Report of the Comptroller and Auditor General of India

for the year ended March 2009

UNION GOVERNMENT
(DIRECT TAXES)
NO. 4 OF 2009-10

Laid on the table of Lok Sabha/Rajya Sabha on ____________

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PREFACE

This report for the year ended March 2009 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, etc., and is arranged in the following order: -

(i) Chapter I: on tax administration

(ii) Chapter II: on audit impact of direct taxes and mentions the results thereof;

(iii) Chapter III: on our findings on assessments of corporate tax;

(iv) Chapter IV: highlighted the results of the test check of income tax assessments in Part A and wealth tax assessments in Part B

The cases included in this report are the results of audit conducted during 2008-09 and in earlier years which could not be covered in the previous reports.

OVERVIEW

CHAPTER I: TAX ADMINISTRATION

Direct taxes collections increased from Rs. 2,30,181 crore in 2006-07 to Rs. 3,33,818 crore in 2008-09 at an average annual rate of growth of 27.3 *per cent.* Global recession and economic slowdown in 2008-09 had an impact on actual collections which were lower (by 8.5 *per cent*) than the budget estimates.

Tax-Gross Domestic Product (GDP) ratio in 2008-09 also reduced from 6.6 *per cent* in 2007-08 to 6.3 *per cent* in 2008-09. For every unit growth in GDP, direct taxes grew by 0.6 *per cent* only in 2008-09 reversing the trend of buoyancy in excess of one in earlier years. The deceleration in tax collection was thus sharper than that of GDP.

The taxpayer base grew over the last five years from 271.8 lakh taxpayers in 2004-05 to 326.5 lakh taxpayers in 2008-09. However, in 2008-09, the total number of direct tax assessees declined by 3.0 *per cent* as compared to an increase by 7.6 *per cent* in 2007-08. The decline was sharper among corporate assessees. Inability to retain the existing tax base was a matter of concern.

84 *per cent* of gross collections in 2008-09 were by way of voluntary compliance by assessees (pre-assessment stage), moving towards international principles of tax administration. 65 *per cent* of the demand raised in the year was collected in 2008-09, registering a decline from 74 *per cent* achieved in 2007-08.

The department achieved greater efficiency in completion of scrutiny assessment cases, bringing down pendency from 54 *per cent* in 2006-07 to 44 *per cent* in 2008-09.

Cost of collection rose from 0.6 *per cent* in 2007-08 to 0.7 *per cent* in 2008-09 because of deceleration in tax collection and increase in establishment cost.

84 *per cent* of the targeted audits were completed by Internal Audit. Mistakes detected in the assessments previously checked in Internal Audit indicate a need for improvement in the quality of Internal Audit. Departmental response to Internal Audit was clearly inadequate.

CHAPTER II: AUDIT IMPACT

In the last five years, Government introduced six legislative amendments to correct the anomalies pointed out by us. This included two amendments to Section 80-IA of the Income Tax Act, 1961, in the Finance Act 2009.

The department recovered Rs. 165.2 crore in 2008-09 on the basis of our findings.

We referred 342 cases with a tax effect of Rs. 1734.3 crore to the Ministry of Finance of comments. Delayed departmental response to our findings in the interest of protecting revenue, is an area of concern.

Our analysis shows that incidence of errors in scrutiny assessments completed in 2007-08 was 6.7 *per cent*. Tax effect of the erroneous demands, was Rs. 7,450.3 crore, which would impact the total tax demand raised by the department by 14 *per cent*.

CHAPTER III: CORPORATE TAX

We referred 247 cases involving revenue impact of Rs. 1,642.4 crore to the Ministry for comments.

The Ministry has accepted our findings in 101 cases. Of these, the Department has completed remedial action in 49 cases involving tax effect of Rs. 679.4 crore and initiated remedial action in 15 other cases involving tax effect of Rs. 83.2 crore. The errors in most of the assessments were committed despite clear provisions in the Act. 66 *per cent* of the errors occurred while granting ineligible concessions; 16 *per cent* were arithmetical errors. 12 cases which involve ambiguity in the provisions highlight the need for clarification through departmental instructions.

CHAPTER IV:

PART A – INCOME TAX

The Chapter includes 73 cases involving tax effect of Rs. 90 crore. The Ministry has accepted our findings on 34 cases and of these the Department has initiated/completed remedial action in 21 cases involving tax effect of Rs. 53.7 crore. 42 *per cent* of the errors were due to incorrect carry forward and set off of losses and 14 *per cent* on account of mistakes in computation of business income.

PART B – WEALTH TAX

The Chapter includes 14 cases involving revenue impact of Rs. 1.6 crore. Tax aggregating to Rs. 73.6 lakh was not levied because wealth tax assessment was not correlated with the income tax assessment.

The Ministry has accepted our findings in nine cases involving aggregate revenue impact of Rs. 80.5 lakh. Of these, the Department has initiated/completed remedial action in eight cases involving tax effect of Rs. 0.3 crore.

CHAPTER I

TAX ADMINISTRATION

Chapter Summary

- Direct taxes collections increased from Rs. 2,30,181 crore in 2006-07 to Rs. 3,33,818 crore in 2008-09 at an average annual rate of growth of 27.3 *per cent.*

(Paragraph 1.3)

- For every unit growth in GDP, direct taxes grew by 0.6 *per cent* only in 2008-09 reversing the trend of buoyancy in excess of one in earlier years. The deceleration in tax collection was thus sharper than that of GDP.

(Paragraph 1.3.1)

- The total number of direct tax assessees declined by 3 *per cent* in 2008-09 as compared to an increase by 7.6 *per cent* in 2007-08, with the decline being sharper for corporate assessees. Inability to retain the existing tax base was a matter of concern.

(Paragraph 1.4)

- 84 *per cent* of the collections came in by way of voluntary compliance, thus moving towards international practice of greater reliance on self-assessment in tax administration.

(Paragraph 1.6)

- The department achieved greater efficiency in completion of scrutiny assessments cases, bringing down pendency from 54 *per cent* in 2006-07 to 44 *per cent* in 2008-09.

(Paragraph 1.7)

- Cost of collection rose from 0.6 *per cent* in 2007-08 to 0.7 *per cent* in 2008-09 because of deceleration in tax collection and increase in establishment cost.

(Paragraph 1.10)

- 84 *per cent* of the targeted audits were completed by Internal Audit. Mistakes detected in the assessments previously checked in Internal Audit indicate a need for improvement in the quality of Internal Audit. Departmental response to Internal Audit was clearly inadequate.

(Paragraph 1.13)

CHAPTER I

TAX ADMINISTRATION

1.1 INTRODUCTION

Direct taxes levied by Parliament mainly comprise:

- **Corporation tax** on companies which constitutes 64 *per cent*[1] of direct tax collection. The corporates also pay **wealth tax** on the assets owned by them. In addition, tax is payable on **capital gains** made on the sale of assets.

- **Personal Income tax** which is required to be paid if the income level reaches above Rs. 1.50 lakh[2].

1.1.1 Other direct taxes include **Fringe Benefit tax**[3] and **Securities Transactions Tax**[4].

1.2 The organizational structure of the Income-tax Department is at Appendix-1. Table 1.1 provides a snapshot of tax administration.

Table 1.1: Tax Administration

1. Collection[5] (Rs. in crore)	2006-07	2007-08	2008-09
i) Corporation Tax	1,74,935	2,23,941	2,42,304
ii) Income Tax	81,697	1,12,910	1,16,225
iii) Other Taxes	10,784	16,647	14,386
iv) Total Gross Collection	2,67,416	3,53,498	3,72,915
v) Refunds	37,235	41,285	39,097
vi) Net Collection	2,30,181	3,12,213	3,33,818
Refunds as % of gross collection	14	12	10
Tax-GDP Ratio	5.6	6.6	6.3
Buoyancy[6]	2.6	2.5	0.6
2. Assessee profile[7] (No. in lakh)			
i) Non-corporate assessees	308.9	331.7	323.2
ii) Corporate assessees	4.0	4.9	3.3
Total	**312.9**	**336.6**	**326.5**

[1] for the financial year 2008-09

[2] The base above which income tax is payable is revised from time to time. It is Rs. 1.5 lakh for the assessment year 2009-10

[3] Tax on the value of certain benefits offered by the employers to their employees. Fringe Benefit Tax will be abolished from the assessment year 2010-11 onwards.

[4] Tax on the value of taxable securities purchased and sold through a recognized stock exchange in India

[5] Source: Tax collection figures – Pr. CCA, CBDT, New Delhi.
GDP – CSO, Press release dated 29 May 2009.

[6] Tax buoyancy is measured by the ratio of percentage change in tax revenues to percentage change in GDP

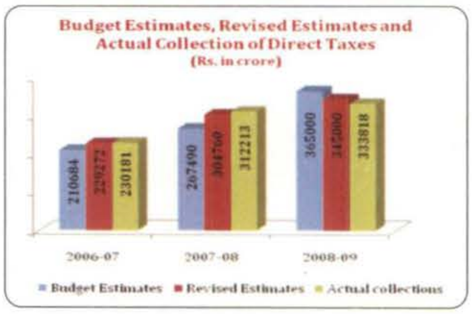
[7] Source : Directorate of Income Tax (Legal & Research), Research & Statistics Wing

3. Filing gap[8]			
i) No. of PAN card holders[9]	519.5	648.5	807.9
ii) No. filing returns	313.0	336.6	326.5
iii) Filing gap	206.5	311.9	481.4
4. Stages of collection (Rs. in crore)			
Pre-assessment			
i) Tax deducted at source	70,689	1,04,741	1,28,230
ii) Advance tax	1,21,227	1,58,120	1,43,332
iii) Self assessment tax	13,825	21,125	30,779
Total pre-assessment collection	**2,05,741**	**2,83,986**	**3,02,341**
Post-assessment collection			
Regular assessment	30,396	25,720	21,337
Other receipts	20,495	27,145	34,851
Total post-assessment collection	**50,891**	**52,865**	**56,188**
Pre-assessment as % of total gross collection(minus Wealth tax)	80.2	84.3	84.3
5. Position of scrutiny assessments (Number)	**2006-07**	**2007-08**	**2008-09**
i) Assessments due for disposal	5,27,005	9,97,813	9,53,767
ii) Assessments completed (%)	2,41,983 (45.9)	4,07,239 (40.8)	5,38,505 (56.5)
iii) No. of officers deployed for assessment duty	3954	3218	3106
6. Efficiency of collection[10] (Rs. in crore)			
i) Demand of earlier year's pending collection	86,203	86,859	93,344
ii) Current year's pending demand	31,167	37,415	1,07,932
Total	**1,17,370**	**1,24,274**	**2,01,276**
Actual collection	2,30,181	3,12,213	3,33,818
7. Tax Recovery Officers			
i) Total certified demand (Rs. in crore)	**35,225.26**	**36,057.56**	**31,496.82**
ii) Certified demand recovered (%)	8,521.40 (24.2)	8,612.62. (23.9)	4,035.80 (12.8)
iii) Certified Demand pending (%)	26,703.86 (75.8)	27,444.94 (76.1)	27,461.02 (87.2)
8. Cost of collection (Rs. in crore)			
i) Total direct tax collection	2,30,181	3,12,213	3,33,818
ii) Total cost of collection (%)	1,343 (0.6)	1,713 (0.6)	2,268 (0.7)

1.3 GROWTH IN COLLECTION

There has been a robust growth in collection of direct taxes in the last three years, as it increased from Rs. 2,30,181 crore in 2006-07 to Rs. 3,33,818 crore[11] in 2008-09 at an average annual rate of growth of 27.3 *per cent*. Global

Chart 1.1: Growth in collection

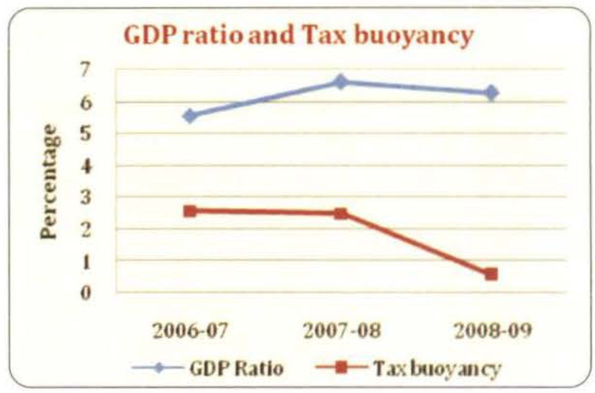


[8] Every individual or Hindu undivided family or an association of person or body of individuals, if their total income exceeded Rs. 1,50,000 for the assessment year 2009-10 shall furnish the return of their income. In case of every company or firm shall furnish return of income or loss for every previous year.
[9] Source: Directorate of Income Tax (Systems), New Delhi
[10] Source: CAPI Demand & Collection Statement along with Analysis for the month of March 2009
[11] Head wise/State/UT wise break up of direct tax collection is given in Appendix-2

recession and economic slowdown in 2008-09 had an impact on actual collections which were lower (by 8.5 *per cent*) than the budget estimates. This bucked the trend in earlier years (2006-08) when the collections exceeded the budget projections (Chart 1.1).

1.3.1 TAX-GDP-RATIO AND TAX BUOYANCY

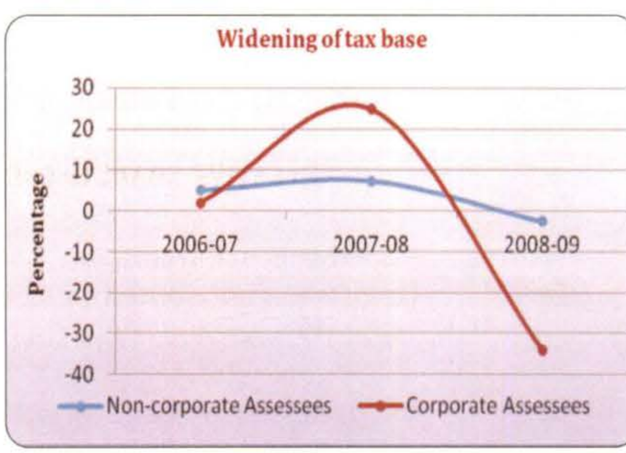
Chart 1.2: GDP ratio and Tax buoyancy



Tax-Gross Domestic Product (GDP) ratio in 2008-09 also reduced from 6.6 *per cent* in 2007-08 to 6.3 *per cent* in 2008-09. For every unit growth in GDP, direct taxes grew by 0.6 *per cent* only in 2008-09 (Chart 1.2) reversing the trend of buoyancy[12] in excess of one in earlier years. The deceleration in tax collection was thus sharper than that of GDP.

1.4 WIDENING OF TAX BASE

Chart 1.3: Widening of tax base



The taxpayer base grew over the last five years from 271.8 lakh taxpayers in 2004-05 to 326.5 lakh taxpayers in 2008-09 at the rate of 20.2 *per cent.* But, in 2008-09, the number of assessees declined by 3.0 *per cent* as compared to an increase by 7.6 *per cent* in 2007-08. The decline was sharper among corporate assessees (Chart 1.3), indicating, *inter alia,* stop-filing, which would need to be reviewed by the Board.

The decline was at variance from the accepted notion that simple tax laws and lower tax rates promote better tax compliance. It is a matter of concern that the Department which is otherwise aiming towards widening the tax base had not managed to retain the existing tax base. Evidently, the department is not utilizing the mechanisms available to widen the tax base. These include inspection and survey, information sharing with other tax departments and third party

[12] Buoyancy is measured by the ratio of percentage change in tax revenues to percentage change in GDP.

information available in annual information return. Automation also facilitates greater cross linking[13].

1.4.1 FILING GAP

Filing Rate and Non-Filing Rate[14], being assessed in modern tax administrations, has not yet been done in India.

The Permanent Account Number (PAN) allotted[15] to a taxpayer, is the unique identification number that helps track individual tax compliance. There were 807.9 lakh PAN cardholders as on 31 March 2009, of whom only 326.5 lakh assessees had filed their return of income relevant to the financial year 2008-09. This gap of 481.4 lakh assessees was considerably higher than the corresponding figure (by 10 lakh assessees) in 2007-08. The Board should identify the reasons for large-scale stop-filing or non-filing.

1.4.2 There were 7.5 lakh working[16] companies in the country registered with Registrar of Companies (ROC) as on 31 March 2009. However, the corporate assessees on the Income-tax department's records are only 3.3 lakh, leaving an un-reconciled list of 4.2 lakh companies. The Ministry intimated (January 2009) that this gap could be because the "non-filers" had not started their business or because they did not have any income during the said period. It added that the Board would be advised to reconcile the discrepancy for accurate assessment of the filing gap.

1.4.3 RELATIVE SHARE IN COLLECTION

The three major States (Chart 1.4) of Maharashtra, Karnataka and Delhi had contributed more than 3/4th of total direct tax collection in 2008-09; in 2007-08, their contribution was 2/3rd of the total collection. The increase in their relative share was because of robust buoyancy in tax collection (9.2 *per cent*) recorded in Karnataka. On the other hand, Delhi registered 23 *per cent* decline in collection in 2008-09 over the previous year.

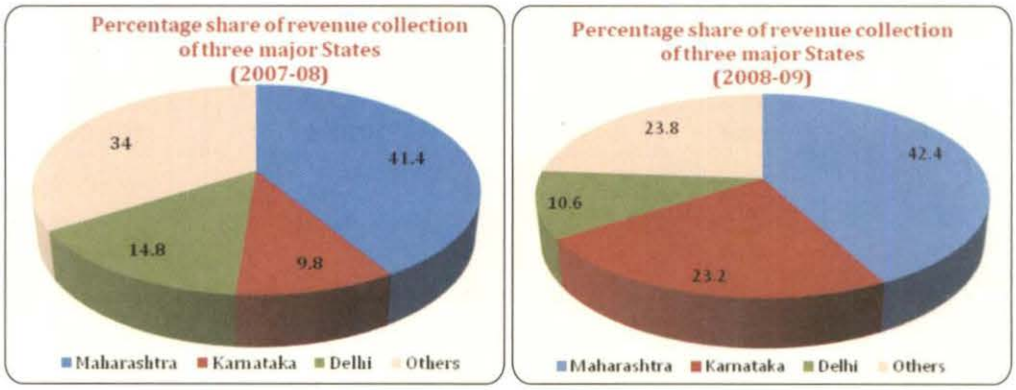
[13] Information about non-filers of TDS returns from e-TDS, Annual comparative figures of TDS deposited by big corporate & non-corporate deductors, Linking TAN data in order to ensure better compliance from them, linking tax returns with the PAN data base and linking return submitted by deductors on TDS deductions with the returns of the deductee.

[14] defined as the percentage of the taxpayer population with a filing requirement that filed timely returns and the amount of unpaid taxes due from delinquent and non-filed returns respectively.

[15] PAN is issued by the department, but the front-end of the process has been outsourced to UTI Technology Services Ltd. (UTITSL) and the National Securities Depository Ltd. (NSDL) with effect from 1 July 2003.

[16] Out of a total of 7.8 lakh companies, 0.3 lakh were reported to have gone into liquidation, leaving a balance of 7.5 lakh working companies

Chart 1.4: Relative-share in collection



Growth in collection was unevenly spread across the country. Only 7 states[17] have had positive growth in tax collection in 2008-09 vis-a-vis 2007-08. Karnataka and West Bengal (details in Appendix-2A) had a growth of more than 100 *per cent* as compared to that of the previous year. The reason(s) for growth of more than 100 *per cent* in respect of these two states needs to be examined since it could well be due to change in the accounting methodology. The issue is especially significant in view of the negative growth in Direct Taxes collections in the other states during the same period.

1.5 EFFECTIVE RATE OF TAXATION

The effective tax rate for companies[18] was 22.2 *per cent* in 2007-08[19] which was substantially lower than the statutory tax rate of 33.9 *per cent*. 190 companies with profits before taxes (PBT) of Rs. 500 crore and above accounted for 54.9 *per cent* of the total PBT and 54 *per cent* of the total corporate tax payable. However, their effective tax rate was only 21.9 *per cent* while the effective tax rate was 24.1 *per cent* for companies having PBT of upto Rs. one crore. This shows that tax concessions are being availed of mainly by large companies.

The effective tax rate of public sector companies (PSUs) in 2007-08 was 25.7 *per cent* as against 21.3 *per cent* for private companies. It is evident that the public companies bear a larger tax burden than their private counterparts (Table1.2). Thus, the private sector enjoys much larger tax concessions from the Government as compared to public sector. The gap of effective rate of taxation between the private sector and public sector undertakings needs to be reviewed at the Board level.

[17] Arunachal Pradesh, Karnataka, Maharashtra, Tripura, West Bengal, A& N Islands and Puducherry
[18] Source: Receipts Budget 2009-2010
[19] The effective tax rate was 20.60 *per cent* in 2006-07.

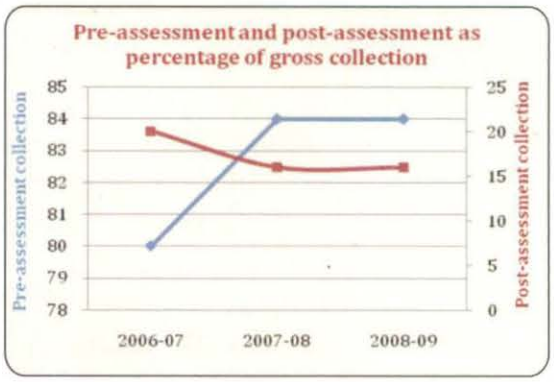
Table 1.2[20] : Analysis of total taxable profits and effective rate of tax

Sector	Number	Share in total profits (in %)	Share in total tax payable (in %)	Effective rate of tax (in %)
Private	407765	78.4	75.1	21.3
Public	1808	21.6	24.9	25.7
Total	**409573**	**100.00**	**100.00**	**22.2**

1.6 EXTENT OF VOLUNTARY COMPLIANCE

84 *per cent* of the gross collections in 2008-09 were by way of voluntary compliance by assessees (pre-assessment stage). Most developed countries aim to maximize the amount of tax collected through voluntary compliance; the compliance rates ranging[21] from 95 *per cent* in Sweden to 89 *per cent* in United Kingdom.

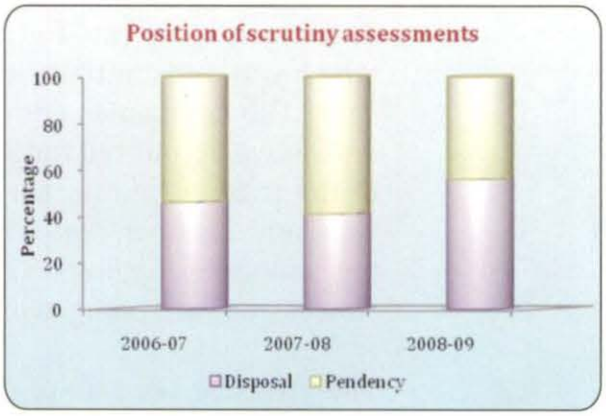
Chart 1.5: Extent of voluntary compliance



1.7 POSITION OF ASSESSMENT

High-risk tax returns are selected and examined with reference to collateral data by the assessing officers (AOs) in scrutiny assessments. Out of the total 9.5 lakh scrutiny assessments cases for disposal (Chart 1.6), the department had disposed off 5.4 lakh (56 *per cent*) cases in 2008-09. This was an improvement over the 46 *per cent* disposal achieved in 2006-07 and 41 *per cent* in 2007-08. As a result, the pendency came down from 54 *per cent* in 2006-07 to 44 *per cent* in 2008-09.

Chart 1.6: Position of assessment



Working norms of officers deployed for assessment and non-assessment duty needs to be framed up so that qualitative content of the tax scrutiny can be improved alongwith improving the pendency status of cases. Based on the data made available to audit, 47 *per cent*

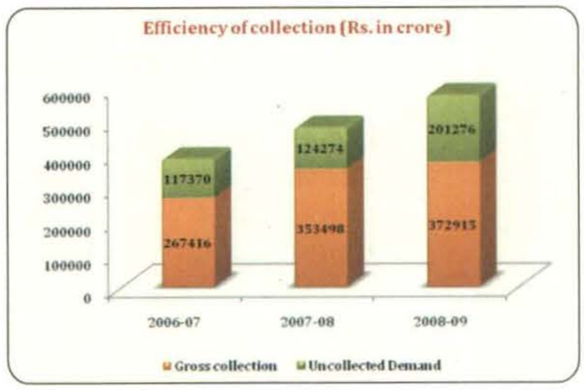
[20] Data collated from the income tax returns.
[21] Source: Report on Organisation for Economic Co-operation and Development (OECD)

of the working strength of officers[22] was deployed on assessment duty and rest of officers were on other administrative duties.

1.8 EFFICIENCY OF COLLECTION

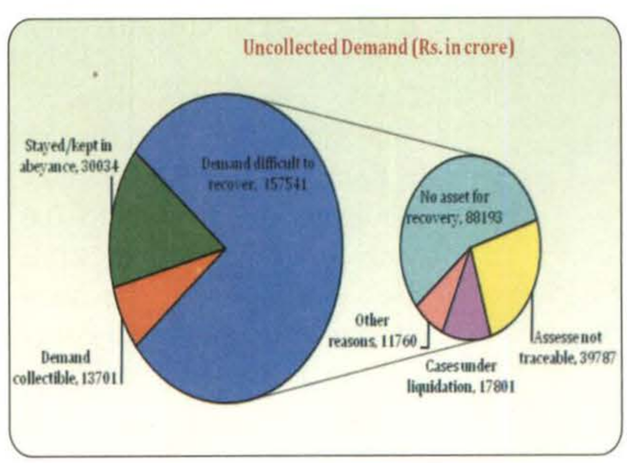
Gross tax collection as a percentage of the total demands raised in assessments (Chart 1.7) had shown an increasing trend from 69 *per cent* in 2006-07 to 74 *per cent* in 2007-08. In 2008-09, however, there was a decline to 65 *per cent* and Rs. 2 lakh crore remained uncollected. This comprised demand of Rs. 0.9 lakh crore of earlier years and current demand (2008-09) of Rs. 1.1 lakh crore. One group (Hasan Ali) alone accounted for Rs. 71,874 crore of uncollected demand.

Chart 1.7: Efficiency of collection



Various reasons contributed to the uncollected demand (Chart 1.8). 53 *per cent* was because there was no asset for recovery or the companies were under liquidation.

Chart 1.8: Details of uncollected demand



Defaults in payment of tax are referred to the Tax Recovery Officers (TROs) who draw up a certificate specifying the amount of arrears due from the assessees and proceed to recover the amount. The recovery mechanism is inefficient as 87 *per cent* of the certified demand has remained uncollected in 2008-09; the figure stood at 76 *per cent* in 2006-07 and 2007-08.

Board should frame up a time bound action plan for recovery of current and arrears demands by fixing target for each assessing officer.

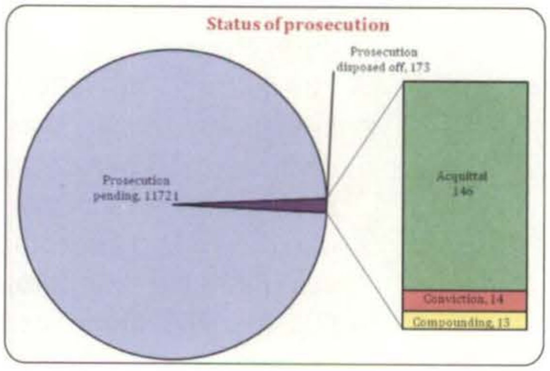
[22] against the working strength of 6,679 officers in the cadres of Addl. CIT/Addl DIT/Joint CIT/Joint DIT, Dy. CIT/Dy. DIT/Assistant CIT/Assistant DIT and ITOs, only 3,106 officers (47 *per cent*) of these cadres were deployed on assessment duty.

When tax demands remain irrecoverable for a longer period inspite of exercise of the powers of recovery conferred under the Act, write off of such arrears should be considered as per instructions laid down on the subject. Recovery proceedings can be made effective by increasing the accountability of the TROs and incentivizing achievements.

1.9 STATUS OF PROSECUTION

The department had launched prosecutions in 11,894 cases of evasion upto 2008-09. Only 173 cases (1.5 *per cent* of the total cases) were disposed off, of which 146 cases resulted in acquittal (Chart 1.9). The high rate of acquittal needs to be analysed to ensure greater effectiveness of prosecution as a deterrent.

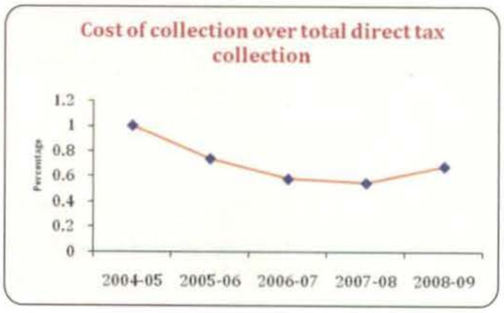
Chart 1.9: Status of prosecution



1.10 COST OF COLLECTION OF TAXES

Total cost of direct tax collection (Chart 1.10) showed a decreasing trend from 1.00 *per cent* in 2004-05 to 0.6 *per cent* in 2007-08. In 2008-09, the costs rose because of deceleration in tax collection and increase in establishment cost.

Chart 1.10: Cost of collection of taxes



1.11 REFUNDS CASES AND INTEREST PAID ON REFUNDS

Where the amount of tax paid exceeds the amount of tax payable, the assessees are entitled to a refund of the excess amount. Simple interest at the prescribed rate[23] is payable on the amount of such refund. Refund is also admissible (alongwith interest) as a result of any order passed in appeal or other proceedings. 'Refunds' have been examined separately and our findings have been featured in the Performance Audit Report No. 7 of 2009-10.

[23] Fifteen *per cent* per annum on the amount of refund due from the date immediately following the expiry of the period of three months aforesaid to the date on which the refund is granted.

1.12 APPEALS, REVISION PETITION AND WRITS

If the assessee is not satisfied with the assessment or refund order, he can file an appeal with the Commissioner (Appeals) and thereafter with the Income Tax Appellate Tribunal (ITAT). On any question of law arising out of such order, the assessee can also appeal to the High Court and Supreme Court. The Act prescribes the time limits also for disposal of an appeal. The appeal process is a subject matter of another study being conducted by us and will, therefore, be dealt with in a separate report.

1.13 INTERNAL AUDIT

Internal audit is an important part of the departmental control that provides the assurance that demands/refunds are processed accurately by correct application of the provisions of the Act.

Internal audit wing had planned 1,51,800 cases for audit during 2008-09 based on the working strength of wing. 84 *per cent* of the target was achieved. However, we detected numerous observations in the assessments previously audited by Internal Audit. This indicates a need for improvement in the quality of Internal Audit.

Internal audit had raised 24,165 observations in the audited assessments with money value of Rs. 3,738.62 crore. Based on the reply from assessment units, the internal audit had settled 2,866 cases (12 *per cent*) with money value of Rs. 334.48 crore.

In 342 draft paragraphs cases issued to the Ministry in 2008-09, only 17 cases (4.9 *per cent*) were seen by internal audit and no mistakes were detected by them, which indicates need for improvement in quality of audit.

Departmental response to internal audit needs improvement. Remedial action was being taken only on current year's findings. Only 10.4 *per cent* of the major findings raised by internal audit were acted upon by the assessing officers. The total pendency of 21,299 cases had tax effect of Rs. 340.2 crore.

CHAPTER II

AUDIT IMPACT

Chapter Summary

- In the last five years, the Government introduced six legislative amendments to correct the anomalies pointed out by us. This included two amendments to Section 80-IA of the Income Tax Act, 1961, in the Finance Act 2009.

(Paragraph 2.2)

- In 2008-09, the department recovered Rs. 165.2 crore in cases pointed out by us.

(Paragraph 2.3)

- Incidence of errors in scrutiny assessments completed by the department in 2007-08 was 6.7 *per cent*. Tax effect of the erroneous demands, was Rs. 7,450.3 crore, which would impact the total tax demand raised by the department by 14 *per cent*.

(Paragraph 2.4 and Appendix-3)

- Delay in taking timely action on erroneous cases led to loss of revenue of Rs. 5,612.8 crore in 16,557 cases seen by audit which were rendered time-barred.

(Paragraph 2.5.4)

CHAPTER II

AUDIT IMPACT

2.1 STATUTORY AUDIT

Our audit involves examination of individual assessments in field offices of the Income Tax Department to seek an assurance on:

- Accuracy in tax demands and;
- Efficacy and adequacy of systems and procedures in tax administration.

2.2 LEGISLATIVE IMPACT

In the last five years, the Government introduced six legislative amendments to correct the anomalies pointed out by us. The amendment made in the Finance Act 2009 is mentioned below:

Our report on 'Assessments relating to infrastructure development (Deductions under section 80-IA of the Income Tax Act)' showed that there were no clear directions for determination of reasonable profits. Deductions under section 80-IA of the Act are based on profits, fostering a tendency among eligible assessees to artificially inflate profits. For instance: captive power plants reported return on investment of 92 *per cent*[24]. *The Act was amended (July 2009) to cap the eligible profits within statutory or regulatory restrictions in the sector.*

The concessions in section 80-IA were meant to spur investment in infrastructure development. But we found that the benefits were being extended to contractors executing works on behalf of the Government departments. *The explanation below Section 80-IA was modified to clearly disallow such contractors.*

2.3 RECOVERY AT THE INSTANCE OF AUDIT

The department recovered Rs. 2557.5 crore in the last five years from demands raised to rectify the errors in assessments pointed out by us. This includes Rs. 165.2 crore recovered in 2008-09.

Incidence of errors

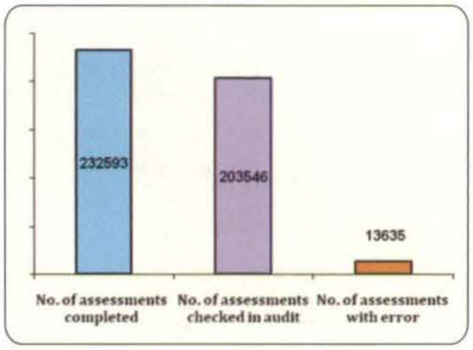
2.4 It was our attempt to audit all scrutiny assessments completed by assessment units that fall in the audit sample selected for field

[24] as against 16% prescribed by the statutory authority i.e., Central Electricity Regulatory Commission.

audit on the basis of pre-defined parameters of risk analysis. We found that the incidence of errors in the scrutiny assessments completed during 2007-08 averaged to 6.7 *per cent.* The revenue impact of these errors works out to 14 *per cent* of the total demand raised by the department[25] (Appendix-3).

The establishment cost of our audit in 2008-09 is 0.03 *per cent* of the tax effect of cases pointed out by us. Further, the cost would be 0.55 *per cent* of the total demand raised on our findings (details at Appendix 4).

Chart No. 2.1



2.4.1 The tax effect of the errors was Rs. 9645.4 crore[26] as shown below:

Table no. 2.1: Tax wise details of errors

Sl. No.	Category	No. of cases	Tax effect (Rs. in crore)
1	Corporation tax & Income tax	18483	9615.5
2	Wealth tax	1011	28.3
3	Other Direct taxes	137	1.6
	Total	**19631**	**9645.4**

2.4.2 High value and important cases among the errors detected in local audit are included in the Audit Report. The present Audit report contains 342 cases reported to the Ministry of Finance. While 93 of these cases which were accepted by the Ministry have been included in this chapter[27], remaining cases have been discussed in detail in Chapters III and IV of this Report. In respect of twelve of these 342 cases, provisions of the Act were open to interpretation, while in all the other cases, the AOs issued erroneous assessment orders despite clear provisions. 66 *per cent* of the errors occurred while granting ineligible concessions to assessees; 16 *per cent* of them were arithmetical errors (Table 2.2).

[25] The total demand includes demands raised in scrutiny assessment and additions, if any, in summary assessments. It also includes penalties, education cess etc. included in the tax demand.

[26] Rs. 7450.3 crore related to observations raised on assessments completed under scrutiny and the balance related to observations raised on assessments completed under other sections.

[27] Paragraphs 2.5.6, 2.5.8, Appendices 6, 7 and 8.

Table no. 2.2: Category-wise details of errors

Sl. No.	Category	No. of cases	Tax effect (Rs. in crore)
1	Arithmetical errors	40	274.8 (16%)
2	Ineligible concessions given to assessees	141	1137.9 (66%)
3	Income/Wealth not assessed	37	24.2 (1%)
4	Others	124	297.4 (17%)
	Total	**342**	**1734.3**

2.4.3 Only 17 cases i.e., 5 *per cent* of the erroneous cases pointed out by audit had been seen by the internal audit wing of the department. Even in those 17 cases, internal audit failed to detect the mistakes.

Response to audit

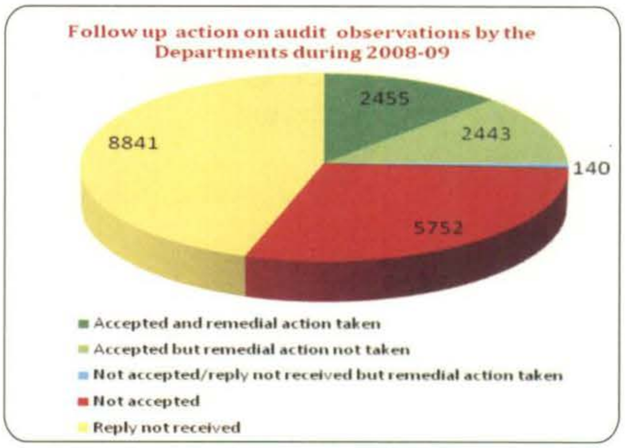
2.5 We elicit response from the audited entities at different stages of audit. On completion of field audit, we issue the local audit report (LAR) to the department for comments. Important and high value cases are referred to the Ministry for comments before inclusion in the Audit Report.

2.5.1 The Board issued instructions (2006) that replies to a LAR should be provided within six weeks. The Assessing officers (AO) are required to initiate remedial action within two months of receipt of a LAR to correct errors in demands lest the case should become time-barred leading to loss of revenue.

Response: initial audit

2.5.2 We received replies to 55 *per cent* of the cases included in LARs issued this year (2008-09). Of these cases, 45 *per cent* were accepted by the department and remedial action was completed[28] in 24 *per cent* of the cases (Details are at Appendix-5).

Chart No. 2.2

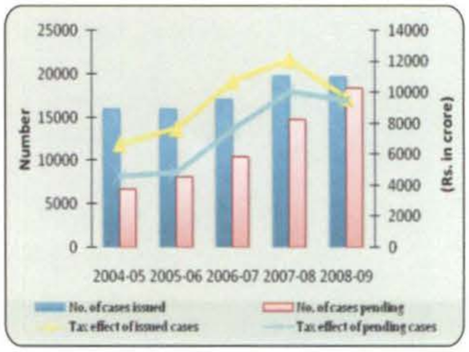


[28] The Assessing Officer (AO) *initiates remedial action* by issuing a notice to the assessee, who is then given an opportunity to present his case. After considering all the facts, the AO issues a rectificatory order raising the rectified demand for tax/refund, whichever be the case. At this stage, *remedial action is* said to have been *taken*.

2.5.3 REMEDIAL ACTION TIME-BARRED

The accretion in pendency in replies to audit findings each year has resulted in a mounting pile-up of 86,558 cases involving revenue effect of Rs. 47,298 crore as of 31 March 2009. The Chart depicts the increasing trend of pendency of observations.

Chart No. 2.3

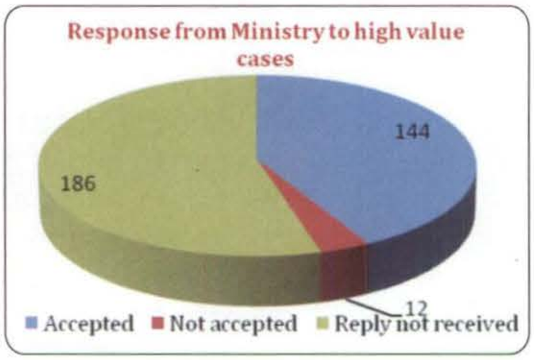


2.5.4 We conducted a review of the above pending cases and found that 16,557 cases[29] with tax effect of Rs. 5,612.8 crore have become time-barred for remedial action.

Response: High value cases

2.5.5 We provide six weeks to the Ministry to offer their comments on high value cases, prior to their inclusion in the Audit Report. 42 *per cent* of the cases were accepted by the Ministry; on 54 *per cent*, we were yet to receive the response as of January 2010.

Chart No. 2.4



2.5.6 Seventy one observations with tax effect of Rs. 728.2 crore were accepted by the Ministry and remedial action had been taken by the department (details are at Appendices 6 and 7). One case is illustrated:

2.5.7 CHARGE: CIT-I, PUNE, MAHARASHTRA, AY: 2001-02 AND 2002-03[30]

It has been judicially held in the case of Chellapalli Sugars Ltd. Vs CIT (1975) (98 ITR 167) (SC) that interest liability upto the stage of commencement of commercial production should be capitalised.

Maharashtra Krishna Valley Development Corporation Ltd., a company, did not capitalise the finance costs and interest payments in respect of incomplete and ongoing projects. This

[29] Details of these cases have been forwarded to the respective Commissioners.

[30] Assessed at a loss of Rs. 735.4 crore and Rs. 767.7 crore.in February 2003 and March 2005.

resulted in underassessment of income of Rs. 35.5 crore and overassessment of loss aggregating to Rs. 1432.4 crore involving short levy of tax of Rs. 17.8 crore and potential tax effect of Rs. 511.4 crore including interest. The Ministry accepted and the department rectified the mistake.

2.5.8 Twenty two cases with tax effect of Rs. 88.5 crore were accepted by the Ministry and remedial action had been initiated by the department (details are at Appendix-8). One case is illustrated below:

2.5.9 CHARGE: CIT-I, CHENNAI, TAMIL NADU, AY 2004-05[34]

Section 80-IA allows 100 *per cent* deduction from gross income, of profits from power generating units.

Servalakshmi Paper & Boards Pvt. Ltd., a company, included profit earned from sale of steam to a sister concern in the profit, for the purpose of computing concessions under Section 80-IA. Since this sale does not amount to activity of power generation, the profits thereof were inadmissible. This resulted in excess allowance of deduction of Rs. 2.6 crore with short levy of tax of Rs. 1.4 crore. The Ministry accepted the mistake and the department initiated remedial action.

Response: Audit Report

2.5.10 The Audit Report once presented in the Parliament, stands referred to the Public Accounts Committee. The Ministry intimates to us the status of these cases, through Action Taken Notes (ATN). Replies on 1683 cases, representing 51 *per cent* of the cases included, were yet to be received as of December 2009. In addition, 565 cases with tax effect of Rs. 2973.5 crore, included in the Audit Reports during 1999-2004 on which no replies were received/no remedial action was taken, would have become time-barred by now. Two cases are given below :

2.5.11 CHARGE: CIT-VI, MUMBAI, MAHARASHTRA, AY 1999-2000[35]

The Bangalore unit of IMR Global Ltd., a company, was allowed exemption under Section 10 of the Act, even though the value of plant

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[31] Loss was Rs. 767.7 crore. Amount to be capitalised was Rs. 803.2 crore, ie. Rs. 35.5 crore in excess of loss.

[32] In cases where the assessment is completed at a loss, the excess deductions lead to excess carry forward of loss. In future assessment years where the assessee registers a profit, this excess carried forward loss would be set off against the taxable profit leading to potential short levy of tax.

[33] For A.Y. 2001-02, and 2002-03, overassessment of loss was Rs. 664.7 crore and Rs. 767.7 crore respectively. Tax effect of this works out to Rs. 511.4 crore.

[34] Assessed at an income of Rs. 3.8 crore in November 2006.

[35] Assessed at nil income in August 2000.

and machinery shifted from existing units was more than 20 *per cent* of the value of plant and machinery installed at Bangalore. Further, export sales from Bangalore were less than 75 *per cent* of the total turnover. The incorrect allowance of exemption resulted in underassessment of income of Rs. 26.9 crore with short levy of tax of Rs. 14.6 crore.

Section 10 provides 100 *per cent* tax holiday on profits derived by an exporter situated in a notified Software Technology Park. It is subject to the condition that a minimum of 75 *per cent* of total sales in terms of value is exported and the unit is not formed by transfer of machinery i.e., value of transferred machinery should not exceed 20 *per cent* of the cost of machinery used in the business.

2.5.12 CHARGE: CIT-II, DELHI, DELHI, AY 1998-1999[36]

Maruti Udyog Ltd., a company, netted interest income with interest payment and posted the net figure as income in the profit & loss account. In order to work out eligible profits for deduction under section 80HHC, 90 *per cent* of gross income from other receipts should have been reduced from the profits. Instead 90 *per cent* of the net income only was deducted, leading to short levy of tax of Rs. 1.2 crore.

An assessee is entitled, under Section 80HHC, to a deduction equal to the export profits if sale proceeds are received in convertible foreign exchange. Profits of the business means the profits worked out after deducting 90 *per cent* of other income.

[36] Assessed at an income of Rs. 1142.7 crore in February 2002.

CHAPTER III

CORPORATE TAX

Chapter Summary

We referred 247 high value cases with tax effect of Rs. 1,642.4 crore to the Ministry of Finance between April and October 2009 to elicit their comments. The Ministry accepted observations in 101 cases involving revenue impact of Rs. 895.8 crore as of January 2010.

(Paragraphs 3.1 and 3.2)

The major mistakes in assessments were on account of

- Deductions allowed incorrectly in 43 cases involving revenue impact of Rs. 182.8 crore.

  (Paragraph 3.6)

- Arithmetical errors in 23 cases involving revenue impact of Rs. 75.7 crore.

  (Paragraph 3.8)

- Inadmissible carry forward and set off of losses and exemptions allowed in 23 cases involving revenue impact of Rs. 90.4 crore.

  (Paragraphs 3.9 and 3.10)

- Errors in allowing capital expenditure as business expenditure and in computing income under special provisions in 23 cases involving revenue impact of Rs. 65.2 crore.

  (Paragraphs 3.11 and 3.12)

- Errors in allowing depreciation and in computing capital gains in 22 cases involving revenue impact of Rs. 48.7 crore.

  (Paragraphs 3.13 and 3.14)

- Income not assessed and short levy of interest in 13 cases involving revenue impact of Rs. 21.8 crore.

  (Paragraphs 3.15 and 3.16)

- Impermissible benefit allowed in summary assessments in 15 cases involving revenue impact of Rs. 72.2 crore.

  (Paragraph 3.17)

Nine Public Sector Undertakings (PSUs) were charged tax of Rs. 169.2 crore, in excess of their dues.

(Paragraph 3.18)

CHAPTER III

CORPORATE TAX

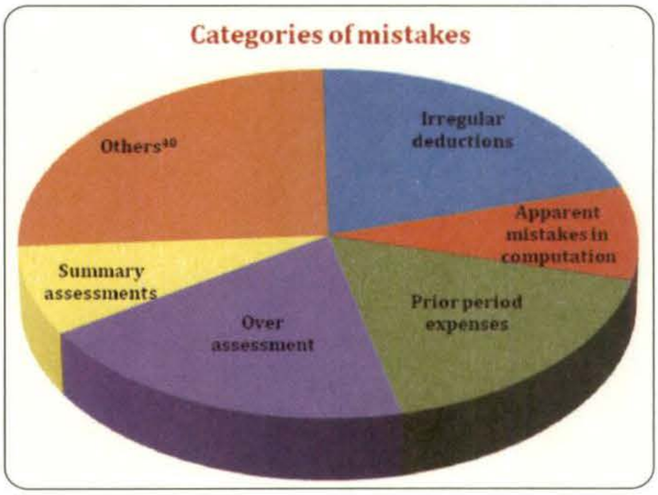
3.1 RESULTS OF AUDIT

We referred 247 high value cases with total tax effect of Rs. 1,642.4 crore to the Ministry[37] between April and October 2009 to elicit their comments.

3.2 The Ministry has replied in respect of 108 cases[38] accepting 101 cases (93.5 *per cent)* as of January 2010. Out of these 101 cases, the department completed remedial action[39] in 49 cases involving tax effect of Rs. 679.4 crore and initiated remedial action in 15 other cases involving tax effect of Rs. 83.2 crore. These cases have been featured in paragraph 2.5.6 and 2.5.8 of Chapter II of this Report. The Ministry's replies on the remaining cases are yet to be received.

3.3 This chapter discusses 183 cases of which 172 cases involve undercharge of Rs. 708.6 crore and 11 cases involve overcharge of Rs. 171.3 crore. Replies of the Ministry, wherever received, have been examined and suitably incorporated in the report.

3.4 Each paragraph indicates a particular category of mistakes made by the assessing officer (AO). It starts with a suitable preamble (in coloured boxes) followed by the combined revenue impact of all observations of similar nature. Interesting cases are illustrated in subsequent paragraphs.



[37] Ministry of Finance, Central Board of Direct Taxes

[38] The department has not accepted the audit observations in three summarily processed cases as a matter of principle citing the Assessing officers' limitations. However rectificatory action has been initiated/ completed without contesting the facts of the case.

[39] The Assessing Officer (AO) *initiates remedial action* by issuing a notice to the assessee, who is then given an opportunity to present his case. After considering all the facts, the AO issues a rectificatory order raising the rectified demand for tax/refund, whichever be the case. At this stage, *remedial action is* said to have been *taken*.

[40] Category "Others" shown in the chart include mistakes regarding set off of losses, exemptions, capital expenditure, computation under special provisions, depreciation, capital gains, income not assessed and levy of interest.

3.5 Where the provisions of the Act have ambiguities, these have also been highlighted. While we acknowledge that the Act empowers the AOs to exercise best judgment, it is our opinion that clarity in the Act would enhance transparency, consistency in assessments and also reduce litigation, thus reducing the cost of compliance.

3.6 INCORRECT ALLOWANCE OF DEDUCTIONS

The Act allows deductions from the assessee's income, certain categories of expenditure.

Incorrect allowance of deductions resulted in underassessment of income aggregating Rs. 182.8 crore in 43 cases in Andhra Pradesh, Delhi, Gujarat, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu and West Bengal. Six cases are illustrated below:

3.6.1 CHARGE: CIT-II, KOLKATA, WEST BENGAL; AY: 2003-04[41]

Section 35DDA allows deduction of one-fifth of expenditure incurred on voluntary retirement scheme.

Hindustan Copper Ltd. spent Rs. 133.2 crore (including amortised expenditure relating to AY 2002-03) towards VRS, of which only Rs. 111.2 crore, being one-fifth of the total expenditure could be allowed. But the AO allowed Rs. 133.2 crore as deduction. In addition, the assessee accounted for only Rs. 128.3 crore out of the total grant of Rs. 220 crore received from the Government to meet the expenditure under VRS; the balance of Rs. 91.7 crore escaped tax. The mistakes led to potential[42] short levy of tax of Rs. 41.8 crore.

3.6.2 CHARGE: CIT-II, MUMBAI, MAHARASHTRA; AY: 2006-07[43]

Section 36(1)(viii) allows deduction of 40 *per cent* of profits earned from long term finance, for creation of special reserves.

State Bank of India was allowed deduction of Rs. 230.4 crore in respect of the amount transferred to special reserve. However, 40 *per cent* of the profits from long term finance worked out to Rs. 117 crore. The mistake resulted in excess deduction of Rs. 113.4 crore involving short levy of tax of Rs. 38.2 crore.

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[41] Assessed at a loss of Rs. 95.5 crore in March 2006.

[42] In cases where the assessment is completed at a loss, the excess deductions lead to excess carry forward of loss. In future AYs when the assessee registers a profit, this excess carried forward loss would be set off against the taxable profit leading to potential short levy of tax.

[43] Assessed at an income of Rs. 5,515.9 crore in March 2008.

3.6.3 CHARGE: CIT-V, MUMBAI, MAHARASHTRA; AY: 2002-03[44]

Section 14A provides that if a certain income is exempt from tax, the expenditure incurred on earning the income would not be allowed as deduction.

Indian Oil Corporation Ltd. received dividend aggregating Rs. 413.9 crore which was exempt from tax under section 80M of the Act. However, proportionate expenditure of Rs. 31.7 crore[45] was not disallowed as was done in the assessment for the AYs 2004-05 and 2005-06. The mistake resulted in short levy of tax of Rs. 15.9 crore including interest.

3.6.4 CHARGE: CIT, BHUBANESWAR, ORISSA; AY: 2005-06[46]

Section 37 allows deduction of accrued or known liability. Provisions for unascertained liabilities, do not qualify for deduction.

National Aluminium Company (NALCO) was allowed deduction of Rs. 31.9 crore of provision for peripheral development expenditure and against interest on non-payment of disputed charges of water and electricity, which were neither accrued nor known liabilities. The omission resulted in short levy of tax of Rs. 13.5 crore.

3.6.5 CHARGE: CIT-I, DELHI; AY: 2003-04[47]

Bharti Cellular Ltd. made a provision of Rs. 154.6 crore for doubtful debts and advances in the balance sheet. The AO disallowed only Rs. 121.3 crore[48], a mistake which led to potential short levy of tax of Rs. 12.3 crore.

3.6.6 CHARGE: CIT-II, MUMBAI, MAHARASHTRA; AY: 2004-05[49]

Section 36(1)(vii) provides for deduction of bad debt if such a bad debt is written off in the accounts.

Mahindra and Mahindra Ltd. was allowed a deduction of Rs. 15.1 crore on account of waiver of advance paid to its subsidiary company Mahindra Gesco Developer

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[44] Assessed at an income of Rs. 3,031.1 crore after scrutiny in March 2005.

[45] The proportionate expenditure was worked out at 2 *per cent* of the total administrative expenses of Rs. 1,585.5 crore; this being the norm applied by the AO in the next two AYs: AY 2004-05 and 2005-06. Further, rule 8D for working out the proportionate expenditure was brought on the statute only from 24 March 2008, prior to which it was required to be determined using best judgment.

[46] Assessment completed after scrutiny in December 2007.

[47] Assessed at a loss of Rs. 76.9 crore in March 2006.

[48] Rs. 121.3 crore was charged to the Profit & Loss Account which was disallowed by the AO. The remaining provision of Rs. 33.3 crore, accounted in the Balance Sheet was allowed as deduction while computing tax liability.

[49] Assessed at an income of Rs. 243.3 crore in December 2006.

Ltd., although it was not written off in its books of accounts. The omission to disallow the deduction led to short levy of tax of Rs. 7.2 crore including interest.

3.7 TREATMENT OF PRIOR PERIOD EXPENSES

We found eight cases[50] involving revenue impact of Rs. 151.9 crore, in which the AOs gave varying treatment to prior period expenditure without discussing the inherent permissibility of such deduction. Two such cases are illustrated below:

3.7.1 CHARGE: CIT-I, MUMBAI, MAHARASHTRA; AY: 2004-05[51]

Maharashtra State Electricity Board had prior period income of Rs. 351.1 crore and prior periodexpenditure of Rs. 852.8 crore . The AO limited the prior period expenditure to the extent it netted the prior period income thus disallowing Rs. 501.7 crore. This involved potential tax effect of Rs. 126 crore.

3.7.2 CHARGE: CIT, ALLAHABAD, UTTAR PRADESH; AY: 2004-05[52]

Triveni Structural Ltd. claimed deduction for prior period expenditure of Rs. 27.3 crore, all of which was allowed by the AO. This involved potential tax effect of Rs. 9.6 crore.

We recommend that suitable instructions be issued to the field units to justify the nature of prior period expenses in the assessment order before their allowance/disallowance.

3.8 MISTAKES IN COMPUTATION

We found that the AOs adopted incorrect figures, committed arithmetical errors, allowed claims twice and in some cases, did not add back inadmissible claims to income, resulting in short levy of tax of Rs. 75.7 crore in 23 cases in Delhi, Haryana, Kerala, Maharashtra, Orissa and Rajasthan. One case is illustrated below:

3.8.1 CHARGE: CIT CENTRAL-I, MUMBAI, MAHARASHTRA; AY: 2005-06[53]

The AO disallowed in his order, diffe rent classes of expenditure[54] aggregating Rs. 42.2 crore, incurred by Sun Earth Ceramics Ltd. But while computing income, he did not factor the disallowance and

[50] Two cases were issued as draft paragraph involving revenue impact of Rs. 3.8 crore whereas six cases involving revenue impact of Rs. 148.2 crore were referred separately to CBDT in October 2009.

[51] Assessed completed after scrutiny in November 2006.

[52] Assessed completed after scrutiny in November 2006.

[53] A best judgment assessment completed in December 2007.

[54] Being interest expenditure, miscellaneous expenditure, discount commission and incentives.

assessed a loss of Rs. 40.1 crore to be carried forward in next AYs. If factored, the assessee would have been taxed at a profit of Rs. 2.1 crore in the current AY. The mistake resulted in potential tax effect of Rs. 15.4 crore (including short levy of tax of Rs. 81.7 lakh).

3.9 IRREGULAR CARRY FORWARD AND SET OFF OF LOSSES

Section 72 provides that net loss of an AY, can be carried forward and set-off against profits and gains, if any, of the following eight assessment years.

Non-compliance with the provisions of section 72 resulted in short levy of tax aggregating Rs. 48.7 crore in 18 cases in Andhra Pradesh, Bihar, Delhi, Haryana, Karnataka, Kerala, Maharashtra, Tamil Nadu and West Bengal. One case is illustrated below:

3.9.1 CHARGE: CIT, KOCHI, KERALA; AY: 2006-07[55]

Loss of Rs. 75.7 crore returned by The Federal Bank Ltd. included a loss of Rs. 25.2 crore pertaining to AY 2005-06 although in that year, the assessee had a net income of Rs. 24.9 crore. This resulted in underassessment of income to that extent involving potential short levy of tax of Rs. 9.4 crore.

3.10 INCORRECT ALLOWANCE OF EXEMPTIONS

Section 10A exempts income of a new undertaking established in a free trade zone. Income earned by a newly established 100 *per cent* export oriented undertaking is exempt under Section 10B.

Non-compliance with the provisions of section 10A and 10B resulted in short levy of tax aggregating Rs. 41.7 crore in five cases in Delhi, Karnataka, Kerala and West Bengal. Two cases are illustrated below:

3.10.1 CHARGE: CIT-II, DELHI; AY: 2004-05[56]

While computing the income of Moser Baer India Ltd. under section 10B, the tax exemption was applied on the profit of Rs. 221.7 crore earned by one Software Technology Park (STP) unit, ignoring the loss incurred by its other STP unit. Had the loss been factored, the assessee would have been allowed exemption of Rs. 183.2 crore only on the net profit. The tax was computed under special provisions of

[55] Assessed at an income of Rs. 515.2 crore in November 2007.
[56] Assessed at an income of Rs. 141.6 crore in December 2006 under special provisions.

the Act[57]. This resulted in excess carry forward of loss under normal provisions and underassessment of book profit under special provisions involving potential tax effect of Rs. 17.7 crore (including short levy of tax of Rs. 3.9 crore and interest).

The provisions of the Act are unclear on whether the deduction under section 10B should be allowed on the profit of the profitable units only or on the net profits of all 10B units. The ambiguity has led to varying treatments by different AOs. We had recommended (2007)[58] that clear instructions should be issued by the Government in this regard.

3.10.2 CHARGE: CIT-IV, DELHI; AY: 2003-04[59]

As per section 10A, export turnover does not include freight, telecommunication charges etc. incurred in foreign exchange in providing technical services outside India.

GE Capital International Services (now known as Genpact India) paid communication expense of Rs. 98.8 crore in foreign currency, which was required to be excluded from the export turnover while computing the exemption under section 10A. Consequently there was excess allowance of exemption of Rs. 24.4 crore which resulted in short levy of tax of Rs. 14.2 crore including interest.

3.11 INCORRECT ALLOWANCE OF CAPITAL EXPENDITURE

Section 37 disallows capital expenditure as a deduction while computing income chargeable under the head "profits and gains of business or profession".

Incorrect allowance of capital expenditure resulted in short levy of tax aggregating Rs. 39.2 crore in 18 cases in Delhi, Madhya Pradesh, Maharashtra, Tamil Nadu and West Bengal. One case is illustrated below:

3.11.1 CHARGE: CIT-IV, DELHI; AY: 2003-04[60]

GE Countrywide Consumer Financial Services Ltd. debited Rs. 7.7 crore and Rs. 14.7 crore to profit and loss account towards "Loss on

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[57] Where the tax payable works out to less than 7.5 *per cent* of its book profit, tax under special provisions (115JB), called Minimum Alternate Tax (MAT) is applied at the rate of 7.5 *per cent* of book profits. While computing book profit, deductions that are disallowed under normal provisions, are added back to the book profit. The loss incurred by the assessee in that AY under normal provisions is allowed to be carried forward. MAT paid in the AY is also allowed as a tax credit that can be adjusted against profits, if any, in the next AYs, subject to specific conditions.

[58] Paragraph no. 1.6.13 of Audit Report No. 8 of 2007

[59] Income originally assessed as Rs. 90.3 crore was revised to Rs. 100.75 crore in January 2008.

[60] Assessed at an income of Rs. 36.6 crore in March 2006.

sale of reprocessed goods" and "Loss on sale of loan portfolio" respectively. These losses, being capital in nature, should have been disallowed and added back. The omission resulted in underassessment of income aggregating Rs. 22.4 crore involving short levy of tax of Rs. 11.3 crore including interest.

3.12 MISTAKE IN COMPUTATION OF INCOME UNDER SPECIAL PROVISIONS

Section 115JB provides for levy of Minimum Alternate Tax (MAT) at the rate of 7.5 *per cent* of the book profit if the tax payable on total income under the normal provisions is less than 7.5 *per cent* of the book profit arrived at after certain additions and deletions as prescribed.

Non-compliance with the special provisions resulted in short levy of tax aggregating Rs. 26 crore in 5 cases in Delhi, Maharashtra, Tamil Nadu and West Bengal. One case is illustrated below:

3.12.1 CHARGE: CIT-II, MUMBAI, MAHARASHTRA; AY: 2005-06[61]

The taxable income of Tata Sons Ltd. was re-assessed (March 2008) to Rs. 1,129.6 crore under normal provisions and the book profit was worked out to Rs. 2,597.3 crore. Though MAT payable (Rs. 203.7 crore) was more than tax payable under normal provisions (Rs. 184.8 crore), the AO did not levy MAT. The omission resulted in short levy of tax of Rs. 21.9 crore including interest.

3.13 MISTAKES IN ALLOWANCE OF DEPRECIATION

Section 32 provides for depreciation on the cost or written down value of assets if such assets are owned by the assessee and used for the purpose of business during relevant previous year.

Incorrect allowance, carry forward and set off of depreciation resulted in short levy of tax aggregating Rs. 24.4 crore in 16 cases in Delhi, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Tamil Nadu and West Bengal. One such case is illustrated below:

3.13.1 CHARGE: CIT-III, DELHI; AY: 2004-05[62]

Spectris Technologies Pvt Ltd. was allowed depreciation of Rs. 2.8 crore on goodwill. As goodwill is not covered under intangible assets in the Act, the depreciation should have been disallowed. The

[61] Assessed at an income of Rs. 1,160.7 crore in December 2007.
[62] Assessment completed at a loss of Rs. 2.2 crore in November 2006.

Section 32 provides for depreciation on intangible assets which include copyrights, patents, technical knowhow, franchise charges and any other business or commercial rights or similar nature.

mistake resulted in underassessment of income of Rs. 62.6 lakh and incorrect carry forward of loss of Rs. 2.2 crore involving tax effect of Rs. 1.1 crore.

Though the Ministry is yet to reply to the above cases, the principle that goodwill is not an intangible asset under Section 32, was accepted by the Ministry in three cases included in Audit Report for the period ended 2008[63]. But in a similar case[64] in the same year, the Ministry took a stand that goodwill is an intangible asset and is covered under commercial rights of similar nature. It was also added that the Act has taken goodwill within the ambit of definition of capital assets for working out cost of acquisition under section 55(2)(a). There is therefore, a need for issue of appropriate clarification to bring in consistency in the action of all AOs in the matter of allowance of depreciation on goodwill.

3.14 MISTAKES IN COMPUTATION OF CAPITAL GAINS

Section 45 provides that any gains arising from transfer of a capital asset shall be taxed under the head "Capital gains" in the year in which the transfer takes place. Long term capital gains and short term capital gains are charged at different rates and hence, are required to be computed separately.

Mistakes in computation of capital gains resulted in short levy of tax aggregating Rs. 24.3 crore in 6 cases in Maharashtra, Tamil Nadu and West Bengal. One case is illustrated below:

3.14.1 CHARGE: CIT-I, CHENNAI, TAMIL NADU; AY: 2003-04[65]

Under Section 55(2)(aa)(iia), acquisition cost in respect of bonus shares/units will be considered as 'nil'. Further, section 35DD provides that demereger expenses, being capital in nature, are to be amortised and only one-fifth thereof is allowed as deduction.

Gimpex Ltd. did not compute long term capital gain and short term capital gain separately. Further, acquisition cost of Bonus Units of a Company was not considered as nil.

[63] Paragraph no. 3.8 of Audit Report CA21 of 2009 (CAG DP nos. 184-CT, 349-CT and 433-CT)
[64] CAG DP no.435-CT for AR 2007-08 included in Paragraph no. 3.8 of Audit Report CA21 of 2009
[65] Assessed at an income of Rs. 6.9 crore and long term capital gain of Rs. 10.7 lakh in November 2006.

Demerger expenses, which had no relation with transfer of shares, were fully deducted instead of one-fifth thereof. These mistakes resulted in short computation of the long term capital gains and short term capital gains by Rs. 12.9 crore and Rs. 15.6 crore respectively involving revenue impact of Rs. 10.7 crore including interest.

3.15 INCOME NOT ASSESSED

Section 5 provides that the total income of a person for any previous year shall include all incomes from whatever source derived; actually received or accrued or deemed to be received or accrued.

Non-compliance with the provisions of section 5 resulted in short levy of tax aggregating Rs. 19.5 crore in 11 cases in Andhra Pradesh, Delhi, Gujarat, Maharashtra, Tamil Nadu and Uttar Pradesh. One case that we detected *by correlating records of same assessee in different tax regimes* is illustrated below:

3.15.1 CHARGE: CIT-III, CHENNAI, TAMIL NADU; AY: 2004-05[66]

Matsushita Air Conditioning (P) Ltd. had disclosed a gross sale turnover of Rs. 27.6 crore in the profit and loss account whereas in the assessment order in the Commercial Taxes Department of the Government of Tamil Nadu, the assessee had shown a gross sale turnover of Rs. 31.4 crore. The difference in turnover of Rs. 3.8 crore escaped assessment involving short levy of tax of Rs. 1.4 crore.

3.16 SHORT LEVY OF INTEREST

Section 234C provides for levy of interest for default in payment of advance tax at the rates prescribed by the Government from time to time.

We found short levy of interest of Rs. 2.3 crore for default in payment of advance tax in two cases in Maharashtra and West Bengal. Details of these cases were referred to the Ministry.

3.17 MISTAKES IN SUMMARY ASSESSMENTS

Section 143(1) provides that the assessment may be completed in a summary manner after, *inter alia*, rectifying any arithmetical error in the return, accounts and accompanying documents.

We found 15 cases of summary assessments involving revenue impact of Rs. 72.2 crore in Delhi, Gujarat, Rajasthan Tamil Nadu

[66] Assessed at a loss of Rs. 2.4 crore in December 2006.

and West Bengal. One case is illustrated below:

3.17.1 CHARGE: CIT-I, Coimbatore, Tamil Nadu; AY: 2005-06[67]

> Section 43B allows deduction for interest on loan only when the interest is actually paid.

Southern Iron & Steel Company Ltd. was allowed deductions of Rs. 26.7 crore and Rs. 75.7 crore, being the interest on loan, pertaining to AYs 2003-04 and 2004-05 respectively. Under the 'Corporate Debt Restructuring Scheme', the loan was converted into equity shares and the outstanding interest amount on it was waived. Therefore, allowing deductions on unpaid interest was incorrect. This resulted in excess determination of loss involving potential short levy of tax of Rs. 37.5 crore.

3.18 OVERCHARGING OF TAX FROM PUBLIC SECTOR UNDERTAKINGS

We noticed over-assessment of income in nine cases of Public Sector Undertakings (PSUs) involving overcharge of tax totalling Rs. 169.2 crore (against the total leviable tax of Rs. 21.5 crore) in Delhi, Jharkhand, Maharashtra, Orissa and West Bengal. Besides, two cases involving overcharge of tax totalling Rs. 2.1 crore were noticed in respect of Private limited companies. Four cases of PSUs are illustrated below:

3.18.1 CHARGE: CIT-IV, Delhi; AY: 2004-05[68]

While computing income, Indian Railway Finance Corporation Ltd. was allowed depreciation of Rs. 989 crore on leased assets instead of Rs. 1,213.4 crore as decided by the AO in the assessment order. The mistake resulted in underassessment of loss of Rs. 224.4 crore involving potential excess levy of tax Rs. 80.1 crore.

3.18.2 CHARGE: CIT-IV, KOLKATA, WEST BENGAL; AY: 2000-01[69]

Hindustan Steelworks Construction Ltd. was levied interest of Rs. 69.4 crore under Section 234B(3) as against the leviable amount of Rs. 37.1 crore on excess tax payable for the period from April 2002 to the date of reassessment in January 2005. The mistake resulted in excess levy of interest of Rs. 32.3 crore.

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[67] Return processed at a loss of Rs. 200.7 crore in February 2006.
[68] Assessed at a loss of Rs. 343.5 crore in December 2006.
[69] Assessed at an income of Rs. 250.5 crore in March 2005.

3.18.3 CHARGE: CIT-I, MUMBAI, MAHARASHTRA; AY: 2005-06[70]

While computing the taxable income of Maharashtra State Electricity Board, the AO disallowed capital expenditure of Rs. 64.9 crore relating to fabrication charges as against the correct amount of Rs. 6.5 lakh. Excess disallowance of expenditure resulted in overassessment of income of Rs. 64.8 crore involving potential excess levy of tax of Rs. 23.7 crore.

3.18.4 CHARGE: CIT-II, MUMBAI, MAHARASHTRA; AY: 2005-06[71]

Section 43B provides for deduction for paid interest on loan or borrowing from a bank or *any public financial institution only.*

Maharashtra Power Development Corporation Ltd. debited to its profit and loss account unpaid interest amount of Rs. 48.9 crore on loan advanced by MSEB. The AO disallowed the claim under section 43B although MSEB is not a public financial institution. The mistake resulted in short computation of loss involving potential excess levy of tax of Rs. 17.9 crore.

[70] Originally assessed at taxable income of Rs. 925.4 crore in December 2007.
[71] Assessed at a loss of Rs. 1.48 crore in December 2007.

CHAPTER IV

PART A - INCOME TAX

PART B - WEALTH TAX

Chapter Summary

This chapter is divided into parts A and B. Part A contains our findings on assessments in respect of income tax and Part B includes those on wealth tax.

We reported 95 cases of mistakes in assessments with total revenue impact of Rs. 91.9 crore to the Ministry of Finance for comments. The Ministry has accepted 43 observations involving revenue impact of Rs. 71.4 crore as of January 2010.

(Paragraphs 4.1 and 4.13)

Major mistakes in assessments were on account of:

- Incorrect carry forward and set off of losses in two cases involving tax effect of Rs. 14.9 crore

  (Paragraph 4.2)

- Arithmetical errors in six cases involving tax effect of Rs. 5.2 crore.

  (Paragraph 4.3)

- Incorrect levy of interest in 11 cases involving tax effect of Rs. 3.9 crore.

  (Paragraph 4.4)

- Inadmissible deduction allowed to co-operative societies in two cases involving tax effect of Rs. 1.9 crore.

  (Paragraph 4.5)

- Excess allowance of depreciation in five cases involving tax effect of Rs. 2.3 crore.

  (Paragraph 4.7)

- Inadmissible deduction in respect of export profit and exemption under section 11 of the Act in three cases involving revenue impact of Rs. 1.1 crore.

  (Paragraphs 4.6 and 4.9)

- Inadmissible benefits allowed in summary assessments in 13 cases involving tax effect of Rs. 4.4 crore.

  (Paragraph 4.10)

- Wealth not assessed to tax in 10 cases due to non-correlation with income tax assessment records involving tax effect of Rs. 76.5 lakh.

  (Paragraph 4.14)

- Non-inclusion of taxable assets in the net wealth in four cases involving revenue impact of Rs. 80.7 lakh.

  (Paragraph 4.15)

CHAPTER IV

A INCOME TAX

4.1 RESULTS OF AUDIT

4.1.1 We referred 73 high value cases involving tax effect of Rs. 90 crore to the Ministry of Finance between April and October 2009 for comments.

4.1.2 The Ministry has replied in respect of 38 cases[72] accepting 34 cases (89 *per cent)* involving aggregate revenue impact of Rs. 70.5 crore as of January 2010. Of these, the department initiated remedial action[73] on 21 cases with tax effect of Rs. 53.7 crore, of which remedial action was completed on 16 cases involving tax effect of Rs. 48.7 crore. These 21 cases have been featured in paragraph 2.5.6 and 2.5.8 respectively of Chapter II of this Report. The Ministry's replies on the remaining cases are yet to be received.

4.1.3 This chapter discusses 52 cases, of which 49 cases involve undercharge of Rs. 35.8 crore and three cases involve overcharge of Rs. 47.6 lakh. Replies of the Ministry wherever received, have been examined and suitably incorporated in the report. The chart illustrates the major categories of errors made by the assessing officers (AO), which are discussed in detail in the subsequent paragraphs.

4.2 INCORRECT CARRY FORWARD AND SET OFF OF LOSS

> Section 72 allows carry forward and set-off of net loss of a year against profits, if any, of next eight assessment years (AY).

We found short levy of tax of Rs. 14.9 crore in two cases in

[72] The department has not accepted the audit observations in four summarily processed cases as a matter of principle citing the Assessing officers' limitations. However rectificatory action has been initiated/ completed without contesting the facts of the case

[73] The Assessing Officer (AO) *initiates remedial action* by issuing a notice to the assessee, who is then given an opportunity to present his case. After considering all the facts, the AO issues a rectificatory order raising the rectified demand for tax/refund, whichever be the case. At this stage, *remedial action is* said to have been *taken*.

[74] Others include mistake in short/non-levy of interest, allowance of depreciation, adoption of figures, overassessment, computation of capital gain and income not assessed.

Haryana and Maharashtra as the AOs did not apply the provision correctly. Two cases are illustrated below:

4.2.1 CHARGE: CIT, PANCHKULA, HARYANA; AY 2005-06[75]

Haryana Urban Development Authority, a local authority, was allowed to set off brought forward losses of Rs. 11.5 crore and Rs. 21.6 crore for the AYs 2003-04 and 2004-05 respectively though there was no brought forward loss available in those years. The mistake resulted in short levy of tax of Rs. 13.8 crore including interest.

4.2.2 CHARGE: CIT, ALWAR, RAJASTHAN; AY 2005-06[76]

Alwar Bharatpur Anchlik Gramin Bank, a co-operative society was allowed set-off of brought forward loss of Rs. 3.3 crore, though there was no loss for setting off. The mistake resulted in underassessment of income to that extent with short levy of tax of Rs. 1 crore.

4.3 MISTAKES IN COMPUTATION OF BUSINESS INCOME

We found six cases of mistakes in computation, resulting in short levy of tax aggregating Rs. 5.2 crore in Kerala, Maharashtra and Rajasthan. Two cases are illustrated below:

4.3.1 CHARGE: CIT-XII, MUMBAI, MAHARASHTRA; AY 2002-03[77]

The business loss of Ashok Commercial Enterprises, a firm, was carried forward as Rs. 17.5 crore against the actual business loss of Rs. 7.7 crore. This resulted in excess carry forward of business loss of Rs. 9.8 core and underassessment of income to that extent with short levy of potential tax of Rs. 3.5 crore.

4.3.2 CHARGE: CIT-XI, DELHI; AY 2004-05[78]

Richa Global, a firm, was assessed at a loss of Rs. 4.2 crore which included loss of Rs. 2.1 crore for the previous AY 2003-04. This resulted in excess determination of loss of Rs. 2.1 crore with potential tax effect of Rs. 75 lakh.

[75] Income of Rs. 514.24 crore assessed in December 2005.
[76] Incomes of Rs. 1.25 crore and Rs. 3.24 lakh assessed in December 2006 and December 2007 respectively.
[77] Loss of Rs. 17.45 crore determined in December 2005 after giving effect to appellate orders.
[78] Loss of Rs. 4.20 crore determined in December 2006.

4.4 SHORT LEVY OF INTEREST

The assessee is liable to pay simple interest at the specified rate per month or part of the month under:

- ✓ Section 234A of the Act where a return of income is furnished after the due date or is not furnished.
- ✓ Section 234B of the Act, where the assessee fails to pay advance tax or, where the advance tax paid is less than 90 *per cent* of the assessed tax.

We noticed short levy of interest for delays in filing return of income and payment of advance tax aggregating Rs. 3.9 crore in 11 cases in Gujarat, Haryana, Himachal Pradesh, Kerala, Madhya Pradesh, Maharashtra and Rajasthan. Two cases are illustrated below:

4.4.1 CHARGE: CIT-IV, MUMBAI, MAHARASHTRA; AY 2000-01[79]

Vimla S. Jaju, an individual, paid advance tax of Rs. 3 crore against the demand of Rs. 5.6 crore for which the department levied interest of Rs. 26.3 lakh instead of Rs. 2.2 crore under section 234B for the period from April 2000 to December 2007. The mistake resulted in short levy of interest of Rs. 1.9 crore.

4.4.2 CHARGE: CIT-II, JAIPUR, RAJASTHAN; A.Y.2000-01[80]

Rajesh Kumar Nigam, an individual, did not file the tax return or comply with the notice issued by the AO under section 147[81] of the Act. The department levied interest of Rs. 5.4 lakh instead of Rs. 59.2 lakh chargeable for the period September 2000 to December 2007, resulting in short levy of interest of Rs. 53.8 lakh.

4.5 MISTAKE IN DEDUCTION TO CO-OPERATIVE SOCIETIES

Section 80P exempts from tax, profits from specified activities in respect of co-operative societies. The quantum of such deduction from gross profits will be worked out, after adjusting brought forward loses of earlier years.

In two cases, we found mistakes in allowing deduction to co-operative societies that led to short levy of tax of Rs. 1.9 crore in Maharashtra and Rajasthan. One case is illustrated below:

[79] Income of Rs. 17.06 crore assessed in December 2007.
[80] Income of Rs. 1.81 crore assessed in December 2007.
[81] Section 147 allows the AO to assess/reassess income which he feels has escaped assessment.

4.5.1 CHARGE: CIT, ALWAR, RAJASTHAN; AY 2004-05

Alwar Bharatpur Anchlik Gramin Bank, a co-operative society was allowed deduction of Rs. 13.8 crore under section 80P for AY 2004-05 before setting off brought forward loss of Rs. 6.2 crore. This led to underassessment of income of Rs. 7.6 crore with potential tax of Rs. 1.9 crore.

4.6 INCORRECT ALLOWANCE OF DEDUCTIONS

The Act allows deductions from the assessee's gross total income, profits earned on specified activities under section 80HHC

The AOs committed mistakes in computation of export profits resulting in short levy of tax aggregating Rs. 55.6 lakh in two cases in Punjab. Details of these cases have been sent to the Ministry.

4.7 MISTAKES IN ALLOWANCE OF DEPRECIATION

Section 32 allows deduction on account of depreciation on the fixed assets used for the purpose of the business is admissible at the prescribed rates on the written down value. If the assets are used for less than 180 days, half of depreciation is admissible.

Mistakes in allowing depreciation in five cases, resulted in short levy of tax of Rs. 2.3 crore in Delhi, Gujarat and Maharashtra. One case is illustrated below:

4.7.1 CHARGE: CIT-I, KOLHAPUR, MAHARASHTRA; AY 2004-05[82]

Udaysingrao Gaikwad S.S.K. Ltd., a co-operative society was allowed full depreciation on plant and machinery though the asset was put to use for less than 180 days. The mistake resulted in excess allowance of depreciation of Rs. 4.2 crore with short levy of potential tax of Rs. 1.5 crore.

4.8 INCORRECT ADOPTION OF FIGURES

We noticed mistakes in adoption of figures resulting in short levy of tax aggregating **Rs. 80.9 lakh** in three cases in Gujarat, Maharashtra and Rajasthan. One case is illustrated below:

[82] Loss of Rs. 20.95 crore determined in December 2006.

4.8.1 CHARGE: CIT CENTRAL-II, MUMBAI, MAHARASHTRA; AY 2006-07[83]

J. E. Exports, a firm, returned 'nil' income after availing of exemption under section 10A of the Act. However, the AO assessed a loss of Rs. 1.6 crore instead of nil income. The mistake resulted in potential tax effect of Rs. 54.7 lakh.

4.9 IRREGULAR EXEMPTION UNDER SECTION 11 OF THE ACT

Section 11 provides that income from property held for charitable or religious purposes, shall not be included in the total income to the extent to which such income is applied to the purpose of the trust.

In one case in Maharashtra, mistake in exemption under section 11 of the Act led to short levy of tax of Rs. 50.8 lakh, which is illustrated below:

4.9.1 CHARGE: DIT (EXEMPTION) MUMBAI, MAHARASHATRA; AY 2005-06[84]

The Mumbai Stock Exchange, a trust, was assessed as having applied Rs. 118.2 crore towards the objects of the trust. This included a provision of Rs. 1.5 crore for doubtful debts. As this amount was merely a provision and not spent on the purpose of the trust, it should have been disallowed. The mistake resulted in under assessment of income to that extent with short levy of tax of Rs. 50.8 lakh.

4.10 MISTAKES IN SUMMARY ASSESSMENT

Section 143(1) of the Act provides that the assessment may be processed in a summary manner after, *inter alia*, rectifying any arithmetical error in the return, accounts and accompanying documents.

We noticed mistakes in 13 cases of summary assessments involving tax effect of Rs. 4.4 crore in Gujarat, Jharkhand, Rajasthan and West Bengal. One case is illustrated below:

4.10.1 CHARGE: CIT-III, AHMEDABAD, GUJARAT; AY 2005-06[85]

Dilip C Palany, an individual, paid freight charges of Rs. 5.5 crore but

[83] Loss of Rs. 1.6 crore determined in December 2007.
[84] Nil income assessed in November 2007.
[85] Income of Rs. 3.5 lakh accepted in July 2006.

did not deduct the tax at source[86]. The assessee being a proprietary concern was liable to deduct tax at source; if not deducted, the expenditure was not allowable as deduction. The irregular allowance of expenditure of Rs. 5.5 crore led to underassessment of income and short levy of tax of Rs. 2 crore including interest.

4.11 OTHER MISTAKES

Section 45(1) provides that any profits or gains arising from the transfer of a capital asset effected in previous year shall be chargeable to income tax under the head "capital gains", and shall be deemed to be income of the previous year in which the transfer took place.

We noticed mistakes in the computation of capital gains resulting in short levy of tax of Rs. 40.9 lakh in two cases in Maharashtra.

We also found short levy of tax aggregating Rs. 35.9 lakh in two cases in West Bengal as the AO had not assessed all income to tax.

4.12 CASES OF OVERASSESSMENT/OVERCHARGE

We noticed avoidable mistakes resulting in overcharge of tax of Rs. 47.6 lakh in three cases in Haryana, Maharashtra and Uttar Pradesh.

[86] Section 40 (a)(ia) provides that tax has to be deducted at source whenever amount is payable to a resident for carrying out any work.

B WEALTH TAX

4.13 RESULTS OF AUDIT

4.13.1 We reported 22 cases to the Ministry between April and October 2009 involving undercharge of wealth tax of Rs. 1.9 crore for its comments.

4.13.2 The Ministry has replied in respect of 11 cases [87] accepting nine cases (82 *per cent*) involving aggregate revenue impact of Rs. 80.5 lakh. Of these, the department recovered Rs. 5.3 lakh in two cases. In four other cases involving tax effect of Rs. 7 lakh, the department took remedial action and in two cases involving tax effect of Rs. 21 lakh, remedial action was initiated. These eight cases have been featured in paragraphs 2.5.6 and 2.5.8 of Chapter II of this report. In the remaining cases, replies have not been received. Replies of the Ministry have been suitably incorporated in the report.

4.13.3 Out of 22 cases issued to the Ministry, 14 cases involving revenue impact of Rs. 1.6 crore have been included in this chapter.

4.14 NON-CORRELATION OF ASSESSMENT RECORDS

The Board issued instructions to the AOs to ensure that wealth tax and income tax of an assessee are assessed at the same time. The charge for wealth tax is on the assets net of liabilities.

Non-compliance with the instructions resulted in non-levy of wealth tax aggregating Rs. 76.5 lakh in 10 cases in Andhra Pradesh, Delhi, Gujarat, Maharashtra, Tamil Nadu and West Bengal. Two cases are illustrated below:

[87] The department has not accepted the audit observation in one summarily processed case as a matter of principle citing the Assessing officers' limitations. However rectificatory action has been initiated/ completed without contesting the facts of the case

4.14.1 CHARGE: CIT-III, CHENNAI, TAMIL NADU; AYS 2003-04 AND 2005-06[88]

MIL Industries Ltd., a company, sold a portion of urban land at Ambattur in AY 2005-06 and capital gains on its sale was offered to tax. In the income tax returns, the assessee declared the value of the land as Rs. 17.3 crore for the AYs 2003-04 and 2004-05 and Rs. 12.7 crore for AY 2005-06. The land was not used for business purposes or let out. As such, it was an asset that was assessable to wealth tax. Although the assessee did not file wealth tax returns for the relevant years, yet the AO did not initiate any proceeding to call for it. The omission resulted in non-assessment of wealth of Rs. 47.3 crore involving non-levy of wealth tax of Rs. 46.8 lakh.

4.14.2 CHARGE: CIT CENTRAL-I, KOLKATA, WEST BENGAL; AY 2002-03[89]

Aessen (P) Ltd., a company, had rental income from its godown during AY 2002-03, which was assessed while computing income tax as income from house property. The assessee was, therefore, liable to pay wealth tax for the year. Neither did the assessee file the return of wealth nor did the assessing officer initiate any wealth tax proceeding to call for the same. The omission resulted in wealth escaping assessment of Rs. 8.7 crore involving tax effect of Rs. 8.7 lakh.

4.15 WEALTH NOT ASSESSED

Under Wealth Tax Act 1957 'assets' 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.

The AOs did not assess assets taxable to wealth tax in four cases in Himachal Pradesh, Maharashtra, Uttar Pradesh and West Bengal resulting in short levy of tax aggregating Rs. 80.7 lakh. Two cases are illustrated below:

4.15.1 CHARGE: CIT-IX, MUMBAI, MAHARASHTRA; AY 2002-03 [90]

Tata SSL Ltd., a company, transferred 1.4 lakh sq. metres of freehold land to Kanakia Construction Company for which two agreements (August 2001 and February 2002) were executed. But the sale deed of transfer of land was executed in April 2003 only. Since the

[88] Loss of Rs. 1.31 crore and capital gain of Rs. 57.25 lakh assessed in September 2005 and December 2007 respectively.

[89] Income of Rs. 47.44 lakh assessed in March 2005.

[90] Wealth of Rs. 5.85 crore assessed in March 2005.

ownership of the said freehold land was with the assessee till 31 March 2003, it was liable to be taxed. However, the freehold land was not offered for wealth tax assessment. The omission resulted in wealth escaping assessment of Rs. 72.8 crore involving tax effect of Rs. 72.8 lakh.

4.15.2 CHARGE: CIT-IV, KOLKATA, WEST BENGAL; AY 2004-05[91]

Landsdown Realty Ltd., a company, received an advance of Rs. 6 crore against sale of flats to different parties which was included in the liabilities. The omission to disallow the advance resulted in underassessment of wealth of Rs. 6 crore involving short levy of tax of Rs. 6 lakh[92].

New Delhi
Dated: 22-02-2010

(REBECCA MATHAI)
Principal Director
(Direct Taxes)

Countersigned

New Delhi
Dated: 22-02-2010

(VINOD RAI)
Comptroller and Auditor General of India

[91] Wealth of Rs. 61.94 lakh assessed in August 2004.

[92] The department has not accepted the audit observation in this summarily processed case as a matter of principle citing the Assessing officers' limitations. However rectificatory action has been initiated/ completed without contesting the facts of the case

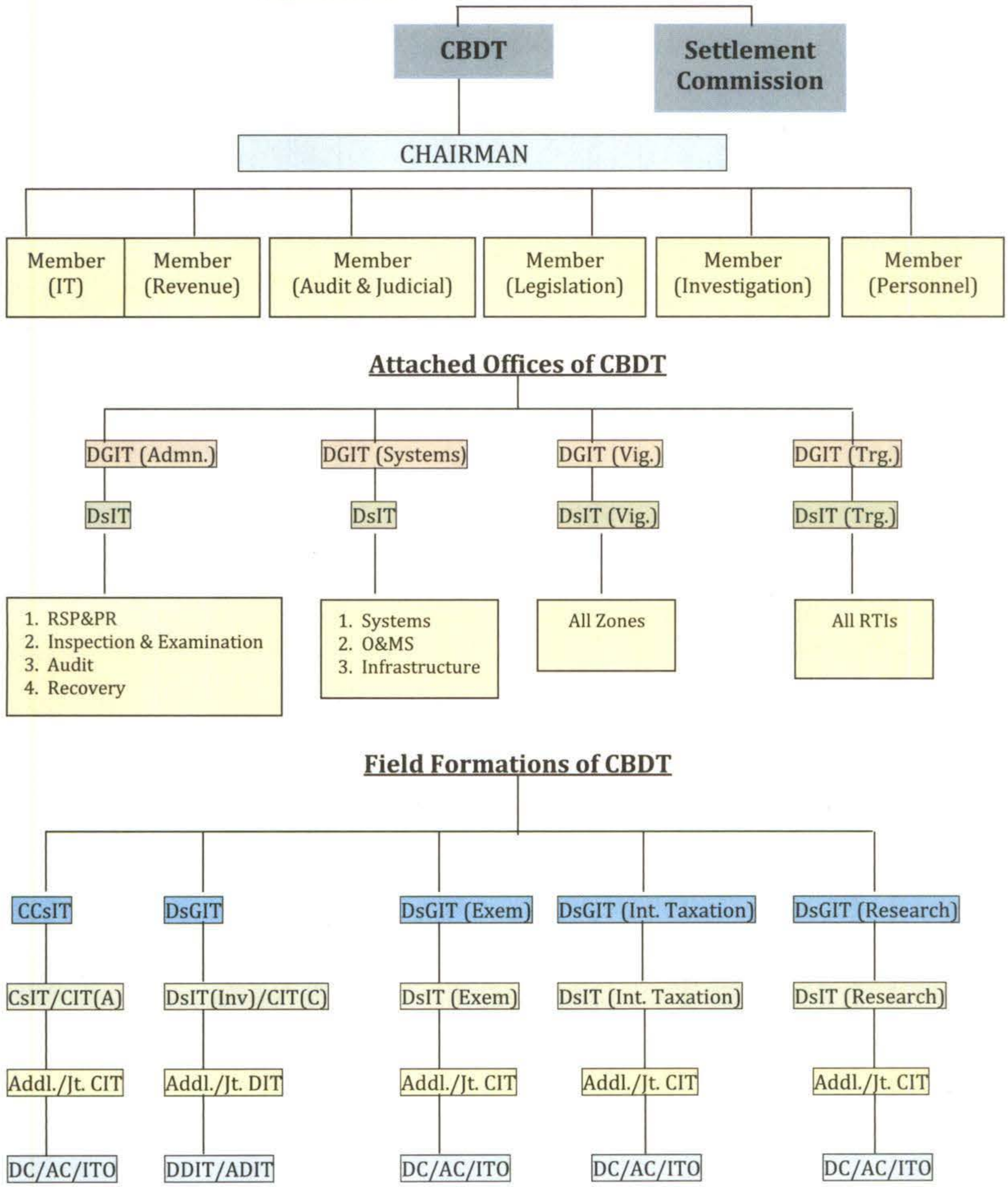
Appendices

Chapter I

Tax Administration

Appendix 1
(Reference: Paragraph 1.2)

Organisational set up of the Income Tax Department



Appendix 2

(Reference: Paragraph 1.3)

(Rs. in crore)

State/UT wise break up of Direct taxes

States	0020 Corpn tax	0021 Income Tax	0023 Hotel Rect Tax	0024 Interest Tax	0026 Fringe Ben. Tax	0028 Expdr Tax	0031 Estate Duty	0032 Wealth Tax	0033 Gift Tax	0034 Sec. Trans Tax	0036 Ban. Cash Tran. Tax	Total
Andhra Pradesh	4298.53	4238.19	0.22	0.18	166.34	2.62	0	12.69	0.03	2.32	22.77	**8743.89**
Arunachal Pradesh	0	13.80	0	0	0	0	0	0	0	0	0	**13.80**
Assam	- 675.75	127.22	0.01	0.07	1.87	- 51.03	0	0.88	0	0	0.15	**-596.58**
Bihar	62.25	423.27	0	0.03	4.58	0.49	0	0.41	0	0	0.05	**491.08**
Chhatisgarh	255.54	- 289.20	0	0.01	1.01	0.01	0.01	0.69	0	0	0.08	**-31.85**
Delhi	22000.69	12068.23	0	1.19	1105.22	1.73	0.08	52.95	0.34	13.22	85.56	**35329.21**
Goa	133.03	296.09	0	0	7.09	0	0	0.84	3.95	0	0.09	**441.09**
Gujarat	3725.93	3880.96	0.05	0.65	153.60	2.21	0.05	14.90	0	0.02	22.19	**7800.56**
Haryana	666.93	1761.57	0	0.11	35.61	0.33	0	2.99	0	0	0.10	**2467.64**
Himachal Pradesh	207.51	209.12	0	0.01	4.35	0.44	0	0.11	0	0	0.06	**421.60**
Jammu & Kashmir	273.63	234.40	0	0	5.59	0	0	0.20	0	0	3.35	**517.17**
Jharkhand	110.66	793.02	0.01	0.05	8.36	0.59	0	0.26	0	0	0.12	**913.07**
Karnataka	62075.67	13909.00	0.11	1.29	1438.77	1.16	0	61.65	- 3.74	4.80	99.96	**77588.67**
Kerala	694.80	1430.10	0.01	0.04	36.14	0.66	0	2.75	0.02	0	3.07	**2167.59**

States	0020 Corpn tax	0021 Income Tax	0023 Hotel Rect Tax	0024 Interest Tax	0026 Fringe Ben. Tax	0028 Expdr Tax	0031 Estate Duty	0032 Wealth Tax	0033 Gift Tax	0034 Sec. Trans Tax	0036 Ban. Cash Tran. Tax	Total
Madhya Pradesh	694.57	1709.70	0	0.13	55.07	- 0.01	0.01	-2.46	0.18	0.01	8.82	2466.02
Maharashtra	90744.69	41379.71	1.52	1.30	3757.68	25.64	0.05	160.34	0.27	5384.32	211.79	141667.31
Manipur	9.01	0.16	0	0	0	0	0	0	0	0	0	9.17
Meghalaya	6.64	108.15	0	0	0.85	0	0	0.04	0	0	0.01	115.69
Mizoram	0	0.10	0	0	0	0	0	0	0	0	0	0.10
Nagaland	0.91	4.05	00	0	0	0	0	0	0	0	0	4.96
Orissa	1124.51	818.90	0	0	14.62	0.01	0	0.32	0	0	0.16	1958.52
Punjab	218.27	1287.02	0.09	0.02	23.29	1.70	0.01	5.41	0	- 0.02	0.41	1536.20
Rajasthan	1082.17	1411.41	0	0.01	43.96	7.33	0	4.70	0.02	0	9.21	2558.81
Sikkim	0.13	1.21	0	0	0.04	0	0	0	0	0	0	1.38
Tamil Nadu	6120.99	5780.15	0.22	1.63	256.85	10.48	0.02	22.39	0.11	0.01	33.09	12225.94
Tripura	39.69	39.36	0	0	0.92	0	0	0.09	0	0	0.01	80.07
Uttar Pradesh	645.95	2720.81	0.01	0.95	48.17	1.07	0.18	6.62	0	0.02	2.09	3425.87
Uttaranchal	- 537.96	258.84	0	0.47	11.02	0.31	0	0.70	0	0.01	0.65	- 265.96
West Bengal	18977.71	7615.69	0.01	0.40	778.22	10.60	0.01	38.71	0.03	0.25	81.48	27503.11
Total (i)	212956.7	102231.03	2.26	8.54	7959.22	16.34	0.42	388.18	1.21	5404.96	585.27	329554.13

States	0020 Corpn tax	0021 Income Tax	0023 Hotel Rect Tax	0024 Interest Tax	0026 Fringe Ben. Tax	0028 Expdr Tax	0031 Estate Duty	0032 Wealth Tax	0033 Gift Tax	0034 Sec. Trns. Tax	0036 BCTT	Total
Union Territories												
Andaman and Nicobar Islands	16.09	7.60	0	0	2.36	0	0	0	0	0		26.05
Chandigarh	212.39	448.87	0.01	0.06	11.11	0.98	0.16	0.86	0	0	0.15	674.59
Daman and Diu	0.27	0.32	0	0	0	0	0	0	0	0	0	0.59
Dadra and N.Haveli	0	0	0	0	0	0	0	0	0	0	0	0
Pondicherry	81.33	83.41	0	0.02	3.88	0	0	0.20	0	0	0	168.84
Lakshadweep	0.26	2.62	0	0	0	0	0	0	0	0	0	2.88
Total (ii)	**310.34**	**542.82**	**0.01**	**0.08**	**17.35**	**0.98**	**0.16**	**1.06**	**0**	**0**	**0.15**	**872.95**
Total (i) &(ii)	**213267.04**	**102773.85**	**2.27**	**8.62**	**7976.57**	**17.32**	**0.58**	**389.24**	**1.21**	**5404.96**	**585.27**	**330427.08**
CTDS (Prov)	128.13	3262.80	0	0	0	0	0	0	0	0	0	3390.93
Grand Total	**213395.17**	**106036.65**	**2.27**	**8.62**	**7976.57**	**17.32**	**0.58**	**389.24**	**1.21**	**5404.96**	**585.27**	**333818.01**

Appendix 2A
(Reference: Paragraph 1.4.3)

(Rs. in crore)

Sl. no	State	Net collection (2007-08)	Net Collection (2008-09)	Net State DP(NSDP) (2006-07)	NSDP (2007-08)	Percent Growth in collection	Percent Growth in NSDP	Tax-NSDP Ratio (%)	Buoyancy (%)
1	2	3	4	5	6	7=(col.4/ col.3-1) x100	8=(col.6/ col.5-1)x100	9=(col.4/ col.6)x100	10=(col.7/ col.8)
1	Andhra Pradesh	13,835.66	8743.89	240261	279483	(-) 36.80	16.32	3.13	(-) 2.25
2	Arunachal Pradesh	8.56	13.8	3020	3266	61.21	8.15	0.42	7.52
3	Assam	1,623.38	-596.58	57378	62852	(-) 136.75	9.54	(-) 0.95	(-) 14.33
4	Bihar	791.42	491.08	86424	98373	(-) 37.95	13.83	0.50	(-) 2.74
5	Chhattisgarh	1,891.67	-31.85	56934	68045	(-) 101.68	19.52	(-) 0.05	(-) 5.21
6	Delhi	45,954.98	35329.21	109238	125700	(-) 23.12	15.07	28.11	(-) 1.53
7	Goa	2,156.26	441.09	13284	15065	(-) 79.54	13.41	2.93	(-) 5.93
8	Gujarat	11,909.14	7800.56	180271	208211	(-) 34.50	15.50	3.75	(-) 2.23
9	Haryana	5,246.26	2467.64	118995	140457	(-) 52.96	18.04	1.76	(-) 2.94
10	Himachal Pradesh	465.54	421.6	24797	27542	(-) 9.44	11.07	1.53	(-) 0.85
11	Jammu & Kashmir	533.34	517.17	24747	27100	(-) 3.03	9.51	1.91	(-) 0.32
12	Jharkhand	1,958.57	913.07	54472	60548	(-) 53.38	11.15	1.51	(-) 4.79
13	Karnataka	30,706.94	77588.67	174742	203703	152.67	16.57	38.09	9.21
14	Kerala	2,775.79	2167.59	123366	140889	(-) 21.91	14.20	1.54	(-) 1.54
15	Madhya Pradesh	3,556.22	2466.02	113221	123230	(-) 30.66	8.84	2.00	(-) 3.47
16	Maharashtra	129,353.89	141667.31	375915	437035	9.52	16.26	32.42	0.59
17	Manipur	11.06	9.17	4726	5044	(-) 17.09	6.73	0.18	(-) 2.54

Sl. no	State	Net collection (2007-08)	Net Collection (2008-09)	Net State DP(NSDP) (2006-07)	NSDP (2007-08)	Percent Growth in collection	Percent Growth in NSDP	Tax-NSDP Ratio (%)	Buoyancy (%)
1	2	3	4	5	6	7=(col.4/ col.3-1) x100	8=(col.6/ col.5-1)x100	9=(col.4/ col.6)x100	10=(col.7/ col.8)
18	Meghalaya	206.66	115.69	6162	6707	(-) 44.02	8.84	1.72	(-) 4.98
19	Mizoram	0.18	0.1	2629	2887	(-) 44.44	9.81	0.00	(-) 4.53
20	Nagaland	11.21	4.96	4980	5255	(-) 55.75	5.52	0.09	(-) 10.10
21	Orissa	4,279.15	1958.52	81392	92603	(-) 54.23	13.77	2.11	(-)3.94
22	Punjab	2,584.48	1536.2	109459	122049	(-) 40.56	11.50	1.26	(-) 3.53
23	Rajasthan	5,240.71	2558.81	128997	145125	(-) 51.17	12.50	1.76	(-) 4.09
24	Sikkim	15.91	1.38	1746	1990	(-) 91.33	13.97	0.07	(-) 6.54
25	Tamil Nadu	18,010.29	12225.94	229896	254268	(-) 32.12	10.60	4.81	(-) 3.03
26	Tripura	64.25	80.07	8712	9533	24.62	9.42	0.84	2.61
27	Uttar Pradesh	7,044.62	3425.87	271750	303228	(-) 51.37	11.58	1.13	(-) 4.43
28	Uttaranchal	6,689.13	-265.96	22781	25868	(-) 103.98	13.55	(-) 1.03	(-) 7.67
29	West Bengal	12028.57	27503.11	240775	274897	128.65	14.17	10.00	9.08
30	A& N Islands	21.26	26.05	1382	1527	22.53	10.49	1.71	2.15
31	Chandigarh	1,053.92	674.59	11266	13248	(-) 35.99	17.59	5.09	(-) 2.05
32	Puducherry	143.95	168.84	6231	7002	17.29	12.37	2.41	1.40

Chapter 2

Audit Impact

Appendix -3

(Referred to in Paragraph 2.4)

Audit observations and revenue effect in audit of scrutiny assessments

State	No. of assessments completed	No. of assessments checked in audit	No. of assessments with errors	Total revenue effect of the audit observations made in the scrutiny assessments (Rs. in crore)	Percentage (Column 4/ column 3 x 100)
1	2	3	4	5	6
Andhra Pradesh	14027	10630	937	258.37	8
Assam	1538	1403	29	3.90	2
Bihar	930	852	54	3.11	6
Chhattisgarh	294	264	6	0.22	2
Delhi	31586	21571	1039	1107.43	4
Goa	873	422	30	4.48	7
Gujarat	13967	12819	806	157.43	6
Haryana	6378	5488	531	91.51	9
HP	1160	1073	257	6.49	23
Jharkhand	2036	1598	98	89.88	6
J&K	128	85	31	0.43	36*
Karnataka	11810	9925	353	285.87	3
Kerala	3952	3434	442	268.84	12
Madhya Pradesh	5456	5244	388	65.92	7
Maharashtra	49905	46998	1817	3097.67	3
Orissa	2501	2066	202	94.33	9
Punjab	11955	10826	662	49.96	6
UT	2215	1984	159	102.38	8
Rajasthan	12159	11191	687	135.70	6
TN	25679	23288	3616	545.59	15
Uttar Pradesh	14174	13697	455	157.93	3
Uttaranchal	648	424	20	0.11	4
West Bengal	19222	18264	1016	922.77	5
Total	**232593**	**203546**	**13635**	**7450.33**	**6.7**

Total demand raised during the assessments in 2007-08 = Rs. 52865 crore.

Percentage of error (in terms of revenue) = $\frac{\text{Rs. } 7450.3}{\text{Rs. } 52865}$ = 14%

*This may not be true representation since a small number of cases were audited.

Appendix 4

(Referred to in Paragraph 2.4)

Details of establishment cost of statutory receipt audit

Cadre	Working Strength	Average of pay Band + Grade pay + DA	Total cost (Rs. in crore) Column2xColumn3
1	2	3	4
Sr. Audit Officers	297	27350+5400+7205	1.19
Asstt. Audit Officers	419	22050+4800+5907	1.37
Sr. Auditors	400	22050+4200+5775	1.28
Total			3.84

I. Total cost = Rs. 3.84 crore

II. Total tax effect of cases audited in 2008-09 on which remedial action was completed=Rs. 696.7 crore[93]

III. Establishment cost as percentage of total tax effect in completed cases = $\frac{3.84}{696.7}$ =0.55

Note: Pay at mid-scale has been used for arriving at the figure. The cost does not include travel expenses.

[93] Based on the tax effect in audit observations included in the Local Audit Reports of various audit offices.

Appendix-5

(Referred to in Paragraph 2.5.2)

Details of cases accepted by Department and remedial action taken

No. of cases accepted and remedial action taken	No. of cases accepted but remedial action not taken	No. of cases not accepted but remedial action taken	No. of cases not accepted	No. of cases where reply has not been received	Total replies received (Col. 1+2+3+4)	Percentage of reply received (Col. 1+2+3+4)/ Col. 1+2+3+4+5)	Percentage accepted out of column 6 (Col. 1+2/ col. 6)	Percentage of remedial action taken out of col. 6 (Col. 1+3/ col. 6)
1	2	3	4	5	6	7	8	9
2455	2443	140	5752	8841	10790	55	45	24

Appendix -6

(Referred to in Paragraph 2.5.6)

(Rs. in lakh)

Recovery on cases issued during 2009					
Sl. no.	Name of assessee	CIT charge	Assessment year(s)	Category of mistake	Tax effect
1	M/s. Rohtak Co-operative Milk Producers Union Ltd. Rohtak	Rohtak	2004-05	Set off of loss of Rs. 11.97 lakh was claimed even though there was no loss, resulting in underassessment of Rs. 11.97 lakh with tax effect of Rs. 5.25 lakh	5.25
2	M/s. Rohtak Co-operative Milk Producers Union Ltd. Rohtak	Rohtak	2004-05	Provisions not written-off were not disallowed.	8.21
3	Sh. R. Maheswara Naidu	Hyderabad -III	2006-07	The assessee owned gross wealth of Rs. 2.79 crore in the form of cash exceeding Rs. 50,000/- thus attracting the provisions of Wealth tax Act. Although the assessee did not file wealth tax return, yet the AO did not initiate any proceeding to call for it.	2.64
4	Sh. Lok Nath Prasad Gupta	Kolkata Central III	2004-05 & 2005-06	The assessee had taxable wealth, Although the assessee did not file wealth tax return, yet the AO did not initiate any proceeding to call for it.	2.7
Total					**18.80**

Appendix- 7

(Referred to in Paragraph 2.5.6)

(Rs. in lakh)

Cases issued during 2009 : accepted and remedial action taken

Sl. No.	Name of assessee	CIT charge	Assessment year(s)	Category of mistake	Tax effect
1	M/s. Vivimed Laboratories Ltd.	Hyderabad-III	2004-05	Unabsorbed depreciation and business loss already adjusted in earlier years were allowed again.	134.14
2	M/s. Universal Industrial Funds	Kolkata-II	2005-06	Business loss of Rs. 1.3 crore was taken as Rs. 13 crore.	428
3	M/s. Sakthi Auto components Ltd	Coimbatore-I	2005-06	Technical know how expenditure, being of capital nature, was not disallowed.	115.69
4	M/s. Pentair Water India Pvt. Ltd.	Goa	2002-03	Written down value was taken in excess leading to excess allowance of depreciation.	119
5	M/s. Dharamraj Industries (P) Ltd	Mumbai Central Range-II	1998-99	Interest for default in payment of advance tax was levied short.	127.48
6	M/s. Odyssey Capital Pvt. Ltd.	Mumbai-V	2005-06	Tax was calculated at 65% instead of 35%.	80.81
7	NRC Ltd	Mumbai-II	2005-06	Unabsorbed depreciation/ brought forward business loss was not allowed to be set off.	186.8
8	M/s. Paresh Exports Pvt. Ltd	Bangalore Central	2003-04	Interest for late filing of return was not levied.	215
9	Super Forgings and Steels Ltd.	Kolkata Central-II	2005-06	Interest payable on term loans and others was allowed even though they were not actually paid.	74.58
10	M/s. Hansaflon Plastochem Ltd.	Delhi-IV	2003-04	Arithmetical mistake while calculating income in the revised return.	153
11	M/s. Mahaan Proteins Ltd	Delhi-II	2004-05	Depreciation was allowed in excess.	109
12	M/s. Indian Vaccine Corporation Ltd.	Delhi-IV	2002-03	Waiver of loan allowed was to be treated as income, which was not done.	69
13	M/s. IBM Daksh Services (P) Ltd	Delhi-IV	2003-04	Foreign exchange fluctuation gain was not brought to tax.	63
14	M/s. First Aid Medicine Ltd.	Mumbai-II	1996-97	Interest was short levied.	86
15	M/s. Lloyd Metals & Engineers Ltd	Mumbai-VI	2003-04	Write off of bad debt was allowed twice.	86
16	M/s. Royal Touch Fablon Pvt. Ltd.	Kolkata-II	2005-06	TDS was not deposited in Govt. a/c within due date. Still deduction was allowed.	112
17	M/s. Maithan Alloys Ltd.	Kolkata Central-I	2005-06	There was no unabsorbed depreciation. Yet it was allowed set off.	55

Sl. No.	Name of assessee	CIT charge	Assessment year(s)	Category of mistake	Tax effect
18	M/s. Indian Explosives Company	Kolkata-IV	2003-04	Business loss was allowed to be set off in excess.	78
19	M/s. Metals Centre Company	Kolkata-II	2001-02	Arithmetical mistake in computation of loss.	282
20	M/s. GMMCO Ltd	Kolkata-II	2005-06	Unabsorbed depreciation which could have been set off was not set off and was allowed to be carried forward.	119
21	M/s. Maithan Alloys Ltd	Kolkata Central-I	2005-06	Sales tax subsidy was not deducted from the cost of assets.	54
22	M/s. Goetze (India) Ltd.	Delhi-II	2004-05	Rs. 1.94 crore debited to P&L account on account of royalty paid to foreign company in lieu of technical know how was not disallowed.	69.43
23	Industrial Investment Bank of India Ltd.	Kolkata ACIT Circle VI	2004-05	Arithmetical mistake in computation of income.	358
24	E.C. Bose & Co. (Paradeep) (P) Ltd	Kolkata-III	2004-05	Entire contract receipt was not considered in assessment.	178
25	J K Corporation Ltd.	Kolkata Central I	2005-06	Mistake in adjustment of unabsorbed depreciation	1551.18
26	Hoogli Dock & Port Engineers Ltd.	Kolkata-I	2005-06	In admissible expenditure was added back twice.	160
27	West Bengal Infrastructure Development Finance Corporation Ltd.	Kolkata ACIT-Circle VI	2002-03	Even though there was no brought forward loss, loss was allowed to be set off.	73.16
28	J.K. Corporation Ltd.	Kolkata Central I	2004-05	Short term capital gain was set off with long term capital loss of earlier years	146
29	All Bank Finance Ltd.	Kolkata-II	1994-95	Depreciation was not considered while giving effect to appellate orders.	59
30	M/s. Lakshmi Machine Works Ltd	Coimbatore-II	2004-05	Unabsorbed business loss and depreciation of amalgamated company was brought forward and absorbed as goodwill which was amortised for a period of 3 years.	343.83
31	M/s. Margadarshi Chit Funds Ltd.	Hyderabad-IV	2005-06	Interest for default in payment of advance tax under section 234-B was levied in excess by Rs. 1.21 crore.	121

Sl. No.	Name of assessee	CIT charge	Assessment year(s)	Category of mistake	Tax effect
32	Radica Ispat (India) Ltd	Kolkata Central III	2005-06	Diminition in the value of shares, being notional and relating to capital assets, was to be disallowed, which was not done.	80
33	M/s. Millenium Alcobev Pvt Ltd	Chennai-III	2004-05	In the absence of any manufacturing activity in the assessment year 2004-05 the assessing officer erroneously added back book depreciation of Rs. 2.76 crore to the business loss instead of the depreciation of Rs. 4.22 crore as per the Act.	69.56
34	M/s. Vashishti Detergents Ltd.	Kohlapur-II	2004-05	Arithmetical mistake in carry forward of loss.	169
35	M/s. Karnataka State Road Transport Corporation	Bangalore-I	2002-03	54 percent of expenditure allowed towards conditioning of vehicles was to be capitalised, which was not done.	105
36	M/s. National Textiles Corporation	Coimbatore-I	2004-05	The delayed remittances of Rs. 3.65 crore on account of employees' contribution towards the Employees State Insurance and Employees Provident Fund to Government Account were allowed as deduction.	131
37	Raasi Cements Ltd	Hyderabad-III	1999-2000	Interest liability of Rs. 58.21 lakh relating to ceramic division, was to be disallowed which was not done.	100
38	M/s. Hindustan Antibiotics Ltd	Pune-V	2005-06	Business loss was neither set off against long term capital gains nor long term capital gain was taxed separately.	124
39	M/s. KDL, Biotech Ltd.	Mumbai Central-II	2003-04 and 2004-05	Customs duty which was not actually paid, was allowed as deduction.	80.32
40	M/s. Kinetic Engineering Ltd	Pune-V	2005-06	The assessing officer accepted the figure of loss as per original return instead of revised return.	52.21
41	Krishna Valley Development Corporation Ltd.	Pune-I	2001-02& 2002-03	Finance costs and interest payments in respect of ongoing projects were not capitalized.	52911
42	Rai Saheb Rekhachand Mehta Spinning & Weaving Mills Ltd.	Mumbai-IV	2001-02	Depreciation was allowed in excess.	951

Sl. No.	Name of assessee	CIT charge	Assessment year(s)	Category of mistake	Tax effect
43	Sh. Precoated Steel Ltd.	Mumbai Central-I	2004-05	Income returned by the assessee was taken as Rs. 6.41 crore instead of Rs. 28.83 crore.	805
44	Sunflag Iron & Steel Co.	Nagpur-I	2005-06	Deduction u/s 80-IA was allowed without setting off unabsorbed depreciation.	476
45	Athena Financial Services Ltd.	Pune-V	2005-06	Income was overassessed due to arithmetical mistake.	847
46	Biodeal Laboratories Pvt.Ltd	Ahmedabad-V	2004-05	Business loss of Rs. 1.10 crore was set off against long term capital gains of current year.	39.66
47	Petronet V.K. Ltd	Jamnagar	2004-05	Despite allowing the depreciation of Rs. 4.34 crore, the assessing officer neither reduced the same from carried forward losses nor was the figure intimated clearly.	156
48	M/s. Nagarjuna Electric Generating Company Ltd.	Hyderabad-IV	2003-04	As there was no business activity during the year, loss claimed in the form of finance charges paid and depreciation was to be disallowed, which was not done.	162
49	M/s. Shree Shinde Enterprises	Hyderabad-IV	2006-07	Incorrect allowance of depreciation on good will.	7.77
50	M/s. Chanakya Education Society	Pune-I	2005-06	Mistake in adoption of correct figures.	4614
51	M/s. Shankar Maharshi Dattajirao Kadam Shankare Soot Girani Ltd	Kolhapur-I	2005-06	Incorrect carry forward of losses.	25.1
52	M/s Allah Dad Tannery	Kanpur-I	2000-01	Short levy of interest.	10.41
53	Sh. Santosh Kumar Jha	Patna-I	2004-05	Non levy of surcharge.	8.48
54	Sh. Ishwar Chand Tayal	Delhi-VII	2002-03	Arithmetical mistake in calculating tax.	64
55	M/s. National Co-operative consumers federation of India	Delhi-VIII	2003-04	Unabsorbed depreciation was incorrectly allowed to be set off.	54
56	M/s. Sarla Jain	Delhi-VIII	2003-04	Tool and dyes expenses and Product registration charges, being Capital expenditure, was not disallowed.	11

Sl. No.	Name of assessee	CIT charge	Assessment year(s)	Category of mistake	Tax effect
57	Mr. Jamaluddin	Kolkata Central II	2005-06	Though return was filed late, loss was allowed to be carried forward.	13
58	Sh. Yogendra Ratillal Sheth	Kolkata Central II	2005-06	Excess allowance of expenditure.	6
59	M/s. Kamala Construction Company	Dhanbad	2005-06	Application of incorrect rate of tax.	9.63
60	M/s. Lamina International	Mangalore	2004-05	Excess deduction allowed under section 80-HHC.	8.67
61	The Bhawaskar Kshetriya Co-operative Bank	Balgaum	2006-07	Excess carry forward of loss.	10
62	Smt. K. Rajeswary	Hyderabad-I	2004-05 & 2005-06	The assessee had taxable wealth. Although the assessee did not file wealth tax return, yet the AO did not initiate any proceeding to call for it.	4.27
63	TIL Limited	Kolkata-I	2003-04 & 2004-05	The assessee was falling within the purview of section 2(ea) of Wealth tax Act, Although the assessee did not file wealth tax return, yet the AO did not initiate any proceeding to call for it.	1.24
64	Biodeal Laboratories Pvt. Ltd.	Ahmedabad-V	2004-05	The assessee was falling within the purview of section 2(ea) of Wealth tax Act, Although the assessee did not file wealth tax return, yet the AO did not initiate any proceeding to call for it.	0.54
65	Sh. Sunil Vasant Sathe	Pune-III	2005-06	The assessee was falling within the purview of section 2(ea) of Wealth tax Act, Although the assessee did not file wealth tax return, yet the AO did not initiate any proceeding to call for it.	1
66	Central Coalfields Ltd	Ranchi	2005-06	Total taxable income after additions and adjustments worked out to Rs. 1685.29 crore whereas it was determined as Rs. 1585.29 crore.	4871.00
67	M/s Deep Jyoti Textile Mills	Valsad	2005-06	Depreciation of Rs. 78.92 lakh was allowed instead of Rs. 49.33 lakh.	9.96
					72795.93

Appendix-8

(Referred to in Paragraph 2.5.8)

(Rs. in lakh)

Cases issued during 2009 : accepted and remedial action initiated

Sl. No.	Name of assessee	CIT charge	Assessment year(s)	Category of mistake	Tax effect
1	M/s. Sanghi Polyesters Ltd	Hyderabad-III	2001-02	Funded interest of Rs. 77.48 crore was not disallowed as per Section 43-B.	3064
2	M/s. PKPN Spinning Mills Pvt.Ltd.	Salem	2001-02 and 2002-03	Capital expenditure of Rs. 2.81 crore was not disallowed.	58.87
3	Container Corporation of India Ltd	Delhi-I	2005-06	Advance tax paid was less than 90 *per cent.* Department levied interest short by Rs. 3.12 crore.	312
4	Hirakud Industrial Works	Sambalpur	2005-06	TDS collected but not deposited was not disallowed.	116
5	M/s. Calcutta State Transport Corporation	Kolkata-IV	2004-05 and 2005-06	Employee's contribution was not remitted within time, but was not disallowed.	223
6	Orissa Mining Corporation	Bhubaneswar	2004-05	The amount paid by the assessee as Net Present Value for the forest land was not capitalized.	423
7	M/s. Northern Coalfields Ltd.	Jabalpur-II	2005-06	While revising the assessment, interest already calculated remained to be levied.	365
8	M/s. Modern Beverage	Jammu	2003-04 and 2004-05	Inadmissible deduction was allowed.	12
9	Sh. Rajesh Jaiswal	Bhubaneswar	2005-06	Tax was not deducted at source on payment of transportation charges.	188
10	Puri Gramya Bank	Bhubaneswar	2005-06	Business loss was allowed to be set off on excess.	285
11	Sh. Arvind Kumar Tusela	Kanpur-I	2005-06	Expenditure on royalty, though being of capital nature, was not disallowed.	8.69
12	M/s. Tyre Corporation of India	Kolkata-III	2002-03 and 2003-04	Expenditure on voluntary retirement was allowed in excess.	455
13	Central Warehousing Corporation	Delhi-I	2002-03	Rs. 4.16 crore debited to P&L a/c as unabsorbed overheads on capital works was to be disallowed being of capital nature, which was not done.	148

Sl. No.	Name of assessee	CIT charge	Assessment year(s)	Category of mistake	Tax effect
14	M/s. HEG Ltd. Manideep Raisen	Bhopal	2001-02 to 2004-05	While allowing deduction under section 80-HHC, profits relating to eligible undertakings on which deduction under section 80-IA was claimed, were not deducted.	734
15	M/s. Northern Coalfields Ltd.	Jabalpur-II	2004-05 to 2007-08	Hundred *per cent* deduction was allowed instead of one tenth in respect of one time payment of rent and afforestation charges for leasehold land.	2082
16	M/s. Servalakshmi Paper & Boards (P) Ltd	Chennai-III	2004-05	Sale of steam does not construe an activity relating to generation of power. Still 80-IA deduction was allowed.	143.86
17	Orissa State Warehousing Corporation	Bhubaneswar	2004-05	Interest paid on loan during pre operation period was not capitalised. 2. Depreciation was claimed on the amount of capital subsidy received. 3. Payment of employees CPF was not made within due date. 4. Dividend tax, service tax and contribution to CM's relief fund were taken as expenditure. These were not disallowed.	80.13
18	M/s. New Deal Finance & Investments Ltd	Chennai-III	2003-04	Interest payment of Rs. 1.80 crore on loan raised for investment in shares was allowed as deduction despite it being of capital nature.	65.55
19	Bihar State Text Book Publishing Corporation Ltd.	Patna DCIT-II	2002-03	Interest chargeable on revised income worked out to Rs. 51.34 lakh whereas only Rs. 4.84 lakh was levied.	46.5
20	M/s. Madras Wire Products Ltd.	Chennai-III	2004-05	The assessee did not offer land that it sold for Rs. 5.19 crore in 2001 for tax during the assessment years 1999-2000 to 2002-03.	18.31

Sl. No.	Name of assessee	CIT charge	Assessment year(s)	Category of mistake	Tax effect
21	M/s. Billroth Hospitals Ltd.	Chennai-I	2003-04 and 2004-05	Although the assessee did not file wealth tax return for the assessment years 2003-04 and 2004-05 in respect of urban land acquired at Koyambedu (January 2003), yet the AO did not initiate any proceeding to call for it.	3.03
22	Darshan Art Exports	Jaipur-II	2005-06	While computing the total income, returned income was taken as Rs. 34.95 lakh instead of Rs. 72.50 lakh.	13.74
					8845.68