1997-98 after scrutiny in December 1999 at nil income, after setting off losses of earlier years. Audit scrutiny revealed that the assessee had total loss of Rs.179.40 crore during the assessment years 1983-84 to 1992-93. Thereafter, from the assessment years 1993-94 to 1997-98 the assessee had total positive income of Rs.199.00 crore. The assessing officer determined nil income for the assessment year 1997-98 as against the positive income of Rs.19.59 crore. Mistake in computing income thus resulted in under assessment of income by Rs.19.59 crore involving under charge of tax of Rs.13.35 crore.

3.20.2 In West Bengal-III, Kolkata charge, the assessing officer completed the assessment of **M/s. UCO Bank Ltd.**, for the assessment year 1999-2000 after

⁴ CIT Vs Smt Lalita M Bhat(1998) 234 ITR319(Bombay)

scrutiny in March 2002, at nil income, after setting off unabsorbed business loss of Rs.31.41 crore pertaining to the assessment year 1992-93. Audit scrutiny revealed that the department completed the assessment for the assessment year 1992-93 'ex parte' in March 1995. Total income was determined at Rs.59.10 crore, against which, the losses of assessment years 1986-87, 1987-88 and 1990-91 that were brought forward were set off completely. There was no amount left for further set off. The assessing officer had incorrectly set off business income for the assessment year 1999-2000 against non-existent business loss of assessment year 1992-93. The mistake resulted in incorrect set off of loss of Rs.31.41 crore involving tax effect of Rs.11.00 crore.

3.21 Appellate orders incorrectly implemented

Mistakes in implementation of appellate orders

An aggrieved assessee can appeal to the Commissioner of Income Tax (Appeals) against the order of an assessing officer who shall comply with the directions given in the appellate order. Further appeal is also permitted to be made on questions of fact and law to ITAT⁵ and on the questions of law alone to the High Court and the Supreme Court thereafter. Any mistake committed while giving effect to appellate order will result in under assessment/over assessment of income.

The assessing officers did not implement the appellate orders correctly, which resulted in short levy of tax totalling **Rs.11.15 crore** in **13 cases** in Gujarat, Karnataka, Kerala, Maharashtra and Tamil Nadu. Six cases involving tax effect of Rs.50 lakh or more are indicated at serial numbers **19 to 24 of Appendix-7**.

3.22 Irregular reliefs and exemptions under Chapter VIA of the Act

Incorrect grant of exemption to industrial undertaking established in free trade zone

With effect from 1 April 2001, a deduction of such profits and gains as are derived by an undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, shall be allowed from the total income. Provided also that for the assessment year beginning on the 1st day of April, 2003, the deduction under this sub-section shall be ninety per cent of the profits and gains derived by a undertaking from the export of such articles or things or computer software.

Audit noticed that the assessing officers did not apply the above provisions correctly which resulted in short levy of tax totalling **Rs.2.79 crore** in **three cases** in Delhi and Tamil Nadu. **One case** involving tax effect of more than Rs.50 lakh is indicated at serial number **25 of Appendix-7**.

⁵ Income tax appellate tribunal

3.23 Deduction in respect of profits from export of computer software incorrectly allowed

Incorrect deduction in respect of profits from export of computer software

An assessee, being an Indian company or a person resident in India, who is engaged in the business of (i) export out of India of computer software or its transmission from India to a place outside India by any means, or (ii) providing technical services outside India in connection with the development or production of computer software, is entitled to a deduction to the extent of the profits derived from such business.

Audit noticed that the assessing officers did not adhere to the above provisions strictly. This resulted in short levy of tax totalling **Rs.9.19 crore** in **two cases** in Andhra Pradesh and Maharashtra where tax effect in each case was more than Rs.50 lakh but less than Rs.10 crore, are indicated at serial numbers **26 and 27 of Appendix-7.**

3.24 Mistakes in computation of export profits

Incorrect allowance of deduction in respect of export profits

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 profits derived from such export shall, in respect of goods or merchandise manufactured or processed by the assessee, be the amount which bears to the adjusted profits* of the business, the same proportion as the adjusted export turnover in respect of such goods bears to the adjusted total turn over of the business carried on by the assessee and in respect of trading goods, be the export turnover in respect of such trading goods as reduced by the direct and indirect costs attributable to export of such trading goods. The profit so arrived at shall be further increased by ninety percent of profit on sale of licenses and export incentives, if any. The export and total turnover shall not, however, include freight or insurance attributable to the transport of the goods or merchandise beyond the custom station. Further, deduction in respect of export profits shall not be admissible unless the assessee furnished along with the return of income, the report of an accountant certifying that the deduction was correctly claimed in accordance with the provisions of section 80HHC.

Incorrect application of the above provisions resulted in short levy of tax totalling **Rs.4.27 crore** in **15 cases** in Gujarat, Haryana, Kerala, Maharashtra, Tamil Nadu and West Bengal. Two cases, each involving tax effect of more than Rs.50 lakh are indicated at serial numbers **28 and 29 of Appendix-7.**

* "adjusted profit of the business" means the profit of the business as reduced by the profits derived from the business of export out of India of trading goods as computed under the provisions of the Act

3.25 Irregularities in allowance of deduction in respect of profits derived from new industrial undertaking established after 31 March 1991

Incorrect allowance of deduction in respect of profits derived from new industrial undertaking established after 31 March 1991

Where the gross total income of an assessee includes any profits and gains derived from a newly established industrial undertaking, which goes into production after 31 March 1991, the assessee is entitled to a deduction of 30 percent of profits for a maximum period of eight years. The deduction is subject to fulfilment of certain conditions one of which is that it is not formed by splitting up or reconstruction of a business already in existence and it is not formed by the transfer to a new business of machinery or plant previously used for any purpose. For determining the quantum of deduction, profits and gains of the eligible business shall be computed as if such profits and gains were the only source of income of the assessee during the relevant previous years.

Assessing officers did not apply the above provisions correctly which resulted in short levy of tax totalling **Rs.3.16 crore** in **16 cases** in Delhi, Gujarat Karnataka, Maharashtra, Punjab, Tamil Nadu and West Bengal. One case involving tax effect of more than Rs.50 lakh is indicated at serial number **30 of Appendix-7**.

3.26 Other deductions under Chapter VIA

Incorrect allowance of dividend income/income from intangible assets

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 for deduction on account of inter-corporate dividends 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.

Where the gross total income of an assessee being an Indian company or a person who is resident in India includes any income received by the assessee from Government of a foreign state or foreign enterprise in consideration for the use outside India, of any patent, invention, design or registered trade mark, and such income is received in convertible foreign exchange in India or 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 of an amount equal to fifty percent of the income so received is allowable in computing the total income of the assessee. The Board have clarified that the technical services for this purpose should only relate to productive fields and services such as those relating to management, organisation etc. would not qualify for deduction.

The assessing officers did not apply the above provisions correctly which resulted in short levy of tax totalling **Rs.4.41 crore** in **six cases** in Delhi, Maharashtra and

West Bengal. Three cases involving tax effect of Rs.50 lakh and above are indicated at serial numbers **31 to 33 of Appendix-7**.

3.27 Irregularities in issue of refunds

Excess or irregular refunds by Government

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

The assessing officers committed mistakes in grant of refunds which resulted in irregular refunds totalling **Rs.62.19 lakh** in **six cases** in Karnataka, Madhya Pradesh and Maharashtra and West Bengal.

3.28 Irregularities in payment of interest on refunds

Incorrect payment of interest on refunds

An assessee is entitled to receive, in addition to the refund out of any advance tax paid including the tax deducted at source, simple interest thereon at the rate of 8 per cent per annum with effect from June 2002 (since reduced to 6 per cent from 8 September 2003). Interest is payable for every month or part thereof from the first day of April of the assessment year to the date on which the refund is granted. No interest will be payable, if the amount of refund is less than ten percent of tax determined in summary or on regular assessment.

Assessing officers made incorrect payment of interest totalling **Rs.21.51 crore** in **16 cases** in Delhi, Jharkhand, Kerala, Karnataka, Maharashtra, Punjab, Rajasthan and West Bengal. Seven cases involving excess payment of interest of more than Rs.50 lakh each are shown in **Appendix-13**.

3.29 Mistakes in levy of interest

Non levy/short levy of interest

If an assessee fails to file return within the specified due date or 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 two percent upto 31 May 1999, one and one half percent upto 31 May 2001, one and one fourth percent upto 7 September 2003 and one per cent from 8 September 2003 for every month. Interest shall be reckoned from 1 April next following such financial year to the date of determination of total income and where a regular assessment is made, to the date of such regular assessment. Interest is payable 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 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 in the total of the tax and interest, the amount so paid shall first be adjusted towards interest payable and balance if any, is adjusted towards tax payable.

The assessee should pay any demand for tax 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 percent (one per cent from 8 September 2003) for every month or part thereof from the date of default till actual payment.

Audit noticed non compliance with the above provisions. Tax was short levied by **Rs.237.61 crore** in **82 cases** in Andhra Pradesh, Assam, Bihar, Delhi, Gujarat, Haryana, Jharkhand, Karnataka, Kerala, Maharashtra, Madhya Pradesh, Orissa, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. One case involving tax effect of more than Rs.10 crore is illustrated below. Fourteen cases of tax effect over Rs.50 lakh but below Rs.10 crore each are shown in the **Appendix-14**.

3.29.1 In Madhya Pradesh, Jabalpur charge, the assessing officer completed assessments of **M/s. Northern Coal Fields Ltd.**, for the assessment years 1997-98 and 1998-99, in summary manner in February and March 1999 and after scrutiny in January and February 2000 respectively. The assessing officer subsequently revised the assessments in March 2002 at total income of Rs.1,624.78 crore and Rs.1,839.81 crore respectively. Audit scrutiny revealed that the assessing officer incorrectly levied interest for short payment of advance tax only upto the dates of summary assessments and not upto the dates of regular assessments. The mistake resulted in short-levy of interest of Rs.210.89 crore for the both the assessment years. The department accepted the audit observation and rectified the mistake in March 2003 by raising an additional demand.

3.30 Other topics of interest

Non deduction of tax at source/non-remittance of tax to government

If a person responsible for deducting tax at source does not deduct such tax or after deducting fails to pay tax to the credit of the Central Government, such person is liable to pay interest at 15 per cent per annum (12 per cent per annum from 8 September 2003) on the amount of tax from the date on which such tax was deductible to the date on which tax is actually paid.

Audit noticed that the assessing officers did not adhere to the above provisions which resulted in short levy of tax totalling **Rs.1.62 crore** in **eight cases** in Delhi, Gujarat, Uttar Pradesh and West Bengal. One case involving tax effect of over Rs.50 lakh is indicated at serial number **34** of **Appendix-7**.

3.31 Undisclosed income

Income not shown in the books of accounts

Where any sum is found credited in the books of an assessee and the assessee offers no explanation about the nature and source thereof, or explanation offered by him is not found to be satisfactory, the sum credited may be charged to income tax as income of the assessee of that previous year.

Audit noticed non-compliance of the above provisions resulting in short levy of tax totalling **Rs.73.74 lakh** in **four cases** in Andhra Pradesh, Delhi and West Bengal.

3.32 Incorrect deduction in respect of interest tax liability

Non correlation of different assessments

Under the Interest Tax Act, 1974, interest tax payable by the assessee for any assessment year shall be deductible from the profits and gains assessable for that assessment year. If the interest tax assessment is revised resulting in increase/decrease of the interest tax payable, the income tax assessment also needs to be revised simultaneously for computing the revised income. No time limit is prescribed in the Interest Tax Act for completion of interest tax assessment. Board had issued instructions in December 1981 to the effect that interest tax assessments should as far as possible be completed along with income tax assessments.

Non compliance of the above provisions resulted in short levy of tax totalling **Rs.21.09 lakh** in **two cases** in Jammu & Kashmir and Maharashtra.

3.33 Mistakes in summary assessments made from June 1999 onwards

Assessee availing unentitled benefits in summary assessments

The department has been completing 90 per cent of total assessments in summary manner on an average during the years 2000-01 and 2001-02 in the case of companies. Consequent to the amendment of Income Tax Act, 1961, w.e.f. 1 June 1999, no prima facie adjustments can be made by the assessing officer in an assessment completed in summary manner. However, unentitled benefits availed of by the assessee in summary assessments can be withdrawn and mistakes rectified under the powers separately available to the assessing officers under the Income Tax Act. The department does not have an effective mechanism to identify and take corrective measures in respect of mistakes arising out of assessments made in summary manner. Audit noticed inconsistency in the stand taken by assessing officers regarding remedial action to be taken to safeguard interests of revenue. Table 3.1 contains the action taken and not taken in the mistakes in summary assessments: -

| S.No | Table 3.1: Response of the department | No. of cases |
|------|--|--------------|
| 1 | Audit observation accepted and remedial action taken | 11 |
| 2 | Audit observation simply accepted | 9 |
| 3 | Remedial action taken while not accepting the audit observation | 11 |
| 4 | Agreed to initiate remedial action | 3 |
| 5 | Not accepted on the plea that it being a debatable issue, remedial action can not be taken | 13 |
| 6 | Reply awaited from the department | 53 |
| | Total | 100 |

During test check Audit observed that in **100 cases** of summary assessment completed after 1 June 1999 involving tax effect totalling **Rs.145.68 crore** in Andhra Pradesh, Bihar, Delhi, Gujarat, Haryana, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and

West Bengal different stands have been taken by the department in summary assessment cases as is evident from Table 3.1. Two cases, each involving tax effect of more than Rs.10 crore are illustrated below. Twenty eight cases each with tax effect over Rs.50 lakh but below Rs.10 crore are shown in **Appendix-15**.

3.33.1 In West Bengal, Kolkata-III charge, the assessing officer completed the income tax assessment of **M/s. Uniworth Ltd.**, for the assessment year 2000-01 at a loss of Rs.5.59 crore in summary manner. Audit scrutiny revealed that the assessing officer incorrectly allowed Rs.123.08 crore instead of Rs.2.91 crore to be carried forward as business loss and unabsorbed depreciation pertaining to the assessment year 1999-2000. Thus there was an excess carry forward of business loss and unabsorbed depreciation totalling Rs.120.17 crore (Rs.123.08 crore minus Rs.2.91 crore) involving potential tax effect of Rs.46.27 crore.

3.33.2 In Delhi-V charge, the assessing officer completed the assessment of **M/s. Punjab & Sindh Bank**, for the assessment year 2000-01 in summary manner after setting off unabsorbed business loss of Rs.47.02 crore. The assessing officer completed the assessment after scrutiny for the assessment year 1999-2000 in March 2002 at an income of Rs.79.08 crore. Audit scrutiny revealed that there was no brought forward business loss left for adjustment in the assessment year 2000-2001. Thus the assessee was not eligible for the deduction, which was irregularly allowed in the summary assessment. The mistake resulted in underassessment of income of Rs.47.02 crore involving tax effect of Rs.18.18 crore.

3.34 Cases of over assessment or over charge

Cases of over assessment/over charge due to negligence on the part of assessing officers are being featured in the reports of the Comptroller and Auditor General of India year after year. During test check conducted in 2002-03, audit noticed over assessment of income in **27 cases** involving over charge of tax totalling **Rs.284.91 crore**, in Delhi, Haryana, Karnataka, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttaranchal and West Bengal. Eight cases where the tax effect was Rs.50 lakh or more are shown in **Appendix-16**.

Over
assessment
or over
charge due
to negligence
on the part
of assessing
officers

Chapter IV

Income Tax

- ◆ Chapter summary
- ◆ Receipts from Income tax
- ◆ Results of Audit
- ◆ Mistakes in:
 - adoption of correct figures, applying correct rate of tax and levy of surcharge
 - computation of business/non business income
 - allowing unentitled expenditure or provision and claims
 - allowing depreciation, computation of capital gains, carry forward and set off of losses and allowing income to escape assessment
 - allowing reliefs and exemptions under chapter VIA
- ◆ Excess or irregular refunds, non levy/short levy of interest and other topics of interest
- ◆ Cases of over assessment/overcharge

Chapter Summary

Income tax constituted 44.36 percent of the total collection from direct taxes in 2002-03. There were 2.81 crore assessees as on 31 March 2003, which represented an increase of 8.59 per cent over the previous year.

(Para 4.1 & 4.2)

Audit issued 200 observations with a tax effect of Rs.40.86 crore involving various irregularities, omissions and mistakes to the Ministry of Finance.

(Para 4.4)

Assessees had availed unentitled benefits in summary assessments in 19 cases involving tax effect of Rs.2.14 crore.

(Para 4.25)

In addition, assessing officers committed mistakes in:

◆ adoption of correct figures, applying correct rate of tax and levy of surcharge in 47 cases involving tax effect of Rs.13.44 crore.

(Para 4.6, 4.7 & 4.8)

◆ computation of business income in 10 cases involving tax effect of Rs.1.02 crore

(Para 4.10)

◆ allowing items of expenditure or provision and claims in seven cases involving tax effect of Rs.1.32 crore

(Para 4.11, 4.12 & 4.13)

◆ allowing depreciation and computation of capital gains and allowing income to escape assessment in 18 cases involving tax effect of Rs.4.34 crore

(Para 4.14, 4.15 & 4.17)

◆ allowing reliefs and exemptions under chapter VIA in 13 cases involving tax effect of Rs.1.39 crore, and

(Para 4.19, 4.20 & 4.21)

◆ levy of interest in 56 cases involving tax effect of Rs.9.86 crore

(Para 4.22)

| |
|-------------------------------|
| CHAPTER IV: INCOME TAX |
|-------------------------------|

No. of
assesseees

4.1 The number of assesseees (other than companies) borne on the books of the Income tax department as on 31 March of 2002 and 2003 were 2.59 crore and 2.81 crore respectively as given in Table 2.7 of Chapter II of this Report.

Receipts from
income tax

4.2 During 2002-2003, income tax receipts were Rs.36,866 crore compared to Rs.32,004 crore in 2001-2002. Table 2.4 of Chapter II of this report has the details.

Status of
assessments

4.3 Table 2.11 (**Appendix-5**) of this Report contains particulars of assessments due for disposal, assessments completed and pending. Details of demands remaining uncollected during the last five years are given in Table 2.13 of this Report.

Results of
audit

4.4 Audit issued 188 draft paragraphs involving undercharge of tax of Rs.36.15 crore and 12 draft paragraphs involving overcharge of tax of Rs.4.71 crore to the Ministry of Finance between March 2003 and October 2003 for comments.

Out of these 200 draft paragraphs, internal audit of the department had seen nine cases but the mistakes could not be detected. In two cases where the mistakes were noticed, no action was taken. The remaining 189 cases were not seen by the internal audit wing.

Out of 200 draft paragraphs issued to Ministry, 186 cases, involving under charge of Rs.36.08 crore and 12 cases involving over charge of Rs.4.71 crore are indicated in the succeeding paragraphs. Thirty observations related to summary assessments whereas 168 observations related to scrutiny, best judgment and block assessments involving tax effect of Rs.5.11 crore and Rs.35.68 crore respectively.

Paragraphs with money value of over Rs. one crore in each case are illustrated while those between Rs.10 lakh and Rs. one crore in each case are shown in the Appendices. Those with money value less than Rs.10 lakh in each case are clubbed together indicating consolidated figures of tax effect.

Status of replies
received from
Ministry of
Finance

4.5 Out of 198 cases included in this chapter, Ministry of Finance have accepted audit observations in **36 cases** involving tax effect of **Rs.6.46 crore**. In three cases Ministry have not accepted the audit observations. In the remaining 159 cases, Ministry's replies are awaited.

Mistakes in adoption of correct figures

4.6 Non adherence to provisions of the Act

Assessing officers are required to determine and assess the income correctly in scrutiny assessments. The Board have issued instructions to assessing officers and their supervising officers to ensure that mistakes in assessments did not occur.

Audit noticed that assessing officers had adopted incorrect figures resulting in short levy of tax totalling **Rs.4.48 crore** in **19 cases** in Delhi, Gujarat, Haryana, Maharashtra, Orissa, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. One case involving tax effect of more than one crore is illustrated below. Five cases each involving tax effect of more than Rs.10 lakh but less than Rs.one crore are indicated in **Appendix-17**.

4.6.1 In Haryana, Panchkula charge, the assessing officer completed the income tax assessment of **M/s. Haryana State Co-operative Supply and Marketing Federation Ltd.**, for the assessment year 1995-96 in December 1996 in summary manner allowing a deduction of Rs.4.24 crore. Subsequently, the assessee filed a revised return in March 1997 claiming a deduction of Rs.1.19 crore instead of Rs.4.24 crore allowed in summary assessment. Audit scrutiny revealed that while completing the regular assessment in February 2002, the assessing officer allowed a deduction of Rs.4.24 crore instead of restricting it to Rs.1.19 crore as claimed by the assessee in the revised return. This resulted in excess allowance of deduction of Rs.3.05 crore involving tax effect of Rs.2.24 crore including interest.

Application of incorrect rate of tax

4.7 Incorrect application of rates of tax

Income tax including surcharge is charged at the rates prescribed under the relevant Finance Act.

Assessing officers applied incorrect rate of tax resulting in short levy of tax totalling **Rs.12.99 lakh** in **three cases** in Gujarat and Maharashtra.

Surcharge not levied

4.8 Surcharge

Similarly, assessing officers did not levy surcharge at the rate prescribed in the Finance Acts resulting in short demand of **Rs.8.83 crore** in **25 cases** in Andhra Pradesh, Bihar, Delhi, Gujarat, Jharkhand, Madhya Pradesh, Maharashtra, Orissa, Tamil Nadu and West Bengal. One case involving tax effect of more than Rs. one crore is illustrated below. Twelve cases each involving tax effect of more than Rs.10 lakh but less than Rs. one crore are indicated in **Appendix-18**.

4.8.1 In Maharashtra, Central Mumbai-I charge, the assessing officer completed the assessment of **M/s. Dhanendra Diamonds**, for the block period 1990-91 to 1999-2000 in February 2002 at a total undisclosed income of Rs.90.57 crore. Tax payable worked out to Rs.54.34 crore. Audit scrutiny revealed that in this case, search was conducted on 17 January 2000 and hence the relevant assessment year for tax computation would be 2000-01. Accordingly, surcharge was leviable at

the rate of 10 percent, which was not levied resulting in short levy of tax of Rs.5.54 crore including interest.

Incorrect
status
adopted in
assessment

4.9 Non adherence to provisions regarding status of assessees

Where in respect of any assessment year, there is, on the part of a firm, any such failure as mentioned in Section 144, it shall not be assessed as a firm for the assessment year and instead shall be assessed as an association of persons (AOP) and all the provisions of the Act shall apply accordingly.

Assessing officer adopted incorrect status resulting in short levy of tax of **Rs.5.54 lakh** in **one case** in Kerala.

Incorrect
computation
of business
income

4.10 Irregularities in computation of taxable income

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.

Assessing officers committed mistakes in computing business income resulting in short levy of tax totalling **Rs.1.02 crore** in **10 cases** in Himachal Pradesh, Kerala, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. Two cases each involving tax effect of more than Rs.10 lakh are indicated at serial numbers **1 and 2 of Appendix-19.**

Irregular
exemptions
and excess
relief given

4.11 Irregularities in allowance of claims

Where the assessing officer finds any sum credited in the books of an assessee maintained for any previous year and the assessee offers no explanation about the nature and source thereof, or the assessing officer finds the explanation offered is not satisfactory, the assessing officer shall charge the sum received to income tax as the income of that previous year. The Act further provides that while computing the income chargeable to tax, the assessing officer takes the profit or loss as per the profit and loss account of the assessee as the starting point and then adds back or deducts the amount not allowable or which requires special consideration.

Assessing officers did not observe or incorrectly applied the above provisions resulting in underassessment of income of **Rs.1.14 crore** in **five cases** in Andhra Pradesh, Delhi, Gujarat, Maharashtra and Uttar Pradesh. Three cases involving tax effect of more than Rs.10 lakh each are indicated at serial numbers **3 to 5 of Appendix-19.**

Excess allowance of provisions

4.12 Provisions incorrectly allowed

A public financial institution or a state financial corporation or a state industrial investment corporation which includes co-operative society may make provision for bad and doubtful debts up to an amount not exceeding five percent of total income (computed before making deduction under the relevant section and chapter VI).

The assessing officer allowed the provision for bad and doubtful debts in excess in **one case** in Uttar Pradesh resulting in short levy of tax of **Rs.2.61 lakh**.

Incorrect allowance of liabilities

4.13 Liabilities not disallowed

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 only if the payment is made before the due date of filing of the return, such expenditure would be allowable.

Assessing officer allowed liability without expenditure being incurred resulting in short levy of tax of **Rs.15.73 lakh** in **one case** in Delhi which is shown at serial number **6** of **Appendix-19**.

Mistakes in allowance of depreciation

4.14 Incorrect allowance of depreciation

The correct method of allowing depreciation on plant and machinery or other assets has been described in Para 3.16 of this report.

Assessing officer did not apply the above provisions correctly in **one case** in Gujarat resulting in short levy of tax of **Rs.5.48 lakh**.

Irregularities in computation of capital gains

4.15 Incorrect computation of capital gains

The correct method of computation of income chargeable to tax under the head 'capital gains' has been described in para 3.18 of this report.

Audit noticed instances of incorrect computation of capital gains and irregular exemption of capital gains even where required conditions were not fulfilled leading to short levy of tax totalling **Rs.1.48 crore** in **eight cases** in Haryana, Kerala, Maharashtra and Tamil Nadu. Five cases involving tax effect of more than Rs.10 lakh each are indicated at serial numbers **7 to 11** of **Appendix-19**.

Mistakes in assessment of firms and partners

4.16 Deductions in respect of firms and partners incorrectly allowed

In the case of a firm, any payment of remuneration to any working partner, which is not authorised by the partnership deed or is not in accordance with the terms of

the partnership deed, is not allowed as deduction in computing the income chargeable under the head profits and gains of business or profession of the firm. The Board issued instructions in March 1996 to the effect that for the assessment years subsequent to the assessment year 1996-97, no deduction of remuneration will be admissible unless the partnership deed either specified the amount of remuneration payable to each individual working partner or laid down the manner of quantifying such remuneration.

Audit noticed that the assessing officers did not follow or apply the above provisions correctly resulting in short levy of tax of **Rs.21.05 lakh** in **five cases** in Gujarat, Himachal Pradesh and Kerala.

Income
escaping
assessment

4.17 Income not assessed

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 receipt 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.

Audit noticed short levy of tax totalling **Rs.2.81 crore** in **nine cases** in Gujarat, Maharashtra, Tamil Nadu, Uttar Pradesh and West Bengal as the assessing officers had not assessed all income to tax. One case involving tax effect of more than Rs.one crore is illustrated below. Four cases each involving tax effect of more than Rs.10 lakh but less than Rs. one crore are indicated at serial numbers **12 to 15 of Appendix-19**.

4.17.1 In Mumbai City- XXV charge, the assessing officer completed the assessment of **Sh. Amul U Acharya**, for the block period 1 April 1987 to 26 November 1997 in May 2001 at a total income of Rs.1.56 crore. Audit scrutiny revealed that the assessee purchased immovable property at a cost of Rs.8.01 lakh. The assessee did not offer any explanation or genuine proof in support of this investment. The assessing officer should have therefore added back the investment as undisclosed income and taxed it accordingly. Secondly, the assessee had also invested Rs.1.47 crore from loans borrowed in cash instead of through account payee cheque/bank draft. The assessee was therefore also liable to a penalty of a sum equal to the sum of loan received in cash. Thirdly, the assessee had deposited Rs.89.16 lakh in bank in cash on various dates during the previous year relevant to the assessment year 1998-99. The assessing officer should have added back the same to income on the analogy of similar addition made in the subsequent assessment year 1999-2000 treating it as unexplained investment. These three mistakes resulted in total short levy of tax of Rs.57.08 lakh excluding maximum penalty leviable amounting to Rs.1.47 crore.

Incorrect set off of losses

4.18 Incorrect computation, carry forward and set off of losses

The method of computation, carry forward and set off of losses has been described in para 3.20 of this report.

Audit noticed short levy of tax totalling **Rs.1.60 crore** in **two cases** in Maharashtra and Madhya Pradesh as the assessing officer did not apply the above provisions correctly. One case involving tax effect of more than Rs. one crore is illustrated below.

4.18.1 In Maharashtra, City I Aurangabad charge, the assessing officer completed the assessment of **M/s. Sant Eknath SSK Ltd.**, for the assessment year 1999-2000 on 'best judgment basis' in March 2002 at nil income allowing loss of Rs.39.95 lakh to be carried forward. Audit scrutiny of earlier records revealed that for assessment year 1994-95, the assessing officer had determined total loss at Rs.3.63 crore against which loss of Rs.3.37 crore was already set off in the assessment year 1995-96. Though Rs.25.82 lakh only was required to be set off in assessment year 1999-2000, the assessing officer allowed Rs.3.26 crore. Incorrect allowance of carry forward of loss resulted in under-assessment of income of Rs.2.60 crore involving short levy of tax of Rs.1.39 crore apart from excess carry forward of loss of Rs.39.95 lakh involving potential tax of Rs.13.98 lakh.

Incorrect allowance of deduction in respect of export profits

4.19 Mistakes in computation of export profits

The correct method of allowance of deduction in respect of export profits has been described in para 3.24 of this report.

Audit noticed mistakes in computation of export profits resulting in short levy of tax totalling **Rs.1.12 crore** in **11 cases** in Delhi, Gujarat, Kerala, Maharashtra, Tamil Nadu, Uttar Pradesh and Chandigarh (UT). Five cases each involving tax effect of more than Rs.10 lakh are indicated in **Appendix-20**.

Deduction in respect of newly established industrial undertakings

4.20 Irregularities in allowance of deduction in respect of profits derived from new industrial undertaking established after 31 March 1991

The method of allowance of deduction in respect of newly established industrial undertakings has been described in para 3.25 of this report.

Audit noticed mistake in allowance of deduction resulting in short levy of tax of **Rs.13.60 lakh** in **one case** in West Bengal, which is shown at serial number **16** of **Appendix-19**.

Irregular deductions under special provisions

4.21 Incorrect allowance of deduction in respect of computer software

Deduction of profits and gains derived by an undertaking from export of articles or things or computer software for five consecutive years from the year in which

the undertaking begins to manufacture or produce such articles or things or computer software shall be allowed from the total income of the assessee. The undertaking was not to have been formed by splitting up or reconstruction of a business, which was already in existence nor formed by the transfer to a new business of machinery or plant which were previously used for any purpose.

Audit noticed that the assessing officer had incorrectly allowed deduction in **one case** in Gujarat which is shown at serial number **17** of **Appendix-19** even though conditions for granting the same were not fulfilled resulting in short levy of tax of **Rs.14.10 lakh**.

Non levy/short
levy of interest

4.22 Mistakes in levy of interest

The provisions regarding levy of interest for delay in filing return of income and payment of advance tax have been described in para 3.29 of this report.

Audit noticed short levy of interest for delay in filing return of income and payment of advance tax totalling **Rs.9.86 crore** in **56 cases** in Andhra Pradesh, Bihar, Delhi, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu and Uttar Pradesh. Two cases each involving tax effect of more than Rs. one crore are illustrated below. Twenty two cases each involving tax effect of more than Rs.10 lakh but less than Rs.one crore are indicated in **Appendix-21**.

4.22.1 In Bihar, Patna charge, **Sh. Sudarshan Kumar Bansal** filed the return of block assessment late by more than two months and was hence liable to pay interest of Rs.3.46 crore. The assessing officer however, levied only Rs.2.30 crore. There was thus a short levy of interest of Rs.1.15 crore.

4.22.2 In Bihar, Patna charge, in the case of **Sh. Ram Avatar Khetan**, the assessing officer levied interest for non filing of return within the specified due date for only nine months amounting to Rs.3.39 crore instead of 12 months which worked out to Rs.4.52 crore. This resulted in short levy of interest of Rs.1.13 crore.

Non-levy of
penalty

4.23 Penalty not levied

No person shall, after 30 April 1984, take or accept from any other person any loan or deposit otherwise than by an account payee cheque or bank draft if the amount of such loan or deposit or the aggregate amount of such loan and deposit is twenty thousand rupees or more. If he fails to comply with the above provisions, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit so taken or accepted. **One case** of non observance of the above provision in Madhya Pradesh resulted in non levy of penalty of **Rs.16.90 lakh** is indicated at serial number **18** of **Appendix-19**.

Other topics
of interest

4.24 Non deduction of tax at source, non remittance of tax to government etc.

Other mistakes involving short levy and non-levy of interest, irregular exemptions allowed, irregular grant of credit of TDS, non-collection of tax at source, refund allowed in excess etc. were noticed in **seven cases** in Andhra Pradesh, Bihar, Himachal Pradesh, Jharkhand, Tamil Nadu and Chandigarh UT involving total tax effect of **Rs.52.87 lakh**. Two cases each with tax effect of Rs.10 lakh and above are indicated at serial numbers **19 and 20** of **Appendix-19**.

Assessees
availling
unentitled
benefits in
summary
assessments

4.25 Mistakes in summary assessments made after June 1999

Absence of uniformity amongst assessing officers in taking remedial action on mistakes emanating from summary assessments from 1 June 1999 has been referred to in para 3.33 of this report with reference to mistakes noticed in assessments of companies.

During test check of income tax assessments of other than companies, audit detected mistakes in **19 cases** of summary assessments involving tax effect of **Rs.2.14 crore** in Andhra Pradesh, Assam, Haryana, Himachal Pradesh, Karnataka, Punjab, Tamil Nadu Uttar Pradesh and West Bengal. Six cases involving tax effect of more than Rs. 10 lakh each are indicated in **Appendix-22**.

Cases of over
assessment/
overcharge

4.26 Cases of over assessment or overcharge due to negligence on the part of assessing officer

Audit noticed avoidable mistakes attributable to negligence on the part of the assessing officers resulting in over charge of tax totalling **Rs.4.71 crore** in **12 cases** in Assam, Bihar, Gujarat, Rajasthan and Uttar Pradesh. Two cases involving tax effect of more than Rs.one crore each are illustrated below. Six cases, each involving tax effect of more than Rs.10 lakh but less than Rs.one crore are indicated in **Appendix-23**.

4.26.1 In Bihar, Patna charge, the assessing officer completed the block assessment of **Sh. D.N. Singh** for the assessment years 1989-90 to 1998-99 and the block period from 1 April 1998 to 21 April 1998 determining undisclosed income of Rs.39.57 crore. As the assessee had filed the return late, he was liable to pay interest for nine months amounting to Rs.4.27 crore against which the assessing officer levied interest for twelve months amounting to Rs.5.70 crore. This resulted in overcharge of Rs.1.42 crore.

4.26.2 In Uttar Pradesh, Kanpur charge, in the fresh assessment of **M/s. Sahara India**, for the assessment year 1996-97 while computing the demand for tax, the assessing officer levied interest for default in payment of advance tax after reducing Rs.49.36 lakh towards tax deducted at source but omitted to adjust Rs.3.51 crore paid as self assessment tax. The omission resulted in raising excess demand of Rs.2.01 crore.

Chapter V

Other Direct Taxes

- ◆ Chapter summary
- ◆ Wealth Tax
 - Revenue from Wealth Tax, Number of Assesseees, Assessment, Results of audit, Mistake in computation of net wealth and tax, Wealth not assessed, Non-levy and short levy of interest
- ◆ Gift Tax
 - Results of audit, Non/short levy of tax on deemed gift
- ◆ Interest Tax
 - Results of audit, Mistake in assessment of chargeable interest, Mistake in applying correct rate of interest tax, Interest escaping assessment, Non/short levy of interest

Chapter Summary

This chapter consists of three parts A, B and C containing audit observations on assessments in respect of wealth tax, gift tax and interest tax respectively.

Arrears of wealth tax demand increased by 56 percent from Rs.1361 crore in 2001-02 to Rs.2122 crore in 2002-03. Actual collection of wealth tax fell from 19.2 percent of the total outstanding arrears of wealth tax demand in 1998-99 to 7.3 percent in 2002-03.

(Para 5.1)

Wealth tax assesseees dwindled from 2.25 lakh in 1998-99 to 1.28 lakh in 2002-03 though no major amendments have been made in the wealth tax law.

(Para 5.2)

The assessing officers committed mistakes in

- ◆ including taxable assets in the net wealth of the assesseees resulting in short levy of wealth tax of Rs.37.07 lakh in two cases

(Para 5.6)

- ◆ correlating income tax assessment records with the records of wealth tax assessments resulting in wealth escaping assessment and non-levy of wealth tax totalling Rs.3.44.crore in 77 cases.

(Para 5.8)

- ◆ levy of gift tax amounting to Rs.35.77 lakh on deemed gift in four cases.

(Para 5.12)

- ◆ levy of interest tax correctly in nine cases involving tax of Rs.1.78 crore.

(Para 5.16)

- ◆ assessing interest tax in 46 cases resulting in non-levy of interest tax totalling Rs.5.06 crore.

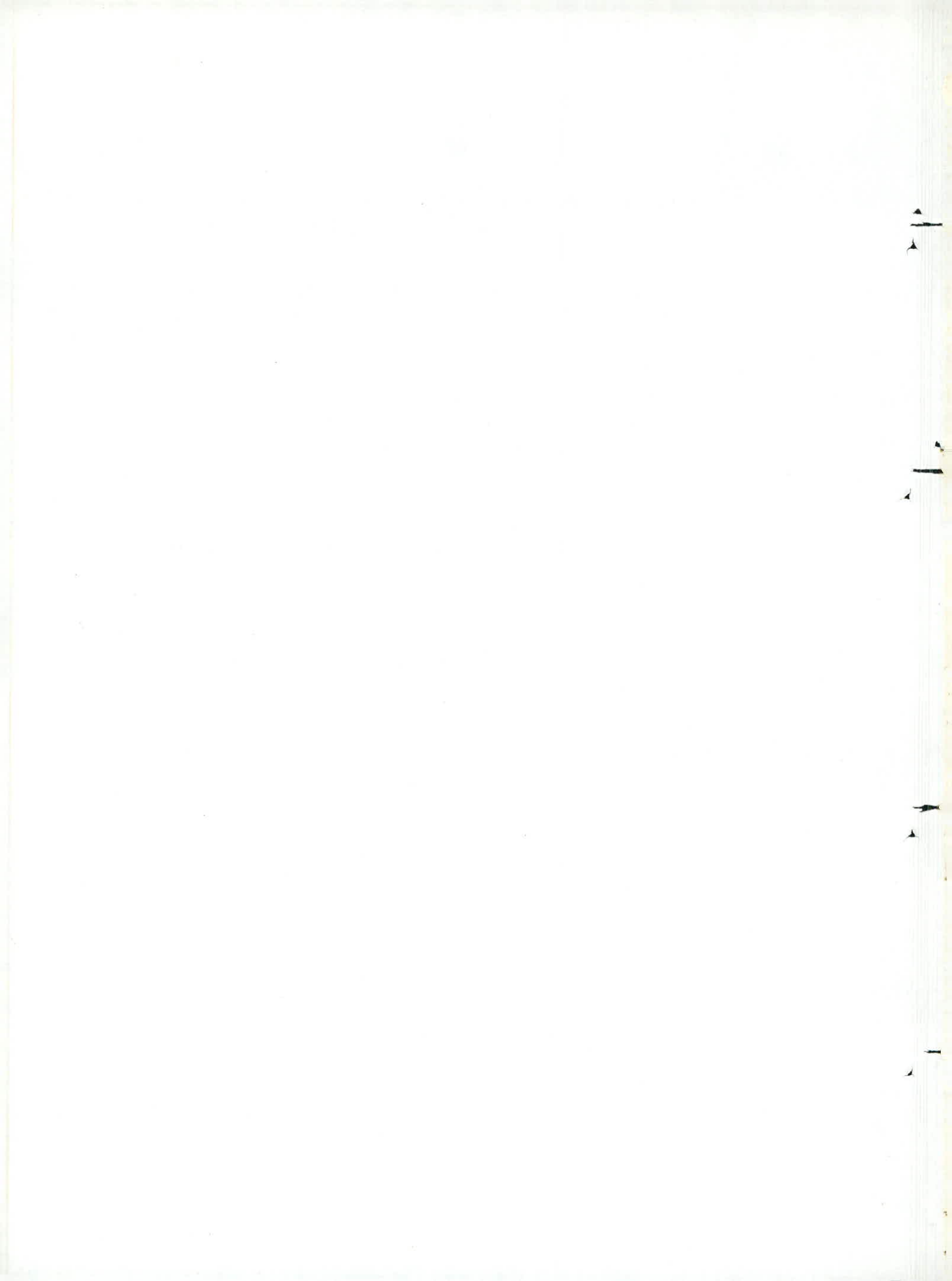
(Para 5.18)

- ◆ ensuring correct refunds in three cases where excess payment of interest of Rs.37.36 lakh was made.

(Para 5.19)

- ◆ levy of interest totalling Rs.3.54 crore in 11 cases in accordance with Interest tax Act.

(Para 5.20)



CHAPTER V: OTHER DIRECT TAXES

A-Wealth tax

Revenue
from
wealth tax

5.1 The following table gives the position of budget estimates and actual collections compared to total arrears of wealth tax demand between 1998-99 and 2002-03.

(Rs. in crore)

TABLE 5.1: BUDGET ESTIMATES, ACTUAL WEALTH TAX COLLECTION & ARREARS OF WEALTH TAX DEMAND

| Year | Budget estimates | Actual collection | Arrears of wealth tax demand | Percentage of actual collection to the arrears of wealth tax demand |
|---------|------------------|-------------------|------------------------------|---|
| 1 | 2 | 3 | 4 | 5 |
| 1998-99 | 145.00 | 162.04 | 841.60 | 19.2 |
| 1999-00 | 145.00 | 132.91 | 858.90 | 14.5 |
| 2000-01 | 145.00 | 131.73 | 844.10 | 15.6 |
| 2001-02 | 145.00 | 135.36 | 1,361.04 | 9.9 |
| 2002-03 | 145.00 | 153.88 | 2,122.17 | 7.3 |

5.1.1 Following facts emerge from above details:

(i) Arrears of wealth tax demand were almost six times the budget estimates between 1998-99 and 2000-01. Further, these arrears had increased to nine times the budget estimate in 2001-02 and more than 14 times the budget estimate in 2002-03.

(ii) The budget provided for the same amount of Rs.145.00 crore from 1998-99 to 2002-03 without considering the magnitude of arrears of wealth tax demand and the potential of current demand.

(iii) Though the arrears of wealth tax demand had increased more than 1.5 times between 2000-01 and 2001-02 and 2.5 times between 2000-01 and 2002-03, the percentage of actual collection decreased from 15 to 10 and 10 to 7 respectively. Accumulation of huge arrears of wealth tax demand calls for more sustained efforts and special drive for collection.

Status of
assesseees and
assessments

5.2 The following table gives the comparative position of the number of wealth tax assesseees and number of wealth tax assessments due for disposal and actually completed between 1998-99 and 2002-03:

TABLE 5.2: WEALTH TAX ASSESSEES, ASSESSMENTS DUE FOR DISPOSAL AND COMPLETED

| Year | No. of wealth tax assessees | No. of wealth tax assessments due for disposal | No. of wealth tax assessments completed | No. of wealth tax assessments pending | Percentage of pending wealth tax assessments to total assessments due for disposal |
|---------|-----------------------------|--|---|---------------------------------------|--|
| 1998-99 | 2,24,929 | 1,19,477 | 81,387 | 38,090 | 32 |
| 1999-00 | 2,15,717 | 1,25,977 | 66,303 | 59,674 | 47 |
| 2000-01 | 2,02,171 | 1,16,406 | 66,313 | 50,093 | 43 |
| 2001-02 | 1,51,676 | 1,18,530 | 78,982 | 39,548 | 33 |
| 2002-03 | 1,27,766 | 1,28,186 | 1,03,976 | 24,210 | 19 |

Wealth tax assessees are decreasing every year though there has been no major change in the law since 1993-94. Specified assets like residential buildings, urban land, motor cars and jewellery etc are chargeable to wealth tax from 1993-94 onwards. The department needs to investigate the reasons for progressive decline in the number of assessees.

Results of audit

5.3 During the test check of assessments completed under the Wealth Tax Act, 1957, conducted between 1 April 2002 and 31 March 2003, audit noticed short levy of wealth tax of Rs.15.44 crore in 598 cases.

Audit issued 99 draft paragraphs involving undercharge of wealth tax of Rs.4.09 crore between March 2003 and October 2003 to Ministry of Finance for their comments.

Out of the 99 draft paragraphs issued to Ministry, internal audit of the department had seen only four cases but did not notice the mistakes. They had not seen the remaining 95 cases.

Out of 99 draft paragraphs issued to Ministry, 97 draft paragraphs involving tax effect of Rs.3.99 crore have been included in this chapter. Each paragraph indicates a particular category of mistakes and starts with a suitable preamble followed by combined/consolidated tax effect of all observations of similar nature. Cases with money value of more than Rs.50 lakh each are illustrated while those with money value of Rs. five lakh or more but less than Rs.50 lakh each are given in a tabular form in Appendices.

Status of Ministry's replies

5.4 Out of 97 cases included in this Chapter, Ministry of Finance accepted the audit observations in 27 cases involving tax effect totalling Rs.79.92 lakh. In remaining 70 cases, replies were awaited.

5.5 Net wealth incorrectly computed

The assessing officer is required to 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 Board had also issued instructions, from time to time, stressing the necessity for ensuring accuracy in the computation of wealth and tax.

With effect from 1 April 1993, net wealth of an assessee 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 the assessee on valuation date.

Where the property is constructed on land obtained on lease from the Government, a local authority or any authority and such authority, under the terms of the lease, is entitled to claim and recover a specified part of the unearned increase in the value of the land at the time of transfer of the property, the value of such property as determined shall be reduced by the amount so claimed and recovered or by an amount equal to fifty per cent of the value of the property as so determined, whichever is less, as if the property had been transferred on the valuation date. For the purpose of this rule, "unearned increase" means the difference between the value of such land on the valuation date as determined by the Government for the purpose of calculating such increase and the amount of the premium paid or payable to the Government or such authority for the lease of the land.

Security deposits and advance rent received from the tenants are for the security of any let out house property against any damage or loss etc. and are neither secured on the assets (house property) nor incurred in relation to the assets. Hence such security deposits are not deductible debts for the purpose of computation of net wealth. Expenditure on earnest money deposits incurred with the right of forfeiture in given circumstances is deductible.

It has been judicially held¹ that where an assessee had sold certain immovable properties and received full consideration and the purchaser was in possession thereof but the registered sale deed had not been executed in favour of the purchaser, the properties would continue to belong to the assessee.

From April 1993, where the net wealth of an individual or Hindu undivided family exceeded Rs.15 lakh, wealth tax is leviable at the rate of one percent of the amount by which the net wealth exceeded Rs.15 lakh.

¹ Nawab Sir Mir Osman Ali Vs CWT (162 ITR 888-SC)

The assessing officers did not comply with the above provisions or applied them incorrectly resulting in non-levy of tax totalling **Rs.5.34 lakh** in **four cases** in Maharashtra and Tamil Nadu.

5.6 Wealth escaping assessment

Non inclusion of taxable assets in the net wealth

From assessment year 1993-94, 'assets' inter alia include guest house and all residential buildings, urban land, motor cars other than those used in the business of running them on hire or as stock in trade. Further, for the assessment years 1997-98 and 1998-99, assets included commercial properties also.

The assessing officers did not include taxable assets in the net wealth resulting in short levy of tax totalling **Rs.37.07 lakh** in **six cases** in Maharashtra, Tamil Nadu and West Bengal. Two cases involving tax effect of more than Rs.five lakh in each case are indicated at serial numbers **1** and **2** of **Appendix-24**.

5.7 Mistakes in valuation of assets

Incorrect valuation of assets

The value of any asset other than cash is determined on the valuation date in the manner laid down in Schedule III to the Wealth Tax Act. However, for the purpose of making an assessment, the assessing officer may refer the valuation of any asset to a valuation officer for determining its market value in accordance with the provisions of the Act if he is of the opinion that the fair market value of the asset exceeds the value of the asset as returned. The assessing officer is required to adopt the value so estimated by the valuation officer.

The assessing officers did not adopt correct value of assets in **four cases** resulting in under valuation of Rs.5.46 crore involving short levy of wealth tax of **Rs.7.28 lakh** in Karnataka, Tamil Nadu and West Bengal.

5.8 Non correlation of assessment records

Wealth not assessed due to non-correlation of records of different direct taxes

The Board issued instructions (November 1973, April 1979 and September 1984), for ensuring 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 was no evasion of tax.

The net wealth chargeable to tax comprises certain assets as specified² under section 2(ea) subject to adjustment of any debt owed by the assessee in relation to any of the specified assets on the valuation date.

Audit scrutiny of income tax assessment records of **76 assesseees** in Andhra Pradesh, Assam, Delhi, Gujarat Karnataka, Kerala, Maharashtra, Punjab, Tamil Nadu and West Bengal revealed that the assesseees either derived rental income from residential and commercial properties or owned one or more of the specified assets which were chargeable to wealth tax. However, neither the assesseees filed their returns of net wealth nor did the department initiate any wealth tax proceedings despite instructions of the Board. Consequently, wealth tax totalling **Rs.3.37 crore** was not levied. One case involving tax effect of more than Rs.50 lakh is illustrated below. Sixteen cases involving tax effect of more than Rs.five lakh but less than Rs.50 lakh in each case are indicated at serial numbers **3 to 18** of **Appendix-24**.

5.8.1 In Delhi-I charge, the income tax assessment of a company, **M/s. A.B. Hotels Ltd.**, for the assessment year 1998-99 was completed after scrutiny in November 2000. Audit scrutiny of the income tax assessment records of the assessee revealed that the assessee had received rental income of Rs.4.84 crore from house property. The capitalised value of this property chargeable to wealth tax was Rs.40.56 crore. However, neither did the assessee file a return of wealth nor did the department initiate wealth tax proceedings. Wealth valued at Rs.40.56 crore escaped assessment on which wealth tax of Rs.73.24 lakh (including interest) was not levied.

5.9 Mistakes in levy of interest

Non/short levy
of interest

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 one and one fourth percent (two percent upto May 2001 and one percent from 8 September 2003) 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

² The specified assets include following items :

- ◆ Any building or land appurtenant thereto whether used for residential purposes or for the purpose of maintaining a guest house or otherwise including a farm house situated within twenty-five kilometers from local limits of any Municipality or a Cantonment Board,
- ◆ Motor cars (other than those used by the assessee in the business of running them on hire or as stock-in-trade),
- ◆ Jewellery, bullion, furniture, utensils or any other article made wholly or partly of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals,
- ◆ Yachts, boats and aircrafts (other than those used by the assessee for commercial purposes),
- ◆ Urban land and
- ◆ Cash in hand, in excess of fifty thousand rupees, of individuals and Hindu undivided families and in the case of other persons any amount not recorded in the books of account.

no return is furnished, to the date of completion of regular assessment on the amount of tax determined in regular assessment.

Demand of tax should be paid by an assessee within the time specified in the Act. Failure to do so would attract interest at the rate of one and one half percent for every month or a part thereof from the date of default till the actual date of payment of demand. Interest for belated payment of tax was required to be calculated and charged within a week of the date of final payment of tax demand.

The assessing officers did not comply with the above provisions resulting in short levy of interest totalling **Rs.9.79 lakh** in **six cases** in Bihar, Delhi, Punjab and Tamil Nadu and non levy of interest of **Rs.1.73 lakh** in **one case** in Tamil Nadu.

B-Gift Tax

General

5.10 The Finance Act, 1998 abolished the Gift Tax Act, 1958 with effect from 1 October 1998. Gift tax is not chargeable in respect of any gift made on or after 1 October 1998. No budget estimate for revenues from gift tax has therefore been made from the financial year 1999-2000. Pending gift tax assessments needed to be completed without delay.

Results of audit

5.11 During the test check of assessments completed under the Gift Tax Act, 1958, conducted between 1 April 2002 and 31 March 2003, audit noticed short levy of gift tax of Rs.1.03 crore in 16 cases.

Audit issued five draft paragraphs involving undercharge of gift tax of Rs.37.59 lakh to the Ministry of Finance for comments between May 2003 and August 2003.

Internal audit of the department had not seen any of the cases issued to Ministry.

Out of five draft paragraphs issued to Ministry, four draft paragraphs involving tax effect of Rs.35.77 lakh are included in the succeeding paragraph. Ministry of Finance accepted the audit observations in two cases involving tax effect totalling Rs.20.69 lakh. Replies were awaited in the remaining two cases.

5.12 Mistakes in levy of tax on deemed gift

Non / short-levy of tax on deemed gift

Where any property was transferred, otherwise than for adequate consideration, the amount by which the market value of the property on the date of transfer exceeded the value of the consideration was deemed to be a gift made by the transferor.

As per Schedule II to the Gift Tax Act, the value of the gifted property shall be determined in accordance with provisions for valuation of various types of assets as prescribed in Schedule III to the Wealth Tax Act, 1957.

Assessing officers had not complied with or incorrectly applied the above provisions. Consequently gift tax totalling **Rs.35.77 lakh** was levied short in **four cases** in Delhi, Gujarat, Kerala and Tamil Nadu charges. Three cases involving tax effect of more than Rs. five lakh each are illustrated below:

5.12.1 In Tamil Nadu, Trichy-I charge, the assessing officer reopened and completed income tax assessment of **M/s. VPV Lodge**, a partnership firm in which the assessee and his father were partners, for the assessment year 1990-91 after scrutiny in March 1997 at an income of Rs.16.96 lakh. The partnership firm was dissolved on 31 March 1990 with the father taking over the assets and

liabilities of the firm as a proprietary concern. The assessee agreed to forego his entire interest in the firm except balance of his capital of Rs.3.53 lakh as on the date of dissolution. Taking into account the value of building as determined by the departmental valuation cell, the value of the interest thereon relinquished by the assessee in favour of his father worked out to Rs.18.46 lakh which was required to be taxed under the Gift Tax Act. However neither the assessee filed gift tax return for the assessment year 1990-1991 nor did the department initiate action to call for the same. Omission to assess the deemed gift of Rs.18.46 lakh resulted in non-levy of gift tax of Rs.15.23 lakh including interest for non-filing of gift tax return.

5.12.2 In Gujarat, Rajkot charge, the assessing officer completed income tax assessment of an individual **Smt. Jaya Kunvar C. Mehta** for the assessment year 1995-96 after scrutiny in February 1998. The assessee had sold a residential bungalow for Rs.28 lakh in October 1994. However, as per departmental valuation officer's report, the value of the property was estimated at Rs.47.39 lakh on the date of sale. The difference between the two values constituted deemed gift amounting to Rs.19.09 lakh attracting levy of gift tax. However, neither the assessee filed any gift tax return nor the department initiated any gift tax proceedings. The omission resulted in non levy of gift tax of Rs.13.06 lakh including interest.

5.12.3 In Kerala, Cochin charge, the assessee **Dr. P.A.Paul**, an individual, had transferred land and building thereon for a consideration of Rs.1.80 lakh in assessment year 1994-95. As per valuation provisions, the value of these assets worked out to Rs.7.89 lakh. The difference between the consideration and the value determined as aforesaid, constituted deemed gift attracting levy of gift tax. However, neither the assessee filed a gift tax return nor the department initiated any gift tax proceedings. The omission resulted in non levy of gift tax of Rs.5.46 lakh.

| |
|-----------------------|
| C-Interest Tax |
|-----------------------|

General

5.13 The Finance Act, 2000 abolished the Interest Tax Act, 1974 with effect from 1 April 2000. Interest tax is therefore not chargeable in respect of any chargeable interest accruing or arising after 31 March 2000. No budget estimate for revenues from interest tax has been made from the financial year 2000-2001. However, pending interest tax assessments needed to be completed without delay.

Results of audit

5.14 During the test check of assessments completed under the Interest Tax Act, 1974, conducted between 1 April 2002 and 31 March 2003, audit noticed short levy of interest tax of Rs.35.54 crore in 208 cases.

Audit issued 74 draft paragraphs involving tax effect of Rs.10.92 crore between May 2003 and October 2003 to the Ministry of Finance for comments.

Out of the 74 draft paragraphs issued to Ministry, internal audit of the department had seen four cases but did not notice the mistakes. They had not seen the remaining 70 cases.

Out of the 74 draft paragraphs issued to Ministry, 73 draft paragraphs involving tax effect of Rs.10.92 crore have been included in this chapter. Each paragraph indicates a particular category of mistakes and starts with a suitable preamble followed by combined/consolidated tax effect of all the observations of similar nature. Cases with money value of more than Rs.50 lakh are illustrated and those with money value of Rs.5 lakh or more but less than Rs.50 lakh each are given in tabular form in Appendices.

Status of replies received from Ministry of Finance

5.15 Out of 73 cases included in this chapter, Ministry of Finance accepted the audit observations in nine cases involving tax effect totalling Rs.54.58 lakh. Replies were awaited in the remaining 64 cases.

5.16 Mistakes in assessment of chargeable interest**Mistakes in assessment/underassessment of chargeable interest**

Interest tax was to be paid by credit institutions including banking company/public financial institution on their interest income from assessment year 1992-93 till assessment year 2001-02. Interest income chargeable to tax included interest on loans and advances, commitment charges on unutilised portion of any credit sanctioned and discount on promissory notes and bills of exchange. The return of chargeable interest was required to be filed by 31 December of the relevant assessment year.

In computing the income of a credit institution chargeable to income tax under the head 'profits and gains of business or profession' or under the head 'income from other sources', the interest tax payable by the credit institution for any assessment year shall be deducted from income under the respective heads, of the credit

institution assessable for that assessment year. No such deduction was admissible from the interest income chargeable under the Interest Tax Act.

The Board issued instructions in 1995 clarifying that interest tax was to be levied on interest on debentures, bonds and securities etc.

Interest Tax Act did not permit setting off of interest receipt against interest payable.

The assessing officers did not apply the above provisions correctly resulting in short levy of interest tax totalling **Rs.1.78 crore** in **nine cases** in Gujarat, Maharashtra, Tamil Nadu and West Bengal. One case involving tax effect of more than Rs. one crore is illustrated below. Three cases involving tax effect of more than Rs.10 lakh but less than Rs.one crore each are indicated at serial numbers **1 to 3** of **Appendix-25**.

5.16.1 In Maharashtra, Central III, Mumbai charge, the assessing officer completed interest tax assessment of a company **M/s. Dewan Housing Finance Corporation Ltd**, for the assessment year 1998-99 after scrutiny in March 2001 determining chargeable interest at Rs.39.88 crore. Assessing officer erroneously exempted interest receipt from housing loans of Rs.3.49 crore which was otherwise liable to be taxed. The exemption allowed was thus not in order and resulted in short levy of tax of Rs.1.20 crore.

5.17 Incorrect application of rate of tax

Mistakes in applying correct rate of tax

Interest tax was leviable at three percent from assessment year 1992-93 to 1997-98 and at two percent thereafter on the chargeable interest income of credit institutions.

The assessing officers did not apply correct rate of tax leading to short levy of tax totalling **Rs.13.12 lakh** in **four cases** in Gujarat, Karnataka and West Bengal. One case involving tax effect of more than Rs. five lakh is indicated at serial number **1** of **Appendix-26**.

5.18 Non correlation of records

Chargeable interest not assessed due to non-correlation of records of different direct taxes

The Board issued instructions (November 1973, April 1979 and September 1984) for ensuring proper co-ordination amongst assessment records pertaining to different direct taxes and for simultaneous disposal of income tax and different direct tax assessments viz., wealth tax, gift tax, interest tax etc., so that there was no evasion of tax.

The Board clarified in March 1996 that 'finance' charges accruing or arising to hire purchase finance companies are in the nature of interest chargeable to interest tax. The Board had further clarified in 1998 that if the transactions are in

substance in the nature of financing transactions, hire charges should be treated as interest subject to interest tax.

The assessing officers did not comply with the instructions of the Board resulting in non-levy of tax totalling **Rs.5.05 crore** in **45 cases** in Andhra Pradesh, Delhi, Gujarat, Karnataka, Maharashtra, Tamil Nadu and West Bengal. Two cases involving tax effect of more than Rs.50 lakh are illustrated below. Four cases involving tax effect of more than Rs.five lakh but less than Rs.50 lakh in each case are indicated at serial numbers **4 to 7** of **Appendix-25**.

5.18.1 In West Bengal-III, Kolkata charge, audit scrutiny of the income tax assessments of a company, **M/s. Sahara India Commercial Ltd.**, for the assessment years 1998-99 and 1999-2000 revealed that the assessee had received a sum of Rs.28 crore and Rs.28.64 crore as interest on loan given to other companies respectively during the relevant financial years which was chargeable to interest tax. However, neither the assessee filed the interest tax returns nor the assessing officer called for the same for any of the assessment years. Omission to do so resulted in non assessment of chargeable interest totalling Rs.56.64 crore involving non levy of interest tax of Rs.2.74 crore including interest.

5.18.2 In West Bengal II, Kolkata charge, audit scrutiny of the income tax assessments of a company, **M/s. ITC Classic Real Estate Finance Ltd.**, (presently M/s. CREF Finance Ltd) for the assessment years 1997-98 revealed that the assessee earned interest income of Rs.17.88 crore from housing finance during relevant previous year which was chargeable to interest tax. However, neither the assessee filed the return of interest tax nor the assessing officer initiated any interest tax proceedings. Non assessment of chargeable interest of Rs.17.88 crore resulted in non levy of interest tax of Rs.53.65 lakh.

5.19 Irregular payment of interest

Excess
payment of
interest by
Government

If proceedings resulting in refund are delayed for reasons attributable to the assessee, whether wholly or in part, the period of delay so attributable to him shall be excluded from the period for which interest is payable to him on such refund.

The Board issued instructions in November 1997 and August 1998 to the effect that all refund vouchers irrespective of the amount of refund should be sent by Registered Post with acknowledgement due and within 15 days of the passing of order resulting in refund.

Non compliance of the above provisions/instructions of the Board resulted in non-levy of tax totalling **Rs.37.36 lakh** in **three cases** with money value of more than Rs. five lakh but less than Rs.50 lakh in Kerala and Uttar Pradesh are indicated at serial numbers **2 to 4** of **Appendix-26**.

5.20 Mistakes in levy of interest

Non/short levy of interest

Interest for default and deficiency in interest tax payments in advance, delays in paying demand raised and defaults/delays in filing return are leviable in the same manner and at the same rates as for the defaults of similar nature under the Income Tax Act.

With effect from 1st October 1991, where interest tax is payable on the basis of any return of interest tax after taking into account the amount of interest tax, if any, already paid under the provisions of the Act, the assessee shall be liable to pay such interest tax as self assessment tax together with interest payable for any delay or default in payment of advance interest-tax.

Incorrect application of the above provisions resulted in non/short levy of interest totalling Rs.3.54 crore in 11 cases in Karnataka, Maharashtra, Tamil Nadu and Uttar Pradesh. Two cases with money value of more than Rs.one crore are illustrated below. Two cases with money value of more than Rs.five lakh but less than Rs.one crore in each case are indicated at serial numbers 5 and 6 of **Appendix-26**.

5.20.1 In Uttar Pradesh, Central Kanpur charge, the assessing officer completed interest tax assessments of two companies. **M/s. Sahara India Mutual Benefit Co. Ltd.** and **M/s. Sahara India Financial corporation Ltd.**, for the assessment year 1999-2000, after scrutiny in November 2001 and December 2001, raising interest tax demand of Rs.73.26 lakh and Rs.10.06 crore respectively. Audit scrutiny revealed that though the above demands were outstanding on 31 March 2002, interest of Rs.27.88 lakh leviable on these demands upto March 2002 was not levied. Further, in both the cases, the department incorrectly levied interest totalling Rs.4.18 crore instead of Rs.5.65 crore for default in payment of advance interest tax. The mistakes resulted in non / short levy of interest totalling Rs.1.75 crore.

5.20.2 In Tamil Nadu, Chennai-I charge, the assessing officer revised interest tax assessment of a company, **M/s. United India Insurance Co. Ltd.**, for the assessment year 1997-98 in March 2001 at a chargeable interest income of Rs.278.88 crore to give effect to appellate orders. While doing so, the assessing officer wrongly levied interest for short payment of advance tax at 1.5 per cent instead of two percent. For assessment years 1999-2000 and 2000-2001, completed after scrutiny in March 2002, interest for short payment of advance interest tax was not levied at all. The mistakes resulted in short levy and non levy of interest totalling Rs.1.35 crore.

5.21 Cases of over assessment

Over assessment
due to
negligence on
the part of the
assessing
officers

Interest tax was leviable at three percent from assessment year 1992-93 to 1997-98 and at two percent thereafter, on the chargeable interest income of 'credit institutions'.

Mistake in applying correct rate of tax resulted in over assessment of chargeable interest involving excess levy of tax of Rs.4.02 lakh in one case in Tamil Nadu.

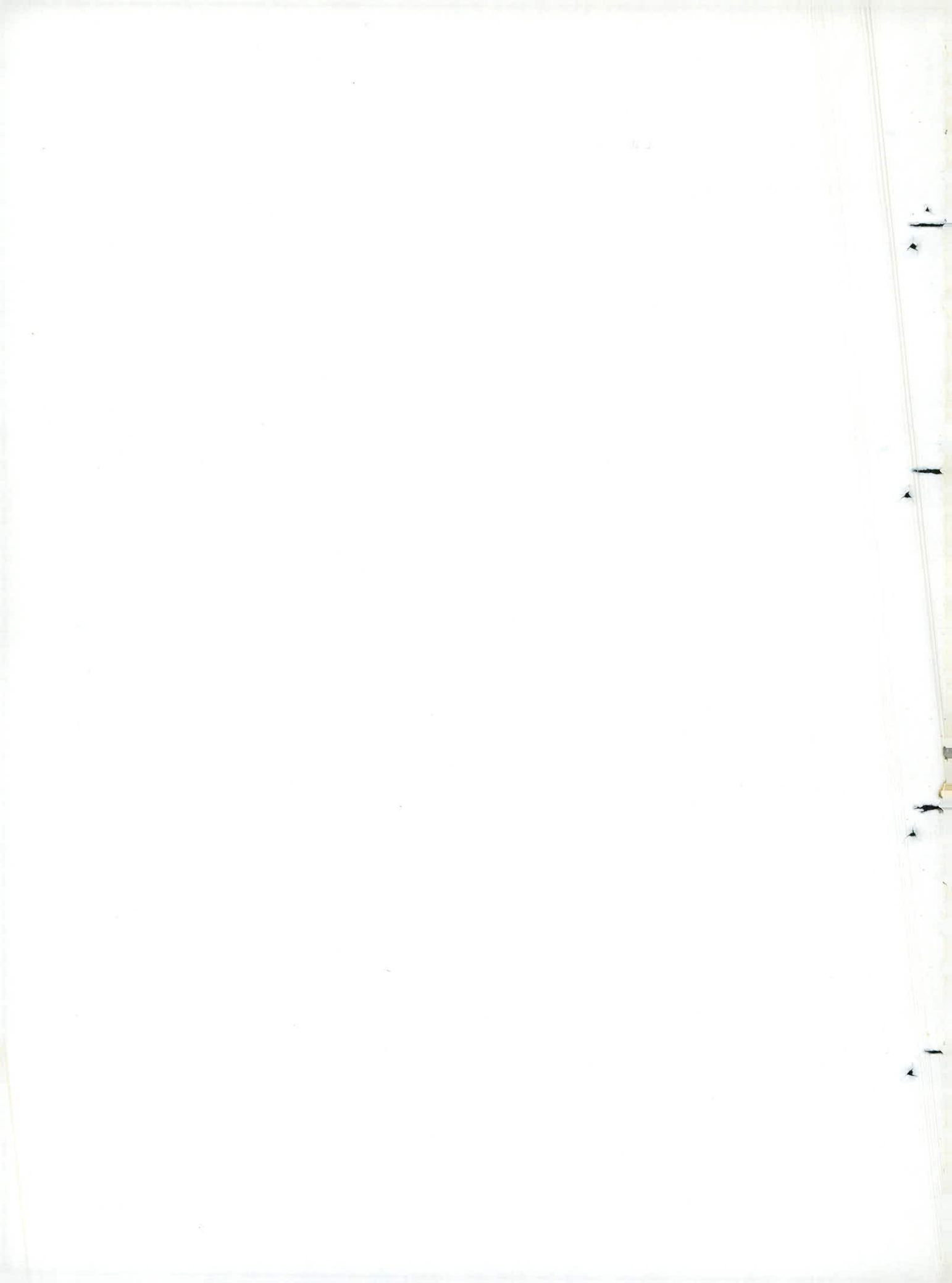
New Delhi
Dated: 14 May 2004


(P. SESHKUMAR)
Principal Director of Receipt Audit
(Direct Taxes)

Countersigned

New Delhi
Dated: 14 May 2004


(VIJAYENDRA N. KAUL)
Comptroller and Auditor General of India



Appendices

Appendix-1

Chapter I: Introduction

(Referred to in para no.1.15)

STATEWISE DETAILS OF RECORDS NOT PRODUCED TO AUDIT

| Sl. No. | Name of the state | Total number of records requisitioned | | Total number of records not produced | |
|---------|-----------------------------|---------------------------------------|---|--------------------------------------|------------------------|
| | | Records requisitioned during 2002-03 | Records not produced in earlier audit and requisitioned again | Relating to Col. No. 3 | Relating to Col. No. 4 |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 1 | Andhra Pradesh | 39,843 | 3,718 | 5,904 (14.81%) | 3,078 (82.78%) |
| 2 | Bihar | 3,408 | 451 | 166 (4.87%) | 9 (1.99%) |
| 3 | Jharkhand | 4,946 | 55 | 140 (2.83%) | 19 (34.54%) |
| 4 | Gujarat | 64,245 | 11,073 | 10,077 (15.68%) | 3,014 (27.21%) |
| 5 | Haryana | 13,023 | 259 | 946 (7.26%) | 112 (43.24%) |
| 6 | Himachal Pradesh | 5,448 | Nil | 583 (10.70%) | Nil |
| 7 | Jammu & Kashmir | 627 | Nil | 179 (28.54%) | Nil |
| 8 | Karnataka | 21,732 | 3,678 | 2,706 (12.45%) | 3,381 (91.92%) |
| 9 | Kerala | 27,916 | 2,425 | 4,999 (17.90%) | 731 (30.14%) |
| 10 | Madhya Pradesh | 6,419 | 3,837 | 1,392 (21.68%) | 3,512 (91.52%) |
| 11 | Orissa | 7,929 | 725 | 1,145 (14.44%) | 484 (66.75%) |
| 12 | Punjab | 50,148 | 3,690 | 2,627 (5.23%) | 3,441 (93.25%) |
| 13 | UT Chandigarh | 5,010 | 807 | 737 (14.71%) | 506 (62.70%) |
| 14 | Rajasthan | 17,488 | 1,789 | 1,758 (10.05%) | 450 (25.15%) |
| 15 | Tamil Nadu | 48,551 | 8,936 | 6,201 (12.77%) | 2,674 (29.92%) |
| 16 | Uttar Pradesh & Uttaranchal | 28,131 | 484 | 324 (1.15%) | Nil |
| 17 | Delhi | 17,220 | Nil | 5,891 (34.21%) | Nil |
| 18 | Maharashtra | 21,454 | 35 | 2,477 (11.54%) | 30 (85.71%) |
| 19 | West Bengal | 55,480 | Nil | 3,994 (7.19%) | Nil |
| | Total | 4,39,014 | 41,962 | 50,378 (11.47%) | 21,441 (51.09%) |

Appendix-2

Chapter II – Tax Administration

(Reference: Para 2.4/Table 2.3)

Minor head wise details of Budget Estimates and Actuals for 2002-03

| Sl. No. | Head of revenue | Budget Estimates | Actuals | Variation | Percentage of variation |
|--|---|------------------|------------------|---------------------|-------------------------|
| | | (Rs. in crore) | | | |
| 0020-Corporation Tax | | | | | |
| (i) | Income Tax on companies | 46,139.28 | 44,760.00 | (-) 1,379.28 | (-) 2.99 |
| (ii) | Surcharge | 2,245.00 | 391.91 | (-) 1,853.09 | (-)82.54 |
| (iii) | Other receipts | 231.72 | 1,020.44 | 788.72 | 340.37 |
| (iv) | Total | 48,616.00 | 46,172.35 | (-) 2,443.65 | (-) 5.03 |
| (v) | Deduct share of proceeds assigned to States | | 12,278.87 | | |
| | Net Collection | | 33,893.48 | | |
| 0021 - Taxes on income other than Corporation Tax | | | | | |
| (i) | Income tax | 38,058.80 | 36,094.28 | (-) 1,964.52 | (-) 5.16 |
| (ii) | Surcharge | 2300.00 | 328.09 | (-) 1,971.91 | (-) 85.73 |
| (iii) | Other receipts | 2165.20 | 443.59 | (-) 1,721.61 | (-)79.51 |
| (iv) | Total | 42,524.00 | 36,865.96 | (-) 5,658.04 | (-)13.30 |
| (v) | Deduct share of proceeds assigned to States | | 9,087.41 | | |
| | Net Collection | | 27,778.55 | | |

Appendix-3

[Reference: Para 2.5/Table 2.4]

All India Collection Figures Of Corporation tax and Income tax

| State | Corporation Tax | | | | Income Tax | | | | Total of two heads | | | |
|-------------------|------------------|------------------|------------------|-------------------------------|------------------|------------------|------------------|-------------------------------|--------------------|------------------|-----------------|-------------------------------|
| | 2000-01 | 2001-02 | 2002-03 | Percent change over pre. Year | 2000-01 | 2001-02 | 2002-03 | Percent change over pre. year | 2000-01 | 2001-02 | 2002-03 | Percent change over pre. year |
| Andhra Pradesh | 1,051.45 | 942.58 | 1,243.27 | 31.90 | 1,417.49 | 1,638.86 | 1,631.07 | (-) 0.47 | 2,468.94 | 2,581.44 | 2874.34 | 11.34 |
| Assam | 196.81 | 255.78 | 390.41 | 52.63 | 553.16 | 390.01 | 453.05 | 16.16 | 749.97 | 645.79 | 843.46 | 30.60 |
| Bihar & Jharkhand | 21.70 | 5.63 | 29.74 | 428.20 | 583.91 | 742.42 | 827.57 | 11.46 | 605.61 | 748.05 | 857.31 | 14.60 |
| Goa | 69.46 | 38.22 | 43.60 | 14.07 | 137.78 | 141.31 | 97.30 | (-) 31.14 | 207.24 | 179.53 | 140.90 | (-)21.51 |
| Gujarat | 761.22 | 922.58 | 1,271.90 | 37.86 | 1,944.88 | 1,710.43 | 1,966.14 | 14.95 | 2,706.10 | 2,633.01 | 3238.04 | 22.97 |
| Haryana | 102.31 | 123.98 | 206.95 | 66.92 | 466.14 | 587.11 | 660.60 | 12.51 | 568.45 | 711.09 | 867.55 | 22.03 |
| Himachal Pradesh | 71.85 | 29.30 | 9.36 | (-)68.05 | 131.88 | 130.48 | 160.18 | 22.76 | 203.73 | 159.78 | 169.54 | 0.61 |
| J&K | 53.68 | 96.26 | 148.46 | 54.23 | 108.96 | 119.53 | 124.81 | 4.41 | 162.64 | 215.79 | 273.27 | 26.63 |
| Karnataka | 1,244.13 | 1,407.04 | 2,141.50 | 52.20 | 2,304.77 | 2,597.54 | 3,181.93 | 22.49 | 3,548.90 | 4,004.58 | 5323.43 | 32.93 |
| Kerala | 361.10 | 422.71 | 573.10 | 35.57 | 646.89 | 674.24 | 795.95 | 18.05 | 1,007.99 | 1,096.95 | 1369.05 | 24.80 |
| MP & Chattisgarh | 871.23 | 867.45 | 1,255.09 | 44.68 | 758.20 | 958.79 | 832.09 | (-) 13.21 | 1,629.43 | 1,826.24 | 2087.18 | 14.28 |
| Maharashtra | 16,310.65 | 16,154.40 | 20,500.35 | 26.90 | 9,657.20 | 9,255.17 | 10,963.09 | 10.45 | 25,967.85 | 25,409.57 | 31463.44 | 23.82 |
| Delhi | 5,872.84 | 7,019.55 | 8,085.93 | 15.19 | 4,186.67 | 4,031.11 | 5,125.15 | 27.13 | 10,059.51 | 11,050.66 | 13211.08 | 19.55 |
| Orissa | 560.67 | 458.13 | 606.40 | 32.36 | 246.01 | 343.03 | 334.62 | (-) 2.45 | 806.68 | 801.16 | 941.02 | 17.45 |
| Punjab | 388.01 | 317.29 | 370.08 | 16.64 | 708.75 | 732.22 | 835.08 | 14.04 | 1,096.76 | 1,049.51 | 1205.16 | 14.83 |
| Rajasthan | 119.59 | 181.56 | 233.88 | 28.82 | 640.71 | 658.63 | 746.54 | 13.34 | 760.30 | 840.19 | 980.42 | 16.69 |
| Tamil Nadu | 1,838.70 | 1,713.58 | 2,340.52 | 36.59 | 2,603.26 | 2,750.36 | 2,896.99 | 5.33 | 4,441.96 | 4,463.94 | 5237.51 | 17.32 |
| UP & Uttaranchal | 4,333.61 | 4,036.67 | 4,972.62 | 23.19 | 1,548.82 | 1,527.90 | 1,773.84 | 16.09 | 5,882.43 | 5,564.57 | 6746.46 | 21.23 |
| West Bengal | 1,400.28 | 1,502.49 | 1,562.49 | 3.99 | 1,819.23 | 1,818.30 | 1,984.26 | 9.12 | 3,219.51 | 3,320.79 | 3546.75 | 6.80 |
| Union Territories | 45.38 | 127.57 | 154.74 | 21.30 | 237.31 | 302.36 | 337.71 | 11.69 | 282.69 | 429.93 | 492.45 | 14.54 |
| CTDS | 21.60 | 31.73 | 31.96 | 0.72 | 1,061.96 | 894.30 | 1,137.99 | 27.24 | 1,083.56 | 926.03 | 1169.95 | 26.34 |
| Total | 35,696.27 | 36,609.13 | 46,172.35 | 26.12 | 31,763.98 | 32,004.09 | 36,865.96 | 15.19 | 67,460.25 | 68,613.22 | 83038.31 | 21.02 |

Appendix-4

[Reference: Para 2.5/Table 2.4]

| 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 | |
| (Rs. in crore) | | | | | | | | | |
| Andhra Pradesh | 1,243.27 | 1,631.07 | 2.29 | -0.14 | 4.86 | 0.00 | -1.75 | -0.02 | 2,879.58 |
| Arunachal Pradesh | 0.00 | 3.75 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 3.75 |
| Assam | 388.50 | 390.30 | 0.00 | 0.13 | 0.03 | 0.00 | 0.60 | 0.00 | 779.56 |
| Bihar | 9.42 | 292.98 | 0.00 | 0.12 | 0.03 | 0.00 | 0.21 | 0.00 | 302.76 |
| Chhattisgarh | 445.29 | 216.42 | 0.00 | 0.00 | 0.06 | 0.00 | 0.14 | -0.02 | 661.89 |
| Goa | 43.60 | 97.30 | 0.00 | 0.02 | 0.00 | 0.00 | 0.72 | 0.00 | 141.64 |
| Gujarat | 1,271.90 | 1,966.14 | 0.22 | 0.25 | 1.45 | 0.00 | 4.12 | -1.34 | 3,242.74 |
| Haryana | 206.95 | 660.60 | 0.00 | 0.16 | 0.44 | 0.00 | 4.18 | 0.00 | 872.33 |
| Himachal Pradesh | 9.36 | 160.18 | 0.00 | 1.52 | 0.09 | 0.00 | -0.24 | 0.00 | 170.91 |
| Jharkhand | 20.32 | 534.59 | 0.00 | 0.12 | 0.01 | 0.00 | 0.30 | 0.00 | 555.34 |
| Jammu & Kashmir | 148.46 | 124.81 | 0.00 | 0.00 | 0.00 | 0.00 | 0.15 | 0.00 | 273.42 |
| Karnataka | 2,141.50 | 3,181.93 | 0.00 | -5.59 | 10.32 | 0.00 | 7.31 | 0.00 | 5,335.47 |
| Kerala | 573.10 | 795.95 | 0.01 | -6.05 | 1.93 | 0.00 | 2.20 | 0.21 | 1,367.35 |
| Madhya Pradesh | 809.80 | 615.67 | 0.01 | 0.02 | 0.00 | 0.00 | 0.80 | 0.01 | 1,426.31 |
| Maharashtra | 20,500.35 | 10,963.09 | 0.00 | 2.13 | 63.61 | 0.00 | 74.40 | 0.13 | 31,603.71 |
| Manipur | -0.01 | 6.89 | 0.00 | 0.00 | 0.00 | 0.00 | 0.01 | 0.00 | 6.89 |
| Meghalaya | 2.14 | 20.40 | 0.00 | 0.01 | 0.01 | 0.00 | 0.04 | -0.01 | 22.59 |
| Mizoram | 0.00 | 0.11 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.11 |
| Nagaland | 0.03 | 6.17 | 0.00 | 0.00 | 0.00 | 0.00 | 0.03 | 0.00 | 6.23 |
| New Delhi | 8,085.93 | 5,125.15 | 0.00 | -314.18 | 40.96 | 0.00 | 25.22 | 0.07 | 12,963.15 |
| Orissa | 606.40 | 334.62 | 0.00 | 0.15 | 0.00 | 0.00 | 1.57 | 0.00 | 942.74 |
| Punjab | 370.08 | 835.08 | 0.00 | 0.56 | 0.01 | 0.01 | 0.89 | -0.20 | 1,206.43 |
| Rajasthan | 233.88 | 746.54 | 0.00 | 0.34 | 2.21 | 0.00 | 0.92 | -0.07 | 983.82 |
| Sikkim | 0.00 | 4.56 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4.56 |
| Tamil Nadu | 2,340.52 | 2,896.99 | 0.00 | 0.97 | 9.52 | 0.26 | 10.86 | 0.02 | 5,259.14 |
| Tripura | -0.25 | 20.87 | 0.00 | 0.00 | 0.00 | 0.00 | 0.10 | 0.00 | 20.72 |
| Uttar Pradesh | 325.06 | 1,531.99 | 0.00 | 21.06 | 0.79 | -0.01 | 5.44 | -0.01 | 1,884.32 |
| Uttaranchal | 4,647.56 | 241.85 | 0.00 | 0.00 | 0.02 | 0.00 | 1.09 | 0.00 | 4,890.52 |
| West Bengal | 1,562.49 | 1,984.26 | 0.00 | 23.14 | 34.08 | 0.00 | 15.09 | 0.00 | 3,619.06 |
| Total (i) | 45,985.65 | 35,390.26 | 2.53 | -275.26 | 170.43 | 0.26 | 154.40 | -1.23 | 81,427.04 |

| 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 | |
| Union Territories | | | | | | | | | |
| Andaman and Nicobar Islands | 0.69 | 4.18 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4.87 |
| Chandigarh | 132.19 | 235.12 | 0.00 | 0.01 | 0.00 | 0.00 | -0.79 | -0.56 | 365.97 |
| Daman | 3.81 | 3.97 | 0.00 | 0.00 | 0.00 | 0.00 | 0.10 | 0.00 | 7.88 |
| Diu | 0.00 | 0.07 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.07 |
| Dadra and N.Haveli | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Pondicherry | 13.67 | 93.44 | 0.00 | 0.00 | 0.20 | 0.00 | 0.17 | 0.00 | 107.48 |
| Lakshadweep | 0.00 | 0.01 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.01 |
| Silvassa | 4.38 | 0.92 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 5.35 |
| Total (ii) | 154.74 | 337.71 | 0.00 | 0.01 | 0.20 | 0.00 | -0.52 | -0.56 | 491.58 |
| | | | | | | | | | |
| Total (i) &(ii) | 46,140.39 | 35,727.97 | 2.53 | -275.25 | 170.63 | 0.26 | 153.88 | -1.79 | 81,918.62 |
| CTDS (Prov) | 31.96 | 1,137.99 | | | | | | | 1,169.95 |
| Grand Total | 46,172.35 | 36,865.96 | 2.53 | -275.25 | 170.63 | 0.26 | 153.88 | -1.79 | 83,088.57 |

Appendix-5
[Reference: Para 2.9/Table 2.11]

(i) STATUS-WISE AND CATEGORY-WISE BREAK-UP OF WORK LOAD, DISPOSALS AND PENDING OF ASSESSMENTS AS ON 31 MARCH 2003

| | | | Workload | | Disposal | | Balance | |
|----|-----------------------------------|--------------------|-----------------|--------------------|-----------------|--------------------|-----------------|------------------|
| | | | Scrutiny | Non-Scrutiny | Scrutiny | Non-Scrutiny | Scrutiny | Non-Scrutiny |
| 1. | Category 'A' Assessments | Company | 17,929 | 2,83,619 | 8,783 | 2,69,975 | 9,146 | 13,644 |
| | | Non-Company | 7,08,225 | 3,35,08,584 | 99,702 | 3,07,00,574 | 6,08,523 | 28,08,010 |
| 2. | Category B (lower) Assessments | Company | 17,678 | 1,32,162 | 7,448 | 1,22,616 | 10,230 | 9,546 |
| | | Non-company | 45,107 | 18,26,223 | 19,068 | 16,72,992 | 26,039 | 1,53,231 |
| 3. | Category 'B' (higher) assessments | Company | 5,133 | 22,398 | 2,359 | 14,369 | 2,774 | 8,029 |
| | | Non-company | 20,222 | 5,52,659 | 7,829 | 4,77,657 | 12,393 | 75,002 |
| 4. | Category 'C' Assessments | Company | 20,681 | 71,526 | 7,635 | 63,758 | 13,046 | 7,768 |
| | | Non-Company | 36,926 | 1,18,020 | 9,286 | 1,12,715 | 27,640 | 5,305 |
| 5. | Category 'D' Assessments | Company | 6,672 | 20,123 | 3,102 | 19,125 | 3,570 | 998 |
| | | Non-Company | 15,842 | 3,64,726 | 7,198 | 3,39,014 | 8,644 | 25,712 |
| 6. | Total | Company | 68,093 | 5,29,828 | 29,327 | 4,89,843 | 38,766 | 39,985 |
| | | Non-Company | 8,26,322 | 3,63,70,212 | 1,43,083 | 3,33,02,952 | 6,83,239 | 30,67,260 |

(ii) STATUS-WISE BREAK-UP OF INCOME TAX (INCLUDING CORPORATION TAX) ASSESSMENTS COMPLETED DURING THE YEARS 2000-01 TO 2002-03

| | | 2000-01 | 2001-02 | 2002-03 |
|-----|---------------------------|--------------------|--------------------|--------------------|
| (a) | Individuals | 1,70,53,114 | 1,81,57,621 | 3,09,49,772 |
| (b) | Hindu undivided families | 3,95,802 | 4,44,455 | 7,36,537 |
| (c) | Firms | 9,79,654 | 9,20,896 | 15,70,104 |
| (d) | Companies | 3,38,887 | 2,47,188 | 5,19,170 |
| (e) | Others (including trusts) | 91,383 | 3,56,408 | 1,89,622 |
| | Total | 1,88,58,840 | 2,01,26,568 | 3,39,65,205 |

Appendix-6

[Reference: Para 2.11/Table 2.16]

(Rs. in crore)

(i) YEAR WISE BREAK UP OF TAX RECOVERY CERTIFICATES PENDING AS ON 31 MARCH 2003 AND AMOUNT OF DEMAND

| Year | No. of Certificates | Amount |
|---------------------------|---------------------|------------------|
| 1997-98 and earlier years | 3,07,249 | 3,028.13 |
| 1998-99 | 3,485 | 465.42 |
| 1999-00 | 4,760 | 697.04 |
| 2000-01 | 5,140 | 1382.41 |
| 2001-02 | 42,215 | 3683.53 |
| 2002-03 | 31,488 | 6752.73 |
| Total | 3,94,337 | 16,009.26 |

(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 | 7,444 | 3.53 | 2,53,839 | 234.76 | 24,827 | 2.89 |
| (b) | Over Rs.10,000 and below Rs.1 lakh | 2,795 | 8.51 | 51,713 | 222.06 | 2,540 | 3.98 |
| (c) | Over Rs.1 lakh to Rs.5 lakh | 1,949 | 41.17 | 14,720 | 427.12 | 456 | 8.36 |
| (d) | Over Rs.5 lakh to Rs.10 lakh | 917 | 656.26 | 4,231 | 371.97 | 96 | 5.05 |
| (e) | Over Rs.10 lakh | 2,768 | 5,107.69 | 9,305 | 8529.64 | 163 | 58.49 |
| | Total | 15,873 | 5,817.16 | 3,33,808 | 9785.55 | 28,082 | 78.77 |

(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 | 4,047 | 0.69 | 8,675 | 1.80 | 535 | 0.31 | 2,99,367 | 243.99 |
| (b) | Over Rs.10,000 and below Rs. 1 lakh | 320 | 0.52 | 790 | 1.33 | 869 | 8.27 | 59,027 | 244.67 |
| (c) | Over Rs.1 lakh to Rs.5 lakh | 11 | 0.16 | 287 | 3.27 | 238 | 8.31 | 17,661 | 488.39 |
| (d) | Over Rs.5 lakh to Rs.10 lakh | 01 | 0.06 | 69 | 24.85 | 121 | 4.77 | 5,435 | 1,062.95 |
| (e) | Over Rs.10 lakh | 73 | 17.28 | 373 | 194.56 | 165 | 61.60 | 12,847 | 13,969.26 |
| | Total | 4,452 | 18.71 | 10,194 | 225.81 | 1928 | 83.26 | 3,94,337 | 16,009.26 |

Appendix-7

Chapter III : Corporation Tax

(Rs. in lakh)

| MISTAKES IN ADOPTION OF CORRECT FIGURES, APPLYING CORRECT RATE OF TAX, LEVY OF SURCHARGE, ALLOWANCE OF PRIOR PERIOD EXPENSES, ALLOWANCE OF PROVISIONS, ALLOWANCE OF LIABILITY, ALLOWING INCOME TO ESCAPE ASSESSMENT, ALLOWANCE OF RELIEFS AND EXEMPTIONS UNDER CHAPTER VIA OF THE ACT | | | | | |
|--|---|------------------------------------|---------------------------|--|-------------------|
| Sl No. | Assessee company/ CIT charge | Assessment year | Type of assessment | Nature of mistake | Tax effect |
| 1 | 2 | 3 | 4 | 5 | 6 |
| Para 3.6 | | | | | |
| 1 | M/s. Times Bank Ltd. City-II, Mumbai | 1999-2000 | Scrutiny | Tax free dividends and interest were exempted twice | 748.64 |
| 2 | M/s Abdos Trading Co.(P) Ltd., Kolkata-V | 1998-99 | Summary | Excess claim of expenditure on account of purchases by Rs.538.27 lakh was allowed | 233.36 |
| Para 3.7 | | | | | |
| 3 | M/s Ankit Industrial Gases (P) Ltd., Central (Patna), Bihar | 1990-91 to 1992-93 | Best judgment | Tax not levied at the rates applicable to a company in which public are not substantially interested | 103.98 |
| 4 | M/s. ABN Amro Bank, Kolkata | 1990-91 | Scrutiny | Incorrect levy of tax at 50 per cent instead of 65 per cent (as applicable to a foreign company) | 87.35 |
| Para 3.8 | | | | | |
| 5 | M/s Twenty First Century Finance Ltd., Delhi, Central | Block period 1.4.1986 to 26.2.1997 | Block assessment | Non levy of Surcharge @ 7.5% | 183.46 |
| 6 | M/s. St. Soldier Properties & Industries, Central, Delhi | Block period 1.4.1989 to 10.9.1999 | -do- | Non-levy of surcharge @ 10% | 181.89 |
| 7 | M/s. Golden Soya Ltd., City-II, Mumbai | Block period 1990-91 to 2000-01 | -do- | -do- | 55.13 |
| Para 3.12 | | | | | |
| 8 | M/s Indo Rama Synthetics (I) Ltd., Delhi-IV | 1998-99 | Scrutiny | The assessing officer incorrectly allowed Rs.746.11 lakh towards prior period expenses | 261.14 (P) |
| 9 | M/s.Indian Tourism Development Corpn. Ltd., Delhi-IV | 1998-99 | -do- | The assessing officer incorrectly allowed Rs.374.06 lakh towards prior period expenses | 210.78 |

| Sl No. | Assessee company/ CIT charge | Assessment year | Type of assessment | Nature of mistake | Tax effect |
|------------------|--|---------------------|--------------------|---|------------|
| 10 | M/s. Himneel Breweries Ltd. Delhi, Central | 1999-2000 | -do- | The assessing officer incorrectly allowed Rs.232.48 lakh towards prior period expenses | 81.37 (P) |
| 11 | M/s. STI Power India (P) Ltd., Madhya Pradesh, Indore | 1999-2000 | -do- | Non levy of tax on interest of Rs.150.02 lakh earned on the deposits pertaining to pre-production period. | 79.42 |
| Para 3.15 | | | | | |
| 12 | M/s Airport Authority of India, Delhi-1 | 1998-99 | -do- | Incorrect allowance of provision of Rs.1169.71 lakh towards interest on loan | 634.57 |
| 13 | M/s Gas Authority of India Ltd., Delhi-IV | 1999-2000 | -do- | Incorrect allowance of provision of Rs.809.86 lakh towards revision of wages | 283.45 |
| 14 | M/s Tuticorin Alkali Chemicals and Fertilizers Ltd., Chennai-1 | 1996-97 | -do- | Incorrect allowance of provision of Rs.109.22 lakh towards interest payable | 50.24 |
| Para 3.17 | | | | | |
| 15 | M/s Harig Crank Shafts Ltd., Delhi-IV | 1995-96 | -do- | Unascertained liability of Rs.429.02 lakh on account of interest payable was not disallowed | 171.61 (P) |
| 16 | M/s Beta Naphthol Ltd., M.P, Indore | 1997-98 | Summary | Unascertained liability of Rs.120.41 lakh on account of interest payable was not disallowed | 62.12 |
| 17 | M/s H.E.G. Ltd., M.P, Bhopal | 1996-97 | Reopened | Incorrect allowance of liability of Rs.134.43 lakh on account of sales tax payable | 61.84(P) |
| Para 3.19 | | | | | |
| 18 | M/s.Associated Switchgear and Project Ltd., Delhi-I | 1998-99 | -do- | Income of Rs.234.83 lakh from contract work escaped assessment | 131.09 |
| Para 3.21 | | | | | |
| 19 | M/s.The Victoria Mills Ltd., City-II, Mumbai | 1997-98 | -do- | Incorrect computation of loss by Rs.1172.03 lakh | 503.97 (P) |
| 20 | M/s.The Federal Bank Ltd., Cochin, Kerala | 1999-2000 | -do- | Excess allowance of inadmissible expenditure by Rs.278.52 lakh. | 148.65 |
| 21 | M/s. Annamalai Finance Ltd., Coimbatore-I | 1993-94 and 1994-95 | -do- | Excess allowance of depreciation of Rs.331.93 lakh | 94.11 |

| Sl No. | Assessee company/ CIT charge | Assessment year | Type of assessment | Nature of mistake | Tax effect |
|------------------|---|---------------------|-----------------------|---|---------------|
| 22 | M/s. Discount & Finance of India Ltd., City-II, Mumbai | 1996-97 | -do- | Excess allowance of interest tax liability of Rs.164.32 lakh | 75.59 |
| 23 | M/s. Super Spinning Mills Ltd., Coimbatore-I | 1997-98 | -do- | Incorrect allowance of capital expenditure of Rs.109.27 lakh | 70.62 |
| 24 | M/s. Plaza Investment Pvt. Ltd., City-III, Mumbai | 1989-90 | -do- | Interest levied short by Rs.106.20 lakh | 106.20 |
| Para 3.22 | | | | | |
| 25 | M/s. Premier Polytranes Ltd., Coimbatore | 1999-2000 | -do- | Incorrect allowance of exemption of Rs.690.94 lakh from profits on account of 100 per cent export oriented unit | 241.83 |
| Para 3.23 | | | | | |
| 26 | M/s. Tata Sons Ltd., Maharashtra, City-I, Mumbai | 1998-99 | -do- | Excess allowance of deduction of Rs.177.87 lakh | 663.72 |
| 27 | M/s. Satyam Computers Services Ltd., Andhra Pradesh Hyderabad-III | 1995-96 | -do- | Excess allowance of deduction by Rs.322.43 lakh towards profits from export of computer software | 255.11 |
| Para 3.24 | | | | | |
| 28 | M/s. Walchandnagar Industries Ltd., City-V, Mumbai | 1996-97 | -do- | Excess allowance of deduction of Rs.128.41 lakh on account of job work and service charges, interest, lease rent etc. | 101.60 |
| 29 | M/s. Royal Indian Mfg. Co. (P) Ltd., Central-I, Kolkata | 1998-99 | -do- | Excess computation of export profit by Rs.207.17 lakh | 87.37 |
| Para 3.25 | | | | | |
| 30 | M/s. Bharat Heavy electricals Ltd., Delhi-I | 1999-2000 | -do- | Incorrect allowance of deduction of Rs.335.24 lakh beyond the specified period of 8 assessment years. | 117.34 |
| Para 3.26 | | | | | |
| 31 | M/s. Bharat Heavy Electricals Ltd., Delhi-I | 1997-98 and 1998-99 | -do- | Incorrect allowance of deduction of Rs.601.59 lakh on account of royalty, commission etc. | 274.97 |

| Sl No. | Assessee company/ CIT charge | Assessment year | Type of assessment | Nature of mistake | Tax effect |
|------------------|---|-----------------|--------------------|--|------------|
| 32 | M/s. P.N. Writer & company Ltd., City-VI, Mumbai | 1995-96 | Summary | Excess allowance of deduction of Rs.148.25 lakh on account of commission | 68.20 |
| 33 | M/s. Bharat Heavy Electricals Ltd, Delhi-I | 1999-2000 | Scrutiny | Excess allowance of deduction of Rs.28.25 lakh on account of technical fees/royalty | 59.30 |
| Para 3.30 | | | | | |
| 34 | M/s. Brentwood Investment Ltd., Kolkata-IV | 1999-2000 | -do- | Non levy of interest on the TDS of Rs.168.90 lakh, for default in crediting it to government account | 80.82 |

Appendix-8
(Referred to in para 3.9)

(Rs in lakh)

| MISTAKES IN COMPUTATION OF BUSINESS/NON-BUSINESS INCOME | | | | | |
|---|--|-----------------------|--------------------|--|------------|
| Sl. No. | Assessee company/ CIT charge | Assessment year | Type of assessment | Nature of mistake | Tax effect |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 1 | M/s Aircel Digilink India Ltd., Chennai | 1996-97 and 1997-98 | Scrutiny | Expenditure of Rs.1244.00 lakh incurred for obtaining licence to operate telecommunication services was not restricted to 1/10 th of the amount | 547.79 |
| 2 | M/s. Airport Authority of India Ltd., Delhi-I | 1998-99 | -do- | Non-disclosure of closing stock by Rs.629.30 lakh | 341.39 |
| 3 | M/s I.B.P. Co. Ltd., Central-III, Kolkata | 1998-99 and 1999-2000 | -do- | Hire charges of Rs.602.03 lakh receivable during the relevant previous year were not included in the income | 268.37 |
| 4 | M/s Airport Authority of India, Delhi-I | 1999-2000 | -do- | Wealth tax of Rs.636.84 lakh paid was not disallowed | 222.89 |
| 5 | M/s. Pavan Hans Helicopters Ltd., Delhi-V | 1998-99 | -do- | Excess allowance of proportionate administrative expenses by Rs.397.97 lakh | 220.07 |
| 6 | M/s Mesco Pharmaceuticals Ltd., Central Circle-VI, Delhi | 1998-1999 | -do- | Non-business expenditure of Rs.307.53 lakh was incorrectly allowed | 202.35 |
| 7 | M/s Hero Honda Motors Ltd., Delhi-IV | 1999-2000 | -do- | Dividend income of Rs.552.89 lakh was not included in the computation of taxable income | 193.51 |
| 8 | M/s.Aircel Digilink (P) Ltd., Chennai | 1998-99 | -do- | Expenditure of Rs.592.84 lakh towards interest for delay in payment of licence fee was not restricted to 1/10 th of the amount paid. | 186.75 |
| 9 | M/s. Ceat Financial Services Ltd., Kolkata-IV | 1999-2000 | -do- | Deduction of Rs.337 lakh on account of 'lease equalisation charges' was incorrectly allowed | 179.86 |
| 10 | M/s U.K.Paints (I) Ltd., Delhi-VI | 1999-2000 | -do- | Excess allowance of proportionate administrative expenses by Rs.374.24 lakh. | 160.51 |
| 11 | M/s.Associated Business Credits Ltd., Chennai-I | 1998-99 and 1999-2000 | -do- | Deduction of Rs.155.62 towards 'Lease equalisation charges' was incorrectly allowed | 119.04 |

| Sl. No. | Assessee company/ CIT charge | Assessment year | Type of assessment | Nature of mistake | Tax effect |
|----------------------------|--|---------------------------|--------------------|--|--------------|
| 12 | M/s. Jagatjit Industries Ltd., Central, Delhi | 1996-97 and 1998-99 | -do- | Excise duty of Rs.214.04 lakh was not added in the valuation of closing stock. | 108.95 |
| 13 | M/s State Civil Supplies Corp. Ltd., Madhya Pradesh, Bhopal | 1996-97 | -do- | Incorrect computation of income by Rs.115.20 lakh due to change in method of valuation of stock | 91.15 |
| 14 | M/s.J.K.Udyog Ltd., Rajasthan, Udaipur | 1995-96 | -do- | Incorrect allowance of expenditure of Rs.167.56 lakh on account of shares and debentures issue expenses. | 77.08 (P) |
| 15 | M/s Airport Authority of India, Delhi-I | 1998-99 | -do- | Wealth tax of Rs.104.88 lakh was not disallowed | 56.89 |
| 16 | M/s. Mecon Ltd., Jharkhand, Ranchi | 1998-99 | -do- | Excess allowance of travelling allowance by Rs.125.59 lakh | 50.11 |
| (P)* denotes Potential tax | | | | | |

Appendix-9
(Referred to in para 3.11)

(Rs.in lakh)

| INCORRECT ALLOWANCE OF DEDUCTION TOWARDS CAPITAL EXPENDITURE | | | | | |
|---|--|------------------------|---------------------------|---|-------------------|
| Sl. No. | Assessee company/ CIT charge | Assessment year | Type of assessment | Nature of mistake | Tax effect |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 1 | M/s. Bharat Aluminium Co. Ltd., Delhi-I | 1999-2000 | Scrutiny | Irregular allowance of deduction of Rs.2681.25 lakh towards cost of additional power and other expenses in the revised return | 938.44 |
| 2 | M/s. Punjab National Bank, Delhi-V | 1997-98 to 1999-2000 | -do- | Incorrect allowance of capital expenditure of Rs.1193.54 lakh on account of 'Bonds issue' | 748.67 |
| 3 | M/s Indo Gulf Fertilizers & Chemicals, Uttar Pradesh Lucknow-I | 1996-97 | -do- | Incorrect allowance of capital expenditure of Rs.925.61 lakh towards interest on loan . | 672.62 |
| 4 | M/s. Punjab National Bank, Delhi-V | 1997-98 to 1999-2000 | -do- | Incorrect allowance of capital expenditure of Rs.676.89 lakh on account of 'Software Bank' expenditure | 298.95 |
| 5 | M/s Polychem Ltd. City-I, Mumbai | 1999-2000 | -do- | Incorrect allowance of capital expenditure of Rs.261.06 lakh on account of Voluntary Retirement Scheme | 91.37 (P) |
| 6 | M/s Punjab & Sindh Bank, Delhi-V | 1998-99 and 2000-01 | -do- | Incorrect allowance of capital expenditure of Rs.152.63 on account of 'Bond issue' | 82.39 |
| 7 | M/s Maruti Udyog Ltd. Delhi-II | 1998-99 | -do- | Incorrect allowance of capital expenditure of Rs.129.70 lakh incurred on purchase of software. | 73.09 |

(P)* denotes Potential tax

Appendix-10
(Referred to in para 3.14)

(Rs. in lakh)

PROVISION FOR BAD DEBTS IN RESPECT OF BANKING COMPANIES/OTHER THAN BANKING COMPANIES

| Sl. No. | Assessee company/ CIT charge | Assessment year | Type of assessment | Nature of mistake | Tax effect |
|---------|---|-----------------|--------------------|---|------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 1 | M/s. Indus Ind Bank Ltd. Maharashtra-II, Mumbai | 1998-99 | Scrutiny | Excess allowance of provision for bad and doubtful debts by Rs.531.40 lakh | 299.44 |
| 2 | M/s Goyal MG Gases Pvt. Ltd., Delhi-IV | 1999-2000 | -do- | Incorrect allowance of bad debts written off to the tune of Rs.507.98 lakh | 234.63 |
| 3 | M/s Ind Bank Housing Ltd., Chennai-I | 1996-97 | -do- | Incorrect allowance of provision for bad debts and interest on non performing assets totalling Rs.384.16 lakh | 176.71 |
| 4 | M/s J&K Bank Ltd., Jammu | 1996-97 | Summary | Incorrect allowance of provision of Rs.299.30 lakh towards bad and doubtful debts | 126.22 |
| 5 | M/s. Ind Bank Housing Ltd., Chennai | 1997-98 | Scrutiny | Incorrect allowance of bad debts and inter corporate dividend totalling Rs.273.45 lakh | 117.58 |
| 6 | M/s. The Federal Bank Ltd., Kerala, Cochin | 1999-2000 | -do- | Excess deduction of Rs.197.36 lakh on account of provision for bad and doubtful debts | 105.34 |

Appendix-11
(Referred to in para 3.16)

(Rs. in lakh)

| IRREGULARITIES IN ALLOWANCE/SET OFF/CARRY FORWARD OF DEPRECIATION | | | | | |
|--|--|------------------------------|------------------------------------|---|-----------------------|
| Sl.No. | Assessee company/ CIT charge | Assess- ment year | Type of assessme nt | Nature of mistake | Tax effect |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 1. | M/s. State Bank of Bikaner and Jaipur, Rajasthan-II | 2000-01 | Scrutiny | Excess allowance of depreciation by Rs.1372.84 lakh | 705.61 |
| 2. | M/s. Privilege Investment Co. Ltd., Uttar Pradesh, Moradabad | 1996-97 | Summary | Incorrect allowance of depreciation of Rs.340 lakh | 351.12 |
| 3. | M/s. State Bank of Bikaner & Jaipur, Rajasthan-II | 2000-01 | Scrutiny | Excess allowance of depreciation by Rs. 234.39 lakh | 120.47 |
| 4. | M/s. Airport Authority of India, Delhi-I | 1998-99 | -do- | Incorrect allowance of depreciation @ 25 per cent instead of the correct rate of 10 percent | 100.83 |
| 5. | M/s Gas Authority of India Ltd., Delhi-IV | 1999-2000 | -do- | Excess allowance of depreciation by Rs.148.06 lakh | 78.78 |
| 6. | M/s. Airport Authority of India, Delhi-I | 1999-2000 | -do- | Incorrect allowance of depreciation @ 25 per cent against the correct rate of 10 per cent | 76.02 |
| 7. | M/s. S.K.S.Ltd., Delhi-III | 1999-2000 | -do- | Incorrect allowance of depreciation of Rs.213.12 lakh. | 74.59 |
| 8. | M/s. Aircel Digilink (India) Ltd., Tamil Nadu, Chennai-I | 1996-97 and 1997-98 | -do- | Incorrect allowance of depreciation of Rs.188.93 lakh | 66.12 |

Appendix-12
(Referred to in para 3.20)

(Rs. in lakh)

| INCORRECT COMPUTATION, CARRY FORWARD AND SET OFF OF LOSSES | | | | | |
|--|--|-----------------|--------------------|---|-------------------|
| Sl No. | Assessee company/ CIT charge | Assessment year | Type of assessment | Nature of mistake | Tax effect |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 1 | M/s. Apte Amalgamation Ltd., Maharashtra, City-VI, Mumbai | 1999-2000 | Scrutiny | Incorrect set off of brought forward business loss of Rs.799.95 lakh | 693.56 |
| 2 | M/s. Walchandnagar Industries Ltd., City-V, Mumbai | 1996-97 | -do- | Incorrect set off of losses of Rs.350 lakh | 276.92 |
| 3 | M/s. Bharath Gold Mines Ltd., Bangalore-I | 1997-98 | -do- | Excess carry forward of losses totalling Rs.593.78 lakh | 255.32 (P) |
| 4 | M/s. Ind Bank Merchant Banking Services Ltd., Chennai-I | 1995-96 | Summary | Excess carry forward of loss of Rs.410.88 lakh | 0.49 188.60(P) |
| 5 | M/s. Hindustan Times Ltd., Central-III, Delhi | 1998-99 | Scrutiny | Incorrect allowance of deduction of Rs.295.00 lakh on account of share of loss in AOP | 166.51 |
| 6 | M/s RBF Nidhi Ltd., Chennai-III | 1997-98 | -do- | Excess carry forward of loss of Rs.223.53 lakh | 160.52 |
| 7 | M/s HCL Office Automation Ltd., Delhi-IV | 1996-97 | -do- | Irregular set off of business loss against income from long term capital gains | 148.22 |
| 8 | M/s Sadhana Textiles Mills Ltd., City-III, Mumbai | 1997-98 | -do- | Excess carry forward of loss of Rs.232.13 lakh | 99.82(P) |
| 9 | M/s. Gujarat Credit Corp. Ltd., Ahmedabad-I | 1996-97 | -do- | Incorrect carry forward of unabsorbed loss of Rs.87.35 lakh | 55.28 40.18(P) |
| 10 | M/s. English Indian Clays Ltd., Kerala, Thiruvananthapuram | 1996-97 | -do- | Incorrect set off of loss of Rs.103.91 | 74.80 |
| 11 | M/s. Prophecy Finvest Pvt. Ltd., City-I, Mumbai | 1996-97 | -do- | Incorrect carry forward of loss under the head 'Income from other sources' | 68.93(P) |

(P)* denotes Potential tax

Appendix-13
(Referred to in para 3.28)

(Rs.in lakh)

| INCORRECT PAYMENT OF INTEREST ON IRREGULAR REFUNDS | | | | | |
|---|---|-----------------|--------------------|--|------------|
| Sl. No. | Assessee company/ CIT charge | Assessment year | Type of assessment | Nature of mistake | Tax effect |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 1 | M/s. UCO Bank, West Bengal-III, Kolkata | 1984-85 | Scrutiny | Avoidable payment of interest due to delay in issue of refund of Rs.2101.51 lakh | 840.46 |
| 2 | M/s Power Grid Corpn. of India. Ltd., Delhi-V | 1997-98 | Summary | Incorrect payment of interest on the amount of Rs.1005.78 lakh | 359.57 |
| 3 | M/s Punjab National Bank, Delhi-V | 1997-98 | Scrutiny | Avoidable payment of interest due to delay in giving effect to CIT (A) orders. | 240.55 |
| 4 | M/s Oriental Bank of Commerce, Delhi-V | 1997-98 | -do- | Avoidable payment of interest due to delay in issue of rectification orders. | 236.72 |
| 5 | M/s Tata Engineering & Locomotive Company Ltd., City-II, Mumbai | 1991-92 | -do- | Incorrect payment of interest on refund though the refund was less than 10% of the assessed tax. | 154.47 |
| 6 | M/s. State Bank of Patiala, Punjab, | 1998-99 | -do- | Irregular allowance of interest on refund | 136.92 |
| 7 | M/s. The Bank of Rajasthan Ltd. Udaipur | 1996-97 | -do- | Avoidable payment of interest Rs.71.77 lakh on refund of Rs.3463.86 lakh. | 71.76 |

Appendix-14
(Referred to in para 3.29)

(Rs. in lakh)

| NON LEVY/ SHORT LEVY OF INTEREST | | | | | |
|----------------------------------|--|--------------------|----------------------------|---|------------|
| Sl. No. | Assessee company/ CIT charge | Assessment year | Type of assessment | Nature of mistake | Tax effect |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 1. | M/s. Punjab National Bank, Delhi-V | 1998-99 | Scrutiny | Excess credit of TDS by Rs.239.39 lakh. | 239.39 |
| 2. | M/s.Torrent Pharmaceuticals Ltd. Gujarat-IV | 1999-2000 | -do- | Demand for short payment of advance tax worked out short by Rs.418.79 lakh | 219.86 |
| 3 | M/s.Siddhartha Pharmachem Ltd., Delhi-III | 1996-97 | Best judgment | Non-levy of interest for delay in payment of tax demand. | 148.55 |
| 4 | M/s.Xansa (India) Ltd., Delgi-VI | 1999-2000 | Scrutiny | Short levy of interest for short payment of advance tax by Rs.127.25. | 127.25 |
| 5 | M/s.Maruti Udyog Ltd., Delhi-II | 1998-99 | -do- | Short levy of interest for short payment of advance tax by Rs.121.10 lakh. | 121.10 |
| 6 | M/s. S.S.Leasing & Finance Ltd. Delhi-III | 1995-96 | Best judgment | Non levy of interest though the demand was paid beyond the stipulated period of 30 days | 116.71 |
| 7 | M/s.Sardar Exhibitors Pvt. Ltd., Delhi-III | 1991-92 to 1996-97 | Scrutiny | Short levy of interest for short payment of advance tax by Rs.109.71 | 109.71 |
| 8 | M/s.Pearl Energy and Infrastructure Ltd., Gujarat, Ahmedabad-III | 1997-98 | Summary | Short levy of interest for default in payment of advance tax by Rs.103.24 lakh | 103.24 |
| 9 | M/s.Speedwell Properties Ltd., Gujarat-IV | 1995-96 | Best judgment/ reopened | Non-levy of interest for default in filing return. | 97.63 |
| 10 | M/s.Elecon Fin Lease & Industries Ltd., Central, Ahmedabad | 1999-2000 | Scrutiny | Interest leviable for short payment of advance tax worked out to Rs.238.33 lakh as against Rs.156.62 lakh levied. | 81.71 |
| 11 | M/s.FACT Ltd., Kerala, Cochin | 1996-97 | Scrutiny | Short levy of interest on the enhanced amount of tax of Rs.142.50 lakh | 77.66 |

| Sl. No. | Assessee company/ CIT charge | Assessment year | Type of assessment | Nature of mistake | Tax effect |
|---------|--|------------------------|--------------------|---|------------|
| 12 | M/s.Sengfroid Labs (Ind) Ltd. Delhi-III | 1997-98 | -do- | Non-levy of interest for payment of demand beyond the stipulated period of 30 days. | 74.32 |
| 13 | M/s.Subahu Investments Pvt. Ltd., City-II, Mumbai | 1995-96 | -do- | Interest for default in payment of advance tax levied less by Rs.73.98 lakh | 73.98 |
| 14 | M/s.C.M.P.D.I. Jharkhand, Ranchi | 1993-94 and 1996-97 | -do- | Non-levy of interest for short payment of advance tax. | 50.88 |

Appendix-15
(Referred to in para 3.33)

(Rs. in lakh)

| MISTAKES IN SUMMARY ASSESSMENTS MADE FROM JUNE 1999 ONWARDS | | | | | |
|--|--|------------------------|--|-------------------|--|
| Sl No | Assessee company/ CIT charge | Assessment year | Nature of mistake | Tax effect | Reaction of the department |
| 1 | 2 | 3 | 5 | 6 | 7 |
| 1 | M/s.Mahanadi Coal fields Ltd., Orissa, Sambalpur | 2001-02 | Wrong calculation of surcharge @ 7 per cent instead of @ 13 percent | 905.42 | Reply awaited |
| 2 | M/s. Punjab & Sindh Bank, Delhi-V | 1999-2000 and 2000-01 | Incorrect allowance of deduction on account of dividend and interest on infrastructure bonds | 878.46 | -do- |
| 3 | M/s.DSQ Industries Ltd., West Bengal-IV, Kolkata | 2000-01 | Incorrect allowance of Rs.1550.90 lakh towards provision for bad and doubtful debts | 619.90 | -do- |
| 4 | M/s Kasthuri & Sons Ltd., Chennai | 2000-01 | Incorrect allowance of provision of Rs.1355.91 lakh towards wage arrears | 522.04 | Not accepted |
| 5 | M/s Shree Narasimha Textiles Ltd., Coimbatore-I | 2000-01 | Incorrect claim of exemption in respect of 100% export oriented unit | 404.59 | Disallowance could not be affected as assessment completed in summary manner |
| 6 | M/s Chemplast Sanmar Ltd., Chennai | 1999-2000 | Incorrect claim of deduction after the transfer of liabilities and assets to a new company | 391.79 (P) | Notice u/s 148 issued |
| 7 | M/s D.S.J. Communications Ltd., City-II Mumbai | 1997-98 to 1999-2000 | Incorrect allowance of capital loss as revenue expenditure | 389.52 | Reply not received |
| 8 | M/s National Insurance Co.Ltd., Kolkata-V | 1999-2000 | Incorrect allowance of depreciation | 302.42 | Rectification not permissible due to summary assessment |
| 9 | M/s Malanpur Leather Ltd. Madhya Pradesh Gwalior | 2000-01 | Incorrect computation of losses | 298.76 (P) | Reply not received |
| 10 | M/s Reliance Capital Ltd. City-III, Mumbai | 2001-02 | Avoidable payment of interest due to delay in issue of refund | 276.98 | Reply not received |
| 11 | M/s All Bank Finances Ltd., Kolkata-III | 2000-01 | Interest of Rs.718 lakh receivable was not included in the taxable income | 251.30 | -do- |

| Sl No | Assessee company/ CIT charge | Assessment year | Nature of mistake | Tax effect | Reaction of the department |
|-------|--|-----------------------|--|------------|--|
| 12 | M/s Punjab National Bank, Delhi-V | 1999-2000 | Excess payment of interest by Rs.201.97 lakh u/s 244A. | 201.97 | -do- |
| 13 | M/s.Lakshmi Overseas Industries Ltd.,Punjab, Ludhiana (Central) | 2000-01 | Interest paid in excess of demand was not disallowed. | 194.52 | -do- |
| 14 | M/s Square D Textiles and Export Ltd., Chennai | 1999-2000 | Incorrect set off of unabsorbed depreciation and unabsorbed business loss against short term capital gains | 181.18 | Remedial action initiated |
| 15 | M/s Hero Exports, Punjab, Ludhiana | 2001-02 | Excess computation of export profit by Rs.368.41 lakh. | 129.74 | It being a debatable issue cannot be considered. |
| 16 | M/s. Arambagh Hatcheries Ltd., Kolkata-XX | 1999-2000 | Irregular allowance of Rs.242.54 lakh towards profit from industrial undertaking | 128.58 | Reply not received |
| 17 | M/s Temptation Foods Ltd., City-I, Pune | 1998-99 | Incorrect carry forward of losses of Rs.362.04 lakhs | 126.71 (P) | Not accepted |
| 18 | M/s Eveready Industries India Ltd., Kolkata-IV | 1999-2000 | Incorrect allowance of Rs.340.03 lakh towards provision for doubtful debts and advances | 119.01 | Reply not received |
| 19 | M/s Arambagh Hatcheries Ltd., Kolkata-XX | 1999-2000 and 2000-01 | Excess allowance of depreciation of Rs.218.03 lakh | 111.54 | -do- |
| 20 | M/s. L.G.Balakrishnan & Brothers Ltd., Tamil Nadu-II, Coimbatore | 1998-99 to 2000-01 | Incorrect allowance of capital expenditure | 106.66 | Remedial action taken |
| 21 | M/s NEPC India Ltd., Central-I, Chennai | 2000-01 | Incorrect allowance of depreciation of Rs.221.76 lakh | 85.38(P) | Notice u/s 147 issued. |
| 22 | M/s Vandana Udyog Ltd., M.P.,Raipur | 1999-2000 and 2000-01 | Incorrect allowance of liability of Rs.194.60 lakh on account of sales tax collected. | 83.63 | Reply not received |
| 23 | M/s.Timkin India Ltd., Kolkata-III | 2000-01 | Excess carry forward of loss of Rs.192.72 lakh | 74.20 | Reply not received |

| SI No | Assessee company/ CIT charge | Assessment year | Nature of mistake | Tax effect | Reaction of the department |
|-------|--|-----------------------|--|------------|--|
| 24 | M/s.Utkal Galvaniser, Orissa, Cuttack | 1999-2000 and 2000-01 | Incorrect allowance of liability on account of interest and sales tax totalling Rs.164.53 lakh | 70.49 | Accepted and remedial action taken |
| 25 | M/s National Insurance Co., Kolkata-V | 1999-2000 | Incorrect allowance of liability of Rs.194.94 lakh on account of provident fund contribution | 68.23 | Not accepted |
| 26 | M/s Chemplast Sanmar Ltd., Chennai-I | 1999-2000 | Incorrect allowance of capital expenditure of Rs.176.69 lakh on account of VRS compensation | 61.84 | Reply not received |
| 27 | M/s J.F. Laboratories Ltd., City-V, Mumbai | 1994-95 and 1995-96 | Short levy of interest for default in payment of advance tax by Rs.50.85 lakh | 58.84 | Accepted and remedial action completed |
| 28 | M/s. Kailash Auto Finance Ltd., U.P., Kanpur | 2000-01 | Excess allowance of depreciation of Rs.131.73 lakh on vehicles | 50.72 | Reply not received |

(P)* denotes Potential tax

Appendix-16
(Referred to in para 3.34)

(Rs. in lakh)

| CASES OF OVER ASSESSMENT/OVERCHARGE | | | | | |
|--|--|----------------------------------|--------------------|---|--------------------|
| Sl. No. | Assessee company/ CIT charge | Assessment year | Type of assessment | Nature of mistake | Excess levy of tax |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 1 | M/s. Rajasthan State Electricity Board, Jaipur-II | 1995-96 | Scrutiny | Incorrect carry forward of unabsorbed depreciation | 27256.79 (P) |
| 2 | M/s Xylon Loquitor Distillers & Vintuers Ltd., Kolkata-II | Block period ending on 28.2.1996 | -do- | Mistake in calculation of undisclosed income totalling Rs.452.82 lakh | 312.45 |
| 3 | M/s Harsh-Vardhan chemicals & Minerals Ltd., Udaipur | 1991-92 | -do- | Incorrect levy of interest of Rs.189.99 lakh on account of delay in payment of tax demand . | 189.99 |
| 4 | M/s Rajasthan Lok Vikas Housing Finance Corporation Ltd., Jaipur-II | 1997-98 | -do- | Incorrect levy of interest of Rs.285.82 lakh instead of correct amount of Rs.185.92 lakh | 99.90 |
| 5 | M/s. Karnataka Breweries & Distilleries (P) Ltd., Central, Bangalore | 1998-99 | -do- | Short carry forward of loss of Rs.267.77 lakh | 93.72 |
| 6 | M/s Damanganga Pulp & Paper Pvt. Ltd. City-VI, Mumbai | 1997-98 | -do- | Long term capital gain was charged at 40% instead of 20% | 80.90 |
| 7 | M/s NEPC Textiles Ltd., Central-I, Chennai | 1999-2000 | -do- | Short computation of loss of Rs.190.40 lakh | 66.64(P) |
| 8 | M/s Great Metal Production (P) Ltd., Bhopal | 1999-2000 | Best Judgment | Excess levy of interest for default in payment of advance tax by Rs.50.56 lakh | 50.56 |

(P)* denotes Potential tax

Appendix-17

Chapter IV – Income Tax

(Referred to in para 4.6)

(Rs. in lakh)

| MISTAKES IN ADOPTION OF CORRECT FIGURES | | | | | | |
|---|---|-------------------|-----------------------------------|--------------------|---|------------|
| Sl. No. | Name of the assessee (status) | CIT charge | Assessment year | Type of assessment | Nature of mistake | Tax effect |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1. | Sh. Sumermall Kalyani (Ind) | Central I Kolkata | Block Period 1989-90 to 1999-2000 | Scrutiny | Adoption of incorrect figures | 35.18 |
| 2 | M/s Elite Optical Industries (Firm) | Chennai VII | 1981-82 | Best Judgment | Omission to consider refund already granted | 10.27 |
| 3 | Sh. Pradeep Kumar Bhat (Individual) | Cuttack | 2000-01 | Block assessment | Arithmetical error | 44.84 |
| 4 | M/s Sahara India (Firm) | Kanpur (Central) | 1992-93 | Scrutiny | Disallowed amount was deducted instead of being added to total income | 19.69 |
| 5 | M/s Jalna Sahakari Sakhar Karkhana Ltd. (Co-op Society) | Aurangabad-I | 1999-2000 | Best Judgement | Depreciation was allowed twice | 54.67 |

Appendix-18
(Referred to in para 4.8)

(Rs. in lakh)

| NON-LEVY OF SURCHARGE | | | | | | |
|-----------------------|---|------------------------|---|--------------------|---|------------|
| Sl. No. | Name of the assessee (status) | CIT charge | Assessment year | Type of assessment | Nature of mistake | Tax effect |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1 | M/s Premier Pack Prints and 5 others AOP/HUF/Firm/Individual | Bhubaneswar | 2000-01 | Block assessment | The assessing officer did not levy surcharge. | 11.62 |
| 2 | M/s Jyoti Transformer Group of cases (4 assesseees) (Individuals) | Sambalpur-I | 1-4-89 to 25-11-99 | ---do--- | ---do--- | 14.21 |
| 3 | Sh. Bijay Kumar Dhanuka & Raj Kumar Dhanuka (Individuals) | Central, Patna | 1990-91 to 1999-2000 and 1-4-99 to 22-9-99 | ---do--- | ---do--- | 21.65 |
| 4 | Sh. Anil Chopra (Individual) | Central, Delhi | 1-4-1989 to 27-7-1999 | ---do--- | ---do--- | 26.95 |
| 5 | Sunil Navlan, Sajjan Das Rehra, Surendre Kumar Riwami (Individuals) | Indore, Jabalpur | 1990-91 to 2000-01, 1-4-89 to 14-3-2000, 1-4-89 to 6-3-2000 | ---do--- | ---do--- | 20.17 |
| 6 | Puranchand K Sharma (Individual) | Central Circle, Baroda | 1990-91 to 2-8-99 | ---do--- | ---do--- | 17.19 |
| 7 | Shashikant R. Adeshra and 2 others (Individual) | Rajkot | 1-4-89 to 6-8-99 | ---do--- | ---do--- | 11.42 |
| 8 | Sh. Adarshvireer P Jain (Individual) | Mumbai-XIV | Block period 1989-2000 | ---do--- | ---do--- | 11.33 |
| 9 | Sh. Ganesh Dubey (Individual) | Central, Patna | 1989-90 to 1999-2000 | ---do--- | ---do--- | 23.78 |

| Sl. No. | Name of the assessee (status) | CIT charge | Assessment year | Type of assessment | Nature of mistake | Tax effect |
|---------|----------------------------------|----------------|----------------------|--------------------|-------------------|------------|
| 10 | Md. Sayeed (Individual) | Central, Patna | 1990-91 to 1999-2000 | ---do--- | ---do--- | 56.73 |
| 11 | Sh. Ramashish Kumar (Individual) | Jamshedpur | 1990-91 to 1999-2000 | ---do--- | ---do--- | 42.17 |
| 12 | Sh. K. Sampath (Individual) | Trichy-I | 1990-91 to 2000-01 | ---do--- | ---do--- | 16.08 |

Appendix-19

(Rs. in lakh)

INCORRECT COMPUTATION OF BUSINESS INCOME, IRREGULAR EXEMPTIONS AND EXCESS RELIEF GIVEN, INCORRECT ALLOWANCE OF LIABILITY, INCORRECT COMPUTATION OF CAPITAL GAINS, INCOME ESCAPING ASSESSMENT, DEDUCTION IN RESPECT OF NEWLY ESTABLISHED INDUSTRIAL UNDERTAKINGS, IRREGULAR DEDUCTION UNDER SPECIAL PROVISIONS, NON LEVY OF PENALTY AND OTHER TOPICS OF INTEREST

| Sl. No | Name of the assessee (Status) | CIT Charge | Assessment Year | Type of assessment | Nature of mistake | Tax effect |
|------------------|--|----------------|--------------------|--------------------|---|------------|
| Para 4.10 | | | | | | |
| 1 | M/s SE Rly Employees Co-op Society (Co-op Society) | Kolkata-V | 1995-96 | Scrutiny | Assessing officer did not restrict deduction to twenty thousand rupees. | 11.79 |
| 2 | M/s Rajmal Lakhichand (Regd Firm) | Nasik | 1997-98 | Summary | Assessing officer did not add back value of silver written off while processing the return in summary manner. | 60.49 |
| Para 4.11 | | | | | | |
| 3 | Sh.D S Batra (Individual) | Kanpur | 1988-89 to 1998-99 | Block assessment | The assessing officer treated borrowed loan as unexplained income but did not disallow interest on the same | 11.69 |
| 4 | M/s Uttar Gujarat Co-op Ru- Vechan Sangh (Co-op Society) | Gandhi nagar | 1993-94 | Scrutiny | Assessing officer incorrectly allowed deduction in respect of unpaid gratuity fund and provident fund. | 12.44 |
| 5 | M/s Saraswat Co-op Bank Ltd. (Co-op Society) | City I, Mumbai | 1999-2000 | Scrutiny | Interest income not derived from business of the society and not entitled to deduction was allowed incorrectly. | 80.63 |
| Para 4.13 | | | | | | |
| 6 | M/s Aero Club (Firm) | Delhi-IX | 1999-2000 | Scrutiny | Assessing officer allowed deduction in respect of contribution towards Provident fund and Employees State Insurance which was not actually deposited. | 15.73 |

| Sl. No | Name of the assessee (Status) | CIT Charge | Assessment Year | Type of assessment | Nature of mistake | Tax effect |
|------------------|--|-----------------------|-----------------|---|--|------------|
| Para 4.15 | | | | | | |
| 7 | Sh. Sultan Singh (HUF) | Faridabad | 1996-97 | Scrutiny | Relief from capital gains on purchase of new agricultural land out of sale consideration of old agricultural land was not applicable to HUF, but the assessing officer allowed the same. | 21.20 |
| 8 | M/s International Housing Complex (Firm) | Cochin | 1993-94 | Scrutiny | While working out short term capital gains, cost of transferred land was adopted by the assessing officer at a higher figure instead of the actual cost of acquisition of the transferred land. | 39.49 |
| 9 | Sh. Dhruv. N Shah (Individual) | New City XIII, Mumbai | 1996-97 | Scrutiny | Assessing officer incorrectly treated short term capital gain as compensation. | 16.64 |
| 10 | M/s Advantech, Faridabad (Firm) | Faridabad | 1997-98 | Scrutiny | There was composite sale of depreciable assets. Capital gains arising from sale of factory building should have been charged as short term capital gains which was not done. | 41.05 |
| 11 | Sh. Sarju Prasad Khandelwal (Individual) | City-XXI, Mumbai | 1998-99 | Mistake noticed from wealth tax records | The assessee had made investments in tax saving bonds after six months from the date of sale of land and hence was not entitled to exemption. Investments in US 64 of UTI was not eligible for exemption as it was not one of the securities specified by the Board. These investments were to be brought to tax. Assessing officer did not do so. | 12.00 |
| Para 4.17 | | | | | | |
| 12 | M/s Mayur Chemicals (Regd. Firm) | City XIII, Mumbai | 1997-98 | Scrutiny | Assessee did not offer amount received against auction of goods to tax. | 14.20 |

| Sl. No | Name of the assessee (Status) | CIT Charge | Assessment Year | Type of assessment | Nature of mistake | Tax effect |
|------------------|---|--------------|---------------------------------|--------------------|--|------------|
| 13 | Sh. K. Rajagopal (Indl) | Coimbatore I | 1996-97 | Summary | Assessee was the managing director of the company and had resigned. No exemption was available to him for the amount that had accrued in the super annuation fund. The amount was to be treated as business income of the assessee. The assessing officer failed to do so. | 16.21 |
| 14 | Sh. Ved Prakash (Individual) | Kanpur | 1998-99 | Scrutiny | Sales and consequently income were understated. | 10.60 |
| 15 | Sh. PK Central Mani (Individual) | Madurai-I | 1997-98 | Scrutiny | The assessee had taken coffee crops on lease. He had only a licence to dispose of crops on maturity. Profit realised on such lease was wrongly exempted as agricultural income. | 12.69 |
| Para 4.20 | | | | | | |
| 16 | M/s Hi-Breed International Sales & Services (Unregistered Firm) | Kolkata-I | 1996-97 | Scrutiny | Though poultry farming is not an industrial undertaking, the assessing officer allowed deduction. | 13.60 |
| Para 4.21 | | | | | | |
| 17 | M/s Contech Software Corporation (Regd. Firm) | Gandhi nagar | 1997-98 | Scrutiny | Assessing officer allowed deduction even though conditions for granting exemption were not satisfied. | 14.10 |
| Para 4.23 | | | | | | |
| 18 | Sh. Suneel Kumar Navlani (Individual) | Indore-I | Block Period 1990-91 to 2000-01 | Block assessment | Assessing officer did not levy penalty even though the assessee had made payment of loans of Rs. 16.90 lakh otherwise than by account payee cheque or bank draft. | 16.90 (P) |

| Sl. No | Name of the assessee (Status) | CIT Charge | Assessment Year | Type of assessment | Nature of mistake | Tax effect |
|------------------|-------------------------------|-------------|--------------------|--------------------|---|------------|
| Para 4.24 | | | | | | |
| 19 | Smt. C Jayasree (Individual) | Hyderabad I | 1987-88 to 1997-98 | Block assessment | Assessee did not pay tax demand within the stipulated period of one month from the date of notice. Assessing officer did not levy interest for default in payment. | 13.09 |
| 20 | M/s Kothari & Sons (Firm) | Chennai-X | 1995-96 | Scrutiny | Assessee did not deduct tax at source from payment of interest. Failure to deduct tax at source attracted levy of interest of Rs. 24.58 lakh, which the assessing officer failed to levy. | 24.58 |

Appendix-20
(Referred to in para 4.19)

(Rs. in lakh)

| INCORRECT ALLOWANCE OF DEDUCTION IN RESPECT OF EXPORT PROFITS | | | | | | |
|--|---|---------------------|------------------------|---------------------------|--|-------------------|
| Sl. No | Name of the assessee (status) | CIT charge | Assessment Year | Type of assessment | Nature of mistake | Tax effect |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1. | M/s Punjab State Co-op Supply & Marketing Federation Ltd. (Co-op Society) | Chandigarh | 1998-99 | Summary | Assessing officer allowed deduction on the basis of individual turnover of the two exporting units instead of the total turnover of all the units. | 12.07 |
| 2. | M/s National Pen & Plastic Industries. (Firm) | Central III, Mumbai | 1998-99 | Scrutiny | Assessee did not receive export sale proceeds of Rs.39.66 lakh in convertible foreign exchange within six months from the end of the previous year. | 22.35 |
| 3 | M/s Jyoti Apparels (Firm) | Delhi VIII | 1999-2000 | Scrutiny | Assessee did not receive foreign exchange remittance within six months from the end of the previous year. | 12.81 |
| 4 | Sh. Ashok K Shah (Individual) | City XIX Mumbai | 1996-97 | Scrutiny | Assessing officer allowed deduction of service charges received from foreign principals in India on the basis of sales made to various clients in India which was not in order as these were earned from services rendered in India. | 10.33 |
| 5 | M/s Baby Marine Exports (Firm) | Trivandrum | 1992-93 | Scrutiny | For arriving at the export turnover, assessing officer took 'Free on Board' value at Rs. 22.45 crore instead of Rs.17.07 crore. and allowed excess deduction. | 15.79 |

Appendix-21
(Referred to in para 4.22)

(Rs. in lakh)

| SHORT/NON-LEVY OF INTEREST | | | | | | |
|----------------------------|--|--------------------|---|-------------------------|---|------------|
| Sl. No. | Name of the assessee (status) | CIT charge | Assessment Year | Type of assessment | Nature of mistake | Tax effect |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1 | Sh.Manak Chand Agarwal (Individual) | Ajmer | 1994-95 | Scrutiny | Non levy of interest for delay in filing return of income | 17.26 |
| 2 | M/s United Mercantile Bank Ltd. (Co-op Society) | Baroda-II | 1990-91 to 1991-92 and 1993-94 to 1995-96 | Scrutiny/ Reopened | Short levy of interest for delay in filing return. | 30.30 |
| 3. | Sh. Bharat Bhai B Soni (Individual) | Ahmedabad-III | 1994-95 | Reopened/ Best judgment | Non levy of interest for delay in filing return of income | 16.89 |
| 4 | Sh. Somabhai S.Patel (Individual) | Central, Ahmedabad | Block Period 1-4-1989 to 21-12-1999 | Block assessment | Short levy of interest for delay in filing return. | 43.94 |
| 5 | M/s The Mehsana Nagrik Sahkari Bank Ltd.(Co-op Bank) | Gandhinagar | 1991-92 to 1994-95 | Reopened/ Scrutiny | Short levy of interest for delay in filing return. | 24.67 |
| 6 | Sh. Rishabkumar G. Jain (Individual) | Central, Ahmedabad | Block Period 1-4-89 to 22-6-1999 | Block assessment | Short levy of interest for delay in filing return. | 17.52 |
| 7 | M/s The Kalol Nagrik Sahkari Bank Ltd. (Co-op Society) | Gandhinagar | 1991-92 to 1993-94& 1998-99 to 1999-2000 | Block assessment | Non levy of interest for delay in filing return of income | 33.79 |
| 8 | Sh. Mahendra Meghgibhai Bhanushali (Individual) | Central, Ahmedabad | 1989-90 to 30-6-98 | ---do--- | Short levy of interest for delay in filing return. | 12.56 |
| 9 | Sh. Amul U Acharya(Individual) | Mumbai-XXV | Block Year 1987 to 1997 | ---do--- | Short levy of interest for delay in filing return. | 10.28 |

| Sl. No. | Name of the assessee (status) | CIT charge | Assessment Year | Type of assessment | Nature of mistake | Tax effect |
|---------|---|-------------------|--------------------|--------------------|--|------------|
| 10 | M/s Dahod Mercantile Bank Ltd. (Co-op Society) | Baroda | 1993-94 | Reopened/ Scrutiny | Short levy of interest for delay in filing return. | 13.23 |
| 11 | Sh. Md. Nafish Ansari (Individual) | Central, Patna | 1989-90 to 1998-99 | Block assessment | Short levy of interest for delay in filing return. | 10.68 |
| 12 | M/s Sapna Jaiswal & Stephen Joseph Charity Estate (AOP) | Jabalpur-I | 1993-94 & 1996-97 | Scrutiny | Short levy of interest for delay in filing return. | 18.50 |
| 13. | M/s Davood & Company (RF) | Central, Mumbai | 1988-89 | Scrutiny | The assessing officer levied interest for default in payment of advance tax for 34 months only instead of 155 months. | 57.73 |
| 14. | Sh. Sadruddin H Daya (Individual) | Central I, Mumbai | 1988-89 | Scrutiny | Assessing officer levied interest for default in payment of advance tax for 32 months only instead of 155 months. | 70.24 |
| 15. | M/s Sadhu Singh Hamdard Trust (AOP) | Jalandhar | 1998-99 | Scrutiny | Assessing Officer had mentioned in the assessment order that interest was to be charged, but while working out the demand had not levied interest. | 64.87 |
| 16. | Vishal Gupta (Individual) | Karnal | 1997-98 | Scrutiny | Interest leviable was Rs.10.67 lakh. Assessing officer levied only Rs.0.40 lakh. | 10.27 |

| Sl. No. | Name of the assessee (status) | CIT charge | Assessment Year | Type of assessment | Nature of mistake | Tax effect |
|---------|---|----------------|----------------------------|--------------------|--|------------|
| 17. | Sh.Mahakali SSK Ltd.,M/s Vasant Dada SSK Ltd.,and M/s Hutatma Kisan Ahir SSK Ltd. (Co-op Societies) | Kolhapur | 1999-2000 | Scrutiny | Assessing officer levied interest of Rs. 756.58 lakh as against Rs. 798.40 lakh leviable | 41.82 |
| 18. | Sh.Puran Chand (Individual) | Central, Patna | 1995-96 & 1996-97 | Scrutiny | Assessing officer computed interest for short payment of advance tax on the income returned by the assessee instead of on the income assessed in regular assessment. | 14.13 |
| 19. | Sh.LD Gera (HUF) | Central, Delhi | 1999-2000 | Scrutiny | Assessing officer worked out interest at Rs.17.26 lakh as against Rs.27.47 lakh leviable. | 10.20 |
| 20. | Sh. Santhanam S. Rao (Individual) | City II, Pune | 1991-92 and 1994-95 | Scrutiny | Total tax payable by the assessee including interest worked out to Rs. 51.65 lakh against which the assessing officer levied only Rs. 37.90 lakh. | 13.75 |
| 21. | M/s Bombay Estate Agency (Regd. Firm) | Vadodara III | 1991-92, 1993-94 & 1994-95 | 143 (3)/ 147 | Interest for delay in filing return and payment of advance tax worked out to Rs. 36.44 lakh against which assessing officer levied only Rs.2.43 lakh. | 34.01 |

| Sl. No. | Name of the assessee (status) | CIT charge | Assessment Year | Type of assessment | Nature of mistake | Tax effect |
|----------------|--------------------------------------|-------------------|------------------------|---------------------------|--|-------------------|
| 22. | Sh. Ravindra S Bhovate (Individual) | Vadodara III | 1990-91 to 1998-99 | 144/147 | Assessing officer incorrectly computed interest for late filing of return and default in payment of advance tax. | 10.18 |

Appendix-22
(Referred to in para 4.25)

| SUMMARY ASSESSMENTS MADE FROM JUNE 1999 ONWARDS | | | | | | |
|---|---|----------------|--------------------------|--|--------------------|--|
| S. No. | Name of the assessee | CIT charge | Assessment year | Nature of mistake | Tax effect | Reaction of the department |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1 | M/s Birla Tyres (AOP) | West Bengal IV | 2000-01 | Incorrect allowance of provisions | 3.19+ 13.06 (P) | Reply not received. |
| 2 | M/s Kopila Engineering Co. (Firm) | West Bengal-XI | 2000-01 | Credit for TDS allowed in excess | 34.90 | Reply not received |
| 3 | M/s Indian Officers Association (Trust) | Chennai-I | 2001-02 | Amount not utilized for charitable purposes were not brought to tax. | 12.86 | Accepted and notice issued to the assessee. |
| 4 | M/s Maity & Co (Firm) | Kolkata-XI | 2000-01 | Receipt was not fully brought to tax | 57.47 | Reply not received |
| 5 | Rajeev KG (Individual) | Bangalore II | 1998-99 and 1999-2000 | Excess carry forward of loss | 16.62 (P) | Department rectified the assessments |
| 6 | Karnataka State Co-op Apex Ltd. (Co-op Society) | Bangalore II | 2000-01 | Excess refund allowed. | 11.26 | Department accepted the objection and took remedial action . |

* (P) denotes potential tax effect

Appendix-23
(Referred to in para 4.26)

(Rs.in lakh)

| OVER ASSESSMENT OF INCOME AND TAX | | | | | | |
|--|--|-------------------|---|---------------------------|--------------------------|-------------------|
| Sl. No | Name of the assessee (status) | CIT charge | Assessment Year | Type of assessment | Nature of mistake | Tax effect |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1. | M/s Soni Alankar Complex (Individual) | Central, Patna | 1988-89 to 97-98 and 1-4-98 to 16-7-98 | Block assessment | Overcharge of interest | 13.08 |
| 2. | M/s Troika Distributors & five others (3 companies & 3 firms) | Central Ahmedabad | 1-4-1989 to 15-10-1999 | Block assessment | Excess levy of surcharge | 11.77 |
| 3 | Sh. Pramod Kumar (Individual) | Central, Patna | Block Period 1988-89 to 1997-98 and 1-4-98 to 16-7-98 | Block assessment | Overcharge of interest | 15.71 |
| 4 | Sh. Sarat Ch. Bharali Sh. Mehlab Hussain and Dr. Enmul Haque (Individuals) | Jorhat | 1989-90, 1990-91 and 1993-94 | Block assessment | Overcharge of interest | 40.87 |
| 5 | Textiles Traders Co-op Bank Ltd. (CO-op Society) | Ahmedabad II | 1995-96 | 143 (3)/ 147 | Excess levy of interest | 11.48 |
| 6 | Sh. Ram Milan Pandey (Individual) | Faizabad | 1998-99 | Scrutiny | Excess levy of interest. | 10.21 |

Appendix-24

Chapter V – Other Direct Taxes

(Rs. in lakh)

WEALTH ESCAPING ASSESSMENT

| Sl. No | Name of assessee / Status | CIT charge | Assessment Year | Wealth escaping assessment | Value of the property | Tax effect |
|-----------------|--|-------------------------|---------------------------------|-----------------------------------|-----------------------|------------|
| Para 5.6 | | | | | | |
| 1 | M/s A B P Ltd Company | West Bengal III Kolkata | 1997-98 | Rented immovable properties | 1816.12 | 18.82 |
| 2 | M/s Tamil Nadu Newsprint and Papers Ltd. Company | Chennai I | 2000-01 | Rented office building | 800.04 | 8.01 |
| Para 5.8 | | | | | | |
| 3 | M/s Punalur Paper Mills Company | Thiruvananthapuram | 1997-98 1998-99 | Rented buildings | 879.06 | 19.90 |
| 4 | Smt Manjula J Choksi Individual | City XXI Mumbai | 1997-98 1998-99 | Rented commercial properties | 887.72 | 16.95 |
| 5 | M/S Dewan Housing Finance Corporation Company | Central III Mumbai | 1998-99 | Leasehold land and Motor vehicles | 1623.93 | 16.24 |
| 6 | M/s Satyam Realtors (P) Ltd. Company | Central III Mumbai | 2000-01 | Rented commercial property | 701.25 | 13.25 |
| 7 | M/s Kancast Pvt Ltd. Company | City V Pune | 1999-2000 2000-01 2001-02 | Open land | 336.75 | 12.64 |
| 8 | M/s Anand Estate (P) Ltd. Company | City V Mumbai | 1997-98 1998-99 | Rented house property | 642.01 | 12.01 |
| 9 | M/s Samrudhi Savings & Investment (I) Ltd. Company | City II Mumbai | 1997-98 | Urban land and Motor vehicles | 1072.12 | 10.57 |
| 10 | M/s Dalal Mckenna (P) Ltd. Company | City V Mumbai | 1997-98 1998-99 | Rented commercial properties | 474.74 | 8.67 |
| 11 | M/s Canara Land Investments Ltd Company | Mangalore | 1997-98 1998-99 | Rented commercial properties | 553.47 | 8.27 |
| 12 | M/s Rama Associates Ltd Company | Delhi V | 1998-99 | Rented house properties | 412.72 | 6.96 |
| 13 | Shri Gulu M Jhangiani Individual | City XVIII Mumbai | 1997-98 1998-99 | Rented commercial properties | 392.01 | 6.65 |
| 14 | M/s M B Commercial Co. Ltd Company | West Bengal IV Kolkata | 1997-98 1998-99 | Rented house properties | 628.23 | 6.28 |
| 15 | M/s Sunder Enterprises Pvt Ltd | West Bengal III Kolkata | 1997-98 1998-99 | Rented house property | 439.83 | 6.12 |

| Sl. No | Name of assessee / Status | CIT charge | Assessment Year | Wealth escaping assessment | Value of the property | Tax effect |
|--------|--|--|--------------------|--|-----------------------|------------|
| 16 | M/s Annamalai Finance Ltd Company | Coimbatore I | 1999-2000 | Motor cars | 580.19 | 5.65 |
| 17 | M/s Jagraj Properties (P) Ltd. Company | Bangalore I | 1997-98 | Rented house properties | 339-38 | 5.64 |
| 18 | M/s Revathi Tobacco Co. (P) Ltd. Company | Presently Hyderabad II Erstwhile Central, Bangalore | 1997-98 1998-99 | Rented residential and commercial properties | 310.30 | 5.63 |

Appendix-25

(Rs. in lakh)

INTEREST ESCAPING ASSESSMENT

| Sl.No | Name of assessee / Status | CIT charge | Assessment Year | Interest escaping assessment | Value of the property | Tax effect |
|------------------|--|--------------------------|----------------------|--|-----------------------|------------|
| Para 5.16 | | | | | | |
| 1 | M/s Ispat Finance Ltd, Company | West Bengal I Kolkata | 1998-99 | Bill discounting charges | 547.20 | 17.74 |
| 2 | M/s.ABN Amro Bank N.V Banking company | West Bengal-III Kolkata | 1998-99 1999-2000 | Interest on debentures | 614.52 | 12.29 |
| 3 | M/s IndusInd Bank Ltd Company | City II Mumbai (New) | 1998-99 | Interest tax incorrectly deducted from chargeable interest. | 563.79 | 11.28 |
| Para 5.18 | | | | | | |
| 4 | M/s India Securities Ltd Company | City V Mumbai | 1999-2000 | Income from hire purchase transactions and bill discounting charges. | 901.36 | 40.74 |
| 5 | M/s Modi Zerox Financial Services Ltd. Company | Central I Delhi | 1998-99 | Income from hire purchase charges. | 812.95 | 34.06 |
| 6 | M/s P S B Finance Investment Pvt Ltd. Company | Delhi V | 1998-99 | Income from interest and hire purchase charges. | 581.18 | 19.44 |
| 7 | M/s Sanchayani Savings & Investment (I) Ltd. Company | West Bengal III, Kolkata | 1998-99 | Interest on bonds, loans and advances. | 135.23 | 5.14 |

Appendix-26

(Rs. in lakh)

| NON/SHORT LEVY OR EXCESS PAYMENT OF INTEREST AND OTHER IRREGULARITIES | | | | | |
|---|--|---------------------|----------------------|---|------------|
| Sl.No | Name of assessee / Status | CIT charge | Assessment Year | Nature of mistake | Tax effect |
| Para 5.17 | | | | | |
| 1 | M/s UTI Bank Ltd Company | Gujarat I Ahmedabad | 1998-99 | The assessing officer incorrectly worked out interest tax at Rs.264.57 lakh instead of Rs.269.86 lakh.. | 5.29 |
| Para 5.19 | | | | | |
| 2 | M/s The Federal Bank Ltd Banking Company | Cochin | 1996-97 | The assessing officer allowed interest of Rs.19.12 lakh on refund though the amount of refund was less than 10 percent of tax determined on revision. | 19.12 |
| 3 | M/s Uttar Pradesh Finance Corporation Company | Kanpur | 1997-98 | Interest on refund was incorrectly allowed for 17 months delay on part of the assessee in furnishing reply to the notice issued by the department. | 9.64 |
| 4 | M/s State Bank of Travancore Banking Company | Thiruvananthapuram | 2000-01 | The assessing officer allowed interest of Rs.8.60 lakh on refund though the amount of refund was less than 10 percent of tax determined on revision. | 8.60 |
| Para 5.20 | | | | | |
| 5 | M/s Dewan Housing Finance Corporation Ltd. Company | City II, Mumbai | 1999-2000 2000-01 | The assessing officer incorrectly levied interest at 1.5 percent instead of two percent for default in payment of advance interest tax. | 22.44 |
| 6 | M/s Upasana Finance Ltd. Company | Chennai I | 1999-2000 | Assessee was in default for short payment of advance interest tax but assessing officer had not levied interest therefor. | 12.21 |



