

Chapter II: Audit Mandate, Products and Impact

2.1 Authority of the CAG for audit of receipts

Article 149 of the Constitution of India provides that the Comptroller and Auditor General of India (CAG) shall exercise such powers and perform such duties in relation to the accounts of the Union and of the states and of any other authority or body as may be prescribed by or under any law made by the Parliament. The Parliament passed the Comptroller and Auditor General's DPC Act (CAG's DPC Act) in 1971. Section 16 of the CAG's DPC Act authorises CAG to audit all receipts (both revenue and capital) of the Government of India and of Governments of each State and of each Union Territory having a legislative assembly and to satisfy himself that the rules and procedures are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed. Regulations on Audit & Accounts, 2007 (Regulations) lay down the principles for Receipt Audit.

2.2 Examination of systems and procedures and their efficacy

2.2.1 Audit of receipts includes an examination of the systems and procedures and their efficacy mainly in respect of:

- a. identification of potential tax assessees, ensuring compliance with laws as well as detection and prevention of tax evasion;
- b. exercise of discretionary powers in an appropriate manner including levy of penalties and initiation of prosecution;
- c. appropriate action to safeguard the interests of the Government on the orders passed by departmental appellate authorities;
- d. any measures introduced to strengthen or improve revenue administration;
- e. amounts that may have fallen into arrears, maintenance of records of arrears and action taken for the recovery of the amounts in arrears;
- f. pursuit of claims with due diligence and that these are not abandoned or reduced except with adequate justification and proper authority.

To achieve the above, we examined the assessments completed by the Income Tax Department in financial year 2014-15. In addition, some assessments which were completed in earlier years were also taken up for examination.

2.2.2 ITD completed 2,27,859 scrutiny assessments²³ in FY 2014-15 in those units which were audited during audit plan of FY 2015-16, of which we checked 2,18,957 cases. Apart from this, we have also audited 25,320 cases completed in previous financial years, during FY 2015-16. The incidence of errors in assessment checked in audit during FY 2015-16 was 17,775 cases (7.3 per cent) which was less than the previous year (7.4 per cent). We pointed out mistakes in 12,115 cases where Internal Audit of ITD failed to detect.

2.2.3 State-wise incidence of errors in assessment is given in *Appendix-2.1*. Table 2.1 below shows details of top eight States where more than 10,000 assessments were checked in audit during 2015-16.

State	Assessments completed during 2014-15	Assessments checked in audit during 2015-16	Assessments with errors	Total revenue effect of the audit observations	Percentage of assessments with errors
a. Delhi	41,101	31,573	1,340	2,756.55	4.2
b. Gujarat	26,622	26,055	1,373	1,514.83	5.3
c. Maharashtra	72,610	54,869	3,337	3,581.44	6.1
d. Rajasthan	11,805	11,342	735	77.58	6.5
e. Tamil Nadu	17,084	14,836	1,887	1,285.71	12.7
f. Uttar Pradesh	13,176	12,665	907	971.50	7.2
g. West Bengal	39,997	39,055	3,102	2,460.35	7.9

This indicates that Tamil Nadu has the highest percentage of assessments with errors (12.7 per cent) followed by West Bengal (7.9 per cent). It has also been seen that in the last five years both these states were having the highest percentage of assessments with errors.

2.2.4 Table 2.2 below shows the details of errors noticed in local audit during FY 2015-16.

Category	Cases	Tax effect
a. Corporation tax & Income tax	19,647	16,564.18 ²⁴
b. Wealth tax & Other Direct taxes	552	159.39
Total	20,199	16,723.57

Note: The above findings and all subsequent findings are based exclusively on audit of selected assessments.

2.2.5 Table 2.3 below shows the category-wise details of underassessment in respect of Corporation tax and Income Tax. *Appendix-2.2* indicates details in respect of sub-categories under them.

23 Total scrutiny assessment completed in the ITD during FY 2014-15 was 5,35,444.

24 Includes 1162 cases of over assessments with tax effect of ₹ 841.67 crore

Table 2.3: Category-wise details of errors		(₹ in crore)	
Category		Cases	Tax effect
a.	Quality of assessments	4,616	3,750.99
b.	Administration of tax concessions/exemptions/deductions	8,267	8,542.98
c.	Income escaping assessments due to omissions	2,351	1,684.24
d.	Others	3,251	1,744.29
Total		18,485	15,722.50

2.3 Audit products and response to audit

2.3.1 We elicit response from the audited entities at different stages of audit. As per provision of Regulations 193 on completion of field audit, we issue the local audit report (LAR) to ITD for comments.

2.3.2 Table 2.4 below depicts the position of number of observations included in the Local Audit Reports (LAR) issued during FY 2011-12 to FY 2015-16 and replies received thereto and observations accepted.

Table 2.4: Response to local audit						
Financial Year	Observations raised	Reply received		Reply not received	Percentage of cases accepted	Percentage of reply not received
		Cases Accepted	Cases not accepted			
2011-12	19,624	3,945	2,971	12,708	20.1	64.8
2012-13	18,548	3,343	4,124	11,081	18.0	59.7
2013-14	19,312	3,642	3,131	12,534	18.9	64.9
2014-15	17,626	3,631	3,535	10,450	20.6	59.3
2015-16	20,737	3,281 ²⁵	5,196	12,260	15.8	59.1

2.3.3 Table 2.5 below shows the increasing trend of pendency of observations.

Table 2.5: Details of outstanding audit observations							(₹ in crore)	
Period	CT		IT		ODT		Total	
	No.	TE	No.	TE	No.	TE	No.	TE
Upto March 2012	5,358	17,910.80	7,162	2,182.99	1,594	120.31	14,114	20,214.10
2012-13	2,149	5,005.50	2,975	2,643.19	1,010	112.29	6,134	7,760.98
2013-14	2,997	8,046.35	5,242	1,965.92	1,069	64.77	9,308	10,077.04
2014-15	4,531	20,226.53	5,463	4,395.96	1,034	80.58	11,028	24,703.07
2015-16	2,877	7,880.24	3,954	1,671.23	691	85.02	7,522	9,636.49
Total	17,912	59,069.42	24,796	12,859.29	5,398	462.97	48,106	72,391.68

The accretion in pendency in replies to audit findings each year has resulted in accumulation of 48,106 cases involving revenue effect of ₹ 72,391.68 crore as of 31 March 2016.

25 1,690 - Cases accepted and remedial action taken; 1,591 - Cases accepted but remedial action not taken

The Department's efforts to ensure that replies to audit are sent in the prescribed period have not been satisfactory. The provisions of Regulations 202 and 203 need to be observed in letter and spirit.

2.3.4 We issue significant and high value cases out of these to the Ministry for comments before inclusion in the Audit Report as per provision of Regulations 205 to 209. We give six weeks to the Ministry to offer their comments on cases issued to them before their inclusion in the Audit Report. Four hundred sixty three²⁶ cases are included in the current Audit Report, of which replies were received for 335 cases. The Ministry/ITD accepted 298²⁷ cases (89 per cent) while it did not accept 37²⁸ cases as of 20 December 2016. Replies to remaining 128 cases were not received. Table 2.6 shows category wise details of these cases²⁹.

Table 2.6 Category-wise details of errors of high value cases						(₹ in crore)	
Category	CT		IT		Total		
	No.	TE	No.	TE	No.	TE	
a. Quality of assessments	105	1,442.94	68	107.27	173	1,550.21	
b. Administration of tax concessions/exemptions/ deductions	145	1,433.82	38	63.28	183	1,497.10	
c. Income escaping assessments due to omissions	47	245.44	28*	15.49	75	260.93	
d. Overcharge of tax/ interest	23	176.73	9	275.13	32	451.86	
Total	320	3,298.93	143	461.17	463	3,760.10	

*includes seven cases of under assessment of wealth involving TE of ₹ 0.47 crore.

2.3.5 Chapters III and IV bring out details of above errors in assessments in respect of Corporation Tax, Income Tax and Wealth Tax respectively.

2.3.6 In addition to the above, one long para on 'Fictitious sales and purchases by shell companies/hawala operators' was issued to the Ministry which has been included in this present Report in Chapter V. Chapters VI and VII bring out reports on two subject specific compliance audit 'Functioning of Directorate of Income Tax (Infrastructure)' and 'Centralised Processing Centre, Bengaluru'.

2.4 Audit impact

2.4.1 Recovery at the instance of audit

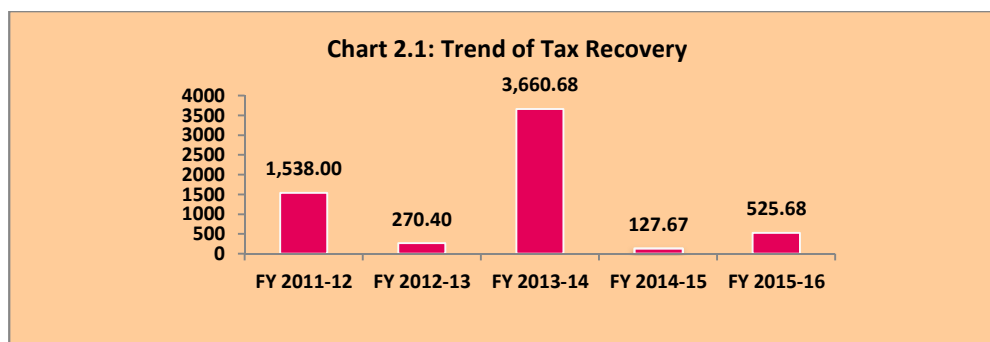
ITD recovered ₹ 6,122.43 crore in the last five years from demands raised to rectify the errors in assessments that we pointed out. This includes ₹ 525.68 crore recovered in FY 2015-16.

26 Appendix 2.3 gives the details of 463 cases issued to the Ministry.

27 Ministry-263 (CT - 184, IT and WT 79) cases; ITD-35 (CT - 23, IT and WT 12) cases

28 Ministry-13 (CT - 11, IT and WT - 2) cases; ITD-24 (CT - 23, IT -1) cases

29 Sub-categories-wise details are given in Appendix-2.4



2.5 Time barred cases

2.5.1 Table 2.7 below shows the details of time-barred cases during FY 2011-12 to 2015-16.

Table 2.7: Details of time-barred cases			(₹ in crore)
Year of Report	Cases	Tax effect	
2011-12	3,907	1,083.0	
2012-13	2,207	899.9	
2013-14	2,427	1,121.2	
2014-15	3,881	2,490.8	
2015-16	2,074	1,230.72	

2.5.2 During FY 2015-16, 2,074 cases with tax effect of ₹ 1,230.72 crore became time-barred for remedial action, of which Tamil Nadu alone account for 69 per cent amount. Appendix-2.5 indicates state-wise details of such cases for FY 2015-16. Responsibility may be fixed for not taking remedial action in time in such cases. The Department should ensure that remedial action is taken in time so that such incidences do not recur in future.

2.6 Non-production of records

2.6.1 We scrutinize assessment records under section 16 of the C&AG's (DPC) Act, 1971 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 also incumbent on ITD to expeditiously produce records and furnish relevant information to audit.

2.6.2 We requisitioned from ITD the data of income tax/corporation tax assessees selected for scrutiny assessment through CASS for the last four financial years to strengthen and facilitate the risk analysis for selection of scrutiny cases for the purpose of audit planning in June 2015. However, despite persistent reminders, incomplete and aggregated summary data in respect of few items only as against the granular data requested for, were provided in September 2016. We also requested to provide information/data of search, seizure and surveys conducted during the period 2010-11 to 2015-16 and data/information in respect of assessees with the agricultural

income of more than ₹ 5 lakh for the assessment years 2005-06 to 2015-16. However, the data was not provided by ITD until November 2016 inspite of several reminders. Non-furnishing of data has caused inordinate delay in the finalisation of Annual Audit Plan of the CAG for the year 2017-18 and therefore impeded CAG in carrying out his mandate.

2.6.3 Non-production of records has increased in Himachal Pradesh, Odisha, Rajasthan Tamil Nadu and Uttar Pradesh significantly over previous years during FY 2015-16. ITD did not produce 29,513 records out of 2,74,974 records requisitioned during FY 2015-16, (10.74 per cent) which is less than from FY 2014-15 (12.02 per cent).

Table 2.8 shows details of records not produced to audit pertaining to same assessee in three or more consecutive audit cycles. *Appendix 2.6* shows the details of non-production of records during FY 2013-14 to FY 2015-16.

Table 2.8: Records not produced to audit in three or more audit cycles	
States	Records not produced
a. Maharashtra	24
b. Odisha	9
Total	33

In FY 2015-16, 33 records pertaining to same assessees in two states were not produced to audit in last three or more consecutive audit cycles, details of which are given in *Appendix 2.6*.