PREFACE

The Report for the year ended March 2011 containing the results of the performance audit of Recovery of Arrears of Tax Demand has been prepared for submission to the President under Article 151(1) of the Constitution of India.

The audit of Revenue Receipts – Direct Taxes of the Union Government is conducted under Section 16 of the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971.

Our findings are based mainly on test audit conducted during the period December 2010 to May 2011. Some findings of audit conducted in earlier years, but could not be covered in previous reports, have also been included.

Executive Summary

Direct tax collections, amounting to ₹ 4.35 lakh crore accounted for three-fourth of revenue receipts of the Government of India in 2009-10. At the same time the uncollected portion of tax demand was ₹ 2.29 lakh crore in March 2010 equivalent to 54 *per cent* of total direct tax collections. The arrears of demand also registered a steep hike in last five years.

This review was undertaken to evaluate the reasons for huge build-up of income tax arrears and the measures being taken by the Department to liquidate arrears. The main objectives of our audit were to seek an assurance that the Department: has an effective internal control mechanism and monitoring system and has made all efforts provided in the Act for expeditious recovery of arrears of tax demand; has complied with the instructions issued by the Central Board of Direct Taxes from time to time; is diligently pursuing the disposal of appeals by Appellate Authorities; is liaising with the Settlement Commission for early disposal of cases involving high tax demand.

We employed two tier sampling for selection of assessment units and tax recovery wards and for identification of cases within those units. We also analyzed high value arrear demand cases of ₹ 10 crore and above available with the Directorate of Income Tax (Recovery).

An overview of our audit findings and key recommendations included in this Report is given below:

Inventory of Arrears (Chapter 2)

Data being maintained by different wings of the Income Tax Department (Department) are widely divergent. The controls are scattered to that extent as different sets of data are being monitored within the different functional wings of the Department.

We analyzed 1369 high value cases involving arrear demand of ₹ 1,96,092.07 crore for the quarter ending September 2010. Individuals/ HUF accounted for 60 *per cent* of the demand while the companies accounted for another 34 *per cent*. The demand against individuals is highly skewed with just 12 individuals accounting for 90 *per cent* of the outstanding demand. Further, 84.3 *per cent* of the arrear demand amounting to ₹ 1,65,337.42 crore is categorized as unrealizable demand by the Department. Age wise analysis revealed that 31 per cent of the demand was between 2 to 5 years old and 23 per cent was more than five years old. Analysis of the demand locked in appeals at various stages revealed that most of the cases were pending in appeal with the departmental appellate authorities. The demand pending before CIT (Appeals) accounted for 91.91 *per cent and* 70.73 *per cent* of total demand locked up in appeals in 2008-09 and 2009-10 respectively.

Key Audit Recommendations

We recommend that

- *The Department may ensure preparation of a robust and reliable data base of arrear demand by reconciling the data maintained by different wings of the Department, towards effective monitoring and follow up of arrears*

Tax Recovery Mechanism and Internal Controls (Chapter 3)

Despite the Tax Recovery Officer being the most important functionary involved in monitoring and recovery of arrear demand, the Department is not maintaining a centralized database of the sanctioned strength vis-à-vis deployment of Tax Recovery Officers. Thus vacancy position in this important cadre is not being monitored exclusively and is being done as part of the overall cadre of Income Tax Officers.

Tax Recovery Mechanism involves intimation of arrears by Assessing Officer to TRO, drawal of Tax Recovery Certificates (TRC) and finally disposal of TRCs. The flow of information from Assessing Officers to the TROs is far from satisfactory. We noticed 1,54,198 cases involving outstanding demand of ₹ 4,543.83 crore where the demand was not transferred to the TROs inspite of non-recovery for more than one year. There was difference in figures of arrear demand in the books of AOs versus TROs due to lack of co-ordination between them. In 338 cases involving demand of ₹ 11.86 crore the AOs did not provide information sought by the TROs. The Tax Recovery Registers of the TROs did not provide an assurance that Tax Recovery Certificates (TRCs) had been drawn up in all the cases. The annual disposal of recovery certificates by the TROs is far below the annual norm of disposal of 1200 certificates fixed by the Board. There were 1,17,403 TRCs involving arrear demand of ₹ 1,57,053.72 crore pending for disposal in November 2010.

Departmental mechanism to monitor the progress of assessment work and collection through Demand and Collection Register (D&CR) and Arrear Demand and Collection Register (ADCR) maintained at the level of AOs was weak. Dossier Reports had not been prepared in 5,167 cases. Cases are not being properly transferred to the ADCRs. Such omissions result in weakening of internal control mechanism and may lead to non-recovery of arrears. We found that in several TRO units the registers prescribed for facilitating monitoring and control over the tax arrears and their disposal were not being maintained at all. Inspite of specific provisions for internal audit, TROs escaped internal audit.

Key Audit Recommendations

We recommend that

- *A reasonable time may be made mandatory for the drawal of Recovery Certificates by the TROs.*

- *The target for drawing up of Recovery Certificates by the TROs may be revisited and an appropriate norm may be fixed on the basis of the actual work load in different charges instead of the existing norm of 1200 certificates to be disposed annually.*
- *Ministry may consider working out appropriate modalities for liaison between AOs and TROs under supervision of the higher authorities to ensure better co-ordination and speedy disposal of cases.*
- *Ministry may consider strengthening Internal Audit of the post assessment collection process to effectively monitor the recovery of tax arrears by prescribing minimum number of TROs to be covered by Internal Audit every year.*

Issues leading to arrears (Chapter 4)

The inventory of demand is piling up as a result of compromise with the established procedures and controls. We found that the increase in arrears was mainly due to reasons such as inaction and protracted delays on part of the AOs in referring the arrear cases to the TROs, lack of co-ordination between the AOs and TROs subsequent to the referral, lack of adequate efforts to collect the demand, failure to recover undisputed demand, failure to invoke special powers for recovery by TROs and disputed cases pending in appeals. Despite the Department having an all encompassing computerised package in the form of 'ITD systems', the data contained therein is not being reconciled to ensure reliability. Adequate efforts are not being made to trace the defaulting assessees. Analysis of high value demand cases revealed that the irrecoverability of demand was caused by delay in liquidation/ insolvency proceedings, no assets for recovery, assessee not being traceable, demand covered by stay etc.

Key Audit Recommendations

We recommend that

- *The Department may ensure correct and timely credit of TDS/TCS to the assessee by introducing reconciliation with concerned agencies to avoid mismatches resulting in creation of wrong demand.*
- *As mentioned in our Study on the Appeals Process, reasons for low disposal of appeals by CsIT(A) need to be analysed. Wherever pendency is due to lower efficiency, strict administrative measures may need to be taken.*
- *Department needs to effectively pursue the cases locked up in litigation at the ITAT and higher formations.*

Follow up and disposal of arrears (Chapter 5)

Follow up and disposal of cases in arrears is less than the prescribed targets. Majority of the cases were disposed off while giving effect to Appellate orders. The Tax Recovery Officers sparingly exercised the special powers towards recovery of the demand. Refunds were issued

without adjusting the demand. Despite provisions such as issue of notice under section 220(1), granting extended time period for payment of arrears to the assessee under section 225(1), attachment of the bank accounts of the assessee under section 226(3), attachment and sale of movable and immovable property under section 222(1), adjustment of refund arising in subsequent years against arrear demand and levy of penalty under section 221, it was seen that there were lapses in collection of undisputed amount.

Key Audit Recommendations

We recommend that:

- *The provisions of adjustments of arrear demand while granting refunds should strictly be followed. The system may provide for fixing responsibility in such cases.*
- *The information collected through Annual Information Returns by the Central Information Branch (CIB) particularly about the properties owned by the assessee should be accessible to the TROs also.*
- *The write off proposals in justifiable cases may be pursued and such irrecoverable demand may be considered for write off after following due administrative procedure.*
- *The mechanism of Regional Economic Intelligence Committee (REIC) needs to be strengthened to facilitate sharing of information among different revenue collecting agencies.*

CHAPTER 1

Introduction

1.1 Direct tax collections constitute a dominant component of revenue receipts of the Union Government. In 2009-10, Direct Taxes collection of ₹ 4.35 lakh crore[1] accounted for 75.97 *per cent* of revenue receipts of Union Government and 6.9 *per cent* of GDP at market prices. The effectiveness of the functioning of the Revenue Department can be measured with reference to the tax collection, assessment, raising of demand and arrears thereof. The collection of tax demand is a critical responsibility of the Income Tax Department (Department). The tax collection is at two stages namely pre-assessment i.e. Tax Deduction at Source, Payment of Advance Tax, Payment of Self Assessment Tax and post assessment which is based on completion of assessment by the Assessing Officer.

1.2 In 2009-10, the pre-assessment collection was ₹ 3.52 lakh crore and the post assessment collection was ₹ 0.73 lakh crore. As compared to the post assessment collections, the total demand pending collection as on 31 March 2010 was ₹ 2.29 lakh crore. The tax recovery process is an important function of the Department. Accordingly, it has instituted a specialized mechanism for tax recovery by allocating one Tax Recovery Officer exclusively for each range. Several provisions are provided in the Income Tax Act (Act) and instructions have also been issued by the Board from time to time regarding reduction of arrears of tax demand. Despite this, the arrears have gone up manifold. This is a matter of great concern.

Why we chose the topic

1.3 We had conducted a performance evaluation of arrears of direct tax in 2001-02. Our major findings highlighted that an amount of ₹ 39,632 crore was outstanding as arrears of tax demand in 3993 cases that were made available to audit. The main reasons for huge build-up of arrears were filing of appeals by taxpayers and stay granted by Appellate Authorities, issue of refunds despite there being outstanding demand, inaction/delay on the part of the Department to follow up the recovery proceedings and lack of co-ordination between AOs and TROs.

1.4 Since then, the arrears of tax demand[2] have risen from ₹ 92,082 crore in 2005-06 to ₹ 2,29,032 crore in the year 2009-10.

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[1] As per the Central Action Plan-1(CAP-1) statement of CBDT, the gross collection of Direct taxes of ₹ 4,35,164 crore consists of collections of ₹ 2,88,162 crore on account of Corporation tax, ₹ 1,36,551crore on account of Income tax and ₹ 10,451 crore on account of other Direct taxes. The Pre-assessment and post assessment collection figures are in respect of Corporation tax and Income tax.

[2] The total tax demand pending comprised of demand of earlier years' pending collection and current year's demand pending collection. In 2005-06 the total demand pending of ₹ 92,082 crore consisted of earlier years' demand of ₹ 77,216 crore and current year's demand of ₹ 14,866 crore whereas in 2009-10 the total demand pending of ₹ 2,29,032 crore consisted of earlier years' demand of ₹ 1,81,612 crore and current year's demand of ₹ 47,420 crore.

1.5 The current review was undertaken to evaluate the reasons for huge build-up of income tax arrears and the measures being taken by the Department to liquidate arrears.

Objectives of the review

1.6 The objective of our audit was to seek an assurance that the Department:

- has an effective internal control mechanism, monitoring system and adequate manpower to ensure that its guidelines regarding collection and recovery of arrears of tax demand are adhered to.
- has taken all possible action provided in the Act for expeditious recovery of arrears of tax demand.
- has complied with the instructions given by the Central Board of Direct Taxes (Board) from time to time to reduce the arrears of tax demand.
- is effectively pursuing the recovery of installments granted to the assessee for payment of the tax demand.
- is diligently pursuing the disposal of appeals by the Appellate Authorities.

Legal Provisions

1.7 Chapter XVII-D consisting of Sections 220 to 232 and Schedule II of the Income Tax Act, 1961 relate to collection and recovery of tax. The major provisions are detailed below:

Sections	Provisions
220(1)	An assessee is required to pay the demand within 30 days pursuant to the service of demand notice or the time limit as specified by the AO.
220(2), 221(1)	Levy of interest and penalty in case of delayed payments.
222(1)	Special powers for initiating coercive measures to effect recovery of arrears are provided to TROs.
226(2), 226(3), 226(4), 226(5)	The AOs and TROs can effect recovery with the help of enforcement measures such as deduction from salary by the employer, payment by person indebted to defaulter, payment by money in Court's custody and by distraint (seizure of goods) or sale of movable property respectively.
179	Recovery of arrears of tax in case of private company may be effected from Director of the company during the year who shall be jointly and severally liable for payment of such tax.
188A	Partner of a firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable along with the firm for the amount of tax, penalty or other sum payable by the firm for the assessment year to which such previous year is relevant.
189(3)	Every person who was at the time of dissolution or discontinuance of business, a partner of the firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable along with the firm for the amount of tax, penalty or other sum payable by the firm.
133A	The survey mechanism also may be used for recovery of tax demand.

Scope and methodology of audit

1.8 The arrear demand in respect of assessments completed during the financial years 2007-08 to 2010-11 (up to November 2010) but pending recovery up to the date of audit was the subject of our study.

1.9 Two tier sampling was employed while conducting the review. At level-1, the assessment units were selected using stratified random sampling. At level-2, selection of records to be analyzed for identification of cases was made using stratified random sampling. Details are provided in Appendix-1.

1.10 In 1,550 selected TROs and assessment units 66,350 cases of arrear demand were selected. Out of this, 60,324 cases representing 90.92 *per cent* were produced to audit. Details are provided in Appendix-2.

1.11 The focus of the audit was on follow up and collection of arrear demand. The arrear demand cases were identified from the records and data maintained by the Department. Records were requisitioned from the Assessing Officers and the Tax Recovery Officers and examined to assess the reasons for pendency and follow up action taken for reduction of arrear demand.

Acknowledgement

1.12 The Indian Audit and Accounts Department acknowledges the cooperation of the Income Tax Department in providing the necessary records and information for audit.

1.13 An entry conference was held with CBDT in January 2011. The audit objectives, scope of audit and the main areas of audit examination were explained in the meeting.

1.14 The exit conference was held with the CBDT in November 2011 to discuss the findings and recommendations included in this report.

CHAPTER 2

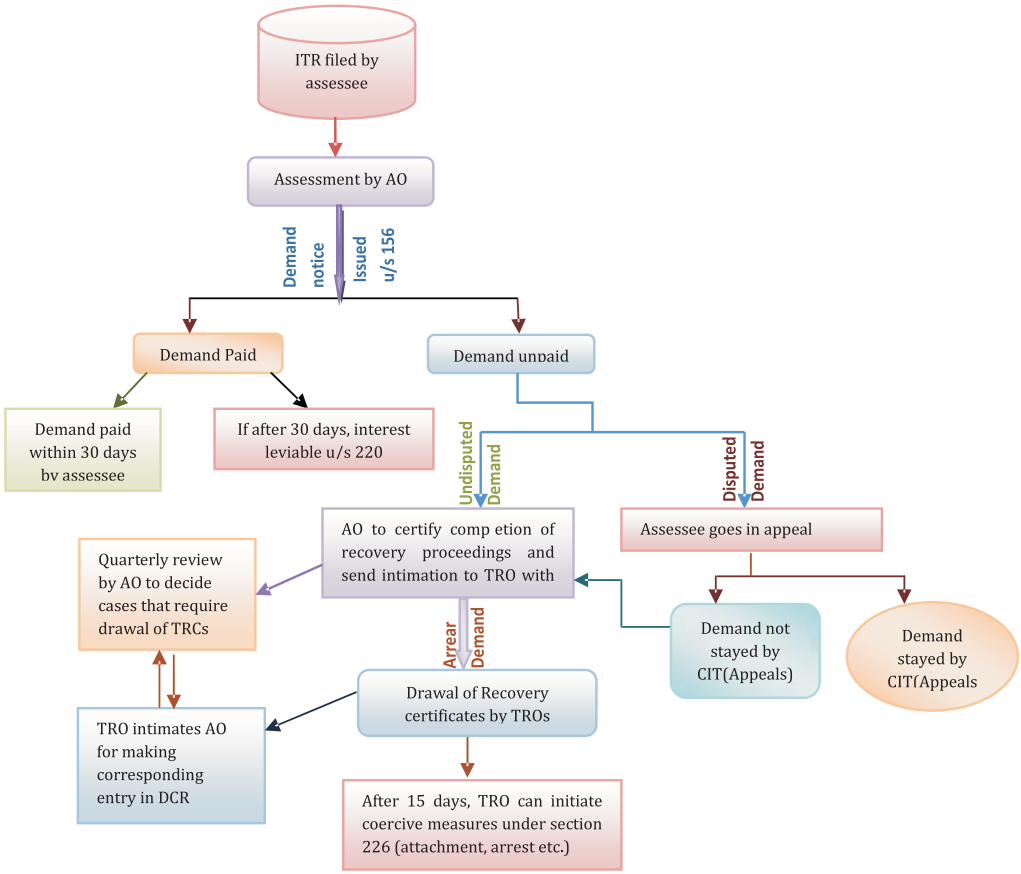
Inventory of Arrears

As on March 2010 tax demand worth ₹ 2,29,032 crore was in arrears. The amount has nearly doubled with reference to the previous year. Individuals accounted for 81 *per cent* of the arrear demand. Unrecoverable demand constitutes 84 *per cent* of the overall demand which goes up to 97 *per cent* in case of Individuals. The database of arrear demand of the Department is unreliable as there are discrepancies in the figures furnished by different wings of the Department.

Incidence of tax arrears

2.1 Incidence of arrears in tax demand is a post assessment phenomenon when the assessee refuses or fails to pay the demand raised by the Income Tax Department. Chart 2.1 outlines the processes involved in raising and collection of demand.

Chart 2.1: Raising and Collection of Demand



2.2 During the course of the proceedings of scrutiny assessment, the assessee is called upon to furnish details, records and other documents to substantiate claims for deductions, allowance of expenses and receipts treated as non taxable by the assessee. The Assessing Officer (AO) after verifying the submissions made accepts or rejects the claim. When a claim is rejected, the same is added back to the income or the loss. The additions or disallowances have the effect of increasing the tax payable by the assessee. The balance tax payable by the assessee after giving credit to the pre assessment taxes paid is generally communicated to the assessee in the form of an assessment order wherein the AO gives the reasons for the conclusions drawn and additional tax payable by the assessee.

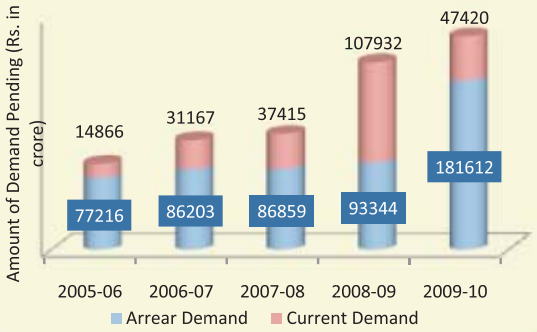
2.3 This order accompanied by a demand notice (DN) is served upon the assessee intimating the tax payable. Generally, the amount indicated in the DN is payable within 30 days or within the time limit prescribed in the DN failing which the assessee is treated as a defaulter and the demand is treated to be in arrears. Further, the assessee is also liable to pay interest on the demand indicated therein for delay in remittance. The assessee has the option of filing an appeal[3] against the assessment order within 30 days to an authority higher than the assessing authority.

2.4 The AO is required to send to TRO the details of arrears and assets of the defaulters for drawing up of Tax Recovery Certificates as the TRO is specially empowered[4] to initiate recovery proceedings against assessees in all cases where demand is more than one year old. The Department treats all demand less than one year old as 'Current Demand'.

Arrear Demand – Trend Analysis

2.5 The arrear tax demand as reported[5] by the Department showed an increasing trend during 2005-10. The arrear demand increased from ₹ 77,216 crore in 2005-06 to ₹ 1,81,612 crore in 2009-10 registering an increase of 135 *per cent* over five year period. In 2009-10, out of total pending demand of ₹ 2,29,032 crore, ₹ 1,81,612 crore was demand of earlier years pending collection. Chart 2.2 reflects the year wise trend of pending

Chart 2.2: Trend Analysis of Arrear Demand



[3] As per Section 249(4) of the Income tax Act no appeal shall be admitted unless at the time of filing of appeal, the assessee has paid the tax due on the income returned by him (where a return has been filed by the assessee) or the assessee has paid an amount equal to the amount of advance tax payable by him (where no return has been filed by the assessee).

[4] vide CBDT's letter dated 18-01-2002 in F. No. 402/2/2002-ITCC

[5] CAP-1 Demand and Collection Statement maintained by the Director of Income tax (O&MS)

demand. As is evident from the chart there was a significant increase in the current demand in 2008-09.

High Value Arrear Demand

2.6 The Directorate of Income Tax (Recovery) is the functional authority responsible for collection, compilation and collation of data relating to recovery of tax arrears involving high value demand of ₹ 10 crore and above, from all CCIT/DGIT(Investigation) charges throughout the country.

2.7 We analyzed the data from the DIT(Recovery) for the Quarter ending September 2010 relating to 1369 cases involving aggregate arrear demand of over ₹ 1,96,092.07 crore. In absence of other reliable data, the information collated from data available with DIT(Recovery) was analyzed. A summary of the amounts outstanding is tabulated below:

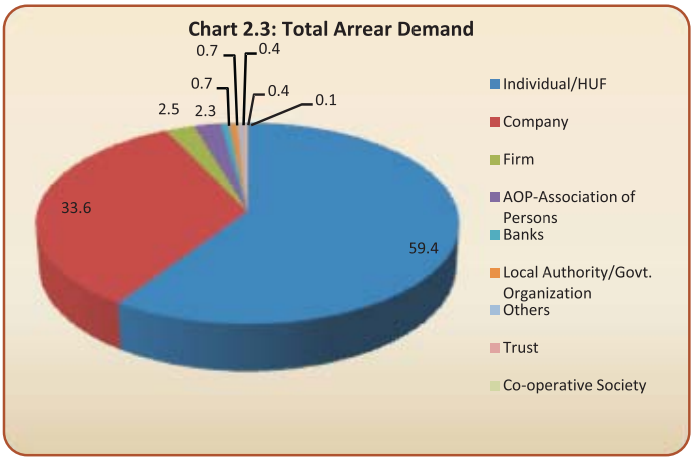
Table 2.1: Category wise details of High Value Arrear Demand ₹ in crore

Category	Total Arrear Demand	Realizable Demand	Unrealizable Demand[6]
Individual/HUF	1,16,437.71	2,569.41	1,13,868.30
Company	65,816.58	19,372.51	46,444.07
Firm	4,948.57	3,604.92	1,343.65
AOP-Association of Persons	4,455.19	2,671.55	1,783.64
Banks	1,459.84	1,102.56	357.28
Local Authority/ Government Organization	1,357.81	509.00	848.81
Others	747.74	364.36	383.38
Trust	704.37	511.35	193.02
Co-operative Society	164.26	48.99	115.27
Grand Total	**1,96,092.07**	**30,754.65**	**1,65,337.42**
Data Source: Directorate of Income Tax(Recovery)			

2.8 Around 60 *per cent* of the arrear demand was relating to Individuals and HUF, while companies accounted for another 34 *per cent*. Thus the outstanding demand against individuals was effectively twice as much as against companies. This is in contrast with the trends of tax collection itself, where Corporate tax collected is around twice the amount of

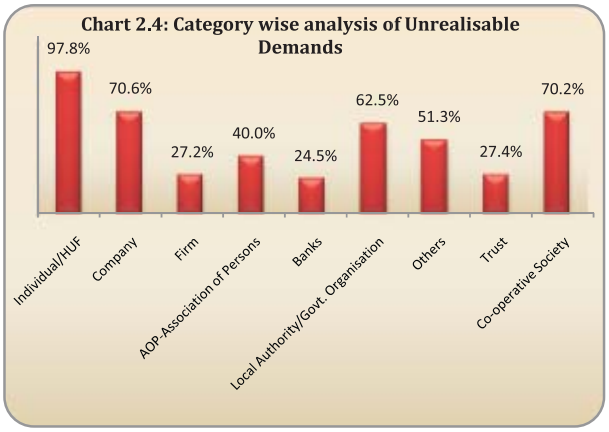
[6] As per Para 4.1 of Chapter 13 of Manual of Office Procedure (Volume II) – Technical published by DIT(O&MS) the tax arrears may be treated as irrecoverable or unrealizable on account of the following reasons: the assessee has died, he has become insolvent, he is not traceable, he has left India, the company has gone into liquidation, the firm is dissolved and its business has discontinued, the assessee has no attachable assets and when all modes of recovery in accordance with the rules laid down in the Second Schedule including the recourse to civil imprisonment of the defaulter are exhausted and arrears still remain.

tax collected from individuals. Chart 2.3 depicts the relative share of arrear demand against different categories of assesses. Banks, local authorities, trusts and cooperative societies account for a small fraction of arrear demand.



Unrealizable Demand

2.9 Out of ₹ 1,96,092.07 crore the arrear demand reported by the DIT(Recovery), a major portion, i.e. 84.3 *per cent* amounting to ₹ 1,65,337.42 crore was categorized as unrealizable demand by the Department. On analysis of unrealizable demand vis-à-vis the total outstanding against each category of assessee, it was seen that the unrealizable demand is as high as 98 *per cent* of the demand against individuals followed by companies (70.6 *per cent*) and co-operative societies (70.2 *per cent*), as depicted in Chart 2.4.



Arrear Demand – Individual Assessees

2.10 The demand against individuals is highly skewed, with 12 individuals[7] (4.3 *per cent* of the total cases) accounting for 90 *per cent* of the arrear demand. One individual Hassan Ali Khan accounts for 43 *per cent* of the total arrear demand. The demand against Hassan Ali Khan includes ₹ 3,349.9 crore as pointed out in Para 4.2 of the Report No. 26 of 2010-11 (Direct Taxes) of the Comptroller and Auditor General of India. Interestingly, all of this

[7] Hassan Ali Khan (₹ 50,345.73 crore), Chandrika Tapuriah (₹ 20,540.83 crore) and Harshad S. Mehta (₹ 15,944.38 crore) accounted for 74.57 *per cent* of total demand pending against individuals.

demand is categorized as unrealizable. The individual cases have been stratified by the amount outstanding and are tabulated below:

Table 2.2: Monetary wise details of arrear demand of individual assessees **₹ in crore**

Category	Total Demand	Percentage of Total Demand	No. of Cases	Realizable Demand	Unrealizable Demand	Percentage Unrealizable of Total Demand
More than 400 crore	1,04,549.41	89.8	12	0	1,04,549.41	100
100 to 400 crore	5,249.28	4.5	23	477.58	4,771.70	91
50 to 100 crore	2,222.39	1.9	31	732.54	1,489.85	67
10 to 50 crore	4,416.63	3.8	210	1,359.29	3,057.34	69
Grand Total	1,16,437.71	100	276	2,569.41	1,13,868.30	98

Data Source: Directorate of Income Tax (Recovery)

Arrear Demand - Companies

2.11 The demand outstanding against companies is also skewed, with 28 companies (3.6 *per cent* of the total cases) accounting for 37 *per cent* of the total arrear demand. However, the data is not as skewed as in case of individuals. A stratification of the Tax Demand against companies is shown below:

Table 2.3: Monetary wise details of arrear demand of corporate assessees **₹ in crore**

Category	Total Demand	Percentage of Total Demand	No. of Cases	Realizable Demand	Unrealizable Demand	Percentage Unrealizable
More than 400 crore	24,655.72	37	28	6,807.00	17,848.72	72
100 to 400 crore	18,522.74	28	99	4,803.58	13,719.16	74
50 to 100 crore	8,012.93	12	112	2,652.68	5,360.25	67
10 to 50 crore	14,625.19	22	674	5,109.25	9,515.94	65
Grand Total	65,816.58	100	913	19,372.51	46,444.07	71

Data Source: Directorate of Income Tax (Recovery)

2.12 In case of companies, it is seen that percentage of amount realizable is comparable across different categories. This is in stark contrast to the data profile for individuals, where high demand categories showed low realizability.

Age wise analysis of Arrear Demand

2.13 The Fiscal Responsibility and Budget Management Act[8] prescribes annual disclosure of receivables in the Union Budget namely 'Tax revenue raised but not realized'. These are categorized under 'demand under dispute' and 'not under dispute' for demand more than one year old. The details of 'Tax revenue raised but not realized' are extracted from the Central Action Plan-I (CAP-I) statement. As per Union Budget (Receipt) 2011-12, arrear demand in respect of direct taxes at the end of reporting year 2009-10 was ₹ 1,09,485 crore[9]. Chart 2.6 depicts the age wise details of arrear demand reported in the Budget. The age-wise analysis revealed that out of total arrear demand of ₹ 1,09,485 crore, 2.04 *per cent* of the total outstanding demand was more than 10 years old, 21.03 *per cent* was 5 to 10 years old and 31.06 *per cent* was 2 to 5 years old and 45.89 *per cent* was 1 to 2 years old. Mumbai region accounted for 54.69 *per cent* of arrears followed by Delhi region (20.59 *per cent*).

Chart 2.5: Arrear Demand- Age wise



Cases pending with Appellate Authorities

2.14 A mention was made in Audit Report (No.13 of 2003) for the year ended March 2002 that the main reason for huge build-up of arrears was filing of appeals by tax payers and stay granted by Appellate Authorities. Any assessee aggrieved by the orders of the AO can file an appeal with the CIT (Appeals) a departmental officer. ITAT followed by High Court and Supreme Court are subsequent levels of appeals open both to the assessee and the Department. The number of cases of arrear demand locked in appeal increased year after year. The demand pending before CIT(Appeals) accounted for 91.91 *per cent and* 70.73 *per cent* of total demand locked up in appeals in 2008-09 and 2009-10 respectively as detailed below:

Table 2.4: Details of cases pending with Appellate Authorities ₹ in crore

Financial Year	Pending with CIT(A)		Pending with ITAT		Pending with High Court		Pending with Supreme Court	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount
2007-08	1,30,358	*	34,667	9,789.22	31,590	10,052.04	3,344	1170.3
2008-09	1,58,031	1,99,100.89	31,384	9,102.02	34,986	8,050.66	3,984	381.68
2009-10	1,80,991	2,20,148.36	24,693	21,823.26	30,544	68,443.17	5,009	820.79

Source: Directorate General of Income Tax (Legal and Research) Division

2.15 The figures of Directorate General of Income Tax (Legal and Research) is at variance with the estimated demand disputed in appeals reported in CAP-I prepared by Directorate

[8] Rule 6(1) of FRBM Rules 2004

[9] As reflected in Column 12 of CAP-I Statement containing details of tax revenues raised but not realized corresponding to arrear demand more than one year old

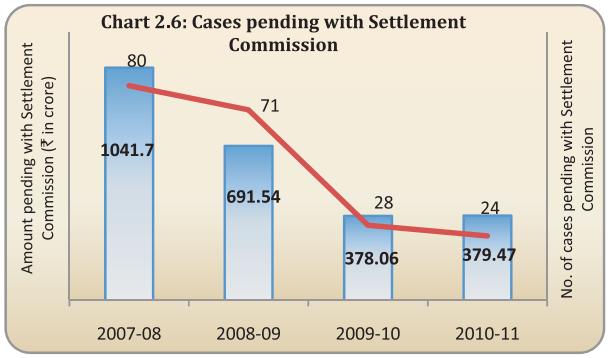
of Income Tax (O&MS). As per CAP-I statement the total demand pending with CIT(Appeals) in March 2009 and March 2010 were ₹ 49,388 crore and ₹ 62,525 crore respectively whereas DGIT(L&R) reported the figures as ₹ 1,99,100.89 crore and ₹ 2,20,148.36 crore respectively . Wide variations in the data compiled by different wings of the Department put a question mark on authenticity and quality of information thereby impairing planning for any corrective action.

2.16 Analysis of the demand locked in appeals at various stages revealed that most of the cases were pending in appeal with the departmental appellate authorities. The number of cases with the CsIT(Appeals) was 65 *per cent* of the total number of cases pending with appellate authorities in 2007-08. This proportion increased to 69 *per cent* in 2008-09 and 75.03 *per cent* in 2009-10. The number of cases of demand locked in appeals with CsIT(Appeals) increased by 39.61 *per cent* during the period 2007-08 to 2009-10.

Cases pending in Settlement Commission

2.17 On test check of assessment records it was found that 80 cases[10] involving arrear demand of ₹ 1,041.7 crore were pending before Settlement Commission in 2007-08. Over the period 2007 to 2011 the number of cases decreased gradually. Chart 2.6 depicts the year-wise details of cases pending with the Settlement Commission.

In the selected units of Rajasthan charge the Department stated that no case was pending before the Settlement Commission. However as per the Central Action Plan arrear demand of ₹ 2.5 crore was pending[11] with the Settlement Commission as on 30 November 2010. Such discrepancies need to be reconciled.



Recommendations

- *We recommend that the Department may ensure preparation of a robust and reliable data base of arrear demand by reconciling the data maintained by different wings of the Department as it will assist in effective monitoring and follow up of arrears*

  The CBDT has stated that the baseline for the statistics is different for different wings and therefore not amenable for comparison.

[10] In Haryana, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan and West Bengal charges

[11] CIT, Jodhpur-Rs.2.39 crore; CIT,Jaipur-II-Rs.0.07 crore and CIT, Udaipur-Rs.0.04 crore

However they have accepted the suggestion on the need for preparation of a robust and reliable data base of arrear demand by reconciling the data maintained by different wings of the Department, towards effective monitoring and follow-up of arrears. The Department also stated that various steps are being taken in this regard.

CHAPTER 3

Tax Recovery Mechanism and Internal Controls

The Tax Recovery Officer is the main functionary responsible for recovery of arrears of tax demand after the details of arrear demand are communicated to him by the Assessing Officers. We found that there was lack of coordination between the Assessing Officers and Tax Recovery Officers. In 57,093 cases, the basic activity of drawing up recovery certificates had not been carried out. The Tax Recovery Officers were unable to meet the prescribed work norms. As a result, 1,17,403 Recovery Certificates were pending for disposal as on 30 November 2010. Internal Control mechanisms were weak as the control registers were not being maintained properly. Dossier Reports as a means of Internal Control are required to be prepared in case of demand above ₹ 10 lakhs. These had not been prepared in 4,537 cases.

Monitoring of Tax Arrears

3.1 The Assessing Officer (AO) is responsible for the collection and recovery of taxes. Normally, the assessee pays the tax demanded within the time limit prescribed. The AOs may grant installment facility for payment of demand in certain situations. If the recovery is not effected within a year of raising the demand, the AO is required to send the details[12] of arrear cases to Tax Recovery Officer for drawing up of Tax Recovery Certificates[13] (TRC) after ensuring that all possible measures have been taken for recovery of demand. The TROs are further authorized to initiate coercive measures to collect tax dues. As per instructions[14] issued by the Board in January 2002 the TRO is specially empowered[15] to initiate recovery proceedings against assessees in all cases where demand is more than one year old. Therefore, all the cases involving demand outstanding for more than a year are required to be transferred by the AOs to the TROs for effective pursuance.

3.2 As a mechanism for monitoring cases with huge arrears, the AOs are to send dossiers to the CCsIT[16] in respect of cases with arrears exceeding ₹ 10 lakh on a quarterly basis. The CCsIT and CsIT are required to monitor and review Dossier Reports and issue directions to the AOs and TROs suggesting further steps required to be taken for effecting recovery of outstanding arrears. The AO/TRO is required to execute these instructions during the next quarter and report compliance and results while sending the subsequent

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[12] The AO sends the statement containing details of both movable and immovable assets of the defaulters under his signature and seal in Form no. 57.

[13] Tax recovery certificate is a notice of demand issued by TRO in Form No. I.T.C.P. 1 to the defaulter incorporating the details of amount in arrears .

[14] As specified by CBDT in it's letter F. No. 402/2/2002-ITCC dated 18-1-2002 and Para no. 4.1 of Chapter 10 of Manual of Office Procedure(Volume II Technical).

[15] vide CBDT's letter dated 18-01-2002 in F. No. 402/2/2002-ITCC

[16] As per CBDT's Instruction No. 1825 issued vide F. No. 405/54/88/ITCC dated 28-8-1989 and para 17 of Chapter 10 of Manual of Office Procedure (Volume II Technical).

report. The CBDT monitors the dossier cases where the outstanding demand is more than ₹ 10 crore through the DIT (Recovery).

Intimation by AO to TRO for initiating recovery proceedings

3.3 We found several cases where the Assessing Officers did not communicate the updated information relating to demand to the TROs. We noticed 1,54,198 cases[17] involving outstanding demand of ₹ 4,543.83 crore where the demand was not transferred to the TROs inspite of non-recovery for more than one year. The State-wise details are depicted in Table 3.1 below.

Table 3.1: Non intimation of arrear cases by AO to TRO

State	No. of arrear cases	Amount of arrear demand (₹ in lakh)
Andhra Pradesh	73,224	1,02,255.03
Assam	15	127.23
Chhattisgarh	32,379	51,614.73
Delhi	626	1,32,104.00
Gujarat	69	6,735.00
Haryana	2,078	2,551.00
Himachal Pradesh	593	1,985.04
Jammu and Kashmir	5,451	25,978.17
Karnataka	48	2,596.04
Kerala	27	1162.00
Maharashtra	42	16,292.42
Orissa	56	263.88
Punjab	34,432	33,535.79
Rajasthan	1	635.00
Tamil Nadu	18	740.48
Uttar Pradesh	4,846	66,388.47
West Bengal	293	9,418.78
	1,54,198	**4,54,383.06**

Drawing up of Recovery Certificates by TROs

3.4 An analysis of 61,418 arrear demand cases pending for more than one year was made in five CIT charges[18] in Maharashtra based on data collated from ADCRs maintained by the AOs. As per the books of TROs (Tax Recovery Registers) only 4,325 Tax Recovery certificates were pending for disposal. Thus, the Tax Recovery Registers did not provide an

[17] In Andhra Pradesh, Assam, Chhattisgarh, Delhi, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. Obtained by comparison of ADCR figures with those of Tax Recovery Registers.

[18] CIT-1 Mumbai(8,048), CIT-2 Mumbai(9,402), CIT-3 Mumbai(13,777), CIT-8 Mumbai(27,518) and CIT Central-III, Mumbai(2,673).

assurance whether in the remaining 57,093 arrear cases involving arrear demand of ₹ 19,958 crore the TRCs had been drawn up by TROs.

3.5 In 17 cases[19] involving outstanding demand of ₹ 11.13 crore, the TRCs were drawn by the TROs after a lapse of 2 to 10 years. In Goa charge, we found seven cases involving demand of ₹ 3.24 crore where the TRCs were drawn after lapse of 2 to 9 years. In Andhra Pradesh charge, we found 10 cases involving demand of ₹ 7.89 crore where the drawal of TRCs was delayed by 5 to 10 years. The delays reduced the probability of recovery of arrear demand. One case is illustrated below:

Charge: TRO Range I & II Panaji, Goa charge ; AYs: 1-4-1989 to 1-11-1999
Assessee: M/s Herald Publications (P) Ltd.
Demand of ₹ 99.21 lakh was raised against the assessee in October 2001. We noticed that tax recovery certificate was issued to the assessee after a lapse of six years (November 2008).

Co-ordination between Assessing Officers and Tax Recovery Officers

3.6 Where a certificate for the recovery of tax has been issued, the Income Tax Officer shall keep the TRO informed of any tax paid or time granted for payments, subsequent to the issue of such certificate. Once the AO has referred the arrear demand cases outstanding for more than a year to a TRO, it becomes imperative for the AO to keep the TRO informed about any subsequent revisions, reductions etc. made to the demand. Similarly the TRO needs to intimate the AO the disposals made from time to time. Also, during the recovery process information pertaining to defaulters may need to be exchanged between the AO and TRO. Thus the co-ordination between the AO and TRO is crucial for ensuring speedy disposal of arrear cases.

3.7 We noticed instances of non disposal of arrear cases and difference in figures of arrear demand in the books of AOs versus TROs due to lack of co-ordination between them. In 338 cases[20] involving demand of ₹ 11.86 crore the AOs did not provide information sought by the TROs. In 10 cases[21] with demand of ₹ 26.38 lakh, reduction in demand due to revisions were not intimated to the TROs. In one case,[22] involving demand of ₹ 19.53 lakh, AO did not inform the TRO about the details of installments granted to the assessee, resulting in irregular attachment of property by the TRO. We found 42 cases[23] with over statement of arrear demand of ₹ 16.21 crore and 38 cases[24] with understatement of arrear demand of ₹ 66.37 crore as collections were not being intimated to TROs. Some discrepancies are illustrated below:

[19] In Andhra Pradesh and Goa.
[20] In Madhya Pradesh and Uttar Pradesh charge
[21] In Orissa charge
[22] In Madhya Pradesh charge
[23] In Karnataka, Orissa and Uttar Pradesh charge
[24] In Karnataka, Orissa and Maharashtra charge

Charge: CIT Ghaziabad, Uttar Pradesh; AY: 2000-01
Assessee: M/s Shristi Agencies (Pvt.) Ltd.
Recovery Certificate for outstanding demand of ₹ 74.35 lakh was drawn against the assessee in April 2008. The TRO sought (June 2008) for details of movable, immovable properties, Bank accounts and FDRs owned by the assessee from the AO which were not furnished (February 2011). The summons issued to the Directors of the company on 27-10-2010 were returned undelivered with the postal remark that addressee left premises. Thus, the demand of ₹ 74.35 lakh remained unrealized due to lack of coordination between AO and TRO.

Charge: CIT II Indore, Madhya Pradesh charge; AY: 1997-98
Assessee: M/s Alpine Industries Indore
The AO transferred the recovery case involving arrear demand of of ₹ 76.9 lakh to the TRO (March 2010) without incorporating information on the immovable property owned by assessee. The AO did not provide information to the TRO although it was called for in March 2010 and June 2010. Thus the demand of ₹ 76.9 lakh was still pending (February 2011).

Inter-jurisdictional transfer of cases from one TRO to another as per section 223 of the Act

3.8 Where the assessee has property within the jurisdiction of more than one Tax Recovery Officer and the Tax Recovery Officer by whom the certificate is drawn up finds it necessary, he may send the certificate to the Tax Recovery officer within whose jurisdiction the recovery can be effected.

3.9 In eight cases[25], even though the recovery certificates were transferred to the concerned jurisdictional TROs, no action was taken for recovery of the pending demand amounting to ₹ 109.11 crore. In Maharashtra, the TRO did not transfer three cases involving arrear demand of ₹ 3.09 crore to the concerned jurisdiction. In Gujarat, one case involving arrear demand of ₹ 1.93 crore was closed without recovery. In one case in Andhra Pradesh during an inter-jurisdictional transfer from one TRO to another the arrear demand was overstated by ₹ 23.02 lakh. Two cases are illustrated below.

Charge: CIT III Delhi charge; AYs: 1995-96, 1996-97 and block period 1-4-1989 to 2-7-1999
Assessee: M/s. Sequence Estate Pvt. Ltd.
The recovery case involving arrear demand of ₹ 106.18 crore was transferred from TRO (Central), Kanpur to TRO 8, Delhi in September 2009. We found that no action was initiated by the TRO to recover the demand. The revised notice incorporating the fact of change of jurisdiction of demand was not issued to the assessee and no intimation was sent to TRO (Central), Kanpur regarding issue of recovery certificate. Inaction on the part of TRO resulted in non recovery of demand of ₹ 106.18 crore.

[25] In Delhi, Kerala, and Tamil Nadu charges

Charge: DC Central Circle-8; AYs: 1997-98 and 2000-01
Assessee: Shri M. P. Ramachandran
The recovery case involving arrear demand of ₹ 2.03 crore was transferred by DC Central Circle-8, Mumbai to ACIT-8(2), Mumbai in July 2010. However, the case was not transferred to the jurisdictional TRO from TRO Central Range-2, Mumbai resulting in non recovery of demand of ₹ 2.03 crore.

Efficiency of Tax Recovery Officers

3.10 The Board has prescribed a norm of disposal[26] of 1200 certificates by each TRO per year. On an average the TRO is expected to dispose 100 certificates each month.

3.11 We conducted a test check in selected TRO units to ascertain the efficiency of TROs with respect to disposal of TRCs vis-à-vis the norm of disposal fixed by the Board. We noticed that 1,14,401 certificates involving arrear demand of ₹ 42,916.56 crore were pending at the end of March 2008. During 2007-08 to 2010-11, only 20,277 certificates amounting to Rs. 46,424 crore were disposed by 237 TROs. There were 1,17,403 TRCs involving arrear demand of Rs. 1,57,053.72 crore pending for disposal in November 2010. Thus a large number of certificates are still pending for disposal with the TROs. Such cases may be reviewed in the respective ranges and the realizable demand may be pursued for recovery.

3.12 We noticed that an average of 5220 certificates were received in a year by 237 TROs i.e. each TRO on an average received only 22 TRCs. The annual disposal per TRO ranged between 1 to 134 TRCs[27]. This is far below the norm fixed by the Board.

Manpower Deployment

3.13 During discussions at the time of Entry Conference, the issue of staff shortage was brought out by the Department. We attempted to examine this issue. However, the Department is not maintaining a centralised database of the sanctioned strength vis-à-vis deployment of Tax Recovery Officers which is being considered as a part of the overall cadre of Income Tax Officers. Therefore, we attempted a sample check in two regions to analyze the manpower deployment in tax recovery units vis-à-vis the trend of arrear demand.

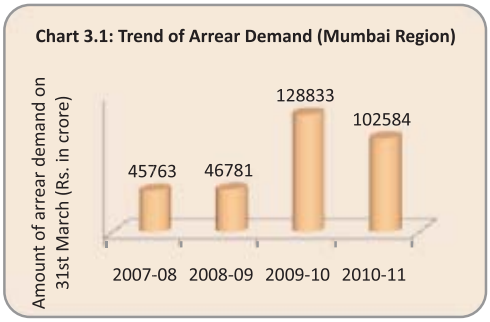
[26] Final settlement of the case by means of recovery or write off of arrears
[27] Andhra Pradesh - 9, Asam-12, Bihar-1, Chhattisgarh-4, Delhi - 5 in 2010-11, Goa-134, Gujarat-23, Haryana-19, Himachal Pradesh-19, Jharkhand-3, Karnataka – 95, Kerala-36, Madhya Pradesh-19, Maharashtra– 25, Orissa-3, Punjab-8, Rajasthan-7, Tamil Nadu-1, Uttar Pradesh-62, Uttaranchal-2 and West Bengal-26.

Case Study I – Mumbai Region

We found that the shortfall in the cadre of TROs increased from 10 *per cent* in 2007-08 to 27 *per cent* in 2010-11. The arrear demand increased by 124.16 *per cent* during the period 2007-11.

Table 3.2

TRO				
F.Y.	Sanctioned Strength	Men-in-position	Holding Additional Charge	Shortfall
2007-08	20	18	2	2
2008-09	34	26	7	8
2009-10	35	23	10	12
2010-11	37	27	9	10

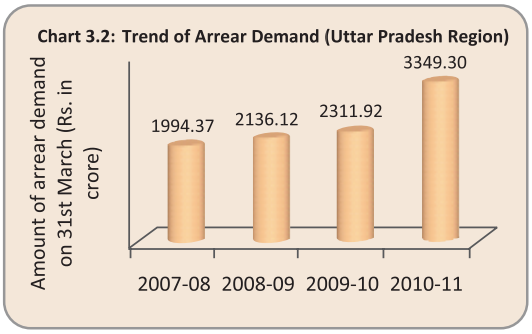


Case Study II – Uttar Pradesh Region

Based on information provided by 9 out of 17 CsIT in Uttar Pradesh charge, we observed that there was a shortfall ranging from 42.86 *per cent* to 67.57 *per cent* in the cadre of TROs. The arrear demand increased by 67.94 *per cent* during the period 2007-11.

Table 3.3

TRO				
F.Y.	Sanctioned Strength	Men-in-position	Holding Additional Charge	Shortfall
2007-08				
2008-09	34	13	9	21
2009-10				
2010-11	27	11	10	16



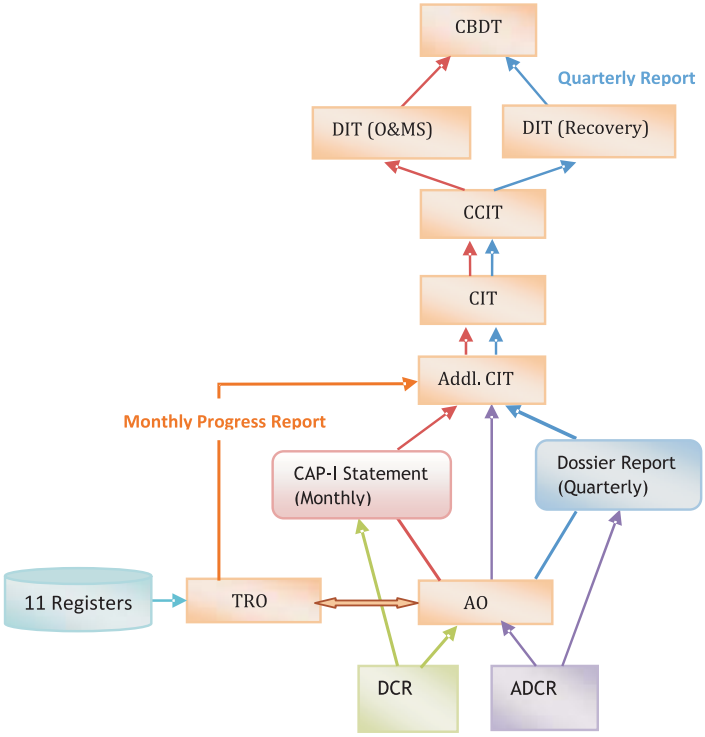
The CBDT in its reply stated that there is no separate cadre of TROs in the Income Tax Department. The ITOs are posted in different wings of the Department depending upon the availability and requirement. There are certain statutory time-barring functions such as assessments which have to be accorded priority. Shortage of manpower is also affecting the function.

Internal controls

3.14 The Department has a mechanism to monitor the progress of assessment work and collection through Demand and Collection Register (D&CR) and Arrear Demand and Collection Register (ADCR) maintained at the level of AOs. Statistical returns in the form CAP-1(Central Action Plan) regarding the monthly progress of collection and balance of arrear demand is submitted by Assessing Officers to the Addl. CIT of the Range, thereafter Range submits the same to CIT, and CITs to CCITs and the Board. The high value arrear

demand cases are monitored by way of Dossier Reports. The TROs are required[28] to maintain eleven registers with a view to facilitate control over the tax arrears and their clearance and the effective monitoring of disposal of arrear cases by various supervisory authorities. The prescribed controls are summarized in Chart 3.3.

Chart 3.3: Internal Controls in monitoring arrears of tax demands



Controls at level of Assessing Officers

A) Preparation of Dossier Reports

3.15 The AO is required to prepare a Dossier Report with the objective of effective monitoring of the cases involving arrear demand of more than ₹ 10 lakh.

3.16 We found 5,167 cases[29] involving arrear demand of ₹ 2,369.77 crore where Dossier Reports were not prepared by the AOs. Such omissions result in weakening of internal control mechanism and may lead to non-recovery of such arrears. We noticed three cases[30] where arrear demand was overstated by ₹ 34.75 lakh and six cases[31] where it was

[28] As prescribed in Para 7.1 of Income Tax Manual of Office Procedure Volume II (Tech)
[29] In Chhattisgarh, Delhi, Haryana, Kerala, Maharashtra, Orissa, Punjab and Tamil Nadu.
[30] In Chhattisgarh
[31] In Bihar and Chhattisgarh

understated by ₹ 135.61 lakh in Dossier Reports as the arrears did not agree with those in DCR/ADCR. Two cases are illustrated below:

Charge: DCIT Central Circle 2 Patna, Bihar charge; AY: 1996-97
Assessee: Shri Ramavtar Khetan
A Demand of ₹ 55.55 lakh pending against the assessee was not included in the Dossier Report for the quarter ending March 2011. Thus the total amount pending was reported as ₹ 23.03 crore instead of ₹ 23.58 crore. This resulted in under reporting of arrear demand by ₹ 55.55 lakh.

Charge: CIT Central Patna, Bihar charge; AY: 1994-95
Assessee: Shri K. M. Prasad
Demand of ₹ 32.76 crore was shown as outstanding in the Dossier Report for the quarter ending March 2011. We found that the interest amount was reported as ₹ 72.39 lakh instead of ₹ 124.95 lakh in the dossier. This resulted in under reporting of arrear demand by ₹ 52.56 lakh.

B) Erroneous elimination of demand

3.17 With a view to facilitating control over the arrears and their clearance, the Department has prescribed various control registers like, Demand and Collection Register (D&CR) and Arrear Demand and Collection Register (ADCR). The collection of demand raised during the year is being watched by the department through the D&CR and any amount remaining unpaid at the end of the financial year will be carried forward in the ADCR and the collection thereof is watched through these registers.

3.18 We noticed 253 cases[32] where pending demand of ₹ 167.69 crore was not carried forward to the Arrear Demand and Collection Register resulting in erroneous elimination of such demand. Two cases are illustrated below:

Charge: CIT Central Bangalore, Karnataka charge; AYs: 2004-05 to 2007-08
Assessee: Shri P. Shyamaraju
Demand of ₹ 55.92 crore pending (December 2008) against the assessee was referred to TRO for recovery in June 2009. However, we noticed that while issuing Tax Recovery Certificate to the assessee (July 2009), the TRO had omitted to include demand for AY 2005-06 and 2007-08 amounting to ₹ 38.44 crore. This resulted in non pursuance of demand of ₹ 38.44 crore both by the AO and the TRO[33]. The Department in its reply stated (May 2011) that the omission was due to oversight by the TRO. However, remedial action has been taken by issue of ITCP-1 (February 2011) incorporating arrears of AYs 2005-06 and 2007-08.

[32] In Andhra Pradesh, Bihar, Chhattisgarh, Delhi, Gujarat, Himachal Pradesh, Karnataka, Kerala, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh.
[33] ACIT Central Circle 2(2) Bangalore, and TRO, Central Range 2 Bangalore, Karnataka charge

Charge: CIT Central II Delhi, ACIT Central Circle 15 charge; AYs: 2006-07, 2007-08 & 2008-09
Assessee: M/s MDLR Resorts (P) Ltd.
As per Form 57, arrear demand of ₹ 11.89 crore was certified by the TRO. However, demand notice (ITCP-1) was issued only for an amount of ₹ 5.40 crore (March 2010). No reason for the reduction in demand was available on the records. Thus there was an erroneous reduction of demand of ₹ 6.49 crore.

C) Maintenance of ADCR

3.19 We noticed that even though DCR and ADCR were maintained by all the charges, Installment Register was not being maintained in six[34] charges. In Chhattisgarh[35] the maintenance of ADCR was discontinued from 2008-09 onwards.

3.20 We cross verified demand figures of CAP-1 with ADCRs and noticed a difference of ₹ 3,820.60 crore in arrear demand reported in CAP-1 and ADCRs in four charges[36].

3.21 The format of the CAP-1 report provides for information of the amount of arrear demand only. The details of the number of cases are not available in CAP-1. In the absence of the number of cases in CAP-1 report, the correlation of information in DCRs and ADCRs vis-à-vis CAP-1 is rendered difficult.

3.22 ADCR is required to be updated in the event of any related transaction having impact on amount of arrears to be recovered. We noticed 4,575 cases[37] where arrear demand was overstated by ₹ 3,110.94 crore as ADCRs were not updated after reduction in demand due to appeal effect, revisions etc., non adjustment of tax credit, incorrect carry forward of arrear demand from DCR to ADCR and double depiction of arrears in inter jurisdictional transfer cases. We also noticed 67 cases[38] where arrear demand was understated by ₹ 3,088.26 crore due to non updation of ADCR. This understatement also provides an undue advantage to the Assessee apart from impairing the system of recovery of arrears. Three cases are illustrated below:

Charge: CIT Central-II, Mumbai, Maharashtra charge; AY: 1988-89 to 2006-07
Assessee: Late Shri Harshad Mehta
A demand of ₹ 15,944.37 crore was shown as outstanding in the dossier report of the assessee for quarter ending March 2010. The arrear demand was shown as ₹ 12,922.09 crore only in the ADCR of 2010-11. This resulted in understatement of arrear demand by ₹ 3,022.28 crore.

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[34] In Assam, Bihar, Chhattisgarh, Orissa, Punjab and Uttar Pradesh.
[35] ACIT Circle 2(1) Raipur of CIT Raipur charge
[36] CIT Patna, CIT I Vadodara, CIT I Kochi, CIT 2 Mumbai and CIT 8 Mumbai, in Bihar, Gujarat, Kerala and Maharashtra charges.
[37] In Andhra Pradesh, Bihar, Chhattisgarh, Delhi, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal charges.
[38] In Andhra Pradesh, Delhi, Jharkhand, Maharashtra and West Bengal charges.

Charge: CIT Jamshedpur Range II, Jharkhand charge; AY: 2006-07
Assessee: Shri Narbheram Vishram
A demand of ₹ 1.19 crore was raised against the assessee, a firm after scrutiny assessment in December 2008. The assessee filed an appeal before CIT(A) against the additions made by the AO. CIT(A) gave full relief to the assessee. Thus, the demand was reduced to nil after giving effect to the appellate order (February 2010). However, corresponding entry was not made in the ADCR. The omission resulted in overstatement of arrear demand of ₹ 1.19 crore.

Charge: CIT III Chennai charge; AY: 2003-04
Assessee: M/s Quintegra Solutions P Ltd.
The demand of ₹ 22.58 crore raised against the assessee (December 2008) was reduced to 'nil' after giving effect to the appellate order (July 2010). However, corresponding entry was not made in the ADCR. The omission resulted in overstatement of arrear demand of ₹ 22.58 crore. The Department in its reply stated (September 2011) that the ADCR has since been updated.

Controls at the level of TROs

3.23 We conducted sample check in the selected TRO units to obtain assurance that the relevant controls are being exercised. We found that in several units the registers were not being maintained at all. In other units where such registers were being kept, they were not updated reflecting a lackadaisical approach on part of the TROs. Table 3.4 reflects the control areas required to be monitored by TROs and the different charges where such controls were not being exercised.

Table 3.4: Maintenance of Control Registers in TRO units

Control Register	Control Areas	Units where Registers are not maintained
Cash Book	All monetary transactions are entered in this register viz. cash and cheque received from the defaulters.	In Assam(1), Bihar(1), Chhattisgarh(1), Gujarat(1), Haryana(1), Himachal Pradesh(1), Jammu & Kashmir(1), Karnataka(5), Jharkhand(6), Maharashtra (14), Orissa(2), Punjab(4), Rajasthan(7), Uttar Pradesh, West Bengal(6)
Register of movable and immovable properties	Details of movable and immovable properties attached and sold.	Assam(1), Bihar(1), Chhattisgarh(2), Gujarat(1), Haryana(1), Himachal Pradesh(1), Jammu & Kashmir(1), Jharkhand(5), Karnataka (3), Maharashtra(7) Orissa(2), Punjab(2), Rajasthan(7), Uttar Pradesh, West Bengal(4)
Execution Register	This register gives the number of warrants issued to and executed by the TRO.	Assam(1), Bihar(1), Chhattisgarh(2), Gujarat(1), Haryana(1), Himachal Pradesh(1), Jammu & Kashmir(1), Jharkhand(6), Karnataka (6), Kerala(2), Maharashtra(24), Orissa(2), Punjab(3), Rajasthan(7), Uttar Pradesh, West Bengal(6)

Register of Daily Reduction/ Collection of certified demand	This is source record for the collection and reduction of demand.	Assam(1), Bihar(1), Chhattisgarh(2), Gujarat(1), Haryana(1), Himachal Pradesh(1), Jammu & Kashmir(1), Jharkhand(3), Karnataka(4), Maharashtra(12), Orissa(2), Punjab(3), Rajasthan(7), Uttar Pradesh, West Bengal(2)
Stay Register	Contains details of cases in which stay has been granted.	Assam(1), Bihar(1), Chhattisgarh(2), Gujarat(1), Haryana(1), Himachal Pradesh(1), Jammu & Kashmir(1), Jharkhand(5), Karnataka (3), Maharashtra(7), Orissa(2), Punjab(4), Rajasthan(14), Uttar Pradesh, West Bengal(4)
Closed Certificate Register	The details of cases where certificates closed on account of Appellate reductions/ rectifications are to be noted.	Assam(1), Bihar(1), Chhattisgarh(2), Gujarat(1), Haryana(1), Himachal Pradesh(1), Jammu & Kashmir(1), Jharkhand(5), Maharashtra(5), Orissa(2), Punjab(2), Rajasthan(9), Uttar Pradesh, West Bengal(4)
Instalment Register	Schedule of instalments granted to a defaulter.	Assam(1), Bihar(1), Chhattisgarh(1), Gujarat(1), Haryana(1), Himachal Pradesh(1), Jammu & Kashmir(1), Jharkhand(5), Karnataka (6), Kerala(1), Maharashtra(12), Orissa(2), Punjab(4), Rajasthan(14), Uttar Pradesh(), West Bengal(3)
Register of companies under liquidation, BIFR & Sick companies.	Particulars of recovery in case of companies in liquidation, in BIFR and sick companies.	Assam(1), Bihar(1), Chhattisgarh(1), Gujarat(1), Haryana(1), Himachal Pradesh(1), Jammu & Kashmir(1), Jharkhand(5), Karnataka (3), Kerala(3), Maharashtra(33), Orissa(2), Punjab(4), Rajasthan(7), Uttar Pradesh, West Bengal(8)
Custody Register	Particulars of articles seized and in safe custody are entered in this Register.	Assam(1), Bihar(1), Chhattisgarh(2), Gujarat(1), Haryana(1), Himachal Pradesh(1), Jammu & Kashmir(1), Jharkhand(5), Karnataka (7), Kerala(2), Maharashtra(47), Orissa(2), Punjab(4), Rajasthan(7), Uttar Pradesh(), West Bengal(7)
Disposal Register	Details of final disposal of cases are to be noted.	Assam(1), Bihar(1), Gujarat(1), Haryana(1), Himachal Pradesh(1), Jammu & Kashmir(1), Jharkhand(3), Karnataka (3), Maharashtra(5), Orissa(2), Punjab(2), Rajasthan(9), Uttar Pradesh, West Bengal(5)
Daily Diary	The day to day work done by TROs is to be entered in the daily diary.	Assam(1), Bihar(1), Chhattisgarh(2), Gujarat(1), Haryana(1), Himachal Pradesh(1), Jammu & Kashmir(1), Jharkhand(6), Karnataka(5), Kerala(2),Maharashtra(44), Orissa(2), Punjab(4), Rajasthan(7), Uttar Pradesh, West Bengal (8)

Internal Audit

3.24 The Department has an internal audit set up to ensure that regulations and procedures are complied with and sufficient safeguards against errors and frauds are in place for smooth functioning of the department. An internal audit wing functions directly under the control of a CIT and chalks out quarterly programmes for audit of assessment units. However, we noticed that internal audit of the Tax Recovery Offices was not being conducted across all the states by the Internal Audit Wing of the Department. As per existing Instruction on the internal audit system, viz., Instruction No. 3 of 2007 dated

16 April 2007, the audit of Tax Recovery Officer is outside the purview of Internal Audit Wing.

Recommendations

We recommend that

- *The Assessing Officer may ensure timely transfer of the undisputed cases of unrealized demand to the Tax Recovery Officer.*

  The CBDT in its reply stated (November 2011) that although instructions already exist for transfer of arrear demand to TROs and also for the TROs to draw Tax Recovery Certificates, the existing shortage of manpower has adversely affected this process. A focused approach is being adopted through the Central Action Plan 2011-12.

- *A reasonable time may be made mandatory for the drawal of Recovery Certificates by the TROs.*

  The CBDT in its reply stated (November 2011) that Tax Recovery Certificate is drawn when the AO has explored all modes of recovery. It may, therefore, be difficult to fix any timeline as well as adhere to it due to shortage of manpower.

- *The target for drawing up of Recovery Certificates by the TROs may be revisited and an appropriate norm may be fixed on the basis of the actual work load in different charges instead of the existing norm of 1200 certificates to be disposed annually.*

  The CBDT noted (November 2011) the recommendation for consideration.

- *Ministry may consider working out appropriate modalities for improving liaison between AOs and TROs under supervision of the higher authorities to ensure better co-ordination and speedy disposal of cases.*

  The CBDT stated (November 2011) that there are coordination mechanisms which might not be working in the desired manner due to the shortage of manpower. However, recently steps have been taken to consolidate the arrears electronically.

- *A dedicated collection unit with requisite complement of staff engaged in tax recovery process without any additional responsibilities would accelerate the realization of outstanding demand. Uninterrupted attention of the officers entrusted with the responsibility of recovery of arrears is absolutely essential for ensuring recovery of arrears of demand. TRO's charge may be separated from AO's.*

  While noting the recommendation, CBDT stated (November 2011) that the Department, as per its vision 2020 document, intends separation of assessment and collection functions.

- *The Internal controls at the level of AO and TRO need to be strengthened and monitored at appropriate level. The control registers may be automated to enable effective monitoring by the higher authorities.*

  The CBDT noted (November 2011) the recommendation.

- *The CAP-1 report needs to be modified to facilitate correlation of the number of cases with the total outstanding demand in order to ensure better monitoring.*

  While noting the recommendation, the CBDT stated (November 2011) that the function, once made online, is likely to address most of the MIS issues.

- *Ministry may consider strengthening Internal Audit of the post assessment collection process to effectively monitor the recovery of tax arrears by prescribing minimum number of TROs to be covered by Internal Audit every year.*

  The CBDT stated (November 2011) that recovery and collection work has not been a subject matter of audit so far. The issue raised in para 3.23 can be addressed more effectively by strengthening the inspection mechanism and a committee has been recently set up in this regard.

CHAPTER 4

Issues leading to arrears

The inventory of arrears has been piling up owing to compromise with the existing procedures and controls. Several instances of inaction on the part of the AOs have been detected where they failed to give effect to the revision or appellate order or delayed in filing claims with the Official Liquidator. AOs delayed and defaulted in initiating cases for further action by the TROs. Arrear demand is also being fuelled owing to inadequate follow up by the Department in respect of cases pending in Appeals or in the Settlement Commission.

4.1 We attempted a detailed analysis of selected cases to ascertain the reasons leading to accumulation of tax arrears. We found that the increase in arrears and their inadequate follow up was mainly due to inaction and protracted delays on part of the AOs in referring the arrear cases to the TROs, lack of co-ordination between the AOs and TROs subsequent to the referral, failure to recover undisputed demand, failure to invoke special powers for recovery by TROs and disputed cases pending in appeals. The established procedures and controls are not being adhered to by the Department leading to aggregation of demand.

Inaction on the part of Assessing Officers

4.2 We noticed 189 cases[39] involving arrear demand of ₹ 315.05 crore where the AOs failed to give effect to revision order and appellate order, delayed in filing claim before official liquidator, did not comply with the orders of higher authorities given in Dossier Reports and delayed in issuing demand notice to the assessees. Two cases are illustrated below:

Charge: CIT Range 3(1) Mumbai, Maharashtra charge; AYs: 1981-82 to 1984-85
Assessee: M/s Dynacraft Machine Co. Ltd.
The assessee company was wound up by the order of Hon'ble High Court, Mumbai on 11 March 1993 and an official liquidator was appointed. A demand of ₹ 28.79 crore was raised in financial year 2001-02 against the assessee. As the company is in liquidation, a claim was required to be filed before the liquidator. We found that this claim was filed on 1 April 2010 as against the due date of 30 September 1995. The department is in the process of filing an application before the High Court for condonation of delay. As per the Dossier Report for the quarter ending 30 June 2009 the AO had delayed in furnishing documents for proof of debts of the assessee to the Official Liquidator. The TRO was also directed to co-ordinate with the AO. The delayed action on the part of AO and TRO resulted in non-recovery of arrear demand of ₹ 28.79 crore.

[39] In Chhattisgarh, Delhi, Jharkhand, Gujarat, Haryana, Himachal Pradesh, Maharashtra, Orissa, Uttar Pradesh and West Bengal charges

Charge: ACIT2(2) Bhubaneswar, Orissa charge; AY: 2005-06
Assessee: M/s Tor Steel Ltd.
Demand of ₹ 26.63 lakh was raised against the assessee after scrutiny assessment in November 2007. However the demand notice was served belatedly after 2 years and 3 months on 24 February 2010.

Deficiency in data reconciliation in software modules of ITD

4.3 The online assessment of annual returns submitted by the taxpayer is aided by the module Assessment Information System (AST). The results of such assessments are also captured in another module, Individual Running Ledger Account (IRLA) that generates a comprehensive ledger covering year-wise data on demand raised and collected against each assessee. We found that such data is not available in IRLA[40] as information with respect to status of arrear demand is being maintained manually and is not being uploaded in the software modules. The online assessment system is being rendered deficient in giving due credit to the assessees for the pre-paid taxes viz. advance tax, TDS/TCS and self assessment tax that are deposited to the Government Account due to filing of incorrect or incomplete eTDS returns by the tax deductors leading to overstatement of demand.

4.4 We noticed 8713 cases[41] in West Bengal where demand of ₹ 50.50 crore remained unaccounted due to mismatch of TDS because of the deficiencies in the system developed by the NSDL. We found 24 cases[42] in Haryana where demand of ₹ 18.47crore for the assessment years 2007-08 and 2008-09 was outstanding even after finalization of assessments by the respective AOs due to mismatch of TDS and Prepaid Taxes on AST system. We noticed 18 cases[43] in Uttarakhand, where demand of ₹ 10.92crore was outstanding due to mismatch of information submitted by the assessee in support of their payments of advance tax, TDS etc. vis-a-vis the data as per AST software of the Department.

Irrecoverability of High Value Arrear Demand

4.5 Analysis of unrealizable arrear demand cases obtained from DIT (Recovery) revealed several reasons for their irrecoverability, as listed below:

[40] In Delhi, Gujarat, Jharkhand, Maharashtra, Orissa, Rajasthan, Uttarakhand and Uttar Pradesh charges
[41] Central Circles III, V, VI, XI of CIT(C)-I (58); Central Circle XVIII of CIT(C)-II (13); Circle I of CIT-I (718); Circle III of CIT III (585); Circles 29, 30 of CIT X (226); Circle XIX of CIT XIX (1607) and Circle XXI of CIT XXI (5506) in West Bengal charge
[42] CIT Faridabad:8; CIT Panchkula:16
[43] CIT Dehradun Charge (Circle II Dehradun: 11; Circle Haridwar: 07)

Table 4.1: Category wise details of unrealizable demand **₹ in crore**

	Overall Position		Individuals/HUF		Companies	
	Amount	Percentage	Amount	Percentage	Amount	Percentage
Pending Write Off	307.60	0.2	171.42	0.15	71.81	0.15
Liquidation/ Insolvency Proceedings	7,668.67	4.6	78.50	0.07	7,245.55	15.60
Notified Persons	36,721.93	22.2	34,933.30	30.68	1,788.63	3.85
No assets for Recovery	84,862.79	51.3	76,051.10	66.79	8,021.97	17.27
Protective Assessments	5,043.03	3.1	1,330.78	1.17	3,527.20	7.59
Company before BIFR	2,600.17	1.6	46.90	0.04	2,553.27	5.50
Assessee or Representative not traceable	4,959.56	3.0	552.25	0.48	4,185.54	9.01
Before Settlement Commission	2,280.44	1.4	430.63	0.38	1,747.87	3.76
Demand not fallen due	2,484.53	1.5	5.88	0.01	2,264.34	4.88
Demand under verification	96.10	0.1	1.88	0.00	25.02	0.05
Demand covered by Stay	17,184.07	10.4	241.49	0.21	14,409.59	31.03
Demand covered by Installment granted	1,128.53	0.7	24.17	0.02	603.28	1.30
Total Unrealizable Demand	**1,65,337.42**		**1,13,868.30**		**46,444.07**	

Data Source: Directorate of Income Tax (Recovery)

4.6 In the case of individuals, 98 *per cent* of the unrealizable amount is due to non existence of assets for recovery (67 *per cent*) and Notified Persons (31 *per cent*). In case of companies, the major reasons for unrealizable demand are Demand covered by Stay (31 *per cent*), No assets for recovery (17 *per cent*), and Liquidation/Insolvency Proceedings (16 *per cent*).

4.7 A large portion of the outstanding demand as per DIT (Recovery) is also lying in dispute. This is included in the total inventory of cases in appeals which have been dealt in the subsequent paragraphs. The breakup of disputed amount at the end of September 2010 is tabulated below:

Table 4.2: Category wise details of disputed demand **₹ in crore**

	Overall Position		Individuals/ HUF		Companies	
Dispute Category	**Amount**	**Percentage**	**Amount**	**Percentage**	**Amount**	**Percentage**
Disputed before Supreme Court/ High Court	4,219.55	3.5	379.19	0.6	2,964.59	6.6
Disputed before ITAT	62,420.90	**51.8**	52,526.41	**80.6**	8,611.01	19.2
Disputed before CIT(A)	50,665.93	**42.1**	12,136.85	18.6	30,547.98	**68.1**
Disputed in Rectification/ Revision/ Waiver	3,141.27	2.6	161.71	0.2	2,753.27	6.1
Total Disputed Amount	1,20,447.65	100.0	65,204.16	100.0	44,876.85	100.0
***Per cent* of Amount Disputed**	61%		56%		68%	
Total Outstanding Amount	1,96,092.07		1,16,437.71		65,816.57	

Data Source: Directorate of Income Tax (Recovery)

4.8 At the end of March 2007, 22 proposals were pending for write off of ₹ 108.96 crore at DIT (Recovery). However as per discussions in the Exit Conference (November 2011), it was ascertained that these cases are pending for want of follow up action at different levels of field formations.

Demand pending with Appellate Authorities

4.9 The Department has a special strategy outlined in its Central Action Plans for identification of worthwhile cases where recovery of arrears can be made during the course of the financial year through special efforts. Such cases include high demand cases pending before CIT(Appeals), particularly the ones where recovery of substantial demand is likely on disposal of appeal and requesting the CIT(Appeals) for disposal of such cases. Similar exercise is to be done in respect of appeals pending before ITAT and requesting Benches of ITAT for early disposal, monitoring the progress of hearings in high demand cases before the ITAT and ensuring that Departmental representatives do not seek adjournment in such cases without prior approval of the respective Chief Commissioners.

4.10 CBDT has issued instructions to every CIT (Appeals) to dispose off a minimum of 60 appeals per month. Clause 6A to section 250 and 2A to section 254 have been inserted with effect from 1 June 1999 for disposing of an appeal within a specified time (one year for CIT (Appeals) and 4 years for ITAT). Our analysis[44] showed that the average time taken by CIT (Appeals) in disposing an appeal was 14 months. Most refined tax administrations bind the appeals to a time frame for the convenience of the taxpayer; the time limits prescribed ranging from 45 days to 6 months being far lower than the time taken by CsIT(A) in India. We also noticed that the inventory of appeals with CsIT(A) was building up because of low disposal of appeals. We noticed 4,278 cases[45] where arrear demand of ₹ 79,819.9 crore was locked in appeals.

In Tamil Nadu out of a sample of 901 cases subjected to audit, arrear demand of ₹ 725.71 crore, constituting nearly 83 *per cent* of total arrear demand of ₹ 869.23 crore is locked in appeals. Demand cases exceeding ₹ 1 crore constituted nearly 89 *per cent* of the demand of ₹ 725.71 crore locked in appeals.

In Maharashtra out of a sample of 12,026 cases subjected to analysis for this review, 2,804 cases involving arrear demand of ₹ 78,233.28 crore were pending with appellate bodies. Thus 63.57 *per cent* of arrear demand is locked in appeals.

In Punjab out of a sample of 361 cases involving arrear demand of ₹ 113.34 crore, pending with TROs as on 30 November 2010, arrear demand of ₹ 70.90 crore in 66 cases (17 *per cent*) was pending before Appellate Authorities. Out of these 46 cases involving arrear demand of ₹ 41.75 crore were outstanding for more than one year.

[44] CAG's Report No. 20 of 2009-10 for the period ended 2008-09 ,The Appeal Process

[45] In Assam, Goa, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Karnataka, Maharashtra, Orissa, Punjab, Tamil Nadu charges and Uttar Pradesh charges.

Demand stayed by Courts

4.11 Wherever appeals are filed by the assessees against the assessments before the appellate/judicial fora, it is imperative that the Assessing Authorities initiate prompt action to vacate stay, if any, granted by the appellate authorities or to file the counter affidavits so as to facilitate early vacation of stay and realization of the revenue.

4.12 In 21 cases[46] involving cumulative demand of ₹ 87.56 crore, it was seen that the demand were locked due to stay by Courts. Three cases are illustrated below:

Charge: CIT I Surat, Gujarat charge
Assessee: M/s Goyal Industries Pvt. Ltd.
Demand of ₹ 57.97 crore was pending against the assessee at the end of September 2010. The entire demand outstanding of ₹ 57.97 crore was not enforceable as the service of assessment order, demand notice and challan had been stayed by Hon'ble Gujarat High Court.

Charge: CIT IV Nagpur, Maharashtra charge; AY: 2005-06
Assessee: Shri Rustom M Hormusjee
The assessee filed an appeal before CIT(Appeals)-II, Nagpur (January 2008) against the demand of ₹ 2.50 crore raised after scrutiny assessment in December 2007. The AO transferred the case to TRO in February 2009. TRO drew a recovery certificate in March 2009 for the demand and attached a bank deposit of ₹ 36.94 lakh (February 2010). However, the assessee got stay of demand (March 2010) from High Court by filing a writ petition. Meanwhile, the CIT (Appeals) revised the demand to ₹ 1.49 crore (October 2010). The demand is still pending for recovery and no efforts were found on the record to vacate the stay.

Assessee not traceable

4.13 We noticed 270[47] cases where the defaulter assessees were not traceable resulting in non realization of demand of ₹ 1,509.56 crore. We noticed instances where defaulter assessees had either stopped filing returns, demand notice issued through Department Notice Server were returned unserved, assessee had closed down business and shifted base. Two cases are illustrated below:

Charge: CIT-II Kanpur, Uttar Pradesh charge; AYs: 2000-01, 2002-03, 2003-04, 1992-93 to 1987-88
Assessee: Shri D.S. Batra
As per Dossier Report for the period ending March 2011, demand of ₹ 22.28 crore was pending against the assessee who was Managing Director of Rajendra Group of Companies. The demand is pending since August 1997 as the assessee has reportedly left India in March 1998 and is not traceable.

[46] In Andhra Pradesh, Assam, Delhi, Gujarat, Maharashtra, Orissa and Tamil Nadu charges.
[47] In Andhra Pradesh, Bihar, Delhi, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Punjab and Uttar Pradesh charges.

Charge: CIT-(Central) Chandigarh, Punjab charge; AYs: 2000-01 to 2006-07
Assessee: Shri Narinder Arora
Demand of ₹ 2.27 crore was pending against the assessee, who was a Proprietor of M/s Reliance Engineering Works, at the end of March 2009. The Certificate issued by the TRO in May 2009 returned unserved as the assessee was not traceable.

Recommendations

We recommend that

- *The Department may ensure correct and timely credit of TDS/TCS to the assessee by introducing reconciliation with concerned agencies to avoid mismatches resulting in creation of wrong demand.*

  The CBDT stated (November 2011) that the TDS/TCS matching has improved substantially over the years since introduction of e-TDS returns in 2005. Improvement in this regard is an ongoing process with more and more integration of all the players involved in the process.

- *Adequate and timely steps may be taken for recovery of arrears of tax demand; responsibility of the concerned officials may also be clearly defined.*

- *The Department may issue appropriate instructions to pursue the arrear cases scrupulously to avoid situations of irrecoverability of demand due to the assessees becoming not traceable and there being no assets for recovery.*

  The CBDT stated (November 2011) that special attention has been paid to the cases where assessees are not traceable or assets do not appear sufficient to effect recovery.

- *As mentioned in our Study on the Appeals Process, reasons for low disposal of appeals by CsIT(A) need to be analyzed. Wherever pendency is due to lower efficiency, strict administrative measures may need to be taken.*

  The CBDT stated (November 2011) that the disposal of high demand appeals increased as compared to earlier years in F.Y. 2010-11. Measures are being taken to accelerate the disposal rate by promoting rational distribution of work load amongst the CsIT (A) and closer monitoring of disposal periodically.

- *Department needs to effectively pursue the cases locked up in litigation at the ITAT and higher formations.*

  The CBDT stated (November 2011) that a National Judicial Reference System (NJRS) is being developed by the CBDT which will contain judicial pronouncements of Income Tax Appellate Tribunal, High Courts and Supreme Court and database on all appeals pending before various authorities. Detailed instructions are also being issued in this regard.

CHAPTER 5

Follow up and disposal of arrears

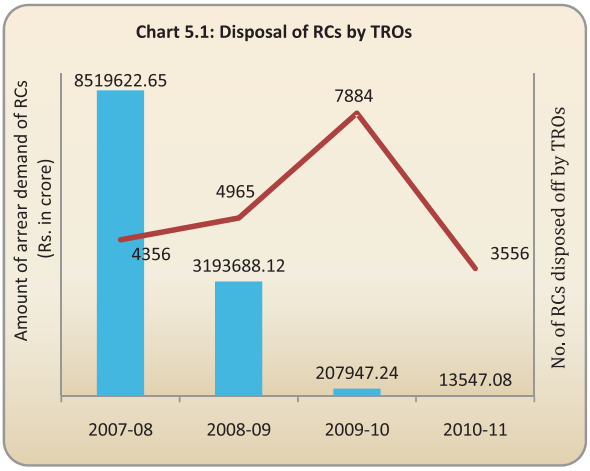
Follow up and disposal of cases in arrears is less than the prescribed targets. Majority of the cases were disposed off while giving effect to Appellate orders. Despite being empowered, the Tax Recovery Officers sparingly exercised the special powers towards recovery of the demand. Several irregularities were observed in the liquidation process.

Effectiveness of liquidation of arrear demand

5.1 The Board had rationalized the norms for disposal of Tax Recovery Certificates by each TRO per year[48] in 1995. Analysis of cases referred to the TROs and their disposal indicates that the number of Recovery Certificates disposed off by Tax Recovery Officers is far below the norm fixed by the Board. Further, disposal during the year 2010-11 has decreased considerably as compared to the previous three years. For disposal of arrear demand, the TROs are empowered by Section 222 of the Act whereby when an assessee is in default or is deemed to be in default in making a payment of tax, the TRO is expected to draw up under his signature a statement specifying the amount of arrears due from the assessee (also referred as Tax Recovery Certificates (TRCs) and proceed to recover the amount specified in the certificate by one or more of the modes mentioned below:

(a) attachment and sale of the assessee's movable and immovable property
(b) arrest of the assessee and his detention in prison; and
(c) appointing a receiver for management of the assessee's movable and immovable properties

The above powers are vested with a TRO for speedy and effective recovery of arrears. Chart No. 5.1 depicts the fluctuating trend of disposal of Recovery Certificates by TROs.



Irregularities in issuing notice under section 222

5.2 There is no time limit prescribed in the Act within which TRO should issue a notice to the defaulter after he receives certificate from the AO. Even so, it is incumbent upon the TRO to issue notice to the defaulter within a reasonable time after he receives the

[48] The norm for disposal of recovery certificates by a TRO was lowered from 3700 to 1200 RCs per year by Directorate of Organization and Management Services (Income Tax) vide CBDT Circular No. 1929 dated 22.08.1995.

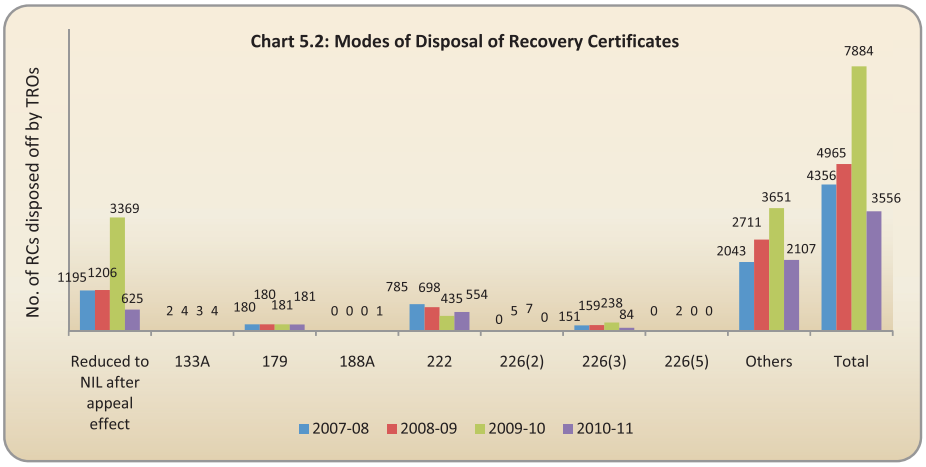
certificate. The AO should send the statement certifying the details of arrears of tax demand alongwith the particulars of the defaulter and details of both movable and immovable assets of the defaulters.

5.3 We noticed four cases[49] involving arrear demand of ₹ 5.12 crore where the TRO could not serve notice of demand to the defaulters for want of particulars related to the assessees which was required to be furnished by the AOs. One case is illustrated below:

Charge: CIT II Indore, Madhya Pradesh charge; AY: 2005-06
Assessee: M/s Pursuit Securities Ltd., Indore
Demand notice for amount of ₹ 2.56 crore, issued to the assessee in December 2010, remained undelivered due to incorrect address. Verification of records revealed that the TRO did not make adequate efforts to ascertain the correct particulars of the assessee. As a result, the demand of ₹ 2.56 crore remained uncollected.

Disposal of Tax Recovery Certificates

5.4 An analysis of the mode of disposal of Recovery Certificates by TROs is presented in Chart[50] 5.2. We noticed that the 32.1 *per cent* of the disposed cases were as a result of appeal effect only. Another 15.48 *per cent* cases were disposed off after taking action under section 222 of the Act.

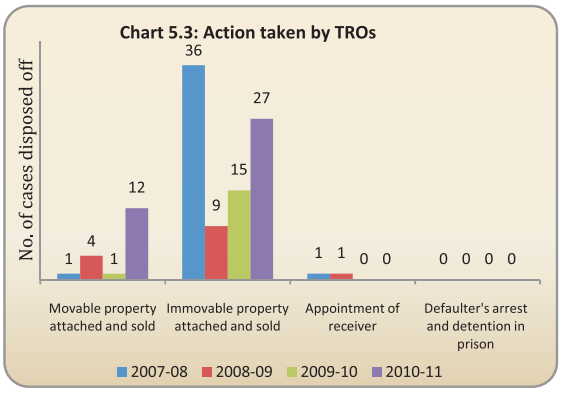


Use of special powers by TROs for recovery of arrears of tax demand

5.5 As mentioned above, the TROs are equipped with special powers under section 222 of the Act. In 15 cases[51] the TROs did not exercise the power vested in them for recovery of the demand amounting to ₹ 17.15 crore.

[49] Madhya Pradesh and Maharashtra
[50] Legal provisions summarized in Para 1.7
[51] In Kerala(13 cases) and Rajasthan(2 cases).

5.6 We found that during the years 2007-08 to 2010-11, there were only 18 cases where the assessee's movable property was attached and sold. A sum of ₹ 14.96 crore was recovered through this mode. In 87 cases immovable property of the assessees were attached and sold and ₹ 98.45 crore was recovered. In 2 cases receiver was appointed for management of defaulters' movable and immovable properties. It is imperative that the recovery officers of the ITD are fully acquainted with these provisions and make use of these powers in cases where it is deemed necessary.



Measures taken by Department in effecting recovery of undisputed demand arrears

5.7 The Act provides for several measures that can be adopted by the TROs for effecting recovery of undisputed demand such as issue of notice under section 220(1), granting extended time period for payment of arrears to the assessee under section 225(1), attachment of the bank accounts of the assessee under section 226(3), attachment and sale of movable and immovable property under section 222(1), adjustment of refund arising in subsequent years against arrear demand and levy of penalty under section 221.

5.8 Despite these provisions, it was seen that there were lapses in collection of undisputed amount of ₹ 139.77 crore in 2,852 cases[52]. Three cases are illustrated below:

Charge: CIT V Pune, Maharashtra charge; AY: 2007-08
Assessee: Smt. Ashadevi Sushilkumar Agrawal
A demand of ₹ 1.88 crore was raised against the assessee in December 2009. The TRO issued demand notice[53] in September 2010 and summons were issued in October 2010. No further action was taken in this matter. The Department stated that the post of TRO was held as additional charge and no staff was posted in that office and as such verification of actual demand with AO was not done till date (March 2011).

Charge: CIT II Guwahati, Assam charge; AYs: 2002-03 and 2004-05
Assessee: Sh. Anand Poddar
Demand for ₹ 90.08 lakh and 51.96 lakh were raised against the assessee after scrutiny assessment in December 2007. The assessee went in appeal, which was dismissed by the CIT (Appeal). The assessee paid only ₹ 47.52 lakh (November 2009). No efforts were made to recover the remaining amount of ₹ 94.52 lakh (December 2010).

[52] In Assam, Bihar, Chhattisgarh, Delhi, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Maharashtra, Orissa, Rajasthan and Uttar Pradesh charges.
[53] ITCP-1

Charge: CIT Kochi, Kerala charge; AYs: 1991-92 to 1993-94
Assessee: M/s Maurya Securities Pvt. Ltd.
Demand of ₹ 3.55 crore raised during financial years 1995-96 to 1997-98 were outstanding against the assessee in March 2005. As the Company had become defunct, the Directors were absconding and the Company had no known assets, the Investigation wing of the Department was directed to collect the required details. No concrete reply was filed by the Investigation wing except for the information that one of the Directors, P S Joseph, was in a Gulf country.

Follow up of cases under Installment Scheme

5.9 Under the Act, the assessing officer may allow payment of tax demand in installments if an application is made by the assessee, subject to such conditions as he may think fit to impose, in the circumstances of the case.

5.10 We noticed 54 cases[54] involving unpaid demand of ₹ 54.16 crore where the assessee failed to abide by the terms of installment facility provided by the AO. Still the AO/ TRO did not take effective steps for recovery of the arrear demand. One case is illustrated below:

Charge: CIT I Patna charge ; AY: 2007-08
Assessee: Bihar State Co-operative Bank Ltd.
A demand of ₹ 15.66 crore was raised against the assessee, a firm in financial year 2009-10. The assessee was allowed payment in installments of ₹ 1 crore per month from August 2010. As per dossier report for the quarter ending September 2010, there was no collection on record in respect of assessee. Hence the schedule for payment of demand allowed by the AO was not adhered to by the defaulter. The AO also did not take any action for recovery of demand (March 2011).

Non attachment of properties by TROs

5.11 The TRO has been vested with the power to attach assessee's properties in order to recover the arrears of demand if the defaulter does not pay up the arrears within the specified time. The TRO may, if so authorized by the Commissioner, by general or special order, recover any arrears of tax due from an assessee, by distraint[55] or sale of his movable property. The Act also empowers the TRO to attach immovable property of the defaulting assessee and cause his arrest and detention in prison.

5.12 We noticed in 354 cases[56] with arrear demand of ₹ 117.44 crore, Department did not recover the demand by attaching the property of the assessees. Three cases are illustrated below:

[54] In Bihar, Chhattisgarh, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh and Tamil Nadu charges.
[55] Seizure and holding of property as security for payment of debt or satisfaction of claim
[56] In Assam, Chhattisgarh, Delhi, Karnataka, Kerala, Madhya Pradesh, Orissa and Punjab charges.

Charge: CIT Bhubaneswar, Orissa charge ; AYs: 2000-01 to 2006-07
Assessee: Hi-Tech Estates & Promoters
A demand of ₹ 39.27 crore was raised[57] against the assessee in February 2008. On non-payment of the demand, the TRO drew seven certificates for demand of ₹ 39.77 crore directing (19-6-2008) the assessee to pay the amount within 15 days. Assessee filed a stay petition before CIT, Bhubaneswar (22-10-2008). The stay petition was disposed (2-2-2009) by the CIT and the assessee was directed to pay ₹ 10.85 crore before 7 February 2009 and the remaining demand on or before 30 March 2009 or disposal of appeal whichever was earlier. The assessee deposited ₹ 50 lakh during March 2009. CIT ordered for attachment of assets on 29 April 2009 pointing out the persistent delay made by TRO in taking action. However no such action was taken by the TRO. Inaction on the part of TRO resulted in non recovery of demand of ₹ 39.27 crore.

Charge: CIT Bhopal, Madhya Pradesh charge ; AYs: 2001-02 to 2007-08
Assessee: Shri Chandra Bhan Lalchandani
Demand of ₹ 4.77 crore was raised against the assessee consequent to search and seizure operations conducted in November 2006 and assessment completed in December 2008. The assesee filed an application before Hon'ble High Court of Madhya Pradesh in May 2009 for stay of demand. Based on order of High Court CIT(Appeals)-I Bhopal revised the demand to ₹ 4.53 crore and granted installment facility to the assessee for depositing demand of ₹ 15 lakh per month from November 2009. The assessee defaulted in making payment of installments from December 2009 onwards. The case had been transferred by the AO to TRO[58] in January 2009 and tax recovery certificate issued in August 2009. We found that although the assessee had immovable property worth ₹ 14.3 crore (agricultural land), the TRO did not intiate any action to attach the property for recovery of arrear demand.

Charge: CIT IV Bangalore, Karnataka charge ; AYs: 2006-07 and 2007-08
Assessee: Smt. Archana Ananda Kumar
Demand of ₹ 2.06 crore was raised against the assessee after survey conducted in March 2008 and assessment concluded in December 2009. The assessee had transferred or gifted her properties during the course of the proceedings. Hence, the transactions entered into by the assessee were void as per provisions under section 281[59] of the Act and hence could be attached to recover the demand. However, it was seen that the properties were not attached; reasons for not doing so were not available on record.

[57] After completion of assessment under section 153A(b)/144 on 31-12-07
[58] ACIT 1(1) Bhopal and TRO Bhopal
[59] As per Section 281 of Income tax Act the transfer of assets owned by assessee; by way of sale, mortgage, gift, exchange or any other mode of transfer; during pendency of proceedings under the Act or after completion thereof but before service of notice under rule 2 of Second Schedule (I.T.C.P. 1) shall be treated as void.

Non disposal of attached properties

5.13 As per the Act[60], the sale of immovable property shall be made before expiry of three years, which can be extended upto four years, from the end of the financial year in which the order giving rise to demand of any tax, interest, fine, penalty or any other sum, for the recovery of which the immovable property has been attached, has become conclusive under the provisions of section 245-I or as the case may be, final in terms of the provisions of Chapter-XX.

5.14 We noticed 56 cases[61] involving arrear demand of ₹ 358.49 crore where the properties were already attached but demand could not be recovered as the Department did not sell the attached properties in time. Two cases are illustrated below:

Charge: CIT I Bangalore, Karnataka charge ; AYs: 1-4-1995 to 28-9-2001
Assessee: Shri D. Rajkumar
A demand of ₹ 2.95 crore was raised along with a penalty of ₹ 2.20 crore in September 2003. The demand was referred to the TRO in February 2004. The TRO attached 4 properties belonging to the assessee in July 2004. An amount of ₹ 13.23 lakh was also realized by way of sale of seized jewellery. The Department did not take any action to sell the immovable properties and realize the outstanding demand although the outstanding demand and the properties were undisputed. The assessee had disposed off one of the attached properties by gifting it to his wife in September 2001 who sold it subsequently. Lack of adequate efforts by the Department resulted in non recovery of demand of ₹ 7.99 crore including interest.

Charge: CIT-I Patna and TRO Range 2 Patna, Bihar charge; AYs: 1997-98, 1998-99 and 1999-2000
Assessee: M/s Jupitor Electricals & Lamps (I) Pvt. Ltd.
A demand of ₹ 2.72 crore was outstanding against the assessee as per dossier report of January 2011. The appeals under sections 251 and 254 were decided in favour of revenue subsequent to which the demand was transferred to TRO. The TRO served demand notice [62] (July 2002) on Mr. Nisith Jaiswal, Director of company. On non payment of the demand by the defaulter, the factory building and the plant and machinery were attached by TRO (February 2003). In March 2007, the TRO referred the matter to the Valuation Officer for valuation of assets. However due to non-valuation of attached property, it could not be sold (March 2011) even after eight years of its attachment. The delay resulted in non-recovery of demand of ₹ 2.72 crore. The department in its reply stated that the process of sale would be intimated as soon as the valuation report was received.

[60] Rule 68B(1) of the second schedule of the Income Tax Act, 1961
[61] In Andhra Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Gujarat, Haryana, Karnataka, Maharashtra and Uttar Pradesh charges.
[62] ITCP-1 and Form 57

Attachment of property after sale by defaulter

5.15 We noticed 5 cases[63] involving arrear demand of ₹ 137.80 crore where only after attachment of the property it was noticed that the property had already been sold by the assessees. One case is illustrated below:

Charge: CIT Central III Mumbai, Maharashtra charge ; AYs: 1-4-1996 to 11-4-2002
Assessee: Shri Sahil H. Ismail
A demand of ₹ 1.46 crore was raised in December 2003. The AO attached the immoveable property during the course of assessment proceedings. However, the TRO reported that the assessee had already sold the said property in August 2003 and migrated to Dubai. The department wrote a letter to Foreign Tax Division (FT&TR-I), CBDT, New Delhi (October 2009) after a lapse of six years requesting to invoke the Indo-UAE DTAA provisions to get the assessee's information in Dubai. However, no progress has been made in this matter.

Irregularities in liquidation process

A) Issue of refund without adjusting tax demand

5.16 The Act provides that where, as a result of any order passed in assessment, appeal, revision or any other proceeding, refund of any amount becomes due to an assessee, the assessing officer may, in lieu of payment of the refund, set off the amount to be refunded against the sum remaining payable by the person to whom the refund is due.

5.17 We noticed 100 cases[64] where refunds were issued without adjustment of outstanding dues of ₹ 217.68 crore. Two cases are illustrated below:

Charge: CIT III Kolkata, West Bengal charge ; AY: 2006-07
Assessee: M/s. Vodafone Essar Ltd. (erstwhile M/s Hutchinson Essar East Ltd.)
A refund of ₹ 29.60 lakh was issued[65] to the assessee in May 2008 without adjusting demand of ₹ 37.10 crore pertaining to the AY 2005-06 that was pending against the assessee.

Charge: CIT II Pune, Maharashtra charge ; AYs: 2003-04 and 2005-06
Assessee: M/s Patni Computers Systems P. Ltd.
As per Dossier Report for the quarter ending December 2010, demand of ₹ 127.72 crore was pending against the assessee. We noticed that the CIT had accorded approval for refund of ₹ 12.92 crore in September and October 2010. However, the said refund was neither issued to the assessee nor was adjusted it against the pending demand (March 2011).

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[63] In Andhra Pradesh, Delhi and Maharashtra charges.
[64] In Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Jammu & Kashmir, Kerala, Maharashtra, Tamil Nadu and West Bengal charges.
[65] vide Refund Voucher no. 937898 dated 21-05-2008

B) Non realization of interest while liquidating demand

5.18 If demand specified in the demand notice is not paid within the period mentioned in the notice, the assessee shall be liable to pay simple interest at one percent for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in the notice of demand and ending with the day on which the amount is paid.

5.19 We noticed 132 cases[66] where interest amounting to ₹ 9.83 crore was either not levied or not realized at the time of recovery of delayed demand payments. In such cases there is impending risk of revenue loss on account of non levy of interest.

Non levy/ short levy of interest for default in payment of demand

5.20 As per CBDT instruction No. 1883 dated 7 June 1991, interest under section 220(2) is required to be calculated at the end of each financial year on the outstanding demand and fresh demand notice is to be issued to the assessee including the amount of interest calculated.

5.21 We noticed 1,156 cases[67] where the interest was not worked out at the end of each financial year for defaulter assessees resulting in understatement of arrears by ₹ 10,264.9 crore. One case is illustrated below.

Charge: CIT Central II Delhi charge
Assessee: M/s. Usha General Foods Ltd.
Demand of ₹ 27.92 crore was raised in September 2003. As per the above mentioned instruction the revised demand notice was required to be issued including amount of interest under section 220(2) at the end of each FY from FY 2004-05 onwards. We noticed that the revised demand notice was issued only in 2010[68] after a gap of seven years stating only the original demand of ₹ 27.92 crore and no interest under section 220(2) was calculated. The total demand outstanding worked out to ₹ 52.77 crore including interest of ₹ 24.85 crore. This resulted in understatement of arrears by ₹ 24.85 crore.

Inadequate results of efforts to effect recovery

5.22 Every demand of tax, interest, penalty or fine should be paid within 30 days of the service of notice of demand. The assessing officer is in normal course responsible for the collection and recovery of demand. He has to ensure that he had taken all possible action

[66] In Chhattisgarh, Gujarat, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Maharashtra, Orissa, Punjab and Uttarakhand
[67] In Andhra Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Goa, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttarakhand and West Bengal.
[68] Month and date were not mentioned on the notice

under the law to recover the demand before intimating the TRO for drawing up the Tax Recovery Certificate (TRC).

5.23 We observed 577 cases[69] where pending demand of ₹ 192.6 crore was not recovered. Four cases are illustrated below:

Charge: CIT III Kolkata, West Bengal charge; AYs: 2005-06, 2007-08
Assessee: M/s Vodafone Essar East Ltd.
Demand of ₹ 3.67 crore and ₹ 58.81 crore were raised against the assessee in December 2007 and December 2009 respectively. We found that although the assessee did not pay the demand on due dates, no further efforts were made by the AO to recover the demand.

Charge: CIT Bhopal, Madhya Pradesh charge; AYs: 1992-93 to 1994-95 & 1997-98 to 1998-99
Assessee: M/s Bhopal Sugar Industries Ltd.
A notice for outstanding demand of ₹ 16.52 crore was issued to the assessee. On recommendation of BIFR[70] for winding up of the company, the JCIT directed (December 2006) the concerned AO and TRO to lodge the claim of tax demand with the official liquidator. However, no follow up action could be ascertained from the records. It took two years for the TRO to approach the ROC from the date of direction of the CIT.

Charge: CIT Solan, Himachal Pradesh charge ; AYs: 2002-03 to 2005-06
Assessee: M/s KK Apparels Nalagarh
The assessee went in appeal[71] (December 2007) against the demand amounting to ₹ 7.89 crore raised in December 2007 before CIT (Appeals) which was dismissed vide CIT(Appeals) orders dated 18 September 2008. The assessee filed appeal before the ITAT which is still pending. The Tax Recovery Officer reported in the Dossier Report for the quarter ending March 2010 that appeal of the assessee was pending before ITAT which was fixed for hearing in the first week of February 2010. The Chief Commissioner of Income Tax directed the Commissioner of Income Tax to request the ITAT for early hearing on the Dossier Report (22.12.2010) but there was no evidence of such reference on the records. On an enquiry it was found that no moveable property was left with the firm and even the residential house and factory building had been liquidated by the bankers. The Department was not vigilant enough to take coercive measures to recover the huge outstanding demand from the defaulter assessee by invoking the relevant provisions of the Income Tax Act.

Charge: CIT Ghaziabad, Uttar Pradesh charge; AYs: 2006-07 and 2007-08
Assessee: M/s Sanjay Engineers & Fabricators (P) Ltd.
Demand of ₹ 63.32 lakh and ₹ 69.25 lakh were raised against the assessee after scrutiny assessment in December 2008 and March 2009 respectively. Recovery Certificates of

[69] In Andhra Pradesh, Goa, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Tamil Nadu, Uttarakhand, Uttar Pradesh and West Bengal charges.
[70] BIFR order no. 149/98 dated 2 May 2003
[71] vide appeal No. IT/354/2007-08/Sml

₹ 33.64 lakh and ₹ 69.25 lakh were drawn for outstanding demand on 31 March 2010. The bank account of the assessee was attached (August 2010) by the TRO under section 226(1A)(3) and released (November 2010) on commitment made by the assessee for payment of the amount of ₹ 8 lakh by 15 December 2010 and in instalments of ₹ 4 lakh from January 2011 onwards. However, the assessee failed to comply with its commitment, with the result that the entire demand remained unrecovered. The Department in its reply stated that the assessee was based at Muzaffarnagar which was out of jurisdiction of Ghaziabad charge without even bothering to transfer the case to the relevant jurisdictional charge. Further, the Department did not take up the matter with the Yes Bank, to attach the property mortgaged with the Bank as a second claimant of the sale proceeds when the property is sold. The Department did not initiate proceedings to attach the other properties in the name of the assessee. Omission to do so resulted in non-realization of tax demand of ₹ 1.32 crore causing loss of Government Revenue.

Demand Pending for write off

5.24 When tax demand remains irrecoverable inspite of exercise of powers of recovery under the Act, the option of "write off of arrears"[72] should be considered. The powers to sanction write off of revenue have been delegated by the Central Government to the income-tax authorities. All the Commissioners of Income Tax have full powers[73] to write off irrecoverable balance of income tax, wealth tax etc. subject to a report to the next higher authority. Tax arrears may be written off under regular procedure only if they are three years old and have become irrecoverable on account of reasons such as the assessee has died, he has become insolvent, he is not traceable, he has left India, the company has gone into liquidation, the firm is dissolved and its business has discontinued, the assessee has no attachable assets and when all modes of recovery including coercive measures are exhausted and the arrears still remain. Where tax arrears exceed ₹ 10 lakh they may be referred to Zonal Committee[74] that has to meet at least once a month to ensure continuous review of the unrealizable demand. Where tax arrears exceed ₹ 25 lakh, they may be referred to the Board through the DIT (Recovery) for according administrative approval. Nominal amounts can be written off under the *adhoc* procedure.

5.25 We noticed 14,352 cases[75] involving arrear demand of ₹ 665.53 crore where the AOs and TROs did not exercise the powers delegated to them to refer the write off proposals to Zonal Committee and did not review the nominal amounts pending for several years. Although it was evident in most of the cases that the defaulter assessee was either not traceable or did not have assets or properties to fulfill the obligation.

[72] As laid down in the Chapter 13 of Manual of Office Procedure, Volume II (Technical) published by Directorate of Income Tax (Recovery) of ITD.
[73] Rule 13 read with Schedule VII of the Delegation of Financial Powers Rule, 1978
[74] Constituted by the Board vide Instruction no. 14/2003 dated 06-11-2003 and Instruction no. 7/2004 of the CBDT
[75] In Assam, Chhattisgarh, Delhi, Gujarat, Haryana, Himachal Pradesh, Kerala, Orissa, Punjab, Karnataka, Maharashtra and Uttar Pradesh charges.

Other Mistakes

5.26 We also noticed other mistakes such as delay in filing debt claim before the custodian, incorrect reporting of arrears in Dossier Report, case where assessee has become a stop filer, case of a liquidated company lying with TRO for more than ten years and non application before Court where defaulter's money lay under the custody of the Court in 14 cases[76] involving arrear demand of ₹ 20,050.43 crore.

Recommendations

We recommend that:

- *The provisions of adjustments of arrear demand while granting refunds should strictly be followed. The system may provide for fixing responsibility in such cases.*

  The CBDT stated (November 2011) that a new electronic accounting package is being developed in this regard.

- *Provisions for monitoring and recovery of arrear demand should be strictly followed and accountability may be institutionalized by the Department in respect of the concerned AOs and TROs.*

- *The information collected through Annual Information Returns by the Central Information Branch (CIB) particularly about the properties owned by the assessee should be accessible to the TROs also.*

  The CBDT stated (November 2011) that the Individual Transaction Statement containing all the information from the AIR returns and those received from the CIB is provided from the current year to the Range Heads. The TRO's can obtain the same in respect of those assesses whose tax demand has been transferred to them. This is in addition to the steps initiated for the recovery by obtaining information from FIU-IND.

- *The write off proposals in justifiable cases may be pursued and such irrecoverable demand may be considered for write off after following due administrative procedure.*

  The CBDT stated (November 2011) that there has been continuous follow up of write off proposals. Considerable documentation and information requires to be gathered and possibility of recovery of the demand requires to be eliminated before finally concluding for write-off.

[76] In Assam, Bihar, Delhi, Himachal Pradesh, Maharashtra and Punjab charges.

- *The mechanism of Regional Economic Intelligence Committee (REIC) needs to be strengthened to facilitate sharing of information among different revenue collecting agencies.*

  The CBDT stated (November 2011) that specific instructions have been issued in September 2011 in this regard.

New Delhi **(MEENAKSHI GUPTA)**
Dated **Director General (Direct Taxes)**

Countersigned

New Delhi **(VINOD RAI)**
Dated **Comptroller and Auditor General of India**

Appendix-1

(Reference: Paragraph 1.9)

Criteria for Selection of Units and of cases

Tier-I : Selection of units	Percentage
For Metro charges	
a) Category of units	
Company Circles/Wards	40%
Mixed/Firms/Individuals etc. Circles/Wards	40%
Central Circles	60%
Salary Circles	10%
For Non-Metro Charges	
All Circles/ Wards	40%
b) Selection of Ranges in the selected units	100%
Tier II: Selection of cases for examination	
Demand value	
Arrear Demand exceeding Rs. 1 crore	100%
Arrear Demand between Rs. 50 lakh and Rs. 1 crore	50%
Arrear Demand between Rs.10 lakh and Rs. 50 lakh	25%
Arrear Demand up to Rs. 10 lakh	5% restricted to 2000 cases
Other Criteria	
Transfer cases (Assessment Jurisdiction) from each selected TRO	50%
Cases(stay order of collection) of each selected unit /TRO	25%
Tax clearance certificates	25%

Appendix-2

(Reference: Paragraph 1.10)

Details of non production of records

Sl. No.	State	No. of records requisitioned	No. of records produced	No. of records not produced	Percentage of non production
1	Andhra Pradesh	1691	1663	28	1.6
2	Assam	3936	3936	0	0
3	Bihar	970	799	171	18
4	Chhattisgarh	880	800	80	9
5	Delhi	1443	1345	98	7
6	Goa	159	159	0	0
7	Gujarat	11568	11568	0	0
8	Haryana	4123	4123	0	0
9	Himachal Pradesh	3708	3700	8	0.2
10	Jammu & Kashmir	1147	411	736	64.2
11	Jharkhand	1178	443	735	62.4
12	Karnataka	4460	4414	46	1
13	Kerala	2515	2507	8	0.3
14	Madhya Pradesh	385	385	0	0
15	Maharashtra	14764	12026	2738	18
16	Orissa	1823	1192	631	35
17	Punjab	717	479	238	33
18	Rajasthan	1792	1773	19	1
19	Tamil Nadu	911	901	10	1
20	Uttar Pradesh	2656	2656	0	0
21	Uttarakhand	2573	2573	0	0
22	West Bengal	2951	2471	480	16.21
	Total	**66350**	**60324**	**6026**	**9.1**