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ISSUE 5

# COMPENDIUM OF AUDIT

FINANCIAL YEAR  
2022-23



Directorate of Audit & Inspection  
O/o DGIT (Legal & Research)  
Central Board of Direct Taxes

# MESSAGE



GOVERNMENT OF INDIA  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes  
North Block, New Delhi - 110001  
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It gives me immense pleasure to dedicate the 5th Issue of 'Compendium of Audit' relating to Financial Year 2022-23, to all the stake-holders in the Income Tax Department.

Audit Function is an ongoing process of learning through analysis to avoid the pitfalls pointed out by the Auditors. In this regard, the pearls of wisdom from the sacred treatise "Thirukkural", by the famous Tamil Saint-Poet of 1st Century BC, 'Thiruvalluvar', comes to the fore :

**குறள் 396:**  
**தொட்டனைத் தூறும் மணற்கேணி மாந்தர்க்குக்**  
**கற்றனைத் தூறும் அறிவு.**

**English Translation of Kural Couplet 396:**  
**In sandy soil, when deep you delve, you reach the springs below;**  
**The more you learn, the freer streams of wisdom flow.**

I am sure the field formation will surely be benefitted by this publication, in steering clear of oft-repeated mistakes which involves substantial Revenue potential. This publication evaluates the performance of different CsIT (Audit) across the country, which is bound to bring in a healthy competition amongst them for excelling in this area of work. Further, it is noted with appreciation that the practice of recognising good work of Audit Officers, envisaged as a morale boosting measure, has found its due place in this publication.

I wish to place on record my sincere appreciation to the DGIT (L&R) for the active guidance in this endeavour and to the entire team of Directorate of Audit & Inspections for their meticulousness and dedication, in publishing this Compendium as a part of field support function. All the CsIT (Audit) who provided quality audit objections also deserve appreciation.

With Warm Wishes,

**SUBASHREE ANANTKRISHNAN, IRS**  
**MEMBER & SPECIAL SECRETARY**

# P R E F A C E



GOVERNMENT OF INDIA  
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I am extremely glad to present the 5th Issue of '**Compendium of Audit**' relating to the **Audit Functions** undertaken by the Directorate General of Legal & Research, Income Tax Department, in the F.Y. 2022-23 covering both Internal & Revenue Audit with a statistical over-view.

The compendium also consists of some of the quality objections with details thereof like facts of the case, relevant sections of the I.T. Act, 1961 & Court rulings, raised by both Internal and Revenue Audit and a check-list of common/repeated errors detected by the Audit Officers. These are intended to be reference points for the field level officers with a view to avoid such mistakes in future.

Lastly, initiatives by Directorate of Audit & Inspections and details of Auditor of Month / Year nominated in different regions of Tax-India are also included here, as a mode of recognizing and fostering excellence in the Audit Work.

I would place on record my sincere thanks to the CsIT (Audit) who provided quality objections which are included in this issue. The meticulous & painstaking efforts of Directorate of Audit & Inspections in bringing out this issue is lauded. In this regard, I reminisce the wisdom in the following **saying of the 24th & Last Jain Thirthankara, Vardhaman Mahavir** (6th Century BC)

***If you want to cultivate a habit,  
do it without any reservation till it is firmly established,  
until it is so confirmed, until it becomes a part of your character,  
let there be no exception, no relaxation of effort.***

I would take this opportunity to express my sincere gratitude to Smt. Subashree Anantkrishnan, Member (A & J), CBDT, for her continued guidance and support without which, such an endeavour could not have been thought of.

I also appreciate the sincere efforts made by the Directorate of Audit & Inspection, to bring out this exhaustive compendium which provides the overall activities undertaken.

**SANDEEP JAIN**  
Director General of Income Tax  
(Legal & Research)

# EDITORIAL BOARD



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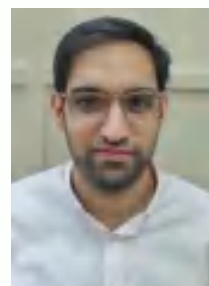
## OFFICER AND STAFF OF DTE. OF A&I WHO CONTRIBUTED SIGNIFICANTLY IN PREAPRING THE COMPENDIUM



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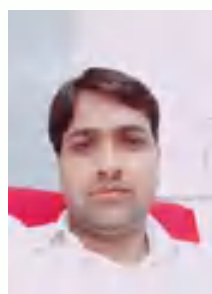
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ITI



MUKESH RAWAT  
DEO



ANIL KUMAR  
DEO

## APPEAL:

*All efforts have been made to make the Compendium error-free. However, while reading the document, if any inadvertent error comes to the notice of the departmental stake holders, we shall feel obliged if the same is brought to our knowledge as it will serve as valuable guidance for subsequent Editions.*

# CONTENT



**01**

## INITIATIVE

Page No : 1- 3

**02**

## STATISTICAL DATA

Page No : 4 - 13

**03**

## INTERNAL AUDIT

Page No : 14 - 47

# CONTENT



**04**

## REVENUE AUDIT

Page No : 48 - 76

**05**

## COMMON ERRORS

Page No : 77 - 87

**06**

## AUDITOR OF THE MONTH & YEAR

Page No : 88 - 91

# CHAPTER - 1

## INITIATIVES BY DIRECTORATE OF A & I





# Reformulation of API (Audit Potential Index)

API is a formula used for selecting cases for Internal Audit by prioritising the cases for internal audit, considering factors like assessed income, exemptions, deductions, and refunds granted.

Instruction No. 06/2017 dated 21-07-2017 and modification thereto, prescribe following API :

- $API = \text{Assessed income} + 2 \times (\text{Exemptions} + \text{Deductions}) + 4 \times \text{Total Refund granted (for the relevant Assessment Year)}$
- In respect of TDS cases, order u/s 201 may be subjected to audit depending upon the quantum of non-deduction of tax or non-payment. For this purpose, the list of 201 orders shall also be available to the CIT (Audit) in ITBA.
- Board may prescribe different criteria for generation of list of auditable cases in respect of the orders for which it is not possible to apply API, like Transfer Pricing, TDS, TRO etc, based upon information available in ITBA, in addition to or in supersession of the API based criteria, depending upon the requirement from time to time.
- For cases of Exemption Charges :
  1. For Scrutiny cases/orders :
    - $API = \text{Deduction claimed} + 2 \times (\text{Voluntary contribution}) + 2 \times \text{anonymous donation} + 3 \times \text{accumulation and}$
  2. For Registration of Trusts & Charitable Institutions
    - Minimum 50 cases of each CIT(Exemption) of registration of Charitable Trusts/ Institutions



# Reformulation of API (Audit Potential Index)

The above said instruction also mandates that ADG (Audit) shall review factors for determination of the API every year in March and indicate changes, as deemed appropriate, with the approval of the Board, in the computation of API.

There were certain limitations of the existing API formula, primarily that it relies heavily on few financial aspects like the quantum of refunds and doesn't take into account various other risk factors important from an audit perspective.

Based upon efficacy of existing API formulas for scrutiny, International Tax and Exemption charges, the Directorate of Audit & Inspections in the year 2022-23 have formulated tentative APIs for Scrutiny Assessments u/s. 143(3)/144 and 147/148, of International Taxation cases, Exemption Cases i.e. Trusts, Charitable Institutions & Political Parties, Transfer Pricing Orders u/s. 92C and TDS Orders u/s. 201(1).

The proposed tentative APIs have been formulated based on inputs received from different CsIT (Audit) and they are mathematical formula for being system compliant. These APIs are designed to assign points based on risk factors of the cases to be audited, with a view to prioritise & select cases with high risk points covering a wide basket of orders passed by different verticals of the department.

Process of getting the said tentative API for different verticals of the Income Tax Dept. validated from field authorities like Pr. CCsIT (IT), Exemptions and Systems Directorate is underway. After this process, the API will be put up to the competent authority in the CBDT for final approval.



# Chapter 2

## AUDIT STATISTICS

01

NUMBER OF CASES

AUDITED INTERNALLY DURING THE  
YEAR

02

INTERNAL AUDIT OBJECTIONS

RAISED

DURING THE YEAR

03

INTERNAL AUDIT OBJECTIONS

SETTLED

DURING THE YEAR

04

REVENUE AUDIT OBJECTIONS

SETTLED

DURING THE YEAR



## Cases Audited Internally during the Financial Year 2022-23 by various CsIT (Audit) charges

S.No.	CIT(Audit)	Mininum target of cases to be audited internally	Cases Audited during FY 21-22	% Achievement
1	Ahmedabad	12,840	9,562	74.47
2	Bangalore	4,200	5,584	132.95
3	Bhopal	7,080	7,805	110.24
4	Bhubneshwar	2,760	1,876	67.97
5	Chandigarh	11,400	8,895	78.03
6	Chennai-1	3,720	6,403	172.12
7	Chennai-2	3,000	3,341	111.37
8	Delhi-1	4,920	4,418	89.80
9	Delhi-2	5,400	5,617	104.02
10	Guwahati	1,980	1,897	95.81
11	Hyderabad	9,960	10,439	104.81
12	Jaipur	7,800	7,074	90.69
13	Kanpur	7,080	10,664	150.62
14	Kolkata-1	5,640	5,050	89.54
15	Kolkata-2	4,860	4,721	97.14
16	Kochi	3,600	2,792	77.56
17	Lucknow	6,360	6,259	98.41
18	Mumbai-1	7,080	10,313	145.66
19	Mumbai-2	7,800	11,915	152.76
20	Nagpur	3,480	3,696	106.21
21	Patna	4,440	1,743	39.26
22	Pune	6,600	7,287	110.41
<b>TOTAL</b>		<b>1,32,000</b>	<b>1,37,351</b>	<b>104.05</b>

1st Best Performance : Chennai -1

2nd Best Performance : Mumbai - 2

3rd Best Performance : Kanpur

1) Calculation based on Working Strength of Addl./Jt.CIT, SAPs & IAPs in respective CsIT (Audit) Charges.

2) Minimum annual target for: Addl./Jt. CIT : 120 ; SAP : 480 ; IAP : 720



# MAJOR INTERNAL AUDIT OBJECTIONS RAISED DURING FY 2022-23 (on absolute basis)

S. No.	CIT (Audit) Charges	April, 2022	May, 2022	June, 2022	July, 2022	August, 2022	Sept., 2022	Oct., 2022	Nov., 2022	Dec., 2022	Jan., 2023	Feb., 2023	March, 2023	Total
1	Ahmedabad	7	23	21	24	76	46	14	21	31	34	57	81	435
2	Bengaluru	1	36	13	24	23	8	14	16	36	32	20	24	246
3	Bhopal	0	1	6	6	18	2	2	9	34	63	46	15	252
4	Bhubaneswar	0	0	1	2	18	3	0	9	7	2	12	27	81
5	Chandigarh	8	5	17	23	36	32	28	28	44	49	47	56	378
6	Chennai-1	0	0	0	2	0	4	8	2	9	13	7	6	51
7	Chennai-2	1	0	0	0	0	5	7	11	7	9	2	4	46
8	Delhi-1	4	6	7	7	44	8	11	14	21	22	24	41	209
9	Delhi-2	5	4	11	28	94	11	22	32	33	45	62	58	405
10	Gurgaon	0	0	1	1	12	0	0	0	1	1	0	2	18
11	Hyderabad	11	7	46	4	45	5	27	29	50	14	9	32	280
12	Jaipur	12	26	19	26	3	50	23	0	19	11	12	10	211
13	Kanpur	0	3	5	2	6	4	0	0	4	9	6	21	60
14	Kolkata-1	0	0	0	3	37	3	3	13	11	13	15	28	126
15	Kolkata-2	0	2	5	3	37	4	6	9	5	8	10	13	102
16	Kochi	0	0	8	2	9	3	2	3	6	14	3	3	53
17	Lucknow	1	2	0	2	0	2	2	2	3	9	6	17	46
18	Mumbai-1	17	20	11	14	17	28	25	25	41	45	37	36	324
19	Mumbai-2	5	10	2	20	5	18	12	19	21	24	20	22	178
20	Nagpur	0	1	0	1	0	0	2	2	11	7	13	7	44
21	Patna	0	0	0	1	33	1	0	2	3	1	3	10	54
22	Pune	3	40	16	25	13	10	12	18	19	25	41	23	245
	Total	75	193	189	220	577	247	220	261	416	450	452	536	3,836

Highest objection raised (Monthly Basis)



Second Highest objection raised (Monthly Basis)



Third Highest objection raised (Monthly Basis)



Highest objection raised (During the Year)



Second Highest objection raised (During the Year)



Third Highest objection raised (During the Year)



# MINOR INTERNAL AUDIT OBJECTIONS RAISED DURING FY 2022-23 (on absolute basis)

S. No.	CIT (Audit) Charges	April, 2022	May, 2022	June, 2022	July, 2022	August, 2022	Sept., 2022	Oct., 2022	Nov., 2022	Dec., 2022	Jan., 2023	Feb., 2023	March, 2023	Total
1	Ahmedabad	46	95	114	83	14	108	93	130	131	96	139	202	1,750
2	Bengaluru	1	19	13	44	28	27	41	28	76	74	76	86	513
3	Bhopal	0	6	8	9	28	5	15	16	27	44	52	27	237
4	Bhubaneswar	1	0	1	4	6	0	0	10	3	4	13	26	68
5	Chandigarh	7	9	23	10	32	50	40	33	20	35	57	32	348
6	Chennai-1	3	45	42	53	6	42	46	12	43	56	52	32	542
7	Chennai-2	2	2	0	5	0	27	30	46	26	19	3	7	167
8	Delhi-1	17	6	6	10	0	23	23	25	16	38	35	38	237
9	Delhi-2	13	3	13	25	8	34	30	38	51	44	65	38	362
10	Gwahati	0	0	0	2	11	1	2	1	9	6	5	3	40
11	Hyderabad	11	21	2	25	52	51	73	94	88	70	52	50	597
12	Jaipur	10	28	22	23	11	47	39	0	87	59	50	34	410
13	Kanpur	0	2	4	0	0	1	0	0	13	24	7	12	63
14	Kolkata-1	2	10	22	11	44	21	18	56	65	73	101	60	483
15	Kolkata-2	0	24	8	33	15	25	19	42	57	54	63	101	444
16	Kochi	7	9	5	34	8	17	29	11	4	70	9	15	218
17	Lucknow	1	0	0	1	0	1	0	0	1	3	3	1	11
18	Mumbai-1	3	73	38	42	9	74	10	69	132	149	117	124	817
19	Mumbai-2	5	17	3	24	45	46	38	61	44	57	43	59	442
20	Nagpur	5	0	1	13	0	7	3	17	32	13	19	20	130
21	Patna	1	5	12	11	9	5	2	0	4	5	6	6	66
22	Pune	1	12	25	25	1	12	3	11	27	70	64	16	267
	Total	136	386	354	487	327	624	594	760	1,006	1,070	1,031	992	7,767

Highest objection raised (Monthly Basis)



Second Highest objection raised (Monthly Basis)



Third Highest objection raised (Monthly Basis)



Highest objection raised (During the Year)



Second Highest objection raised (During the Year)



Third Highest objection raised (During the Year)



# SETTLEMENT OF MAJOR INTERNAL AUDIT OBJECTIONS

(as % of pendency)

S. No.	Charges	No. of Objections Pending as on 01.04.2022	Received during the year	Total	Settled during the year	Percentage of the cases settled during the year
1	Ahmedabad	1,360	390	1,750	491	28.06
2	Bengaluru	688	250	938	291	31.02
3	Bhopal	229	189	418	103	24.64
4	Bhubaneswar	326	70	396	279	70.45
5	Chandigarh	433	356	789	205	25.98
6	Chennai-1	452	57	509	112	22.00
7	Chennai-2	132	47	179	35	19.55
8	Delhi-1	732	172	904	148	16.37
9	Delhi-2	661	349	1,010	294	29.11
10	Guwahati	116	7	123	38	30.89
11	Hyderabad	668	201	869	162	18.64
12	Jaipur	162	250	412	102	24.76
13	Kanpur	85	55	140	57	40.71
14	Kolkata-1	118	92	210	4	1.90
15	Kolkata-2	137	67	204	1	0.49
16	Kochi	321	46	367	171	46.59
17	Lucknow	101	47	148	2	1.35
18	Mumbai-1	886	323	1,209	115	9.51
19	Mumbai-2	778	179	957	191	19.96
20	Nagpur	121	44	165	82	49.70
21	Patna	288	24	312	3	0.96
22	Pune	626	246	872	115	13.19
	<b>Total</b>	<b>9,420</b>	<b>3,461</b>	<b>12,881</b>	<b>3,001</b>	<b>23.30</b>

1st Highest settlement rate



2nd Highest settlement rate



3rd Highest settlement rate



# SETTLEMENT OF MINOR INTERNAL AUDIT OBJECTIONS

(as % of pendency)

S. No.	Charges	No. of Objections Pending as on 01.04.2022	Received during the year	Total	Settled during the year	Percentage of the cases settled during the year
1	Ahmedabad	3,766	1,324	5,090	1506	29.59
2	Bengaluru	968	534	1,502	712	47.40
3	Bhopal	1,124	219	1,343	635	47.28
4	Bhubaneshwar	282	62	344	259	75.29
5	Chandigarh	1,314	329	1,643	890	54.17
6	Chennai-1	2,084	571	2,655	770	29.00
7	Chennai-2	352	179	531	137	25.80
8	Delhi-1	1,376	250	1,626	487	29.95
9	Delhi-2	1,202	387	1,589	379	23.85
10	Guwahati	395	33	428	62	14.49
11	Hyderabad	1,128	600	1,728	411	23.78
12	Jaipur	941	501	1,442	643	44.59
13	Kanpur	124	62	186	101	54.30
14	Kolkata-1	864	450	1,314	14	1.07
15	Kolkata-2	761	444	1,205	39	3.24
16	Kochi	940	223	1,163	616	52.97
17	Lucknow	181	12	193	4	2.07
18	Mumbai-1	3,086	895	3,981	605	15.20
19	Mumbai-2	2,444	437	2,881	293	10.17
20	Nagpur	405	129	534	334	62.55
21	Patna	758	67	825	6	0.73
22	Pune	1,396	279	1,675	214	12.78
	<b>Total</b>	<b>25,891</b>	<b>7,987</b>	<b>33,878</b>	<b>9,117</b>	<b>26.91</b>

1st Highest settlement rate



2nd Highest settlement rate



3rd Highest settlement rate





# MAJOR INTERNAL AUDIT OBJECTIONS SETTLED DURING FY 2022-23 (on absolute basis)

S. No.	CIT (Audit) Charges	April, 2022	May, 2022	June, 2022	July, 2022	August, 2022	Sept., 2022	Oct., 2022	Nov., 2022	Dec., 2022	Jan., 2023	Feb., 2023	March, 2023	Total
1	Ahmedabad	96	200	233	97	11	61	37	16	90	173	282	104	1,401
2	Bengaluru	4	47	56	5	17	35	12	272	114	63	57	38	720
3	Bhopal	0	18	9	32	3	38	22	99	163	107	24	70	585
4	Bhubaneswar	0	0	0	10	0	0	100	4	4	52	3	1	234
5	Chandigarh	17	59	174	55	0	24	1	20	14	39	33	117	353
6	Chennai-1	0	0	50	30	88	25	35	92	122	77	100	131	640
7	Chennai-2	0	0	25	5	15	0	11	19	8	25	38	6	152
8	Delhi-1	1	40	22	30	19	64	37	13	89	51	30	52	448
9	Delhi-2	0	12	52	24	25	0	52	40	19	33	19	72	354
10	Gurgaon	3	3	6	23	18	2	0	6	1	1	1	2	66
11	Hyderabad	8	23	27	32	45	0	22	29	90	42	14	80	412
12	Jaipur	10	79	20	32	3	10	6	0	98	20	34	25	367
13	Kanpur	1	23	10	9	4	4	0	0	11	2	30	11	105
14	Kolkata-1	3	0	3	0	99	0	0	2	2	0	2	2	82
15	Kolkata-2	0	0	23	1	10	5	0	2	5	0	0	0	46
16	Kochi	12	0	5	136	17	5	21	29	221	50	49	49	594
17	Lucknow	0	0	0	1	0	0	0	0	0	0	0	3	4
18	Mumbai-1	31	0	46	0	22	29	48	49	15	157	102	110	612
19	Mumbai-2	20	13	5	13	7	23	46	9	49	37	26	25	273
20	Nagpur	1	28	55	38	4	11	12	44	48	29	25	27	322
21	Patna	0	1	1	0	0	2	1	0	0	0	1	0	6
22	Pune	12	26	0	19	1	20	9	33	26	6	11	17	180
	Total	251	572	1,122	592	377	358	538	778	1,189	964	972	945	8,658

Highest objection raised (Monthly Basis)



Second Highest objection raised (Monthly Basis)



Third Highest objection raised (Monthly Basis)



Highest objection raised (During the Year)



Second Highest objection raised (During the Year)



Third Highest objection raised (During the Year)



# MINOR INTERNAL AUDIT OBJECTIONS SETTLED DURING FY 2022-23 (on absolute basis)

S. No.	CIT (Audit) Charges	April, 2022	May, 2022	June, 2022	July, 2022	August, 2022	Sept., 2022	Oct., 2022	Nov., 2022	Dec., 2022	Jan., 2023	Feb., 2023	March, 2023	Total
1	Ahmedabad	16	209	233	97	11	61	37	16	90	113	283	104	1,401
2	Bengaluru	4	47	56	5	17	35	12	272	114	63	57	38	720
3	Bhopal	0	18	9	32	3	38	22	99	153	107	24	70	585
4	Bhubaneswar	0	0	0	10	0	0	100	4	4	52	3	1	214
5	Chandigarh	17	59	174	55	0	24	1	20	14	39	33	117	853
6	Chennai-1	0	0	50	30	88	25	35	92	122	77	100	131	640
7	Chennai-2	0	0	25	5	15	0	11	19	8	25	38	6	152
8	Delhi-1	1	40	22	30	19	54	37	13	89	51	30	52	448
9	Delhi-2	0	12	52	24	25	0	52	40	19	33	19	72	354
10	Guwahati	3	3	6	23	18	2	0	6	1	1	1	2	66
11	Hyderabad	8	23	27	32	45	0	22	29	90	42	14	80	412
12	Jaipur	40	79	20	32	3	10	6	0	98	20	34	25	367
13	Kanpur	1	23	10	9	4	4	0	0	11	2	30	11	105
14	Kolkata-1	3	0	3	0	90	0	0	2	2	0	2	2	82
15	Kolkata-2	0	0	23	1	10	5	0	2	5	0	0	0	46
16	Kochi	12	0	5	136	17	5	21	29	221	50	49	49	594
17	Lucknow	0	0	0	1	0	0	0	0	0	0	0	3	4
18	Mumbai-1	31	0	46	0	22	29	48	49	15	157	102	110	612
19	Mumbai-2	20	13	5	13	7	23	46	9	49	37	26	25	273
20	Nagpur	1	28	55	38	4	11	12	44	48	29	25	27	322
21	Patna	0	1	1	0	0	2	1	0	0	0	1	0	6
22	Pune	12	26	0	19	1	20	9	33	26	6	11	17	180
	Total	251	572	1,122	592	377	358	538	778	1,189	964	972	945	8,658

Highest objection raised (Monthly Basis)



Second Highest objection raised (Monthly Basis)



Third Highest objection raised (Monthly Basis)



Highest objection raised (During the Year)



Second Highest objection raised (During the Year)



Third Highest objection raised (During the Year)



# SETTLEMENT OF MAJOR REVENUE AUDIT OBJECTIONS

(as % of pendency)

S. No.	Charges	No. of Objections Pending as on 01.04.2022	Received during the year	Total	Settled during the year	Percentage of the cases settled during the year
1	Ahmedabad	2,697	1,290	3,987	672	16.85
2	Bengaluru	1,721	537	2,258	120	5.31
3	Bhopal	2,745	734	3,479	683	19.63
4	Bhubaneshwar	1,451	544	1,995	566	28.37
5	Chandigarh	3,090	522	3,612	495	13.70
6	Chennai-1	2,419	545	2,964	741	25.00
7	Chennai-2	1,464	632	2,096	392	18.70
8	Delhi-1	2,050	590	2,640	366	13.86
9	Delhi-2	2,820	922	3,742	449	12.00
10	Guwahati	443	175	618	36	5.83
11	Hyderabad	3,020	1,437	4,457	581	13.04
12	Jaipur	696	301	997	202	20.26
13	Kanpur	613	286	899	121	13.46
14	Kolkata-1	1,734	548	2,282	337	14.77
15	Kolkata-2	1,681	494	2,175	269	12.37
16	Kochi	628	258	886	268	30.25
17	Lucknow	248	0	248	0	0.00
18	Mumbai-1	2,746	379	3,125	307	9.82
19	Mumbai-2	3,169	376	3,545	615	17.35
20	Nagpur	121	82	203	34	16.75
21	Patna	275	441	716	35	4.89
22	Pune	1,165	429	1,594	131	8.22
	<b>Total</b>	<b>36,996</b>	<b>11,522</b>	<b>48,518</b>	<b>7,420</b>	<b>15.29</b>

1st Highest settlement rate 

2nd Highest settlement rate 

3rd Highest settlement rate 



# SETTLEMENT OF MINOR REVENUE AUDIT OBJECTIONS

(as % of pendency)

S. No.	Charges	No. of Objections Pending as on 01.04.2022	Received during the year	Total	Settled during the year	Percentage of the cases settled during the year
1	Ahmedabad	1,063	360	1,423	291	20.45
2	Bengaluru	727	196	923	146	15.82
3	Bhopal	1,458	275	1,733	674	38.89
4	Bhubaneshwar	633	93	726	329	45.32
5	Chandigarh	2,193	483	2,676	295	11.02
6	Chennai-1	1,904	488	2,392	1064	44.48
7	Chennai-2	553	375	928	389	41.92
8	Delhi-1	789	153	942	232	24.63
9	Delhi-2	781	107	888	207	23.31
10	Guwahati	523	198	721	235	32.59
11	Hyderabad	2,100	510	2,610	558	21.38
12	Jaipur	756	205	961	240	24.97
13	Kanpur	348	113	461	64	13.88
14	Kolkata-1	2,420	881	3,301	649	19.66
15	Kolkata-2	1,753	519	2,272	379	16.68
16	Kochi	514	198	712	323	45.37
17	Lucknow	492	0	492	0	0.00
18	Mumbai-1	1,502	203	1,705	235	13.78
19	Mumbai-2	1,750	190	1,940	282	14.54
20	Nagpur	105	35	140	44	31.43
21	Patna	243	277	520	65	12.50
22	Pune	1,037	130	1,167	163	13.97
	<b>Total</b>	<b>23,644</b>	<b>5,989</b>	<b>29,633</b>	<b>6,864</b>	<b>23.16</b>

1st Highest settlement rate 

2nd Highest settlement rate 

3rd Highest settlement rate 



# CHAPTER-3

## QUALITY INTERNAL AUDIT OBJECTIONS

- This Chapter contains compilation of 41 Quality Internal Audit Objections which were selected out of more than 200 objections provided by various CsIT (Audit) charges. These objections were raised during FY 2022-23 and were, by and large, accepted for taking remedial measure by the concerned supervisory authorities.
- Along with the Gist of Audit objection, applicable provisions/sections have been mentioned which would make it convenient to the reader to easily comprehend the objection.
- Assessee's identity has been masked in the objections and only the Status of assessee i.e. whether Individual, Company, Trust etc. is mentioned in each case.
- The index of objections is made section-wise



# INDEX

Case	Section	Topic
1	2(24)(xviii)	Government grants received - Definition of Income
2	37	General Deductions
3	68	Cash credits
4	36(1)(viia)	Irregular deduction on account for provisions for bad and doubtful debts
5	115BBE	Tax on income referred to in sec 68/69/69A/69B/69C/69D
6	269ST	Mode of undertaking transactions
7	2(24)(xviii)	Government grants received - Definition of Income
7	ICDS VIII	Accounting policy in regards to grants
8	32	Depreciation
8	245-I	Order of settlement to be conclusive
9	115JB	MAT - Special provisions for payment of Tax
10	56(2)(vii)(b)(ii)	Income from other sources - Consideration received for issue of shares
10	AS 14	Accounting for amalgamations and treatments of resulting goodwill or reserves
11	90	Agreement with foreign countries or specified territories
12	269ST	Mode of undertaking transactions
13	80 IA(4)	Deductions - Undertakings engaged in infrastructure development



# INDEX

Case	Section	Topic
14	54B	Capital gain on transfer of land used for agricultural purposes
15	54F	Capital gain not to be charged in case of investment on residential house
16	80-IB	Deductions available to certain industrial undertakings other than infrastructure development undertakings
17	11(1)	Income from property held for charitable or religious purposes
18	11(1)	Income from property held for charitable or religious purposes
19	94(7)	Conditions to check dividend stripping
20	2(24)(v) r.w.s. 28(ii)	Definition of income - Compensation for termination of business
21	14-A r.w.r. 8-D(i) & (ii)	No deduction allowed on account of expenditure on exempt income
22	32(1)(iia)	Additional depreciation allowed on actual cost of plant or machinery
23	Explanation 2 of sub section 11(1)	Disallowance of application amount regarding corpus grant to any institution
24	11(2)	Disclosure of purpose of accumulation of funds
25	80-IC(1)	Special provisions in respect of certain undertakings in certain category states
26	32(1)	Computation of depreciation on the WDV of asset
27	10(21) r.w.s. 35(1)(ii)	Exempt income in case of approved scientific research association
28	35(1)(ii)	Deductions for any expenditure incurred on scientific research
29	2(22)(e)	Deemed Dividend





# INDEX

Case	Section	Topic
30	11(1)	Income from property held for charitable or religious purposes
31	11(6)	Income from property held for charitable or religious purposes
32	37(1)	General Deductions
33	80-P	Tax deduction towards the cooperative societies
34	54F	Capital gain not to be charged in case of investment on residential house
35	36(1)(iii)	Payment of interest on capital borrowed for the purpose of business
36	17(3)	Profits in lieu in Salary
37	40(a)(ia)	Disallowances of expenditure like interest, commission, brokerage, professional fees etc.
38	68	Cash credits
39	68	Cash credits
39	40(b)(iv)	Disallowance of payment of interest in the case where amount exceeds the prescribed rate of interest
40	11	Income from property held for charitable or religious purposes
41	40(a)(ia)	Disallowances of expenditure like interest, commission, brokerage, professional fees etc.



Case: 1	Status: AOP	AY: 2018-19	Section
<p>Audit has pointed out that assessee has shown receipt of government grant of Rs 760,37,88,000, which was not credited to Income &amp; Expenditure A/c. Tax auditor in tax audit report in form 3CD also reported receipt of grant of Rs 760,37,88,000 from Rajasthan Govt. In the ITR as well as in the form 3CD report, this grant has been shown as capital receipt.</p> <p>But after verification of the details and accounts of the assessee, audit has highlighted that the said government grant was not a capital receipt but it was actually a revenue receipt for meeting out the revenue expenses of the assessee. Audit also stated that as per section 2(24)(xviii) of the Act, any grant, subsidy or assistance received by an assessee, other than the grants for corpus funds or for creation of fixed assets, subsidy or assistance shall be treated as income of the assessee in the year of receipt.</p> <p>However, since no addition to the returned income was made by AO in the scrutiny assessment on account of the said grant received from Rajasthan Govt. this audit objection was raised, which has been accepted by the AO and order u/s 263 has been passed by the PCIT vide order dated 21.03.2023 vide which the assessment order of the AO has been set aside</p> <p>This omission has caused an under assessment of income by Rs 760,37,88,000 with a tax effect of Rs. 272,48,10,931.</p>			2(24) (xviii), 145B(3)
Case: 2	Status: Company	AY: 2018-19	Section
<p>Audit has pointed out that the assessee has debited Rs 5,42,02,000/- in P&amp;L A/c as Renewable Purchase Obligation, which is actually a provision. As per the reply of assessee, it has booked this expense as order for petition no. 55 of 2016 for the FY 2014-15 passed by Chattisgarh State Electricity Regulatory Commission on 27-04-2018. However, as the order came on 27.04.2018, assessee can't book these provision in P&amp;L ending</p>			37



<p>on 31.03.2018 because it's a contingent liability. This liability had not arisen or crystallized during the period relevant to the Assessment Year. A contingent liability is a possible obligation that arises from past events and the existence of which will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the enterprise. Therefore, Assessing officer erred in accepting assessee's reply and allowing the provisions for RPO Expenses. This omission has resulted in under assessment amounting to Rs.5,42,02,000/- with a tax effect of Rs.1,62,60,600/-</p>			
Case: 3	Status: Firm	AY: 2018-19	Section
<p>The Assessee had introduced huge sum of capital of Rs Rs.59,17,31,446/- in the relevant year, which was one of the reasons for selection of the case for scrutiny. As per the assessment records assessee has provided only copy of ITR-V form of persons who have introduced the capital.</p> <p>The persons who have introduced the capital were showing meagre income in comparison to amount contributed as capital. The Bank statements of these persons for verification of the transactions were not available on record. Thus, apparently assessee has not discharged the onus of proving the creditworthiness and genuineness of transactions.</p> <p>The Audit has pointed out that AO did not make any inquiry during the course of assessment proceedings w.r.t the huge capital introduced and therefore, the credits of Rs 59,17,31,446/- remains unexplained resulting in a possible revenue loss of Rs.17,75,19,434/-.</p>			68
Case: 4	Status: Local Authority	AY: 2018-19	Section
<p>Audit has pointed out that assessee has debited an amount of Rs 77,97,646/- as provision of bad debts in the profit &amp; loss accounts under the head other expenses. Provision of bad debts</p>			36(1)(viiia) and 37



are allowable under section 36(1)(viia) of the Income Tax Act only to specific persons.

As the assessee is an LLP engaged in the construction work as stated in 3CD report, it is not the specific person as per section 36(1)(viia) and therefore provision for bad debts is not an allowable deduction to the assessee u/s 37 of the Act and the same was required to be disallowed. But the same was not done by the AO. In fact, AO has not raised any query regarding this expenses during the assessment proceedings.

This omission has resulted in underassessment of Rs 77,97,646/- with a tax effect of Rs. 23,39,294/- exclusive of interest.

Case: 5      Status: Firm      AY: 2018-19

Section

In this case, excess stock of Rs. Rs.1,35,43,914/- was found during the physical verification in a survey u/s 133A which is unexplained investment of assessee under section 69 of Income Tax Act and was to be taxed u/s 115BBE at special rates i.e. 60%, unless the source is separately proved by assessee. Audit has pointed out that from the assessment records it is seen that assessee offered the additional income as income from business in the return, on which tax is computed at normal rate and this has been wrongly accepted by the AO.

This omission has led to short levy of tax & interest of Rs 76,87,510/-.

115BBE

Case: 6      Status: Company      AY: 2018-19

Section

In column 31b(a) of form 3CD, assessee has shown receipts in cash more than Rs. 2,00,000 totalling to Rs. 50,07,856/-, which is in violation of section 269ST. Audit has pointed that AO failed to raise any query related to section 269ST and has not attempted to ascertain if assessee is covered under any exemption given in the section and thus failed to initiate penalty

269ST



u/s 271DA, which is 100% of the sum received in cash. This omission has resulted in a revenue loss of Rs.50,07,856/-			
Case: 7	Status: Company	AY: 2018-19	Section
<p>Audit has pointed out that from the assessment records, it was seen that assessee has credited grants of Rs. 68,29,43,995/-, received from Madhya Pradesh Govt. for buying specified assets to the respective asset account &amp; grant of Rs.1,78,29,86.283/- received from Govt. of India to Capital Reserve A/c.</p> <p>As per section 2(24)(xvii) of the Act, assistance in the form of grants is income in the hands of the assessee if such grants are not taken in to account for determination of the actual cost of the asset as per Explanation 10 to clause (1) of section 143.</p> <p>Further, as per ICDS (Income Computation &amp; Disclosure Standards) VIII, recognition of government grant should not be postponed beyond the date of actual receipt. The ICDS also states that where government grants relates to depreciable assets, the grants are to be deducted from the actual cost of the asset and where such grants relates to non-depreciable asset requiring fulfillment of certain obligations, the grant shall be recognised as income over the same period. Also, the grants not covered under any other clause shall be recognised as income over the periods necessary to match them with related costs.</p>			2(24) (xviii) and ICDS VIII



From the schedule of fixed assets, it was seen that the assessee has neither deducted the grants received from Govt. of India, from the actual cost of assets in case of depreciable assets, nor any income was recognised during the year, by treating the said grants as relating to non-depreciable assets.

As seen from the case records, in the assessment proceedings, the applicability of ICDS provisions was not ascertained which resulted in escapement of potential income of Rs 1,78,29,86,293/- as per the provisions of section 2(24)(xviii) of the Act.

Case: 8      Status: Company      AY: 2018-19

Section

During the year, the assessee has set off unabsorbed depreciation amounting to Rs 41,17,86,828/- pertaining to AY 12-13 to AY 14-15.

32 and  
245-I

Audit has pointed out that from the records, it was seen that for AY 12-13 to AY 14-15, the assessee filed return of income claiming loss, but income for these Assessment Years was assessed by Settlement Commission.

As per section 245(1B) and section 245(1C) of the Act, if the applicant has furnished a return in respect of total income of that year, tax shall be calculated on aggregate of total income returned and income disclosed in the application as if such aggregate were the total income.

This implies that the Settlement Commission has ignored the loss claimed by the assessee in return of income for settling the income for AY 12-13 to AY 13-14 and the assessee has accepted the total income returned for AY 12-13 to AY 14-15 as Rs Nil otherwise, on offering additional income no tax liability would have arisen in the hands of the assessee. The assessee does not have a choice in offering additional income and determine tax payable without considering depreciation/business loss of the year as per return on income.



<p>As every order of Hon'ble Settlement Commission shall be conclusive as to matters stated therein and since the Hon'ble Settlement Commission has determined a positive total income for AY 14-15, therefore, no unabsorbed depreciation was available for set off against the income of AY 18-19 in the hands of the assessee and set off of such unabsorbed depreciation against business income has resulted in income escaping assessment of Rs 41,17,86,828/-</p>	
<p>Case: 9      Status: Company      AY: 2018-19</p>	<p>Section</p>
<p>As per notes to financial accounts, the company has recognised impairment loss of Rs 3900.02 lakhs on investment in its 14 subsidiaries which was reflected as exceptional item in the profit and loss account.</p> <p>As per section 115JB Explanation 1(i), the book profit of the assessee is to be increased by the amount set aside for provision for diminution in value of any asset.</p> <p>In the computation of MAT Income, the book profit was not increased by the amount of Rs 3900.02 lakhs resulting in underassessment of MAT income of Rs 3900.02 lakhs.</p>	<p>115JB</p>
<p>Case: 10      Status: Company      AY: 2018-19</p>	<p>Section</p>
<p>Assessee in accordance with scheme of amalgamation approved by NCLT adopted 'Purchase Method of accounting'. Accordingly assets &amp; liabilities of 10 transferor companies have been recorded at their respective FMV (Fair Market Value) as at their appointed date in the books of the assessee, after cancellation of inter-company balances, investment etc. Amount of Rs 27,39,00,517/- was credited to capital reserve on account of difference between net assets of the transferor companies and the shares issued to shareholders of the transferor companies.</p> <p>Audit has pointed out that as per AS-14, where the amalgamation is in the nature of purchase, the amount of</p>	<p>56(2)(vii) (b)(ii) and AS 14</p>





consideration is deducted from the value of net assets and if the result is positive, the difference is credited to the Capital Reserve. This implies that the assessee has received higher consideration than the value of shares issued. As per section 56(2)(vii)(b)(ii) of the Act, if a company in previous year, receives consideration for issue of shares that exceeds the face value of such shares, aggregate consideration received that exceeds FMV of the shares shall be chargeable to tax under the head Income from Other Sources. The consideration received by the assessee company on account of issuance of shares to the transferor companies is value of the net assets that were transferred to assessee company and in this case, value of the consideration exceeds FMV of shares issued and hence the amount of Rs.27,39,00,517/- credited to Capital Reserve is to be treated as income in the hands of the assessee u/s 56(2)(vii)(b)(ii) of the Act.

This omission has resulted in under-assessment of Rs.27,39,00,517/- with a consequential tax effect.

Case: 11      Status: Individual      AY: 2018-19

Section

During the year, the assessee has claimed tax relief u/s 90 of the Act amounting to Rs 5,32,41,962 as follows :

90

Nature of Income	Income earned in USA	Tax relief claimed in India
Salary Income	Rs 6,38,23,929/-	Rs 1,42,19,362/-
Long Term Capital Gain	Rs 10,62,25,321/-	Rs 3,41,85,000/-
Interest	Rs 1,75,96,684/-	Rs 48,37,500/-
Total	Rs 18,76,45,934/-	Rs 5,32,41,862/-



As per Rule 128 of Income Tax Rules, the credit of foreign tax shall be aggregate of the amount of credit computed separately for each source of income arising from a particular country. The credit shall be lower of the tax payable under the Act on such income and foreign tax paid on such income provided further that where the foreign tax paid exceeds the amount payable in accordance with provisions of the agreement for relief, such excess shall be ignored for the purposes of this clause.

The computation as per Rule 128 separately for each source of income revealed that the assessee has claimed excess tax credit of Rs 1,12,77,445/-.

The tax payable on Long Term Capital Gain as per Act was Rs 2,51,05,553/- on Income From Long Term Capital Gain whereas the assessee claimed Tax credit of Rs 3,41,85,000/- resulting in excess credit of tax amounting to Rs 90,79,447/-.

Further, as per the DTAA agreement, the tax charged on Interest shall not exceed 15 percent of gross amount. In the case of the assessee, the tax charged on interest by USA is greater than 15% of the gross amount on interest income of Rs 1,75,96,684/- and therefore the excess tax charged by the USA is to be ignored for the purpose of claiming tax relief amounting to Rs 21,97,998/-.

Thus, on account of excess relief of Rs. 1,12,77,445/- claimed and allowed u/s. 90, there is a revenue loss of an equal amount

Case: 12    Status: Firm    AY: 2018-19

Section

From the records, it was observed that Rs 27,34,460/- was deposited by four partners in the firm in cash. As per provisions of section 269ST of the Act, no person shall receive an amount of two lakhs or more otherwise than by account payee cheque or account payee draft or use of electronic clearing system through bank account. As per the provisions of section 271DA of the Act, if a person receives any sum in contravention of the provisions of section 269ST, he shall be liable to pay, by way of

269ST



<p>penalty, a sum equal to amount of such receipt.</p> <p>In view of the above, penalty of Rs 27,34,460/- was liable to be imposed on the assessee u/s 271DA of the Act on account of violation of section 269ST of the Act.</p> <p>This omission has resulted in a revenue loss of Rs. 27,34,460/-</p>	
<p>Case: 13    Status: Company    AY: 2018-19</p>	<p>Section</p>
<p>The assessee had claimed deduction u/s 80IA(4)(i) of the Act amounting to Rs 1,80,10,787/- on account of developing, operating and maintaining an infrastructure facility of Solid Waste Management, which was allowed by the AO in the scrutiny assessment.</p> <p>As per section 80IA(4)(b), this section applies to an enterprise which has entered into an agreement with Central Government or State Government or any local authority.</p> <p>During the course of assessment proceedings, the assessee submitted that it is engaged in business of solid waste management under agreement with MP Pollution Control Board under which they collect bio medical waste from hospital and pharma industries and incinerate them.</p> <p>From the submission of the assessee, it was observed that the assessee has not submitted any agreement with MP Pollution Board. The MP Pollution Board had merely authorized the assessee to operate Health Care Facility as per BMW Authorization Form III.</p> <p>Therefore, the assessee had not fulfilled the conditions for availing deduction u/s 80IA(4) as per section 80IA(4)(b) as the assessee had not entered into any agreement with the MP Pollution Board and therefore, was not eligible to claim deduction u/s 80IA amounting to Rs 1,80,10,787/-.</p> <p>Omission to disallow the deduction u/s 80-IA(4) has resulted in underassessment to the extent of Rs. 1,80,10,787/- with a consequent tax effect</p>	<p>80IA(4)</p>



Case: 14      Status: Individual      AY: 2017-18	Section
<p data-bbox="177 271 1206 479">During audit, it was seen that the assessee sold an agriculture land during the year under consideration for a value of Rs. 1,85,98,00/-/- whose value determined by the stamp Duty Authority at Rs.1,89,98,000/-</p> <p data-bbox="177 495 1206 927">Further, the assessee declared LTCG of Rs. 1,75,56,753/- on sale consideration of above lands and claimed exemption/deduction of Rs.1,47,63,750/- U/s 54B of the Act against the investment made in purchase of two agriculture lands. The assessee had made investment of Rs. 77,84,250/- for purchase of new agriculture land on 21/03/2018 and made another investment of Rs. 69,79,500/- for purchase of agriculture land on 22/03/2018.</p> <p data-bbox="177 994 1206 1532">In view of the provisions of section 54B(2) of the Act, if the amount of capital gain is not utilized by the assessee for purchase of the new asset before the date of furnishing the return of income within time allowed u/s 139(1) of the Act, then the amount of unutilized capital gain has to be deposited in the Capital Gains Account Scheme. Such deposit was not made by the assessee. During audit, it is noticed that both of the agriculture lands were purchased on 21/03/2018 and 22/03/2018 i.e. after due date of furnishing of ITR for A.Y. 2017-18.</p> <p data-bbox="177 1554 1206 1762">Hence, these investments totalling to Rs.1,47,63,750/- made in purchase of two agriculture lands were not eligible for exemption/ deduction U/s 54B of the I.T. Act. But the AO failed to disallow the same in scrutiny assessment.</p> <p data-bbox="177 1830 1206 2038">The above omission has resulted in under assessment of income to the tune of Rs.1,47,63,750/- under the head LTCG and the revenue loss worked out on above is Rs.34,57,533/- plus interest.</p>	54B



Case: 15      Status: Individual      AY: 2017-18	Section
<p>During audit, it is noticed that the assessee had sold 2,35,500 Equity shares of Rs.10/- each of Absolute Barbeque Pvt. Ltd. @Rs.704.05/- per share during the period under consideration for a value of Rs.16,58,03,775/- to General Atlantic Singapore AB Pte. Ltd.</p> <p>The assessee had declared long term capital gain of Rs.16,26,00,975/- on sale of equity shares and claimed deduction of Rs.5,39,37,575/- u/s 54F of the Act, against investment of Rs.3,58,37,575/- made in purchase of house property and deposited Rs.1,81,00,000/- in SBI Capital Gain Account.</p> <p>During audit, it is noticed that the assessee was having two residential property. Hence, the assessee has own more than one residential property on the date of transfer of the original asset. In view of the provisions of section 54F of the Act, investment of Rs.3,58,37,575/- made in purchase of house property and deposited Rs.1,81,00,000/- in SBI Capital Gain Account totalling to Rs.5,39,37,575/- are not eligible for deduction/exemption u/s 54F of the Act.</p> <p>It has resulted in under assessment of income to the tune of Rs.5,39,37,575/- under the head Long Term Capital Gain. The revenue loss worked out on above is Rs. 2,00,61,163/</p>	54F
Case: 16      Status: Company      AY: 2018-19	Section
<p>On perusal of records, it was noticed that the assessee had claimed a deduction of Rs. 4,93,02,495/- u/s 80IB(11A) out of profit and gains derived by the enterprise from eligible business of Rs. 5,65,14,556.</p> <p>Further, on perusal of audit report in Form 10CCB, it is noticed that the initial AY is mentioned as 2013-14. As per the provisions of section 80IB(11A), the assessee is entitled to claim 100% of the profit and gains of the enterprise from the eligible</p>	80-IB



business for the five consecutive AY's beginning with initial AY & thereafter 30%, the assessee being a company. As such, up to AY 2017-18, the assessee is entitled to claim at the rate 100% and thereafter at the rate of 30%. 30% of deduction comes to Rs. 1,69,54,367/- whereas the claim by the assessee at Rs.4,93,02,495/- resulted in excess claim of deduction u/s 80IB(11A) at Rs.3,23,48,128/-. Tax Effect: Rs.1,06,95, 261/- (excluding interest).

Case: 17      Status: Company      AY: 2016-17

Section

The assessee is a body corporate created with the object of urban development. Assessment was framed u/s 143(3) of the Income Tax Act, 1961 at the total income of Rs.512,80,66,351/- after denying exemption claimed u/s 11 of the Act. Assessee was having surplus of income over expenditure year after year and a part of such surplus was being credited to various funds created for specific purposes viz. 'Civil Works Metc. Fund', 'Urban Development Fund', 'Post Retirement Medical Fund', 'Contingency Reserve Fund'. During the financial year relevant to Asstt Year 2016-17, the assessee earned interest of Rs.503.47 crore on such deposits. While computing total income, the assessee excluded this interest earned on the plea that interest has accrued on funds for specific purposes and was not to be spent on general purposes.

11 (1)

Audit has pointed out that, that these funds have been created by the assessee out of surplus income or grants received from the government and these funds are not part of Corpus of the assessee. Interest accrued on deposits made out of such funds, was part of its total income/taxable in the normal course, and should have been brought to tax. But the AO has not done this. This omission has resulted in under assessment of income having potential tax effect of Rs.174,24,08.976/-



Case: 18      Status: Trust      AY: 2018-19	Section
<p>The Assessee is a trust registered u/s 12A of the IT Act and for this year scrutiny assessment was completed u/s 143(3) r.w.s 144B by accepting the returned income of NIL.</p> <p>Audit has pointed out that the assessee had exercised the option under clause 2 of the Explanation to section 11(1) and had claimed the amount of income of Rs. 7,52,31,414/- deemed to have been applied to charitable or religious purpose in India during the year under consideration. But, as per Explanation 1 to section 11(1) of the I T Act, the assessee ought to have filed the Form 9A before the expiry of the time allowed u/s 139(1) for furnishing the return of income. But, in this case the due date of furnishing return of income as per section 139(1) was 31.10.2018 and Form 9A was filed on 14.12.2019. Hence, the claim of exemption as per Explanation 1 to section 11(1) of the Act amounting to Rs. 7,52,31,414/- should have been denied.</p> <p>The above discrepancy has resulted in under assessment of income to the tune of Rs. 7,52,31,414/- having potential tax effect of Rs. 3,63,25,894/-.</p>	11(1)
Case: 19      Status: Company      AY: 2018-19	Section
<p>In this case scrutiny assessment u/s 143(3) was completed at a total income of Rs. 203,06,62,180/- and STCL of Rs.127,51,14,410/- was allowed to be carried forward for set-off in future years.</p> <p>Audit has pointed out that in Schedule-CG of its ITR (Item no. 3), the assessee had disclosed sale consideration of mutual funds at Rs.68,78,93,521/- and cost of acquisition thereof at Rs.135,30,99,392/- resulting in STCL of Rs.66,52,05,871/-. This meant that value of mutual funds decreased by almost 50%, which in capital market happens when dividend is distributed by the company/AMC. Further, in Schedule-BP and Schedule-EI, assessee had disclosed earning dividend of Rs.196,92,44,280/-</p>	94(7) Dividend Stripping





from mutual funds and claimed the same as exempt from tax which was confirmed during assessment proceedings. In Schedule- CG (Item no. 6), assessee had disclosed sale consideration of other assets at Rs.124,06,75,52,786/- and its cost of acquisition at Rs.124,67,74,61,325/- resulting in STCL of Rs.60,99,08,539/-. Nature of these assets was neither disclosed by the assessee nor enquired into by AO. However, keeping in view the quantum of dividend of Rs. 196.92 crores, these assets might be again mutual funds disclosed under wrong column of Schedule-CG.

As per provisions of sec. 94(7) of the Act, where any person buys any unit of mutual fund within a period of 3 months prior to record date (for dividend) and sells such units within a period of 9 months after such date and the dividend on such units received was exempt, then any loss arising on purchase and sale of such units to the extent of amount of dividend, shall be ignored for the purpose of computing his income. Therefore, Short Term Capital Loss of Rs.66,52,05,871/- (and STCL of Rs. 60,99,08,539/- as per Col. 6 of Schedule-CG if the same also happens to be from sale of securities) has been wrongly allowed to be carried forward to the succeeding years.

The above discrepancy has resulted in notional under assessment of income with a potential tax effect of Rs.11,51,07,225/- exclusive of interest.

Case: 20      Status: Firm      AY: 2018-19

Section

Scrutiny assessment was completed by accepting returned income of NIL by accepting all the claims and deductions sought by the Assessee.

2(24)(v)  
r.w.s. 28(ii)

Assessee has claimed deduction of Rs. 4,67,81,000/- in schedule BP [any other amount allowable as deduction which was the main reason for selection of the case for scrutiny. Justification of Assessee for claiming the deduction was that the amount claimed was received on termination of agency and it was



capital receipts.

Audit has pointed out that the receipts of the Assessee on termination of agency business fall squarely within the definition of income u/s 2(24)(v) of the Act r.w.s. 28(ii) of the Act which specifically provide for compensation for termination of business and hence not allowable as deduction. Thus the amount of compensation received by assessee for termination of agency should have been taxed as income from business and profession.

This omission resulted into loss of revenue of Rs. 1,95,79,200/- exclusive of interest and also penalty at least equal to the sum of tax sought to be evaded, which in this case is Rs. 1,95,79,200.

Case: 21      Status: Company      AY: 2018-19

Section

Scrutiny assessment was completed at a loss Rs.892,15,68,504/- after effecting disallowance of Rs. 9,38,70,500/- u/s 14-A r. w. r 8D(2)(ii), @ 1% of annual average of investments of Rs. 938.71 Crores (Op. Bal of 1058.63 Cr. & Cl. Bal of 818.78 Cr.).

14-Ar. w. r  
8-D(i) &  
(ii)

Audit has pointed out that, Opening & Closing Balance of equity & other equity was Rs.(-)1,145.89 Cr. & Rs.(-)3,077.69 Cr., respectively. Further, Opening & Closing Balance of current and non-current borrowings was Rs. 6,566.57 Cr. & Rs. 5,303.99 Cr. These figures indicates that the assessee did not have its own funds for making any investment and had utilised borrowed funds only for such investments. Total interest liability during the year was Rs.1175,45,11,476/-. While disallowance have effected w.r.t indirect expenses under clause (ii) of Rule 8D(2), no disallowance out of interest expenses under clause (i) of Rule 8D(2) have been made. Proportionate amount of disallowance out of interest expenses works out to Rs.185.86 cr. Which also was required to be made under Rule 8D(2)(i), in addition to disallowance already made.

This omission has resulted in under-assessment of Rs.185.86



crore with a potential tax effect of Rs.57,43,10,000/- exclusive of interest and penalty equal to atleast 100% of tax sought to be evaded i.e. Rs.57,43,10,000/-.			
Case: 22	Status: Company	AY: 2018-19	Section
<p>Audit has pointed out that in the scrutiny assessment the assessee's claim for additional depreciation of Rs.215,03,93,847/- u/s 32(1)(iia) of the Act was allowed on addition to Plant &amp; Machinery (Block rate of depreciation @15%) at Rs.560,87,80,274 for a period of more than 180 days; and at Rs.12,63,38,588/- for a period of less than 180 days. But, as per Section 32(1)(iia) of the Act, additional depreciation was allowable @20% of actual cost of new machinery if new asset is used for a period of more than 180 days and @10% if asset is used for a period of less than 180 days. Thus, allowable additional depreciation works out to Rs.113,43,98,914/- and excessive claim allowed to the assessee was found to be at Rs.101,59,94,933/-.</p> <p>The above discrepancy has resulted in under assessment of income having potential tax effect of Rs.35,16,15,527/- exclusive of interest.</p>			32(1)(iia)
Case: 23	Status: Trust	AY: 2018-19	Section
<p>Assessee is a trust registered u/s 12A and scrutiny assessment for the relevant year was completed u/s 143(3) read with section 144B at income of Rs. 7,06,97,700/- after denying benefit of section 11 &amp; 12 of the Act and treating the assessee as an AOP.</p> <p>Audit has pointed out that during the year assessee had given an amount of Rs. 6,00,00,000/- to M/s Link Education Trust as 'corpus donation' with a specific direction to spend this fund towards construction of school building and claimed the same as expenses (i.e. application of income) in its the income and</p>			Explanation 2 of sub section 11(1) Section 80G(5)(vi)



expenditure a/c. Since the benefit of section 11 and 12 had been denied by the A.O. in his assessment order, the normal provision other than provision in r/o registered trust were applicable in this case. Therefore, the corpus donation of Rs.6,00,00,000/- given to other trust are not allowable as revenue expenses. The provisions of section 80G of the I T Act in respect of donation made could have been applicable in this case. As per available record, M/s Link Education Trust is not approved u/s 80G of the I T Act. Hence, the deduction in r/o of donation u/s 80G was also not allowable to the assessee. Hence, the benefit of donation of Rs. 6,00,00,000 are not allowable either as revenue expenses or deduction u/s 80G of the I T Act. Thus, the amount Rs. 6,00,00,000/- debited as Revenue expenses in the Income & Expenditure A/c needs to have been added back to the surplus for arriving at the total income.

The above omission has resulted in under assessment of income to the tune of Rs. 6,00,00,000/- having a tax effect of Rs. 2,13,21,000/- exclusive of Interest.

Case: 24      Status: Trust      AY: 2017-18

Section

The Assessee is a trust registered u/s 12A of the Act and in the scrutiny assessment u/s 143(3) read with section 144B returned income of NIL was accepted.

Audit has pointed out that, from the return and Form 10, it was seen that the assessee had claimed accumulation of Rs. 52,73,43,332/- u/s 11(2) of the I T Act for the purpose “to promote education amongst educationally backward section of the society or for various objects mentioned in Memorandum of the society” and filed Form 10 along with a copy of resolution dt. 27.02.2018. As per section 11(2) of the Act, the purpose for which funds/income are required to be accumulated u/s 11(2), has to be disclosed specifically in the form itself. However, the purposes mentioned by the assessee in the Form 10 were

11(2)



general in nature. Thus the condition mentioned in section 11(2)(a) of the Act was not complied with and hence the benefit of accumulation u/s 11(2) claimed by the assessee should have been denied.

Audit also pointed out that, as per section 139(1), the due date of filing ITR and Form 10 was 07.11.2017, whereas, the assessee had filed its income tax return on 29.03.2018 and Form 10 on 04.12.2018 which was after the due date. As per provision of section 13(9) of the I T Act, the provision of section of section 11(2) of the I T Act shall not apply if the assessee failed to filed its ITR or Form 10 on or before the due date specified u/s 139(1) of the I T Act. Because, the assessee had failed to file the ITR and Form 10 after the due date prescribed u/s 139(1) and failed to comply with the conditions mentioned in section 13(9) (i) and 13(9)(ii) of the I T Act, therefore the claim of accumulation u/s 11(2) of the I T Act amounting to Rs. 52,73,43,332/- should have been denied, even on this count.

The above discrepancy has resulted in under assessment of income to the tune of Rs. 52,73,43,332/- with a tax effect of Rs. 25,83,14,149/-.

Case: 25      Status: Company      AY: 2019-20

Section

Audit has pointed out that the assessee claimed deduction of Rs.16,41,65,776/- u/s 80-IC of the Act. In support of this claim Audit report dated 23.10.2019 in Form no. 10CCB was filed, wherein date of commencement of operation of the enterprise was certified as 30.03.2010. But Certificate of commencement of business issued by the State industrial department, was not filed which could have served as evidence of commencement of operation of industrial enterprise. However, a copy of this certificate was found uploaded in e-filing portal for AY 2017-18, which was issued by the Directorate of Industries on 07.12.2012 stating that the manufacturing activity at the given address – ‘is proposed to commence from March, 2013’. As per

80-IC (1)



<p>provisions of sec. 80-IC(2)(a)(ii) of the Act, the eligible unit should have started manufacturing or producing the article or thing in the notified area before 01.04.2012. Since, manufacturing by the assessee had started after 01.04.2012, it was not eligible for deduction u/s 80-IC of the Act which was allowed.</p> <p>The above discrepancy has resulted in under assessment of income having potential tax effect of Rs.5,73,66,089/- + interest. Similar tax effect will also be there for all the assessment years where the assessee has claimed this deduction and which have been allowed.</p>	
Case: 26      Status: Company      AY: 2018-19	Section
<p>Audit has pointed out that in this case, from the details of assets in ITR and balance sheet that assessee company has shown opening gross block of assets amounting to Rs.1,41,98,416/- and after deducting depreciation of Rs. 41,22,085/-, gross block at the end of year was shown as 1,00,76,331/-. But, in the ITR the assessee company had claimed depreciation of Rs. 2,86,69,922/- u/s 32(1)(ii) and 32(1)(iia) [item 6 of Schedule – DEP ], which is more than the gross block of assets in balance sheet. On analysis of records, it was seen that the assessee has claimed depreciation on stock-in-trade/finished goods which is not allowable as per provisions of Income Tax Act.</p> <p>The above discrepancy has resulted in under assessment of income having tax effect of Rs. 81,16,251/- exclusive of interest. This objection has been accepted by the concerned PCIT for remedial action.</p>	32 (1)
Case: 27      Status: Trust      AY: 2017-18	Section
<p>Assessee is a trust registered/notified both u/s 12A /10(23C) (iv) of the Act and also registered u/s 35(1)(ii) of the Act as "other institution" as per Notification No. 147/2007 dated</p>	<p>Sec. 10(21) r. w. s 35 (1) (ii)</p>





12.04.2007, by running a hospital and research institute u/s 35(1)(ii) of I T Act.

Audit has pointed out that during the year assessee claimed exemption u/s 11(1)(d) of the Act, in respect of Rs. 25,50,00,000/- received during the year for scientific research activity u/s 35(1)(ii) of the Act, which was declared the same as 'corpus donation'. But, the contribution received u/s 35(1)(ii) for scientific research are dealt by section 10(21) of the Act and not by Section 10(23C) or 11 to 13 of the Act and in section 10(21) there is no concept of exemption of 'corpus donation'. Thus, the claim of exemption of corpus donation u/s 11 (1) (d) of the Act, amounting Rs.25,50,00,000 was liable to be disallowed.

The above discrepancy has resulted in under assessment of Income of Rs. 25,50,00,000/- with a consequential tax effect of Rs. 9,10,12,118/- exclusive of interest.

Case: 28      Status: Company      AY: 2017-18

Section

Assessee claimed deduction u/s 35 (1) (ii) on account of expenses on scientific research to the tune of Rs.2,20,49,111/-, which was allowed.

35(1)(ii)

Audit pointed out that, as per case record and assessee's replies, assessee had incurred these expenses out of 'Expenditure made under the head CSR'. As per Explanation 2 to section 37 of the Act expenditure incurred relating to CSR shall not be treated as business expenditure. It means that it cannot be claimed under any section of chapter IV-(D) of the Act. Since, section 35(1)(ii) is also covered under chapter IV-(D) of the Act, the claim of deduction u/s 35(1)(ii) was not allowable.

The above discrepancy has resulted in under assessment of income having tax effect of Rs.76,30,756/-. The objection has been accepted by the jurisdictional PCIT.





Case: 29	Status: Individual	AY: 2013-14	Section
<p>Audit has pointed out that, assessee's claim was that he had given loan to the company in which he has shareholding of 72.38% and the amount of loan given was Rs. 77,72,272/- as on 01.04.2012. During the year, the company made repayment of Rs. 70,01,110/-. However, on perusal of bank statement, it was noticed that company has made repayment of loan of Rs. 1,66,60,000/- in the account of assessee. Thus there was excess amount of Rs. 88,87,728/- paid by company to the assessee (1,66,60,000 minus 77,72,272) which is either interest income or loan advanced by the company to the assessee. As no such interest income is offered under head "income from other sources", the said amount of Rs. 88,87,728/- should be treated as deemed dividend under section 2(22)(e) as assessee has shareholding of 72.38% in the company.</p> <p>This omission has resulted in under assessment of income involving a tax effect of Rs. 26,66,318/-.</p>			2(22)(e) deemed dividend
Case: 30	Status:: Company	AY: 2018-19	Section
<p>The assessee is a statutory body created credited by an Act of Parliament for specific propose. In its financial statements, the assessee had disclosed gross receipts at Rs.812.26 crore, application of income at Rs.598.94 crore and unutilised amount of Rs.91.49 crore, in excess of allowable limit of 15%, was proposed to be accumulated u/s 11(2) of the Act.</p> <p>During audit, on scrutiny of its financial statements, it was noticed that the assessee had made various long term and short term provisions for expenses amounting to Rs.69.73 crore, which were included by it under application of its income. Since these provisions were not actual expenses but proposed to be incurred during subsequent years, these could not have been considered as and included in application of income. Thus, this error resulted in short assessment of income by Rs.69.73 crore.</p>			11 (1)



Also, provisions of sec. 11 (2) of the Act provides for accumulation of income by a trust for specific purposes which are in conformity with the objects of the trust. However, in Form 10 filed by the assessee, it had mentioned the purposes of accumulation as 'to carry objects u/s 15(2) of its Act and other related objects including capital expenditure'. Thus, a general statement to include all objects was made instead of any specific purpose for accumulation, which was the real intention of the legislature, and the difference between sec. 11 (1) and 11 (2) r.w.s 11 (3A) of the Act. Therefore, it was pointed out in Audit that accumulation of income was not in the spirit of sec. 11(2) of the Act that whole of surplus of income, in excess of limit of 15% prescribed u/s 11(1), at Rs.161.22 crore was required to be brought to tax.

The above discrepancies has resulted in under assessment of income having potential tax effect of Rs.57,28,95.270/-. The objection has been accepted by the CIT Exemption. This issue will have perpetual tax effect in other assessment years also having similar facts.

Case: 31      Status: Society      AY: 2018-19

Section

Audit has pointed out that, assessee had created 'Provisions for Retirement Benefits' at Rs.25,39,47,768/-, which was debited to Employees Benefit Expenses and claimed as application of income. It was observed that these were only provisions and not actual expenses. Thus, this allowance has resulted in under-assessment & loss to the revenue.

Audit also pointed out that the assessee claimed an amount of Rs.8,40,31,317/- on account of depreciation of those capital assets for which purchase cost was not claimed as application of money. Analysis of returns for earlier years revealed that in earlier years, for the assets purchased out of its own funds, the assessee had claimed the purchase cost as application of

11(1)&  
11(6)



income. For the purchases made out of term loan, it was not claiming that portion of cost as application of income but it was claiming re-payment of loan made during the year as application of income during the relevant financial year. This inter-alia meant that whole of the investments in the fixed assets in earlier years had been claimed as application of income either taking it as investment out of its own funds or repayments of loan. Therefore, as per provisions of section 11(6) of the Act, the assessee was not allowed to claim the depreciation on the same assets as application of income in the current year. Therefore, claim of depreciation of Rs. 8,40,31,317/- should not have been considered as application of income in the current year. Thus, this has also resulted in excess allowance to the assessee resulting in loss of revenue.

After considering the facts in the above two paras, shortfall in application of income from the statutory limit of 85% of gross income, was calculated at Rs.33,46,24,744/-. This resulted in under-assessment of total income of the assessee by an amount of Rs.33,46,24,744/- having tax effect of Rs.11,89,32,000/- +Interest. The objection has been accepted by the PCIT.

Similar issues were noticed for AY 2016-17 and 2014-15 wherein under assessment of income was pointed out at Rs. 12,71,73,661/- and Rs.4,37,26,086/- having tax effect of Rs. 4,40,12,260/- and Rs.1,48,62,497 exclusive of interest.

Case: 32      Status: Company      AY: 2018-19

Section

The assessee was engaged in real estate and renting services. Audit has pointed out that, under the head "Other expenses" assessee had claimed forfeiture on surrender of land amounting to Rs. 600,21,95,686/-. As per note no.42 to the accounts, the said amount was given on accepting the offer from the Authority for exchange of old piece of land allotted to it, with new piece of land having lesser value but better location. The

37(1)



<p>surrendered land was already a part of the 'work in progress' and the allotment of new land of lesser value didn't cause financial loss to the assessee. Further, the amount claimed by the assessee would at best be only notional losses. The profit or loss on this land will arise only at the time of sale in the future years. Hence, the said amount of expenses should have been disallowed, which was not done in the scrutiny assessment. This omission has resulted in under assessment of Rs. 600.22 Cr., with a tax effect of Rs.185.47 Cr.</p>	
<p>Case: 33      Status: AOP      AY: 2018-19</p>	<p>Section</p>
<p>Audit has pointed out that from the records, it is seen that the assessee has filed return of income belatedly for A.Y. 2018-19 on 29/12/2018 i.e. beyond the date stipulated under Section 139(1) of the Act. Therefore, as per provisions of section 80-AC of the Income Tax Act, the assessee is not entitled for deduction of Rs. 44,87,867/- claimed u/s 80-P and allowed by the AO in the scrutiny assessment. This omission has resulted in under-assessment of income of Rs. 44,87,867/- involving tax effect of Rs. 13,46,360/- exclusive of Interest.</p>	<p>80-P</p>
<p>Case: 34      Status: Individual      AY: 2017-18</p>	<p>Section</p>
<p>The assessee sold a piece and parcel of land for a sale consideration of Rs.4,26,77,851/- showing LTCG thereof. The aforesaid property was acquired vide a deed dated 15/06/1993 for a consideration of Rs.88,000/- and assessee has claimed indexed cost of improvement of Rs.33,81,798/- for construction of boundary wall, electric pole, a shed and a borewell with electric pump in the year 1997. Audit has pointed out ; <u>Incorrect computation of indexed cost</u> evidence submitted by the assessee is the copy of electricity bill,</p>	<p>54F</p>



wherein the date of connection was 20/04/2001. Thus the assessee's claim for cost of improvement done in the year 1997 is not proved and not supported by documentary evidences. Secondly, the assessee has submitted receipt of work on plain paper which was undated and did not mention when the construction work was carried out. Considering all the above, the AO should have disallowed the claim of the assessee towards cost of improvement while calculating the LTCG. This has resulted into under assessment of income of Rs.41,90,923/- and consequential short levy of tax amounting to Rs.8,63,330/- exclusive of interest.

#### Incorrect claim of exemption u/s 54F

To claim benefit of section 54F, the assessee has submitted a copy of Agreement to sell for the purchase of 16 plots jointly. To avail the benefit of Section 54F the assessee was required to construct a residential house within a period of three year from the date of transfer of original asset i.e. on or before 13/10/2019 in this case.

As per the documents provided by the assessee, it is seen that the assessee has entered into an agreement for the purchase of a piece of land for construction of residential house, but failed to adduce any evidence regarding the construction of residential house. Moreover, the copy of agreement is not a registered document. There was no documentary evidence on record whether any construction of residential house was made on the said plot within the prescribed time. Even the permission letter for construction of building from the municipal authorities, approval for construction of building along with a plan were not available in the assessment records. Hence, the obvious conclusion is that assessee has not fulfilled any of the conditions stated u/s 54F of the Act and hence the exemption claimed is liable to be rejected, which was not done in the scrutiny assessment.



This omission has resulted in under-assessment of income of Rs. 3,45,41,014/- and consequential short levy of tax amounting to Rs.71,15,450/-exclusive of interest.			
Case: 35	Status: Individual	AY: 2017-18	Section
<p>The assessee has raised unsecured loan of Rs. 1,99,82,248/- and secured loans of Rs.5,28,84,347/- and on the other hand it has advanced Rs 5,28,73,312/- on which it has not received any interest. Further, the assessee has claimed interest expense of Rs. 70,73,775/-.</p> <p>Audit has pointed out that, as per Section 36(1)(iii) of the Act, the amount of the interest paid in respect of capital borrowed will be allowed as deduction only if capital was borrowed for the purposes of the business or profession. The law in this regard is well settled that where assessee is having both interest free &amp; interest bearing funds and where the interest free funds are larger than the interest free advances/utilization, then the presumption would be that interest free utilization was made out of interest free funds &amp; not out of interest bearing fund) and hence, no interest can be disallowed. However, this is not the case of the assessee.</p> <p>On perusal of balance sheet, it is seen that the assessee is having mixed i.e. interest free/interest bearing funds both, but total interest free funds stood and available with the assessee is at Rs. 1,51,73,485/- only.</p> <p>The assessee has incurred interest expenses of Rs. 70,73,775/- on loans and advances of Rs.7,28,66,595/- (@ an average rate of 9.70%). The advances and loans given out of this interest bearing fund works out to Rs 3,76,09,827/- (Rs.5,28,73,312/- less interest free funds Rs. 1,51,73,485/-). Hence interest expenses (@ average rate of 9.70%) on Rs.3,76,09,827/- working out to Rs.36,56,883/- is liable to be disallowed u/s 36(1)(iii) of the Act, which was not done in the scrutiny assessment.</p>			36(1)(iii)



This has resulted into under-assessment of income of Rs. 36,56,883/- and short levy of tax of Rs. 11,29,977/- exclusive of interest.			
Case: 36	Status: Individual	AY: 2018-19	Section
<p>The assessee had introduced Rs.449,85,38,339/- as capital during the year. The said amount was claimed to have been received as compensation from M/s DSL Enterprises Pvt. Ltd. as 'capital receipt' on account of loss of reputation, standing and ability to conduct business, loss of business goodwill and mental harassment suffered during last 20-22 years when he was MD of the said company. Being MD of the company, he stood as guarantor to the loans raised by the company and had to face series of litigations/cases under various laws for breach of compliances of financial obligations and default in repayment of loans.</p> <p>Audit has pointed out that since the assessee was MD of the company, the receipt of such compensation would fall in the ambit of 'profit in lieu of salary' as per the provisions of section 17(3) of the Act in the hands of the assessee and would be in the nature of 'revenue receipt' as against the claim of 'capital receipt'. The same should have been taxed accordingly, which was not done in scrutiny assessment. This omission has resulted in under-assessment of income to the tune of Rs.449,85,38,339/-.</p>			17(3)
Case: 37	Status: Company	AY: 2017-18	Section
<p>Audit has pointed out that from the P&amp;L A/c it was seen that the assessee had debited Rs. 1779,99,50,474/- towards Consultancy charges and Rs. 61,55,027/- towards Legal &amp; Professional charges totalling to Rs. 1780,61,05,501/-, which attracted TDS provisions of section 194-J of the Act. However, the assessee had deducted TDS u/s 194J only on payment of Rs. 1155,94,39,086/-, as per the Tax Audit Report.</p>			40(a)(ia)





<p>There was nothing in ITBA submission/ record as to whether the assessee had explained the details of these payments, nature of services rendered, copies of invoices/bill raised, etc. Therefore, 30% of the remaining amount of Rs.624,66,66,415/- which works out to Rs. 187,39,99,924/- was required to be disallowed u/s 40(a)(ia) of the Act.</p> <p>Audit also pointed out that assessee has not effected TDS u/s 194-J on account of Professional services amounting to Rs. 13,48,46,096/-, and u/s 194-I towards Rent amounting to Rs. 6,94,91,905/-. Thus, on the said amounts, 30% was required to be disallowed u/s 40(a)(ia) of the Act.</p> <p>The above omissions have resulted in under-assessment with a total tax effect of Rs. 116,14,31,428/-.</p>	
<p>Case: 38      Status: Individual      AY: 2016-17</p>	<p>Section</p>
<p>The assessee had not furnished any explanation regarding total credits of Rs. 4.58 crores in her bank accounts. The AO on the basis of assumption that the assessee was engaged in some business, considered the said amount as sales turnover, and computed income @8% u/s 44AD of the Act.</p> <p>Audit pointed out that as per provisions of sec 44AD, presumptive rate of tax is applicable only to the cases where gross turnover/receipts does not exceed Rs 2 crores. In the absence of any explanation/supporting evidences, the AO should have added the entire credits to the total income u/s 68 and taxed accordingly. This has resulted into under-assessment of Rs. 4.21 Crores.</p>	<p>68</p>
<p>Case: 39      Status: Firm      AY: 2018-19</p>	<p>Section</p>
<p>This case was selected for scrutiny under CASS for thereason of substantial increase in capital. Assessment was completed accepting the returnedincome at Rs. Nil.</p> <p>Audit has pointed out that one of the partners had introduced total capital of Rs. 662,89,18,067/- during last fewdays of the</p>	<p>68, 40(b) (iv)</p>



F.Y. 2017-18. However, it was seen that the partner of the assessee firm had initially withdrawn capital amounting to Rs. 172,30,81,500/- from 17/07/2017 to 5/10/2017. No secured or unsecured loans in the balance sheet of the firm was found, which could explain the source of the said payment to the partner. Therefore the sum of Rs. 172,30,81,500/- was required to be taxed as income from undisclosed sources u/s 68 r.w.s. 115BBE of the Act.

Audit also pointed out that, the firm had allowed interest on capital to the partner amounting to Rs. 4,62,60,221/-. However, no interest appears to have been charged on the debit capital balance in the capital account of the partner of the firm, in the light of provisions of section 40(b)(iv) of the Act. The total interest recoverable from the partner by the firm works out to Rs. 14,81,18,638/- which was required to be debited to the capital account of the partner. The same was required to be added in the case of the firm and taxed accordingly as income from business.

The above omissions have resulted in under-assessment to the tune of Rs. 172,30,81,500/- (liable to be taxed @ 60% u/s 115BBE) and Rs. 14,81,18,638/- (liable to be taxed @ 30%)

Case: 40      Status: Trust      AY: 2018-19

Section

The assessee has been granted registration u/s 12AA of the Act. The assessee has shown gain on sale of property of Rs 2,44,12,802/- and against this income, the assessee has claimed exemption u/s 11 of Rs 1,56,76,750/- in respect of New Charitable property purchased which is an agricultural land.

Audit has pointed out that as per Sec.2(14) of the Act, capital asset does not include "Agricultural Land". Thus, the assessee had wrongly claimed exemption u/s 11 of the Act, in respect of purchase of Agricultural land by showing it as capital asset. Hence, the claim of the assessee of Rs.1,56,76,750/- is liable to be disallowed.

11



Audit also pointed out that during the year, the assessee is not involved in any charitable activity as the major source of assessee's receipts is capital gain on sale of land. Even from the assessment records, it does not seem that the assessee is involved in any charitable activities. Thus, this is a fit case to deny the exemption u/s 12A of the Act, as assessee is not engaged in any charitable activities in accordance with the Sec.2(15) of the Income Tax Act, 1961.

Case: 41      Status: Individual      AY: 2016-17

Section

The assessee entered into an agreement for transportation of cement with M/s Ultra Tech Cement Limited. Assessee does not own any trucks as submitted by him in his reply. The assessee hired trucks all throughout the year for the purpose of transportation of cement and received freight charges from M/s Ultra Tech Cement Limited on which tax was deducted.

40(a)(ia)

Audit has pointed out that from the records it is clear that there was no nexus between truck owners/ operators and M/s Ultra Tech Cement Limited. How the assessee transported the cement was the exclusive domain of the assessee. Although, there is no document on record to establish but there is enough evidence that there existed a contract/sub contract between the assessee and the transporters/truck-owners. Under such contract, the assessee was required to deduct tax at source on the payments made to these truck owners/operators within the meaning of section r.w.s 194C of the Act. Assessee has claimed to the tune of Rs 2,68,64,565/- as freight charges in P&L account, but has not effected any TDS u/s 194C which clearly attracts the of sec 40(a)(ia) i.e. 30% of the sum payable to a resident without TDS is liable to be disallowed. But the same was not done in the scrutiny assessment.

This omission has resulted in under-assessment of income to the tune of Rs 80,59,370/- with tax effect of Rs.41,96,173/- exclusive of interest.



# CHAPTER-4

## QUALITY REVENUE AUDIT OBJECTIONS

- The compilation of Quality Revenue Audit Objections has been made by selecting 48 Draft Paras out of around 400 Action Taken Notes (ATNs) sent in the FY 2022-23 by the Dte. of A&I.
- In the compilation, a brief of the Revenue Audit Objection, revenue involved along with section is given to enable the reader to quickly get an idea about the essence of the objection.
- Name of the assessee is not mentioned in any case, only the status of the assessee is mentioned to protect the identity of the assessee.
- The index of objections is made section-wise .



# INDEX

Case	Section	Topic
1	115-JB	MAT - Special provisions for payment of Tax
1	115-BBD	Tax on certain dividends received from foreign companies
2	80-IA	Deductions - Undertakings engaged in infrastructure development
3	10AA	Deduction in respect of newly established units in SEZ
4	56(2)(vii)(b)(ii)	Income from other sources - Consideration received less than stamp duty value
5	Article 11(5) r.w. Article 7 of India - Germany DTAA	Business profits of a Permanent Establishment
6	56(2)(vii)(b)(ii)	Business profits of a Permanent Establishment
7	37	General Deductions
8	32	Depreciation
9	2(22)(e)	Deemed dividend
10	37	General Deductions
11	Article 13 of India - US DTAA	Capital Gains Tax as per DTAA of India and USA
12	37	General Deductions
13	13(3)(b)	Person who has made a substantial contribution to the trust
14	71(2)	Setoff of loss from one head against income from another
15	115BBE r.w.s. 69A	Special tax rate for Unexplained money, etc.



# INDEX

Case	Section	Topic
16	43(1)	Definition of 'actual cost'
17	2(42A)	Definition of 'short-term capital asset'
17	48 r.w.s 54	Mode of Computation of Capital Gains
18	73(1)	Set off of losses of Speculation Business
19	32	Depreciation
20	37	Expenditure not allowable - Corporate Social Responsibility (CSR)
21	80-IA	Deductions - Undertakings engaged in infrastructure development
22	115JB	MAT - Special provisions for payment of Tax
23	37	General Deductions
24	37	General Deductions
25	40(a)(ii)	Amount not deductible - Education Cess
26	32	Depreciation
26	50A	Special provisions for cost of acquisition in case of depreciable assets
27	73(1)	Set off of losses of Speculation Business
28	32	Depreciation
29	56(2)(vii)(b)(ii)	Income from other sources - Consideration received less than stamp duty value



# INDEX

Case	Section	Topic
30	36(1)(viia)	Provision for bad and doubtful debts
31	10(20)	Income not included in total income in the case of local authority
32	37	General Deductions
33	43-B	Deduction available on actual payment
34	Article 13 of IndiaNetherland DTAA and 90(2) r.w.s 74	Capital Gains as per DTAA of India and Netherlands
35	43-B	Deduction available on actual payment
36	92-CA	Reference to TPO
37	115JB r.w.s. 115VO & 115VI	MAT - Special provisions for payment of Tax
38	92-CA	Reference to TPO
39	32	Depreciation
40	AS-9	Revenue arising from construction contracts
40	5(1)(a)	Scope of total income
41	56(2)(vii)(b)(ii) r.w.r. 11-UA	Income from other sources - Consideration received for issue of shares
42	56(2)(vii)(b)(ii)	Income from other sources - Consideration received for issue of shares
43	2(22)(e)	Deemed dividend
44	28	Charging of taxes under the head PGBP





# INDEX

Case	Section	Topic
45	28	Charging of taxes under the head PGBP
46	37	General Deductions
47	115JB	MAT - Special provisions for payment of Tax
48	32	Depreciation



Case- 1      Status : Company      AY : 2014-15	Section
<p>The scrutiny assessment for AY 2014-15 was completed at a net loss of Rs. 181.59 lakh after adjusting Rs. 951.01 lakh income from other source under normal provision of income tax and at a Book Profit of Rs. 833.54 lakh under special provisions of section 115JB for levying MAT.</p> <p>Audit observed that income from other sources amounting to Rs. 951.01 lakh was dividend income on investment in overseas subsidiary so it was required to be taxed separately at the rate of fifteen percent. But AO while computing the tax liability did not levy tax on such dividend income separately.</p> <p>The mistake resulted in undercharge of tax by Rs. 142.65 lakh and a provision for excess MAT credit of like amount i.e. Rs.142.65 lakh, in subsequent years.</p>	115-BBD & 115-JB
Case- 2      Status : Firm      AY : 2015-16	Section
<p>The scrutiny assessment for AY 2015-16 was completed at the returned income of Rs. 45.43 lakh after allowing deduction of Rs. 41.14 lakh u/s 80-IA on profit from eligible business of 'Solar Energy Plant'.</p> <p>Audit observed that depreciation of Rs. 30.03 lakh pertaining to 'Solar Energy Plant' was debited to the profits and gains of assessee's other business instead of profits and gains of eligible business of 'Solar Energy Plant'.</p> <p>This mistake resulted in excess allowance of deduction u/s 80-IA of Rs. 30.03 lakh involving under charge of income tax of Rs. 11.58 lakh including interest.</p>	80-IA
Case- 3      Status : Firm      AY : 2012-13	Section
<p>Audit Observed that in P&amp;L account the assessee had debited only Rs. 1,08,960/- as salary expenses which indicates that assessee was not engaged in manufacturing activity as such activity would involve many workers. Further assessee had also</p>	10AA



not shown any manufacturing expenditure like purchase of alloy, wax & other related material needed for manufacturing activity. Thus, it was evident that assessee was not engaged in manufacturing activity and therefore exemption claimed u/s 10AA and was not allowable. AO was required to disallow exemption claimed u/s 10AA and this was to be added to total income of the assessee. But this was omitted by the AO.

The above omission resulted in under assessment of Rs.28,03,56,642/- and consequent short levy of income tax amounting to Rs. 11,69,50,773/- including interest u/s 234B to Rs. 3,03,20,571/-.

Case- 4      Status : Individual      AY : 2015-16

Section

The assessee had purchased a property at Dehradun for the consideration value of Rs. 1,00,00,000/- on 21st January, 2015. However, the guideline value of the property is Rs. 2,77,54,000/- (vide clause 9 of Covenant given by the seller in Document Certificate dated 21.01.2015). Hence the difference in value of the property of Rs. 1,77,54,000/- is taxable u/s 56(2)(vii)(b)(ii) as income from other sources.

56(2)(vii)  
(b)(ii)

This omission has resulted in short levy of tax of Rs.60,34,580/-

Case- 5      Status : Firm      AY : 2011-12

Section

Assessee being a Non-resident Company had a PE in India in 'M/s Bombardier Transportation India Ltd.'. Income of assessee comprised of interest of Rs. 3,50,01,831/- on External Commercial Borrowing from 'M/s Bombardier Transportation India Ltd.' In scrutiny assessment, this income was taxed @10%. However, as the said interest income was received from a PE, as per Article 11(5) of India Germany DTAA, it should have been taxed under Article 7 of the Treaty as 'business profits' i.e. at the rate of 40% (plus surcharge and cess).

Article  
11(5) r.w.  
Article 7 of  
India –  
Germany  
DTAA

This mistake resulted in short levy of tax of Rs. 1.03 Crores.



Case- 6      Status : Individual      AY : 2016-17	Section
<p>The consideration paid of Rs. 2.15 crore for purchase of immovable property was less than the stamp duty value of property Rs. 4.15 crores. Hence, the difference of Rs. 2 Crore (Rs. 4.15 cr. – 2.15 cr.) was taxable as 'Income from other sources' as per provision of Sec. 56(2)(vii)(b)(ii) of the Act.</p> <p>This omission has resulted in short levy of tax of Rs. 61,78,204/-</p>	56(2)(vii) (b)(ii)
Case- 7      Status : Company      AY : 2012-13	Section
<p>The assessee company had debited Rs. 29,25,85,979/- towards provision for doubtful debts and Rs. 1,60,00,00,000/- towards provision for Corporate Debt Restructuring (CDR). As both were mere provisions and not an ascertained liability, the same were not allowable expenditure under the Act. However, in assessment order dated 28.12.2016, the said amounts were allowed.</p> <p>This mistake resulted in underassessment of income of Rs. 1,89,35,88,979/- under normal provision of the Act involving short levy of tax of Rs. 1,18,57,43,642/-, including interest.</p>	37
Case- 8      Status : Company      AY : 2015-16	Section
<p>The assessee had claimed a total depreciation of Rs. 37,18,76,685/- which included depreciation @ 100% on set top boxes amounting to Rs. 18,53,54,882/-. In assessment the AO restricted depreciation to Rs. 33,48,05,709/- by disallowing Rs. 3,70,70,976/- which is 20% of the value of Set Top Boxes. Thus on assessment depreciation @ 80% was allowed to set top boxes classifying under item 8(ix)(E)(k) of Appendix IA, of the depreciation table as per Income Tax Rule 5(1A). Since, the above classification is applicable to electrical equipment coming under energy saving devices only, the allowance of 80% depreciation on set top box is irregular. Allowing depreciation @ 80% as against 15% to be allowed has resulted in excess</p>	32



<p>claim of Rs. 12,04,80,674/-.</p> <p>The excess depreciation allowed has resulted in a short levy of tax amounting to Rs. 5,19,89,639/-.</p>	
Case- 9    Status : Company    AY : 2015-16	Section
<p>Tax Audit Report in Form 3 CD and Note 2.9 of Balance Sheet revealed that assessee had taken a loan of Rs.2,62,69,842 from Nanavati Motors Pvt. Ltd., a sister concern of the assessee company. It was seen from the return of Income filed by the assessee for AY 2015-16 and its sister concern that Key Management Personnel/Director Shri Hitendrabhai Amrutlal Nanavati was having more than 20 percent share in these two companies i.e. loan giver and loan receiver. Hence, as per section 2(22)(e), loan amount fell within purview of deemed dividend in the hands of the assessee viz. Nanavati Cars Pvt. Ltd. But the AO has not invoked the provisions of this section.</p> <p>This mistake resulted in under-assessment of income of Rs. 2,62,69,842 and consequent short levy of tax of amounting to Rs. 1,13,35,921.</p>	2(22)(e)
Case- 10    Status : Company    AY : 2015-16	Section
<p>In P&amp;L A/c {Schedule “other expenses”}, assessee had made provisions for ‘expenditure towards loans and advances’ of Rs. 2169.24 lakhs and ‘impairment loss’ of Rs. 1090.71 lakhs. As these expenses were mere provisions and not an actual expenditure against capital assets/advances, in assessment, these ought to have been disallowed and added back to the income of the assessee.</p> <p>The said omission resulted in under-assessment of income by Rs. 3259.95 lakhs and short levy of tax of Rs. 11,08,06,047/-</p>	37



Case- 11    Status : Company    AY : 2014-15	Section
<p>The assessment for the AY 2014-15 was completed u/s 143(3) by accepting the returned income of Rs. 9.97 Crores. Audit has pointed out that as per assessment records 'royalty' of Rs. 7.72 Crores and 'guarantee fees' of Rs. 2.25 Crores was received by the assessee company from M/s Daechang India Seat Co. Pvt. Ltd. &amp; M/s. KM Seat Company Pvt. Ltd., which were taxed at the rate of 10 percent. But the applicable tax rate for royalties as per Article 13 of the DTAA was 15 percent, therefore tax on royalties should have been charged @15 percent instead of 10 percent. Further, guarantee fees received by the assessee company was not in the nature of royalty, it should have been treated as other income and taxed at the rate of 40 percent. This incorrect application of rate of tax had resulted in short levy of tax of Rs. 1.13 Crores (excluding interest).</p>	Article 13 of India-USA DTAA
Case- 12    Status : Company    AY : 2015-16	Section
<p>Audit scrutiny revealed that the assessee was allowed provisions of anticipated liabilities of Rs. 15 Crores and Rs. 84.31 Crores towards 'sales tax demand' and 'doubtful debts' respectively. These provisions not being actual expenditure should have been added back to the income of the assessee. This mistake resulted in excess carry forward of loss to the tune of Rs. 99.31 Cr. with potential tax effect of Rs. 33.76 Cr.</p>	37
Case- 13    Status : Trust    AY : 2011-12 & 2013-14	Section
<p>Assessee was wrongly allowed exemption of Rs. 4.96 crores in AY 11-12 &amp; Rs. 8.90 crores in AY 13-14 in respect of fee received from a Company for use of brand name 'Being Human' by it (the agreement was entered in December, 2010). As the said Company had made a contribution of Rs. 11 lakhs to the assessee trust in May 2010, the said Company fell under section 13(3)(b), being a person getting direct or indirect benefit from</p>	13(3)(b)



assessee trust. Hence, the said Fee ought to have been excluded from benefit of exemption as per clause 13(c)iii) of the Act for the two AYs.

The above omission has resulted in short levy of tax amounting to Rs. 4,28,66,881/-

Case- 14 Status : Company AY : 2014-15

Section

During the course of Audit, it was seen from computation of Income that total income was set-off with income under the heads 'Income from house property', 'Short term capital gains' and 'Income from other sources' to arrive at a business loss of Rs. 6401.24 Crores. Audit has pointed out that assessee had income of Rs. 1381.34 Crores under the head 'Long Term Capital Gains' (LTCG) and the same was allowed to be set-off against brought forward 'Long Term Capital Loss' (LTCL). But as per Section 71(2) of the Act, while computing total income for an assessment year, income under the head LTCG is first required to be set-off against business loss of the current year.

71(2)

This mistake resulted in excess carry forward of business loss of Rs. 1381.34 Crores involving a potential tax effect of Rs.469,51,69,559/-.

Case- 15 Status : Firm AY : 2015-16

Section

The assessee firm's return of income for AY 2015-16 with a total income of Rs. 1,17,62,490/- was accepted in scrutiny assessment u/s 143(3).

115BBE  
r.w.s 69A

Audit pointed out that during a survey action on the assessee's premises on 05.02.2015, Shri Hemant Nagindas Shah, partner of the firm had admitted to excess stock of silver ornaments of Rs. 1,14,41,350/-, Gold Ornaments of Rs. 1,99,95,214/- and cash of Rs. 55,381/- totalling to Rs. 3,14,91,945/- which were not recorded in Firm's regular books of accounts. Thus, this amount of Rs. 3,14,91,945/- has been treated as unaccounted income of the firm. But, from the computation of income filed along with



Return of income, a deduction of Rs. 1,82,62,977/- (being remuneration to partners of Rs. 1,78,66,000 + interest to partners of Rs. 3,96,977) was claimed by the assessee firm and the same was allowed by the AO. This deduction was irregular in view of provisions of section 115BBE r.w.s. 69A of the I.T. Act. Failure to disallow deduction of Rs. 1,82,62,977/- from the unaccounted income resulted into underassessment of same income with consequent short levy of tax of Rs. 82,56,088/- and interest of Rs. 20,48,503/- u/s 234B (04/15 to 11/17).

Case- 16 Status : Individual AY : 2015-16

Section

Audit scrutiny revealed that during the year under consideration assessee received a sum of Rs. 1,20,00,000/- towards Liquidity Damages but the same was not deducted from the cost of Plant & Machinery of Wind Mill (Rs. 7,80,99,198/-) as per provision of sec. 43(1). While Depreciation @100% (Rate 80% and Additional Depreciation 20%) on this amount was allowed whereas at the time of calculating the Depreciation the sum of Rs 1,20,00,000 being a receipt which was borne by any other person or authority was to be reduced from the Actual Cost. Thus, Depreciation was excess allowed to the assessee.

43(1)

The omission has resulted into under computation of business income due to excess Depreciation allowed by Rs. 48,68,901/- (positive) and Rs. 71,31,099/- (potential) involving tax effect Rs. 39,56,241/- (Rs. 1752731/- and Rs. 2203510/- potential) and Interest under relevant sections may also be chargeable accordingly.

Case- 17 Status : Individual AY : 2011-12

Section

The assessee purchased a property on 03.02.2009 vide document no: 154/2009 for a consideration of Rs. 47,75,000/- and the same was sold on 04.09.2010 vide document no. 3518/2010 for a consideration of Rs. 3,22,00,000/- against the

2(42A) and  
48 r.w.s 54

market value as per SRO at Rs. 3,76,54,680/-. The assessee has admitted the sale consideration less than the market value to the extent of Rs. 54,54,680/- (Rs. 3,76,54,680 – Rs. 3,22,00,000). While passing the order u/s 144 r.w.s. 147 the difference amount of Rs. 54,54,680/- is added back to the income returned invoking the provisions of Section 50C.

However in the scrutiny assessment, following claims of the assessee were allowed :

1. Cost of acquisition with indexation of Rs. 1,00,14,085.
2. Cost of improvement of Rs. 1,57,54,849 and
3. Deduction of Rs. 31,16,626/- u/s 54F.

Audit has pointed out that as the said Asset was held by assessee for less than 36 months, indexation of cost was not allowable and only purchase cost of Rs. 47,75,000/- was allowable to be deducted while computing capital gain. Even deduction u/s 54 and cost of improvement in the absence of any evidence thereof, were not allowable.

The incorrect allowance of deductions under sections 48 and 54 resulted in short assessment of capital gains by Rs. 2.41 Crores with consequent short levy of tax to the tune of Rs.1.58 Crores.

Case- 18 Status : Individual AY : 2016-17

Section

In assessment, the loss of Rs. 317.43 lakhs from F&O business in trading of agricultural commodities was allowed set-off with income under other heads to the tune of Rs. 317.43 lakhs.

73(1)

Audit pointed out that these agricultural commodity transactions are not covered u/s 45(5)(e) of the Act and therefore were speculative in nature and was not allowable to be set off against other incomes as per section 73(1) of the Act. Hence the amount of Rs. 317.43 Lakhs was required to be added back to the returned income, but was not done .

This omission has resulted in underassessment of income of Rs. 317.43 lakhs with consequent short levy of tax of Rs. 110.25 lakhs.



Case- 19    Status : Company    AY : 2016-17	Section
<p>Assessee had spent Rs. 3,04,90,402/- on Solar Power Plant under obligation of Corporate Social responsibility (CSR) and claimed Depreciation of Rs. 2,65,40,402/- (on Rs. 2,25,90,402/- @100% and on 79,00,000/- @ 50%) on this asset, which were allowed in the scrutiny assessment.</p> <p>Audit has pointed out that AO ought to have disallowed this expenditure under provisions of section 32 of the Act as this asset was not a part of capital assets of assessee's business, being an asset created under CSR obligation and thus it cannot be said to be used for purposes of the business or profession of the assessee.</p> <p>This omission had resulted in incorrect allowance of Depreciation of Rs. 2,65,40,402/- with a consequent short levy of tax amounting to Rs. 91,85,101/-.</p>	32
Case- 20    Status : Company    AY : 2015-16	Section
<p>Audit has pointed out that expenditure of Rs. 767.71 lakhs, incurred on Corporate Social Responsibility (CSR), was not eligible as business expenditure as prescribed in Explanation 2 to Section 37 of the Act. However, the same was erroneously allowed in scrutiny assessment.</p> <p>This omission resulted in short levy of tax of Rs.260.95 lakhs.</p>	37
Case- 21    Status : Company    AY : 2013-14	Section
<p>Deduction under section 80IA of the Act was allowed which included Deferred tax liability of Rs. 30.58 Crores which was included in the figure of Sales.</p> <p>Audit has pointed out that Deferred tax liability does not fall within the expression "profit derived from industrial undertaking/eligible business" it ought to have been reduced from the figure of Sales while framing assessment.</p>	80-IA



This erroneous allowance of deduction u/s 80IA(1) has resulted in under-assessment with a tax effect of Rs. 10,23,95,492/-.	
Case- 22    Status : Company    AY : 2014-15	Section
<p>The assessee company had debited Rs. 7,38,73,262/- on account of 'share of loss from partnership firm' under the head 'Other Expenses' and the same was allowed in scrutiny assessment.</p> <p>Audit has observed that loss from partnership firm (being an expenditure relatable to earning of exempted income) ought to have been added back while computing the Book Profit u/s 115JB which was not done. As a result, there was under-assessment of 'book profit' by Rs. 7.39 crores with a tax effect of Rs. 1,54,84,204/-</p>	115JB
Case- 23    Status : Company    AY : 2014-15	Section
<p>In this case scrutiny assessment was completed on a total income of Rs. 6,69,39,34,675/- under normal provisions.</p> <p>Audit has observed that in 'point no. 13' of 'Notes to Computation of Income' it is stated that an amount of Rs. 5,94,00,000/- was debited in profit and loss account on account of gratuity payment. However, since the bank made advance payment of Rs. 54,00,00,000/- as contribution to gratuity fund, the rest amount i.e. Rs. 48,06,00,000/- (Rs. 54,00,00,000 – Rs. 5,94,00,000) was claimed directly in computation of income. This was further confirmed from Note under 'Annexure XI' of clause 26(i)(b) of the 'Tax Audit Report'. As assessee bank was maintaining its accounts on mercantile basis, the advance payment which does not pertain to the current assessment year was not allowable in view of the matching principle.</p> <p>This mistake has resulted in underassessment of income of Rs.48,06,00,000/- with consequent short levy of tax of Rs.16,33,55,940/-.</p>	37



Case- 24    Status : Company    AY : 2014-15	Section
<p>Audit scrutiny of the assessment records revealed that the assessee had debited 'prior period expenses' amounting to Rs. 55.38 crores on account of interest on long term loans (Schedule 29 of Finance Costs under notes to financial statements), salaries &amp; incentives and other expenses (3CD Report). Being 'prior period expenses', these were expressly inadmissible u/s 37(1) of the Act, but was allowed in scrutiny assessment.</p> <p>This wrong allowance has led to excess determination of loss of Rs. 55.38 Crore with a potential tax effect of Rs. 18.82 Crores.</p>	37
Case- 25    Status : Company    AY : 2015-16	Section
<p>The assessee had claimed deduction to the extent of Rs. 105.13 lakh towards Education CESS (EC) and Secondary and Higher Education Cess (SHSC) on dividend tax, which was allowed in scrutiny assessment.</p> <p>Audit has pointed out that the above said deduction is not allowable as per provisions of section 40(a)(ii) of the I.T. Act, 1961 as EC &amp; SHEC are part of tax chargeable under the provisions of the Income Tax Act.</p> <p>This mistake has resulted in short levy of tax of Rs. 36.09 lakhs.</p>	40(a)(ii)
Case- 26    Status : Company    AY : 2013-14	Section
<p>In this case scrutiny assessment was concluded u/s 143(3) r.w.s. 144C(3) of the I.T. Act determining total income of Rs.33,89,36,330/-. In respect of sale of Raheja Building, assessee in the computation of income has added back Rs. 3,34,26,223/- being loss on sale of fixed asset debited to Statement of Profit and Loss - considered separately for block depreciation. For computing Capital gain/loss assessee has reduced Rs. 22,31,59,952/- as cost of acquisition from the sale consideration of Rs. 18,66,29,500/- and arrived at STCL of Rs.</p>	32 and 50A



3,65,30,452/-.

Audit has pointed out that as per the details available in the depreciation schedule on assets as per I.T. Act, the opening balance of building during the current year is NIL and also the closing balance of building the previous year is NIL. Hence, in the computation of Capital gain/loss in respect of the above depreciable asset, the value to be reduced from the sale consideration should be the value available in the block of that particular asset and not the original cost of acquisition, as the assessee has enjoyed the benefit of depreciation. Hence, the amount is to be reduced from sale consideration should be NIL. Thus, there will be Capital gain of Rs. 18,66,29,500/-, instead of loss of Rs. 3,65,30,452/- with a consequent tax effect of Rs. 918 lakhs inclusive on interest.

Case- 27 Status : Company AY : 2013-14

Section

Scrutiny Assessment for AY 2013-14 was completed on a total income of Rs. 1.50 Crore. Assessee company had shown profit of Rs. 1.32 crore from speculation business of forward trading of currency and business loss on account of exchange rate difference on exports of Rs. 7.32 crore. Audit has pointed out that daily exchange of rate as per RBI data for F.Y. 2012-13 revealed that there was near steady increase in the value of US dollar against Indian Rupee (i.e exchange rate as on 03.04.2012 was Rs. 50.56 and as on 28.03.2013 was Rs. 54.39). Moreover, export proceeds are always realized after export sales and hence there is no possibility that the assessee company has lost nearly 5.21 per cent of its export earnings as foreign exchange loss on exports. Therefore, the entire foreign exchange loss was actually from speculative transaction on foreign currency. Thus, there would be net speculation loss of Rs. 599.86 lakh (Rs. 731.67 lakh – Rs. 131.81 lakh) which should have not been adjusted against business income of assessee.

73 (1)





Failure to do so resulted into under assessment of income of Rs. 599.86 lakh and consequent short levy of tax of Rs. 264.69 lakh including interest thereon.	
Case- 28    Status : Company    AY : 2015-16	Section
<p>In assessment, AO wrongly allowed depreciation of Rs. 19,16,70,762/-, as claimed by the assessee. The claim ought to have been restricted to Rs. 12,26,59,965/- since during the relevant previous year, assets worth Rs. 5842.95 lakh belonging to different 'Block of Assets' were purchased and put to use for a period of less than 180 days. Hence, as per section 32 of the IT Act 1961, depreciation allowable on such assets was to be restricted to 50% of the amount calculated at the prescribed percentage.</p> <p>This omission resulted in excess allowance of depreciation of Rs. 690.11 lakhs with a tax effect of Rs. 375.12 lakhs.</p>	32
Case- 29    Status : Company    AY : 2015-16	Section
<p>Audit scrutiny revealed that assessee had purchased agricultural land for consideration of Rs. 375.13 lakh (consolidated). Documents of sale transaction indicated that value of Land was only Rs. 157 lakh (consolidated) while remaining amount i.e. Rs. 218.13 lakhs was on account of premium paid for conversion of new tenure land to old tenure for residential purpose on behalf of the seller. As per Government of Gujarat Resolution, premium paid by the assessee has to be 40% of the total value of the land. Therefore, by reverse calculation of premium paid, the market value of Land worked out to Rs. 545.30 lakh (consolidated). Hence, the value of Land shown in the documents was less than actual valuation considered by the Competent Authority while calculating the premium price for conversion of Land. Therefore, total consideration paid which was less than the</p>	56(2)(vii) (b)(ii)





<p>value adopted by stamp valuation authority by Rs. 170.18 lakh, was required to be treated as 'Income from other sources' u/s 56(2)(vii)(b)(ii), which was not done by the AO.</p> <p>This omission resulted in short levy of tax of Rs. 75.20 lakh.</p>	
Case- 30    Status : Company    AY : 2015-16	Section
<p>In assessment, AO allowed deduction of Rs. 1,27,97,197/-, being provision for bad and doubtful debts to the co-operative bank. As provided in section 36(1)(viia) of the Act, quantum of deduction allowable towards provision for bad &amp; doubtful debt should not exceed 7.5% (for branches other than rural branches) of the total income. The provisions of section 36(1)(viia) were applicable on assessee which was a cooperative society on basis of facts of the case. Hence, upon applying limit prescribed in section 36(1)(viia), assessee was eligible for deduction of Rs. 12.08 lakhs only on account of provision for bad and doubtful debts, being 7.5% of the total income (before deductions) (Rs. 161.07 lakhs).</p> <p>This mistake has resulted in under-assessment of income to the extent of Rs. 115.89 lakhs involving a tax-effect of Rs. 54.97 lakhs.</p>	36(1)(viia)
Case- 31    Status : Company    AY : 2015-16	Section
<p>Audit has pointed out that during the year under consideration i.e. AY 2015-16, an amount of Rs. 288.26 crores was carried directly to balance sheet as surplus in respect of 6 projects undertaken by the assessee viz. Navi Mumbai - Rs. 22,957.83 lakh; Vasai Virar - Rs. 481.96 lakh; Tarapur - Rs. 40.16 lakh; Aurangabad - Rs. 997.66 lakh; Nashik - Rs. 242.19 lakh; Naina - Rs. 4,099.59 lakh. As the assessee was not a local authority, in view of the provisions of section 10(20) of the I.T. Act, this surplus was required to be taxed as the Income of the current year. Secondly, on expenditure side, an amount of Rs. 54.87</p>	10(20) and Chapter – IV D of I.T. Act, 1961



crore was claimed as 'provision for doubtful debts' related to Navi Mumbai project. However, being a contingent liability, same was not an allowable expenditure under the Act. Therefore, for taxation, the surplus, was further required to be increased by this amount and sum of Rs. 343.13 crore was required to be taxed in AY 2015-16. However, the AO omitted to tax this amount.

This Omission has resulted in underassessment of income of Rs. 343.13 crore involving a tax-effect of Rs. 171.45 crore including interest u/s 234A and 234B.

Case- 32 Status : Company AY : 2013-14

Section

Scrutiny assessment was completed by accepting returned loss of Rs. 1.93 Crore. Audit has pointed out that as per Note no. 24 to the P & L A/c, a net loss of Rs 9,24,14,814 was debited towards foreign currency transactions/derivatives and as per additional information to financial statements (Note 25.2-Details on derivative instruments), an amount of Rs. 6.87 Crore representing loss on fair valuation of the Swap Contract has been debited to Net Exchange Loss on Foreign Currency Transactions/Derivative instruments. Further, as per Note-8 (Long term provision) to Balance Sheet, provision for estimated loss on derivatives was Rs.6.87 Crore. Therefore, this amount of Rs.6.87 Crore represented only a provision and it should have been disallowed and added back to the returned income.

37

This omission has resulted in underassessment of income with a tax effect of Rs.2.06 Crore.

Case- 33 Status : Company AY : 2014-15

Section

Audit has pointed out that assessee had debited Rs. 6.27 Crore as financial cost in profit and loss account. This amount included Rs. 5.67 Crore (Rs. 4.98 crore + Rs. 68.12 lakh) as interest on bank loan. In the 3CD report, the tax auditor had

43-B



categorically stated that interest on loan from the scheduled banks of Rs. 2.93 Crore had remained unpaid on the due date of filing of return / date up to tax audit report. As interest of Rs. 2.93 Crore remained unpaid till 30.09.2014 (original due date for filing of return) and there was no evidence of its payment on or before 30.11.2014 (extended due date), entire amount was to be disallowed. But the assessee had added back unpaid interest of Rs. 27.32 lakh (5.27 + 22.05) only, w.r.t two term loans. AO has not made any disallowance u/s 43B in the scrutiny assessment.

This mistake has resulted in under assessment of income of Rs. 2.66 crore (Rs. 2.93 crore – Rs. 27.32 lakh) and consequent short levy of tax of Rs. 86.24 lakh.

Case- 34 Status : Company AY : 2015-16

Section

The Revenue Audit in its objection has stated that the assessee has brought forward Short Term Capital Loss of Rs. 7,91,52,316/- the same was carry forward. However, audit scrutiny of notes to the Computation reveal that during the AY 2015-16, the assessee has earned net Short Term Capital Gain of Rs. 9,22,03,183/- and at the same time, the assessee had carried forward Short Term Capital Loss of Rs. 7,91,52,316/- pertaining to AY 2009-10 since the provisions of India-Netherlands Treaty are more favourable to assessee, net STCG of Rs. 9,22,03,183/- has been claimed as exempt under the provisions of Article 13 of the Treaty.

Audit is of the view that the assessee is eligible for seeking benefits under the I.T. Act or the India-Netherlands DTAA, whichever is beneficial to it, as per the provisions of section 90(2) of the I.T. Act. However, an assessee should compute its STCG by First Setting off Capital Gain during the year with brought forward STCL, if any, treaty benefits should be claimed only for balance capital gains in any.

Article 13  
of India-  
Netherland  
DTAA and  
90(2) r.w.s  
74



Hence, the assessee should have first set-off brought forward STCL of Rs. 7,91,52,316/- pertaining to AY 2009-10 with the current year net STCG of Rs. 9,22,03,183/- and balance STCG of Rs. 1,30,50,867/- should have been claimed as exempt under the Article 13 of India Netherlands Treaty. This has not been done by the assessee.

Omission has resulted in incorrect carry forward of STCL of Rs. 7,91,52,316/- leading to notional loss of Rs. 1,24,73,613/- including Education cess as per I.T. Act, 1961 u/s 111A.

Case- 35 Status : Company AY : 2016-17

Section

As per Tax Audit Report in Form 3CD, the auditor had certified that expenses amounting to Rs. 652.41 lakhs towards interest on term loan from the Scheduled Bank was incurred during the FY 2015-16 which was not paid on or before the due date for furnishing of return of income u/s 139(1) of the I.T. Act. Since, the above expenses come under the purview of statutory dues, it attracts disallowance under 43B of the I.T. Act. However, the AO has allowed the above interest expenses while passing the assessment order

43-B

This omission has resulted in short levy of tax of Rs.251.47 lakh.

Case- 36 Status : Company AY : 2013-14

Section

TPO order was passed on 28.10.2016. Audit has pointed out that in TPO order while calculating ALP on Advertisement, Marketing and Promotion (AMP) issue, interest expenses of Rs. 19.63 crores were included in the 'operating cost' whereas as per 'Safe Harbour Rules', being non-operative expense, interest expense should be excluded while computing operating revenue. This mistake in computing ALP had resulted in excess adjustment of Rs. 19.63 crore involving overcharge of tax of Rs. 9.30 crore.

92-CA



Case- 37    Status : Company    AY : 2014-15	Section
<p>Audit has pointed out that assessee had sold a sea vessel named 'Sealion Apex' and earned a profit of Rs. 8,75,68,829/-, which was credited to P&amp;L account as 'Profit on sale of Asset' under 'Tonnage Tax' business and the Net Profit under 'Tonnage Tax Business' was arrived at Rs. 11,95,72,819/-. The net profit of both 'Tonnage and non tonnage tax business' worked out to Rs. 11,09,98,274/-. But, while working out the 'Book Profit' of the company for MAT u/s. 115-JB, the profit of Rs. 11,95,72,819/- pertaining to Tonnage Tax business was reduced as per the provisions of Section 115VO of the Act. However, an amount of Rs. 8,75,68,829/- out of Rs. 11,95,72,819/- was related to sale of old ship and not related to profits from core activities or incidental activities as stipulated in section 115VI. Hence, the amount of Rs. 8,75,68,829/- cannot be considered as shipping income as per section 115VI and could not be reduced from the book profit of the company.</p> <p>This omission has resulted in short levy of MAT on Rs. 8.75 Cr</p>	115JB r.w.s 115VO & 115VI
Case- 38    Status : Company    AY : 2015-16	Section
<p>While determining Arm's Length Margin (ALM) in respect of the Bulk Drugs Division of the assessee, the Profit Level Indicator (PLI) i.e. Operating Profit / Operating Revenue (OP/OR) was computed by adopting normal average method as against Weighted Average Method mandated under sub-rule (2) of rule 10CA of the Income-tax Rules. In view of this, the TPO computed the adjustment of Rs. 18.05 crores by applying PLI of 18.28% instead of the correct PLI of 22.34% Crores which resulted in a short adjustment of transfer pricing by 4.29 crores for purposes of section 92CA(3) and consequent short levy of tax to the extent of Rs. 1.39 Crores, excluding interest.</p>	92-CA



Case- 39    Status : Company    AY : 2014-15	Section
<p>In assessment, depreciation on intangible asset, being non-compete fee to the tune of Rs. 439.34 lakh was allowed. As non-compete fee is not considered an intangible asset, the depreciation claim should have been disallowed.</p> <p>This incorrect allowance has resulted in over assessment of loss involving potential tax-effect of Rs. 142.54 lakhs.</p>	32
Case- 40    Status : Company    AY : 2016-17	Section
<p>As per Accounting Standard 9, once the service has been completed or partially completed (in case of partial completion method), the revenue should be recognized in books of accounts irrespective of whether or not the invoice have been raised. Further, section 5(1)(a) provides that total income of a resident includes all income from whatever source derived which is received or is deemed to be received in India ; or accrues or arises or is deemed to accrue or arise to him in India, during such year.</p> <p>Audit has pointed out that assessee company has maintained mercantile system (as per 3CD) of accounting but for revenue recognition the assessee booked income on a cost-plus basis. For the relevant F.Y. the assessee declared unbilled revenue of Rs. 8,70,63,143/- as other current assets, which was actually to be declared. As the assessee was a service provider and as per AS-9 this was to be taken as a revenue receipts and as part of gross receipts.</p> <p>This omission resulted in underassessment of income Rs. 8,70,63,143/- with tax effect of Rs. 4,00,73,978/- including interest u/s 234B.</p>	AS-9 and 5(1)(a)



Case- 41    Status : Company    AY : 2014-15	Section
<p>Audit has pointed out that assessee had issued 28,729/- equity shares of Rs. 100 each at a premium of Rs. 1,336 per share. FMV of the shares were not computed as per Rule 11UA, which stipulated that value of immovable property &amp; liabilities has to be the book value. But assessee had taken value of the fixed assets at Rs. 17,50,00,000/- as per valuation report instead of the book value of Rs. 4,00,97,893/-.</p> <p>Thus as per Rule 11UA, FMV of the shares works out to Rs. 143.8 per share whereas assessee has worked out the FMV at Rs. 1,336 per share and this was allowed by AO. In view of these facts, the excess consideration of Rs. 1,192.2 (1,336 – 143.8) per share should have been considered as excess amount received (per share) clearly attracting Section 56(2)(vii)(b)(ii). Hence, the amount of Rs. 3,42,50,714/- (1192.2*28729) should have been treated as excess consideration received by the assessee and ought to have been added back to the taxable income of the assessee u/s 56(2)(vii)(b)(ii).</p> <p>This omission resulted in short levy of tax of Rs.1,47,79,815</p>	56(2)(vii) (b)(ii) r.w.r 11-UA
Case- 42    Status : Company    AY : 2014-15	Section
<p>Assessee Company had issued 3655272 shares of Rs. 5/- each (face value) at a premium of Rs. 55/- per share. Further, perusal of assessment records revealed that the fair market value as per section 56(2)(viib) worked out to be Rs. 28/- only and hence share premium of Rs. 23/- only was allowable. Accordingly, share premium of Rs. 32 per share (Rs. 55 – Rs. 23) ought to have been treated as income u/s 56(2)(vii)(b)(ii) of the Act.</p> <p>This omission resulted in short computation of income by Rs. 1169.69 lakhs with a tax effect of Rs. 4,01,71,048.</p>	56(2)(vii) (b)(ii)





Case- 43    Status : Company    AY : 2014-15	Section
<p>Audit has pointed out that as per case records, shareholding of assessee company's directors Smt. Madhuri Pradip Kawdiya and Shri Pradeep Suganchand was 50 % &amp; 45%, respectively and ledger account revealed that as on 01.04.2014 an amount of Rs.120.84 lakh was receivable from Smt. Madhuri and had to Shri Pradeep had to repay an amount of Rs. 126.57 lakh. As both the shareholders were having more than 10% shareholding in the assessee company, which was having a surplus of Rs. 192.06 lakh in Reserve &amp; Surplus as per Balance Sheet as on 31.03.2013, the provisions of Section 2(22)(e) of the Act was clearly attracted to the extent of accumulated profit of Rs. 192.06 lakh in Reserves &amp; Surplus. But AO have failed to invoke this section and hence there was short levy of tax amounting to Rs. 192.06 lakhs.</p>	2(22)(e)
Case- 44    Status : Company    AY : 2012-13	Section
<p>Audit pointed out that during the relevant year, assessee earned Interest of Rs. 9,47,04,585/- on FDRs. But instead of crediting the same to the Profit &amp; Loss Account, the interest was deducted by from the value of Inventories (Schedule 15) in the Balance-Sheet.</p> <p>Further in the 3CD report, the tax auditor, also certified that the amount of Rs. 9,47,04,585/- pertaining to 'other income' was not credited in the P &amp; L A/c. However, in the scrutiny assessment, this interest income of Rs. 9,47,04,585/-, from FDRs was omitted to be taxed by the AO leading to under-assessment of income by this amount and consequential positive tax-effect of Rs. 324.96 lakh and potential tax-effect of Rs. 86.40 lakhs</p>	28



Case- 45    Status : Company    AY : 2015-16	Section
<p>Assessment in this case was concluded u/s 143(3) of I.T. Act assessing income at Rs. 2.98 crore in November, 2019. Audit pointed out that assessee company has reduced trial run income (net) from the CWIP. As per the note- 37 to the financial statements for the year ended 31st March, 2014.</p> <p>The assessee company completed the Unit I of 600 MW of Mahan project and also started generating power with effect from 29th April, 2013 and the same was also communicated to the Central Electricity Authority.</p> <p>Further, as per Note 39, the assessee had generated revenue of Rs. 325.68 crore in the FY 2013-14 from power supply to 'ESTL'. Similarly, in the FY 2014-15, the assessee had shown revenue from 'ESTL' and 'Essar Electric Power Development Corporation' (EPPDCL) at Rs. 175.02 crore and Rs. 15.21 crores respectively.</p> <p>Since, the business is already operational and the assessee company is generating revenue of it, the net income derived from sale of power should have been offered for taxation instead of reducing the same from CWIP. Omission to do so resulted in under assessment of income of Rs. 126.67 crore in AY 2015-16 and Rs. 344.51 crore in AY 2014-15 with consequential short levy of tax of Rs. 43.05 crore and Rs. 117.09 crore respectively.</p> <p>In aggregate, short levy works out at Rs. 160.14 crore.</p>	28
Case- 46    Status : Company    AY : 2015-16	Section
In this case the Revenue Audit has raised objection that assessee in its computation claimed Rs. 25.29 crores as	37



mandatory contribution to settlement fund of Indian Clearing Corporation Limited (ICCL) and also justified its claim at Point no. 9 of the notes to computation of income. The assessee claimed this contribution as allowable expenditure u/s 37(1) of the Act,, which was allowed by the AO.

However, Audit pointed out that assessee had not debited the said amount in the profit and loss account and shown it under the Head Other Current assets. As per SEBI Circular dated 27.08.2014, every stock exchange is required to contribute at least 25% of the Minimum Required Corpus to the core Settlement Guarantee Fund (SGF) established and maintained by Clearing Corporation. This indicated that the fund had been contributed towards Corpus only. In view of the above facts, the assessee's claim of Rs. 25.79 crores as Mandatory contribution to settlement guarantee fund of ICCL was not an allowable expenditure u/s 37 of the Act

This omission has resulted in short levy of tax to the extent of Rs. 876 lakhs.

Case- 47    Status : Company    AY : 2014-15 & 2015-16

Section

AY 2014-2015

115JB

The assessment for AY 2014-15 was made at assessed income of Rs. 31.12 crore under normal provisions of the Act and Rs. 169.19 crores u/s 115JB. Audit scrutiny revealed that deduction of Rs. 112.70 crores was allowed on account of Debenture Redemption Reserve (DRR) in AY 2014-15 while computing book profit. No such deduction was allowable u/s 115JB(2), Explanation [1] clause (b). As such, book profit was incorrectly reduced by Rs. 112.70 crores involving short levy of tax by Rs. 34,25,26,011/- inclusive of Interest.



AY 2015-16

The assessment for AY 2015-16 was made at assessed income of Rs. (-) 2,22,45,77,320/- under normal provisions of the Act and book profit of Rs. 44,94,02,504/- u/s 115JB. Audit scrutiny revealed that deduction of Rs. 32.30 crores was allowed on account of Debenture Redemption Reserve (DRR) in AY 2015-16 while computing book profit. No such deduction was allowable u/s 115JB(2), Explanation [1] clause (b). As such, book profit was incorrectly reduced by Rs. 32.30 crores involving short levy of tax by Rs. 9,90,44,212/- inclusive of interest.

Case- 48 Status : Company AY : 2014-15

Section

Audit has pointed out that in scrutiny assessment, depreciation on intangible asset, being non-compete fee to the tune of Rs. 439.34 lakh was allowed. But, as non-compete fee is not considered as an intangible asset, the depreciation claim should have been disallowed.

32

This incorrect allowance has resulted in over assessment of loss by Rs. 439.34 lakh involving potential tax-effect of Rs. 142.54 lakhs.



# CHAPTER - 5

## CHECK-LIST OF COMMON/REPEATED ERRORS DETECTED DURING AUDIT IN FY 2022-23 UNDER VARIOUS PROVISIONS OF INCOME-TAX ACT, 1961



### Wrong allowability in Assessment:

- Unsecured loan assessed as unexplained u/s 68/69 but corresponding interest is not added back.
- Corresponding impact of additions on tax not considered, like LTCG from sale of investments in mutual funds assessed as business income, but indexing of cost was wrongly allowed to arrive at taxable income.
- Sale price of assets is taken at less than stamp duty value in violation of section 43A of the Act. The section prescribes that the value adopted or assessed by the stamp duty authority is required to be considered as full value of consideration.
- Mistake in computing expenses disallowable u/s 14A read with Rule-8D of the IT Rule
- As per section 80P(2)(d) of the Act, interest received from a co-operative society is eligible for deduction. However, in assessments, interest received from banks etc. is being wrongly allowed to be deducted u/s 80P. Further, section 80P(2)(c) restrict deduction allowable on ancillary activities of the co-operative society. However, this aspect is not examined thoroughly while allowing deduction u/s 80P .
- Penal charges debited in accounts have not been disallowed.
- Violation of section 40A(3) of the Act.
- Tax and interest thereon debited as expense in accounts are not disallowed.
- Disallowances/provisions already notified in Form 3CD are not taken into account.
- 'Unrealised foreign-exchange loss' which is neither accrued nor incurred but claimed in the accounts is not being disallowed in assessment.

- Incorrect allowance of capital, personal or miscellaneous (CSR, Freebies in medical sector etc.) expenditure as revenue expenditure in violation of section 37 of the Act.
- Failure to make query in respect of certain deductions u/s 43B to be only on actual payment.
- In case of assesses claiming deduction u/s 80IA of the Act, expenses being claimed in non-eligible unit or in head office account are not being examined carefully resulting in non-allocation of common expenses of business to the profit of eligible business and thus, leading to excessive allowance of deduction u/s 80IA.
- Section 269SS, 269ST & 269T deal with restrictions on various transactions in cash. In many cases violation of these sections is reported in the Audit Report but the AO, neither verifies nor initiates any penalty for violation of these provisions.
- Incorrect computation of LTCG (non-adherence of sec 111A / 112A).
- In case of manufacturing units, the consumption of Raw Material, shortages/wastages in the manufacturing/production process and Finished Goods are not being carefully examined by the AOs. Such figures should invariably be compared with norms of the industry e.g. unexplained excess output in manufacturing process indicates possibility of evasion through suppression of sales and introduction of unaccounted raw-material.
- Sometimes important and significant observations regarding quantitative details of Stock, Inventory and of variation in Yield are made in the Tax Audit Report which if examined thoroughly might lead to detection of tax-evasion. However, AOs are not verifying this aspect thoroughly while framing assessment.
- Besides comparison of quantity of Stock, Inventory, Yield etc. declared in the Return with TAR, the AO, should invariably match these details scrupulously with the information already available with the Department in form of AIR/ITS details/360 degree data etc.



- As per section 80A(5) no deduction shall be allowed to an assessee who fails to make a claim in his return of income for any deduction under section 10A or section 10AA or section 10B or section 10BA or under any provision of this chapter or deduction in respect of certain incomes. However, it was found that the deduction was allowed on the basis of documents submitted during the course of assessment proceedings by the Assessing Officer even when no valid return was filed and claim made in the return of income.
- As per section 80AC, no deduction shall be allowed in respect of chapter VI-A Part C-"Deduction in respect of certain incomes to an assessee unless he furnishes a return of his income for such assessment year on or before the due date specified under sub section (1) of section 139. However, in case of belated returns also, claim of deduction was allowed by the Assessing Officer in a few cases.
- Deposit of cash in SBN during demonetization period exceeding the cash balance as on 08/11/2016 was to be taxed u/s 68, but the same was not done in many cases by the Assessing Officers.
- The section 56(2)(x)(b) is attracted if the difference amount between guidance value and the sale consideration of an immovable property being more than 10% of the latter or being more than Rs. 50,000/- in the hands of purchaser whichever is higher. However, it was found that this was not invoked in many cases by the Assessing officers.
- Section 36(1)(v) deals with late deposit EPF/ESI etc. In col. 20(b) of the Tax Audit Report, the auditor furnishes the details of amount collected by the assessee from employees as EPF,ESI or any other welfare scheme contributions, due date of deposit into relevant account and actual date of deposit. However, amounts were not deposited within time limit are taxable u/s 36(1)(v) r.w.s 2(24)(x) of the Act. It is observed that the AO has failed to disallow the same..

#### Allowability of Depreciation:

- Instances of incorrect rate, wrong claim of depreciation have been detected.
- Additional depreciation claimed on ineligible assets.

- While treating a revenue expenditure so claimed on an asset as a capital expenditure in assessment, depreciation, as applicable, should be allowed on the asset held as capital asset.

### Common Mistakes specific to Exemption charge:

- Short levy of tax: In cases where benefit of section 11 & 12 is denied due to violation of section 13(1)(c) of the Act, tax has to be charged at Maximum Marginal Rate u/s 164(2). However, in most of the cases, tax is being charged at normal rate.
- Wrong allowance of capital expenditure: In cases where benefit of section 11 & 12 is denied due to violation of section 13(1)(c) of the Act, Expenditure on capital assets should not be allowed to the assessee as application of income. However, in most of the cases, it is being allowed.
- Non-filing/late filing of Audit Report: To claim benefit u/s 11 & 12, assessee trust has to file its Audit Report in Form-10B along with the ITR, as per the provisions of section 12A(1)(b) of the Act. However, in some cases, it is noticed that despite late/non-filing of Audit Report, benefit of section 11 & 12 has been wrongly allowed to the assessee.
- Accumulation of Income u/s 11(2): To avail benefit of accumulation of income u/s 11(2), assessee has to (I) file an intimation in Form-10 within the due date specified u/s 139(1) and (II) ITR should have also been filed within due date u/s 139(1). In some cases, it is seen that while both the ITR as well as Form-10 were filed late, the benefit u/s 11(2) was allowed where assessee had only obtained condonation of delay for late filing of Form-10, however, the late filing of ITR was not condoned. Despite clear cut provision of section 13(9) that, accumulation is allowed only if both the criteria are fulfilled, accumulation u/s 11(2) of the Act was allowed.
- In some of the cases, assessee claims both exemption u/s 10(23C) and u/s 11 of the Act in the ITR which is wrong. Exemption can be claimed under one regime only.
- Nature of donation received: Two types of donation are received by the trusts:- (i) Corpus donations as per section 11(1)(d) & (ii) Voluntary Contributions other

than corpus donations. Corpus donation is made by the donor with a specific direction, and general donation is made without any specific direction. Further, corpus donation can be kept by the assessee for a period without any time limit, whereas general donation has to be applied in the year in which it is received, or it has to be accumulated u/s 11(2). In some cases, it is noticed that the trusts which received donation without any specific direction, declare such donation as corpus donation for taking benefit of unlimited time period for application of the said money and claiming exemption u/s 11(1)(d). Donation received without specific direction should not be allowed exemption u/s 11(1)(d) of the Act.

- Section 115BBC: Anonymous donation received by trust is to be taxed u/s 115BBC, when exceeding the limit specified in the section. However, it was found that the section 115BBC was not invoked by the Assessing Officer inspite of availability of documents on the record.

### Capital Gain

- Deduction u/s 54 : Assessee failed to invest the capital gain in purchase of a residential property within two years or construct a residential house from the date of transfer of a long term asset being a residential house as per section 54(1)(i). During the course of audit, it was seen that the deduction u/s 54 was allowed by the Assessing Officer even when statutory timelines were not adhered to.
- Section 50C : The consideration received or accrued as a result of the transfer by an assessee of a capital asset being land or building or both is less than the value adopted or assessed by any authority of the state government (Stamp Valuation Authority) for the purpose of payment of stamp duty in respect of such transfer shall be deemed to be the full value of consideration received or accrued. During the course of audit, it was found that application of 50C was not done by the Assessing Officer, even when sale documents were in the file.
- Section 54F : Capital gain on account of transfer of any long term capital asset failed to purchase a new residential property within a period of 1 year before or 2 years after the date on which the transfer took place or constructed a residential property within 3 years. During the course of audit, it was observed that deduction was allowed in many cases inspite of assessee failing to keep the time limit. Deduction under this section is admissible only against one

residential property as against the claim of more than one by the assessee. During the course of audit, it was seen that even when a property being apartment complex comprising of 4 flats was built, deduction was allowed for all the flats instead of one.

### Penal provisions:

- Non initiation of penalty u/s 271A / 271B for failure to maintain or retain books of accounts/ failure to get accounts audited.
- Non-levy of penalty u/s 271D for accepting loan/advance/specified sum in cash.
- Non initiation of Penalty u/s 270A of the Act in course of assessment where addition was made for under reporting of income.
- Penalty proceeding u/s 271(1)(b) for non-compliance not initiated in Best-Judgment assessment framed u/s 144.
- While levying penalty u/s 270A of the Act the AOs are not clearly specifying whether penalty is being levied for under-reporting or mis-reporting of income.
- In high value International transactions, penalty under section 271BA for non-furnishing of Form 3CEB is not levied in many a instance.
- In many cases, it is found that the AO has mistakenly initiated wrong penalty for concealment/under reporting/mis-reporting of income.

### Violation of TDS provisions:

- Mismatch in accounting-receipts/gross-receipts/turnover/TDS/TCS claimed in the ROI, with 26AS statement, not being examined properly.
- TDS claim allowed without considering that corresponding income has to be charged to tax as per provision of section 199 of the Act.
- Expenditure is not being disallowed u/s 40(a)(ia) of the Act for non-deduction of TDS, in cases specified therein.
- Non-sharing of information with TDS wing for recovery of TDS.

Inadequacies in computation of Interest (offline/online):

#### Section 234A of the Act:

- Monthly time-interval for calculating the delay is taken wrongly.
- Where Return has been filed beyond the due date mentioned in the notice u/s 153A/148, interest u/s 234A is not being levied from the date immediately following the due date upto the date of furnishing the Return.
- Where Return has not been furnished and order u/s 144 of the Act has been framed, mistakes in computing interest u/ s 234A have been detected.

#### Section 234B of the Act:

- Incorrect treatment of self-assessment tax paid.
- Incorrect treatment of prepaid taxes while computing interest under sub-section (3).

#### Section 234C of the Act:

- Either non-levy of interest or incorrect charging of interest on assessed income instead of returned income.

#### Section 234D of the Act:

- Incorrect or non-charging of interest on excess refund.

#### Interest: some other issues:

- Interest wrongly charged u/s 234A/234B/234C up to date of rectification, instead of date of original assessment. Secondly, interest charged u/s 220 of the Act is not being separated from interest charged u/s 234A/234B/234C.
- Interest received on income-tax refund not included in taxable income.

### Inadequacies in applying provisions of Section 115BBE:

- Despite specifically recording in the assessment order that the addition/disallowance is being made u/s 68 or 69 of the Act, provision of section 115BBE is not invoked in many cases. Thus, tax is charged at normal tax rate on deemed income u/s 68, 69, 69A of the Act as against special tax rate of 60% u/s 115 BBE.
- In some cases, Assessment orders are not self-explanatory i.e. provisions of section 115BBE r/w Section 68/69 are not clearly invoked in the assessment order for undisclosed credit/receipt etc. despite clearly establishing the requisite material in the Assessment order e.g. failure of assessee to satisfactorily explain; spot verification by ITI indicating absence of business activity; accommodation entries; and/or rejection of books of account. Instead of invoking section 115BBE in such instances, these amounts are treated either as normal disallowances or only a certain percentage of such unexplained amount is considered as income.
- Brought forward losses/current years losses/expenditure are wrongly set-off against income/receipt covered u/s 115BBE r/w Section 68 and 69.

### MAT provision u/s 115JB:

- As per provisions of section 115JB, several additions and deductions are made to the 'book profit'. As per clause 'f' of 'Explanation 1' to the section 115JB, the profit as per profit and loss account has to be increased by the amount of expenditure relatable to any exempt income. However, during the Audit it was noticed that expenses relatable to exempt income (which have been mentioned in the Tax Audit Report and also in the computation of income under the head 'income from business') have not been added to the profit as per profit and loss account while computing the 'book profit'.
- MAT credit of earlier years are allowed on the basis of information given in the ITR only without verifying the updated position on the basis of appeal-effect, rectifications, re-assessment etc. for earlier years.
- Failure to compute tax under MAT provisions when tax-liability under MAT exceeds that under Normal provisions.
- Incorrect calculation of book-profit.

### Irregularity in allowance of Losses:

- Carry forward of business losses are allowed despite delay in filing the ITR.
- Set-off of brought forward loss is allowed on the basis of information given in ITR only, without verifying the previous assessment orders.
- In the assessment order, carried forward losses are restricted to certain amount, however, in computation sheet, carried forward losses have been mentioned for the same amount as claimed by the assessee, resulting in excess carry forward of loss.
- Speculation loss can be adjusted against the speculation income only and not against any other income.

### Non-linking Additions/Allowances with other AYs:

- Backward and forward linkages are not made for additions/disallowance made in AY in hand, resulting in non-initiation of remedial measure for earlier/later years.

### Inaccuracies in computation of tax-demand:

- Assessed income is not correctly taken into the computation sheet/ITNSeg. instead of assessed income, returned income is taken to ITNS; special income is taken into normal income row, totaling of assessed income as given in the assessment order is incorrect; individual items of additions/disallowances listed inside in order are inaccurately taken into the last page summary or are altogether omitted.
- Amount is taken into wrong row which results in wrong computation or even doubling of its effect on computation of income.
- Correct tax-rate/surcharge is not applied in the computation sheet.
- Calculation errors of taxes in cases involving agricultural income have been detected.



### Legacy Issues.

- Additions on legacy issues made in earlier years, i.e when similar facts exist in the current year also, have to be considered by the AO. It is observed in many cases, the AOs have not considered legacy issues while finalizing assessment.

# CHAPTER - 6

AUDITORS OF THE  
MONTH

AUDITORS OF THE  
YEAR



# AUDITORS OF THE MONTH

MONTH	NAGPUR	PUNE
APRIL	Shri Raju Issac, Income Tax Officer,(IAP)-1	Smt. Rohini Kuber, ITO(IAP)-2
MAY	Ms. Sanghamitra Khobragade, DCIT (SAP	Smt. Valsala Pillai, ITO(IAP)
JUNE	Shri V.P. Jain. Income Tax Officer, (IAP)-4	Shri.KiranJoshi, ITO(IAP)-3
JULY	Ms. Seema Bywar, Income Tax Officer, (IAP)-1	Shri. Sunil Pardeshi, ITO(IAP)-1
AUGUST	Shri. Raju Bhagwatkar, Income Tax Officer, (IAP)-3	Shri. M.R.Sarnaik, ITO(IAP)-4
SEPTEMBER	Ms. Seema Bywar. Income Tax Officer. (IAP)-1	Shri. BibhutiNarayan, ITO(IAP)-5
OCTOBER	Shri. Raju Bhagwatkar, Income Tax Officer, (IAP)-3	Shri. JagmohanHooda, ITO(IAP)-6
NOVEMBER	Shri Satheesh Bharathan, Income Tax officer, (IAP)-2	Smt. Rohini Kuber, ITO(IAP)-2
DECEMBER	Shri V. P. Jain, Income Tax Officer, (IAP)-4	Shri. Uday Kulkarni, ITO(IAP)
JANUARY	Shri G.J. Ninawe, Jt.CIT(Audit),	Shri. BibhutiNarayan, ITO(IAP)-5
FEBRUARY	Shri Farrukh Shehzad, Dy. CIT (SAP),	Shri M.G. Sahasrabuddhe, ITO (IAP),
MARCH	Shri Farrukh Shehzad, Dy. CIT(SAP),	Shri. Sunil Pardeshi, ITO(IAP)-1



# AUDITORS OF THE YEAR



**T V NARAYANAN,**  
**ITO(IAP) 4, CHENNAI**

The officer joined the department as Stenographer in 1996 and has worked in various divisions like Vigilance, Investigation Wing and Corporate Range. On promotion as ITO in August 2022. He Joined as ITO(IAP) 4, where Corporate, LTU and other cases were assigned for internal audit. He has raised 13 major objections in FY 22-23 with tax effect of 13 crores.



**SRI YOGENDRA NATH UPADHYAY**  
**ITO(IAP)-CENTRAL/HQ., KANPUR**

The officer has joined the department in 1992 and has worked in HQ & corporate assessment charge and promoted as ITO in Sep 2019. He has raised 13 Major internal audit objections in FY 22-23 having tax effect of Rs.14.23 Cr. with completion of 804 cases which exceeded the annual target of 720 cases.



**SRI ASHWINI KUMAR MALL**  
**ITO(IAP), ALIGARH**

The officer joined the department in 1990 and has worked in Assessment & I&CI. He was promoted as ITO in Nov 2016. As ITO,IAP, Aligarh he has raised 22 internal audit objections in FY 22-23 having tax effect of Rs.2.21 Cr. with completion of 999 cases which exceeded the annual target of 720 cases.



# AUDITORS OF THE YEAR



**VIJAYKUMAR P. JAIN,  
ITO (IAP-4), NAGPUR, CHENNAI**

The officer joined the Income Tax Department in 1990 at Nagpur as UDC . He was promoted as ITO in June 2014. He has worked in TDS, Central, Audit & Assessment section. As ITO(IAP)-4. He has raised 09 qualities major Audit Objection in FY 22-23 with tax effect of Rs. 3.23 crore and has audited 763 cases during the F.Y. 2022-23, exceeding the annual target of 720 cases.



**MRS. ROHINI KUBER,  
ITO, PUNE**

The officer has joined the department in March 1989 as stenographer at Pune and promoted as ITO in 2012. She has worked in recovery I&CI & Assessment charges. As ITO (IAP-2), Pune she has raised 3 quality objection in FY 22-23 with Tax effect of Rs. 221 crore & audited 762 cases which is more then the target of 720.



**ANKITA SINGH,  
JCIT,AUDIT,BHOPAL**

The officer belongs to 2011 batch & has joined the department in August 2012. She has worked in assessment & investigation. On promotion as JCIT in 2021 she joined JCIT(Audit) in Bhopal, where she has raised quality objection in 7 cases in FY 22-23 with tax effect of 20.88 crore and completing 120 audits meeting the target.





Directorate of Audit & Inspection  
O/o DGIT (Legal & Research)  
Central Board of Direct Taxes