

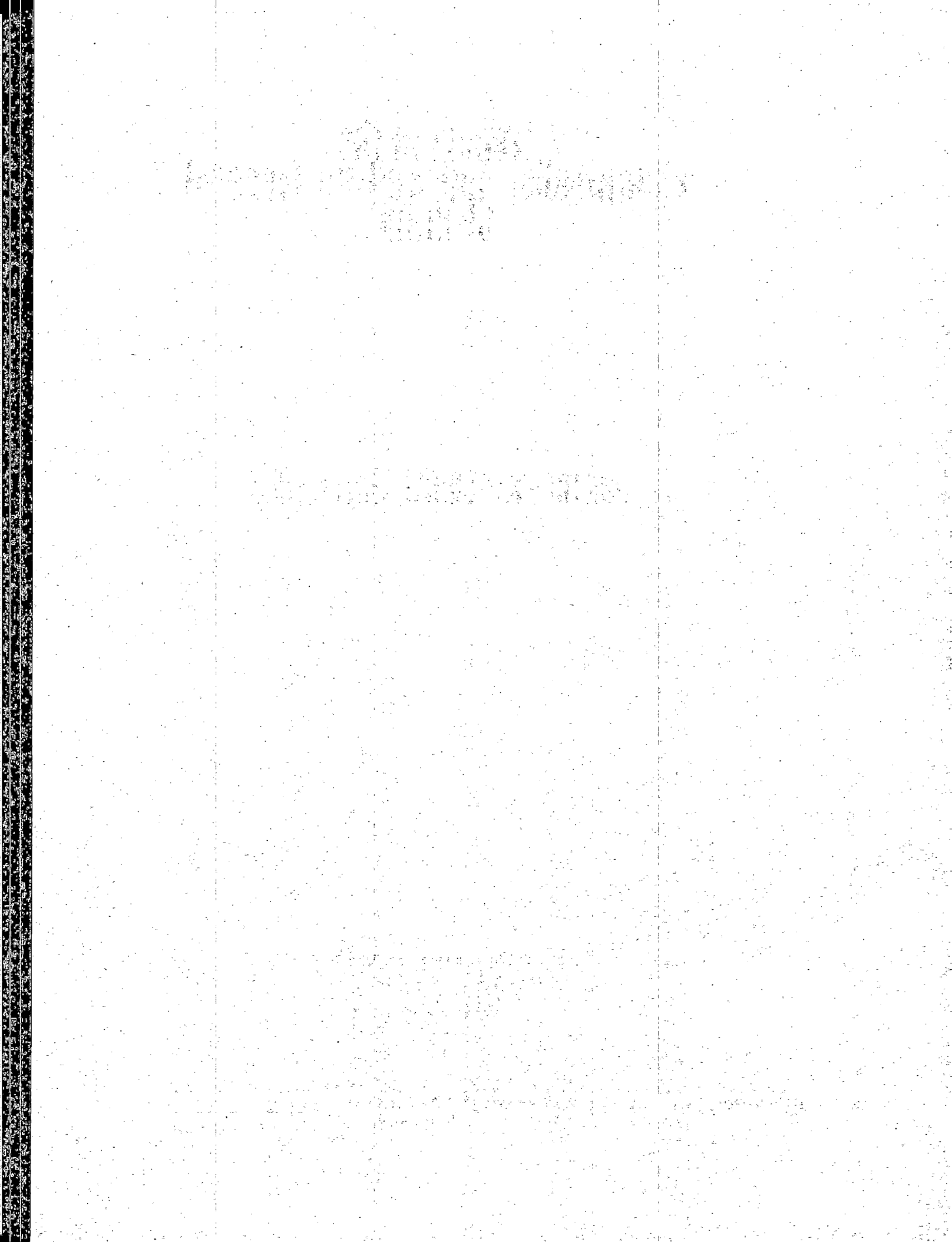
**Report of the  
Comptroller and Auditor General  
of India**

**for the year ended March 2007**

**UNION GOVERNMENT  
(DIRECT TAXES)  
NO. CA 8 OF 2008**

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

**11 1 मार्च 2008  
MAR 2008**



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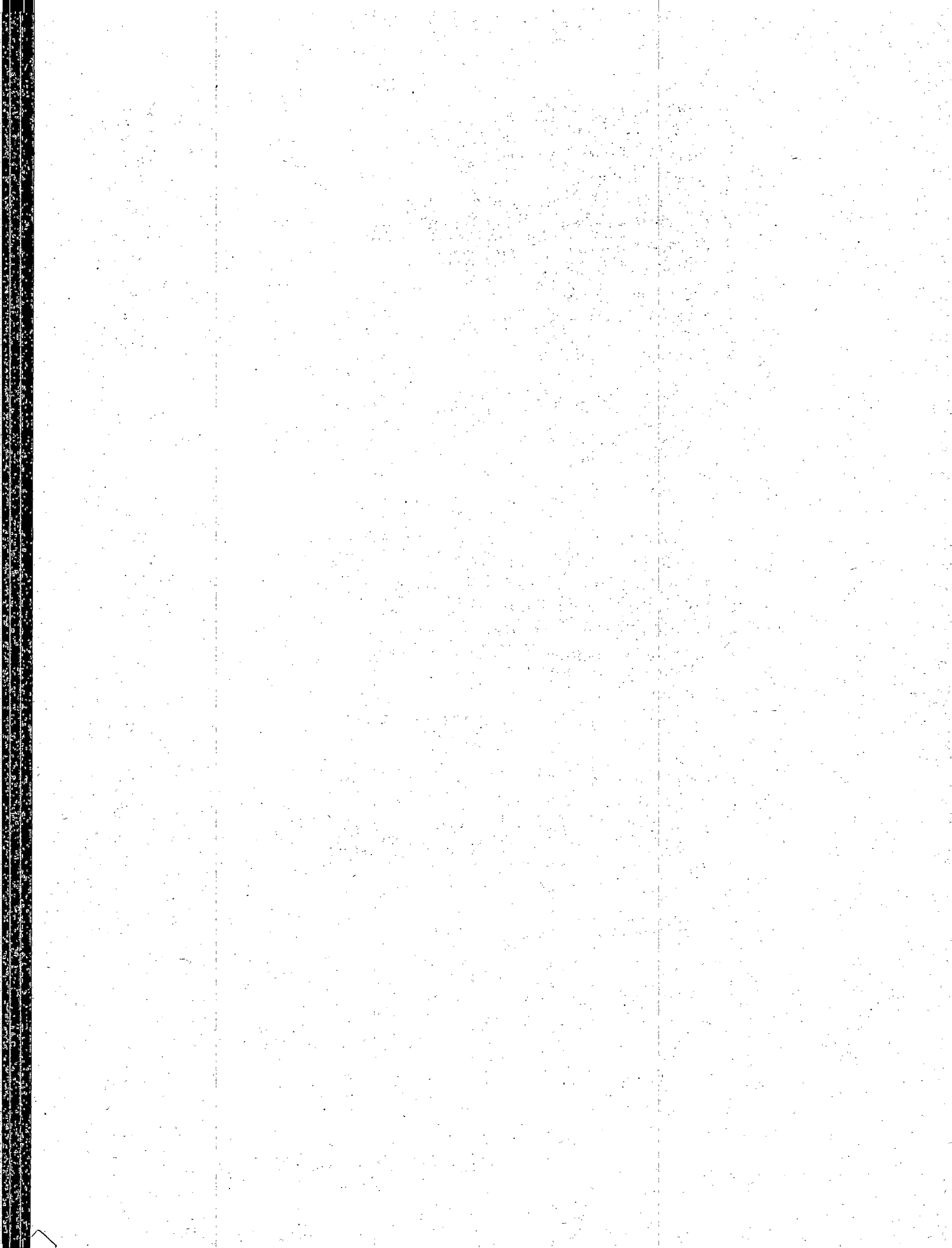
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## PREFACE

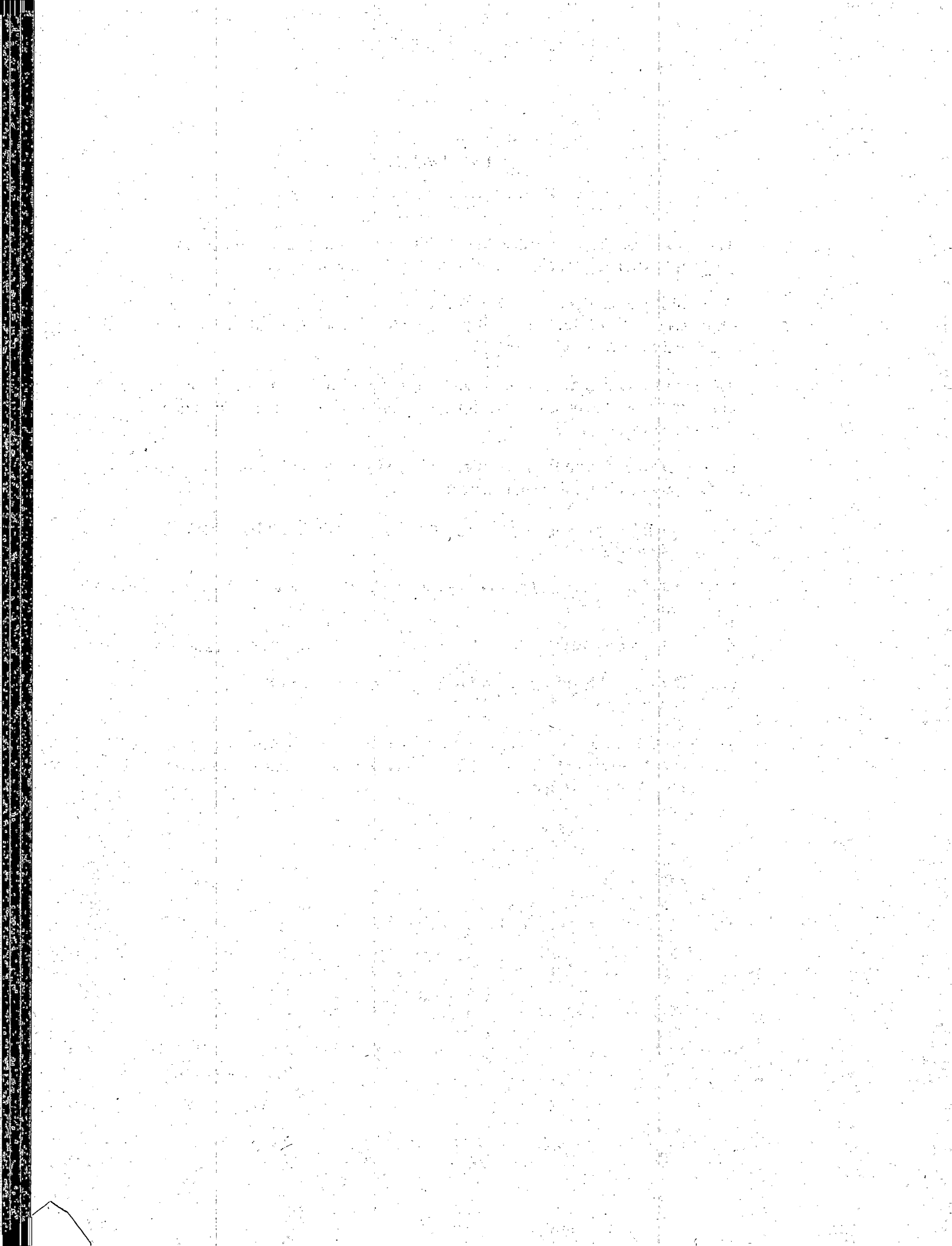
This report for the year ended March 2007 has been prepared for submission to the President under Article 151(1) of the Constitution of India.

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, interest tax etc., and is arranged in the following order: -

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

The observations included in this report have been selected from the findings of the test check conducted during 2006-07 and in earlier years which could not be covered in the previous reports.





**OVERVIEW**

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**Chapter I: Introduction**

The Comptroller and Auditor General of India conducts the audit of revenues from direct taxes of the Union Government under section 16 of the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act 1971.

Nine hundred and sixty one observations with a tax effect of Rs. 1,749.97 crore were issued to the Ministry as individual draft paragraphs, including 542 observations involving revenue impact of Rs. 1,085.32 crore that has arisen from local audit conducted in earlier years. Nine hundred and eighteen observations involving revenue impact of Rs. 1,663.50 crore have been included in this report. There was loss of revenue of Rs. 1,354.33 crore due to timely remedial action not being taken in 3,593 cases.

Application of statistical sampling techniques revealed that most likely estimates of proportion of scrutiny and non-scrutiny assessments with mistakes in Maharashtra were 7 percent and 1 percent respectively whereas those in Delhi were 12 percent and 7 percent for assessments completed during 2005-06. The total revenue effect of audit observations observed in the sample of the assessments completed during 2005-06 in Maharashtra and Delhi were Rs. 5,247.47 crore and Rs. 2,407.17 crore respectively, which were 8.65 percent and 9.19 percent of the total direct taxes revenue collection in the respective state for the financial year 2005-06.

Recovery of Rs. 1,462.16 crore was made at the instance of audit in respect of 1,348 cases during 2006-07.

Out of a target of 12.33 lakh cases for disposal during 2006-07 only 3.67 lakh cases were seen by internal audit, leaving a balance of 70.27 percent.

Department did not produce to audit 69,054 cases or 54 percent of cases not produced during earlier audits and requisitioned again in 2006-07 which included 213 cases not produced in three or more consecutive audit cycles in Andhra Pradesh, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Orissa and Tamil Nadu charges. Consequently, these cases could not be audited.

**Chapter II: Tax Administration**

Total collections from direct taxes increased from Rs. 83,088 crore in 2002-03 to Rs. 2,30,181 crore in 2006-07 at an average annual rate of growth of 27.33 percent. In the case of corporate assesseees, 75.78 percent of gross collections was

made at pre-assessment stage, of which 55.20 percent was by way of advance tax. In the case of non-corporate assessees, 89.55 percent of the gross collection was made at pre-assessment stage, of which 50.96 percent was by way of TDS. Total number of assessees grew from 2.85 crore to 3.13 crore during 2002-03 to 2006-07 at a compound annual growth rate of 2.40 percent which was lower than the growth rate of 3.24 percent during 2001-02 to 2005-06. The number of cases selected for scrutiny during 2006-07 was higher at 3.41 lakh as compared to 2.03 lakh in 2005-06. There has been a progressive decline in completion of assessments from 89.87 percent in 2002-03 to 66.44 percent in 2006-07, and a corresponding increase in pendency over the last five years. The decrease in the number of officers deployed on assessment duty could be one of the reasons for the increased pendency. Uncollected amount of Rs. 1,17,370 crore out of the total demand of Rs. 3,37,007 crore in respect of corporation tax/income tax and wealth tax comprised demand of Rs. 86,203 crore of earlier years and current demand of Rs. 31,167 crore outstanding as on 31 March 2007. The outstanding demand of corporation tax increased from Rs. 55,098 crore in 2005-06 to Rs. 64,683 crore in 2006-07 and that for income tax from Rs. 40,289 crore to Rs. 51,771 crore. For wealth tax, the outstanding demand decreased from Rs. 9,491 crore in 2005-06 to Rs. 916 crore during 2006-07. Since the wealth tax collection during 2006-07 was only Rs. 240.33 crore, this sharp reduction seems inexplicable and merits investigation by the Ministry. The percentage of recovery of certified demand increased from 14 percent of total certified demand during 2005-06 to about 24 percent during 2006-07.

### **Chapter III: Corporation Tax**

Receipts from corporation tax amounted to Rs. 1,44,318 crore which constituted 62.71 percent of the total collection from direct taxes during 2006-07. The number of corporate assessees as on 31 March 2007 was around 4 lakh which represented an increase of 1.80 percent over the previous year. In respect of corporate assessees, 665 audit observations involving undercharge of tax of Rs. 1,573.64 crore and 21 observations involving overcharge of tax of Rs. 95.74 crore on account of various irregularities in assessments, such as mistakes in computation, carry forward and set off of loss, implementation of appellate orders, computation of income under special provisions, allowance of depreciation, deductions not supported by actual payment, capital/non business expenditure, mistakes in adoption of correct figures/arithmetical errors, provisions, prior period expenses/deductions not admissible, reliefs, exemptions and deductions under chapter VIA, refunds/interest on refunds, non levy/short levy of interest, income not assessed, mistakes in summary assessments and the assessments involving overcharge of tax were issued to the Ministry of Finance for their comments. Six hundred twenty four cases involving undercharge of tax of Rs. 1,480.60 crore and 21 observations involving overcharge of Rs. 95.74 crore have been included in this chapter. The Ministry has accepted observations in 204 cases involving revenue impact of Rs. 712.44 crore, till the date of preparation of this report.

#### **Chapter IV: Income Tax**

Receipts from income tax amounted to Rs. 75,079 crore which constituted 32.62 percent of the total collection from direct taxes in 2006-07. The number of income tax assessees as on 31 March 2007 was 3.09 crore, which represented an increase of 5.10 percent over the previous year. One hundred and eighty audit observations involving revenue impact of Rs. 43.64 crore on account of various irregularities in income tax assessments such as mistake in computation of business income, incorrect allowances of deduction to undertakings engaged in developing and building housing projects, incorrect allowance of deductions in respect of export profits, application of incorrect rate of tax, non/short levy of interest, incorrect of computation of capital gains, incorrect allowance of liabilities, irregular refunds, mistake in adoption of correct figures, incorrect carry forward and set off of losses, incorrect allowance of depreciation, income not assessed, mistakes in summary assessments and cases of overassessment/overcharge have been included in this chapter. The Ministry has accepted audit observations in 66 cases involving revenue impact of Rs. 12.80 crore till the date of preparation of this report.

#### **Chapter V: Other Direct Taxes**

Sixty nine cases of irregularities involving revenue impact of Rs. 33.94 crore on account of various irregularities in wealth tax and interest tax assessments such as mistakes in wealth not assessed due to non correlation of records of different taxes, non/short levy of interest, non inclusion of taxable assets in the net wealth and mistakes in assessment of chargeable interest have been included in this chapter. The Ministry has accepted observations in 25 cases (22 in wealth tax and three in interest tax) involving revenue impact of Rs. 4.66 crore (Rs. 34.48 lakh in wealth tax and Rs. 4.31 crore in interest tax) till the date of preparation of this report.



# Chapter I

## Introduction

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# Chapter I Introduction

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## Chapter Summary

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

(Paragraph 1.2)

Field offices under the Comptroller and Auditor General of India issued 16,735 audit observations on underassessment involving tax effect of Rs. 10,742.76 crore and 79 cases of over assessment involving tax effect of Rs. 169.24 crore during 2006-07 to the assessing officers of the department relating to corporation tax, income tax and other direct taxes. A total of 961 cases with tax effect of Rs. 1,749.97 crore were issued to the Ministry as individual draft paragraphs out of which 918 cases involving tax effect of Rs. 1,663.50 crore are included in this report.

(Paragraphs 1.4.1 and 1.7)

During 2006-07, the department made recoveries of Rs. 1,462.16 crore in respect of 1,348 audit observations included in local audit reports/system reviews.

(Paragraph 1.6.1)

Most likely estimates of proportion of scrutiny and non-scrutiny assessments with mistakes in Maharashtra were 7 percent and 1 percent respectively whereas those in Delhi were 12 percent and 7 percent for assessments completed during 2005-06. The total revenue effect of audit observations observed in the sample of the assessments completed during 2005-06 in Maharashtra and Delhi were Rs. 5,247.47 crore and Rs. 2,407.17 crore respectively, which were 8.65 percent and 9.19 percent of the total direct taxes revenue collection in the respective state for the financial year 2005-06.

(Paragraph 1.8.3)

Out of a target of 12.33 lakh cases for disposal during 2006-07, only 3.67 lakh cases were seen by internal audit leaving a balance of 70.27 percent.

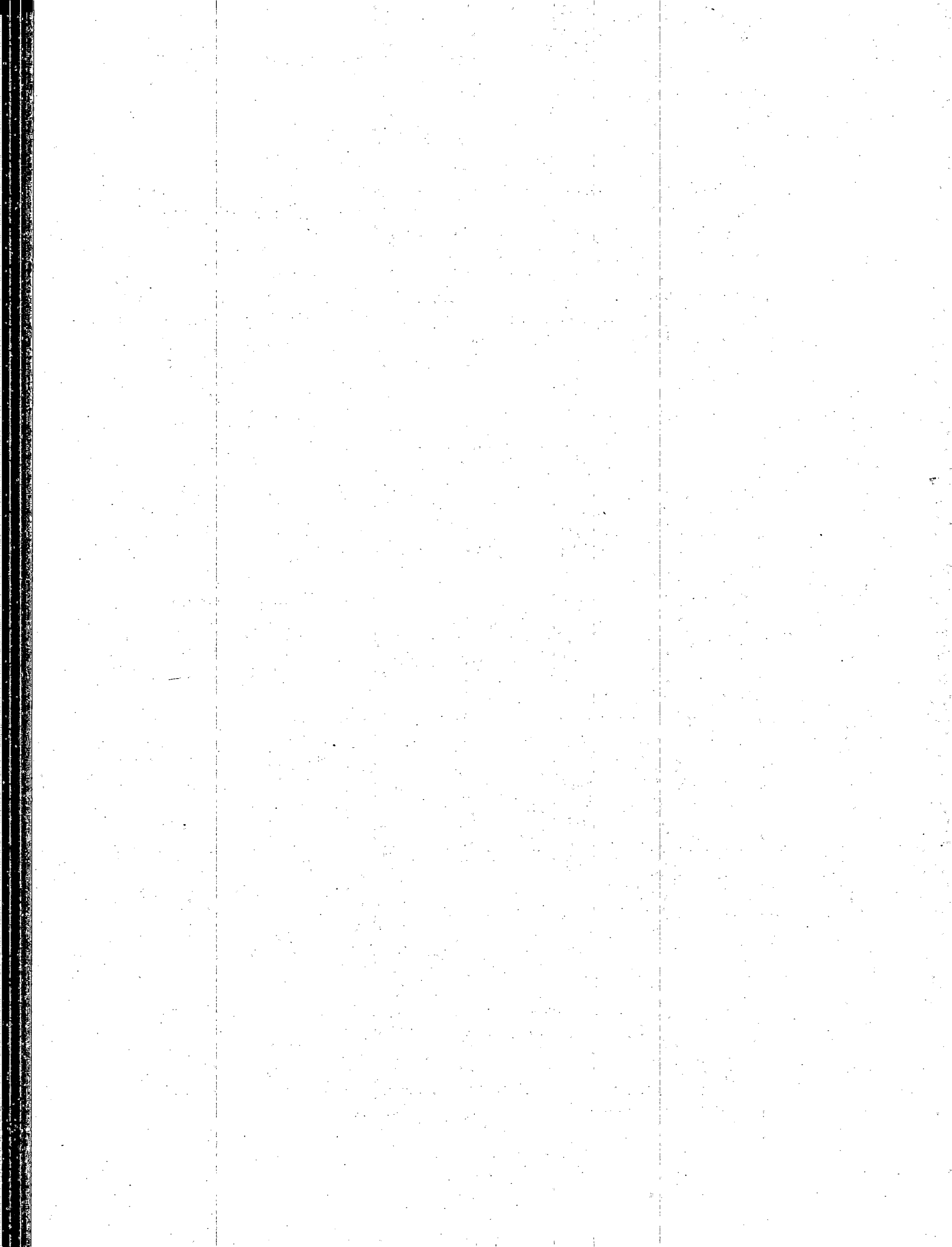
(Paragraph 1.13.1)

Over 54 percent of 69,054 records not produced to audit in earlier years and requisitioned again, were not produced to audit in 2006-07.

(Paragraph 1.15)

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

(Paragraph 1.6)





## CHAPTER I: INTRODUCTION

### General

#### 1.1 Direct taxes levied by Parliament comprise:

- Corporation tax
- Income tax
- Wealth tax
- Interest tax
- Fringe Benefit tax
- Securities Transactions tax and
- Banking Cash Transactions tax

Laws relating to direct taxes are administered by the Central Board of Direct Taxes (hereinafter called 'the Board'). The Board is under the overall control of the Department of Revenue, Ministry of Finance. Revenue from direct taxes during 2006-07 was Rs. 2,30,181 crore. Time series data on revenue from various direct taxes and other related statistical information on tax administration are presented in Chapter II.

### Statutory audit

1.2 Audit of direct taxes by the Comptroller and Auditor General of India is carried out under section 16 of the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971. Audit covers the field offices and the Board and involves examination of :

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

1.3 After completion of audit of each assessment unit, audit observations are conveyed to the department through a local audit report. In the case of important observations, a statement of facts is issued to the department for verification of facts and obtaining their comments. Important audit findings are forwarded to the Board and Ministry of Finance in the form of draft paragraphs. Finally, the Audit Report on direct taxes is forwarded to Parliament through the President of India.

### Present report

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

1.4.1 The present report contains 918 out of 961 audit observations referred to the Ministry of Finance. Table no. 1.1 below contains the details of draft paragraphs<sup>1</sup> (DPs) issued to Ministry and included in the report.

<sup>1</sup> An audit observation issued to the Ministry seeking their comments

Table no. 1.1: Draft paragraphs issued to Ministry during 2006-07

Category of tax	Number of draft paras issued to Ministry	Tax effect (Rs. in crore)	Number of draft paras included in the report	Tax effect (Rs. in crore)
Corporation Tax	686	1669.38	653	1584.96
Income Tax	198	46.54	189	44.50
Wealth Tax	70	2.14	69	2.13
Interest Tax	7	31.91	7	31.91
Total	961	1749.97	918	1663.50

1.4.2 Out of the above, 419 observations involving tax effect of Rs. 664.54 crore had arisen out of local audit conducted during 2006-07 and the remaining 542 observations involving tax effect of Rs. 1,085.43 crore were noticed during local audit conducted in earlier years.

1.5 A separate Performance Audit Report no. 7 PA of 2008 (Performance Audit) containing the results of system appraisals has been prepared on the following subjects :

- Assessments of banks
- Appreciation of third party reporting/certification in assessment proceedings
- Assessments relating to infrastructure development.

1.6 Cases with substantial tax effect are brought to the notice of the Income tax Department and the Ministry in the form of 'draft paragraphs'. As per Ministry of Finance (Department of Expenditure) O.M. No. F 12(9) E. (Coord)/67, draft paragraphs should be disposed off as expeditiously as possible and the comments of the Ministry intimated to audit within a period not exceeding six weeks. The replies of the Board to the draft paragraphs are considered before finalisation of this report. Table no. 1.2 below contains the position of replies received from the Ministry along with follow up action taken on them and recoveries made in respect of them till the finalisation of the report.

(Rs. in crore)

Table no. 1.2: Follow up action on DPs by the Ministry and recoveries made

Year of Audit Report	DPs issued to Ministry		Paragraphs accepted				Replies not received		Recoveries made					
	No.	Amount	Pre printing		Post printing		No.	Amount	Pre printing		Post printing		Total	
			No.	Amount	No.	Amount			No.	Amount	No.	Amount	No.	Amount
	2006-07	961	1749.97	295	729.90	-	-	560	925.06	31	11.11	0	0	31
2005-06	905	1971.33	340	328.28	51	62.52	339	1378.22	29	13.75	24	44.98	53	58.73
2004-05	688	3490.55	36	9.28	299	780.95	293	2616.89	9	1.29	56	219.69	65	220.98
2003-04	931	1852.65	74	59.68	425	752.93	172	744.52	16	4.62	77	34.33	93	38.95
2002-03	980	1419.20	168	64.07	468	600.77	91	407.14	33	3.64	78	20.05	111	23.69

Board's  
comments on  
draft  
paragraphs

1.6.1 In respect of 31 out of 961 DPs issued to the Ministry during 2006-07, recovery of Rs. 11.11 crore has been made by the department. The list of these 31 DPs is given in Appendix 1. During 2006-07, department made recoveries of Rs. 1,462.16 crore in respect of 1,348 audit observations included in local audit reports/systems reviews during 2006-07 and earlier years.

Results of  
test audit in  
general

1.7 Audit of assessments of all direct taxes conducted between 1 April 2006 to 31 March 2007 revealed 16,735 cases of under assessment and 79 cases of over assessment involving revenue effect of Rs. 10,742.76 crore and Rs. 169.24 crore respectively. Assessing officers accepted 3,127 audit observations (18.68 percent), did not accept 8,298 observations (49.58 percent) and did not respond to 5,310 observations (31.73 percent) involving tax effect of Rs. 1,577.85 crore, Rs. 4,724.57 crore and Rs. 4,440.34 crore respectively of underassessment.

Estimation of the  
proportion of audit  
observations in local  
audit adopting  
statistical sampling  
technique

1.8 Audit of direct taxes is conducted on the basis of test check of assessment units and records. It was felt that it would help the Income tax Department in better tax administration if the proportion of audit observations on test check basis could be extrapolated on the overall population viz. assessments completed by the Income tax Department. Consequently, since 2004-05 audit has adopted a risk based statistical sampling technique in which randomly selected cases from a well defined stratified population of assessment records (for sampling design please see Appendix 2) are subjected to audit and the results are extrapolated to the population using statistical sampling techniques (for estimation procedure please see Appendix 3).

1.8.1 Since Maharashtra and Delhi together collect more than 50 percent of the total direct tax revenue, the statistical estimation technique has been applied in these two states for the audit year 2006-07 so as to indicate the extent of proportion of assessments with estimated mistakes in the entire population on account of faulty/incorrect assessments by the assessing officers in these two states. This information can be utilised by the Board to streamline its tax administration further and identify cases for selection for scrutiny, as also increase the revenue collection of the government. The Board can also minimise the occurrence of mistakes in assessments in future by taking corrective measures to improve the system.

1.8.2 Stratum-wise estimates of proportion of audit objection in respect of Maharashtra and Delhi are given in Table nos. 1 and 2 of Appendix 4 respectively.

Maharashtra and  
Delhi  
Conclusion and  
recommendation

1.8.3 *Audit concludes that the most likely estimate (MLE) of proportion of scrutiny and non-scrutiny assessments with mistakes were 7 percent and 1 percent respectively in Maharashtra and 12 percent and 7 percent respectively in Delhi for the assessments completed during 2005-06. The total revenue effect of audit observations observed in the sample of the assessments completed during 2005-06 in Maharashtra and Delhi were Rs. 5,247.47 crore and Rs. 2,407.17 crore respectively (Appendix-4, Table nos. 1&2), which were 8.65 percent and 9.19 percent of the total direct taxes revenue collection in the respective state for the*

financial year 2005-06\*. Out of the above, Rs. 4,879.23 crore and Rs. 2,315 crore in Maharashtra and Delhi respectively related to mistakes observed in scrutiny assessments and Rs. 368.24 crore and Rs. 92.17 crore respectively related to mistakes observed in other than scrutiny assessments. In this background, the estimated total revenue effect of audit observations for the entire population of assessments completed in the state is likely to be considerably high. The revenue effect of audit observations was higher in respect of scrutiny assessments, which are completed after due examination by the assessing officers, as compared to that in respect of assessments other than scrutiny assessments, in both Maharashtra and Delhi. Further, there were significant audit observations in the TOP-25 strata (top 25 cases in the unit in terms of turnover/gross income level) in other than scrutiny assessments in Maharashtra and in non scrutiny assessments in Delhi. The Ministry may accordingly consider giving a special focus to these areas while selecting cases for scrutiny. The reasons for the high percentage of errors in the scrutiny assessments also need to be investigated and addressed.

**Corporation  
tax and  
income tax**

**1.9** The number of audit observations during 2006-07 relating to different status of assessees with their tax effect on corporation and income tax is shown in Table no. 1.3 below

(Rs. in crore)

**Table no. 1.3: Audit observations during 2006-07 on corporation and income tax**

Sl. no.	Status of assessees	No. of audit observations	Tax effect
1	Companies	7046 (43.94)	9465.45 (88.22)
2	Individuals	5237 (32.66)	337.42 (3.14)
3	Firms	2859 (17.83)	294.58 (2.75)
4	Other assessees	894 (5.57)	631.81 (5.89)
	<b>Total</b>	<b>16036 (100)</b>	<b>10729.26 (100.00)</b>

(Figures in bracket represent percent)

**1.9.1** Audit of direct taxes is carried out with reference to provisions contained in the Income Tax Act such as those relating to exemptions, deductions, capital gains, international taxation, minimum alternate tax (MAT) etc. Table no. 1.4 below provides a broad overview of audit observations on underassessment in terms of the nature of mistakes noticed by audit under individual sections of the Act.

(Rs. in crore)

**Table no. 1.4: Nature of omissions in the assessment of income tax/corporation tax**

Sl. no.	Category of audit observations	No. of cases	Tax effect
1	Incorrect computation of business income	4506	4021.18
2	Income not assessed	1430	1637.55
3	Irregular set-off of losses	512	982.07
4	Irregular exemptions and excess relief given	1835	834.24

\* The collection figures of financial year 2005-06 have been used since assessments were completed during 2005-06.

Table no. 1.4: Nature of omissions in the assessment of income tax/corporation tax

Sl. no.	Category of audit observations	No. of cases	Tax effect
5	Non-levy/incorrect levy of interest for delay in submission of returns, delay in payment of tax etc.	1238	552.07
6	Mistakes in computation of income and tax	1075	381.42
7	Mistakes in assessments of firm	354	278.58
8	Irregularities in allowing depreciation	1099	245.76
9	Incorrect application of rate of tax/surcharge etc.	485	241.92
10	Mistakes in assessments while giving effect to appellate orders	144	147.26
11	Irregular computation of capital gains	278	143.78
12	Omission/short levy of penalty	430	78.47
13	Excess or irregular refunds	397	68.19
14	Avoidable or incorrect payment of interest by Government	156	52
15	Omission to club the income of spouse/minor child etc.	16	0.32
16	Others	2081	1064.45
Total		16036	10729.26

1.9.2 Categories depicted at Sl. nos. 1 and 4 of Table no. 1.4 namely '*Incorrect computation of business income*' and '*Irregular exemptions and excess relief given*' account for the maximum number of audit observations about which further details are depicted in Table no. 1.5 below :

Table no. 1.5: Review of category wise objections

Category of omission	Percent of total audit observations	Percent of total tax effect	Three charges with maximum number of audit observations & their tax effect		
			Charges	No. (percentage)	Tax effect (percentage)
Incorrect computation of business income	28	37	Maharashtra, Tamil Nadu & West Bengal	51	75
Irregular exemptions and excess relief given	11	8	Tamil Nadu, West Bengal & Maharashtra	55	82

Wealth tax

1.9.3 Similarly, 696 observations relating to wealth tax were issued involving tax effect of Rs. 13.49 crore. Table no. 1.6 below contains an analysis in terms of the nature of omissions.

(Rs. in crore)

Table no. 1.6: Categories of omissions in wealth tax

Sl. no.	Categories of audit observation	No. of cases	Tax effect
1.	Wealth not assessed	550	11.72
2.	Incorrect valuation of assets	35	0.36
3.	Non-levy or incorrect levy of additional wealth tax	24	0.24
4.	Non-levy or incorrect levy of penalty and non-levy of interest	12	0.19
5.	Mistakes in computation of net wealth	32	0.17
6.	Mistakes in calculation of tax	4	0.01
7.	Incorrect status adopted	0	0
8.	Others	39	0.80
Total		696	13.49

Other direct taxes

1.9.4 Three observations relating to gift tax and interest tax were issued involving tax effect of Rs. 1.20 lakh as mentioned in Table no. 1.7 below.

(Rs. in lakh)

Table no. 1.7: Other direct taxes

Sl. no.	Category of tax	No. of cases	Tax effect
1	Gift tax	2	0.20
2	Interest tax	1	1.00
Total		3	1.20

Outstanding audit observations

1.10 According to departmental instructions, observations of statutory audit are to be replied to within a period of six weeks. The Public Accounts Committee (Ninth Lok Sabha) in their 20<sup>th</sup> report underscored the fact that responsibility for settlement of audit observations rests with the department and it cannot remain content merely with sending replies to audit observations. In their action taken note, the Ministry of Finance had stated that they would endeavour to see that the targets for settlement of audit observations were achieved. However, large numbers of audit observations made in 2006-07 and earlier years are still to be settled.

1.10.1 As on 31 March 2007, 79,390 observations involving revenue effect of Rs. 28,654.54 crore were pending. This does not include the audit observations communicated between 1 April 2006 to 31 March 2007. The year-wise particulars of the pendency are given in Table no. 1.8.

(Rs. in crore)

Table no. 1.8: Observations pending with department for final action

Year	Income tax and corporation tax		Other direct taxes (wealth tax, gift tax, interest tax, expenditure tax and estate duty)		Total	
	No. of cases	Tax effect	No. of cases	Tax effect	No. of cases	Tax effect
Upto 2003-04	51133	17233.63	5921	309.43	57054	17543.06
2004-05	9914	5600.66	510	43.05	10424	5643.71
2005-06	11454	5452.19	458	15.58	11912	5467.77
<b>Total</b>	<b>72501</b>	<b>28286.48</b>	<b>6889</b>	<b>368.06</b>	<b>79390</b>	<b>28654.54</b>

1.10.2 A total of 10,756 audit observations relating to income tax and corporation tax where tax involved in each case exceeded Rs. 10 lakh, were pending as on 31 March 2007 with revenue effect of Rs. 26,515.76 crore (as against 9,534 cases with a revenue effect of Rs. 17,001.08 crore in 2005-06). The cases in respect of different charges are shown below in Table no. 1.9.

(Rs. in crore)

Table no. 1.9: Pending income/corporation tax cases where tax involved in each case exceeded Rs. 10 lakh

Sl. no.	Name of charge	No. of cases	Tax effect
1	Andhra Pradesh	324	358.05
2	Assam	232	387.73
3	Bihar	51	18.03
4	UT Chandigarh	40	94.42
5	Chhattisgarh	104	92.74
6	Delhi	2032	4427.81
7	Goa	56	59.45
8	Gujarat	495	468.11
9	Haryana	106	99.70
10	Himachal Pradesh	30	24.63
11	Jammu & Kashmir	39	23.02
12	Jharkhand	125	93.71
13	Karnataka	154	291.76
14	Kerala	451	369.37
15	Madhya Pradesh	212	455.09
16	Maharashtra	2786	8465.45
17	Orissa	151	284.26
18	Punjab	311	344.66
19	Rajasthan	299	602.99
20	Tamil Nadu	1512	7636.20
21	Uttar Pradesh	451	393.89
22	Uttaranchal	47	610.26
23	West Bengal	748	914.43
<b>Total</b>		<b>10756</b>	<b>26515.76</b>

1.10.3 Table no. 1.10 contains data on pending audit observations relating to other direct taxes where the tax involved in each case exceeds Rs. 5 lakh.

(Rs. in crore)

Table no. 1.10: Pending cases of other direct taxes

Sl. no.	Category of tax	Number of audit observations	Tax effect
1.	Wealth tax	410	118.93
2.	Gift tax	12	21.25
3.	Interest tax	86	174.26
4.	Expenditure tax	4	0.93
5.	Estate Duty	6	7.02
Total		518	322.39

1.10.4 A total of 11,274 audit observations indicated in Table nos. 1.9 and 1.10 above constituted 14.20 percent of the total observations and accounted for Rs. 26,838.15 crore (93.66 percent) of revenue effect of the total pending cases. Department needs to assign priority to settle observations with high tax effect.

1.11 Table no. 1.11 below indicates targets for settlement of major statutory audit observations\* for the year 2006-07 according to the department's action plan and their actual achievements:

Table no. 1.11: Action plan &amp; actual achievements of the department\*\*

Nature of observations	Audit observations			Targets (percent)	Achievements with reference to the targets fixed (percent)
	For disposal	To be settled as per targets fixed	Settled		
Current	5396 (4315.86)	4317 (3452.68)	1735 (1796.26)	80	40.19
Arrear	10951 (5851.67)	9856 (5266.50)	4784 (3062.97)	90	48.54

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

1.11.1 The action plan of the department for 2006-07 provided for 90 percent disposal in terms of the numbers of major audit observations in arrears and 80 percent for current major audit observations. The actual achievement was only 48.54 percent and 40.19 percent respectively of the targets fixed.

1.12 The Board have issued specific instructions for taking timely action on audit observations so as to avoid cases becoming barred by limitation of time and

Remedial action time barred

\* An audit observation with tax effect of Rs. 50,000 and above.



leading to loss of revenue. The Public Accounts Committee (150<sup>th</sup> Report-Eighth Lok Sabha) had also recommended that the Board review the old outstanding observations in consultation with Audit.

1.12.1 The status of audit observations issued prior to 2002-03 was reviewed in 2006-07 and in some charges, several cases where remedial action had become time barred were noticed. Details of these cases have been forwarded to the respective Commissioners. Table no. 1.12 contains the number of such cases along with the tax effect.

(Rs. in crore)

Sl. no.	Name of the State	Audit observation	
		Number	Tax effect
1.	Andhra Pradesh	192	9.44
2.	Bihar	151	2.05
3.	Delhi	350	297.86
4.	Jharkhand	182	17.20
5.	Gujarat	336	80.78
6.	Harayana	73	1.25
7.	Himachal Pradesh	19	0.19
8.	Kerala	13	0.23
9.	U.T.Chandigarh	176	277.63
10.	Madhya Pradesh	515	34.22
11.	Maharashtra	1199	554.61
12.	Orissa	130	74.91
13.	Punjab	39	0.09
14.	Rajasthan	218	3.87
Total		3593	1354.33

## Internal Audit

1.13 As per the action plan of the department, all auditable cases pending as on 1 April 2006 were required to be internally audited by 30 November 2006 and all auditable cases due for audit up to 31 December 2006 were to be audited by 31 March 2007.

1.13.1 Out of a target of 12.33 lakh cases for disposal during 2006-07, only 3.67 lakh cases were seen by internal audit leaving the balance 70.27 percent unchecked. Details are given in Table no. 1.13.

Table no. 1.13: Performance of internal audit

Financial year	Total auditable cases	Target for disposal	Total cases audited	Shortfall with reference to total auditable cases	
				No.	Percentage
2004-05	13,87,549	13,87,549	5,99,243	7,88,306	56.81
2005-06	12,77,910	12,77,910	4,71,777	8,06,133	63.08
2006-07	12,33,242	12,33,242	3,66,621	8,66,621	70.27

1.13.2 There was declining trend in the number of observations made by internal audit. Eight thousand three hundred ninety two observations were made in 2004-05, 4,859 in 2005-06 and 3,132 in 2006-07 involving money value of Rs. 274.05 crore, Rs. 375.62 crore and Rs. 61.10 crore respectively.

1.13.3 Out of the 961 draft paras issued to the Ministry during 2006-07, only 63 (6.56 percent of draft paras issued) had been seen by internal audit of the department and the mistakes pointed out by statutory audit had not been detected by internal audit in the cases checked by them.

1.13.4 As per the data furnished by the Directorate of Income tax (Income tax & Audit), the closing balance of auditable cases as on 31 March of a financial year did not tally with the opening balance of auditable cases as on 01 April of the succeeding financial year.

Outstanding audit observations of internal audit

1.14 According to departmental instructions, internal audit observations are to be attended to by the assessing officer within three months. However, as on 31 March 2007, 6,688 audit observations of internal audit involving a tax effect of Rs. 412.91 crore were pending.\* This included 1,009 observations with money value of Rs. 1.94 crore made during 2006-07.

1.14.1 Table no. 1.14 below contains information on major observations of internal audit and their settlement.

**Table no. 1.14: Performance of internal audit in respect of major observations**

Financial year	No. of cases for disposal	No. of cases settled	Percentage of total cases disposed	No. of pending cases
2002-03	6,635 (1,430.33)	2,348 (452.13)	35	4,287 (978.20)
2003-04	5,151 (1,936.90)	1,466 (275.63)	28	3,685 (1,661.27)
2004-05	5,333 (941.02)	2,296 (485.17)	43	3,037 (455.85)
2005-06	3,592 (849.58)	1,533 (170.79)	43	2,059 (678.79)
2006-07	2,779 (702.35)	1,015 (299.24)	37	1,764 (403.11)

(Figures in brackets indicate money value in rupees crore)

1.14.2 The major cases settled during 2006-07 were only 1015 (37 percent). Opening balances for 2003-04 to 2006-07 do not tally with the closing balances for 2002-03 to 2005-06 respectively, which were still under reconciliation in the department.

\* Source : Directorate of Income tax (Income tax and Audit)

**Table no. 1.15: Target and actual settlement of internal audit observations**

Audit observations					
	For disposal	To be settled as per targets fixed	Settled	Target (percent)	Achieved (percent)
Current	3132 (61.09)	3132 (61.09)	1321 (4.01)	100	42.17
Arrears	8369 (660.11)	8369 (660.11)	3492 (304.28)	100	41.73

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

Achievements thus fell substantially short of the targets fixed.

Records not produced to audit

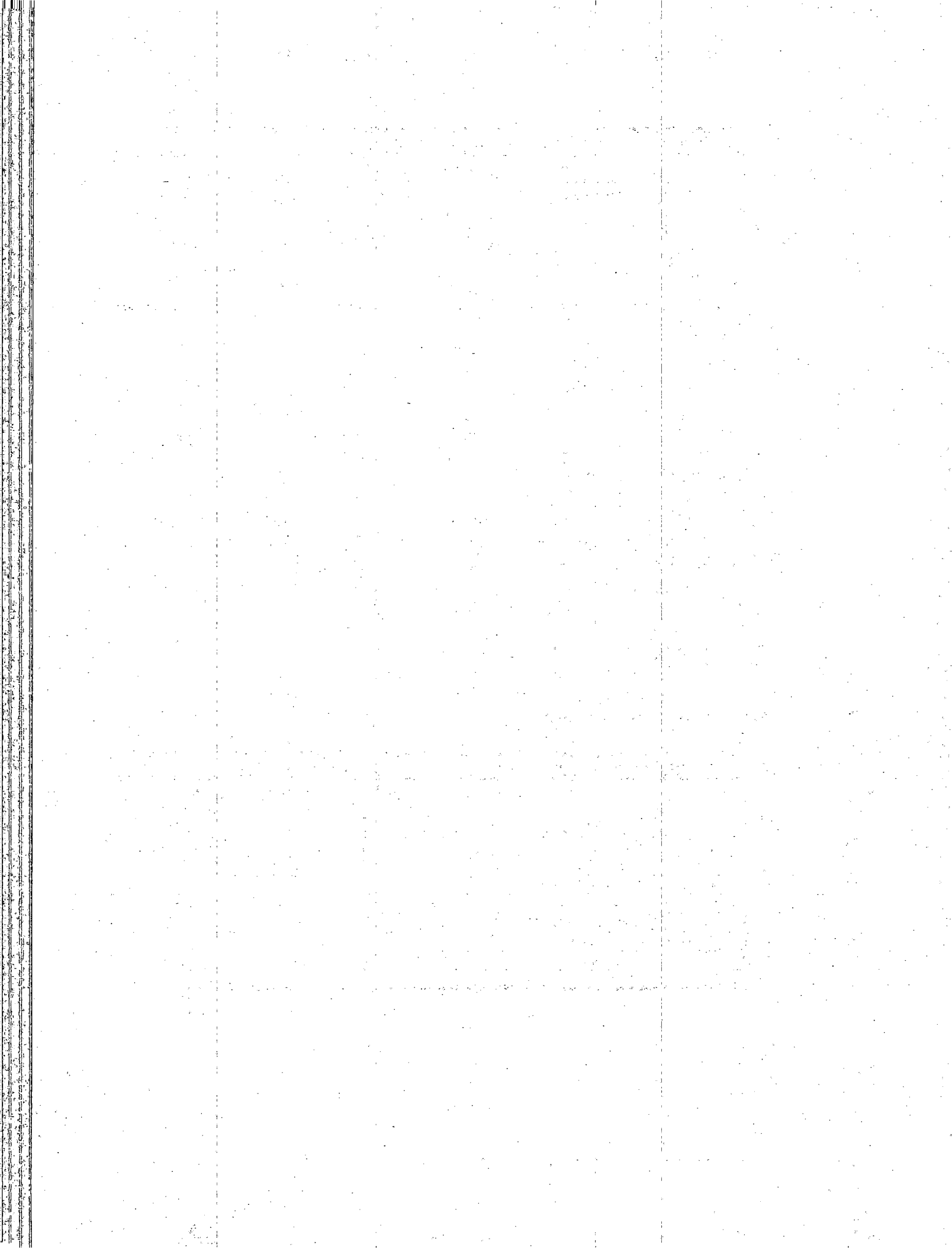
1.15 Assessment records are scrutinised in revenue audit with a view to securing an effective check on the assessment, collection and proper allocation of taxes and examining that regulations and procedures are being observed. It is incumbent on the department to expeditiously produce records and furnish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

Appendix-5 contains details of records not produced to audit in previous audit cycles which were requisitioned again in 2006-07. Over 54 percent of cases not produced during earlier audits and requisitioned again in 2006-07, were not produced to audit. Consequently, audit of such cases could not be carried out. Risk of loss of revenue in such cases cannot be ruled out.

Table no. 1.16 contains state wise details where records were not produced to audit in three or more consecutive audit cycles. Consequently, audit of such cases also could not be carried out. Details of such cases was communicated to the Board in November 2007.

**Table no. 1.16: Records not produced to audit in three or more audit cycles**

Sl. no.	State	Number of records not produced		
		IT/CT	WT	Total
1	Andhra Pradesh	47	3	50
2	Gujarat	14	0	14
3	Karnataka	17	10	27
4	Madhya Pradesh	14	0	14
5	Orissa	87	0	87
6	Maharashtra	4	8	12
7	Tamil Nadu	9	0	9
	<b>Total</b>	<b>192</b>	<b>21</b>	<b>213</b>



## Chapter II

### Tax Administration

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## Chapter Summary

Total collections from direct taxes increased from Rs. 83,088 crore in 2002-03 to Rs. 2,30,181 crore in 2006-07 at an average annual rate of growth of 27.33 percent. Overall direct tax collections as a percentage of GDP increased from 3.38 per cent in 2002-03 to 5.58 percent in 2006-07. Overall tax buoyancy has increased from 1.73 in 2005-06 to 2.51 in 2006-07, which is just below the level attained in 2002-03.

**(Paragraphs 2.5 and 2.5.3)**

In the case of corporate assesseees, 75.78 percent of the gross revenue was collected at pre-assessment stage, of which 55.20 percent was by way of advance tax. In the case of non-corporate assesseees, 89.55 percent of the gross collection was made at pre-assessment stage, of which 50.96 percent was by way of TDS.

**(Paragraph 2.6.1)**

During 2002-03 to 2006-07, the total number of assesseees for direct taxes grew from 2.85 crore to 3.13 crore at a compound annual growth rate of 2.40 percent which was lower than the growth rate of 3.24 percent during 2001-02 to 2005-06. The number of non-corporate assesseees increased from 2.81 crore in 2002-03 to 3.09 crore in 2006-07 i.e., at a compound annual rate of growth of 2.40 percent and corporate assesseees increased from 3.65 lakh in 2002-03 to 4.00 lakh in 2006-07, at a compound annual growth rate of 2.32 per cent.

**(Paragraphs 2.7 and 2.7.2)**

Cost of collection as worked out by the department was 0.11 paisa per rupee of collection for corporation tax and 1.40 paise per rupee of collection for income tax. It was Rs. 4,050 and Rs. 341 per assessee for corporation tax and income tax respectively.

**(Paragraph 2.15)**

The number of cases selected for scrutiny during 2006-07 was higher at 3.41 lakh as compared to 2.03 lakh in 2005-06. The percentage of assessments completed after scrutiny and in summary manner have decreased as a result of which the total pendency has increased from 31.18 percent in 2005-06 to 33.56 percent in 2006-07. In fact, there has been a progressive decline in completion of assessments from 89.87 percent in 2002-03 to 66.44 percent in 2006-07 resulting in a steady increase in pendency over the last five years. The decrease in the number of officers deployed on assessment duty could be one of the reasons for the increased pendency.

**(Paragraph 2.9.1)**

Uncollected amount of Rs. 1,17,370 crore out of the total demand of Rs. 3,37,007 crore in respect of corporation tax/income tax and wealth tax comprised demand of Rs. 86,203 crore of earlier years and current demand of Rs. 31,167 crore outstanding as on 31 March 2007. The outstanding demand of corporation tax increased from Rs. 55,098 crore to Rs. 64,683 crore and that for income tax from Rs. 40,289 crore to Rs. 51,771 crore during the year as compared to last year. For wealth tax, the outstanding demand decreased from Rs. 9,491 crore in 2005-06 to Rs. 916 crore during 2006-07. Since the wealth tax collection during 2006-07 was only Rs. 240.33 crore, this sharp reduction seems inexplicable and merits investigation by the Ministry.

(Paragraph 2.10.1)

Recovery of certified demand increased from 14 percent of total certified demand during 2005-06 to about 24 percent during 2006-07.

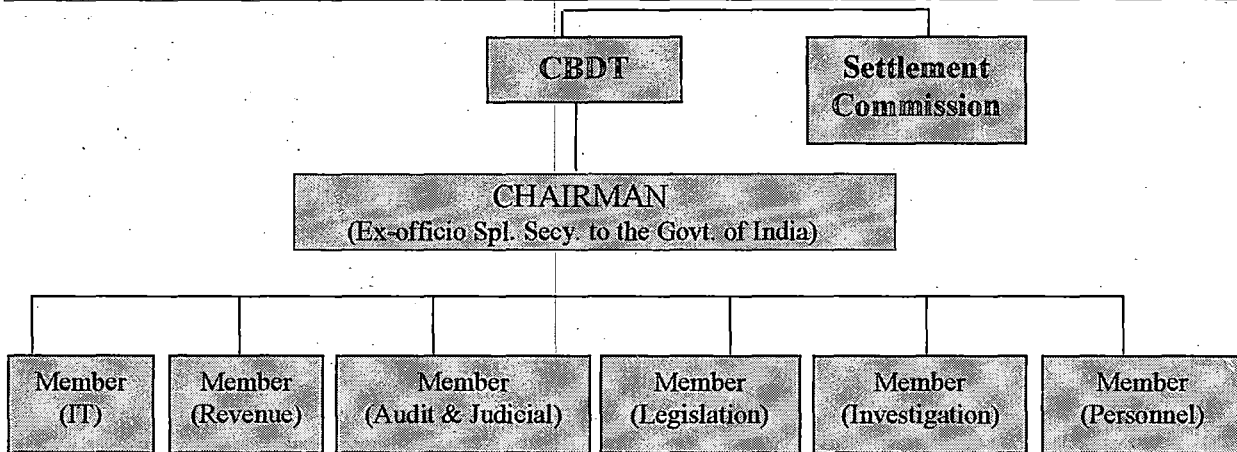
(Paragraph 2.11.2)

Payment of interest on refunds amounting to Rs. 17,003.75 crore was treated as reduction in revenue in violation of accounting precepts as interest was never collected in the first instance. No provision for 'interest on refunds' was made in the budget estimates for 2006-07.

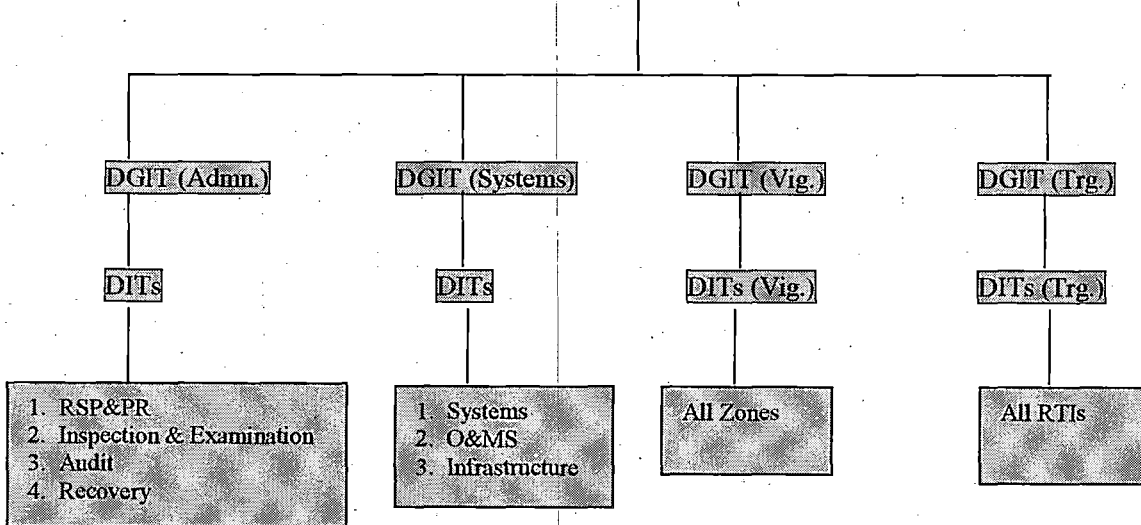
(Paragraph 2.14.4)



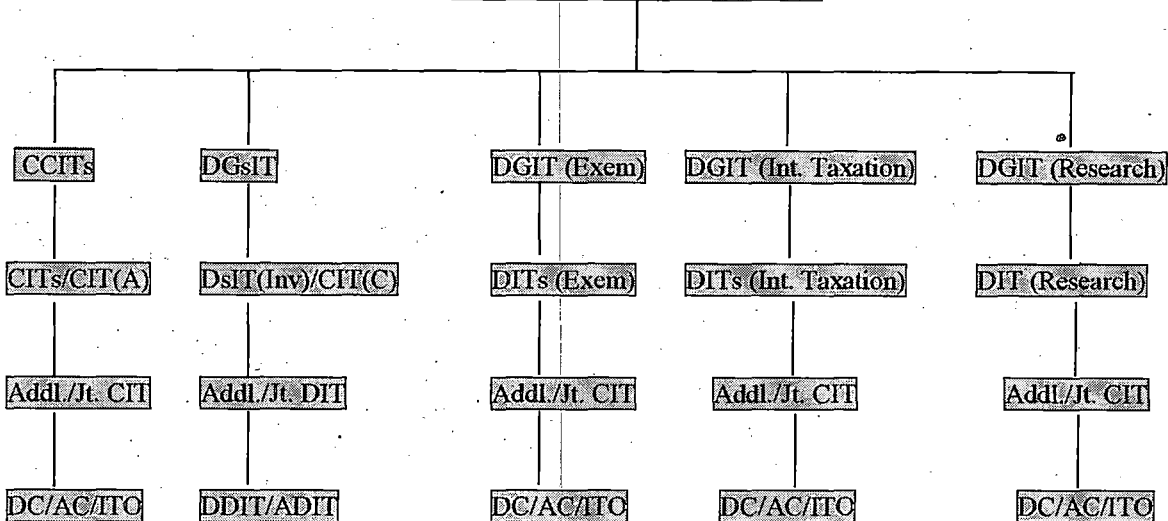
**Chart 1: Organisational set up of the Income Tax Department**

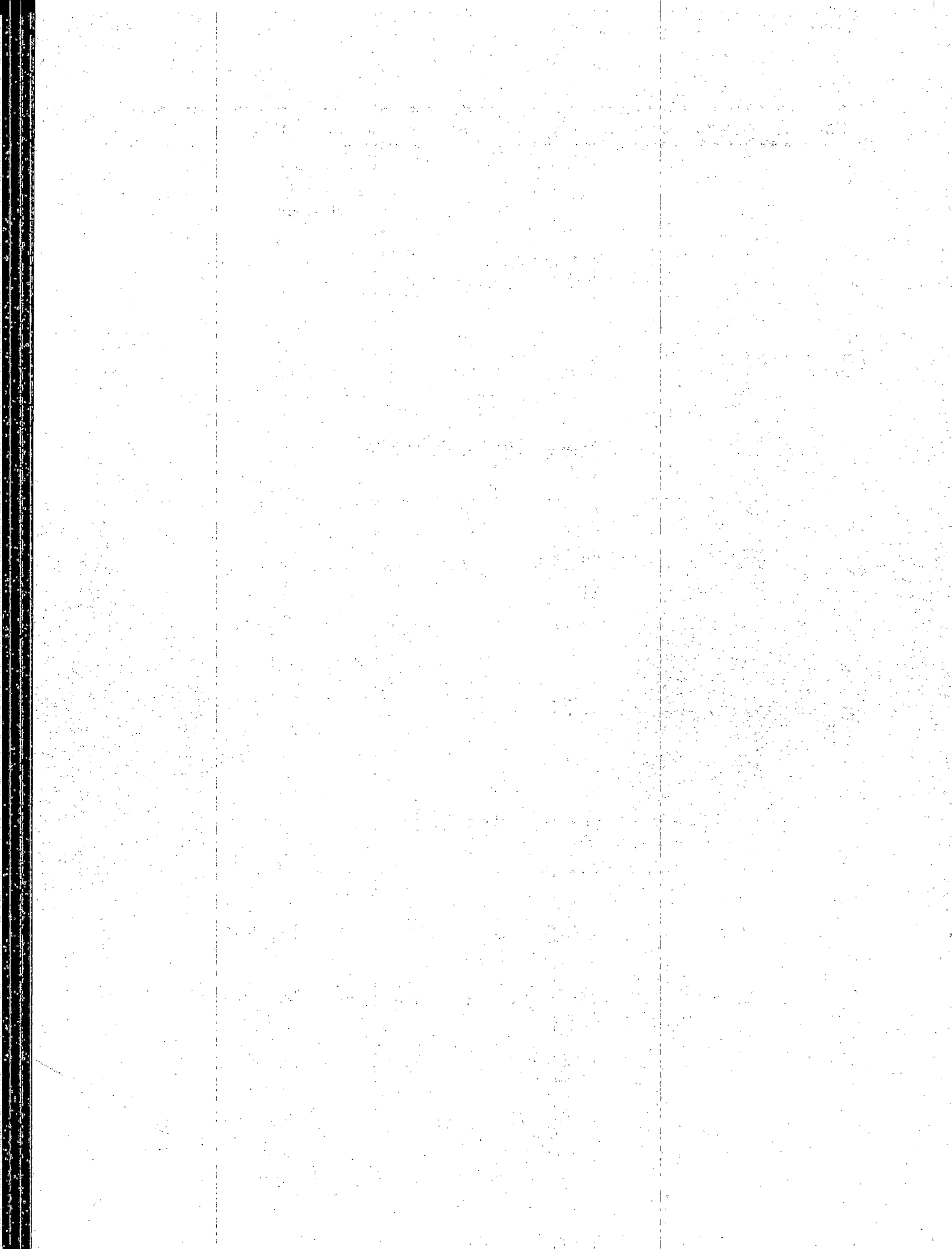


**Attached Offices of CBDT**



**Field Formations of CBDT**





## CHAPTER II: TAX ADMINISTRATION

### Administration of direct taxes

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

Wealth tax is charged for every assessment year on the 'net' wealth on the relevant valuation date of every individual, HUF and company at specified rates on certain specified assets. No wealth tax is payable in respect of net wealth valued below Rs. 15 lakh with effect from the assessment year 1993-94.

### Broad functional profile of the Department of Revenue

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

**2.2.1** Chart 1 shows the organisational set up of the Income tax Department. The Board consists of a Chairman and six members, and has several attached and subordinate offices throughout the country. These offices function under 116 Directors General of Income tax and Chief Commissioners of Income tax who oversee the work of the Directors/Commissioners of Income tax in their respective charges. Chief Commissioners of Income tax are stationed at different locations all over the country. They are in charge of the supervision, control and administration of their respective regions. Also, Directors General of Income tax (Investigation) stationed in different parts of the country are in overall charge of the investigation machinery in respect of their regions for curbing tax evasion and unaccounted money. The Chief Commissioners of Income tax/Directors General of Income tax are assisted by Commissioners of Income tax/Directors of Income tax in their respective jurisdictions. The first appellate machinery comprises Commissioners of Income tax (Appeals) who perform the work of disposal of appeals against the orders of the assessing officers.

**2.2.2** The tables and figures below in this chapter have been collected from the Board and attached offices such as the Directorate of Income tax (Public Relations, Printing, Publications & Official Language) (PRPP & OL), Directorate of Income-tax (Organisation & Management Services), Pr. Chief Controller of Accounts and Settlement Commission.

Sanctioned and working strength of officers

2.3 Table no. 2.1 below shows the sanctioned strength of the officers of the Income tax Department as on 31 March 2007.

**Table no. 2.1: Sanctioned strength of officers**

Post	Sanctioned strength
CCIT	116
CIT	698
Addl. CIT	469
Jt. CIT	647
DCIT/ ACIT	1,934
ITO	4,204
<b>Total</b>	<b>8,068</b>

2.3.1 Working strength of officers who were assigned assessment/non assessment duty is given in Table no. 2.2 below.

**Table no. 2.2: Working strength of officers on assessment and non-assessment duty\***

Nature of post	2004-05			2005-06*-			2006-07		
	Asstt duty	Non-asstt duty	Total	Asstt duty	Non-asstt duty	Total	Asstt duty	Non-asstt duty	Total
Addl.CIT/Addl DIT/ Jt CIT/ Jt DIT/Dy.DIT/ Dy CIT/ Asstt. DIT/Asstt. CIT	1,519	1,173	2,692	1,173	532	1,705	1139	642	1,781
ITOs	2,917	1,200	4,117	2,628	887	3,515	2815	962	3,777
<b>Total</b> <b>(%age to total strength)</b>	<b>4,436</b> <b>(65.1)</b>	<b>2,373</b> <b>(34.9)</b>	<b>6,809</b>	<b>3,801</b> <b>(72.8)</b>	<b>1,419</b> <b>(27.2)</b>	<b>5,220</b>	<b>3,954</b> <b>(71.1)</b>	<b>1,604</b> <b>(28.9)</b>	<b>5,558</b>

2.3.2 The deployment of officers on assessment duty in 2006-07 decreased from that in 2004-05. This could be one of the reasons for the increase in pendency of scrutiny and summary cases over the last two years (Paragraph 2.9).

Actual receipts vis-à-vis Budget estimates

2.4 A comparative position of the budget estimates and actual collections of major direct taxes reflecting fiscal marksmanship is indicated in Table no. 2.3 below.

\* Source: Directorate of Income Tax (Legal & Research), Research & Statistics Wing

\* Based on information from the field units of the Department who had reported these details till 15 January 2007.

(Rs in crore)

Table no. 2.3: Comparative position of actual receipts vis-à-vis budget estimates<sup>o</sup>

Year	Budget Estimates	Actual collections	Surplus(+)/ Shortfall (-)	Percentage of surplus/Shortfall
<b>0020-Corporation tax</b>				
2004-05	88,436.00	82,679.58	(-) 5,756.42	(-) 6.51
2005-06	1,10,573.00	1,01,277.16	(-) 9,295.84	(-) 8.41
2006-07	1,33,010.00	1,44,317.95	(+) 11,307.95	(+) 8.50
<b>0021-Taxes on income other than corporation tax</b>				
2004-05	50,929.00	49,268.12	(-) 1,660.88	(-) 3.26
2005-06	66,239.00	55,984.62	(-) 10,254.38	(-) 15.48
2006-07	77,409.00	75,079.31	(-) 2,329.69	(-) 3.01
<b>0032-Wealth tax</b>				
2004-05	145.00	145.36	(+) 0.36	(+) 0.25
2005-06	265.00	250.35	(-) 14.65	(-) 5.53
2006-07	265.00	240.33	(-) 24.67	(-) 9.31

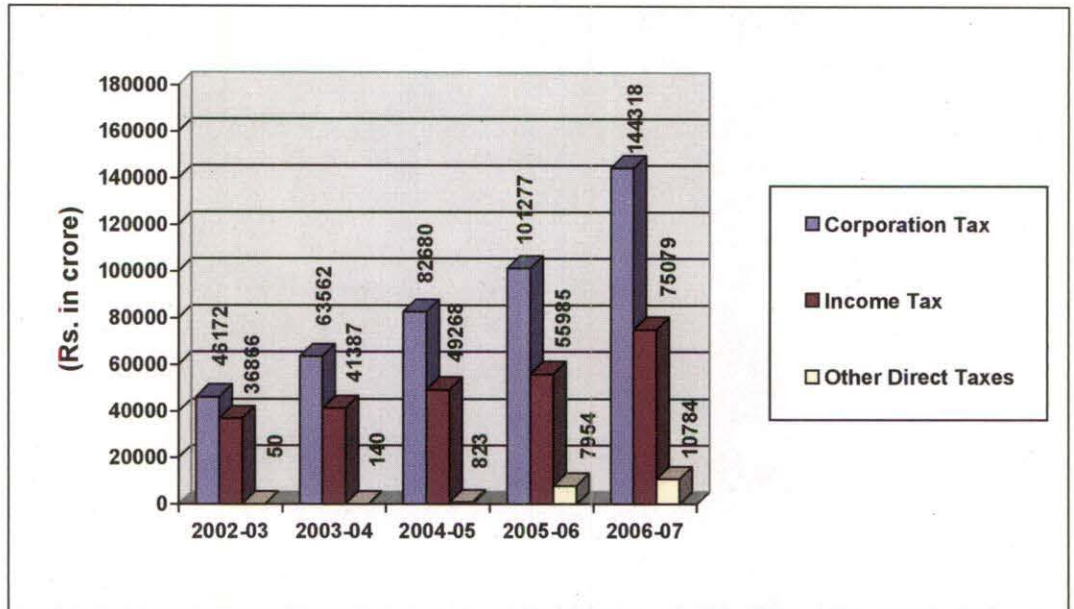
2.4.1 The actual collection during 2006-07 has been higher than the budget estimates in case of corporation tax by 8.50 percent whereas it has been lower than the budget estimates in the case of taxes on income other than corporation tax by 3.01 percent.

2.5 Direct tax collections, as shown in Chart 2 below, increased from Rs. 83,088 crore in 2002-03 to Rs. 2,30,181 crore in 2006-07 at an average annual rate of growth of 27.33 percent. The rate of growth which had increased from 20.07 percent in 2002-03 to over 26 percent in 2003-04/2004-05, declined to 24.44 percent in 2005-06 and again increased to 39 percent in 2006-07.

Direct tax  
collections –  
recent trends

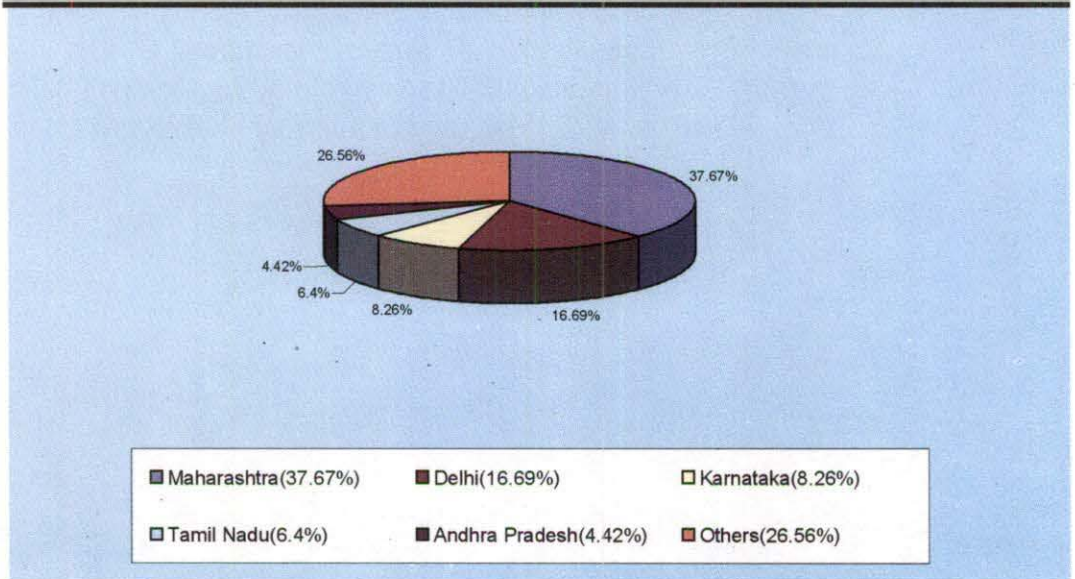
<sup>o</sup> Minor head wise details given in Appendix-6

**CHART 2: DIRECT TAX COLLECTIONS FROM 2002-03 TO 2006-07**



2.5.1 Chart 3 below depicts the percentage share of direct tax collections from different states. Maharashtra had the largest tax collection followed by Delhi, Karnataka, Tamil Nadu, Andhra Pradesh and others.

**CHART 3: PERCENTAGE SHARE OF REVENUE COLLECTION OF STATES\***



\* All India collection figures of corporation tax and income tax are given in Appendix-7 and Head wise/State/UT wise break up of direct taxes is given in Appendix-8

## Broad parameters of direct tax collections

2.5.2 Overall direct tax collections, annual rates of growth, the ratio of direct taxes to GDP and their buoyancy are indicated in Table no. 2.4.

(Rs in crore)

Table no. 2.4: Broad parameters of direct tax collections<sup>@</sup>

	2002-03	2003-04	2004-05	2005-06	2006-07
Corporation Tax	46,172	63,562	82,680	1,01,277	1,44,318
Income Tax	36,866	41,387	49,268	55,985	75,079*
Other Direct Taxes	50	140	823	7,954	10,784
Total Direct Taxes	83,088	1,05,089	1,32,771	1,65,216	2,30,181
GDP	24,58,084	27,65,491	31,26,596	35,67,177	41,25,725
<b>Rate of growth (per cent)</b>					
Corporation Tax	26.12	37.66	30.08	22.49	42.50
Income Tax	15.19	12.26	19.04	13.63	34.11
Total Direct Taxes	20.07	26.48	26.34	24.44	39.32
GDP	7.76	12.51	13.06	14.09	15.66
<b>Tax Collections-GDP Ratio (per cent)</b>					
Corporation Tax	1.88	2.30	2.64	2.84	3.50
Income Tax	1.50	1.50	1.58	1.57	1.82
Total Direct Taxes	3.38	3.80	4.25	4.63	5.58
<b>Tax Buoyancy<sup>**</sup></b>					
Corporation Tax	3.37	3.01	2.30	1.60	2.71
Income Tax	1.96	0.98	1.46	0.97	2.18
Total Direct Taxes	2.59	2.12	2.02	1.73	2.51

## GDP ratio

2.5.3 Overall direct tax collections as a percentage of GDP increased from 3.38 per cent in 2002-03 to 5.58 percent in 2006-07. This increase was observed for both corporation and income tax. Overall tax buoyancy has increased from 1.73 in 2005-06 to 2.51 in 2006-07 which is marginally lower than the level attained in 2002-03.

## Pre-assessment – post-assessment tax collections

2.6 Income tax is chargeable for every assessment year in respect of the total income of the previous year at the rates prescribed in the annual Finance Act. The Act provides for pre-assessment collection by way of deduction of tax at source, advance tax and payment of tax on self-assessment. Post-assessment collection is the additional demand arising after assessment is completed. Table no. 2.5 below contains details of overall tax collected at the pre and post assessments levels and percentage of refunds in the last three years.

<sup>@</sup> Source:

Tax collection figures – Pr. CCA, CBDT, New Delhi,

GDP – CSO, Press release dated 31 May 2007 and Economic Survey 2006-07.

\* This differs from the figure of Rs. 75,093 crore reflected in the Finance Accounts.

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

(Rs. in crore)

**Table no. 2.5: Details of tax collections for companies and non-companies at pre- assessment and post-assessment stages**

Year	Tax Deducted at source	Advance Tax	Self Assessment	Regular Assessment	Other Receipts	Total Collections	Refunds	Net Collections
<b>Corporate Assesseees</b>								
2004-05	14,654 (13.93)	73,934 (70.29)	4,815 (4.58)	2,888 (2.74)	8,898 (8.46)	1,05,189	22,509 (21.40)	82,680
2005-06	21,429 (17.17)	66,625 (53.37)	5,549 (4.44)	18,624 (14.92)	12,610 (10.10)	1,24,837	23,560 (18.87)	1,01,277
2006-07	29,048 (16.60)	96,568 (55.20)	6,954 (3.98)	24,725 (14.14)	17,640 (10.08)	1,74,935	30,617 (17.51)	1,44,318
<b>Non-Corporate Assesseees</b>								
2004-05	29,319 (53.04)	16,100 (29.14)	5,229 (9.46)	3,118 (5.64)	1,507 (2.72)	55,273	6,005 (10.86)	49,268
2005-06	32,409 (51.89)	18,127 (29.03)	6,069 (9.72)	3,488 (5.58)	2,364 (3.78)	62,457	6,472 (10.36)	55,985
2006-07	41,641 (50.96)	24,659 (30.18)	6,871 (8.41)	5,671 (6.95)	28,55 (3.50)	81,697	6,618 (8.10)	75,079

Figures in brackets indicate percentage of total collection/refunds

**2.6.1** In the case of corporate assesseees, 75.78 percent of gross collections was made at the pre-assessment stage, of which 55.20 percent was by way of advance tax. In the case of non-corporate assesseees, 89.55 percent of the gross collection was made at the pre-assessment stage, of which 50.96 percent was by way of TDS. Net collection after deducting pre assessment collection in the case of corporation tax was Rs. 11,748 crore (8.14 percent of net collection) and that in case of income tax was Rs. 1,908 crore (2.5 percent of net collection).

**2.6.2** Refunds as a percentage of total collections in respect of corporate assesseees as well as non corporate assesseees declined from 18.87 and 10.36 in 2005-06 to 17.51 and 8.10 respectively in 2006-07, although in absolute terms these figures had increased.

**Table no. 2.6: Category wise details of deduction of tax at source**

Category	Amount of tax deducted (Rs in crore)			Per cent of total tax deducted		
	2004-05	2005-06	2006-07	2004-05	2005-06	2006-07
Salaries	17,341	17,941	23,121	39.44	33.32	32.70
Interest on securities	1,849	1,871	2,292	4.20	3.48	3.25
Dividends	852	752	834	1.94	1.40	1.18
Interest	7,833	10,585	14,557	17.81	19.65	20.60
Winnings from lottery or crossword puzzles	318	233	445	0.72	0.44	0.63
Winnings from horse races	11	17	27	0.03	0.03	0.04
Payments to contractors and sub-contractors	2,535	9,638	12,127	5.76	17.90	17.16
Insurance commission	523	967	1,218	1.19	1.80	1.72
Payment to non-residents and others	12,711	11,834	16,068	28.91	21.98	22.72
<b>Total</b>	<b>43,973</b>	<b>53,838</b>	<b>70,689</b>	<b>100</b>	<b>100</b>	<b>100</b>



2.6.3 Contribution from salaries to total TDS declined from 33.32 percent in 2005-06 to the current level of 32.70 percent. Other important sources which contributed to TDS were interest, payments to contractors, sub-contractors and non-residents. These four sources together contributed about 93 percent of total TDS collections as indicated in Table no. 2.6.

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

2.6.5 In 2006-07, out of 5.57 lakh returns to be filed by tax deductors, only 3.30 lakh returns were filed and 2.27 lakh returns had not been filed. The percentage of non-filers has increased from 39 percent in 2005-06 to 41 percent in 2006-07

Non-  
corporate  
assesseees

2.7 During 2002-03 to 2006-07, the total number of assesseees for direct taxes grew from 2.85 crore to 3.13 crore at a compound annual growth rate of 2.40 percent which was lower than the growth rate of 3.24 percent during 2001-02 to 2005-06. Non corporate assesseees constituted 98.73 percent of the total assesseees whereas corporate assesseees comprised 1.27 percent. The number of non-corporate assesseees increased from 2.81 crore in 2002-03 to 3.09 crore in 2006-07 i.e., at a compound annual rate of growth of 2.40 percent. Category wise details of the increase are indicated in Table no. 2.7 below:

Table no. 2.7: Category wise increase of non corporate assesseees over the last 5 years

Income level	2002-03	2006-07 <sup>@</sup>	Compound annual growth rate	Share in total assesseees	
	(Number in lakh)			2002-03	2006-07
				(Percentage)	
A <sup>*</sup>	255.25	273.30	1.72	90.84	88.46
B <sup>°</sup>	21.89	27.87	6.22	7.79	9.02
C <sup>^</sup>	0.88	5.79	60.16	0.31	1.87
D <sup>°</sup>	2.98	2.00	(-) 9.49	1.06	0.65
Total	281.00	308.96	2.40	100	100

2.7.1 The share of assesseees with income/loss of Rs. 2 lakh and above but below Rs. 10 lakh and those with income/loss of Rs. 10 lakh and above

<sup>@</sup> Source : All India CAP-II Statement regarding Workload & Disposal of Income Tax Assessments for March 2007

<sup>\*</sup> Category 'A' non corporate assesseees- Assessments with income/loss below Rs. 2 lakh.

<sup>°</sup> Category 'B' non corporate assesseees - Assessments with income/loss of Rs.2 lakh and above but below Rs.10 lakh.

<sup>^</sup> Category 'C' non corporate assesseees - Assessments with income/loss of Rs.10 lakh and above.

<sup>°</sup> Category 'D' non corporate assesseees - Search and seizure assessments.

increased, whereas those with income/loss below Rs. 2 lakh and search and seizure assessments decreased during the period 2002-07. Maximum growth rate was observed in the category of assesseees with income/loss of Rs. 10 lakh and above, whereas category of search and seizure assessments experienced a negative growth rate during this period.

#### Corporate assesseees

**2.7.2** Number of corporate assesseees increased from 3.65 lakh in 2002-03 to 4.00 lakh in 2006-07, at a compound annual growth rate of 2.32 per cent. Category wise details of corporate assesseees are indicated in Table no. 2.8 below:

Income level	2002-03	2006-07 <sup>@</sup>	Compound annual growth rate	Share in total assesseees	
	(Number in lakh)			2002-03	2006-07
				(Percentage)	
<b>A*</b>	1.83	2.05	2.88	50.14	51.25
<b>B*</b>	1.29	1.25	(-) 0.78	35.34	31.25
<b>C*</b>	0.39	0.68	14.91	10.68	17.00
<b>D*</b>	0.14	0.02	(-) 38.52	3.84	0.50
<b>Total</b>	<b>3.65</b>	<b>4.00</b>	<b>2.32</b>	<b>100</b>	<b>100</b>

**2.7.3** The share of assesseees with income/loss below Rs. 50,000 and those with income/loss of Rs. 10 lakh and above increased while those with income/loss of Rs. 50,000 and above but below Rs. 10 lakh and search and seizure assessments decreased during 2006-07 as compared to 2002-03. Maximum growth rate was observed in the category of assesseees with income/loss of Rs. 10 lakh and above. Categories of assesseees with income/loss of Rs. 50,000 and above but below Rs. 10 lakh and search and seizure assessments experienced negative growth during this period.

**2.7.4** The number of companies limited by shares at work, according to the Department of Company Affairs (DCA) as on 31 March 2007, was 7,43,678 which included 6,53,024 private limited companies and 90,654 public limited companies. Therefore, there were 3.44 lakh companies which were registered with Registrar of Companies but were not on the records of the Income tax Department. This number has increased from 3.39 lakh in 2005-06. Ministry should investigate the reasons for the difference between the number of

<sup>@</sup> Source : All India CAP-II Statement regarding Workload & Disposal of Income Tax Assessments for March 2007

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

\* Category 'B' corporate assesseees - Assessments with income /loss of Rs.50,000 and above but below Rs.10 lakh

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

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

companies registered with DCA and the number of companies on the records of the Income tax Department.

PAN  
applications

2.8 The Act has made it mandatory for every person to quote his/her Permanent Account Number (PAN) in documents pertaining to specified transactions. In order to comply with the provisions of the Act it is necessary to allot PAN at the earliest to persons who apply for it.

2.8.1 With a view to enhancing the efficiency of PAN services, the Income tax Department had outsourced a part of the process for allotment of PAN to the UTI Technology Services Ltd. (UTITSL) and the National Securities Depository Ltd (NSDL) with effect from 1 July 2003. Table no. 2.9 shows statistics furnished by the Board relating to PAN allotment for the period 2004-05 to 2006-07. Out of 90.31 lakh applications due for disposal, 79.48 lakh PAN cards were dispatched during 2006-07. The closing balance shown at the end of the year in column 6 as calculated by audit does not tally with the closing balance in column 7 as shown by the Board. The reasons for the very large differences in the figures requires to be investigated by the Board.

Table no. 2.9: Allotment of PAN from 1.4.2004 to 31.3.2007 through UTITSL/ NSDL

Year	Opening balance	Applications received during the year	Total no. of applications due for disposal	PAN card dispatched	Closing balance (col. 4- col. 5)	Closing balance as shown by Board	Difference (col. 6- col. 7) (+) Excess (-) Shortage
1	2	3	4	5	6	7	8
2004-05	4,93,396	55,01,215	59,94,611	57,67,733	2,26,878	3,25,735	(+)98,857
2005-06	3,25,735	62,94,680	66,20,415	58,98,470	7,21,945	3,53,705	(-)3,68,240
2006-07	3,53,705	86,77,138	90,30,843	79,48,426	10,82,417	4,37,960	(-)6,44,457

Position of  
assessments of  
income tax

2.9 Under the Act, the time limit for the completion of assessments and reassessments is two years from the end of the assessment year in which the income was first assessable or one year from the end of the financial year in which a return or a revised return relating to the relevant assessment year is filed under section 139(4) and 139(5). Position of the assessments of income and corporation tax during the last five years is indicated in Table nos. 2.10 and 2.11 below.

Table no. 2.10: Cases selected for scrutiny during the last 5 years

Financial year	Opening balance of scrutiny cases	Cases selected for scrutiny during the year	Total cases for disposal
2002-03	49,530	8,44,885	8,94,415
2003-04	1,97,811	1,90,464	3,88,275
2004-05	1,93,017	2,46,241	4,39,258
2005-06	2,21,739	2,03,486	4,25,225
2006-07	1,86,056	3,40,949	5,27,005

Table no. 2.11: Position of income tax and corporation tax assessments\*

Financial year	Assessments due for disposal			Assessments completed (Percentage)			Assessments pending (Percentage)		
	Scrutiny	Summary	Total	Scrutiny	Summary	Total	Scrutiny	Summary	Total
2002-03	8,94,415	3,69,00,040	3,77,94,455	1,72,410 (19.28)	3,37,92,795 (91.58)	3,39,65,205 (89.87)	7,22,005** (80.72)	31,07,245 (8.42)	38,29,250 (10.13)
2003-04	3,88,275	2,69,78,376	2,73,66,651	1,97,390 (50.83)	2,13,80,490 (79.25)	2,15,77,880 (78.84)	1,90,885 (49.17)	55,97,886 (20.75)	57,88,771 (21.16)
2004-05	4,39,258	2,62,98,066	2,67,37,324	2,10,866 (48.00)	2,04,92,965 (77.93)	2,07,03,831 (77.43)	2,28,392 (52.00)	58,05,101 (22.07)	60,33,493 (22.57)
2005-06	4,25,225	3,28,21,007	3,32,46,232	2,30,698 (54.25)	2,26,49,070 (69.00)	2,28,79,768 (68.82)	194,527 (45.75)	1,01,71,937 (31.00)	1,03,66,464 (31.18)
2006-07	5,27,005	3,14,45,896	3,19,72,901	2,41,983 (45.92)	2,09,98,629 (66.78)	2,12,40,612 (66.44)	2,85,022 (54.08)	1,04,47,267 (33.22)	1,07,32,289 (33.56)

2.9.1 The number of cases selected for scrutiny during 2006-07 was higher at 3.41 lakh as compared to 2.03 lakh in 2005-06. The percentage of assessments completed after scrutiny and in summary manner have decreased as a result of which the total pendency has increased from 31.18 percent in 2005-06 to 33.56 percent in 2006-07. In fact, there has been a progressive decline in the completion of assessments from 89.87 percent in 2002-03 to 66.44 percent in 2006-07 resulting in a steady increase in pendency over the last five years. The decrease in the number of officers deployed on assessment duty could be one of the reasons for the increased pendency as also mentioned at paragraph 2.3.2 of this report.

Position of assessments of wealth tax

2.9.2 The following table gives the comparative position of the number of wealth tax assessments due for disposal and actually completed during 2002-03 to 2006-07:

Table no. 2.12: Position of wealth tax assessments

Financial year	Assessment due for disposal	Assessment completed (Percentage)	Assessment pending (Percentage)
2002-03	1,28,186	1,03,976 (81.12)	24,210 (18.82)
2003-04	1,09,777	82,720 (75.34)	27,057 (24.66)
2004-05	57,475	32,310 (56.22)	25,165 (43.78)
2005-06	76,670	52,859 (68.95)	23,811 (31.05)
2006-07	41,074	28,045 (68.28)	13,029 (31.72)

2.9.3 Although the number of wealth tax assessments due for disposal decreased by 46.43 percent from 76,670 in 2005-06 to 41,074 in 2006-07, the number of wealth tax assessments completed decreased substantially from

\*Details of status wise break-up of income tax assessments completed are given in Appendix-9  
 \*\* 5, 24,194 cases out of 7, 22,005 cases pending for scrutiny in 2002-03 had been converted into summary assessment in 2003-04.

52,859 in 2005-06 to 28,045 in 2006-07. The pendency of wealth tax assessments as a percentage of assessments due during 2006-07, therefore, remained at around the same level of the previous year.

#### Arrears of demand

**2.10** The Act provides that when any tax, interest, penalty, fine or any other sum is payable as a consequence of any order, a notice of demand shall be served upon the assessee. The amount specified in the notice has to be paid within 30 days unless the assessing officer, on application, extends the time for payment to be made by the assessee. The Act provides that an appeal against an assessment order would be barred unless tax on the returned income is paid before filing the appeal. The amount which remains unpaid, becomes arrears of demand. Table no. 2.13 below contains details of income tax, corporation tax and wealth tax collected and remaining uncollected during 2002-03 to 2006-07.

(Rs. in crore)

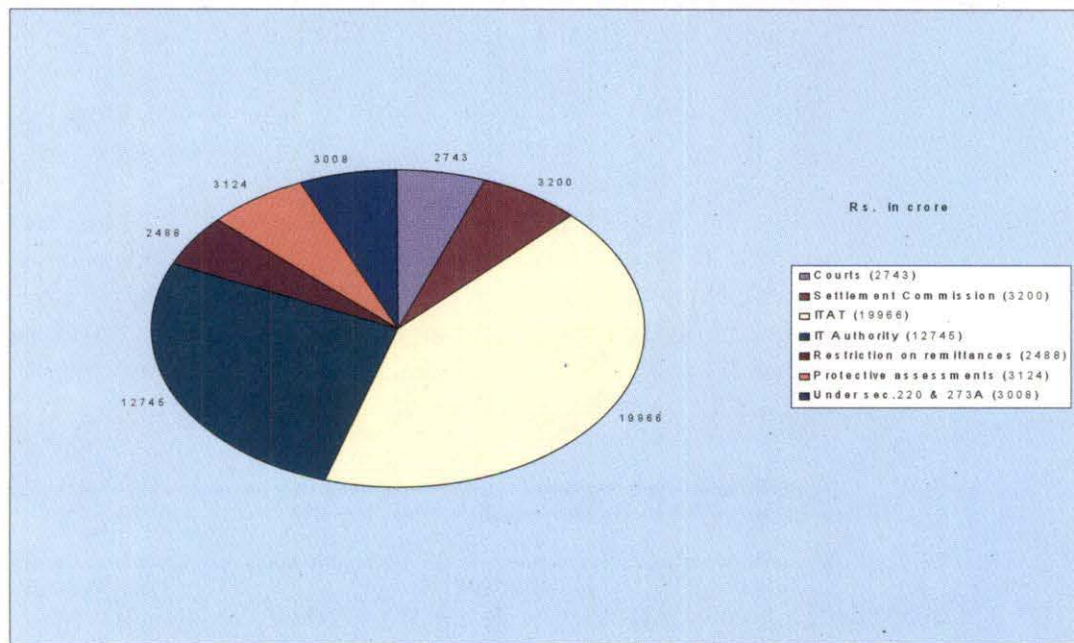
**Table no. 2.13: Income tax including corporation tax\* and wealth tax@ collected and remaining uncollected**

Year	Tax collected				Tax remaining uncollected			
	CT	IT	WT	Total	CT	IT	WT	Total
2002-03	46,172	36,866	154	83,192	35,057	32,581	2,122	69,760
2003-04	63,562	41,387	136	1,05,085	37,631	50,386	1,398	89,415
2004-05	82,680	49,268	145	1,32,093	39,204	83,977	1,148	1,24,329
2005-06	1,01,277	55,985	250	1,57,512	55,098	40,289	9,491	1,04,878
2006-07	1,44,318	75,079	240	2,19,637	64,683	51,771	916	1,17,370

**2.10.1** Uncollected amount of Rs. 1,17,370 crore out of the total demand of Rs. 3,37,007 crore in respect of corporation tax/income tax and wealth tax comprised demand of Rs. 86,203 crore of earlier years and current demand of Rs. 31,167 crore outstanding as on 31 March 2007. The outstanding demand of corporation tax increased from Rs. 55,098 crore to Rs. 64,683 crore and that for income tax from Rs. 40,289 crore to Rs. 51,771 crore during the year as compared to last year. For wealth tax, the outstanding demand decreased from Rs. 9,491 crore in 2005-06 to Rs. 916 crore during 2006-07. Since the wealth tax collection during 2006-07 was only Rs. 240.33 crore, this sharp reduction seems inexplicable and merits investigation by the Ministry.

**2.10.2** Out of the outstanding demand for corporation tax and income tax of Rs. 1,16,454 crore, total uncollected demand stayed/kept in abeyance was Rs. 47,274 crore in 2006-07 which was higher than the corresponding figure of Rs. 40,776 crore in 2005-06. The details of stages where these amounts are stayed/kept in abeyance are depicted in Chart 4.

**CHART 4: AMOUNTS STAYED/KEPT IN ABEYANCE**



**Tax  
recovery  
machinery**

**2.11** Every demand of tax, interest, penalty or fine, should be paid within thirty days of the service of the notice of demand. In case an assessee defaults in payment, the assessing officer may forward a certificate specifying the demand of arrears to the tax recovery officer (TRO) for recovery of demand. The latter will serve a notice on the defaulter requiring him to pay the demand within fifteen days. If the amount is not paid within the time specified in the notice or within the extended period, if any, the TRO shall proceed to realise the amount together with interest leviable for default in payment of tax demand by attachment and sale of the defaulter's movable property or by attachment and sale of the defaulter's immovable property or by arrest of the defaulter and his detention in prison or by appointing a receiver for management of defaulter's movable and immovable properties.

**2.11.1** The administrative machinery of tax recovery has been strengthened by allocating one TRO exclusively for each range consequent to the implementation of the scheme of restructuring of the department. The demands certified to TROs and amount recovered is indicated in Table no. 2.14 below:

(Rs. in crore)

Table no. 2.14: Tax demands certified to the tax recovery officer and demand recovered

Year	Demand certified at the beginning of the year	Demand certified during the year	Total certified demand	Demand certified recovered during the year	Balance at the end of the year
2004-05	17,217.81	14,217.55	31,435.36	5,078.01 (16.16)	26,357.35
2005-06	26,357.35	5,285.09	31,642.44	4,433.04 (14.01)	27,209.40
2006-07	27,209.40	8,015.86	35,225.26	8,521.40 (24.20)	26,703.86 <sup>†</sup>

Figures in brackets indicate demand certified recovered during the year as a percentage of total certified demand

2.11.2 Recovery of certified demand has increased from 14 percent of the total certified demand during 2005-06 to about 24 percent during 2006-07.

2.11.3 As per Board's instruction no. 1567 of 1984, cases of certified arrear demand involving Rs. 10,000 or below in respect of which recovery was not made for more than five years are to be identified and considered for possible write off. The department identified Rs. 32.37 crore of such arrears in respect of 1,16,019 assesseees for possible write off and Rs. 3.98 crore was thereafter written off in respect of 25,303 assesseees.

#### Penalties

2.12 If an assessee fails to furnish return of income/wealth or files a false return or fails to produce accounts and documents, penalty is leviable. The assessee is also liable to be prosecuted for the offence. Penalty is also leviable for failure to deduct or pay tax. Table no. 2.15 indicates that out of 8.50 lakh cases where penalty proceedings were initiated, only 0.59 lakh cases (6.90 percent) were finalised during the year as compared to 10.67 percent in 2005-06. Total pendency has increased from 6.56 lakh cases at the end of 2005-06 to 7.91 lakh cases at the end of 2006-07.

Table no. 2.15: Income tax cases where penalty proceedings initiated, disposed off and pending

Year	Opening balance	Additions	Total	Disposal	Closing balance
2004-05	3,31,185	2,32,380	5,63,565	73,774	4,89,791
2005-06	4,89,791	2,44,774	7,34,565	78,383	6,56,182
2006-07	6,56,182	1,93,495	8,49,677	58,610	7,91,067

2.12.1 Out of 58,610 penalty cases disposed off during the year, penalty was imposed in 38 percent or 22,392 cases. Over 59 percent of the penalty cases

<sup>†</sup> Year wise breakup is given in Appendix-10

disposed off related to concealment of income. Table no. 2.16 below gives the details.

**Table no. 2.16: Nature of offences and penalties imposed during 2006-07**

Nature of offence	Cases disposed off	Penalties imposed	
		No. of cases	Amount (Rs. in crore)
Concealment	34,449	13,081	2717.02
Other than concealment	24,161	9,311	230.82
<b>Total</b>	<b>58,610</b>	<b>22,392</b>	<b>2,947.84</b>

2.12.2 The number of cases where penalties were imposed decreased from 36,839 in 2005-06 to 22,392 in 2006-07 and the amount of penalty imposed also decreased from Rs. 5,046.07 crore to Rs. 2,947.84 crore during the same period.

Search and seizure cases

2.13 Chapter XIV-B of the Act governs the assessment of search cases. The time limit for completion of block assessment is two years from the end of the month in which the last of the authorisations for search was executed. Table no. 2.17 summarises the position of prosecutions launched, convictions obtained, offences compounded and acquittals allowed.

**Table no. 2.17: Prosecutions launched, convictions obtained, offences compounded and acquittals**

Year	Number of prosecutions launched			Disposal of cases				Cases pending
	Opening balance	Additions	Total	Convictions	Compounding	Acquittals	Total	Balance
2004-05	11,792	103	11,895	1	262	87	350	11,545
2005-06	11,545	326	11,871	1	85	39	125	11,746
2006-07	11,746	71	11,817	1	40	28	69	11,748

2.13.1 Only 0.58 percent of total cases for prosecution were disposed off during 2006-07 and about 41 percent of these cases resulted in acquittal. Only one out of 69 cases disposed off resulted in conviction.

Refund cases and interest paid on refunds

2.14 Where the amount of tax paid exceeds the amount of tax payable, the assessee is entitled to a refund of the excess amount. Simple interest at the prescribed rate is payable on the amount of such refund. Refund of any amount as a result of any order passed in appeal or other proceedings is also admissible along with simple interest at the prescribed rate.



**Table no. 2.18: Cases of refunds for which claims were made**

Financial year	Opening balance	Claims received during the year	Total	No. of claims disposed off	Balance outstanding
2004-05	1,23,615	2,80,862	4,04,477	3,03,747	1,00,730
2005-06	1,00,730	2,30,967	3,31,697	2,76,646	55,051
2006-07	55,051	2,55,917	3,10,968	2,64,957	46,011

2.14.1 Pendency of refund claims results in outflow of revenue from government by way of interest. Over 15 percent of the refund claims remained outstanding at the end of March 2007 as compared to 17 percent at the end of March 2006. Details are given in Table no. 2.18 above.

**Table no. 2.19: Cases resulting in refund as a result of appellate orders and revision orders, etc**

Financial year	Opening balance	Addition	Total	Disposal	Closing balance
2004-05	27,090	45,032	72,122	69,931 (97%)	2,191
2005-06	2,191	29,178	31,369	29,296 (93%)	2,073
2006-07*	2,073	15,565	17,638	16,127 (91%)	1,511

2.14.2 Disposal of refund cases resulting from appellate orders and revision orders etc. has declined from 69,931 cases (97 percent) to 16,127 cases (91 percent) in 2006-07. After appeal/revision orders were received, 1,511 cases, or nine percent of the total cases where refunds were due to assesseees remained pending at the end of 2006-07. Details are given in Table no. 2.19 above.

(Rs. in crore)

**Table no. 2.20: Interest paid on refunds by the government**

Section under which interest paid	2004-05		2005-06		2006-07*	
	No. of assessments	Amount	No. of assessments	Amount	No. of assessments	Amount
214	9	49.74	3	0.13	3	2.58
243	3	0.12	1	0.02	3	0.00
244	29,684	157.73	38,710	15.52	13,392	14.70
244A	45,59,980	3,658.39	39,59,413	4,559.16	29,69,580	16,986.47
Total	45,89,676	3,865.98	39,98,127	4,574.83	29,82,978	17,003.75

2.14.3 Government refunded Rs. 37,235 crore from gross collection of Rs. 2,56,632 crore (Table no. 2.5) and paid interest amounting to Rs. 17,004 crore (Table no. 2.20) which worked out to 46 percent of the amount refunded

\* Data furnished by Directorate of Income Tax (Legal & Research), Research & Statistics Wing is provisional

during 2006-07. The number of assessments on which interest was paid had decreased by twenty five percent from 39.98 lakh in 2005-06 to 29.83 lakh in 2006-07. The amount of interest paid on refunds by the department, however, increased from Rs. 4,574.83 crore in 2005-06 to Rs. 17,003.75 crore in 2006-07. The government needs to investigate reasons for the steep jump of 3.7 times and take appropriate steps to immediately arrest it.

Incorrect  
accounting of  
interest on  
refunds

2.14.4 Audit had earlier commented in Audit Reports of 2004, 2005, 2006 and 2007 that the government was following an incorrect procedure of accounting for interest paid on refunds. Interest payment is a charge on the Consolidated Fund of India and is, therefore, payable through a proper budgetary mechanism. Accordingly, Minor Head "interest on refunds" is operated under the Major Head "2020-Collection of Taxes on Income and Expenditure". However, no budget provision for 'interest on refund' was made in the budget estimates for 2006-07 and the expenditure on interest on refunds amounting to Rs. 17,003.75 crore was treated as reduction in revenue. Accounting of interest on refund as reduction in revenue is incorrect as this interest was never collected in the first instance. Interest on belated refunds of excess tax should be budgeted as an expenditure item which, infact, was done in the Budget Estimates 2001-02 when Rs. 92 crore was provided in the demand of 'Direct Taxes' under the Major Head '2020 - Collection of taxes on Income & Expenditure' towards interest on belated refund of excess tax. However, subsequently at the Revised Estimates stage the earlier practice of showing the interest on excess refund as deduct receipt was reverted to. The incorrect practice is still being followed and needs to be rectified.

Cost of collection  
of taxes

2.15 The overall cost of collection of income and corporation taxes increased from Rs. 1,048 crore in 2002-03 to Rs. 1,216 crore in 2006-07. However, cost per rupee of corporation tax collected declined from 0.26 paise in 2002-03 to 0.11 paise in 2006-07. For income tax, the cost of collection per rupee declined from 2.51 paise in 2002-03 to 1.40 paise in 2006-07. Cost of collection per assessee, however, increased for corporation tax and income tax during the year as compared to the previous years. The position of cost of collection as depicted by the department needs to be viewed against the background that 89.55 percent and 75.78 percent of gross collections during 2006-07 from non corporate and corporate assesseees respectively, were realised at the pre-assessment stage i.e., in the form of advance tax, TDS and self assessment tax. Annual fluctuations in the cost of collection of corporation and income tax are indicated in Table no. 2.21 below.

Table no. 2.21: Cost of collection of corporation and income tax

Nature of tax	2002-03	2003-04	2004-05	2005-06	2006-07
<b>Cost of collection (Rs. in crore)</b>					
Corporation Tax	121	129	141	147	162
Income Tax	927	979	1077	954	1054
<b>Cost of collection per rupee of tax collected (in paisa)</b>					
Corporation Tax	0.26	0.21	0.17	0.15	0.11
Income Tax	2.51	2.37	2.19	1.70	1.40
<b>Cost of collection per assessee (in rupees)</b>					
Corporation Tax	3315	3468	3,710	3,740	4050
Income Tax	329	340	402	325	341

Appeals, revision  
petitions and  
writs

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

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

Table no. 2.22 Appeals pending with the Commissioners (Appeals) during 2006-07

	Total appeals	With demand of Rs. 1-10 lakh	With demand of Rs. 10-25 lakh	With demand of Rs. 25 lakh and above
Appeals for disposal	1,75,201	63,814	13,823	16,413
Disposal	67,360	27,021	5,945	7,279
Pending	1,07,841	36,793	7,878	9,134

2.16.2 As per the instructions of the Board, each CIT (Appeal) is required to dispose off a minimum of 60 appeals per month, and a total of 720 appeals annually. Thus, about 2.03 lakh appeals could have been disposed off during the year on the basis of the working strength of 282 CIT (Appeals). Table no. 2.22 above shows that only 0.67 lakh appeals were disposed off and the average annual disposal per CIT (A) during 2006-07 was only 239 appeals.

**Table no. 2.23 Appeals, references and writ pending with Supreme Court/High Court/Income Tax Appellate Tribunal during 2006-07**

Authority with whom pending	Cases for disposal	Cases disposed	Cases pending
Supreme Court	3,231	136	3,095
High Court	33,826	1,957	31,869
ITAT	47,998	8,714	39,284

**2.16.3** Out of the cases referred to Supreme Court, High Court and ITAT till March 2007, 96 percent, 94 percent and 82 percent cases respectively remained pending as shown in Table no. 2.23.

Cases settled by Settlement Commission

**2.17** An assessee may, at any stage of a case relating to him, make an application to the Settlement Commission to have the case settled. While making such an application, an assessee shall make full and true disclosure of his income (not disclosed before the assessing officer) and the additional amount of income tax payable on such income. The Settlement Commission admits/rejects the application after calling for a report from the Commissioner. Out of 3,667 cases pending before the Settlement Commission, 350 cases (9.54 percent) were settled. Percentage of disposal in respect of income tax and wealth tax, as shown in Table no. 2.24 below increased marginally during the year as compared to 2005-06.

**Table no. 2.24: Cases settled by the Settlement Commission**

Year	Opening balance	Addition	Total cases for disposal	Number of cases settled	Percentage of cases settled	Number of cases pending
<b>Income Tax</b>						
2004-05	2,767	427	3,194	372	11.65	2,822
2005-06	2,822	477	3,299	301	9.12	2,998
2006-07	2,998	601	3,599	349	9.70	3,250
<b>Wealth Tax</b>						
2004-05	66	Nil	66	1	1.52	65
2005-06	65	2	67	0	0	67
2006-07	67	1	68	1	1.47	67

**Table no. 2.25: Cases pending admission/held up with Settlement Commission**

Nature of cases	31 March 2006	31 March 2007
Cases pending admission before Settlement Commission	730	880
Cases held up with Settlement Commission for want of comments of the department	374	479

2.17.1 About 41 percent of 3,317 pending income tax and wealth tax cases were either pending admission with Settlement Commission or held up for want of comments from the department.

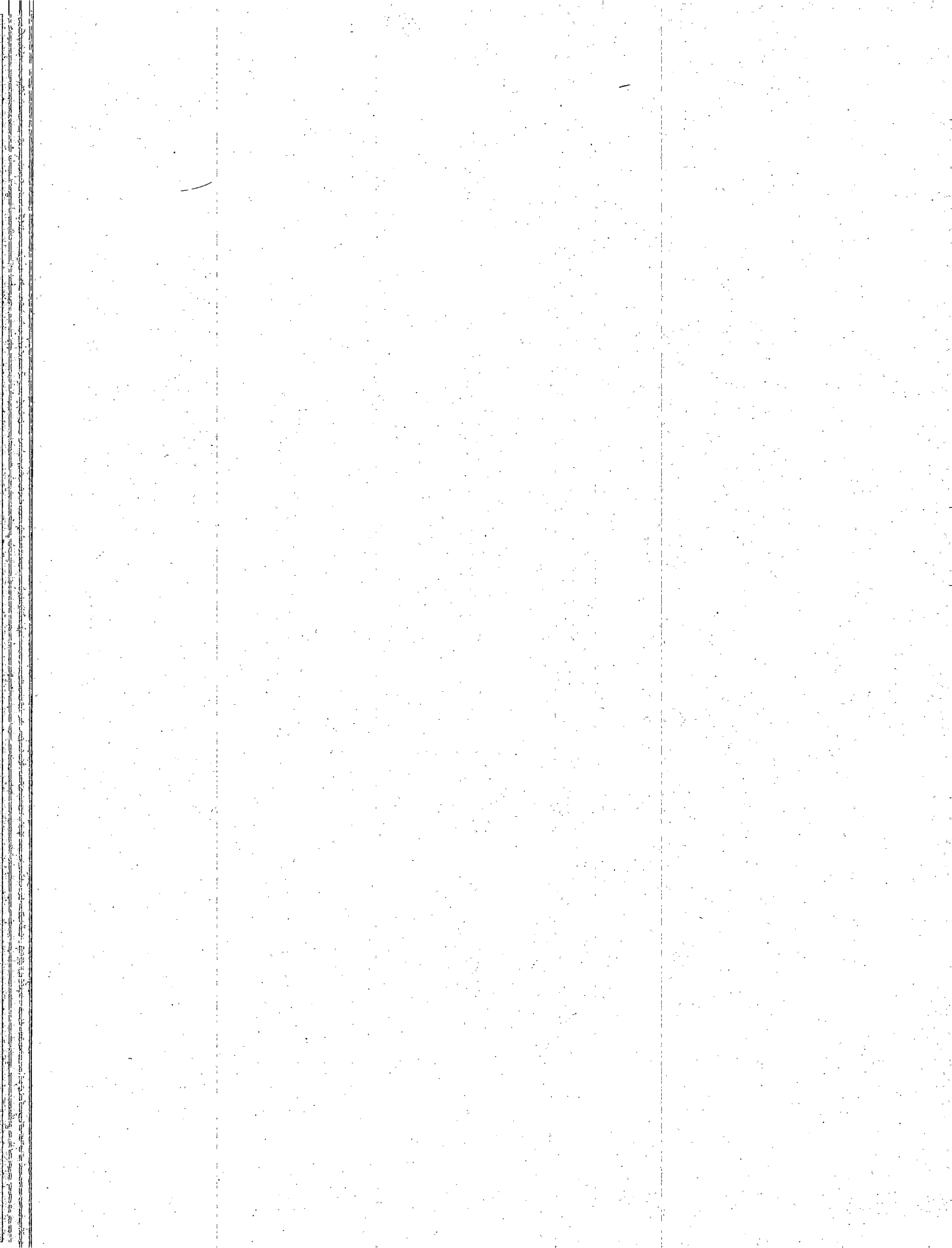
**Revenue demand  
written off**

2.18 A total revenue demand of Rs. 215.52 crore was written off during 2006-07 on the grounds of the assessee having died leaving behind no assets, becoming untraceable or being alive but with no attachable assets/amounts etc. Out of the above, 79 percent pertained to cases where the assessees were untraceable and about 19 percent pertained to cases where the assessees were alive but had no attachable assets. Table no. 2.26 contains the details.

(Rs. in crore)

**Table no. 2.26: Category-wise details of revenue demands written off during 2006-07**

Category	Company cases		Non-company cases		Total cases	
	No.	Amount	No.	Amount	No.	Amount
(a) Assessee having died leaving behind no assets/become insolvent/gone into liquidation or are defunct.	16	1.45	452	2.30	468	3.75
(b) Assessee being untraceable.	79	0.45	6512	169.91	6591	170.36
(c) Assessee having left India	0	0.00	3530	0.29	3530	0.29
(d) Assessee who were alive but had no attachable assets/amounts being petty/amounts written off as a result of scaling down of demand and other reasons	364	0.17	21,091	40.69	21,455	40.86
(e) Amount written off on grounds of equity or as a matter of international courtesy, or where time, labour and expense involved in legal remedies for realisation are considered disproportionate to the recovery.	0	0.00	2747	0.26	2747	0.26
<b>Total</b>	<b>459</b>	<b>2.07</b>	<b>34332</b>	<b>213.45</b>	<b>34,791</b>	<b>215.52</b>



## Chapter III

### Corporation Tax

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97	1.168. Taxable income in case of company
98	1.169. Taxable income in case of company
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100	1.171. Taxable income in case of company



## Chapter Summary

Corporation tax constituted 62.71 percent of the total collection from direct taxes in 2006-07. There were 3,99,627 corporate assessees as on 31 March 2007, which represented a slight increase of 1.80 percent over the previous year.

(Paragraphs 3.1 and 3.2)

Audit issued 686 observations to the Ministry of Finance involving revenue impact of Rs. 1669.38 crore highlighting various irregularities, omissions and mistakes, for comments. The Ministry had accepted 204 observations involving revenue impact of Rs. 712.44 crore till 7 December 2007.

(Paragraphs 3.4 and 3.6)

Assessing officers committed mistakes in:

- ♦ computation, carry forward and set off of losses in 59 cases involving revenue impact of Rs. 414.22 crore.

(Paragraph 3.7)

- ♦ allowance of deduction towards depreciation, actual payment and capital/non business expenditure in 113 cases involving revenue impact of Rs. 398.62 crore.

(Paragraphs 3.8 to 3.10)

- ♦ implementation of appellate orders and non/short levy of interest in 61 cases involving revenue impact of Rs. 199.02 crore.

(Paragraphs 3.11 and 3.12)

- ♦ adoption of correct figures, allowance of provisions and computation of income under special provisions in 102 cases involving revenue impact of Rs. 174.24 crore.

(Paragraphs 3.13 to 3.15)

- ♦ allowance of prior period expenses / deductions not admissible, exemptions and relief in 49 cases involving revenue impact of Rs. 71.63 crore.

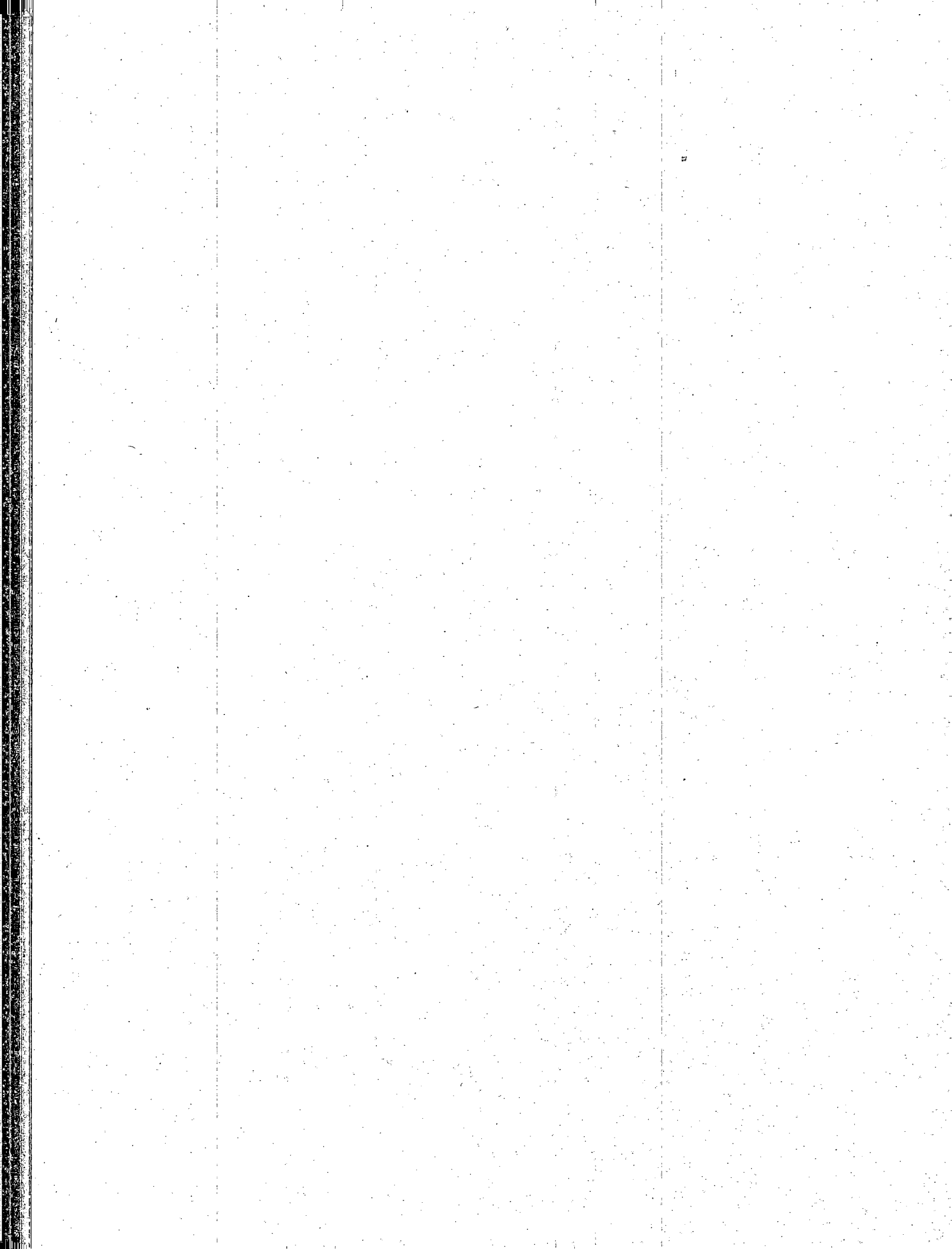
(Paragraphs 3.16 and 3.18)

- ♦ deductions under chapter VIA and allowance of refund in 51 cases involving revenue impact of Rs. 24.20 crore.

(Paragraphs 3.19 and 3.20)

Assessees had availed unentitled benefit in summary assessments in 145 cases involving revenue impact of Rs. 149.30 crore.

(Paragraph 3.25)



## CHAPTER III: CORPORATION TAX

**Number of companies vis-à-vis company assesseees**

3.1 Records of the Ministry of Finance, the Department of Company Affairs, indicated that there were 7,43,678 companies limited by shares at work as on 31 March 2007, which included 6,53,024 private limited companies and 90,654 public limited companies. Besides, there were 3846 companies with liability limited by guarantee and associations not for profit and 520 companies with unlimited liability. However, as per the records of the Income tax Department, the number of company assesseees as on 31 March 2007 was 3,99,627 as compared to 3,92,573 as on 31 March 2006.

**Receipts from corporate tax**

3.2 During 2006-07, corporation tax receipts were Rs. 1,44,318 crore as against Rs. 1,01,277 in 2005-06, constituting 62.71 percent of the total direct taxes collection aggregating Rs. 2,30,141 crore. Table no. 2.4 of chapter II of this report contains the details.

**Status of assessments**

3.3 Table no. 2.11 below paragraph 2.9 of this report contains particulars of assessments due for disposal, assessments completed and assessments pending.

**Results of audit**

3.4 Audit issued 665 draft paragraphs involving undercharge of tax of Rs. 1573.64 crore and 21 draft paragraphs involving overcharge of tax of Rs. 95.74 crore to the Ministry of Finance between May 2006 and October 2006 for eliciting their comments. The internal audit of the department had seen only 48 of these cases and had not noticed the mistakes pointed out in this report.

3.5 Six hundred and twenty four draft paragraphs involving undercharge of Rs. 1480.60 crore and 21 cases involving overcharge of Rs. 95.74 crore are indicated in the succeeding paragraphs. Each paragraph indicates a particular category of mistake and starts with a suitable preamble followed by combined/consolidated revenue impact of all observations of similar nature. Cases with money value of Rs. 10 crore or more have been illustrated in the body of the text while those of Rs. one crore or more but less than Rs. 10 crore each are given in the table under the related category.

**Status of replies received from the Ministry of Finance**

3.6 The Ministry of Finance have accepted the audit observations in 204 cases involving aggregate revenue impact of Rs. 712.44 crore. In 103 cases, the Ministry have not accepted the audit observation. In the remaining cases, replies have not been received. Replies of the Ministry have been examined and suitably incorporated in the report.

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

3.7 Where the net result of computation under the head 'profits and gains of business or profession' is a loss to the assessee and such loss cannot be wholly set off against income under any other head of the relevant year, so much of the loss as has not been set off shall be carried forward to the following assessment

year/years to be set off against the profits and gains of business or profession of those years. No loss shall be carried forward for more than eight assessment years immediately succeeding the assessment year for which the loss was first determined.

**3.7.1** Where there has been an amalgamation of a company owning an industrial undertaking or a ship or a hotel, with another company, then the accumulated loss shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless the amalgamated company holds continuously, for a minimum period of five years from the date of amalgamation, at least three-fourths of the book value of the fixed assets of the amalgamating company acquired in a scheme of amalgamation, and continues the business of the amalgamating company for a minimum period of five years from the date of amalgamation. In case of non fulfilment of the above conditions, the set off of loss or allowance of depreciation made in any previous year in the hands of the amalgamated company shall be deemed to be the income of the amalgamated company chargeable to tax for the year in which such conditions are not complied with.

**3.7.2** Assessing officers did not apply the above provisions correctly, which resulted in short levy of tax aggregating **Rs. 414.22 crore** in **59 cases** in Andhra Pradesh, Delhi, Gujarat, Haryana, Karnataka, Kerala, Maharashtra, Orissa, Rajasthan, Tamil Nadu and West Bengal. **Four cases** are illustrated below:

**3.7.3** In Delhi, CIT IV charge, the assessment of a company, **M/s Engineering Projects India Ltd.**, for the assessment year 2002-03 was completed after scrutiny in January 2005 determining a loss of Rs. 378.90 crore. Audit examination revealed that while making the assessment, the loss was taken as Rs. 378.90 crore against the returned income of Rs. 11.22 crore. After adjusting the brought forward losses/unabsorbed depreciation to the extent of income, the income of the assessee for the relevant previous year should have been assessed as 'nil'. Omission to do so resulted in overassessment of loss by Rs. 378.90 crore involving potential revenue impact of Rs. 135.27 crore.

**3.7.4** The Ministry has accepted (December 2007) the above observation.

**3.7.5** In Maharashtra, CIT I, Mumbai charge, the assessment of a company, **M/s Alstom Project India Ltd.**, for the assessment year 2001-02 was completed after scrutiny in December 2003 determining an income of Rs. 12.70 crore under special provisions, as the income under normal provisions was 'nil' after setting off the brought forward business loss of the amalgamating company to the extent of the available business income of Rs. 20.36 crore, and allowing carry forward of balance loss of Rs. 318.31 crore. Audit examination revealed that 75 percent of the book value of fixed assets of the amalgamating company amounting to Rs. 32.01 crore was not held by the amalgamated company as on 31 March 2001, the effective date of amalgamation as per records of the assessee company. As such the set off and carry forward of business loss claimed by the assessee and

allowed by department was not in order. The omission to disallow it resulted in underassessment of income of Rs. 338.67 crore involving potential and positive revenue impact of Rs. 118.53 crore and Rs. 6.98 crore respectively.

**3.7.6** In Andhra Pradesh, CIT III, Hyderabad charge, assessment of a company M/s Sanghi Spinners India Limited, for the assessment year 2003-04 was completed after scrutiny in February 2006 allowing carry forward of loss of Rs. 252.65 crore to be set off against the income of the subsequent assessment years. Audit examination revealed that for the assessment year 2003-04, the assessee company actually had a net profit of Rs. 8.58 crore which had been set off against the accumulated losses of Rs. 261.23 crore relating to the earlier years, thus determining 'nil' income for assessment year 2003-04. Thus, the loss of Rs. 252.65 crore was actually the balance of accumulated losses of earlier years and not loss incurred for the assessment year 2003-04. This mistake resulted in incorrect determination of loss of Rs. 252.65 crore involving a potential revenue impact of Rs. 92.85 crore.

**3.7.7** In Maharashtra, CIT IV, Nagpur charge, the assessment of a company, M/s Bilt Graphics Papers Ltd., for the assessment year 2003-04 was completed after scrutiny in October 2005 determining an income of Rs. 7.52 crore. Audit examination revealed that the assessee had brought forward business loss of Rs. 168.64 crore pertaining to the assessment years of 1998-99 to 2002-03 which was further allowed to be carried forward though the assessee had positive income of Rs. 7.52 crore. Similarly, the assessee had also claimed and was allowed unabsorbed depreciation of Rs. 4.45 crore pertaining to the assessment year 2003-04, although positive income of Rs. 7.52 crore was available after allowing the admissible depreciation of the current year. Further, as against the loss of Rs. 31.95 crore determined after scrutiny in March 2005 for the assessment year 2002-03, total loss of Rs. 69.03 crore was irregularly allowed to be carried forward for the assessment year 2003-04. The omissions resulted in excess allowance of carry forward of business loss and unabsorbed depreciation aggregating Rs. 49.05 crore involving potential revenue impact of Rs. 18.02 crore.

**3.7.8** The Ministry has accepted (December 2007) the above observation.

**3.7.9** 12 cases are shown in Table no. 3.1 below:

(Rs. in crore)

**Table no. 3.1: Incorrect computation of carry forward/set off of losses**

Sl no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s Sussen Asia Ltd. CIT III, Pune	2003-04	Scrutiny March 2006	The assessee had claimed and was allowed carry forward of business loss and unabsorbed depreciation aggregating Rs. 15.98 crore though no such business loss and unabsorbed depreciation was available.	5.87 (P)

Sl no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
2	M/s Binani Cement Ltd. <b>CIT Central I, Kolkata</b>	2002-03	Scrutiny March 2005	As against actual assessed loss of Rs. 26.44 crore, carry forward of loss of Rs. 39.12 crore was allowed.	4.53 (P)
3	M/s EID Parry (I) Ltd. <b>CIT I, Chennai</b>	2002-03	Scrutiny March 2005	As against available loss of Rs. 25.45 crore, carry forward of loss of Rs. 32.84 crore was allowed.	3.71
4	M/s Herbal Life International Pvt Ltd. <b>CIT IV, Delhi</b>	2003-04	Scrutiny March 2006	As against carry forward loss of Rs. 73.80 lakh, loss of Rs. 7.12 crore was set off.	3.22
5	M/s Reliance Telecom Ltd. <b>CIT III, Mumbai</b>	2003-04	Scrutiny January 2006	As against carry forward loss of Rs. 39.08 crore, Rs. 47.17 crore was set off.	2.97 (P)
6	M/s Zensar Technologies <b>CIT II, Mumbai</b>	2001-02	Scrutiny January 2004	Business loss of Rs. four crore was incorrectly set off against income from other sources.	2.43
7	M/s Nav Auro Investment Pvt. Ltd. <b>CIT V, Delhi</b>	2003-04	Scrutiny December 2005	The assessing officer had incorrectly assessed the loss as Rs. 5.36 crore against the actual loss of Rs. 20.69 lakh.	1.89 (P)
8	M/s ICICI Web Trade Ltd. <b>CIT IV, Mumbai</b>	2003-04	Scrutiny October 2005	Brought forward loss of Rs. 4.03 crore, which had already been set off in the scrutiny assessment for earlier assessment year 2002-03 completed in January 2005 was again set off.	1.52
9	M/s The Travancore Cochin Chemicals Ltd. <b>CIT, Cochin</b>	2002-03	Scrutiny January 2005	Carry forward of loss of Rs. 7.56 crore as per return filed in October 2002 was not revised to Rs. 3.63 crore as per the revised return filed in October 2003.	1.40 (P)
10	M/s Fidelity Textiles Ltd. <b>CIT I, Chennai</b>	2002-03	Scrutiny February 2005	As against available carry forward of loss of Rs. 0.66 crore, set off of Rs. 4.18 crore was allowed.	1.30
11	M/s Zora Pharma Ltd. <b>CIT IV, Ahmedabad</b>	2002-03	Scrutiny March 2005	Incorrect adoption of loss of Rs. 6.92 crore as against the correct loss of Rs. 3.51 crore.	1.22 (P)
12	M/s Pinnacle Trade & Investment Ltd. <b>CIT IV, Kolkata</b>	2001-02	Scrutiny February 2004	Although the value of the quoted shares was adopted at lower rates, this was further reduced by Rs. 2.03 crore through adjustment against the diminution in the value of shares.	1.16

P: denotes potential tax

**3.7.10** The Ministry has accepted (November and December 2007) the observations in the cases at **Sl. no. 1, 3, 9, 10 and 12** of **Table no. 3.1** above.

#### Irregularities in allowance of depreciation

**3.8** In computing the business income of an assessee, a deduction on account of depreciation on the cost or written down value of building, plant and machinery, furniture, fixtures etc., is admissible at the rates prescribed in the

Income Tax Rules, 1962 provided the assets are owned by the assessee and used for the purpose of the business. Written down value in respect of a block of assets is required to be reduced by the moneys payable on any asset which is sold or discarded or demolished or destroyed during the relevant previous year together with the amount of scrap value, if any. In terms of the Board's circular no. 740 dated 17 April 1996, a branch of a foreign company in India is to be treated as a separate entity for the purpose of taxation and depreciation. It has been judicially held<sup>1</sup> that charging of depreciation is mandatory before the deductions are calculated.

**3.8.1** Where in any assessment year full effect cannot be given to any depreciation allowance owing to there being no profits or gains or less profits or gains under the head 'profits and gains of business or profession', such unabsorbed depreciation shall be carried forward in subsequent year(s) and shall be set off against profits and gains from any business or profession for that year(s).

**3.8.2** Assessing officers did not apply the above provisions correctly, which resulted in short levy of tax aggregating **Rs. 158.30 crore** in **54 cases** in Andhra Pradesh, Assam, Delhi, Gujarat, Haryana, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Uttaranchal, Uttar Pradesh and West Bengal. **Two cases** are illustrated below:

**3.8.3** In Maharashtra, CIT I, Mumbai charge, the assessment of a company **M/s Associated Cement Co.**, for the assessment year 2001-02, completed after scrutiny in March 2004 determining taxable income of Rs. 43.47 crore under the special provisions of the Act, was subsequently rectified in April 2004 allowing carry forward of unabsorbed depreciation of Rs. 340.55 crore and Rs. 174.31 crore relating to the assessment years of 2000-01 and 2001-02 respectively. Audit examination revealed that in the rectification order for the assessment year 2000-01 passed in February 2003, unabsorbed depreciation of Rs. 45.82 crore pertaining to assessment years 1998-99 and 1999-2000 only was allowed to be carried forward and no unabsorbed loss/depreciation pertaining to assessment year 2000-01 was carried forward. Thus, carry forward of unabsorbed depreciation of Rs. 340.55 crore relating to assessment years 1998-99, 1999-00 and 2000-01 in April 2004 as against the available amount of Rs. 45.82 crore was not in order. The mistake resulted in excess carry forward of unabsorbed depreciation of Rs. 294.73 crore involving potential revenue impact of Rs. 103.16 crore.

**3.8.4** The Ministry has accepted (December 2007) the above observation.

**3.8.5** In Maharashtra, DIT (IT), Mumbai charge, the assessment of a company, **M/s Ballast Ham Dredging**, for the assessment year 2001-02 was completed after scrutiny in March 2004 determining an income of Rs. 30.79 crore after allowing depreciation of Rs. 22.76 crore, which also included depreciation of Rs. 22.16

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<sup>1</sup> CIT vs Mahindra Mills (243 ITR 56) (SC)

crore allowed on a vessel viz. 'HAM 316'. Audit examination revealed that the vessel 'HAM 316' was temporarily imported in India by the assessee company during January 2000 and moved out of India during December 2000. The assessee company was a permanent establishment of a foreign company covered by domestic laws of India. The assessee did not pay any consideration to its parent company to get ownership of the vessel in India, nor realised any amount when the vessel was re-exported. The assessee, therefore, had no ownership over the vessel. Besides, when the vessel was brought into India from the parent office in January 2000, the transaction was treated as a purchase, but when the vessel was transferred back to the parent office in December 2000, the transaction was not treated as a sale. Instead, the written down value of the vessel was shown as nil on 31 March 2001. For both the reasons discussed above, the assessee was not eligible to claim depreciation on the vessel. Irregular allowance of depreciation of Rs. 22.16 crore resulted in underassessment of income to that extent involving revenue impact of Rs. 15.32 crore (including interest).

**3.8.6** Six cases are shown in **Table no. 3.2** below:

(Rs. in crore)

Sl no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s Ajmer Vidyut Vitaran Nigam Ltd. <b>CIT, Ajmer</b>	2003-04	Scrutiny March 2006	The assessee had claimed and was allowed depreciation of Rs. 23.04 crore on fixed assets against the correct amount of Rs. 23 lakh.	8.38 (P)
2	M/s Dakshin Haryana Bijli Vitran Nigam Ltd. <b>CIT, Hisar</b>	2003-04	Scrutiny March 2006	The assessee had claimed and was allowed depreciation of Rs. 13.65 crore on plant and machinery (contributed by consumers free of cost) on which no depreciation was admissible.	5.02
3	M/s Maharashtra State Electricity Board <b>CIT I, Mumbai</b>	2002-03	Scrutiny March 2005	The assessee had claimed and was allowed depreciation of Rs. 11.11 crore on assets which were not put to use.	3.96 (P)
4	M/s Genecol Industries Ltd. <b>CIT III, Mumbai</b>	2003-04	Best judgment assessment March 2006	The assessee was allowed depreciation of Rs. 10.21 crore as against the allowable amount of Rs. 3.12 crore worked out in the statement of depreciation enclosed with the return.	2.88
5	M/s NHPC Ltd. <b>CIT, Faridabad</b>	2001-02	Scrutiny March 2004	The assessing officer did not add back depreciation of Rs. 7.10 crore debited in the accounts under prior period adjustments.	2.81



Sl no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
6	M/s Ispat Profiles India Ltd. CIT I, Kolkata	2002-03	Scrutiny January 2005	Depreciation was irregularly claimed and allowed on plant and machinery which was inoperative, as the company's plant was locked since June 2000.	1.61

*P: denotes potential tax*

**3.8.7** The Ministry has accepted (December 2007) the observations in the cases at **Sl. no. 3 and 5** of **Table no. 3.2** above.

**Irregular allowance of deduction not supported by actual payment**

**3.9** Deductions specified under section 43B of the Act are allowable only on actual payment for certain types of expenditure. From 1 April 1988, tax, duty or any sum payable as interest on any loan or borrowing from any public financial institution or a state financial corporation or a state industrial investment corporation actually paid by the assessee on or before the due date of filing the return of income are allowed as deduction.

**3.9.1** As per explanations 3C and 3D inserted below section 43B vide the Finance Act, 2006 with retrospective effect from 1 April 1989 and 1 April 1997 respectively, any interest which has been converted into a loan or borrowing or advance but has not been actually paid, shall not be allowed as deduction in the computation of income. It has been judicially held<sup>1</sup> that conversion of interest into loan does not amount to payment of interest for the purpose of section 43B. CBDT has also clarified<sup>2</sup> that conversion of interest into loan or borrowing or advance does not amount to actual payment.

**3.9.2** Irregular allowance of deductions towards actual payments resulted in short levy of tax aggregating **Rs. 126.07 crore in 25 cases** in Delhi, Gujarat, Jharkhand, Karnataka, Kerala, Maharashtra, Rajasthan, Tamil Nadu and West Bengal. **Two cases** are illustrated below:

**3.9.3** In Maharashtra, CIT III, Mumbai charge, the assessment of a company, **M/s Mangalore Refinery and Petrochemicals Ltd.**, for the assessment year 2003-04, was completed after scrutiny in November 2005 determining a loss of Rs. 1251.75 crore after allowing deduction of Rs. 204.23 crore under section 43B. Audit examination revealed that the assessee had claimed and was allowed deductions of Rs. 97.36 crore and Rs. 75.99 crore against 'provision for custom duty concession availed pending future export obligations' treating it as paid against future export obligation. In this case the assessee had availed of custom duty concession against future export obligations and was required to make payment of custom duty only if the future obligations were not fulfilled. Since the

<sup>1</sup>M/s Kalpana Lamps and Components Ltd. vs CIT (255 ITR 491), (Madras High Court) 2001

<sup>2</sup> Circular no. 07/2006 dated 17 July 2006

assessee did not make actual payments towards custom duty, allowance of a deduction against provision created was not in order and the deduction claimed was required to be disallowed. The omission to disallow the deductions aggregating Rs. 173.35 crore resulted in underassessment of income to that extent involving a revenue impact of Rs. 63.71 crore.

3.9.4 Audit examination further revealed that the assessee was allowed a deduction of Rs. 204.23 crore on account of interest claimed as paid. The total sum of interest claimed as paid included Rs. 95.17 crore being interest payable on term loans from financial institutions upto March 2002, which were converted into loans in the previous year 2002-03, and hence deemed to be paid. As the conversion into loan did not amount to repayment as per the provisions of Section 43B, the allowance of deduction was irregular. The omission resulted in underassessment of income of Rs. 95.17 crore involving potential revenue impact of Rs. 34.98 crore.

3.9.5 Eight cases are shown in Table no. 3.3 below:

(Rs. in crore)

Table no. 3.3: Irregular allowance of deduction not supported by actual payment

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s Tamil Nadu Minerals Ltd. CIT I, Chennai	2002-03	Scrutiny February 2006	Deduction of Rs. 11.97 crore (including prior period expenses of Rs. 1.57 crore) was incorrectly allowed towards nomination charges which were not actually paid to the Government of Tamil Nadu.	5.99
2	M/s Shree Digvijay Cement Co. Ltd. CIT, Jamnagar	2002-03	Scrutiny March 2005	The assessee had incorrectly claimed and was allowed deductions of Rs. 9.62 crore on account of bonus, interest on loans etc., which did not relate to the relevant previous year. Besides, interest on sales tax/royalty/electricity duty was also irregularly allowed as deduction.	3.97
3	M/s Karnataka State Financial Corporation CIT I, Bangalore	1996-97  2000-01	Scrutiny February 1999  Revision after appellate order in April 2002  Scrutiny February 2003	As against the aggregate actual liability of Rs. 5.83 crore towards interest tax payments Rs. 11.11 crore were allowed in these assessment years.	3.04 <sup>^</sup>

<sup>^</sup> includes potential revenue impact of Rs. 1.08 crore pertaining to assessment year 2000-01

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
4	M/s Instrumentation Ltd. CIT, Kota	2003-04	Scrutiny October 2005	Deduction of Rs. 7.51 crore was incorrectly allowed towards company and employee's provident fund contribution which pertained to assessment year 2002-03.	2.76 (P)
5	M/s M/s Tidel Park Ltd. CIT I, Chennai	2001-02 2002-03	Scrutiny March 2004  Summary July 2004	The assessee had incorrectly claimed and was allowed deductions of Rs. 2.11 crore and R. 3.53 crore towards interest to M/s TIDCO which was not actually paid.	2.09 (P)
6	M/s Roofit Industries Ltd. CIT Central I, Mumbai	2002-03	Scrutiny March 2005	Deduction of Rs. 5.56 crore was incorrectly allowed towards interest on term loan to banks and financial institutions which were not paid.	1.99
7	M/s Hyundai Motor India Ltd. CIT I, Chennai	2001-02	Scrutiny March 2004	The assessee had incorrectly claimed and was allowed deduction of Rs. 4.63 crore towards excise duty which was not remitted to Government account before the filing of return.	1.83 (P)
8	M/s Uniworth Ltd. CIT IV, Kolkata	2002-03	Scrutiny March 2005	Excess liability of Rs. 3.88 crore against foreign exchange difference between sundry debtors and sundry creditors was not backed by actual remittance.	1.38 (P)

*P: denotes potential tax*

**3.9.6** The Ministry has accepted (December 2007) the observations in the cases at Sl. no. 2 and 5 of Table no. 3.3 above.

**Incorrect allowance of capital/non business expenditure**

**3.10** Any expenditure, not being in the nature of capital expenditure laid out wholly or exclusively for the purpose of business, is allowable as deduction in computing the income chargeable under the head 'Profits and gains of business or profession'. It has been judicially held that

- (i) if the expenditure is made for acquiring or bringing into existence an asset or advantage for the enduring benefit of the business, it is properly attributable to capital and is of the nature of capital expenditure<sup>1</sup>;
- (ii) loss on account of cost incurred on abandoning of technology before being put to use is not an allowable deduction as it is in the nature of capital expenditure<sup>2</sup>; and

<sup>1</sup> M/s Assam Bengal Cement Co. vs CIT (1955) (27 ITR 34) (Supreme Court)

<sup>2</sup> M/s Kanoria Chemicals & Industries Ltd. vs CIT (1995) 78 Taxman 455 (Calcutta High Court)

(iii) expenses incurred before the commencement of business cannot be considered as revenue expenditure under section 37(1)<sup>1</sup>.

3.10.1 Incorrect allowance of capital expenditure in working out taxable income resulted in short levy of tax aggregating Rs. 114.25 crore in 34 cases in Delhi, Gujarat, Maharashtra, Tamil Nadu and West Bengal. One case is illustrated below:

3.10.2 In Maharashtra, CIT III, Mumbai charge, the assessment of a company, M/s Reliance Telecom Ltd., for the assessment year 2003-2004 was completed after scrutiny at a loss of Rs. 209.12 crore in January 2006, which was allowed to be carried forward for future set off. Audit examination revealed that the assessee had claimed and was allowed a deduction of Rs. 233.18 crore in the computation of income towards 'loss on account of cost incurred on abandonment of technology of basic division'. Since the cost incurred on abandoning of technology of basic division was in the nature of capital expenditure, it was not an allowable deduction and was hence required to be disallowed. The omission to disallow it resulted in underassessment of income to the extent of Rs. 233.18 crore involving potential revenue impact of Rs. 85.69 crore.

3.10.3 Nine cases are shown in Table no. 3.4 below:

(Rs. in crore)

Table no. 3.4: Incorrect allowance of capital/non business expenditure

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s United India Insurance Co, Ltd. CIT I, Chennai	2003-04	Scrutiny January 2006	The expense of Rs. 7.77 crore incurred but not reported in respect of foreign inward claims pertaining to the assessment year 1995-96, required to be disallowed as per decision of the ITAT, Chennai in assessee's own case were not disallowed.	3.86
2	M/s TISCO Ltd. CIT II, Mumbai	2000-01	Scrutiny March 2003	Incorrect allowance of capital loss of Rs. 8.80 crore on account of limekiln project, which was abandoned before completion.	3.39 (P)
3	M/s Central Warehousing Corporation. CIT I, Delhi	2000-01	Scrutiny March 2006	Expenditure of Rs. 4.34 crore debited as expenditure on 'unabsorbed overheads on capital overheads' being capital in nature was not disallowed.	2.79
4	M/s Balmer Lawrie & Co. CIT II, Kolkata	2002-03	Scrutiny March 2005	Investment written off of Rs. 6.50 crore being capital in nature was not disallowed.	2.32 (P)

<sup>1</sup> CIT vs Mohan Steel Ltd. (2004) 191 CTR (ALL) 279

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
5	M/s Airport Authority of India CIT I, Delhi	2002-03	Scrutiny August 2004	The assessee had incorrectly claimed and was allowed capital expenditure of Rs. 4.56 crore towards compensation payable for acquisition of land.	2.17
6	M/s Bhartiya International Ltd. CIT I, Delhi	2003-04	Scrutiny March 2006	The assessee had incorrectly claimed and was allowed capital expenditure of Rs. 3.50 crore on account of overseas market brand development expenses.	1.77
7	M/s Bata India Ltd. CIT I, Kolkata	2003-04	Scrutiny March 2006	The assessing officer disallowed only the net amount of technical collaboration fees paid instead of the entire amount.	1.24
8	M/s Central Inland Water Transport Corporation Ltd. CIT II, Kolkata	2003-04	Scrutiny February 2006	Capital expenditure of Rs. 3.05 crore on account of 'Survey Docking Repair' was irregularly treated as deferred revenue expenditure.	1.12 (P)
9	M/s Countrywide Consumer Financial Services Ltd. CIT IV, Delhi	2002-03	Scrutiny February 2005	Capital loss on sale of loan portfolio was irregularly allowed by the assessing officer.	1.04

*P: denotes potential tax*

3.10.4 The Ministry has accepted (December 2007) the observation in the case at Sl. no. 2 of Table no. 3.4 above.

**Mistakes in implementation of appellate orders**

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

3.11.1 Assessing officers did not implement appellate orders correctly, which resulted in short levy of tax totalling **Rs. 105.68 crore** in **9 cases** in Gujarat, Haryana, Maharashtra, Orissa, Rajasthan, Tamil Nadu and Uttaranchal. One case is illustrated below:

3.11.2 In Haryana, CIT, Hisar charge, the assessment of a company, **M/s Parkash Industries Ltd.**, for the assessment year 1999-2000, was finalised in scrutiny manner in March 2002 determining a loss of Rs. 33.40 crore. The

assessee had filed an appeal before the Commissioner of Income Tax (Appeals) against this assessment order and was allowed a relief of Rs. four lakh in February 2006. Audit examination revealed that the assessing officer while giving effect to the appellate orders, incorrectly determined the net loss as Rs. 274.21 crore instead of Rs. 33.44 crore. The mistake resulted in overassessment of loss of Rs. 240.77 crore involving potential revenue impact of Rs. 84.27 crore.

3.11.3 Four cases are shown in Table no. 3.5 below:

(Rs. in crore)

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s Saurashtra Cement Ltd. Ranavav CIT, Jamnagar	2001-02	Scrutiny March 2004	The assessee went in appeal against disallowance of expenditure of Rs. 35.36 crore on account of interest payment against which the appellate authority disallowed only Rs. 7.07 crore. While giving effect to appellate order, the assessing officer reduced only Rs. 7.07 crore instead of balance amount of Rs. 28.29 crore.	8.39
2	M/s OTIS Elevators (India) Ltd. CIT II, Mumbai	1998-99	Scrutiny February 2001 Revision January 2002, March 2006 (to give effect to appellate order and ITAT order respectively)	While giving effect to appellate order in March 2006, the assessing officer disallowed the claim of the assessee for payment of Rs. 8.28 crore towards voluntary retirement scheme treating it as capital expenditure but omitted to add back it to taxable income.	6.64
3	M/s Kapil Roller Flour Mills (Private) Limited CIT, Hisar	Block period	Best judgement assessment 1 April 1987 to 29 May 1997 January 2000	While giving effect to appellate order, out of the total addition of Rs. 5.96 crore, addition of Rs. 1.33 crore only was made.	3.20
4	M/s NALCO CIT, Bhuaneswar	2002-03	Scrutiny February 2005  Revision July 2005	Against the deduction of Rs. 187.69 crore towards export profit allowed by the appellate authority, the assessing officer allowed Rs. 191.88 crore.	1.67

**3.11.4** The Ministry has accepted (November and December 2007) the observations in the cases at **Sl. no. 1 and 2 of Table no. 3.5** above.

**Non/short levy  
of interest**

**3.12** An assessee is liable to pay interest under different provisions of the Act for certain types of defaults on its part, namely:

**3.12.1** Where in any financial year, an assessee who is liable to pay advance tax has failed to pay such tax or where the advance tax paid by such assessee is less than ninety percent of the assessed tax, the assessee shall be liable to pay simple interest at the rate of one percent (two percent upto May 1999, one and one-half percent upto May 2001 and one and one-fourth percent upto 7 September 2003) for every month or a part thereof reckoned from 1 April next following such financial year to the date of determination of total income by processing the return of income and where a regular assessment is made, to the date of such regular assessment on the amount equal to the assessed tax, or as the case may be, on the amount by which the advance tax paid falls short of the assessed tax.

**3.12.2** Where any amount of tax is paid under sub section (1) of section 115JA by an assessee company for any assessment year, then credit in respect of tax so paid shall be allowed to him in accordance with the provisions of section 115JAA. In accordance with the provisions of sections 234B and 234C, interest should be calculated after giving credit of advance tax/TDS. There is no provision in the Act to treat MAT<sup>1</sup> credit as an advance or prepaid tax. The provisions of section 234B have been amended prospectively from 1 April 2007, allowing the set off of MAT credit against the assessed tax.

**3.12.3** The assessee should pay any demand for tax within thirty days of service of notice of the relevant demand. Failure to do so attracts simple interest at a prescribed percentage for every month or part thereof from the date of default till actual payment.

**3.12.4** Assessing officers did not comply with the above provisions, which resulted in short levy of tax aggregating **Rs. 93.34 crore** in **52 cases** in Andhra Pradesh, Delhi, Gujarat, Haryana, Kerala, Maharashtra, Punjab, Orissa, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. **One case** is illustrated below.

**3.12.5** In Maharashtra, CIT III, Mumbai charge, the assessment of a company **M/s Reliance Industries Ltd.**, for the assessment year 2001-02 was completed after scrutiny in March 2003 and rectified in March 2004. Audit examination revealed that while working out the interest for default in payment of advance tax under section 234B, MAT credit of Rs. 135.03 crore was first set off against the total tax and interest was charged on the balance tax. The incorrect set off of MAT credit before calculation of interest under section 234B has resulted in short levy of interest of Rs. 59.41 crore.

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<sup>1</sup> MAT stands for Minimum Alternate Tax worked out under special provisions of section 115JA

## 3.12.6 Six cases are shown in Table no. 3.6 below:

(Rs. in crore)

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s Mahanagar Telephone Nigam Ltd. CIT II, Delhi	2004-05	Scrutiny February 2005	Advance tax paid by the assessee fell short of 90 percent of the assessed tax which attracted levy of interest under section 234B.	8.41
2	M/s Soundcraft Industries Ltd. CIT I, Mumbai	2002-03	Best judgement March 2005	Interest for default in payment of advance tax was levied at Rs. 6.94 crore as against the correct amount of Rs. 11.56 crore.	4.62
3	M/s Reliance Ports & Terminals Ltd. CIT III, Mumbai	2002-03	Summary February 2003 reopened/ finalised under section 147 March 2006	Interest for default in payment of advance tax was levied at Rs. 63.68 crore as against the correct amount of Rs. 67.93 crore.	4.25
4	M/s JVG Departmental Store CIT II, Delhi	1995-96	Scrutiny March 1998  Fresh assessment March 2005	Interest for default in payment of advance tax was wrongly charged till the date of the original assessment in March 1998 instead upto the date of fresh assessment in March 2005.	3.04
5	M/s Damodar Valley Corporation CIT III, Kolkata	2003-04	Revision of scrutiny January 2006	Tax demand of Rs. 98.90 crore was not paid but was fully adjusted against the refund of a subsequent year. Belated adjustment of tax demand attracted levy of interest.	1.98
6	M/s Minal Oil and Agro Industries (P) Ltd. CIT I, Ahmedabad	Block period	Block assessment 1 April 1995 to 27 September 2001	The original tax demand of Rs. 40.58 crore raised in October 2003 was reduced to Rs. 10.32 crore in February 2005 after giving effect to appellate order. The fresh demand was raised without charging interest for non payment of tax demand raised earlier, for the period from November 2003 to February 2005.	1.55

3.12.7 The Ministry has accepted (November and December 2007) the observations in the cases at Sl. no. 1, 2, 5 and 6 of Table no. 3.6 above.



**Mistakes in adoption of correct figures/arithmetical errors etc**

**3.13** Assessing officers have to determine and assess the income correctly in 'scrutiny' assessments. Different types of claims together with accounts, records and all documents enclosed with the return are required to be examined in detail in scrutiny assessments. The Board have issued instructions from time to time to the assessing officers and their supervising officers to ensure that mistakes in scrutiny assessments do not occur.

**3.13.1** Audit noticed that assessing officers had adopted incorrect figures, committed arithmetical errors, allowed claims twice, and did not add back inadmissible claims to income, resulting in short levy of tax of **Rs. 71.95 crore** in **40 cases** in Delhi, Jharkhand, Karnataka, Maharashtra, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. **Two cases** are illustrated below:

**3.13.2** In Delhi, CIT I charge, the assessment of a company, **M/s Motorola Inc.**, for the assessment year 2002-03 was completed after scrutiny in March 2005 determining an income and tax liability of Rs. 60.23 crore and Rs. 23.49 crore respectively. Audit examination revealed that while computing the tax liability, the assessed income was taken as Rs. 23.49 crore against the correct figure of Rs. 60.23 crore worked in the assessment order. Consequently tax liability was worked out as Rs. 10.31 crore as against correct amount of Rs. 23.49 crore. The mistake resulted in short levy of tax of Rs. 22.25 crore including interest.

**3.13.3** The Ministry has accepted (December 2007) the above observation.

**3.13.4** In Delhi, CIT II charge, the assessment of a company, **M/s Mahanagar Telephone Nigam Ltd.**, for the assessment year 1994-95 was completed after scrutiny in November 2004 determining an income of Rs. 948.40 crore. Audit examination revealed that while making the assessment, the assessing officer disallowed Rs. 11.73 crore on account of 'Provision for pension and gratuity'. However, while computing the total taxable income, he did not add back this amount. The mistake resulted in underassessment of taxable income of Rs. 11.73 crore involving short levy of tax of Rs. 18.68 crore including interest.

**3.13.5** Eight cases are shown in **Table no. 3.7** below:

(Rs. in crore)

**Table no. 3.7: Mistakes in adoption of correct figures/arithmetical mistakes etc.**

Sl. no.	Name of the assessee/ CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	M/s ONGC Videsh Ltd. CIT V, Delhi	2003-04	Scrutiny February 2006	Rs. 8.01 crore capitalised on account of exchange fluctuation during previous year was added back instead of being deducted from income.	5.89 (P)

Sl. no.	Name of the assessee/ CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
2	M/s K J S India Pvt Ltd. <b>CIT II, Delhi</b>	2003-04	Scrutiny October 2005	Claim of the assessee to carry forward unabsorbed depreciation and business loss of Rs. 11.14 crore was disallowed by the assessing officer but not given effect to while calculating tax.	4.09 (P)
3	M/s Rajasthan Renewable Energy Corporation Ltd. <b>CIT, Jaipur</b>	2003-04	Scrutiny November 2005	Income of Rs. 3.80 crore was adopted as loss.	2.79 (P)
4	M/s Mahanagar Telephone Nigam Ltd. <b>CIT II, Delhi</b>	1994-95	Scrutiny November 2004	Prior period adjustments of Rs. 28.65 crore disallowed by the assessing officer were added back to the extent of Rs. 27.15 crore.	2.41
5	M/s Timken India <b>CIT, Jamshedpur</b>	2003-04	Scrutiny March 2006	Taxable income was taken as Rs. 28.74 crore instead of Rs. 32.92 crore due to an arithmetical mistake.	2.28
6	M/s Pataka Industries (P) Ltd. <b>CIT Central I, Kolkata</b>	2003-04	Scrutiny March 2006	Expenditure towards Director's commission was allowed at Rs. 6.47 crore against actual payment of Rs. 2.21 crore.	1.57
7	M/s Cinevistas Communications Ltd. <b>CIT XI, Mumbai</b>	2001-02	Scrutiny March 2004	An amount of Rs. 3.63 crore disallowed by the assessing officer was not added back.	1.44
8	M/s Ballast Nedam Dredging <b>DIT (International Taxation), Mumbai</b>	2003-04	Scrutiny February 2006	Disallowances of Rs. 2.88 crore on account of prior period expenses, depreciation and loss on sale of assets were not added back.	1.21 (P)

*P: denotes potential tax*

**3.13.6** The Ministry has accepted (December 2007) the observations in the cases at **Sl. no. 3, 5, 7 and 8** of **Table no. 3.7** above.

**Incorrect allowance of provisions**

**3.14** A provision made in the accounts for an accrued or known liability is an admissible deduction, while other provisions do not qualify for deduction under the Act. It has been judicially held<sup>1</sup> that in order for a loss to become deductible, it must have actually arisen or be incurred and not merely anticipated as certain to occur. It has also been judicially held<sup>2</sup> that if a business liability is existing in the

<sup>1</sup> CIT vs Indian Overseas Bank, 151 ITR 466 (Madras High Court)

<sup>2</sup> M/s Bharat Earth Movers vs CIT (112 Taxman 61-2000) (Supreme Court)

accounting year, the deduction should be allowed although the liability may have to be discharged at a future date.

**3.14.1** Irregular allowance of different types of provisions resulted in short levy of tax aggregating **Rs. 55.75 crore** in 27 cases in Delhi, Haryana, Karnataka, Kerala, Maharashtra, Orissa, Uttar Pradesh and West Bengal. One case is illustrated below:

**3.14.2** In West Bengal, CIT IV, Kolkata charge, the assessment of a company, **M/s Gamuda WCT (India) Pvt Ltd.**, for the assessment year 2003-04 was completed after scrutiny in February 2006 determining an income of Rs. 33.43 lakh with a tax demand of Rs. 12.29 lakh. Audit examination revealed that the assessee debited in its accounts, a sum of Rs. 38.04 crore towards 'Provision for foreseeable losses on construction contracts', and it was allowed as deduction. Since mere provision does not qualify for deduction unless written off in the accounts, the said amount was required to be disallowed and added back. The omission to do so resulted in underassessment of income of Rs. 38.04 crore involving revenue impact of Rs. 19.05 crore including interest.

**3.14.3** The Ministry has accepted (October 2007) the above observation.

**3.14.4** In Delhi, CIT V charge, the assessment of a company, **M/s Pawan Hams Helicopters Ltd.**, for the assessment years 2002-03 and 2003-2004, were completed after scrutiny in December 2004 determining income at Rs. 87.02 crore and Rs. 28.28 crore respectively. Audit examination revealed that the assessee claimed and was allowed a deduction aggregating Rs. 22.68 crore against adhoc provision towards revision of pay and allowances of employees pending finalisation of settlements. As the provision was made for an unascertained liability, it was required to be disallowed. The omission to do so resulted in underassessment of income of Rs. 22.68 crore involving short levy of tax of Rs. 10.63 crore including interest.

**3.14.5** Eight cases are shown in Table no. 3.8 below:

(Rs. in crore)

**Table no. 3.8: Incorrect allowance of provisions**

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s G E Capital Services India CIT IV, Delhi	2002-03	Scrutiny March 2005	Irregular allowance of deduction of Rs. 11.15 crore on account of provision and write off for non performing assets.	5.58
2	M/s IFB Industries CIT IV, Kolkata	2003-04	Scrutiny March 2006	As against provision for bad and doubtful debts of Rs. 1.28 crore claimed by the assessee, Rs. 12.89 crore was allowed.	2.66 2.33 (P)

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
3	M/s Coal India Ltd. CIT IV, Kolkata	2003-04	Scrutiny February 2006	Incorrect allowance of adhoc provision of Rs. 7.42 crore against likely rise in wages.	3.52
4	M/s Phillips Medical Systems India Ltd. CIT VIII, Mumbai	2003-04	Scrutiny March 2006	Incorrect allowance of provision of Rs. 4.29 crore towards doubtful debt and advances.	2.17
5	M/s ESAB India Ltd. CIT VI, Mumbai	2003-04	Scrutiny February 2006	Incorrect allowance of deduction of Rs. 5.80 crore towards provision for sales tax debited in profit and loss account.	2.13 (P)
6	M/s Infrastructure Leasing & Financial Services CIT X, Mumbai	2002-03	Scrutiny February 2005	Incorrect allowance of provision of Rs. 4.24 crore towards investments held as non strategic investment.	1.52
7	M/s Hooghly Dock and Port Engineers CIT I, Kolkata	2003-04	Scrutiny February 2006	Incorrect allowance of a provision of Rs. 3.30 crore towards payment of interest though no loan liability existed and there was no scope for any such liability towards interest.	1.21 (P)
8	M/s Land Base India Ltd. CIT III, Delhi	2000-01	Scrutiny March 2003	Incorrect allowance of provision of Rs. 2.77 crore towards construction work expenses.	1.07 (P)

*P: denotes potential tax*

3.14.6 The Ministry has accepted (November and December 2007) the observations in the cases at Sl. no. 1 and 2 of Table no. 3.8 above.

Mistake in computation of income under special provisions

3.15 Where in the case of an assessee being an Indian company, the total income as computed under this Act in respect of any previous year is less than 30 percent of its book profit, the total income of such assessee chargeable to tax shall be deemed to be an amount equal to thirty percent of such profit. For this purpose, book profit means the net profit as per profit and loss account prepared in accordance with the Companies Act, 1956 subject to certain additions/deletions.

3.15.1 Where any amount of tax is paid under section 115 JA by an assessee, a credit in respect of tax so paid in excess over the tax under normal provisions of the Act shall be allowed in accordance with the provisions of section 115JAA, to be set off in a succeeding year only when tax becomes payable on the total income computed under the normal provisions of the Act. Such set off shall not be allowed beyond the fifth year immediately succeeding the assessment year in which tax credit becomes allowable.

**3.15.2** Further, where any amount of tax is paid under section 115JB by a company for any assessment year commencing on 1 April 2006 and any subsequent assessment year, then credit in respect of tax so paid shall be allowed to the company in accordance with the provisions of section 115JB from the assessment year 2006-07 onwards.

**3.15.3** If the income tax payable on the total income as computed under the normal provisions of the Act in respect of the previous year relevant to the assessment year commencing on or after 1 April 2001 is less than seven and one-half percent of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable by the assessee on such total income shall be the amount of income tax at the rate of seven and one-half percent.

**3.15.4** Mistakes in the computation of income under special provisions resulted in short levy of tax aggregating **Rs. 46.54 crore** in **35 cases** in Delhi, Goa, Gujarat, Haryana, Karnataka, Kerala, Maharashtra, Tamil Nadu and West Bengal. **One case** is illustrated below:

**3.15.5** In Tamil Nadu, CIT I, Chennai charge, the assessment of a company, **M/s. Tamil Nadu News Print and Papers Ltd.**, for the assessment year 2003-04, was completed after scrutiny in March 2006 determining an income of Rs. 68.07 crore under the special provisions of the Act. The assessment for the assessment year 2004-05 was processed in a summary manner in March 2005 and revised in June 2005 determining an income of Rs. 67.03 crore under the special provisions of the Act. Audit examination revealed that while completing the scrutiny assessment for the assessment year 2003-04, income under the normal provisions of the Act was arrived at Rs. 32.77 crore after deducting the carry forward losses of previous years and allowing deduction under sections 80 HHC, 80IA and 80M. The income tax and the surcharge on the income computed in the scrutiny/summary assessment under the normal provisions of the Act worked out to Rs. 12.04 crore and Rs. 8.82 crore as against Rs. 5.36 crore and Rs. 5.15 crore computed under the special provisions of the Act for the assessment year 2003-04 and 2004-05 respectively. Even though the tax under the normal provisions was higher than the tax under the special provisions, the assessments were completed by the department based on the income under the special provisions. Omission to assess the income under the normal provisions of the Act in these years resulted in aggregate short demand of tax of Rs. 13.28 crore (including interest).

**3.15.6** Five cases are shown in **Table no. 3.9** below:

(Rs. in crore)

**Table no. 3.9: Mistake in computation of income under special provisions**

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s Fascel Ltd. <b>CIT II, Ahmedabad</b>	2002-03	Scrutiny March 2006	Provision for doubtful debts and contingencies aggregating Rs. 13.62 crore was not added to the net profit to arrive at book profit. Besides, as against the admissible deduction of Rs. 13.36 crore on account of unabsorbed depreciation/ brought forward losses, only Rs. 1.33 lakh was allowed.	8.75
2	M/s Reliance Industries Ltd. <b>CIT III, Mumbai</b>	2003-04	Scrutiny January 2006	As against the tax credit of Rs. 6.98 crore and Rs. 56.53 crore pertaining to the assessment years 1999-2000 and 2000-01 available for set off under the special provisions of section 115JAA, tax credit of Rs. 7.87 crore and Rs. 62.16 crore respectively was allowed	6.52
3	M/s Godrej & Boyce Mfg. Co. Ltd. <b>CIT X, Mumbai</b>	2003-04	Scrutiny September 2005	The assessee company debited its profit and loss account by Rs. 25.75 crore on account of goodwill expenses of the company, Rs. 64.31 lakh on account of investment in US 64 scheme and Rs. 23.13 lakh pertaining to expenses incurred on amalgamation and demerger. All these expenses being capital in nature were required to be added back to the net profit to arrive at the correct amount of book profit.	2.10
4	M/s Tamil Nadu Cements Corporation Ltd. <b>CIT I, Chennai</b>	1997-98	Scrutiny March 2005	While computing book profit, cess and surcharge on cess of Rs. 20 crore were added as against the correct amount of Rs. two crore only.	1.76
5	M/s ONGC Videsh Ltd. <b>CIT V, Delhi</b>	2003-04	Scrutiny February 2006	Book profit under special provisions was wrongly assessed at Rs. 3.23 crore instead of Rs. 3.44 crore as worked out in the profit and loss account. Besides, the assessee charged capitalised expenditure of Rs. 16.01 crore to the profit and loss account instead of the correct amount of Rs. 2.05 crore.	1.42
6	M/s Sun Pharmaceuticals Industries Ltd. <b>CIT Central II, Ahmedabad</b>	2000-01	Scrutiny March 2005	Book profit was reduced by the written off amount of R&D expenditure of Rs. 7.01 crore which did not fall in the category of prescribed adjustments.	1.06

3.15.7 The Ministry has accepted (December 2007) the observation in the case at Sl. no. 1 of Table no. 3.9 above.

Incorrect allowance of prior period expenses/ deductions not admissible

3.16 Income chargeable under the head "Profit and gains of business or profession" is to be computed in accordance with either the cash or mercantile system of accounting regularly employed by the assessee. Where the assessee follows mercantile system of accounting, the annual profits are worked out on due or accrual basis i.e. after providing for all expenses for which a legal liability has arisen and taking credit for all receipts that have become due regardless of their actual receipt or payment. Only such expenses are allowable as deduction from a previous year's income as are relevant to that year.

3.16.1 Non compliance with the above provisions resulted in short levy of tax aggregating Rs. 42.52 crore in 33 cases in Delhi, Gujarat, Kerala, Maharashtra, Tamil Nadu and West Bengal. One case is illustrated below

3.16.2 In Delhi, CIT I charge, the assessment of a company, M/s Airport Authority of India Ltd., was completed for the assessment year 2002-03 after scrutiny in August 2004, determining an income of Rs. 901.53 crore. Audit examination revealed that the assessee had claimed and was allowed an expenditure of Rs. 32.93 crore on account of prior period expenses, which was not added back to the income of the assessee at the time of scrutiny. The omission to do so resulted in underassessment of income of Rs. 32.93 crore involving revenue impact of Rs. 15.66 crore.

3.16.3 Six cases are shown in Table no. 3.10 below:

(Rs. in crore)

Table no. 3.10: Mistake in computation of business income

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s Nuclear Power Corporation of India Ltd. CIT III, Mumbai	2000-01	Scrutiny February 2003	Prior period expenses of Rs. 18.40 crore were not added back.	7.08
2	M/s Ispat Profiles India Ltd. CIT I, Kolkata	2002-03	Scrutiny January 2005	Accrual of interest of Rs. 12.35 crore was incorrectly claimed and allowed as deduction though it was admissible on actual payment only as per practice adopted by the assessee under section 145.	4.41 (P)
3	M/s NABARD CIT III, Mumbai	2002-03	Scrutiny January 2005	The assessee being a financial corporation was eligible for deduction of Rs. 470 crore only towards a reserve created and maintained under section 36(i)(viii) as against Rs. 478.60 crore allowed by the assessing officer.	3.07

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
4	M/s National Instruments Ltd. CIT I, Kolkata	2003-04	Scrutiny January 2006	The assessee had claimed and was allowed deduction of the entire expenditure of Rs. 10.08 crore instead of Rs. 2.01 crore being one fifth thereof towards voluntary retirement scheme under section 35DDA.	2.96 (P)
5	M/s Mahindra World City Developers Ltd. CIT III, Chennai	2003-04	Scrutiny March 2006	Legal and professional charges of Rs. 5.52 crore pertaining to earlier years were incorrectly allowed as deduction.	2.03 (P)
6	M/s Pentagon Screws & Fasteners Ltd. CIT V, Delhi	2002-03	Scrutiny July 2005	Hire purchase leasing finance charges of Rs. 3.90 crore pertaining to the earlier years were incorrectly allowed as deduction.	1.74

P: denotes potential tax

**3.16.4** The Ministry has accepted (November and December 2007) the observations in the cases at **Sl. no. 3 and 4** of **Table no. 3.10** above.

#### Income not assessed

**3.17** The total income of any previous year of a person who is a resident includes all income from whatever source derived which is received or which accrues or arises or is deemed to accrue or arise during such previous year unless specifically exempted from tax by the provisions of the Act. Further, profit and gains derived by a newly established undertaking in a free trade zone or by a newly established hundred percent export oriented undertaking from the export of articles or things or computer software are also exempt from tax subject to the fulfilment of conditions prescribed in the Act or notified by the Government from time to time.

**3.17.1** Non compliance with the above provisions resulted in short levy of tax aggregating **Rs. 37.78 crore** in **29 cases** in Andhra Pradesh, Delhi, Gujarat, Karnataka, Maharashtra, Rajasthan and West Bengal. **Eight cases** are shown in **Table no. 3.11** below:

(Rs. in crore)

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s Orissa Construction Corporation CIT, Bhubaneswar	2003-04	Scrutiny May 2005	The assessee exhibited in accounts contract receipts of Rs. 42.47 crore only as against the correct amount of Rs. 58.79 crore.	7.38
2	M/s Double Dot Finance Ltd. CIT IV, Mumbai	2000-01	Scrutiny March 2006	Non compete fee of Rs. nine crore received and offered by the assessee was not considered for taxation.	6.46



Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
3	M/s Bental Corporation Ltd. CIT V, Mumbai	1 January 1990 to 26 July 2000	Best judgement July 2002	During search and seizure operation department assessed the value of closing stock at Rs. 6.78 crore involving undisclosed income of Rs. 67.76 lakh. On a notice issued to the assessee to clarify the source of income, it failed to furnish the clarification and, therefore, the entire closing stock was required to be taxed.	4.59
4	M/s Tamil Nadu Small Industries Corp. Ltd. CIT I, Chennai	2003-04	Scrutiny December 2005	Principal loan amount of Rs. 10.85 crore was waived by the Government of Tamil Nadu was not offered for tax but was treated as capital reserve.	3.99
5	M/s Madras Fertilizers Ltd. CIT III, Chennai	2003-04	Scrutiny December 2005	Interest of Rs. 8.38 crore for the period from April to October 2002 on the principal amount of loan was claimed and allowed twice.	3.19
6	M/s Tamil Nadu Power Finance & Infrastructure Development Corp. Ltd. CIT I, Chennai	2002-03	Scrutiny March 2005	Interest and penal interest of Rs. 5.88 crore shown as accrued was not recognised as income as per NBFC Prudential norms and offered for tax.	2.66
7	M/s Indian Oil Corporation Ltd. CIT X, Mumbai	2001-02	Scrutiny March 2004	Interest income of Rs. 11.78 crore received by the assessee during the relevant previous year was not offered to tax	1.44
8	M/s Pharmacia India Pvt. Ltd., Mumbai CIT, Faridabad	2003-04	Scrutiny March 2006	The assessing officer did not take into account the business income of Rs. 2.20 crore and total income was incorrectly calculated at Rs. 9.28 crore instead of Rs. 11.48 crore.	1.11

**Irregular allowance of exemptions and excess relief**

**3.18** For computation of the total income, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under the Act.

**3.18.1** Mistakes in application of the above provision resulted in irregular allowance of exemptions and excess relief involving short levy of tax aggregating

**Rs. 29.11 crore** in **16 cases** in Delhi, Gujarat, Maharashtra and Tamil Nadu. **One case** is illustrated below:

**3.18.2** In Maharashtra, CIT I, Mumbai charge, the assessment of a company, **M/s Housing Development & Finance Corporation Ltd.**, for the assessment year 2004-05 was completed after scrutiny in January 2006 determining an income of Rs. 610.39 crore. The assessment was rectified in March 2006 and assessed at taxable income of Rs. 566.90 crore. Audit examination revealed that in the scrutiny assessment order of January 2006, the assessing officer disallowed and added back an amount of Rs. 46.59 crore being the proportionate expenditure attributable to earning the exempted income of Rs. 86.62 crore under section 10(33). However in the rectification order of March 2006, the assessing officer inadvertently reduced the disallowed expenditure of Rs. 46.59 crore added back to the total taxable income computed after scrutiny in January 2006 resulting in underassessment of Rs. 46.59 crore involving revenue impact of Rs. 16.71 crore.

**3.18.3** Three cases are shown in **Table no. 3.12** below:

(Rs. in crore)

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s Zylog Systems Ltd. <b>CIT I, Chennai</b>	2001-02  2002-03	Scrutiny February 2004  Summary March 2003	The assessee had incorrectly claimed and was allowed exemptions of Rs. 5.50 crore and Rs. 8.40 crore under section 10B against expenses incurred in foreign currency for providing technical service outside India towards product development for two assessment years respectively.	5.41
2	M/s Maars Software International Ltd. <b>CIT III, Chennai</b>	2000-01	Scrutiny December 2002	The assessee company had incorrectly included other income including interest income aggregating Rs. 4.01 crore towards income exempt under section 10A and claimed exemption accordingly which was irregular.	1.56
3	M/s Santhanalakshmi Investments Ltd. <b>CIT III, Chennai</b>	2002-03	Scrutiny February 2005	The assessee had claimed and was allowed deduction of Rs. 3.05 crore towards interest on fixed loans utilised for earning exempt income.	1.05

**Incorrect allowance of deductions under Chapter VIA**

**3.19** Where any deduction is allowed under Chapter VIA (80C to 80U)<sup>♦</sup> in respect of an income of the nature specified in that section which is included in the gross total income of the assessee, then, for the purpose of computing deduction under that section, the amount of income of that nature as computed in accordance with the provisions of this Act (before making any deduction under chapter VIA) shall alone be deemed to be the amount of income of that nature which is derived or received by the assessee and included in his gross total income.

**Incorrect allowance of deduction in respect of profits retained for export profits business**

**3.19.1** Deduction in respect of export profits is allowed on profit derived from export of specified goods or merchandise if the sale proceeds of such goods or merchandise are brought into India and received in convertible foreign exchange within the specified period, subject to other specific conditions prescribed in the section itself. As per proviso to section 80HHC inserted by Taxation Law (Amendment) Act 2005 (with retrospective effect from 1 April 1992), in case of a net loss in export business, relevant proportion of the same loss shall be set off against the export incentive for arriving at the amount of deduction admissible under section 80HHC. Both the export incentive and profit/loss from export business contribute to the amount of admissible deduction.

**Incorrect allowance of deduction towards inter-corporate dividend**

**3.19.2** Where the gross total income of a domestic company, in any previous year, includes any income by way of dividends from another domestic company, there shall be allowed in computing the total income, a deduction of an amount equal to so much of the amount of income by way of dividends from another domestic company as does not exceed the amount of dividend distributed by the former company on or before the due date. CBDT vide its circular no. 657 issued in August 1993 clarified that for assessment year 1996-97 and subsequent years, dividend from the Unit Trust of India will not be eligible for deduction towards inter-corporate dividends.

**3.19.3** Incorrect application of the provisions of chapter VIA resulted in short levy of tax aggregating Rs. 17.52 crore in 41 cases in Andhra Pradesh, Delhi, Gujarat, Karnataka, Kerala, Maharashtra, Uttar Pradesh, Tamil Nadu and West Bengal. Five cases are shown in Table no. 3.13 below:

(Rs. in crore)

**Table no. 3.13: Incorrect allowance of deductions under chapter VIA**

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s EID Parry (I) Ltd.  CIT I, Chennai	2003-04	Scrutiny February 2006	The assessee company had incorrectly claimed and was allowed deduction in respect of inter corporate dividend of Rs. 14.27 crore as against Rs. 10.71 crore which was actually distributed before the due date.	1.78

<sup>♦</sup> except section 80M

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
2	M/s Lindsay International Pvt. Ltd. CIT III, Kolkata	2003-04	Scrutiny January 2006	For claiming deduction towards export profits, the assessing officer considered export turnover as Rs. 114.98 crore as against the correct figure of Rs. 109 crore as per the accounts of the assessee.	1.42
3	M/s Mauria Udyog Ltd. CIT III, Kolkata	2003-04 2004-05	Scrutiny June 2006	The assessee company suffered a net loss of Rs. 2.27 crore and Rs. 9.23 crore in two assessment years respectively which was not set off against export incentives for arriving at the deduction towards export profits.	1.30
4	M/s Jakson Ltd. CIT II, Delhi	2003-04	Scrutiny February 2005	For claiming deduction under section 80IA, expenses aggregating Rs. 4.97 crore on account of consumable stores and installation/job expenses were incorrectly treated as manufacturing expenses.	1.15
5	M/s Securities Trading Corporation of India Ltd. CIT I, Mumbai	2003-04	Scrutiny February 2006	Instead of charging tax on the income of Rs. 2.83 crore from the units of UTI offered by the assessee under the head 'income from other sources', the assessing officer irregularly allowed deduction of the entire amount towards inter-corporate dividend.	1.04

**Excess allowance of refund / interest on refund**

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

**3.20.1** Interest on excess payment of advance tax, tax deducted or collected at source and any other tax or penalty becoming refundable will be paid at the rate of one percent (since reduced to two third percent with effect from 1 June 2002 and one half-percent from 8 September 2003) for every month or part of month for the period from 1 April of the relevant assessment year to the date on which the refund is granted. No interest will be payable, if the amount of refund is less than ten percent of the tax determined under summary or on regular assessment.

**3.20.2** Where as a result of an order under section 154, 155, 250, 254, 260, 262, 263 and 264, the amount of refund on which interest was payable has been increased or reduced, the interest thereon shall be increased or reduced accordingly.

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

3.20.4 Non compliance with the above provisions by the assessing officers resulted in excess allowance of refund or interest on refund totalling Rs. 6.68 crore in 10 cases in Gujarat, Karnataka, Kerala, Maharashtra and West Bengal. Two cases are shown in Table no. 3.14 below:

(Rs. in crore)

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	M/s Mangalore Refinery & Petrochemical Ltd. CIT III, Mumbai	1997-98	Summary March 1998  Scrutiny March 2000  Revision after appellate order March 2003	Interest on refund of Rs. 14.21 crore was worked out as Rs. 5.12 crore instead of the correct amount of Rs. 2.72 crore.	2.39
2	M/s Life Insurance Corporation of India CIT I, Mumbai	2000-01	Scrutiny January 2003  Revision March 2003	The assessing officer had incorrectly granted interest of Rs. 2.93 crore on refund for the period from 1 April 2003 to 15 March 2005 as against the correct amount of Rs. 1.43 crore.	1.50

Mistakes in application of correct rate of tax

3.21 Income tax is chargeable for every assessment year in respect of the total income of the previous year of an assessee according to the rates prescribed in the relevant Finance Act.

3.21.1 Audit noticed short levy of tax due to incorrect application of correct rate of tax in two cases involving revenue impact of Rs. 4.88 crore in Delhi and Maharashtra. One case is shown in Table no. 3.15 below:

(Rs. in crore)

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s Rolls Royce PLC DIT, Delhi	1997-98	Scrutiny March 2005	Tax on the income of Rs. 18.98 crore was charged at 48 percent instead of 55 percent.	4.72

3.21.2 The Ministry has accepted (December 2007) the observation in the case at Sl. no. 1 of Table no. 3.15 above.

Mistakes in computation of capital gains

3.22 Any profit and gains arising from the transfer of a capital asset shall be chargeable to income tax under the head 'capital gains' and is taxable in the year in which the transfer took place. The mode of computation of capital gains in respect of long-term capital asset provides for deduction, from the consideration received, of the cost of acquisition of assets and the cost of any improvement thereto and of expenditure incurred wholly and exclusively in connection with such transfer.

3.22.1 Where full value of consideration received or accruing as a result of transfer of any capital asset falling within a block of assets, on which depreciation has been allowed under the Act, exceeds the written down value of the block of assets at the beginning of the relevant previous year, the excess shall be deemed to be capital gains arising from the transfer of short term assets.

3.22.2 Where a capital asset is converted by the owner thereof into, or is treated by him as stock-in-trade of a business carried on by him, such conversion or treatment shall be treated as transfer and capital gain thereon shall be computed as per section 45(2). Further, as per Supreme Court's decision<sup>1</sup>, the business income shall be computed on the difference between the sale proceeds and the fair market value of the asset as on the date of conversion into stock-in-trade.

3.22.3 Assessing officers did not apply the above provisions correctly, which resulted in short levy of tax aggregating Rs. 2.36 crore in five cases in Tamil Nadu and Maharashtra.

Incorrect allowance of deduction towards bad debts

3.23 Any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year, is an allowable deduction. However, no such deduction shall be allowed unless such debts or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off, or of an earlier previous year.

3.23.1 Mistakes in the allowance of deduction toward bad debts resulted in short levy of tax aggregating Rs. 2.26 crore in three cases in Gujarat and Maharashtra.

3.23.2 Two cases are shown in Table no. 3.16 below:

<sup>1</sup> I.T. vs Bai Shirinbai K. Kooka (1962) 46 ITR 86

(Rs. in crore)

Table no. 3.16: Incorrect allowance of deduction towards bad debts

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s Kinetic Finance Ltd. CIT V, Pune	2002-03	Scrutiny February 2005	The assessee had claimed and was allowed deduction of Rs. 2.33 crore towards bad debts which had already been considered in the profit and loss account.	1.14
2	M/s PRS Share Finance Pvt. Ltd. Co. CIT IV, Mumbai	2001-02	Scrutiny March 2003	The assessee had claimed and was allowed deduction of Rs. 2.13 crore towards bad debts on account of short recovery of payment which was not considered in computing the income of the relevant previous year.	1.06

Excess credit of tax deducted at source

3.24 The Income Tax Act, 1961, provides that tax deducted at source under the provision of the Act and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made and credit shall be given to him for the amount so deducted on production of a certificate to that effect.

3.24.1 Excess credit of tax deducted at source resulted in short demand of tax aggregating Rs. 2.01 crore in five cases in Delhi, Karnataka, Kerala and West Bengal. One case is shown in Table no. 3.17 below:

(Rs. in crore)

Table no. 3.17: Excess credit of tax deducted at source

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s Usha Beltron Ltd. CIT I, Kolkata	1998-99	Scrutiny November 2004	The assessee company was merged with another company in October 1997. The assessing officer had allowed credit of tax deducted at source of Rs. 95.26 lakh attributable to income for the full year instead of Rs. 9.52 lakh allowable in respect of half yearly income actually assessed prior to the merger of the company.	1.26

**Mistakes in  
summary  
assessments**

**3.24.2** The Ministry has accepted (December 2007) the observation in the case at **Sl. no. 1 of Table no. 3.17** above.

**3.25** Consequent to the amendment of the Income Tax Act with effect from 1 June 1999, no prima facie adjustment can be made by the assessing officer in an assessment completed in summary manner. However, unentitled benefits availed of by the assesseees in summary assessments can be withdrawn and mistakes rectified under the powers separately available to the assessing officers under the Act. The Board have also issued instructions in August 1995 and in November 2006 for initiating remedial action with regard to audit observations on summary assessments.

**3.25.1** Out of **686 draft paragraphs** sent to Ministry during the year in respect of corporation tax, **145 draft paragraphs** involving revenue impact of **Rs. 149.30 crore** related to summary assessments in the states of Andhra Pradesh, Assam, Delhi, Chandigarh (UT), Gujarat, Goa, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. **Five cases** are illustrated below:

**3.25.2** In Tamil Nadu, CIT I, Chennai charge, the income tax return of a company, **M/s Eonour Technologies Ltd.**, for the assessment year 2004-05 was processed in a summary manner in December 2005 determining a loss of Rs. 25.12 crore. Audit examination revealed that the assessee had debited Rs. 40.26 crore in the profit and loss account towards impairment of assets relating to its Singapore branch. Under the Income Tax Act, any write off of capital asset amounts to capital loss and any write off of block of assets amounts to short term capital loss. As the capital loss/short term capital loss could be adjusted only against capital gains, the adjustment against the business income was irregular. This resulted in underassessment of income of Rs. 15.14 crore involving aggregate revenue impact of Rs. 15.58 crore, including potential tax of Rs. 9.01 crore.

**3.25.3** In West Bengal, Kolkata II charge, the assessment of a company, **M/s Central Inland Water Transport Corporation Ltd.**, for the assessment year 2004-05 was processed in a summary manner in January 2006 determining a loss of Rs. 46.66 crore including business loss of Rs. 41.34 crore. Audit examination revealed that the assessee had claimed and was allowed to carry forward business loss of Rs. 41.34 crore even though the return was not filed within the time limit prescribed in the Act. The mistake resulted in excess carry forward of business loss of Rs. 41.34 crore involving potential revenue impact of Rs. 14.83 crore.

**3.25.4** In Maharashtra, DIT (International Taxation) Mumbai charge, the return of a foreign company, **M/s P & O Nedlloyd BV**, based in Netherlands, for the assessment year 2004-05 was processed in a summary manner in October 2004. The company earned a freight income of Rs. 375.23 crore from operation of ships



in international traffic and had a 44 percent share in partnership with a U.K. based foreign company. Audit examination revealed that the assessee had claimed exemption of the above income under the provisions of Article 8A of the Double Taxation Avoidance Agreement between India and U.K. However, during the scrutiny assessment for the assessment year 2003-04 in December 2005, similar exemption was denied on the grounds that Articles 9(5) and 8(A) of the Indo-U.K. treaty were not applicable to the assessee, and the freight income for assessment year 2003-04 was assessed under section 172(2) considering seven and one-half percent of total freight receipts as taxable income. On similar grounds, the assessable income for the assessment year 2004-05 would work out to Rs. 28.14 crore, considering 7.5 percent of freight income of Rs. 375.23 crore. The omission to select the return for the assessment year 2004-05 for scrutiny assessment and failure to apply provisions of section 172 of Income Tax Act resulted in income escaping assessment to extent of Rs. 28.14 crore, involving revenue impact of Rs. 11.54 crore.

3.25.5 In Orissa, CIT, Bhubaneswar charge, the assessment of a company, M/s Orissa Sponge Iron Ltd., for the assessment year 2002-03 was processed in summary manner in March 2004. Audit examination revealed that the assessee made additions to the plant and machinery in July 2001 of Rs. 39.01 crore for waste heat recovery based power plant and claimed 100 percent depreciation towards additions. However, as per Income Tax Rules, the assessee is entitled to only 25 percent on such additions, and the allowable depreciation works out to Rs. 9.75 crore. Besides, the assessee had also claimed and was allowed 100 percent depreciation on addition to the buildings for waste heat recovery based power plant as against the admissible rate of 10 percent. Thus, excess claims of depreciation by the assessee on plant and machinery as well as buildings resulted in overstatement of loss involving potential tax of Rs. 11.55 crore, including potential tax of Rs. 1.11 crore.

3.25.6 In Tamil Nadu, CIT I, Trichy charge, the assessment of a company, M/s Tamil Nadu State Transport Corporation Ltd., for the assessment years 1999-2000 to 2002-03 were processed in summary manner between March 2000 and February 2003 determining 'nil' income for 1999-2000 and 2000-01 and a loss of Rs. 8.40 crore and Rs. 12.96 crore for the assessment years 2001-02 and 2002-03 respectively. The income under the special provisions of the Act was also computed as 'nil' in view of the book business loss of Rs. 2.46 crore pertaining to the assessment year 1997-98. Audit examination revealed that while the accident compensation claims were paid from the insurance fund to which the company made contribution from time to time and to the extent required for meeting claims, provision was also made in the accounts towards 'No fault liability' under the Motor Vehicles Act in respect of cases pending in the Court. Accordingly, aggregate contribution to insurance fund of Rs. 24.16 crore in these assessment years was debited to Profit and Loss account. As the amount debited in the Profit and Loss Accounts were contingent in nature, these were required to be disallowed. Omission to do so resulted in excess carry forward of losses of

earlier years resulting in an aggregate potential revenue impact of Rs. 9.00 crore for the four assessment years and also non demand of tax of Rs. 1.41 crore under special provisions for the assessment years 2001-02 and 2002-03.

**3.25.7 Twenty one cases** are shown in **Table no. 3.18** below:

(Rs. in crore)

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s Uniworth Ltd. <b>CIT IV, Kolkata</b>	2000-01	Summary February 2006	Capital gain of Rs. 15.74 crore was irregularly set off against business loss of Rs. 32.59 crore.	9.31
2	M/s Metropolitan Transport Corporation (Chennai) Ltd. <b>CIT III, Chennai</b>	2002-03 2004-05	Summary October 2004 Summary September 2005	Deduction of Rs. 17.01 crore was irregularly claimed and allowed for contribution towards employees' provident fund which was not remitted within the due dates to the Fund account as prescribed in the respective statute.	6.12 (P)
3	M/s YKK India Ltd. <b>CIT VI, Delhi</b>	2004-05	Summary December 2004	After adjusting brought forward losses, assessment was completed at a loss of Rs. 15.65 crore as against 'nil' income.	5.61 (P)
4	M/s Hindustan Photo Films Manufacturing Company Ltd. <b>CIT I, Coimbatore</b>	2003-04 2004-05	Summary March 2004 Summary October 2004	Provisions for contingencies and provision for doubtful debts aggregating Rs. 6.60 crore and Rs. 6.79 crore respectively debited under the head 'other costs' were not disallowed.	4.50
5	M/s Tidel Park Ltd. <b>CIT I, Chennai</b>	2001-02 2002-03	Summary March 2004 July 2004	Depreciation on electrical fittings was claimed and allowed at 25 percent as applicable to plant and machinery instead of 10 percent applicable to furniture and fittings.	3.47
6	M/s Mahanadi Coal Fields Ltd. <b>CIT, Sambalpur</b>	2003-04	Summary December 2003	The assessee had claimed and was allowed deduction of Rs. 6.07 crore towards leasehold charges which was required to be disallowed and added back.	2.44

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
7	M/s All Bank Finance Ltd. CIT II, Kolkata	2004-05	Summary February 2006	Provision for diminution in value of investment of Rs. 6.87 crore was not disallowed.	2.32
8	M/s Ankita Deposit and Advances Pvt. Ltd. CIT, Shimla	2002-03 2003-04	Summary February 2003  Summary March 2004	Deduction of Rs. 5.05 crore and Rs. 17 lakh under section 80G was allowed without documentary proof. Besides, profits on the sale of shares to the extent of Rs. 4.99 crore and Rs. 33 lakh were taxed at 10 percent treating it as short term capital gain instead of business income, as the assessee was engaged in trading of shares.	2.18
9	M/s Lakshmi Machine Works Ltd. CIT II, Coimbatore	2002-03	Summary December 2002	While working out deduction towards export profits, the assessee considered income/turnover of export units only, disregarding income/ loss from other units.	2.11
10	M/s Tractor and Farm Equipment Ltd. CIT I, Chennai	2001-02	Summary July 2002	The assessee paid 2,10,000 pounds for services in India (net of tax) and 8,40,000 pounds for services rendered outside India. The assessee had deducted tax at source from the payments made for services in India but did not deduct tax at source for services rendered outside India.	1.97
11	M/s STI India Ltd. CIT II, Indore	2002-03	Summary March 2003	Payment of interest of Rs. 5.60 crore on funds borrowed but not utilised for business purposes was required to be disallowed.	1.96
12	M/s HPL Cogeneration Ltd. CIT III, Kolkata	2003-04	Summary March 2004	Deferred tax liability of Rs. 24.89 crore was not disallowed while calculating book profits.	1.96

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
13	M/s Varun Flair Filtration (P) Ltd. <b>CIT VI, Delhi</b>	2004-05	Summary March 2005	Entire amount of brought forward loss of Rs. 4.54 crore pertaining to earlier years was set off against the income of Rs. 13.12 lakh only instead of allowing set off of balance amount in subsequent years.	1.58
14	M/s SBI Home Finance Ltd. <b>CIT III, Kolkata</b>	2003-04	Summary March 2004	Provision of Rs. 4.05 crore for depreciation in the value of investments was not disallowed.	1.49 (P)
15	M/s Jessop & Co. Ltd. <b>CIT I, Kolkata</b>	2001-02	Summary December 2002	Interest of Rs. 3.63 crore payable to a public financial institution was incorrectly allowed without its actual payment within the relevant due date of filing the return.	1.44 (P)
16	M/s Aditya Translink (P) Ltd. <b>CIT II, Kolkata</b>	2000-01	Summary March 2002	Expenditure of Rs. 2.02 crore on replacement of an entire block of plant and machinery, which was capital in nature, was not disallowed.	1.44
17	M/s Ballast Nedam International (P) Ltd. <b>CIT IV, Baroda</b>	2004-05	Summary November 2004	Tax deducted at source of Rs. 12.03 crore was not credited to Government account, making the assessee liable to pay interest for default in payment.	1.18
18.	M/s East Coast Consultancy and Infrastructure Ltd. <b>CIT I, Chennai</b>	2002-03	Summary February 2003	Depreciation on bridge built on BOT basis was claimed and allowed at 25 percent instead of 10 percent as applicable to buildings.	1.17 (P)
19	M/s Veera Venkata Lakshmi Textiles (P) Ltd. <b>CIT, Rajamundry</b>	2003-04	Summary January 2004	Against the loss of Rs. 9.84 crore returned by the assessee, loss of Rs. 3.21 crore was allowed in computation statement.	1.14 (P)
20	M/s Pioneer Wincon Ltd. <b>CIT III, Chennai</b>	2003-04	Summary January 2004	Deductions of Rs. 1.70 crore and Rs. 1.33 crore towards 'provision for stock obsolescence' and 'provision for depletion in value of work in progress' were not disallowed.	1.11 (P)

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
21	M/s Vivek (P) Ltd. CIT VI, Delhi	2004-05	Summary January 2005	Loss was assessed at Rs. 3.04 crore as against actual business loss of Rs. 1.98 crore.	1.08

*P: denotes potential tax*

3.25.8 The Ministry has accepted (August and December 2007) the observations in the cases at Sl. no. 3, 5, 6 and 19 of Table no. 3.18 above.

3.25.9 The Ministry has not accepted (December 2007) the observations at paragraph no. 3.25.2, 3.25.4, 3.25.6, 3.25.7 and Sl. nos. 2, 4, 7 to 12, 14 and 16 to 21 of Table no. 3.18 above on the grounds that the assessments in the above cases were summary assessments. The reply is not tenable as mistakes arising from summary assessments conferring otherwise unentitled benefit on the assessee and prejudicial to interest of revenue could be rectified under the powers available to the assessing officers under the Income tax Act. The Board have also issued instructions (August 1995) and reiterated the instructions (November 2006) that remedial action should invariably be initiated where an assessment was made under summary scheme and the observation pointed out by Audit could not have been considered under the provisions of section 143(1) of the Act.

Assessments involving overcharge of tax

3.26 Although cases of overassessment/overcharge are being regularly featured in the reports of the Comptroller and Auditor General of India, mistakes relating to overcharge continue to occur. During test check in audit during 2006-07, overassessment of income was noticed in 20 cases involving overcharge of tax totalling Rs. 95.23 crore in Andhra Pradesh, Delhi, Gujarat, Madhya Pradesh, Maharashtra, Orissa, Tamil Nadu and West Bengal. Three cases are illustrated below:

3.26.1 In Maharashtra, CIT III, Mumbai charge, the assessment of a company M/s Reliance Port & Terminals Ltd., for the assessment year 2001-02 finalised after scrutiny in November 2003 determining an income of Rs. 10.49 lakh, was subsequently revised in March 2006 at taxable income of Rs. 280.06 crore. Audit examination revealed that the interest leviable for default in payment of advance tax was calculated at Rs. 73.65 crore for the period from April 2001 to March 2006 as against the correct amount of Rs. 32.12 crore for the period from November 2003 (date of original assessment) to March 2006 (date of reassessment). The mistake resulted in overcharge of interest of Rs. 41.53 crore.

3.26.2 In Maharashtra, CIT VIII, Mumbai charge, the assessment of a company M/s Hotel Corporation of India, for the assessment year 2003-04 was completed after scrutiny in March 2006 determining an income of Rs. 70.92 crore. Audit examination revealed that the entire taxable income was derived from long-term capital gain and hence was required to be charged at 20 percent instead of 35

percent as levied by department. Incorrect application of rate of tax resulted in excess levy of tax aggregating Rs. 24.22 crore (including interest).

3.26.3 In Maharashtra, CIT III, Mumbai charge, the assessment of a company, M/s Nuclear Power Corporation of India, for the assessment year 2000-01, initially processed in summary manner in March 2002 determining an income of Rs. 122.44 crore and allowing refund of Rs. 86.17 crore, was completed after scrutiny in February 2003 determining taxable income of Rs. 424.61 crore. This was subsequently revised in October 2005 to Rs. 446.02 crore and demand of Rs. 10.87 crore was raised. Audit examination revealed that while computing the tax demand of Rs. 10.87 crore in October 2005, interest of Rs. 12.91 crore charged towards excess refund was not admissible. Refund payable to assessee as per order of October 2005 worked out to Rs. 88.21 crore as against Rs. 86.17 crore calculated at summary stage and as such no excess refund had been made at summary stage. The irregular charge of interest of Rs. 12.91 crore towards excess refund was required to be withdrawn.

3.26.4 Five cases are shown in Table no. 3.19 below:

(Rs. in crore)

Table no. 3.19: Assessments involving overcharge of tax

Sl. no.	Assessee company/ CIT charge	Assessment year	Type/month of assessment	Nature of mistake	Revenue impact
1	M/s United India Insurance Company Ltd. CIT I, Chennai	1998-99	Scrutiny March 2004  Revision December 2004	During revision tax was levied at 40 percent instead of the correct rate of 35 percent.	5.78
2	M/s Dredging Corporation of India Ltd. CIT I, Visakhapatnam	2002-03	Scrutiny February 2005	Self assessment tax paid by the assessee in June 2002 was erroneously considered to be paid in June 2003 resulting in excess levy of interest.	2.00
3	M/s Gruh Finance Ltd. CIT, Ahmedabad	1997-98	Scrutiny March 2000  Revision July 2002	Interest on default in payment of advance tax was levied at Rs. 1.78 crore instead of the correct amount of Rs. 19.50 lakh.	1.58
4	M/s Bathina Technologies (India) CIT I, Hyderabad	2002-03	Scrutiny March 2005  Revision September 2005	Interest for belated filing of return was levied at Rs. 2.07 crore as against the correct amount of Rs. 73.63 lakh.	1.33
5	M/s Mahanadi Coal Fields CIT II, Sambalpur	2003-04	Scrutiny February 2006	Interest on default in payment of advance tax was levied at Rs. 22.45 crore instead of the correct amount of Rs. 21.29 crore.	1.17

3.26.5 The Ministry has accepted (December 2007) the observations in all the cases of Table no. 3.19 above.

## Chapter IV Income Tax

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## Chapter Summary

Audit issued 198 observations with a revenue impact of Rs. 46.54 crore involving various irregularities, omissions and mistakes to the Ministry of Finance. The Ministry had accepted 66 observations involving revenue impact of Rs. 12.80 crore till 7 December 2007.

**(Paragraphs 4.4 and 4.6)**

Assessing officers committed mistakes in:

- ◆ computation of business income in 18 cases involving revenue impact of Rs. 7.58 crore.

**(Paragraph 4.7.2)**

- ◆ allowing deduction to an undertaking developing and building housing projects in six cases involving revenue impact of Rs. 5.65 crore.

**(Paragraph 4.8.2)**

- ◆ allowing deduction in respect of export profit in 22 cases involving revenue impact of Rs. 5.24 crore.

**(Paragraph 4.9.2)**

- ◆ application of correct rate of tax in eight cases involving revenue impact of Rs. 3.62 crore.

**(Paragraph 4.10.1)**

- ◆ levy of interest in 29 cases involving revenue impact of Rs. 2.98 crore.

**(Paragraph 4.11.1)**

- ◆ computation of capital gains in two cases involving revenue impact of Rs. 2.42 crore.

**(Paragraph 4.12.1)**

- ◆ allowing deduction to co-operative societies and allowance of liability in 10 cases involving revenue impact of Rs. 2.08 crore.

**(Paragraphs 4.13.2 and 4.14.1)**

- ◆ allowing refund, adoption of correct figures and carry forward and set off of losses in 12 cases involving revenue impact of Rs. 1.98 crore.

**(Paragraphs 4.15.1, 4.16.1 and 4.17.2)**

- ◆ computation of depreciation, levy of surcharge and not assessing income in 18 cases involving revenue impact of Rs. 80.48 lakh.

**(Paragraphs 4.18.1, 4.19.1 and 4.20.1)**

◆ underassessment of income in assessments processed in a summary manner in 43 cases involving revenue impact of Rs. 9.26 crore.

(Paragraph 4.21.1)

◆ overcharge of tax in 11 cases involving revenue impact of Rs. 1.97 crore.

(Paragraph 4.22)

## CHAPTER IV: INCOME TAX

- Number of assessees**      **4.1**      The number of assessees (other than companies) borne on the books of the Income tax Department as on 31 March of 2006 and 2007 were 2.94 crore and 3.09 crore respectively as given in **Table no. 2.7** of **chapter II** of this report.
- Receipts from income tax**      **4.2**      During 2006-07, income tax receipts were Rs. 75,079 crore compared to Rs. 55,985 crore in 2005-06 and constituted 32.62 percent of the direct taxes collection. **Table no. 2.4** of **chapter II** of this report shows the details.
- Status of assessments**      **4.3**      **Table no. 2.11** of **paragraph 2.9** of **chapter II** of this report contains the particulars of assessments due for disposal, assessments completed and those pending. Details of demands remaining uncollected during the last five years are given in **Table no. 2.13** of **chapter II** of this report.
- Results of audit**      **4.4**      Audit issued 187 draft paragraphs involving undercharge of tax of Rs. 44.57 crore and 11 draft paragraphs involving overcharge of tax of Rs. 1.97 crore to the Ministry of Finance between May 2007 and October 2007 for comments. The internal audit of the department had seen only 11 of these cases and had not noticed the mistakes pointed out in this report.
- 4.5**      Out of the 198 draft paragraphs issued to the Ministry, 169 cases involving undercharge of Rs. 41.67 crore and 11 cases involving overcharge of Rs. 1.97 crore have been included in this chapter. Each paragraph indicates a particular category of mistake and starts with a suitable preamble followed by the combined/consolidated revenue impact of all observations of similar nature. Cases with money value of Rs. 75 lakh or more have been illustrated in the body of the chapter while those of Rs. 20 lakh or more but less than Rs. 75 lakh each are given in the table under the related category.
- Status of replies received from the Ministry of Finance**      **4.6**      Out of 180 cases included in this chapter, the Ministry of Finance have accepted audit observations in 66 cases involving aggregate revenue impact of Rs. 12.80 crore. In two cases, the Ministry have not accepted the audit observation. In the remaining cases, replies have not been received (till 7 December 2007). Replies of the Ministry wherever received, have been examined and suitably incorporated in the report.
- 4.7**      **Mistakes in computation of business income**
- Mistakes in computation of business income**      **4.7.1**      The Income Tax Act, 1961, provides that in a scrutiny assessment, the assessing officer will make a correct assessment of the total income or loss of the assessee and determine the correct sum payable by him or refundable to him on the basis of such assessment. Income under the head “profits and gains of

business or profession” is computed in accordance with the method of accounting regularly employed by the assessee.

**4.7.2** Non compliance with the above provisions while computing business income was noticed in **18 cases**, resulting in short levy of tax aggregating to **Rs. 7.58 crore** in Gujarat, Himachal Pradesh, Maharashtra, Rajasthan, Uttar Pradesh and Union Territory of Chandigarh. **Three cases** are illustrated below:

**4.7.3** “Dividend stripping transaction” in which shares/units are purchased “cum-dividend” and sold at a loss after receiving the dividend has been held to be a tax avoidance device, distinct from business or trading transaction. It has been judicially held<sup>1</sup> that purchase of shares with arrear dividend was a capital purchase and that the cost of acquisition of securities was required to be reduced by the amount of dividend. It has also been judicially held<sup>2</sup> that the loss arising from such “dividend stripping transaction” did not qualify for adjustment against business income. The Income Tax Act was subsequently amended by insertion of section 94(7) with effect from the assessment year 2002-03, which states that the loss arising out of purchase and sale of securities/units shall be ignored to the extent of dividend/income.

**4.7.4** In Maharashtra, CIT Central II, Mumbai charge, the assessment of an individual, **Shri Vinod H. Biyani**, for the assessment year 2000-01 was completed after scrutiny in March 2002 determining an income of Rs. 33.56 lakh. Audit examination revealed that during the previous year relevant to the assessment year 2000-01, the assessee had purchased units from mutual funds of Rs. 21.00 crore and had received dividend of Rs. 4.88 crore on the date of purchase. The units were redeemed for an amount of Rs. 15.49 crore after two-three days of the purchase. Dividend of Rs. 4.88 crore received was claimed as exempt under section 10(33) and the total loss of Rs. 5.51 crore sustained by the assessee was adjusted against the short-term capital gain.

Units of the mutual funds had been purchased at ‘cum dividend NAV (net asset value) price’ and had been redeemed at ‘ex-dividend NAV price’. The investment was made with the intention of receiving the dividend, which was exempt under section 10(33) of the Act, with anticipated loss in sale. The purchase and sale were thus part of a dividend-stripping transaction. Therefore, in view of the Supreme Court’s ruling, the allowance of loss of Rs. 5.51 crore was not in order, resulting in underassessment of income of Rs. 5.51 crore involving short levy of tax of Rs. 2.43 crore (including interest).

**4.7.5** In Maharashtra, DIT (Exemption), Mumbai charge, the income tax assessment of an AOP, **Mumbai Metropolitan Region Development Authority**, for the assessment year 2003-04 was completed after scrutiny in March 2006 determining an income of Rs. 5.21 crore. The assessing officer disallowed the exemption claimed by the assessee under section 11 of the Act

<sup>1</sup>{75 ITR 191} CIT vs India Discount Company (SC) (1969)

<sup>2</sup>{75 ITR 544} Lupton (Inspector of taxes) vs F.A. & A. B. Ltd. (In the court of Appeal) (1969)

and taxed the income treating it as a local authority. Audit examination revealed that the assessee had not considered Rs. 2.46 crore receivable as penal interest on short-term deposits kept with public sector undertakings and Government of Maharashtra. Further, the assessee had also not accounted for lease premium of Rs. 2.82 crore receivable from Bombay Suburban Electric Supply Company. As the assessee was following the mercantile system of accounting, accrued income relating to these activities should have been added back. The omission to do so resulted in underassessment of income of Rs. 5.28 crore with consequent short levy of tax of Rs. 2.29 crore (including interest).

4.7.6 Section 69C of the Income Tax Act, 1961, provides that where, in any financial year, an assessee has incurred any expenditure and he offers no explanation about the source of income of such expenditure or part thereof, or the explanation, if any, offered by him is not satisfactory, the amount covered by such expenditure or part thereof is deemed to be the income of the assessee for such financial year. Further, notwithstanding anything contained in any other provisions of the Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as deduction under any head of income.

4.7.7 In Maharashtra, CIT I, Pune charge, the assessment of a firm, M/s Nav Maharashtra Port Land Cement Industries, for the assessment year 2001-02 was completed after scrutiny in July 2003 determining a loss of Rs. 26.50 lakh. Audit examination revealed that during the previous year relevant to the assessment year 2001-02, the assessee had paid Rs. 2.50 crore to M/s N.M. Corporation Ltd., Sangli, for the purchase of animal feed. The amount was neither shown in the purchase/sales account, nor in the closing stock. Therefore, Rs. 2.50 crore should have been treated as unexplained expenditure and disallowed under section 69C of the Act and added back to the total income of the assessee. The omission resulted in underassessment of income of Rs. 2.50 crore involving short levy of tax of Rs. 1.19 crore.

4.7.8 Three cases are shown in Table no. 4.1 below:

(Rs. in lakh)

Table no. 4.1: Mistakes in computation of business income

Sl. no.	Name of the assessee/ CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	M/s B. G. Chitale CIT I, Kolhapur	2003-04  2004-05  2005-06	Scrutiny December 2005  February 2006  March 2006	The assessee had earned aggregate interest income of Rs. 4.73 crore from fixed deposits and refund of income tax in these assessment years and included it in the business income for computation of eligible remuneration to its partners instead of reducing it (being the income from other sources) before computing eligible remuneration. This resulted in aggregate excess payment of remuneration of Rs. 1.26 crore involving revenue impact of Rs. 53.47 lakh.	53.47

Sl. no.	Name of the assessee/ CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
2	M/s Shivam Overseas CIT Central, Ludhiana	2004-05	Scrutiny March 2006	The assessing officer had failed to add back Rs. 64.45 lakh on account of unexplained investment from undisclosed sources, resulting in underassessment of income involving revenue impact of Rs. 28.90 lakh.	28.90
3	Shri Mukesh R. Shah CIT Central I, Ahmedabad	2001-02	Scrutiny March 2004	Closing stock of Rs. 47.10 lakh not credited to the profit and loss account and not considered while computing taxable income resulted in non levy of tax of Rs. 23.76 lakh.	23.76

4.7.9 The Ministry has accepted (December 2007) audit observation in the case at Sl. no. 2 of Table no. 4.1 above.

Incorrect allowance of deduction to undertakings engaged in developing and building housing projects

4.8 Incorrect allowance of deduction to undertakings engaged in developing and building housing projects

4.8.1 Section 80IB(10) of the Income Tax Act, provides that deduction to the extent of hundred per cent of the profits derived in any previous year is allowed in the case of an undertaking developing and building housing projects approved before the specified date by a local authority subject to the conditions specified therein. The provisions were amended with effect from 1 April 2005 inserting a clause which stipulated that exemption would be available to such an undertaking if the shops and commercial establishments included in the housing projects did not exceed five per cent of the aggregate built up area or two thousand square feet, whichever was less. The ITAT Mumbai Bench held<sup>3</sup> that the construction of shops or commercial place cannot be considered a housing project for the purposes of application of the provision of section 80IB (10) of the Act and that even if one condition is violated, the benefit of the entire deduction would not be available. The Tribunal also held that the aforesaid amendment in section 80IB would have prospective effect from 1 April 2005 and thus denied the deduction in respect of housing projects with commercial space, which were approved before 1 April 2005.

4.8.2 Audit noticed mistakes in allowance of deductions to undertakings developing and building housing projects resulting in short levy of tax aggregating Rs. 5.65 crore in six cases in Bihar, Maharashtra and Uttar Pradesh. Four cases are illustrated below:

4.8.3 In Maharashtra, CIT 25, Mumbai charge, the assessment of a firm, M/s H. D. Enterprises, for the assessment year 2004-05 was completed after scrutiny in January 2006 determining an income of Rs. 2.00 crore. Audit

<sup>3</sup> M/s Kaukik Developers vs DCIT Circle 3, Thane (ITA, 1961, no. 532/M/06)

examination revealed that the assessee was allowed deduction of Rs. 5.38 crore under section 80IB (10) of the Act. Since the assessee had developed a residential housing cum commercial project with shops, the assessing officer had restricted the deduction to the proportionate amount of profit attributable to the construction of the residential built up area. However, in view of the aforesaid provisions of the Act and the ITAT's decision that the amendment in section 80IB would have prospective effect from 1 April 2005, the entire deduction should have been disallowed. The omission to do so resulted in underassessment of income of Rs. 5.38 crore with consequent revenue impact of Rs. 2.36 crore (including interest).

**4.8.4** In Maharashtra, CIT 4, Mumbai charge, the assessment of a firm, **M/s Girilal & Co.**, for the assessment year 2001-02 was completed after scrutiny in May 2003 determining an income of Rs. 12.36 lakh after allowing a deduction of Rs. 2.75 crore under section 80IB in respect of the profits on development and construction of housing project. One of the conditions for claiming deduction under section 80IB for an undertaking engaged in developing and building housing project is that the size of plot of land should be a minimum of one acre (43,560 sq. ft.). Audit examination revealed that the assessee utilised land measuring 5,919 square feet for development and construction of the project. The condition for claiming deduction was, therefore, not fulfilled. The omission to disallow deduction under section 80 IB resulted in underassessment of income of Rs. 2.75 crore involving revenue impact of Rs. 1.43 crore (including interest).

**4.8.5** In Maharashtra, CIT 19, Mumbai charge, the assessment of a firm, **M/s Vinamra Developers**, for the assessment years 2002-03, 2003-04 and 2004-05 were completed after scrutiny in January 2006 determining an income of Rs. 1.00 lakh, Rs. 4.28 lakh and Rs. 1.85 lakh respectively. The assessee was allowed deduction of Rs. 28.01 lakh, Rs. 1.20 crore and Rs. 51.78 lakh under section 80IB (10) of the Act for these assessment years. Since the assessee had developed a residential housing cum commercial project with shops, the assessing officer had restricted the deduction to the proportionate amount of profit attributable to the construction of residential built up area. However, in view of the aforesaid provisions of the Act and the ITAT's decision, the entire deduction should have been disallowed. The omission to do so resulted in underassessment of income aggregating Rs. 2.00 crore with consequent revenue impact of Rs. 97.26 lakh (including interest).

**4.8.6** The Ministry has accepted (December 2007) the above observation.

#### **Other issues**

**4.8.7** Section 80IB of the Income Tax Act, 1961, provides that where the gross total income of an assessee includes any profit and gains derived from certain industrial undertakings, the assessee shall be allowed deduction of twenty-five

percent (or thirty percent where the assessee is a company), of the profit and gains derived from such industrial undertaking, for a period of ten consecutive assessment years (or twelve consecutive assessment years where the assessee is a cooperative society), beginning with the initial assessment year.

In Uttar Pradesh, CIT, Allahabad charge, assessment of a firm, M/s ABC Industries, Tikara, Mirzapur, for the assessment year 2004-05 was completed after scrutiny in December 2005 determining 'nil' income after allowing deduction of Rs. 3.32 crore under section 80 IB. Audit examination revealed that the income of Rs. 3.32 crore included Rs. 1.57 crore relating to duty drawback. As the income from duty drawback was not derived from an industrial undertaking engaged in eligible business, deduction on it was not admissible. The omission to disallow it resulted in short computation of income of Rs. 1.57 crore involving revenue impact of Rs. 77.39 lakh (including interest).

Incorrect allowance of deduction in respect of export profits

#### 4.9 Incorrect allowance of deduction in respect of export profits

4.9.1 The method of allowance of deduction in respect of export profits has been described in paragraph 3.19.1 of chapter III of this report.

4.9.2 Audit noticed mistakes in computation of export profits resulting in short levy of tax aggregating Rs. 5.24 crore in 22 cases in Delhi, Gujarat, Karnataka, Kerala, Maharashtra, Punjab, Tamil Nadu, Uttar Pradesh and West Bengal. One case is illustrated below:

4.9.3 In Maharashtra, CIT 27, Mumbai charge, the assessment of a firm, M/s Aloka Exports, for the assessment year 2001-02 was completed after scrutiny in February 2004 determining an income of Rs. 4.02 crore after allowing deduction of Rs. 8.93 crore under section 80HHC as claimed by the assessee. Audit examination revealed that 90 percent of the export incentives included DEPB licences of Rs. 4.19 crore. As export turnover of the assessee exceeded Rs. 10 crore, it was required to fulfill the eligibility criteria for availing the deduction of DEPB as per proviso inserted in section 80HHC(3) by Taxation Laws (Amendment) Act, 2005. The assessee failed to produce any evidence regarding fulfillment of the prescribed conditions and was thus not entitled to deduction in respect of DEPB credit. The omission to exclude it resulted in excess allowance of deduction of Rs. 3.01 crore under section 80HHC of the Act involving short levy of tax of Rs. 1.69 crore including interest.

4.9.4 The Ministry has accepted (December 2007) the above observation.

4.9.5 Five cases are shown in Table no. 4.2 below:



(Rs. in lakh)

Table no. 4.2: Incorrect allowance of deduction in respect of export profits

Sl. no.	Name of the assessee/ CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	M/s Atlas Exports CIT 12, Mumbai	2001-02	Scrutiny March 2003	Export incentives of Rs. 7.44 crore considered for allowing deduction were inclusive of DEPB premium of Rs. 1.94 crore although the assessee was not entitled to the deduction as he failed to produce any evidence regarding fulfillment of the conditions given in the third proviso to section 80HHC (3) of the Act. This resulted in excess allowance of deduction of Rs. 1.40 crore.	71.44
2	Shri Satish Kumar Agrawal CIT Central II, Delhi	2002-03	Scrutiny March 2004	While calculating the deduction, the loss of Rs. 68.37 lakh incurred on the export of trading goods was not considered resulting in excess allowance of deduction of Rs. 1.37 crore.	53.74
3	Shri K. Ravindranathan Nair CIT, Thiruvananthapuram	2000-01	Scrutiny January 2005	Excess export turnover and claim of deduction relating to disclaimer certificate of Rs. 3.21 crore and Rs. 64.62 lakh respectively, were considered for allowance of deduction under section 80HHC resulting in excess allowance of deduction of Rs. 38.62 lakh.	38.62
4	Smt Seema Ajay Ranka CIT II, Baroda	2001-02 2002-03 2003-04	Scrutiny January 2004 October 2004 March 2004	While computing deduction under section 80HHC, deduction of Rs. 1.33 crore allowed under section 80IA was not reduced from the gross total income, resulting in excess allowance of deduction of Rs. 58.47 lakh.	29.09
5	M/s Shah Naresh Kumar & Company CIT 14, Mumbai	2003-04	Scrutiny March 2006	The assessee was allowed deduction under section 80HHC at the rate of 100 percent as against the allowable rate of 50 percent, resulting in excess allowance of deduction of Rs. 44.08 lakh.	22.24

4.9.6 The Ministry has accepted (December 2007) audit observations in the cases at **Sl. no. 1 and 5** of **Table no. 4.2** above.

#### Application of incorrect rate of tax

4.10 The Income Tax Act, 1961, provides that income tax is chargeable for every assessment year in respect of the total income of the previous year of an assessee according to the rates prescribed under the relevant Finance Act.

4.10.1 Audit noticed that the assessing officer did not apply the above provision correctly in **eight cases** in Maharashtra, Madhya Pradesh, Punjab, Rajasthan and Tamil Nadu, which resulted in short levy of tax of **Rs. 3.62 crore**. **Three cases** are illustrated below:

4.10.2 In Tamil Nadu, CIT II, Chennai charge, the assessment of an AOP\*, M/s Tamil Nadu Urban Development Fund, for the assessment years 2000-01 and 2002-03 to 2005-06 were completed between March 2003 and March 2006 under scrutiny determining an income of Rs. 21.41 crore, Rs. 33.36 crore, Rs. 25.01 crore, Rs. 19.02 crore and Rs. 7.60 crore respectively. The assessee filed its returns of income for these assessment years admitting 'nil' income after claiming exemption of its entire income under section 11 of the Act citing that it was a trust founded for serving the public interest. While completing the scrutiny assessments, the assessing officer rejected the claim and assessed the income treating it as AOP on the ground that the assessee's operations were conducted on commercial principles. Audit examination revealed that the profits were shared at percentages variable from year to year by its members and tax was levied at the rate applicable to the AOP/BOI<sup>♦</sup>. However, where any member of the AOP was chargeable to tax at a rate higher than the maximum marginal rate, tax was required to be charged at the higher rate applicable on that portion of the total income of the AOP which was payable to the member. The omission to do so resulted in short levy of tax of Rs. 1.39 crore.

4.10.3 In Maharashtra, CIT 14, Mumbai charge, the assessment of a firm M/s Krishnakumar & Co., for the assessment year 1994-95 was initially completed after scrutiny in March 2002, and was further revised in January 2005 to give effect to appellate order. Audit examination revealed that while revising the assessment, the assessing officer had levied tax on long term capital gain for the assessment year 1994-95 at the rate of 20 percent against the correct rate of 30 percent, resulting in short levy of tax of Rs. 96.40 lakh (including interest).

4.10.4 The Ministry has accepted (December 2007) the above observation.

4.10.5 In Punjab, CIT I, Ludhiana charge, the assessment of a firm, M/s Eastman International, for the assessment year 2003-04 was completed after scrutiny in March 2006 determining an income of Rs. 17.43 crore. Audit examination revealed that tax was incorrectly levied at the rate of 30 percent on the assessed income as against the correct rate of tax of 35 percent along with applicable surcharge, resulting in short levy of tax of Rs. 91.51 lakh.

4.10.6 The Ministry has accepted (December 2007) the above observation.

Non/short levy of interest

4.11 The provisions regarding levy of interest for delays in filing return of income, payment of advance tax and default in payment of demand have been described in paragraph 3.12 of chapter III of this report.

4.11.1 Audit noticed short levy of interest for delays in filing return of income, payment of advance tax and default in payment of demand aggregating Rs. 2.98

\* AOP: Association of person

♦ BOI: Body of individual

crore in 29 cases in Bihar, Delhi, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal.

4.11.2 Three cases are shown in Table no. 4.3 below:

(Rs. in lakh)

Table no. 4.3: Non/short levy of interest

Sl. no.	Name of the assessee/ CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	M/s Narendra Trading Company CIT III, Baroda	1996-97	Scrutiny March 2004	Short levy of interest of Rs. 46.03 lakh for non filing of return.	46.03
2	M/s Swaminarayan Co-op Bank Ltd. CIT III, Baroda	1999-2000	Scrutiny March 2003	The assessee paid interest of Rs. 6.83 crore to various persons on fixed deposit receipt, but did not deduct tax at source resulting in non levy of interest of Rs. 45.42 lakh.	45.42
3	M/s New Gujarat Tin Printing Works CIT III, Baroda	2001-02	Scrutiny March 2006	The assessee was liable to pay interest of Rs. 21.27 lakh for late filing of return.	21.27

Incorrect  
computation of  
capital gains

4.12 The Income Tax Act, 1961, provides that any profit or gain arising from transfer of a capital asset effected in the previous year is chargeable to tax under the head 'capital gains' and shall be deemed to be the income of the previous year in which the transfer took place. Tax on such capital gains is chargeable at the rate prescribed.

4.12.1 Audit noticed mistakes in the computation of capital gain resulting in short levy of tax of Rs. 2.42 crore in two cases in Karnataka and Kerala. One case is illustrated below:

4.12.2 In Kerala, Trivandrum charge, the assessment of an individual, Dr. P.N. Bhaskaran, for the assessment year 1999-2000 was completed after scrutiny in January 2003 determining an income of Rs. 1.50 crore. While computing the total income, capital gain of Rs. 3.73 crore arising from the sale of land for a total consideration of Rs. 3.75 crore was allowed as exemption under section 54 EA, since the entire sale consideration was invested in UTI 64 scheme. Audit examination revealed that the assessee was in possession of the said asset for a period less than 36 months. The capital gain on its sale was, therefore, assessable as short-term capital gain and the assessee was not entitled to the exemption allowed under section 54 EA. The irregular allowance of exemption resulted in underassessment of income of Rs. 3.73 crore with consequent revenue impact of Rs. 2.27 crore.

### 4.13 Irregular deduction allowed to co-operative societies

**4.13.1** The Income Tax Act, 1961, provides that where the gross total income of a co-operative society includes any income from carrying on the business of banking or providing credit facilities to its members, deduction shall be allowed on the whole of the amount of profits and gains of business attributable to any one or more of such activities of the co-operative society. It is further provided that deductions will be made from gross total income after setting off unabsorbed losses, depreciation, etc. of the earlier years, before allowing any deduction under chapter VIA.

**4.13.2** Audit noticed mistakes in computation of deduction under section 80P in **five cases** resulting in short levy of tax aggregating **Rs. 1.18 crore** in Gujarat, Maharashtra, Rajasthan and West Bengal. **Three cases** are shown in **Table no. 4.4** below:

(Rs. in lakh)

**Table no. 4.4: Incorrect allowance of deduction to cooperative societies**

Sl. no.	Name of the assessee/ CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	The Churu Central Cooperative Bank Ltd. <b>CIT III, Jaipur</b>	2003-04	Scrutiny December 2005	The assessee had brought forward losses from earlier years and hence deduction of Rs. 1.06 crore was not admissible.	33.33 (P)
2	M/s Wardha District Central Cooperative Bank Ltd. <b>CIT II, Nagpur</b>	2002-03	Scrutiny December 2004	The assessee had received Rs. 64.54 lakh on account of commission and Rs. 0.50 lakh as income from other sources which were allowed as deduction though not admissible.	30.91
3	M/s Bardhaman Co-operative Milk Producers Union Ltd. <b>CIT, Bardhaman</b>	2003-04  2004-05	Scrutiny December 2005  February 2006	The assessee was a central cooperative milk producers union, which was not a primary co-operative society. Thus, it was not eligible for deduction. Deduction aggregating to Rs. 57.71 lakh was, however, incorrectly allowed.	27.09

(P: denotes potential tax)

**4.13.3** The Ministry has accepted (December 2007) audit observations in the cases at **Sl. no. 1 and 2** of **Table no. 4.4** above.

**Incorrect allowance of liabilities**

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

**4.14.1** Assessing officers allowed liabilities without actual payment by the due date or payments being made before the due date of filing of the return, resulting in short levy of tax of **Rs. 90.24 lakh** in **five cases** in Gujarat, Maharashtra, Rajasthan and West Bengal. **One case** is shown in **Table no. 4.5** below:

(Rs. in lakh)

**Table no. 4.5: Incorrect allowance of liability**

Sl. no.	Name of the assessee/CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	Shri Bharat S. Shah CIT 2, Mumbai	2001-02	Scrutiny March 2004	The bank interest and charges debited to the profit and loss account included Rs. 1.44 crore, which was due to exchange loss on foreign currency loan. This was only a notional loss, for which no payment had been made to the bank. The omission to disallow this inadmissible deduction resulted in overassessment of loss involving potential revenue impact of Rs. 50.39 lakh.	50.39(P)

(P: denotes potential tax)

**Irregular refunds**

**4.15** The Income Tax Act, 1961, provides that where, as a result of any order passed in assessment, appeal, revision or any other proceedings under the Act, refund of any amount becomes due to the assessee, the assessing officer may grant the refund or adjust or set off the refund against outstanding dues of the assessee for any assessment year.

**4.15.1** Audit noticed that assessing officers had allowed excess refund and interest in **four cases** in Andhra Pradesh, Gujarat, Haryana, Himachal Pradesh, and Karnataka involving revenue impact of **Rs. 84.14 lakh**. **One case** is shown in **Table no. 4.6** below.

(Rs. in lakh)

Table no. 4.6: Irregular refunds

Sl. no.	Name of the assessee/ CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	Shri Dinesh Kumar Singh CIT I, Bangalore	2005-06	Scrutiny March 2006	Excess interest on the refund of Rs. 68.68 lakh was allowed due to mistake in adoption of period of interest in excess by 14 months while calculating interest.	68.68

4.15.2 The Ministry has accepted (December 2007) the above observation.

Mistakes in adoption of correct figures

4.16 Assessing officers have to determine and assess the income correctly in scrutiny assessments. Accounts, claims, records and all documents are to be examined in scrutiny assessments. The Board have issued instructions to the assessing officers and their supervising officers to ensure that mistakes in assessments do not occur.

4.16.1 Audit noticed that assessing officers had adopted incorrect figures and committed mistakes in computation of total income resulting in short levy of tax aggregating to Rs. 57.44 lakh in five cases in Karnataka, Madhya Pradesh, Maharashtra and Tamil Nadu. One case is shown in Table no. 4.7 below:

(Rs. in lakh)

Table no. 4.7: Mistake in adoption of correct figure

Sl. no.	Name of the assessee / CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	Symbiosis International Centre for Education CIT III, Pune	2003-04	Scrutiny March 2006	The assessing officer had adopted assessed income as Rs. 1.12 crore against Rs. 1.62 crore, resulting in short levy of tax of Rs. 22.23 lakh.	22.23

Incorrect carry forward and set off of losses

4.17 The Income Tax Act, 1961, provides that where the net result of the computation under the head 'profits and gains of the business or profession' is a loss to the assessee and such loss, including depreciation, cannot be wholly set off against income under any other head of the relevant year, so much of the loss as has not been set off shall be carried forward to the following assessment year/years to be set off against the 'profits and gains of business or profession'.

4.17.1 No loss under the head 'business income' shall be carried forward and set off against business income of future years, unless the return of loss was filed on or before the due date.

4.17.2 Audit noticed short levy of tax aggregating to Rs. 56.55 lakh in three cases in Gujarat, Maharashtra and Rajasthan, as the assessing officers did not apply the above provisions correctly. One case is shown in Table no. 4.8 below:

(Rs. in lakh)

Table no. 4.8: Incorrect carry forward and set off of losses

Sl. no.	Name of the assessee/ CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	M/s Orgo Pharma Chemicals CIT 19, Mumbai	2003-04	Scrutiny March 2006	The assessing officer had allowed excess carry forward of business loss of Rs. 1.33 crore resulting in potential revenue impact of Rs. 48.71 lakh.	48.71 (P)

(P: denotes potential tax)

Incorrect allowance of depreciation

4.18 The Income Tax Act, 1961, provides that in computing the business income of an assessee, a deduction on account of depreciation on the fixed assets is admissible at the prescribed rates and on the written down value.

4.18.1 Assessing officers committed mistakes in allowing depreciation in seven cases, which resulted in short levy of tax aggregating to Rs. 34.47 lakh in Andhra Pradesh, Delhi, Gujarat, Punjab and Uttar Pradesh.

Non levy of surcharge

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

4.19.1 Assessing officers did not levy surcharge at the rate prescribed in the Finance Act resulting in short demand of Rs. 25.16 lakh in six cases in Jharkhand, Madhya Pradesh and Punjab.

Income not assessed

4.20 The Income Tax Act, 1961, provides that income tax shall be charged for every assessment year in respect of total income of the previous year of every person. The term "income" has an inclusive definition under the Act and includes capital gains, unexplained investment etc.

4.20.1 Audit noticed short levy of tax aggregating to Rs. 20.85 lakh in five cases in Bihar, Karnataka, Maharashtra, Punjab, Rajasthan and Tamil Nadu as the assessing officers had not assessed all income to tax.

Mistake in summary assessments

4.21 Consequent to the amendment of the Income Tax Act, 1961 with effect from 1 June 1999, no prima facie adjustment can be made by the assessing

officers in an assessment processed in a summary manner. However, benefits availed of by the assessee in summary assessments to which he is not entitled, can be withdrawn and mistakes rectified under the powers separately available to assessing officers under the Income Tax Act.

**4.21.1** During test check of income tax assessments, audit noticed mistakes in **43 cases** of summary assessments involving revenue impact of **Rs. 9.26 crore** in Bihar, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Maharashtra, Orissa, Punjab, Tamil Nadu, Uttar Pradesh, and West Bengal. **One case** is illustrated below:

**4.21.2** In Orissa, CIT, Cuttack charge, the assessment of a co-operative society, **Baaitarani Gramya Bank**, for assessment year 2002-03 was processed in summary manner in October 2002. Audit examination revealed that although as per the tax auditor's certificate, the brought forward loss was only Rs. 24.67 crore, the assessee had adopted a figure of Rs. 39.64 crore and had set off the current year's income of Rs. 14.40 lakh against the loss, carrying forward Rs. 39.49 crore as the net loss. This resulted in excess carry forward of loss of Rs. 14.96 crore involving potential revenue impact of Rs. 4.58 crore.

**4.21.3** Four cases are shown in **Table no. 4.9** below:

(Rs. in lakh)

Sl. no.	Name of the assessee/ CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	M/s Booz Allen & Hamilton (India) Ltd. <b>DIT, Mumbai</b>	2004-05	Summary February 2005	Excess set off of brought forward business loss of Rs. 1.22 crore.	66.30
2	M/s Kalahandi Anchalick Gramya Bank <b>CIT, Sambalpur</b>	2005-06	Summary September 2005	The assessee had debited a provision of Rs. 2.04 crore to the profit and loss account resulting in underassessment of income by a similar amount.	62.71 (P)
3	M/s D-2 International; <b>CIT XVIII, Kolkata</b>	2002-03	Summary February 2003	Excess claim of deduction of Rs. 60.94 lakh under section 80HHC.	24.71
4	M/s Ambika Cotton Ginning Factory <b>CIT III, Baroda</b>	2004-05	Summary December 2004	The assessee had not taken into account sales income of Rs. 52.74 lakh resulting in underassessment of income by a like amount.	20.67

**4.21.4** The Ministry has accepted (December 2007) the audit observation in the case at **Sl. no. 2** of **Table no. 4.9** above.



Cases of over assessment/overcharge

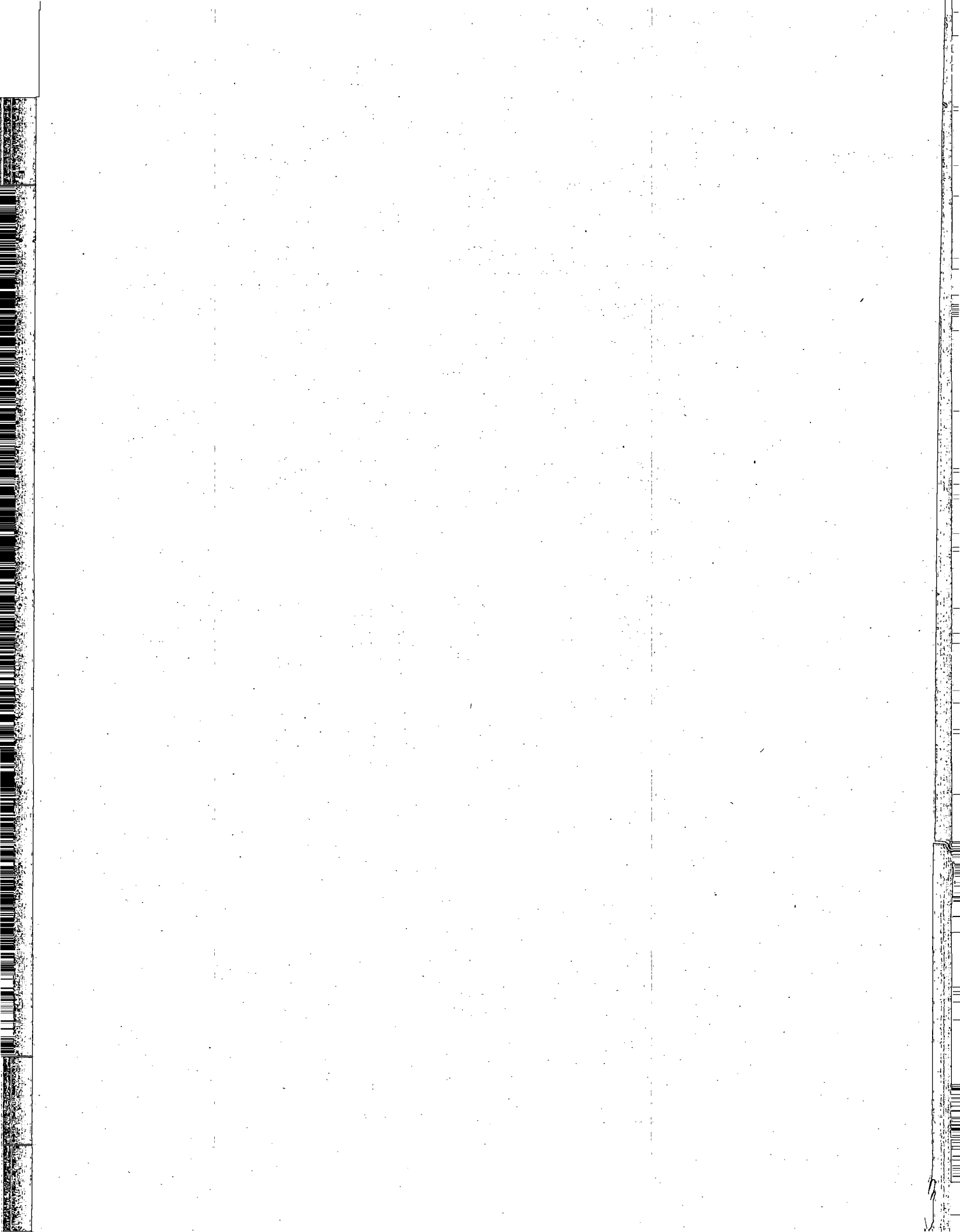
4.22 Audit noticed avoidable mistakes attributable to negligence on the part of the assessing officers resulting in overcharge of tax aggregating to Rs. 1.97 crore in 11 cases in Bihar, Gujarat, Jharkhand, Maharashtra, Rajasthan and West Bengal. Four cases are shown in Table no. 4.10 below:

(Rs. in lakh)

Table no. 4.10: Cases of overassessment

Sl. no.	Name of the assessee/ CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	Shri M. P. Ramachandran CIT I, Mumbai	1999-2000 2000-01	Scrutiny March 2004	Excess levy of interest of Rs. 43.15 lakh under section 234B.	43.15
2	M/s Panchdeep Consultant CIT IV, Ahmedabad	2002-03	Scrutiny September 2005	Excess levy of interest of Rs. 34.33 lakh under section 234A.	34.35
3	Shri H. H. Maharao Bhim Singh CIT, Kota	1998-99 1999-2000	Scrutiny March 2001	Excess levy of interest of Rs. 33.93 lakh under section 234A and 234B.	33.93
4	Shri Ketan B. Shah CIT I, Baroda	2000-01	Scrutiny March 2003	Excess levy of interest of Rs. 22.34 lakh under section 234B.	22.34

4.22.1 The Ministry has accepted (December 2007) all the audit observations in Table no. 4.10 above.



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## Chapter Summary

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

The number of wealth tax assessees reduced from 99,694 in 2005-06 to 57,772 in 2006-07 although no major amendments have been made in the Wealth Tax law.

(Paragraph 5.1)

Audit issued 77 observations (70 and seven observations relating to wealth tax and interest tax respectively) to the Ministry of Finance for comments, involving revenue impact of Rs. 34.05 crore (Rs. 2.14 crore in wealth tax and Rs. 31.91 crore in interest tax), highlighting various irregularities, omissions and mistakes. The Ministry had accepted 25 observations (22 in wealth tax and three in interest tax) involving revenue impact of Rs. 4.66 crore (Rs. 34.48 lakh in wealth tax and Rs. 4.31 crore in interest tax) till 7 December 2007.

(Paragraphs 5.4, 5.5, 5.12 and 5.13)

The assessing officers did not

- ♦ correlate income tax assessment records with the records of wealth tax assessments resulting in non/short levy of interest aggregating to Rs. 1.82 crore in 52 cases.

(Paragraph 5.6.3)

- ♦ levy interest correctly for various defaults resulting in short levy of interest of Rs. 8.87 lakh in four cases.

(Paragraph 5.7.3)

- ♦ include taxable assets in net wealth of the assessee resulting in short levy of tax of Rs. 7.24 lakh in five cases.

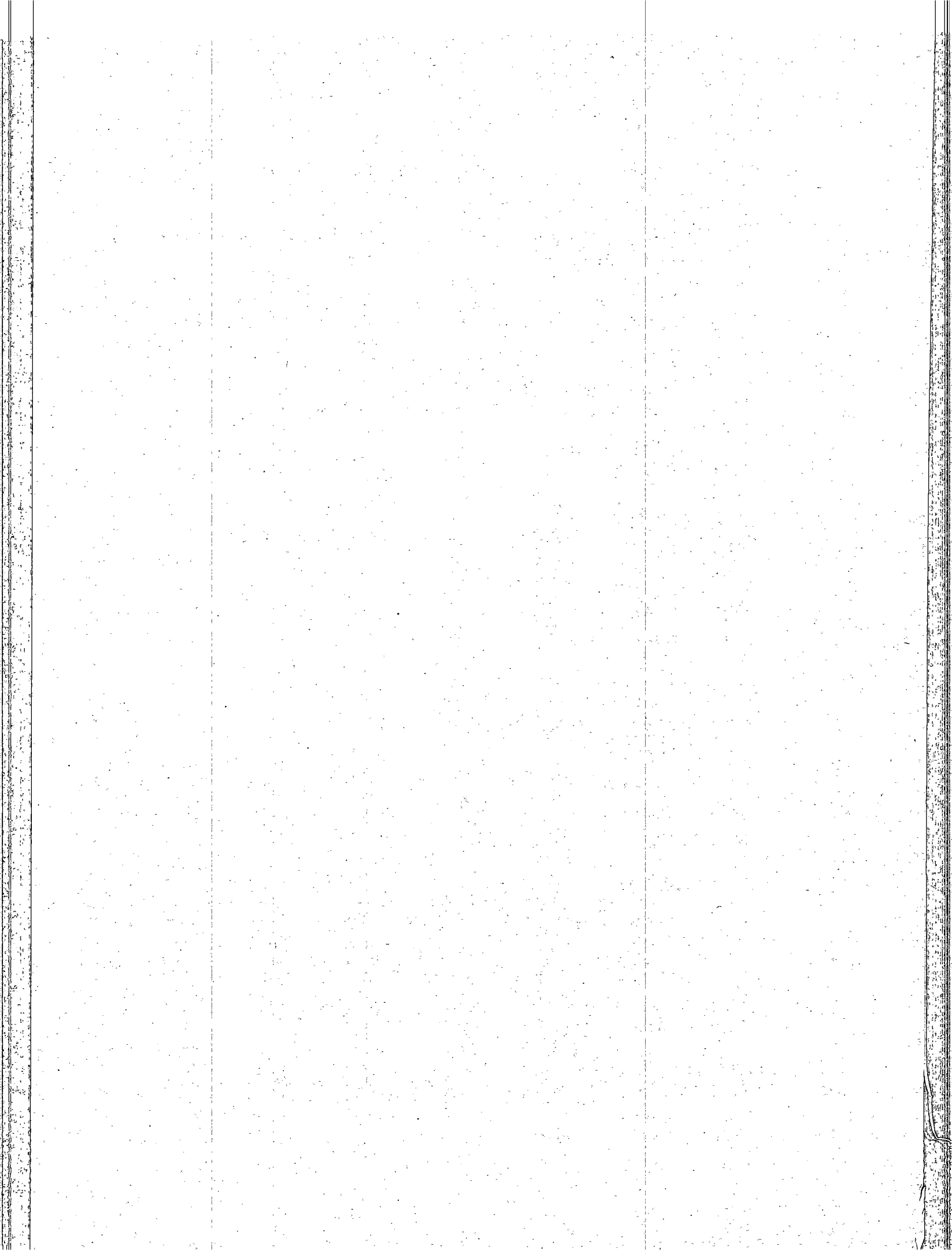
(Paragraph 5.8.2)

- ♦ ensure correct valuation of assets and inclusion of taxable assets in the net wealth resulting in short levy of wealth tax of Rs. 4.65 lakh in two cases.

(Paragraph 5.9.2)

- ♦ levy interest tax of Rs. 31.91 crore correctly in seven cases.

(Paragraph 5.11)



## CHAPTER V: OTHER DIRECT TAXES

### A-Wealth tax

- Number of assesses** **5.1** The number of wealth tax assesses as per the records of the Income tax Department as on 31 March 2006 and 2007 were 99,694 and 57,772 respectively. There has been a sharp decline (42 percent) in the number of wealth tax assesses as on 31 March 2007 when compared to the figure as on 31 March 2006. The Ministry needs to investigate the reasons for the sharp decline in the number of assesses.
- Receipts from wealth tax** **5.2** During 2006-07, wealth tax receipts constituted 0.1 percent of the direct tax collection. Collection of wealth tax in 2006-07 was Rs. 240.33 crore as compared to Rs. 250.35 crore in 2005-06, a reduction of Rs. 10.02 crore. **Table no. 2.3** of chapter II of this report has the details.
- Status of assessments** **5.3** **Table no. 2.13** of chapter II of this report contains particulars of wealth tax assessments due for disposal, completed and pending. Details of demands remaining uncollected during the last five years are given in **Table no. 2.12** of chapter II of this report.
- Results of audit** **5.4** Audit issued 70 draft paragraphs involving undercharge of wealth tax of Rs. 2.14 crore between May 2007 and October 2007 to the Ministry of Finance for their comments. Internal audit of the department had seen only four of these cases and the mistakes pointed out were not noticed by it.
- 5.4.1** Out of the 70 draft paragraphs issued to the Ministry, 62 draft paragraphs involving revenue impact of Rs. 2.03 crore have been included in this chapter. Each paragraph indicates a particular category of mistake and starts with a suitable preamble followed by combined/consolidated revenue impact of all observations of similar nature. Cases with money value of Rs. five lakh or more have been illustrated in the body of the chapter while those of Rs. three lakh or more, but less than Rs. five lakh each are given in the table under the related category.
- Status of the Ministry's replies** **5.5** Out of the 62 cases included in this chapter, the Ministry of Finance has accepted audit observations in 22 cases involving aggregate revenue impact of Rs. 34.48 lakh. In one case, the Ministry has not accepted the audit observation. In the remaining cases, replies have not been received up to 7 December, 2007. Replies of the Ministry wherever received, have been examined and suitably incorporated.

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

## 5.6 Non correlation of assessment records

**5.6.1** The Board have issued instructions (November 1973, April 1979 and September 1984) to assessing officers for ensuring proper coordination amongst assessment records pertaining to different direct taxes and for simultaneous disposal of income tax and wealth tax assessment cases so that there is no evasion of tax.

**5.6.2** The net wealth chargeable to tax comprises certain assets specified<sup>1</sup> under section 2(ea) of the Wealth Tax Act subject to adjustment of any debt owed by the assessee in relation to any of the specified assets on the valuation date.

**5.6.3** Non correlation of income tax assessment records with other direct taxes resulted in non levy of wealth tax aggregating to **Rs. 1.82 crore** in **52 cases** in Andhra Pradesh, Delhi, Gujarat, Goa, Karnataka, Kerala, Maharashtra, Tamil Nadu, Union Territory Chandigarh and West Bengal charges. **Five cases** are illustrated below:

**5.6.4** In Maharashtra, CIT I, Mumbai charge, the income tax assessments of a company, **M/s Highrise Properties Pvt. Ltd.**, for the assessment years 1998-99, 1999-2000 and 2001-02, were completed after scrutiny in November 2003, November 2003 and February 2004, determining an income of Rs. 29.98 lakh, Rs. 80.78 lakh and Rs. 75.46 lakh respectively. Audit examination revealed that the assessee had received a rental income of Rs. 40.20 lakh, Rs. 1.08 crore and Rs. 1.07 crore during the previous years relevant to these assessment years from commercial properties, which was chargeable to wealth tax. However, neither did the assessee file its return of net wealth nor did the department initiate any wealth tax proceedings resulting in non levy of wealth tax aggregating to Rs. 60.61 lakh (including interest).

**5.6.5** In Maharashtra, CIT Central 1, Mumbai charge, the income tax assessment of a company, **M/s Rama Chemical India Pvt. Ltd.**, for the assessment year 2001-02 was completed after scrutiny in March 2004. Audit examination revealed that the assessee had received rental income of Rs. 77.85 lakh and security deposit of Rs. 7.81 crore during the previous year relevant to the assessment year 2001-02. However, the assessee was not assessed to wealth tax under the Wealth Tax

<sup>1</sup> Specified assets include following items :

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



Act. This resulted in underassessment of wealth of Rs. 20.47 crore with consequent short levy of wealth tax of Rs. 30.44 lakh (including interest).

5.6.6 In Maharashtra, CIT 7, Mumbai charge, the income tax assessment of a company, M/s Rasiklal & Co. Pvt. Ltd., for the assessment years 1999-2000 and 2000-01 were completed after scrutiny in January 2005 determining an income of Rs. 7.59 lakh and Rs. 18.38 lakh respectively. Audit examination of the income tax assessment records revealed that the assessee had received income on account of warehousing receipts of Rs. 21.77 lakh and Rs. 28.02 lakh respectively which was assessed as income from house property. The assessee had also received interest free security deposit of Rs. 23.50 lakh and Rs. 22.00 lakh in connection with this property for these assessment years. However, neither did the assessee file its return of net wealth nor did the department initiate any wealth tax proceedings, resulting in underassessment of wealth aggregating to Rs. 5.89 crore involving short levy of wealth tax of Rs. 10.35 lakh (including interest).

5.6.7 In West Bengal, CIT I, Kolkata charge, the income tax assessment of a company, M/s Marshall Sons and Company (India) Ltd., for the assessment year 2003-04 was completed after scrutiny in March 2006. Audit examination revealed that the assessee had rental income of Rs. 60 lakh from factory building leased out for commercial purposes. As the building was used for commercial purposes, the annual rent received/receivable was subject to wealth tax under section 2(ea) of the Wealth Tax Act, 1957 and its value should have been determined in accordance with the provision of schedule III, Part B of the Act. The assessee was, therefore, liable to pay wealth tax for the assessment year 2003-04. However, neither did the assessee file any return of wealth nor did the department initiate wealth tax proceedings, resulting in underassessment of wealth aggregating to Rs. 5.23 crore, involving non levy of wealth tax of Rs. 6.85 lakh (including interest).

5.6.8 In Tamil Nadu, CIT III, Chennai charge, the income tax assessment of a company, M/s RKKR Steels Ltd., for the assessment years 2001-02 and 2002-03, was completed in summary/scrutiny manner in December 2004 and March 2005 respectively, determining 'nil' income. Audit examination revealed that the assessee owned free hold land valued at Rs. 2.68 crore. The assessee was, therefore, liable to pay wealth tax for these assessment years. However, neither did the assessee file any return of wealth nor did the department initiate wealth tax proceedings. This resulted in underassessment of wealth aggregating to Rs. 2.53 crore, involving non levy of wealth tax of Rs. 5.06 lakh.

5.6.9 Five cases are shown in Table no. 5.3 below:

(Rs. in lakh)

Table no. 5.3: Non correlation of assessment records

Sl. no.	Name of the assessee/CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	M/s Jute & Export Ltd. CIT I, Kolkata	2003-04	Scrutiny March 2006	The assessee had rental income of Rs. 35.35 lakh from factory building and godown let out for commercial purposes and it was assessed under the head "Income from house property". The annual rental income so received was subject to wealth tax under section 2(ea) of the Wealth Tax Act, 1957 and its value should have been determined in accordance with the provision of schedule III of the Act, which was not done.	4.33
2	M/s Sri Vasavi Hotels and Properties (P) Ltd., CIT III, Hyderabad	2001-02 2002-03	Scrutiny September 2004	The assessee company was in possession of gross wealth of Rs. 1.34 crore and Rs. 1.35 crore for assessment years 2001-02 and 2002-03 respectively in the form of vacant land which attracted the provisions of the Wealth Tax Act. However, this was not offered for wealth tax.	4.18
3	M/s Crown Timbers & Foods (P) Ltd CIT III, Kolkata	2003-04 2004-05	Summary March 2003 March 2004	The assessee had rental income of Rs. 18.94 lakh and Rs. 19.22 lakh during the assessment years 2003-04 and 2004-05 respectively. The annual rental income received was subject to wealth tax under section 2(ea) of the Wealth Tax Act, 1957 and its value should have been determined in accordance with the provision of schedule III of the Act. This was not done.	3.85
4	Shri A.V. Joy CIT, Ernakulam	2002-03 2003-04	Summary January 2005 March 2006	The assessee owned urban land valued at Rs. 1.40 crore for the assessment years 2002-03 and 2003-04, which was not offered for wealth tax.	3.40
5	M/s Amigo Securities (P) Ltd. CIT, Baroda	2001-02 2002-03	Summary October 2002 March 2003	The assessee held commercial land valued at Rs. 1.65 crore and Rs. 1.73 crore for assessment years 2001-02 and 2002-03 respectively, which was not in the nature of stock in trade. Thus, it attracted the provisions of the Wealth Tax Act, but was not offered for wealth tax.	3.07

**5.6.10** The Ministry has accepted (October 2007) audit observations in the cases at **Sl. no. 2 and 3** of **Table no. 5.3** above.

## 5.7 Mistakes in levy of interest

### Non/short levy of interest

**5.7.1** The Wealth Tax Act, 1957, provides that where the return of net wealth for any assessment year is furnished after the specified due date or is not furnished, the assessee shall be liable to pay simple interest at the rate of one percent (two percent upto May 1999, one and one-half percent upto May 2001 and one and one-fourth percent upto 7 September 2003) for every month or part of the month from the date immediately following the due date to the date of filing the return,

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

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

5.7.3 Assessing officers did not comply with the above provisions, or applied them incorrectly, resulting in short levy of interest aggregating Rs. 8.87 lakh in four cases in Bihar, Delhi and West Bengal charges. Two cases are shown in Table no. 5.4 below:

(Rs. in lakh)

Table no. 5.4: Mistakes in levy of interest

Sl. no.	Name of the assessee /CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	Shri S.K. Bansal CIT Central, Patna	2000-01 2001-02	Best judgement March 2005	Aggregate interest of Rs. 4.14 lakh for non filing of returns was not levied.	4.14
2	M/s Kedar Nath Fatepuria CIT II, Kolkata	2000-01  2001-02	Scrutiny February 2005  March 2005	Aggregate short levy of interest of Rs. 3.60 lakh for delay in submission of returns.	3.60

5.7.4 The Ministry has accepted (December 2007) the audit observation in the case at Sl. no. 2 of Table no. 5.4 above.

#### 5.8 Wealth escaping assessment

Non inclusion of taxable assets in the net wealth

5.8.1 The Wealth Tax Act, 1957, provides that from assessment year 1993-94, 'assets' will, inter alia, include guest house and all residential buildings, urban land, motor cars other than those used in the business of running them on hire or as stock in trade.

5.8.2 Assessing officers did not include such taxable assets in five cases in Kerala, Maharashtra and Tamil Nadu charges resulting in short levy of tax aggregating to Rs. 7.24 lakh.

#### 5.9 Mistakes in valuation of assets

5.9.1 The Wealth Tax Act, 1957, provides that the value of any asset other than cash is determined on the valuation date in the manner laid down in schedule III to the Act.

5.9.2 Assessing officers did not adopt the correct value of assets resulting in under valuation of Rs. 2.93 crore involving short levy of wealth tax of Rs. 4.65 lakh (including interest) in two cases in West Bengal charge. One case is shown in Table no. 5.5 below:

(Rs. in lakh)

Table no. 5.5: Mistake in valuation of assets

Sl. no.	Name of the assessee/CIT charge	Assessment Year	Type/ month of assessment	Nature of mistake	Revenue impact
1	M/s Martin Burn Ltd. CIT II Kolkata	1997-98*	Scrutiny March 2005	Audit examination revealed that in addition to rent of Rs. 50.28 lakh, the tenants had also borne municipal taxes of Rs. 20.96 lakh which were not added to the rental income for arriving at the capitalised value of the building under Rule 5 Explanation 1(b)(i) of part B schedule III of the Wealth Tax Act, resulting in underassessment of wealth involving revenue impact of Rs. 4.05 lakh.	4.05

### B-Interest Tax

#### General

5.10 The Finance Act, 2000 abolished the Interest Tax Act, 1974 with effect from 1 April 2000. Interest tax is, therefore, not chargeable in respect of any interest accruing or arising after 31 March 2000. No budget estimate for revenues from interest tax have been made from the financial year 2000-01 onwards. However, pending interest tax assessments are required to be completed without delay.

#### Results of audit

5.11 Audit issued seven draft paragraphs involving revenue impact of Rs. 31.91 crore from May 2007 to October 2007 to the Ministry of Finance for comments. Internal audit of the department had not seen these cases.

5.12 All the seven draft paragraphs issued to Ministry have been included in this chapter. Each paragraph indicates a particular category of mistake and starts with a suitable preamble followed by combined/consolidated revenue impact of all observations of a similar nature. Cases with money value of more than Rs. 10 lakh have been illustrated in the body of the chapter.

#### Status of replies received from the Ministry of Finance

5.13 Out of seven cases included in this chapter, the Ministry of Finance has accepted audit observations in three cases involving revenue impact of Rs. 4.31 crore. In the remaining cases, replies have not been received (till 7 December 2007). Replies of the Ministry wherever received, have been examined and suitably incorporated.

\* Scrutiny assessment completed in March 2005.

#### 5.14 Non correlation of records

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

**5.14.2** The Board clarified in March 1996 that 'finance' charges accruing or arising to hire purchase finance companies are in the nature of interest chargeable to interest tax. The Board had further clarified in 1998 that if the transactions are in substance in the nature of financing transactions, hire charges should be treated as interest income subject to interest tax.

**5.14.3** Assessing officers did not comply with the instructions of the Board resulting in non levy of tax of **Rs. 26.53 crore** in **three cases** in Delhi and Tamil Nadu, as discussed below:

**5.14.4** In Delhi, CIT VI charge, the income tax assessments of a company, **M/s Motor General Finance Ltd.**, for the assessment years 1995-96, 1996-97 and 1999-2000, were completed after scrutiny in March 2002, determining an income of Rs. 73.43 crore, Rs. 87.74 crore and Rs. 6.52 crore respectively. Audit examination revealed that the assessee had earned interest income of Rs. 169.82 crore in these financial years, on account of hire-purchase charges and bill discounting charges, but had not filed interest tax returns for these years. This resulted in non levy of interest tax of Rs. 22.64 crore (including interest).

**5.14.5** In Tamil Nadu, CIT III, Chennai charge, the income tax assessments of a company, **M/s Park Town Benefit Fund Ltd.**, for the assessment years 1999-2000 and 2000-01 were completed after scrutiny in March 2005 determining an income of Rs. 3.51 crore and Rs. 19.61 lakh respectively. Audit examination revealed that the assessee company had received interest on loans and advances of Rs. 35.84 crore and Rs. 32.37 crore respectively. Although the assessee company was liable to file the interest tax return and pay interest tax on the interest income, neither did it file its interest tax return for the two assessment years, nor did the department initiate any action in this regard. This resulted in underassessment of chargeable interest of Rs. 68.21 crore and non levy of interest tax of Rs. 3.89 crore, including interest for non filing of interest tax return and non payment of advance tax.

**5.14.6** The Ministry has accepted (December 2007) the above observation.

#### 5.15 Mistakes in assessment of chargeable interest

Mistakes in assessment/underassessment of chargeable interest

**5.15.1** The Interest Tax Act, 1974, provides that credit institutions including banking company/public financial institution were chargeable to interest tax on their interest income from the assessment year 1992-93 till the assessment year 2000-01. Interest income chargeable to tax included interest on loans and

advances, commitment charges on unutilised portion of any credit sanctioned and discount on promissory notes and bills of exchange.

**5.15.2** Assessing officers did not apply the above provisions correctly resulting in short levy of interest tax of **Rs. 4.96 crore** in **two cases** in Maharashtra as discussed below:

**5.15.3** In Maharashtra, CIT 3, Mumbai charge, the interest tax assessments of a banking company, **M/s ICICI Bank Ltd.**, for the assessment years 1999-00 and 2000-01 were completed after scrutiny in March 2002 and March 2003 respectively. Audit examination revealed that while computing the chargeable interest income, the assessee had reduced the amount of interest tax of Rs. 177.19 crore (Rs. 85.98 crore in assessment year 1999-2000 and Rs. 91.21 crore in assessment year 2000-01) from the interest that accrued to it and this was allowed by the assessing officer. Since as per the provisions of the Interest Tax Act, no deduction other than interest which is established to have become bad is allowable, the said interest tax element should have been added back. Omission to do so resulted in short levy of interest tax of Rs. 4.85 crore (including interest).

**5.15.4** In Maharashtra, CIT 10, Mumbai charge, the interest tax assessment of a company, **M/s Infrastructure Leasing & Financial Services Ltd.**, for the assessment year 2000-01 was completed under section 8(2) of the Interest Tax Act in March 2003, determining chargeable interest income at Rs. 249.03 crore. Subsequently, the assessment was revised in September 2003 determining a chargeable interest of Rs. 127.86 crore. Audit examination revealed that the assessee had recovered "delayed payment charges" of Rs. 5.72 crore in respect of leasing and financial transactions. As these charges were related to finance charges, these were required to be included in chargeable interest income. The omission to do so resulted in underassessment of chargeable interest income of Rs. 5.72 crore involving short levy of interest tax of Rs. 11.43 lakh.

#### **5.16 Excess grant of interest on refund of interest tax**

**5.16.1** Section 21 of the Interest Tax Act, 1974 read with section 244A of the Income Tax Act, 1961, provides that where refund is due to the assessee, the assessee shall be entitled to receive simple interest thereon at the prescribed rate for every month or part of the month comprised in the period from the 1 April of the assessment year to the date on which the refund is granted.

**5.16.2** The assessing officer did not apply the above provision correctly resulting in excess grant of interest of **Rs. 38.60 lakh** in **one case** as discussed below:

**5.16.3** In Maharashtra, CIT 1, Mumbai charge, the interest tax assessment of a company, **M/s Life Insurance Corporation of India**, for the assessment year 1998-99 was completed in November 2004 determining chargeable interest of Rs. 1606.50 crore after allowing refund of Rs. 5.29 crore of interest tax while giving effect to ITAT's order. The said order was rectified in January 2005 under

section 17 of the Interest Tax Act in order to allow credit for regular payment of tax, which was not allowed earlier. Audit examination revealed that while computing the interest payable on the refund for the period from 1 April 1998 to 31 January 2005, the assessing officer allowed an interest of Rs. 72.61 crore as against the admissible interest of Rs. 72.22 crore. The incorrect allowance resulted in excess payment of interest of Rs. 38.60 lakh to the assessee.

5.16.4 The Ministry has accepted (December 2007) the above observation.

5.17 Mistakes in levy of interest


Non/short levy  
of interest

5.17.1 The Interest Tax Act, 1974, provides that interest for default and deficiency in interest tax payments in advance, delays in paying demand raised and defaults/delays in filing of return are leviable in the same manner and at the same rates as for defaults of a similar nature under the Income Tax Act.

5.17.2 The assessing officer did not comply with this provision resulting in non levy of interest of Rs. 3.07 lakh in one case in Tamil Nadu.

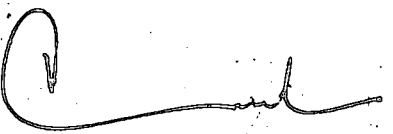
5.17.3 The Ministry has accepted (December 2007) the above observation.

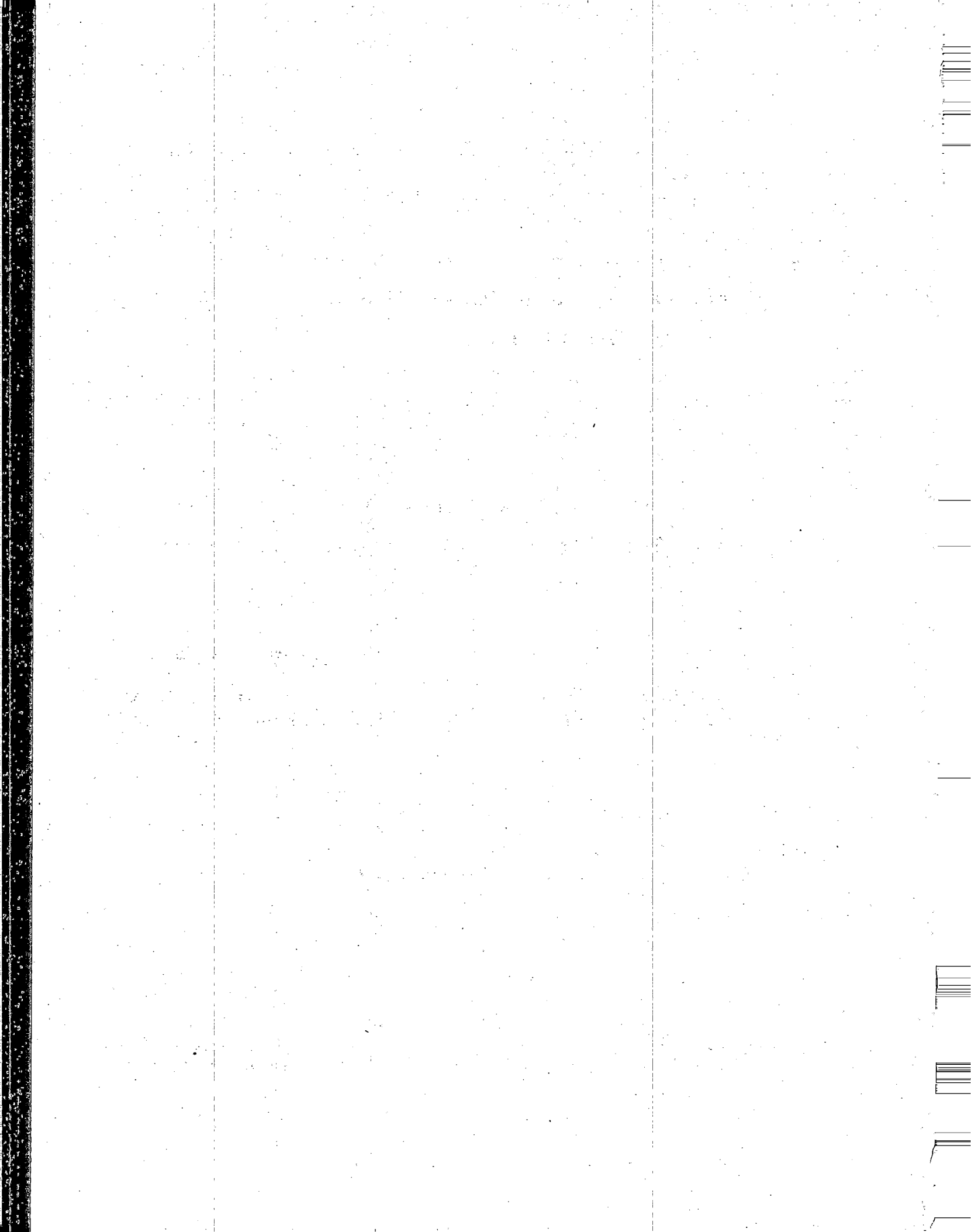
New Delhi  
Dated: 1 January 2008

  
(SUDHA KRISHNAN)  
Principal Director of Receipt Audit  
(Direct Taxes)

Countersigned

New Delhi  
Dated: 1 January 2008

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





# Appendices

Appendix

## Appendix 1

## Chapter 1: Introduction

(Referred to in Paragraph 1.6.1)

## Recoveries made in respect of DPs issued during 2006-07

(Rs. in lakh)

Sl. no.	Name of assessee	CIT charge	Assessment year(s)	Category of mistake	Tax effect
1	The Oriental Insurance Co. Ltd.	Delhi-VI	1998-99	Incorrect carry forward and set-off of tax credit	674.70
2	G.T.N. Textiles Ltd.	Kochi	2003-04	Incorrect computation of business income	73.48
3	Star Diamond Co (Belgium) NV	DIT(IT) Mumbai	2003-04	Irregular set-off of losses	65.17
4	Board of Secondary Education Orissa	Cuttack	2002-03 2003-04	Non-levy of interest for delay in filing of return	32.59
5	Strides Acrolab Ltd.	Mumbai-X	2003-04	Incorrect allowance of deduction under section 80HHC	27.29
6	Karnataka Food and Civil Supplies Corporation Ltd.	Bangalore-I	1997-98	Mistake in computation of income and tax	27.00
7	USV Ltd.	Central-III, Mumbai	2003-04	Incorrect allowance of deduction towards export profits	26.91
8	M/s USV Ltd.	Central-III, Mumbai	2003-04	Incorrect payment of interest on irregular refunds	26.32
9	Shri Jagdeep Singh Chandail	Panchkula	2002-03	Income not assessed	23.30
10	D.B. Bandodkar and Sons Ltd.	Goa	2004-05	Mistake in computation of income under special provisions	22.59
11	NHPC Ltd.	Faridabad	2002-03	Irregular payment of interest on refunds	20.01
12	Tata TD Asset Management Pvt. Ltd.	Mumbai-II	2003-04	Incorrect allowance of expenditure	12.83
13	Heaven Diamond Pvt. Ltd.	Mumbai-IX	2000-01	Mistakes in assessment while giving effect to appellate orders	12.34
14	Escorts Ltd.	Central-II, Delhi	2003-04	Short levy of interest under section 234B	10.14
15	Jind Co-operative Sugar Mills Ltd.	Hisar	1995-96	Excess or irregular refunds	9.26
16	Raman Boards Ltd.	Mysore	2000-01 to 2001-02	Irregular exemptions and excess relief given	8.55
17	Meenakshy Lucky Centre	Kottayam	2000-01	Excess refund	5.97
18	Shri Ravi Shastri	Mumbai-XVIII	2002-03	Irregular exemption under section 80RR	5.47
19	M/s Sparrow Electronics Ltd.	Goa	2002-03	Non levy of tax under special provisions	5.29
20	Smt. A Sridevi	Chennai-IV	1998-99	Wealth not assessed	3.85
21	The Kangra Central Co-operative Bank Ltd.	Shimla	1997-98	Excess payment of interest on refund	3.40

Sl. no.	Name of assessee	CIT charge	Assessment year(s)	Category of mistake	Tax effect
22	Udaya TV Ltd.	Chennai-IV	2002-03, 2003-04	Wealth not assessed	2.43
23	Pritam Chand Stokes	Shimla	2002-03 to 2003-04	Income not assessed	2.22
24	Ms Rachna Dogra	Shimla	2003-04	Mistakes in computation of business income	2.14
25	Shri Raghunath Singh	Shimla	2003-04	Irregular allowance of depreciation	2.06
26	Shri. D. Sachithanatham	Coimbatore-III	2001-02	Wealth not assessed	1.73
27	Wipro Ltd.	Central, Bangalore	2003-04	Mistake in computation of wealth tax	1.47
28	Shri James G Oommen	Trivandrum	1999-2000 to 2001-02	Wealth not assessed	1.02
29	Haryana Sheet Glass Ltd.	Central-III, Delhi	2001-02	Wealth not assessed	0.69
30	Khandwala Securities Ltd.	Mumbai-IV	2002-03 to 2005-06	Wealth not assessed	0.61
31	Shri M. Babanna	Bangalore-IV	2003-04 to 2004-05	Wealth escaping assessment	0.39
Total					1111.22

**Appendix 2**  
(Referred to in Paragraph 1.8)

**Sampling design adopted in direct-tax audit**

Two-stage stratified sampling technique has been adopted in each state:

**Selection of first stage units (FSU):**

Population for selecting a sample: All the auditee units (assessing officers) in Maharashtra.

The population is stratified into **three strata based** on predefined audit risk

- (1) **High-risk stratum:** 100% selection
- (2) **Medium-risk stratum:** 50% units selected by **SRSWOR<sup>1</sup>**.
- (3) **Low-risk stratum:** 33% units selected by **SRSWOR**.

**Selection of second stage units (SSU):**

Population from which the sample is selected: All the assessment records of the assessing officer.

The assessment records (or the assessed tax returns) are further stratified into **six sub-strata** as per predefined audit risk pertaining to the assessment year 2005-06.

- (1) **Scrutiny cases:** 100% audit
- (2) **Top 'Audit Database'<sup>2</sup> cases:** 100% audit
- (3) **Top 25 cases in the unit in terms of turnover/ gross income level:**  
100% audit
- (4) **Cases giving effect to Appeal order:** an optimum sample selected by **CSS<sup>3</sup>**
- (5) **Refund cases subject to a limit:** an optimum sample selected by **CSS**
- (6) **Remaining cases:** an optimum sample selected by **CSS**

**Optimum sample sizes** of assessment records independently for the relevant sub-stratum is derived based on Cochran's sample size formula with appropriate audit risk, 2% margin of error and 2% expected audit objections.

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<sup>1</sup> SRSWOR: Simple Random Sampling Without Replacement

<sup>2</sup> An independent database prepared by audit of 'high risk' assesseees

<sup>3</sup> CSS: Circular Systematic Sampling

**Appendix 3**  
(Referred to in Paragraph 1.8)

Estimation Procedure :

Let  $y_{kij}$  = Observed (audited) value of the character  $y$  for the  $j^{\text{th}}$  Assessment Records (Tax-returns) of the  $l^{\text{th}}$  Second Stage Stratum (SSS) of the  $i^{\text{th}}$  Assessing Officer in the  $k^{\text{th}}$  First Stage Stratum (FSS).

$\hat{Y}$  = Estimate (Extrapolated value) of population total  $Y$

$$\hat{Y} = \sum_{k=1}^3 \frac{N_k}{n_k} \sum_{i=1}^{n_k} \sum_{l=1}^6 \frac{N_{ikl}}{n_{ikl}} \sum_{j=1}^{n_{ikl}} y_{kij}$$

Where  $N_k$  = Total number of Assessing Officers (FSUs) in the  $k^{\text{th}}$  FSS.

$n_k$  = Number of Assessing Officers (FSUs) audited in the  $k^{\text{th}}$  FSS.

$N_{ikl}$  = Total number of Assessment Records (SSUs) in the  $i^{\text{th}}$  FSU of  $k^{\text{th}}$  FSS  
in the  $l^{\text{th}}$  SSS.

$n_{ikl}$  = Number of Assessment Records (SSUs) audited in the  $i^{\text{th}}$  FSU of  $k^{\text{th}}$  FSS  
in the  $l^{\text{th}}$  SSS.

**Appendix 4**  
(Referred to in Paragraph 1.8.2)

Table no : 1

State: Maharashtra		Assessments completed during 2005-06			Audit Year: 2006-07	
FSU <sup>1</sup>	SSU <sup>2</sup>	Population size	Sample size	Revenue effect in the sample (Rs.)	No. of assessments with errors in sample	Estimated percentage of audit observations
H <sup>3</sup>	1	13800	12638	45756030363	954	7.58
M <sup>4</sup>	1	3909	3684	1415837591	357	9.98
L <sup>5</sup>	1	12103	11621	1620466366	596	5.21
Scrutiny		29812	27943	48792334320	1907	7
H	2	373	351	133303	2	0.55
M	2	24	23	140662	2	8.7
L	2	27	27	0	0	0
Non-Scrutiny	Audit database cases <sup>6</sup>	424	401	273965	4	1
H	3	2186	1955	3030519109	28	1.45
M	3	1524	1392	22468855	32	2.62
L	3	3957	3765	10687943	49	1.31
Non-Scrutiny	Top25 <sup>7</sup>	7667	7112	3063675907	109	2
H	4	917	646	97672779	8	1.1
M	4	221	200	0	0	0
L	4	456	414	0	0	0
Non-Scrutiny	Appeal <sup>8</sup>	1594	1260	97672779	8	1
H	5	2388	2154	22919907	22	1.08
M	5	962	921	13687249	13	1.41
L	5	1609	1572	53043783	29	1.82
H	5.1	2393	283	11097317	8	3.74
M	5.1	1322	245	658665	1	0.03
L	5.1	7261	999	4521945	13	0.76
Non-Scrutiny	Refund <sup>9</sup>	15935	6174	105928866	86	1
H	6	25932	11390	285441864	53	0.42
M	6	29121	7622	42030471	61	0.79
L	6	991953	12683	87362994	104	1.35
Non-Scrutiny	Remaining	1047006	31695	414835329	218	1
Total		1102438	74585	52474721166	2332	1

<sup>1</sup> First stage units<sup>2</sup> Second stage units<sup>3</sup> High-risk stratum<sup>4</sup> Medium-risk stratum<sup>5</sup> Low-risk stratum<sup>6</sup> An independent database prepared by audit of 'high risk' assesseees<sup>7</sup> Top 25 cases in the unit in terms of turnover/gross income level<sup>8</sup> Cases giving effect to Appeal order<sup>9</sup> Refund cases subject to a limit

Table no : 2

State: Delhi		Assessments completed during 2005-06			Audit Year : 2006-07	
FSU <sup>1</sup>	SSU <sup>2</sup>	Population size	Sample size	Revenue effect in the sample (Rs. lakh)	No. of assessments with errors in sample	Estimated percentage of audit observations
H <sup>3</sup>	1	9127	7478	230835.5	1018	14
M <sup>4</sup>	1	751	688	174.47	36	6
L <sup>5</sup>	1	1266	1016	489.9	59	6
<b>Scrutiny</b>		11144	9182	231499.9	1113	12
H	2	77	49	0	0	0
M	2	0	0	0	0	0
L	2	0	0	0	0	0
<b>Non-Scrutiny</b>	Audit database cases <sup>6</sup>	77	49	0	0	0
H	3	2700	1440	1185.03	25	3
M	3	300	300	5.59	11	4
L	3	925	925	378.69	53	6
<b>Non-Scrutiny</b>	Top25 <sup>7</sup>	3925	2665	1569.31	89	3
H	4	1633	760	53.61	8	1
M	4	40	26	0.71	1	5
L	4	25	25	0	0	0
<b>Non-Scrutiny</b>	Appeal <sup>8</sup>	1698	811	54.32	9	1
H	5	5231	3163	565.84	26	1
M	5	555	549	1.61	13	2
L	5	1270	1270	12.82	20	2
<b>Non-Scrutiny</b>	Refund <sup>9</sup>	7056	4982	580.27	59	1
H	6	77038	12134	6758.86	143	1
M	6	120735	1725	33.6	58	2
L	6	323911	3138	220.54	301	11
<b>Non-Scrutiny</b>	Remaining	521684	16997	7013	502	7
<b>Total</b>		545584	34686	240716.8	1772	7

<sup>1</sup> First stage units<sup>2</sup> Second stage units<sup>3</sup> High-risk stratum<sup>4</sup> Medium-risk stratum<sup>5</sup> Low-risk stratum<sup>6</sup> An independent database prepared by audit of 'high risk' assesseees<sup>7</sup> Top 25 cases in the unit in terms of turnover/gross income level<sup>8</sup> Cases giving effect to Appeal order<sup>9</sup> Refund cases subject to a limit



**Appendix 5**  
(Referred to in Paragraph 1.15)

STATEWISE DETAILS OF RECORDS NOT PRODUCED TO AUDIT IN EARLIER YEARS AND REQUISITIONED AGAIN IN 2006-07				
Sl. no.	State	Records requisitioned again	Records not produced	Percent
1	Andhra Pradesh	4016	3164	78.78
2	Assam	16	16	100
3	Chhattisgarh	294	279	94.90
4	Jharkhand	125	32	25.60
5	Gujarat	4799	2851	59.41
6	Haryana	691	240	34.73
7	Himachal Pradesh	917	74	8.07
8	Jammu & Kashmir	385	89	23.12
9	Karnataka	11160	8927	79.99
10	Kerala	2637	632	23.97
11	Madhya Pradesh	2000	1893	94.65
12	Orissa	1325	1200	90.57
13	Punjab	5091	4055	79.65
14	UT Chandigarh	1370	1296	94.60
15	Rajasthan	3021	1701	56.31
16	Tamil Nadu	5210	2710	52.02
17	Delhi	16830	4724	28.07
18	Maharashtra	5781	3241	56.06
19	West Bengal	3386	326	9.63
Total		69054	37450	54.23

## Appendix 6

## Chapter II: Tax Administration

(Reference: Paragraph 2.4/Table no. 2.3)

## Minor head wise details of Budget estimates and Actuals for 2006-07

Sl. no.	Head of revenue	Budget estimates	Actuals	Surplus(+)/ Shortfall(-)	Percentage of surplus/ shortfall
		(Rs. in crore)			
<b>0020 - Corporation tax</b>					
(i)	Income tax on companies	1,10,940.00	1,26,677.78	(+) 15,737.78	(+) 14.19
(ii)	Surcharge	12,762.00	5,333.09	(-) 7,428.91	(-) 58.22
(iii)	Other receipts	9,308.00	12,307.08	(+) 2,999.08	(+) 32.22
(iv)	Net collection	1,33,010.00	1,44,317.95	(+) 11,307.95	(+) 8.50
<b>0021 - Taxes on income other than corporation tax</b>					
(i)	Income tax	71,389.00	72,224.76	(+) 835.76	(+) 1.17
(ii)	Surcharge	3,741.00	775.90	(-) 2,965.10	(-) 79.26
(iii)	Other receipts	2,279.00	2,078.65	(-) 200.35	(-) 8.80
(iv)	Net collection	77,409.00	75,079.31	(-) 2,329.69	(-) 3.01

**Appendix 7**  
[Reference: Paragraph 2.5/Table no. 2.4]

(Rs. in crore)

State	Corporation tax				Income tax				Total of two heads			
	2004-05	2005-06	2006-07	Percent change over pre. Year	2004-05	2005-06	2006-07	Percent change over pre. Year	2004-05	2005-06	2006-07	Percent change over pre. year
Andhra Pradesh	2,363.57	4,059.58	5,298.93	30.53	2,460.13	2,477.86	4,607.63	85.95	4,823.70	6,537.44	9,906.56	51.53
Assam	961.36	520.16	306.13	(-) 41.15	532.48	1,175.63	1,512.58	28.66	1,493.84	1,695.79	1,818.71	7.24
Bihar	151.95	140.41	100.94	(-) 28.11	277.52	448.87	445.81	(-) 0.68	429.47	589.28	546.75	(-) 7.21
Chattisgarh	871.27	416.57	857.07	105.74	573.57	745.18	659.38	(-) 11.51	1444.84	1161.75	1,516.45	30.53
Delhi	13,362.34	18,512.26	29,039.11	56.86	6,834.95	6,769.71	8,180.46	20.83	20,197.29	25,281.97	37,219.57	47.21
Goa	517.77	810.15	1,229.40	51.75	274.94	258.91	390.80	50.94	792.71	1,069.06	1,620.20	51.55
Gujarat	2,444.03	3,080.89	4,968.43	61.26	2,524.59	2,971.72	3,941.97	32.64	4,968.62	6,052.61	8,910.40	47.21
Haryana	589.04	866.62	1,356.98	56.58	1,060.61	1,218.87	1,716.00	40.78	1,649.65	2,085.49	3,072.98	47.35
HP	43.55	60.97	241.21	295.62	208.13	169.82	168.52	(-) 0.76	251.68	230.79	409.73	77.53
J&K	74.70	128.48	170.31	32.55	133.90	109.81	204.72	86.43	208.60	238.29	375.03	57.38
Jharkhand	255.80	431.79	672.84	55.82	868.47	534.99	763.96	42.79	1,124.27	966.78	1,436.80	48.61
Karnataka	5,930.74	7,386.03	9,931.98	34.46	4,521.69	6,224.82	8,430.36	35.43	10,452.43	13,610.85	18,362.34	34.90
Kerala	832.53	576.15	784.86	36.22	912.42	1,069.56	1,295.75	21.14	1,744.95	1,645.71	2,080.61	26.42
MP	1200.91	1295.56	1,765.28	36.25	642.94	915.64	758.81	(-) 17.12	1843.85	2211.20	2,524.09	14.15
Maharashtra	33,210.22	38,011.81	54,691.89	43.88	15,008.17	17,642.76	24,999.17	41.69	48,218.39	55,654.57	79,691.06	43.18
Orissa	1,805.53	1,766.00	1,862.20	5.44	393.81	634.81	1,425.17	124.50	2,199.34	2,400.81	3,287.37	36.92
Punjab	494.59	248.42	817.83	229.21	1,197.80	1,407.72	1,322.10	(-) 6.08	1,692.39	1,656.14	2,139.93	29.21
Rajasthan	767.20	1,177.09	2,884.26	145.03	889.77	912.48	1,446.25	58.49	1,656.97	2,089.57	4,330.51	107.24
Tamil Nadu	4,714.85	6,505.11	9,226.64	41.83	3,560.82	3,929.50	5,060.27	28.77	8,275.67	10,434.61	14,286.91	36.91
UP	763.69	1,068.97	1,454.42	36.05	2063.81	2,073.27	2,712.46	30.83	2,827.50	3,142.24	4,166.88	32.60
Uttaranchal	7,353.38	8,584.45	9,132.35	6.38	370.25	489.26	504.11	3.03	7,723.63	9,073.71	9,636.46	6.20
West Bengal	3,507.47	5,042.43	6,907.18	36.98	2,189.18	2,192.85	2,587.47	17.99	5,696.65	7,235.28	9,494.65	31.22
Union Territories	398.65	318.17	487.57	53.24	198.68	420.58	553.51	31.60	597.33	738.75	1,041.08	40.92
CTDS	64.44	269.09	130.14	(-) 51.63	1,569.49	1190.00	1,392.05	16.97	1,633.93	1,459.09	1,522.19	4.32
<b>Total</b>	<b>82,679.58</b>	<b>1,01,277.16</b>	<b>144,317.95</b>	<b>42.49</b>	<b>49,268.12</b>	<b>55,984.62</b>	<b>75,079.31</b>	<b>34.10</b>	<b>1,31,947.70</b>	<b>1,57,261.78</b>	<b>2,19,397.26</b>	<b>39.51</b>

## Appendix 8

[Reference: Paragraph 2.5/Table no. 2.4]

(Rs. in crore)

State/UT wise break up of Direct taxes												
States	0020	0021	0023	0024	0026	0028	0031	0032	0033	0034	0036	Total
	Corpn tax	Income Tax	Hotel Rect Tax	Interest Tax	Fringe Ben. Tax	Expdr Tax	Estate Duty	Wealth Tax	Gift Tax	Sec. Trans Tax	Ban. Cash Tran. Tax	
Andhra Pradesh	5298.93	4607.63	0.08	0.55	230.60	4.72	0.00	7.95	0.02	1.95	20.57	10172.99
Arunachal Pradesh	0.00	6.30	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	6.30
Assam	202.62	1269.87	0.00	0.00	6.33	-17.14	0.01	0.82	0.00	0.00	0.11	1462.62
Bihar	100.94	445.81	0.00	0.11	6.69	0.01	0.00	0.28	0.00	0.00	0.03	553.87
Chhatisgarh	857.07	659.38	0.00	0.03	8.63	0.00	0.00	0.25	2.14	0.01	0.12	1527.63
Delhi	29039.11	8180.46	0.00	1.33	1073.29	7.94	0.89	34.87	1.23	1.28	59.22	38399.62
Goa	1229.40	390.80	0.00	0.01	20.22	0.40	0.00	1.40	0.00	0.00	0.09	1642.32
Gujarat	4968.43	3941.97	0.07	0.68	182.78	2.64	0.03	7.23	0.00	0.18	4.44	9108.45
Haryana	1356.98	1716.00	0.00	0.29	118.21	0.58	0.00	3.05	0.00	0.00	1.04	3196.15
Himachal Pradesh	241.21	168.52	0.00	0.00	5.82	0.86	0.00	0.04	0.00	0.00	0.01	416.46
Jammu & Kashmir	170.31	204.72	0.01	0.01	4.06	0.01	0.00	0.31	0.00	0.00	0.03	379.46
Jharkhand	672.84	763.96	0.00	0.08	24.76	0.62	0.00	0.29	0.00	0.00	0.07	1462.62
Karnataka	9931.98	8430.36	1.52	0.94	561.46	1.81	0.02	21.57	0.01	0.08	65.08	19014.83
Kerala	784.86	1295.75	0.00	0.02	48.85	4.77	0.00	1.92	0.36	0.00	16.61	2153.14
Madhya Pradesh	1765.28	758.81	0.04	0.11	39.58	-0.01	0.00	0.55	0.10	0.00	7.85	2572.31
Maharashtra	54691.89	24999.17	0.45	6.38	1986.08	17.13	0.68	99.66	0.42	4632.38	275.09	86709.33

States	0020	0021	0023	0024	0026	0028	0031	0032	0033	0034	0036	Total
	Corpn tax	Income Tax	Hotel Rect Tax	Interest Tax	Fringe Ben. Tax	Expdr Tax	Estate Duty	Wealth Tax	Gift Tax	Sec. Trns. Tax	BCTT	
Manipur	8.49	0.36	0.00	0.00	0.00	0.00	0.00	0.04	0.00	0.00	0.00	8.89
Meghalaya	66.37	118.10	0.00	0.00	1.67	0.00	0.00	0.16	0.00	0.00	0.05	186.35
Mizoram	0.00	0.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.08
Nagaland	1.00	10.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.01	11.09
Orissa	1862.20	1425.17	0.00	0.00	21.20	0.01	0.00	0.54	0.00	0.00	0.23	3309.35
Punjab	817.83	1322.10	0.02	0.15	51.52	3.66	0.00	5.06	0.00	0.02	0.34	2200.69
Rajasthan	2884.26	1446.25	0.00	0.02	58.01	7.75	0.00	4.12	0.01	0.00	1.05	4401.47
Sikkim	1.15	18.24	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	19.39
Tamil Nadu	9226.64	5060.27	0.05	0.34	381.29	16.97	0.02	20.33	0.04	7.87	33.72	14747.54
Tripura	26.51	89.56	0.00	0.00	2.33	0.00	0.00	0.10	0.00	0.00	0.07	118.57
Uttar Pradesh	1454.42	2712.46	0.00	0.16	80.68	6.76	0.00	5.93	0.01	0.22	1.56	4262.20
Uttaranchal	9132.35	504.11	0.00	0.01	106.62	0.09	0.00	2.73	0.00	0.00	0.76	9746.67
West Bengal	6907.18	2587.47	0.02	-6.39	263.45	0.71	0.00	20.44	0.01	1.52	18.80	9793.21
Total (i)	143700.24	73133.75	2.26	4.83	5284.12	60.28	1.66	239.64	4.34	4645.50	506.95	227583.57

Report No .CA 8 of 2008 (Direct Taxes)

States	0020	0021	0023	0024	0026	0028	0031	0032	0033	0034	0036	Total
	Corpn tax	Income Tax	Hotel Rect Tax	Interest Tax	Fringe Ben. Tax	Expdr Tax	Estate Duty	Wealth Tax	Gift Tax	Sec. Trns. Tax	BCTT	
<b>Union Terretories</b>												
Andaman and Nicobar Islands	3.21	7.35	0.00	0.00	0.67	0.00	0.00	0.00	0.00	0.00	0.00	11.23
Chandigarh	404.43	476.05	0.00	0.09	28.44	1.73	0.00	0.60	0.01	0.00	0.06	911.41
Daman	9.40	0.06	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	9.46
Diu	0.77	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.77
Dadra and N.Haveli	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Pondicherry	64.58	68.77	0.00	0.00	2.81	0.00	0.00	0.09	0.00	0.00	0.00	136.25
Lakshadweep	0.00	0.13	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.13
Silvassa	5.18	1.15	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	6.33
<b>Total (ii)</b>	<b>487.57</b>	<b>553.51</b>	<b>0.00</b>	<b>0.09</b>	<b>31.92</b>	<b>1.73</b>	<b>0.00</b>	<b>0.69</b>	<b>0.01</b>	<b>0.00</b>	<b>0.06</b>	<b>1075.58</b>
<b>Total (i) &amp;(ii)</b>	<b>144187.81</b>	<b>73687.26</b>										
<b>CTDS (Prov)</b>	130.14	1392.05										1522.19
<b>Grand Total</b>	<b>144317.95</b>	<b>75079.31</b>	<b>2.26</b>	<b>4.92</b>	<b>5316.04</b>	<b>62.01</b>	<b>1.66</b>	<b>240.33</b>	<b>4.35</b>	<b>4645.50</b>	<b>507.01</b>	<b>230181.34</b>

## Appendix 9

[Reference: Paragraph 2.9/Table no. 2.11]

(Rs. in crore)

## (i) Status-wise break-up of Income tax (including Corporation tax) assessments completed during the years 2004-05 to 2006-07

		2004-05	2005-06	2006-07
(a)	Individuals	1,86,94,801	2,10,64,691	1,96,19,354
(b)	Hindu undivided families	4,56,426	4,97,202	4,42,411
(c)	Firms	8,55,678	9,32,508	8,60,422
(d)	Companies	2,98,713	2,86,790	2,05,718
(e)	Others (including trusts)	3,98,213	98,577	1,12,707
Total		2,07,03,831	2,28,79,768	2,12,40,612

## (ii) Status-wise and category-wise break-up of work load, disposals and pendency of assessments as on 31 March 2007

			Workload		Disposal		Balance	
			Scrutiny	Non-Scrutiny	Scrutiny	Non-Scrutiny	Scrutiny	Non-Scrutiny
1.	Category 'A' Assessments	Company	25,158	1,27,461	10,204	44,098	14,954	83,363
		Non-Company	2,70,194	2,72,86,000	1,17,755	1,84,22,772	1,52,439	88,63,228
2.	Category B (lower) Assessments	Company	13,440	78,866	5,843	39,625	7,597	39,241
		Non-company	58,202	26,85,027	27,551	17,21,324	30,651	9,63,703
3.	Category 'B' (higher) assessments	Company	10,531	92,979	4,932	57,876	5,599	35,103
		Non-company	24,118	9,21,113	11,563	5,75,370	12,555	3,45,743
4.	Category 'C' Assessments	Company	32,551	50,319	16,332	23,911	16,219	26,408
		Non-Company	43,448	1,99,585	25,808	1,11,486	17,640	88,099
5.	Category 'D' Assessments	Company	5,569	280	2,681	216	2,888	64
		Non-Company	43,794	4,266	19,314	1,951	24,480	2,315
Total		Company	87,249	3,49,905	39,992	1,65,726	47,257	1,84,179
		Non-Company	4,39,756	3,10,95,991	2,01,991	2,08,32,903	2,37,765	1,02,63,088

Appendix 10  
 [Reference: Paragraph 2.11/Table no. 2.14]

(Rs. in crore)

Year wise break up of tax recovery certificates pending as on 31 March 2007 and amount of demand

Year	No. of certificates	Amount
2001-02 and earlier years	1,61,577	3,618.82
2002-03	24,035	1,926.92
2003-04	18,450	1,943.66
2004-05	20,450	2,658.10
2005-06	21,096	3,171.34
2006-07	33,437	13385.02
<b>Total</b>	<b>2,79,045</b>	<b>26,703.86</b>