

Chapter VII: Centralised Processing Centre, Bengaluru

7.1 Introduction

The Government of India (GOI) on the recommendations of Business Process Re-engineering Committee (BPR Committee) approved (February 2009) establishment of Centralised Processing Centre (CPC) for bulk processing of income tax returns (ITR) at a total project cost of ₹ 255 crore. The Finance Act, 2008 amended the Income Tax Act, 1961 (the Act) by inserting a sub-section 1A under Section 143 empowering the Central Board of Direct Taxes (the Board) to make a scheme for centralized processing of income tax returns (ITRs) with a view to expeditiously determining the tax payable by, or the refund due to the assessee. Accordingly, Income Tax Department (ITD) established CPC in Bengaluru for centralized processing of income tax returns received through e-filing website and paper returns at Karnataka and Goa.

The work relating to establishing and operating CPC at Bengaluru was awarded to a consortium led by M/s Infosys Technologies Ltd., Service Provider (SP) by executing a 'Master Services Agreement' (MSA). The contract was for five years starting from October 2010. The contract for CPC Bengaluru was extended (December 2014) for two years i.e. upto September 2017.

7.2 Organisational structure

CPC was under the overall control of the Director General of Income Tax (Systems), New Delhi. A Project Management Unit (PMU) headed by Director of Income Tax (DIT) has been set up at CPC site for implementation and day-to-day monitoring of the Project. DIT was assisted by Additional/Joint, Deputy/ Assistant Directors, Income Tax Officers, Inspectors of Income Tax and Tax Assistants. The role of ITD is that of user management and involves, *inter alia*, strategic control of CPC and laying down policy and metrics of success relating to CPC, budgetary control, authorizing business rule changes including changes based on Finance Acts, system upgrades and monitoring the activities of the Service Provider.

7.3 Audit Objectives

The audit was conducted with a view to ascertaining whether:

- a. CPC has achieved its intended objectives of efficient and effective processing of ITRs, establishing scientific and systematic record storage and retrieval management system; and establish a robust, reliable and scalable accounting system;
- b. Application Controls in the system were adequate to ensure data integrity and mapping of business rules into the system;

- c. IT General Controls in the system were adequate to ensure security, reliability and integrity of the system;
- d. MSA and SLA entered into with SP follow the principles of financial propriety.

7.4 Audit criteria

The following sources of criteria were considered for evaluating the performance of CPC:

- a. Master Service Agreement with Service Provider;
- b. Service Level Agreements with Service Provider;
- c. Income Tax Act, 1961 and Income Tax Rules, 1962;
- d. Information Technology Act, 2000;
- e. Comptroller and Auditor General's Information Technology Audit Manual;
- f. General Financial Rules, 2005;
- g. Ist Cabinet note of 2009.
- h. IInd Cabinet note of 2014.
- i. eSAFE-GD 210 & e-SAFE-GD 220– Assessment Guidelines Ver 1.0 issued by the Department of Information Technology, Government of India;
- j. ITD's Manual of Procedures and relevant Notifications / Circular instructions issued by CBDT from time to time.

7.5 Scope of audit and methodology

This report covers the functioning of CPC Bangalore which was evaluated after conducting systems audit and audit of contract management. The proposed audit methodology consisted of examination of the system documentation comprising of Software Requirement Specifications (SRS), System Design Document (SDD), Standard Operating Procedures (SOPs), User Manuals, Administration Manuals and other deliverables prescribed in the MSA/SLA; running queries on dump data to check inconsistencies, errors, omissions, exception reports and to examine the data pending reconciliation; examination of Departmental records relating to areas covered in audit viz. outsourcing policy, contract documents, Master Service Agreement, Service Level Agreements, application controls, general controls, record management, etc.

However, above methodology could not be adopted as processed data in the form of 'dump' and about 40 *per cent* of the records requisitioned were not provided by the ITD. The CPC allowed limited access to 'Form View' (read only) of processed individual returns (from the sample made available) in CPC portal, wherein individual PAN-based returns were test checked.

Further, during the course of audit 138 audit requisition memos were issued to the ITD calling various records/information necessary for the audit of CPC, Bengaluru. Against these, reply to only 87 audit requisition memos were furnished (some of them partly). Even the main records like (i) change request documents (partly), (ii) records related to service level agreements (partly), (iii) tendering documents, (iv) business continuity policy and disaster recovery policy, (v) details of payments including invoice raised by the service provider from July 2013 (vi) sanctioned strength and men in position with respect to CPC Bengaluru, (vii) training provided to ITD staff for processing of IT returns, etc. were not provided to audit despite correspondence, meetings and verbal requests at various levels. Non-production of records/information proved a major impediment in conducting the audit.

We held Exit Conference with CBDT on 28 October 2016 wherein audit findings were discussed. We have duly incorporated the comments of the Ministry in the Report.

7.6 Selection of Sample Size

With a view to reviewing whether the procedures and processes adopted at CPC are in conformity with the provisions of the Act and the Rules, Audit sought 'Data Dump' relating to returns processed during the three years from 2012-13 to 2014-15. However, the data dump was not made available. Instead, the DIT-CPC suggested, during the Entry Conference on 29.07.2015, that the audit team may examine a few specific cases of processed returns to understand the operational aspects of CPC.

Even though this suggestion was considered to be constraining, the Audit Department to carry out its mandate sought list of PAN (50 cases each) covering a cross section of different types of assessee, required to file returns under all the prescribed ITR Forms, of ITRs processed during the three years from 2012-13 to 2014-15 on the basis of ten parameters comprising of high value refund/demand cases, returns with 'NIL' income, loss returns, cases of belated/revised returns, cases where refund/demand has been increased/decreased after rectification.

Against this, DIT-CPC provided list of only 58 PANs under the parameters defined *ibid*. In addition, the Audit was provided with list of 13 PANs against another query. With a view to expanding the sample size, the Audit also

selected some cases from the records of compliance audit conducted by the office of the Principal Director of Audit (Central), Bengaluru.

Accordingly, 557 PANs in all pertaining to different AYs between 2011-12 and 2014-15 were checked in the "Form-view access" (read-only), provided to the Audit in CPC server. The limited access to the CPC server and the non production of records/data acted as major constraints in the effective conduct of audit.

Major audit findings are discussed below.

7.7 Processing of ITRs, record storage and retrieval management system, accounting system and taxpayers' services

7.7.1 Processing of ITRs

CPC processed 9.04 crore returns since its inception in October 2010 to January 2015, with a peak processing capacity of 3.78 lakh returns per day. Average processing time during 2014-15 was 65 days which was less than that specified in citizen's charter (six months) and much less than the average processing time of manual processing (approx. 14 months). CPC has processed more than the projected 2.7 crore e-filed returns that CPC was to process in five years. Faster turnaround time in processing contributed to reduction of interest outflow on refunds.

7.7.2 Record Management

According to SR 13 under Clause 2.3.1 of Appendix-A of MSA, the objective of Record Management was to store all returns securely and scientifically to ensure lifespan till destruction and to facilitate easy and quick retrieval when needed. Detailed procedures and responsibilities of SP in this regard have been defined under Clause 5.1.3 there under.

Nearly seven crore physical records consisting of ITR-Paper Returns, ITR-V, Metadata pertaining to the three years i.e. 2012-13 to 2014-15 have been stored at the warehouse, the bulk of which constitute ITR-V pertaining to electronic returns filed without digital signature.

The need of such a large, safe and scientifically managed record system for ITRs is not clear when pre-validated scanned images of ITRs/ITR-V that are available in CPC database could satisfy legal or verification requirements and would be on par with production of physical records.

The Ministry replied (October 2016) that this (storage of records) is an integral part of the contract with the Service Provider and has to be maintained till the end of the Contract. The transaction cost under the CPC Contract is an all encompassing cost including the cost of storage of physical documents. No additional cost is paid for such storage. Further, if the

documents are stored at CPC then additional cost towards rental of office space would become payable by CPC. It was further stated that the Department has taken several steps to eliminate the need for submission of ITR-V, by enabling Electronic Verification of ITRs. In FY 2015-16 nearly 25 *per cent* of ITRs were verified using Electronic Verification Code (EVC) or DSC. This percentage has increased in FY 2016-17 till date to over 39 *per cent*.

Reply of the Ministry is not acceptable. Verification of ITRs using EVC or DSC shows that there is no need to store physical copy of ITR V. As regards the cost, the ITD will continue to pay charges for storage to the SP which is inbuilt in per transaction cost.

7.7.3 Establishing a Tax Accounting System

Audit sought (October 2015) information on related areas, viz., Final Chart of Accounts defining primary and secondary accounting codes, integration with external application such as OLTAS, TDS/TCS, PAN/TAN, Refund Banker, etc., tax claims reconciliation, TDS / tax credit accounting and reconciliation in respect of demands and refunds, rectification, interface with field officers and audit logs/trails.

However, the DIT-CPC furnished (November 2015) only two design documents viz., FAS¹⁰⁷ Global Design and FAS Design Specifications, along with screen shot of FAS accounting entries relating to a single PAN under each ITR Form type on sample basis.

In the absence of required information, the Audit could not check whether the accounting system in place actually conformed to the prescribed norms and whether the collection figures as shown by CPC tallied with those of ZAO.

The Ministry stated (October 2016) that Global Design of the Financial Accounting system submitted by ITD contained all the information relating to Final Chart of Accounts defining primary and secondary accounting codes, integration with external application such as OLTAS, TDS/TCS, PAN/TAN, Refund Banker, etc., tax claims reconciliation, TDS / tax credit accounting and reconciliation in respect of demands and refunds, rectification, interface with Field Officers, etc. The Ministry further stated that it has provided MIS and other reports that are generated and used in the processing of return to give the Audit a view into the implementation of the accounting policy.

The reply of the Ministry that documents relating to Global Design of the Financial Accounting System (FAS) submitted by ITD contained all the information called for by Audit is incorrect since the design document specifies only the design of the FAS application whereas audit query was

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regarding implementation of the said application. Audit was not able to review the FAS application as details of the implementation of the application and the reports/output generated were not provided to Audit. The MIS report stated to be furnished was only a sample screenshot of the report from which review of the implementation process and verification of outputs/reports of the application was not possible.

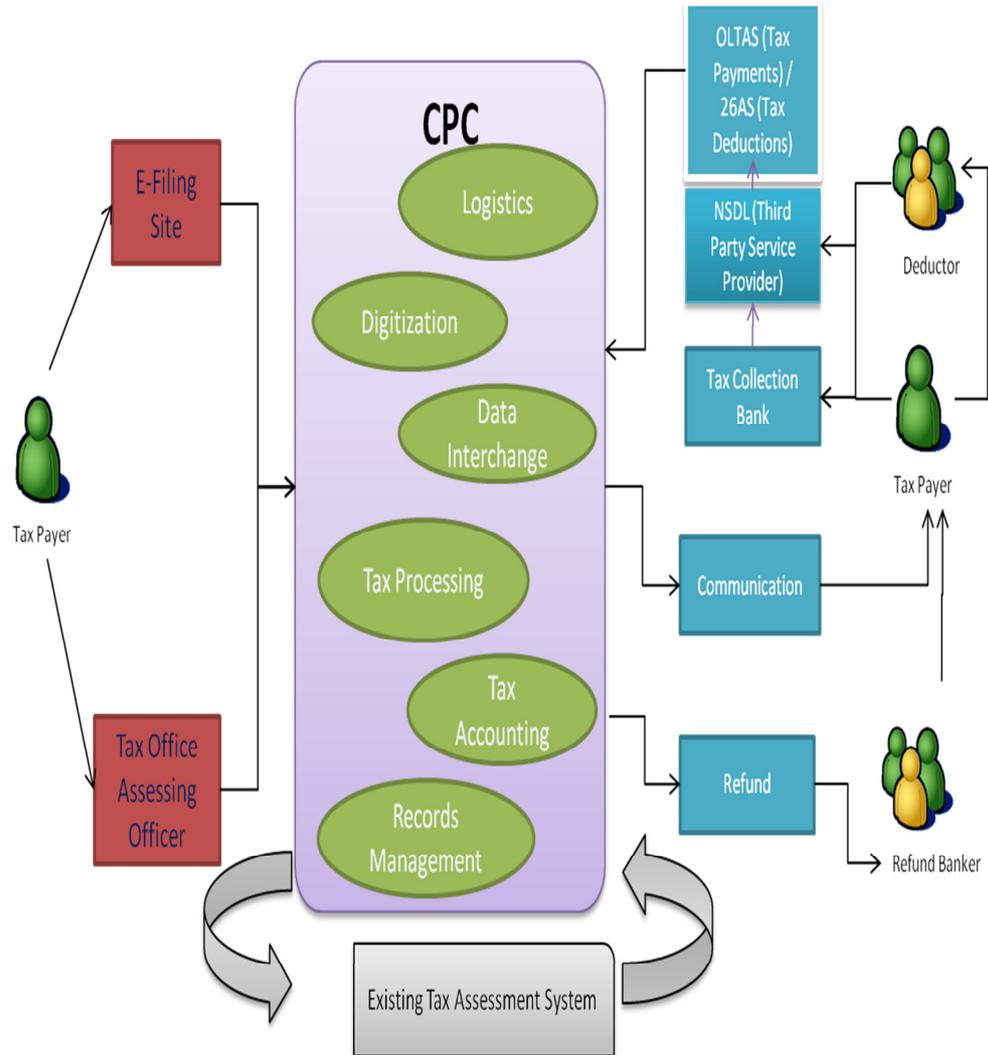
7.8 Application Controls

7.8.1 In exercise of powers conferred under section 143(1A) of the Act, CBDT (Board) notified (January 2012) “Centralised Processing of Returns Scheme, 2011” for the purpose of centralised processing of Income tax returns. The Scheme accorded powers to the Director General and the Commissioner for specifying/adopting appropriate procedures and processes for processing of ITRs. In addition, the Central Government notified (January 2012), in exercise of powers conferred under section 143(1B) of the Act, another Scheme viz., “Centralised Processing of Returns Scheme, 2011 – Application of certain provisions of Act” for the purpose of giving effect to the former and to specify that any of the provisions of the Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations.

For the purpose of processing of ITRs, the provisions of the Act and Rules are implemented as business rules at the back-end of the CPC application. For front-end users, a “Form-view” has been designed in conformity with the ‘Schedules’ prescribed under different ITR Forms applicable to different types of assesseees.

7.8.2 Processing of returns

Process flow of existing tax assessment system is given below:



(Source: CPC, Bengaluru)

Review of processed ITRs in ‘Form view’ was undertaken with a view to ascertaining the availability of Application Controls in the CPC application software, which revealed the following deficiencies:

7.8.3 Mistake in business rule relating to matching of TDS with offered income

Clause 3.1 of ITD’s SOP on “Defective Return” while defining “Core Defects – Notice to be sent” (Rule_cd 2) prescribes that a return shall be treated as core defective if “No Income details or tax computation has been provided in ITR, but details regarding taxes paid have been provided”. We observed a case where the assessee did not offer any income but claimed credit for TDS. However, this Clause of ITD’s SOP was not followed at the time of processing of return in CPC.

Box 7.1: Illustrative case on mistake in business rule relating to matching of TDS with offered income

Assessee: M/s Salma Dam Joint Venture; PAN: AACAS6491C

AY: 2014-15

The assessee filed (September 2014) digitally signed e-return of income for AY 2014-15 by declaring 'Nil' income and claimed a refund of ₹ 6.84 crore against TDS credit and also claimed current year's business loss of ₹ 14,113 to be carried forward, which was processed (July 2015) as such and a refund of ₹ 7.39 crore (including interest u/s 244A) was issued (August 2015) to the assessee.

On verification of the Schedule – ITR Collection Report under the assessee's processed data, it was seen that during the relevant financial year the assessee received an income of ₹ 342.02 crore, being contract receipts against which TDS of ₹ 6.84 crore u/s 194C was made which was claimed by the assessee in the Schedule Part B-TTI, without offering any income under Schedule Part A – P & L and Part B – TI. Despite this, the return was processed and refund of ₹ 6.84 crore along with interest was allowed.

The omission on the part of assessee in claiming TDS refund without declaring the corresponding income rendered the return of income as defective as per ITD's SOP *ibid*. This was further compounded by the failure on the part of CPC to put the processing on hold at Status Code 21 (Defective Return) and issuing a notice to the assessee as required.

The Ministry replied (October 2016) that the data given in 26AS pertains to receipts and the TDS done on the same. This may not necessarily constitute income as for example TDS is being done on advances in the cases of contractors which is not income and cannot be brought to tax. In cases of mismatch between receipts shown in collection report and receipt shown in return, it would be beyond the purview of Section 143(1) to tax the difference amount, as also the head under which the same has to be brought to tax. Income disclosed in other forms are not directly deductible and comparable with the income offered in the ITR. The observations of the Audit that CPC system should have used the income details available in other systems/records of the department in processing of ITR u/s.143 (1) is untenable as the same is not envisaged as a prima facie adjustment within the meaning of Sec. 143(1).

CPC reply is not acceptable as it is not addressing the audit observation of failure of CPC in applying business rules relating to defective returns. This should have been kept on hold as 'defective return' and a notice issued to the assessee as required.

7.8.4 Full potential of CPC not realised due to not changing the definition of "processing"

The Finance Act, 2008 amended the Income Tax Act, 1961 by inserting a sub-section 1A under section 143, empowering the CBDT to make a scheme for centralised processing of ITRs to determining expeditiously the tax payable by, or the refund due to the assessee. After this amendment, the ITD has the mandate and the opportunity to exploit the benefits of technology for determining tax/refund payable instead of merely replicating rules that were designed for a manual system with inbuilt limitations. However, ITD so far has failed to exploit this opportunity resulting in non utilisation of information available with ITD. Few such cases are detailed below:

7.8.4.1 AST – CPC interface for Accessing Demand/Refund Information

On scrutiny of records and form-view access, it was seen that ITD has developed interface between AST and CPC 'ITR collection Reports' containing specific fields for accessing the demand/refund data uploaded by the assessing officers on AST database, which was an outcome of scrutiny/appellate proceedings. This data could be used for processing the returns, especially where the outstanding tax demands were required to be adjusted against the refunds due as per the provisions of Section 245 of the Act. However, it was observed that there was no interface between CPC and AST for updating the position of income/loss determined by the Assessing Officers during scrutiny assessments or on the basis of appellate proceedings.

Box 7.2: Illustrative case on AST-CPC interface for accessing demand/refund information

Assessee: GMR Projects Pvt. Ltd.;

PAN: AAACN6998D; AY: 2014-15

Returned/ Processed Income – Nil

Loss for AY 2012-13 was assessed at ₹ 2.83 crore as against the returned loss of ₹ 6.05 crore. It was, however, seen from Form View of Schedule CFL¹⁰⁸ for AY 2014-15 that the returned loss for above mentioned AYs have been considered as carried forward loss instead of considering the assessed position resulting in excess carried forward of loss.

7.8.4.2 Information available with AO not used in processing returns u/s 10(23C), 10A, 10AA, 12A(1)(b), 44AB, 44DA, 50B, 80IA, 80IB, 80IC, 80ID, 80JJAA, 80LA, 92E, 115JB and 115VW

As per the proviso to Rule 12(2) of Income Tax Rules, 1962, where assessee is required to furnish a report of audit specified under sub-clause (iv), (v), (vi) or (via) of clause (23C) of Section 10, Section 10A, Section 10AA, clause (b) of sub-section (1) of section 12A, section 44AB, section 44DA, section 50B, section 80IA, section 80IB, section 80IC, section 80ID, section 80JJAA, section 80LA, section 92E, section 115JB, 115VW, notice under clause (a) of sub-section (2) of section 11, he shall furnish the same electronically.

CPC processed 3339, 3989 and 6398 returns containing claims under above sections during the financial years 2012-13, 2013-14 and 2014-15 respectively. However, the information available in the reports furnished electronically in compliance of the above sections was not available to CPC and thus CPC was not able to make use of the available data in processing returns

It was informed (December 2015) that as per the instructions by the system directorate and CBDT above reports were to be made available only to the Assessing Officers and CPC was not to be made privy to these reports. Hence

¹⁰⁸ Details of Losses to be carried forward to future years

as the reports were not made available to CPC, the information in these reports could not be made use of, while processing the returns in CPC. It was further informed by CPC that possibilities were being explored by CPC for accessing these forms/reports where the data presented in the returns appears to be incomplete or inconsistent.

7.8.4.3 Non-Linking of previous years' ITRs resulting in excess deduction

The existing database of CPC system could be used for pre-filling the returns to make use of taxpayers' claim for deductions such as brought forward loss, unabsorbed depreciation, MAT¹⁰⁹ credit etc., made in previous years. On verification of following cases through Form-View we, however, observed that no such facility was available in the CPC software to use the data of previous years' processed returns, available in the CPC database.

Box 7.3: Illustrative cases on non-linking of previous years' ITRs

**(i) Assessee: M/s Corporate Infrastructure Services Pvt. Ltd.; PAN: AAACH9815K;
AY: 2013-14; Returned/ Processed Income – Nil**

As per processed record of AY 2012-13, there was no carry forward loss and unabsorbed depreciation for AY 2009-10. However, in the processed record of AY 2013-14 carry forward loss of ₹ 2.08 crore and unabsorbed depreciation of ₹ 60.75 lakh had been considered for AY 2009-10. This carry forward loss and unabsorbed depreciation pertained to AY 2008-09.

(ii) Assessee: M/s GMR Projects Pvt. Ltd. PAN: AAACN6998D

AY: 2014-15 Returned/ Processed Income – Nil

Carried forward loss for AY 2009-10 as per schedule CFL of previous year i.e. AY 2013-14 was ₹ 1.70 crore. However, this carried forward loss in schedule CFL of current assessment year was changed and shown as ₹ 2.47 crore.

(iii) Assessee: M/s GMR Kamalanga Energy Ltd. PAN: AADCG0436E

AY: 2014-15: Returned/Processed Income – (-)₹ 1717.28 crore

As per depreciation Schedule (schedule DPM¹¹⁰ & schedule DOA¹¹¹) it was seen that while computing depreciation for current year on plant and machinery total opening WDV has been considered at ₹ 136.09 crore. But it is seen from the schedule BS¹¹² of previous year (i.e. AY 2013-14) the gross block of asset was ₹ 180.08 crore (as the depreciation has been claimed first time in the current AY). Reason for this difference is not appearing in the processed return data.

109 Minimum Alternate Tax payable

110 Depreciation on Plant and Machinery

111 Depreciation on Other Assets

112 Balance Sheet

(iv) Assessee: M/s Chayadeep Properties Pvt. Ltd. PAN: AACCC3489Q

AY: 2013-14; Returned/ Processed Income – Nil

As per Sch. CFL of AY 2012-13, total loss to be carried forward was ₹ 22.11 crore {₹ 17.12 crore-Business Loss (BL), ₹ 1.61 crore-Short Term Capital Loss (STCL), ₹ 3.39 crore-Long Term Capital Loss(LTCL)} which, however, was considered in Sch. CFL of AY 2013-14 as ₹ 22.90 crore (₹ 18.01 crore-BL; ₹ 1.51 crore-STCL; ₹ 3.39 crore-LTCL). Thus, there was an excess carry forward of BL of ₹ 78.62 lakh. Similar issues have been noticed in case of PAN AACCC4259J for AY 2012-13 and AY 2013-14.

The Ministry replied (October 2016) that relevant reports of all the mentioned sections are filed separately and not along with the return itself. Allowing claim of deduction based on the forms which are filed separately does not come under the purview of Section 143(1). The Ministry further stated that CPC does only summary assessment and linking of previous years' ITRs with current year does not come under the purview of Section 143(1). During the Exit Conference it was stated by the Ministry that the objective of the CPC was to process the ITRs and issue the refunds to assesseees quickly rather than to deal with the compliance issues. CPC was established as a bulk processing centre and it never intended to investigate the taxpayer. Business Processing Re-engineering (BPR) objective was only to segregate the compliance from processing.

It is true that CPC was established as a bulk processing centre. But it is also true that while developing a new system, attempts may be made to avail the benefits of all the systems available with the ITD. AST is a part of ITD and information with AST should be available to CPC for processing the returns so that correct amount of loss, unabsorbed depreciation, etc. may be taken into account for processing the return. However, as stated at the outset of this para, the ITD used this opportunity to do only a very limited BPR.

7.9 Project execution and performance

7.9.1 The work relating to establishing and operating CPC at Bengaluru was awarded (February 2009) to a consortium led by M/s Infosys Technologies Ltd. {Service Provider (SP)}. A 'Master Services Agreement' (MSA) was executed in October 2009. The contract was for five years starting from the date of acceptance i.e. October 2010 which was extended (December 2014) for two years i.e. upto September 2017 at a cumulative project cost of ₹ 1,078.59 crore. The scope of work of SP includes *inter alia* (i) establishing CPC in the building provided by ITD; (ii) providing technical infrastructure and its related functions, including software, hardware and networking requirements; (iii) Operation and maintenance of entire CPC system environment; (iv) sourcing, training and administration of personnel for the operation and management of back-end processes for ITD including digitisation of physical ITRs, scanning of physical ITRs and supporting taxpayer accounting, tax credit accounting, ITR processing and rectification processes; (v) establishment and operation of a comprehensive record management system for the CPC, including management of records at an off-site storage.

On examination of the documents/records provided by the ITD, related to the Contract Management of the CPC Bengaluru, following non-adherence/deviations were observed.

7.9.2 Deviation from agreed processes relating to matching of TDS/Tax payment claims resulted in increased rectification due to non matching of tax credit

According to MSA any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the 'Services', may only be made by written agreement between the parties to the contract viz., ITD and SP. It was further stipulated that no amendment, variation or other changes to this contract or the Service Level Agreements (SLA) shall be valid unless authorised in accordance with the change control procedure as set out in 'Change Control Schedule' vide Appendix-G of MSA.

A list of 25 deviations (process enhancement - 13, additional scope of work - 03, modification to existing terms - 06 and deletion of existing terms - 03) approved prior to commencement of operation in May 2009, was made available to Audit. No records, however, in support of following proper process in making deviations and making written agreement between the parties were made available to the Audit.

We observed that two deviations were related to deletion of two of the main prescribed processes, viz., "Reconciliation of OLTAS collection at bank branch/RBI level" and "Reconciliation of TDS payments including interaction with deductors, CIT (TDS) and exception handling" from the scope of services at the commencement stage itself. As per contract conditions¹¹³, SP was required to reconcile the taxpayers payments and TDS amounts claimed by taxpayers in their ITRs with those amounts uploaded by bank branches/RBI and deductors respectively. It was also prescribed¹¹⁴ that OLTAS and TDS verification officers are to verify 'false positives' and 'false negatives' and work with banks and CIT(TDS) for their reconciliation. However, these procedures were dispensed with, for which DIT-CPC reasoned (May 2015) that access to data feed from banks/RBI as well as TDS return data was not available to CPC. It was further stated that pre-matching of credits was done by ITD (other than CPC) and only clean Tax/TDS payment data was provided to CPC from OLTAS/TDS database.

In the absence of documentary evidence, Audit could not verify whether due procedures were followed in approving the said deviations. There was no evidence to show that the payment terms were re-negotiated to reduce the

113 SR 08 under Clause 2.3 – Functional Requirements of Appendix A – Description of Services forming part of MSA read with Clause 8.4 – Process Flow for "Taxpayer payment and TDS accounting" described in RFP – Volume I.

114 SR 09 of MSA read with Clauses 9.4.4 – 9.4.20 of RFP *ibid*.

charges payable to SP on 'per return' basis though these deviations may result in significant savings to SP, both in terms of processes and cost. In addition, the said deviation has also resulted in increased percentage of assessee-triggered rectification on account of 'non-matching of tax credits'. Out of total 10,57,381 rectification requests processed during the three financial years 2012-13 to 2014-15, 5,69,915 cases of rectifications were on account of 'non-matching of tax credits', averaging nearly 54 per cent of total rectifications.

Thus, the said deviation not only proved costly to ITD as failure to negotiate rates for reduction for overall ITR processing on account of scaled down scope of work but it also resulted in additional financial burden on ITD by way of payments of ₹ 2.93 crore made to SP towards rectification of 5,69,915 cases on account of non-matching of tax credits for the period 2012-13 to 2014-15. This additional burden will also be applicable in coming years leading to the additional recurring expenditure.

The Ministry replied (October 2016) that the Department had re-negotiated the transaction rate with the MSP and the reduction was 25 per cent in the FY 2016-17. Regarding non-reconciliation of OLTAS collection at bank branch/ RBI level and increase percentage of assessee triggered rectifications on account of TDS mismatching, it has been replied that the reconciliation of OLTAS collection at Bank Branch/RBI level had no bearing on the availability of complete tax credit to the account of a PAN holder since such reconciliation was at a gross level for total fund matching. Such reconciliation is currently within the scope of ZAO. It was also replied that the objection for increased percentage of assessee – triggered rectification was not accepted. CPC has brought about a number of process improvements which had resulted in reduction of rework/ rectification.

The reply is not tenable as re-negotiation was not done at the time of reduction of scope of work. It has been done only at the end of the contract period while extending the contract for two additional years and after audit has pointed this out. Duties of ZAO relate to accounting and reconciliation of tax revenues of ITD under different heads of account whereas the MSA envisaged accounting and reconciliation of tax credits with reference to individual tax payers' accounts. Further, mistakes attributed to taxpayers were purely on account of control weakness in the relevant fields of the prescribed ITRs while the mistakes on the deductors' part could be due to lack of effective follow-up by the Department.

7.9.3 Rectification process in contravention of the Master Service Agreement (MSA)

CPC Project was planned to be implemented as a 'service' complete with all the components and infrastructure required for delivery of the envisaged activities of the CPC. SP was to be paid for the services provided on per transaction basis i.e. per ITR basis. As per MSA, SP was responsible for handling rectification requests which was part of scope of work as defined in Appendix A of MSA. No separate payment was to be made for rectification requests. The ITD, however, on the requests of the SP agreed to pay for handling the rectification requests on the ground that the rectification constitutes processing of returns and was at par with any other ITRs and approved following rates for handling rectification requests:

Table 7.1: Details of rates for handling rectification request			
Description	Type	Quote of rate by SP (₹ per ITR)	Rate approved by ITD (₹ per ITR)
Rectification request rejected	e-return	8.25	8.25
	ITR P		3.88
Rectification	e-return	56.97	56.97
	ITR P		25.84

Thus, the ITD made irregular payment of ₹ 5.86 crore upto June 2013 to the SP for assessee triggered rectifications which otherwise was part of the 'service' as detailed in Appendix A of MSA. Further, this expenditure is of a recurring nature.

The Ministry replied (October 2016) that the reference to first level rectification at CPC in the RFP was mandated primarily for the processing of the physical returns. With the increased e-filing of returns, a new system of rectification was designed with a provision for online filing of rectification through the e-filing portal. The scope of the service changed drastically and also involved increased manpower deployment by the SP to facilitate the rectification services for the e-filed returns. Due to change in the scope of services, the rate for processing of rectification was fixed by the Contract Negotiation group after taking into account the scope of rectification for e-filed returns as new service. During the Exit Conference it was also stated by the Ministry that as per recommendations of CBDT Committee on Rectifications, rectification is at par with processing.

Reply of the Ministry is not acceptable in view of enabling provisions in the RFP/MSA at several places viz., Para 5.3.5.1 of RFP Vol. II, Para 1.1.5 – Scope of work (Section I of RFP Vol. II), MSA's Appendix A – Description of services para (1.1) (a)(v) and Appendix H, which prescribes 'Rectification' as part of MSP's scope of contract based on which the quoted rates were

finalised/accepted. First level rectification as defined in Appendix H does not distinguish between physical and e-filed returns. Hence contention of the Ministry that the first level rectification was mandated primarily for rectification of physical returns is factually incorrect. Also the process flow of the first level rectification clearly defines the process of rectification, both suo-moto and assessee triggered. Considering this, the contention of the Ministry that scope of the said service changed drastically is not acceptable.

7.9.4 Performance measurement

Clause 12 of Appendix-A of MSA outlined the key service level requirements of CPC Project to be achieved by the SP and strictly imposed by ITD during the operation and maintenance period, subject to Quarterly Third Party certification. The operational part of MSA was in the form of Service Level Agreement (SLA). SLA specified the expected level of service, called baseline service level, to be provided by the SP to various stakeholders of the CPC. The Periodic Transaction Charges (PTC)¹¹⁵ payable to the SP were linked to the compliance with the SLA metrics as defined in the 'Table' there under. MSA further prescribed that SLA monitoring was to be done on a daily/weekly/ monthly/quarterly, as the case may be.

An analysis of the information revealed the following:

7.9.4.1 Processing of Physical ITRs

The SLA prescribed, *inter alia*, that "Physical ITRs considered for pick-up at the office of the AO but rejected as not "CPC Ready" will also be included in count of number of ITRs for the purposes of this SLA. Not 'CPC Ready' will include rejections for all reasons". As per SLA, the SP was required to process 4 lakh/2 lakh ITRs or the number of ITRs available for processing whichever was lower, during peak/non-peak months.

Out of 2,11,741¹¹⁶ Physical ITRs received during FYs 2012-13 and 2013-14, 1,71,173 returns had been processed as at the end of March 2014¹¹⁷. Processing status of the balance 40,568 paper returns was not known. In FY 2012-13, 1.59 lakh paper return were received by the SP, against these the SP processed only 1,21,634 returns from the period April 2012 to March 2013. Number of returns processed by the SP was much lower than the specified limit despite the availability of returns. However, no penalty was imposed for not achieving the target as ITD waived the SLA. Though majority of the physical ITRs received at CPC had been processed, the related SLA metrics viz., error rate in data entry of ITRs, volume and time lag of receipt of ITRs at

115 Payments made to SP for services rendered on 'per return' basis vide Appx. F to MSA – Terms of Payment.

116 FY 2012-13: 1,59,541 and FY 2013-14: 52,200.

117 FY 2012-13: 1,21,634 and FY 2013-14: 49,539.

CPC from AOs' location had neither been measured by ITD nor subjected to audit by M/s STQC.

The Ministry replied (October 2016) that due to resistance of ITD staff, as against the process defined in the RFP, pickup of physical returns was allowed only for CPC ready returns (returns where prima facie all the critical information for processing in an automated environment was available). Returns with insufficient information were not allowed to be picked and left to be handled at AO location. The SLAs related to this aspect of the services were not possible for implementation as the process was redesigned with changes to pick up strategy.

The reply is not tenable as this was a significant deviation from the defined parameters and consequently the SLA metrics relating to physical ITRs remained unmonitored and uncertified at any time during the review period.

7.9.4.2 Processing of Electronic ITRs

The monthly SLA metrics prescribed overall processing of 5 lakh and 2.50 lakh e-ITRs during peak months¹¹⁸ and non-peak months¹¹⁹ respectively. During the period under review the count of e-ITRs processed ranged from 2.57 lakh (July 2012) to 51.31 lakh (December 2014) in non-peak months and 12.04 lakh (August 2012) to 30.41 lakh (October 2014) in peak months.

The achievement far exceeded the defined monthly targets which led to skewed results while measuring achievement of SLA metrics resulting in unrealistic comparison. It has been observed that though the number of e-filing of ITR had been increased as compared to projected, however, SLA was not revised and the performances of the SP continued to be compared against the original targets. ITD had not considered revising the monthly targets in line with real time capacity to facilitate realistic comparison.

The Ministry has replied (October 2016) that the review of the existing SLA is in progress and will be applicable for the extended period of the Contract.

7.9.4.3 High percentage of data entry errors in respect of physical ITRs

According to SLA 16, the baseline metric 'mismatch cases' was fixed at less than one *per cent*, whereas the performance was considered as 'breach' if it exceeds five *per cent*. Mismatch cases were defined as "the number of cases sent to the Mismatch Operator, after being determined as 'mismatch' based on comparison of completed data entry of the first and second Data Entry Operator". The breach performance attracted a negative score of two.

118 August, September and October

119 April to July and November to March

It was seen that in all the months in which the paper ITRs were received and processed, the mismatch cases referred to Mismatch Operator constituted a very high percentage viz., between 12.9 per cent and 42.7 per cent in FY 2012-13 and more than 55 per cent and 63 per cent in FY 2013-14.

The Ministry replied (October 2016) that the application has a facility called the mismatch operator which will compare the digitization of both the data entry operators and highlight mismatch. The SLA parameter discussed in SLA 16, mandates the error rate after the record is moved further and submitted to ITD Nominee for QC.

The reply is not acceptable since mismatch cases have been defined as 'the number of cases sent to mismatch operator', not the number of errors identified by ITD-QC.

New Delhi
Dated: 25 January 2017


(SANJAY KUMAR)
Principal Director (Direct Taxes)

Countersigned

New Delhi
Dated: 25 January 2017


(SHASHI KANT SHARMA)
Comptroller and Auditor General of India